

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.128 of 1999

Arising Out of PS. Case No.-42 Year-1997 Thana- RAJAOLI District- Nawada

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1. MUDRIKA YADAV S/o- Nemchand Yadav R/v- Bijwan Tola, Kutkpur Ps- Rajauli Dist- Nawada
 2. Girja Yadav S/o- Nemchand Yadav R/v- Bijwan Tola, Kutkpur Ps- Rajauli Dist- Nawada
 3. Kanhaiya Yadav (**Abated Vide order dated-20.09.2025**) S/o- Late Sohar Yadav R/v- Bijwan Tola, Kutkpur Ps- Rajauli Dist- Nawada
 4. Ratan Yadav S/o- Indradeo Yadav R/v- Bijwan Tola, Kutkpur Ps- Rajauli Dist- Nawada

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with
CRIMINAL APPEAL (DB) No. 192 of 1999

1. INDRADEO YADAV, son of Nemchand Yadav
 2. Rajendra Yadav @ Kuru Yadav, son of Kanhai Yadav
- Both are resident of village Bijwan Tola, Kutkpur, Police Station Rajauli, District Nawada

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :
(In CRIMINAL APPEAL (DB) No. 128 of 1999)
For the Appellant/s : Mr.Udbhav
For the Respondent/s : Mr. Sujit Kumar Singh
(In CRIMINAL APPEAL (DB) No. 192 of 1999)
For the Appellant/s : Mr. Pratik Mishra
For the Respondent/s : Mr. Sujit Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
and
HONOURABLE MR. JUSTICE ALOK KUMAR

JUDGMENT AND ORDER
C.A.V.

(Per: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA)



Date : 17-07-2026

Since both these appeals arise out of the same judgment of conviction and the order of sentence, with the consent of the parties, both these appeals were heard together.

2. The present appeals have been preferred against the judgment of conviction, and the order of sentence, dated 30.03.1999, passed by learned Additional Sessions Judge-I, Nawada, in Sessions Trial No. 323 of 1997/78 of 1998, arising out of Rajauli Police Station Case No. 42 of 1997, whereby the appellants, namely, Rajendra @ Karu Yadav and Indradeo Yadav, were convicted under Section 302 of the Indian Penal Code; whereas the appellants, Mudrika Yadav, Kanhai Yadav, Girja Yadav and Ratan Yadav, were convicted under Sections 302 read with Section 149 of the Indian Penal Code. Consequent upon their conviction, the appellants were sentenced for life imprisonment.

3. The prosecution case, as unfolded in the fardbayan of the informant, Kuldeep Yadav (PW 3), is that in the intervening night of 31.3.1997/01.04.1997, the informant was sleeping, along with his grandfather and father in the *baithka* of his house. At about 1 AM, his grandfather went out of the house to ease himself, and on his crying, the informant, along with his father woke up and from the door, they saw that Rajendra Yadav was having



sword in his hand, Indradeo Yadav, having garasa in his hand, Mudrika Yadav, having lathi in his hand, Girja Yadav, having lathi in his hand, Ratan Yadav, having lathi in his hand and Kanhai Yadav was having lathi in his hand. Mudrika Yadav brought down the grandfather of the informant, Ratan Yadav caught legs of his grandfather and on the orders of Girja Yadav and Ratan Yadav, Rajendra Yadav chopped the neck of the grandfather of the informant. Indradeo Yadav also assaulted on the neck of the grandfather of the informant by means of garasa, due to which the neck of his grandfather was separated from the body. Due to fear, neither the informant nor his father went there. When the accused persons fled away, they raised alarm, upon which the ladies of the house and co-villagers reached there, to whom the informant narrated the entire incident. The informant has further disclosed that due to a case for passage with the accused persons and enmity with them, the present incident had taken place. The informant has further stated that it was a moon-lit night in which they identified the accused persons.

4. On the basis of the aforesaid fardbayan, Rajauli Police Station Case No. 42 of 1997, dated 01.04.1997, was registered against the appellants for the offences punishable under Sections 302/24 of the Indian Penal Code.



5. Upon completion of investigation, the police submitted charge sheet no. 72/97 on 14.06.1997 against the appellants for the offences punishable under Sections 302/34 of the Indian Penal Code. The case was committed to the Court of Sessions on 23.07.1997.

6. Charges under Section 302 read with 149 was framed against all the appellants. Charges were read over and explained to them in Hindi, to which they pleaded not guilty and claimed to be tried.

7. The prosecution, in order to substantiate its case, has examined six witnesses and also exhibited some documents on its behalf. List of prosecution witnesses and exhibits are being mentioned hereunder in tabular form:-

List of Prosecution Witnesses :

Prosecution witness no.	Name of witness	Description
1.	Dr. Bipul Kumar	Doctor, who conducted post mortem examination
2.	Churaman Yadav	Father of the informant
3.	Kuldeep Yadav	Informant
4.	Manoj Yadav	Brother of the informant
5.	Arvind Paswan	Formal witness
6	Basant Kumar Singh	Investigating Officer

List of Exhibits on behalf of the prosecution :



Exhibit No.	Description of the Exhibit	Date/attested by
1	Post mortem examination report	13.01.1998
2	Seizure list	24.03.1998
3	Inquest report	24.03.1998
4	Fardbayan	04.06.1998

8. After closure of the prosecution evidence, the statement of the appellants were recorded under Section 313 of the Code of Criminal Procedure on 23.02.1999. The appellants denied all the incriminating circumstances against them and claimed to be tried.

9. The defence neither examined any witness nor produced any document in support of their case.

10. Learned Counsel appearing on behalf of the appellants, has, submitted that the conviction is unsustainable in law as it rests substantially on the solitary testimony of PW 2, Churaman Yadav, father of the informant and son of the deceased, who is an interested witness. The evidence of PW 2 cannot be accepted as of sterling quality, as it suffers from material contradictions and inconsistencies. Significantly, the narration of alleged shoulder-injury by the PW 2 does not find place in the First Information Report and appears to have been introduced subsequently as afterthought when the post-mortem report came into existence, thereby rendering his (PW 2) testimony unreliable



and liable to be scrutinized with greater caution. The prosecution has failed to produce any independent corroboration of the alleged occurrence, particularly when the informant (PW 3) and the brother of the informant (PW 4) have turned hostile and PW 5 is merely a formal witness, who has proved seizure list and inquest report.

11. Learned Counsel next submits that the prosecution has deliberately suppressed material facts relating to the first version of the information received by the police. The deposition of PW 6, the Investigating Officer, clearly reveals discrepancies regarding the Sanha entry number, giving rise to serious doubt about the alleged prosecution case. Such suppression of the first information and inconsistency in the prosecution records warrant drawing an adverse inference against the prosecution under the settled principles of criminal jurisprudence. The prosecution has thus failed to present the true and complete version of the occurrence, thereby affecting the credibility of the entire case. The prosecution, in the present case, has also failed to prove the genesis of the alleged occurrence.

12. Learned Counsel further submitted that both the parties are closely related, the parties were admittedly involved in long-standing land dispute, furnishing a strong motive for false



implication of the appellants. The alleged occurrence is stated to have taken place during the night, and there is no satisfactory evidence regarding any reliable source of identification except the assertion that it was full moonlit night. In the absence of evidence establishing proper identification of the assailants under such circumstances, the prosecution version becomes highly doubtful.

13. Lastly, it is submitted that the examination of the appellants after the closure of prosecution evidence under Section 313 (1) (b) of the Code of Criminal Procedure, 1973 suffers from serious legal infirmity. The learned Trial Court failed to put all the incriminating circumstances appearing in the prosecution evidence to the appellants, including the specific allegations regarding their individual roles in the alleged occurrence. Such omission has caused serious prejudice to the appellants by depriving them of an effective opportunity to explain the incriminating evidence against them.

14. In such circumstances coupled with the material contradictions, lack of corroboration and failure of the prosecution to prove its case beyond reasonable doubt, the appellants are entitled to benefit of doubt and the impugned judgment is liable to be set aside.



15. In support of the submissions, learned Counsel place reliance upon the decisions of the Supreme Court, in the cases of **Dilawar Hussain Vs. State of Gujarat**, reported in (1991) 1 SCC 53, **Lallu Manjhi and Another v. State of Jharkhand**, reported in (2003) 2 SCC 401, **State of Madhya Pradesh v. Ratan Singh and Others**, reported in (2020) 12 SCC 630, **Anand Ramachandra Chougule v. Sidarai Laxman Chougule and Others**, reported in (2019) 8 SCC 50, **Vadivelu Thevar v. State of Madras (AIR 1957 SC 614)**, **Bhimappa Chandappa Hosamani and Others v. State of Karnataka**, reported in (2006) 11 SCC 323, **Rai Sandeep @ Deepu v. State (NCT OF DELHI)**, reported in (2012) 8 SCC 21 and **Sujit Biswas v. State of Assam**, reported in (2013) 12 SCC 406.

16. On the other hand, learned Additional Public Prosecutor appearing for the State, while opposing the appeals, submitted that the learned Trial Court, after considering all the evidences on record, has committed no mistake in passing the impugned order of conviction against the appellants.

17. It is, therefore, submitted that the impugned judgment of conviction does not suffer from any legal infirmity, or irregularity warranting interference by this Court. The appeals are devoid of any merit and fit to be dismissed.



18. I have heard learned Counsel for the parties concerned and have perused the materials available on record, including the Lower Court's Record.

19. It would be apposite to discuss the oral/documentary evidence as available on record to re-appreciate the evidence for coming to just and proper decision.

20. PW 1, Dr. Bipul Kumar, had conducted the post mortem on the dead body of the deceased grand father of the informant on 01.04.1997 while he was posted at Nawada Sadar Hospital and found as follows:

“External appearance: Hands partially clinched, eyes partially opened, rigor mortis present all over the body, sign of early decomposition present.

External injuries: (i) Head is separated from the neck at the level of C3 spine with incised margin all around the neck, cutting through and through the esophagus trachea major vessels, muscles and bones. Cut margin of the Head fitted and coincides with the cut margin of each other.

(ii) Incised wound 2” x 1” x 1/2” over right shoulder.”

21. The doctor (PW 1), on dissection, found all other viscera intact and pale, stomach contains mucous fluid, bladder – empty and all the chambers of heart empty.



22. PW 1 has opined that the separation of head from the neck is possible by blows of swords and garasa. PW 1 has also deposed that the post mortem report is in his pen and bears his signature, which has been marked as Exhibit 1.

23. PW 1 has further deposed that he had not taken the temperature of the dead body at the time of post mortem. During post mortem, the tongue of the deceased was not out of the mouth of the deceased. He further deposed that rigor mortis depends upon the season, temperature and atmosphere.

24. Now, coming to the ocular witnesses. PW 2, Churaman Yadav, is the son of the deceased and the father of the informant (PW 3). This witness, in his examination-in-chief, has deposed that about ten months before, at about 1 AM, while he, along with his father (deceased) and his son, were sleeping in the *baithka*, his father (deceased) went out of the *baithka* to attend nature's call and at some distance, he shouted, upon which this witness and the informant saw in the moon-lit night that Rajendra Yadav @ Karu Yadav, having sword in his hand, Indradeo Yadav, having garasa in his hand and Kanhai Yadav, Girja Yadav, Ratan Yadav and Mudrika Yadav, having lathis in their hands brought down his father. Karu Yadav inflicted sword blow on the neck of his father, due to which the head of his father was separated by the



body. Indradeo Yadav assaulted on the shoulder of his father by garasa. This witness had seen the occurrence while he was sitting in the *baithka*. Due to fear, he did not protest. This witness has further disclosed that there was litigation going on with the accused persons and that was the reason behind the occurrence. He identified Indradeo, Rajendra, Mudrika and Kanhai in the Court and also claimed to identify others.

25. In the cross-examination, this witness (PW 2) has deposed that he did not know any Jitendra and the litigation is going on between the parties for the last 3-4 years. This witness has deposed that he had filed a case against the accused persons first and then the accused persons had filed case against him, though this witness did not remember the case number, which he had filed. He further deposed that at the time of hulla, only his wife, Gauri Devi (not examined) came and no other co-villagers came. He further disclosed that the murder of his father took place 2-3 steps from the door of the *baithka*. When the accused persons caught the deceased, the deceased cried and this witness proceeded two steps and witnessed the occurrence. From there, the accused persons were four steps away. This witness along with his son raised hulla for about 2-3 minutes and then the persons came from inside the house. This witness raised hulla when the



neck was cutting and it took not more than one second in chopping the neck.

26. This witness (PW 2) has further deposed that blood had spread in 2-3 hands and Darogaji had taken the blood. This witness has further disclosed that after the case, accused persons had assaulted him, but he had not told anywhere. The quarrel took place for the passage.

27. This witness (PW 2) had deposed that Indradeo had inflicted only one garasa blow on the shoulder. The assault made by Indradeo led to cause shoulder injury. The Chowkidar came on his own at 3 AM. This witness did not tell him anything, but the chowkidar brought the police. Darogaji came at 7 AM in the morning. Before Darogaji came, many co-villagers had also come, but he cannot say their names. He did not disclose about the occurrence to anyone except Darogaji. The statement of this witness was taken near Dargaji.

28. This witness (PW 2) has further deposed that he did not know when the moon rose in that night and it is not correct that accused persons had not committed the occurrence and due to previous enmity, this witness falsely implicated them.

29. PW 3, Kuldeep Yadav, is the grandson of the deceased and the informant of this case. This witness, in his



examination-in-chief, has deposed that in the last *Chait* month, his grandfather was killed. On that date, he was sleeping in the night in his house. This witness had not seen the killing of his grandfather. Police had come to his house and he had given his statement before him. Before the police, this witness had disclosed the names of the persons who killed his grandfather, being Indra @ Indradeo, Rajendra @ Karu Yadav, Mudrika Yadav, Kanhai Yadav, Girja Yadav and Ratan Yadav, but he had not seen the weapon they were carrying.

30. At the instance of the learned Additional Public Prosecutor, this witness was declared hostile.

31. Further, this witness (PW 3) has deposed that he had not told the police and he was sleeping with his grandfather and father. This witness also denied that he had not told the police that his grandfather went outside to attend nature's call and on his crying, this witness along with his father saw Rajendra Yadav @ Karu Yadav, having sword in his hand, Indradeo Yadav, having garasa in his hand and Kanhai Yadav, Girja Yadav, Ratan Yadav and Mudrika Yadav, and Rajendra inflicted sword blow and Indradeo inflicted garasa blow on his grandfather, due to which the neck was separated from the body. Darogaji had not read over to him his statement, on which he had put his thump impression.



This witness has further deposed that it is not correct that he compromised with the accused persons and did not tell truth. This witness also identified Mudrika, Kanhai and Ratan, who were present in Court.

32. In the cross-examination, this witness has deposed that the deceased and accused Kanhai are full brothers. His grandfather had three brothers, another brother is Nemchand and the sons of Nemchand, namely, Indradeo, Mudrika and Girja are accused. In the night of occurrence, he was sleeping inside the room and his father was sleeping in another house, 3-4 houses away and this witness had informed his father about the murder of his grandfather.

33. This witness (PW 3) further deposed that the night of occurrence was dark and he did not see any accused persons, from whom there was a litigation for the passage, but no mar-pit had taken place.

34. PW 4, Manoj Yadav, is also one of the grandsons of the deceased. He, in his examination-in-chief, has deposed that the murder of his grandfather took place one year ago. He was in his house and came out of the house in the morning itself.



35. This witness (PW 4) had also been declared hostile at the instance of learned Additional Public Prosecutor.

36. This witness (PW 4) has deposed that the police had not taken his statement and he did not say that in the night at 1 AM, on hulla, he woke up and saw outside the house that Rajendra Yadav, Indradeo Yadav, Kanhai Yadav, Girja Yadav, Ratan Yadav and Mudrika Yadav were fleeing after committing the offence. He had also not told that the night was moonlit night. He further denied that it is not correct that he, in connivance with the accused persons, had not disclosing true facts.

37. In the cross-examination, this witness (PW 4) has deposed that his elder brother, Kuldeep Yadav, informed him in the morning that his grandfather had been killed, but Kuldeep had not disclosed the name of the person who fled away. This witness was sleeping in the new house along with his father, while his grandfather was sleeping in the old house and there were 4-5 house between the two houses. This witness has also disclosed that Kuldeep had disclosed the occurrence of murder to his father.

38. PW 5, Arbind Prasad, is a formal witness. He, in his examination-in-chief, has deposed that he saw the dead body of Mahavir Yadav in front of his house about one year ago. Darogaji had seized the blood stained earth from the place of



occurrence. The seizure list is in the handwriting of the then Station House Officer, Basant Kumar Singh and bears his signature. On the seizure list, this witness, along with one Pyare Ram (not examined), had also signed, which has been marked as Exhibit 2. The inquest report was also prepared by Basant Kumar Singh before this witness and this witness, along with Pyare Ram, had also put his signature over the inquest report, which has been marked as Exhibit 3. This witness further disclosed that the wife of Churaman, Gauri Devi, was not in a position to depose since she is mentally unstable.

39. During cross-examination, this witness (PW 5) has deposed that he saw the dead body of Mahavir Yadav at 8-9 AM. At that time, the son of Mahavir was also there, but he did not disclose about the person who had killed him.

40. PW 6, Basant Kumar Singh is the Investigating Officer of this case. He, in his examination-in-chief, has deposed that on 01.04.1997, while he was posted as Station House Officer of Rajauli Police Station, he got information at about 7 AM, that a person, Mahavir Yadav, had been killed in village Brijvan Tola, Kutlupur, by some persons of that village. On this information, he reached Brijvan Tola, Kutlupur, at 8 AM and the fardbayan of the informant Kuldeep Yadav was written by A.S.I. K. K. Singh in his



presence and the fardbayan was read over to him and on finding it correct, the informant put his thumb impression upon the fardbayan. Churaman Yadav had also put his thumb impression over the fardbayan. The fardbayan also bears the signature of this witness, which has been marked as Exhibit 4.

41. This witness (PW 6) has further deposed that the inquest report of deceased Mahavir Yadav was prepared by A.S.I. K. K. Singh in presence of this witness and the other witnesses, Pyare Ram and Arbind Prasad, had put their signatures in presence of this witness. This witness (PW 6) had prepared the seizure list of the blood stained earth, upon which the witnesses had put their signatures.

42. This witness (PW 6) has further deposed that he took the statement of the witnesses and inspected the place of occurrence. The informant Kuldeep Yadav told him that he was sleeping with his father. And further disclosed that Mahavir went outside to attend nature's call and on his cry, the informant as well as his father saw Rajendra Yadav, having sword in his hand, Indradeo Yadav, having garasa in his hand and Kanhai Yadav, Girja Yadav, Ratan Yadav and Mudrika Yadav, and Rajendra inflicted sword blow and Indradeo inflicted garasa blow, due to which the neck was separated from the body. This witness had



denied that it is not correct that he had not read over the fardbayan to him.

43. This witness (PW 6) further deposed that he had also taken the statement of Manoj Yadav (PW 4) and he told that he suddenly woke up at 1 AM on hearing hulla and when he came out of the house, he saw that his co-villagers, Rajendra Yadav, Indradeo Yadav, Kanhai Yadav, Girja Yadav, Ratan Yadav and Mudrika Yadav were fleeing after coming the offence. PW 4 had also told him that it was a moonlit night.

44. This witness (PW 6), after completion of investigation, had submitted charge sheet.

45. In the cross-examination, this witness (PW 6) has stated that during investigation, it came to his knowledge that there was land dispute between the parties. This witness has also recorded the statement of the co-villagers, who told him that they heard about the murder of Mahavir in the morning. He further deposed that on the information receiving in the morning, he entered Sanha Entry No. 5, dated 01.04.1997. He inspected the house of the accused persons, but nothing incriminating materials was recovered . He had not prepared the sketch map of the place of occurrence. This witness has denied that it is not correct that he



had recorded wrong statement of the witnesses and his investigation was misleading.

46. This is a unique case in which the informant (PW 3 himself has given a complete go-bye to his earlier version of occurrence, turned towards a different angle and has deposed that he had neither seen anything nor disclosed anything to the police or others, except that his grandfather had been killed. Not only this, the informant (PW 3) had been declared hostile also.

47. Like the informant (PW 3), his brother, Manoj Yadav (PW 4) had also turned around from his earlier statement given before the police and deposed that he came out of the house in the morning itself, meaning thereby that he neither witnessed the killing of his grandfather nor witnessed the occurrence of fleeing away of the accused persons from the place of occurrence. This witness had also been declared hostile.

48. The Investigating Officer (PW 6), in his evidence, has stated that, at the Police Station, he got an information about the murder of Mahavir Yadav. The Investigating Officer has not disclosed the source of information. After receiving information, he proceeded for verification of that information after recording Sanha, however, he has neither proved the Sanha entry nor Sanha has been proved on the basis of which



Investigating Officer proceeded for verification. Thus, the first and/or the earliest version has been withheld by the prosecution, which could have throw some more light about the occurrence.

49. The Investigating Officer (PW 6), in his evidence, has also stated that he had inspected the house of the accused persons, but he did not find anything suspicious.

50. More so, the police officer, who has written the fardbayan and prepared inquest report, A.S.I. K. K. Singh, has not been examined during the trial. What happened to the blood-stained earth seized by the Investigating Officer has also not been disclosed by the prosecution. The wife of PW 2, Gauri Devi, has also not examined on behalf of the prosecution. The Chowkidar, who had gone to the house of the informant, in the night itself, has also not been examined by the prosecution, who would have been the only independent witness to disclosed about the occurrence in a fair manner.

51. Thus, the present case rests only on the sole testimony of the son of the deceased and father of the informant, namely, Churaman Yadav (PW 2).

52. It is well-settled proposition of criminal jurisprudence that an accused can be convicted on the basis of the



testimony of a solitary witness, provided such testimony is wholly reliable, unblemished and inspires the confidence of the Court.

53. Section 134 of the Indian Evidence Act expressly provides that no particular number of witnesses is required to prove a fact in issue. What is material is the quality of evidence and not the quantity thereof. The time-honoured principle is that evidence has to be weighed and not counted. The real test is whether the evidence carries a ring of truth and is found to be cogent, credible and trustworthy. However, where such testimony suffers from material inconsistencies, omissions, improvements or inherent improbabilities and remains uncorroborated by independent evidence, the Court is under a duty to scrutinize such evidence with greater caution before acting upon it.

54. Upon careful examination of the evidence of PW 2, this Court finds several material contradictions and infirmities affecting the credibility of his testimony. Firstly, according to the prosecution case as narrated in the fardbayan, the deceased was thrown on the ground by Mudrika Yadav, his legs were caught by Ratan Yadav and upon exhortation by Girja Yadav and Ratan Yadav, Rajendra Yadav inflicted sword blow on the neck of the deceased; while Indradeo Yadav assaulted by means of garasa on the neck of the deceased, resulting in separation of the head from



the body. However, PW 2, while deposing before the Court, materially altered the prosecution version by stating that all the accused threw the deceased and Indradeo Yadav inflicted a garasa blow on the shoulder of the deceased and not on the neck. This departure from the prosecution story is significant and cannot be treated as a minor discrepancy. While considering the above discrepancies as fatal for the prosecution case, it has also to be borne in mind that as per the deposition of PW 2, he was just two to three steps away from the place of occurrence, it was a full moonlit night and all the accused persons were well known to him.

55. The post-mortem report reveals an incised wound measuring 2" × 1" × 1/2" over the right shoulder in addition to the decapitation injury. Significantly, the alleged shoulder injury finds no mention whatsoever either in the fardbayan or in the evidence of the informant (PW 3). The introduction of such injury, for the first time in the testimony of PW 2 was after the post-mortem report had become available, creates a serious doubt over the veracity of this witness and this witness has attempted to tailor his evidence to bring it in conformity with the medical findings. Such improvement made by the witness strikes at the root of his credibility.



56. In the present case, PW 2 admitted in his cross-examination that the Chowkidar reached the place of occurrence at about 3 AM, yet he did not disclose either the occurrence or the names of the assailants to him is highly improbable and it will happen only when a person has not witnessed the actual occurrence. This witness (PW 2) has further stated that the police officer reached the place at about 7 AM. and before arrival of the police, several co-villagers had already assembled at the place of occurrence. Despite this, PW 2 admittedly did not disclose the names of the alleged assailants or the details of the occurrence to any of those persons and chose to reveal the same only before the police. If PW 2 had actually witnessed the brutal murder of his own father and had identified each of the assailants, who were well known to him, such complete silence for several hours is wholly inconsistent with the normal course of human behaviour/conduct and renders his version highly doubtful.

57. It is also an admitted position that the parties were closely related and were embroiled in long-standing litigation relating to land and passage disputes. Such admitted enmity undoubtedly furnished motive for the crime but equally supplied a motive for false implication. In such circumstances, the evidence of interested witnesses was required to be scrutinized



with greater caution. The prosecution has failed to produce any independent witness, although, according to PW 2 himself, several villagers had assembled at the place of occurrence before the arrival of the police. The non-examination of material witnesses, including Gauri Devi, wife of PW 2, the village Chowkidar, who allegedly reached the place in the night itself, and the A.S.I. who recorded the fardbayan and prepared the inquest report assumes significance and entitles the Court to draw an adverse inference against the prosecution.

58. It is a settled law that enmity is a double-edged weapon. On one hand, it provides motive, on the other hand it also does not rule out the possibility of false implication. From the nature of the evidence placed on record by the prosecution, the possibility of the present appellant being falsely implicated on account of previous enmity of land dispute cannot be ruled out. In our opinion, therefore, the appellants are at least entitled to be given benefit of doubt.

59. In the facts and attending circumstances of the present case, the appellants ought to have been accorded benefit of reasonable doubt inasmuch as the prosecution had failed, in the light of the discussion of the evidence on record, to bring home the charges against the appellants beyond all reasonable doubt.



60. In the result and for the foregoing reasons, these appeals are allowed. The impugned conviction of the appellants and the sentences passed against them by the judgment and order, under appeal, are hereby set aside. The appellants are held not guilty of the offence, which they stand convicted of, and they are hereby acquitted of the same under benefit of doubt.

61. Since the appellants are on bail, their bail bonds are hereby cancelled and their sureties shall stand discharged.

62. Registry shall, forthwith, send a copy of this judgment and order to the learned trial Court along with the Lower Court Records.

(Anil Kumar Sinha, J.)

Alok Kumar, J.: I agree.

(Alok Kumar, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	06-07-2026
Uploading Date	17-07-2026
Transmission Date	17-07-2026

