

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 628 of 2012

Arising Out of PS. Case No.-87 Year-1996 Thana- Raghapur District- Supaul

Kaila Yadav @ Balram Yadav son of Badri Yadav resident of village-
Narha, P.S.- Raghapur, District- Supaul.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

with

Criminal Appeal (DB) No. 552 of 2012

Arising Out of PS. Case No.-87 Year-1996 Thana- Raghapur District- Supaul

1. Badri Yadav, son of late Lalnai Yadav (Appellant no. 1 abated vide Court's
order dt. 6.12.17)

2. Nageshwar Yadav son of late Dukhan Yadav

3. Brahmanand Yadav @ Hiren Yadav son of late Singheshwar Yadav

4. Ramanand Yadav son of late Singheshwar Yadav

5. Mahanand Yadav son of late Singheshwar Yadav

All residents of village Narha, P.S. Raghapur, District –
Supaul.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with

Criminal Appeal (DB) No. 596 of 2012

Arising Out of PS. Case No.-87 Year-1996 Thana- Raghapur District- Supaul

Dukhan Yadav son of Late Lalhai Yadav resident of Village- Narha, P.S.-
Raghapur, District- Supaul

... .. Appellant

Versus

The State of Bihar

... .. Respondent



Appearance :

(In Criminal Appeal (DB) No. 628 of 2012)

For the Appellant/s : Mr. Kanhaiya Prasad Singh, Sr. Advocate
Mr. Rakesh Kumar Jha, Adv.
Mr. Pratik Mishra, Adv.

For the Respondent/s : Mr. Ajay Mishra (APP)

(In Criminal Appeal (DB) No. 552 of 2012)

For the Appellant/s : Mr. Kanhaiya Prasad Singh, Sr. Adv.
Mr. Rakesh Kumar Jha
Mr. Pratik Mishra

For the Respondent/s : Mr. Ajay Mishra (APP)

(In Criminal Appeal (DB) No. 596 of 2012)

For the Appellant/s : Mr. Kanhaiya Pd. Singh, Sr. Adv.
Mr. Rakesh Kumar Jha
Mr. Pratik Mishra

For the Respondent/s : Mr. Ajay Mishra (APP)

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

Date : 19-12-2017

Appellants, in aforesaid three appeals, were convicted in Sessions Trial No. 43 of 1998 (arising out of Raghapur P.S. Case No. 87 of 1996) and as such, all the aforesaid three appeals were heard together and are being disposed of by this common judgment.

2. Appellants were convicted on 29-05-2012 for offence under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, 1959 and on the same date, they were sentenced to undergo rigorous imprisonment for life under Sections 302/34 of the Indian Penal Code with fine of Rs. 20,000/- (twenty thousand) each and in default, they were directed for further



imprisonment for two years. All the appellants were further sentenced under Section 27 of the Arms Act, 1959 to undergo rigorous imprisonment for three years with fine of Rs. 2,000/- (two thousand) each and in default, they were directed to undergo further imprisonment for six months. All the appellants were convicted and sentenced by Sri S.N.Srivastava, learned 1st Adhoc Additional Sessions Judge, Supaul (hereinafter referred to as the 'Trial Judge') in Sessions Trial No. 43 of 1998.

3. Earlier, on 07-11-2017, since it was informed by learned counsel for the appellants that during pendency of the appeal, one of the appellant i.e. appellant no. 1 namely Badri Yadav in Cr.Appeal (DB) No. 552 of 2012 had died and an affidavit to this effect was filed, but same was not on record, thereafter, a report was called for from the Superintendent of Police, Supaul regarding status of the said appellant. After conducting enquiry, the Superintendent of Police, Supaul sent its report and by order dated 06-12-2017, considering the fact that report was indicative of the fact that appellant Badri Yadav (in Cr. Appeal DB No. 552/12) had already died during the pendency of the appeal, his appeal stood abated and it was directed to expunge his name from the record. Accordingly, it was expunged. Now, in Cr. Appeal (DB) No. 552 of 2012, only



four appellants remain. So total six appellants are before this Court in aforesaid three appeals.

4. Short fact of the case is that on 30-08-1996 at 12:30 hours, Sub-Inspector of Police Sri R.K.Singh, officer incharge of Raghopur Police Station recorded fardbeyan of Tilai Sharma at Simrahi Hospital. It is made clear that before commencement of the trial, said Tilai Sharma died and as such, he was not examined as witness in the present case. The informant Tilai Sharma, in his fardbeyan, had disclosed that on 30-08-1996 at about 11:00 AM, he alongwith his son Mahadev Sharma (deceased) had gone to the shop of Mantu Yadav S/o Subi Yadav, which was situated near Narha Berdah chowk for the purpose of purchasing rice. The said shop was closed and opposite of the shop, on a bench Bauwa Yadav S/o Subi Yadav (P.W.2) was sitting. After seeing the shop closed, the informant with his son Mahadev Sharma (deceased) started to return back to his home and when they reached near the house of Looti Yadav S/o Nebi Yadav, following persons were coming from the opposite side (i.e. Northern side):-

1. Singheshwar Yadav (died during trial)
2. Dudhan Yadav (appellant in Cr. Appeal DB No. 596/12)
3. Badri Yadav (appellant no. 1 in Cr. App. DB No. 552/12 since dead)
4. Ramanand Yadav (appellant no. 4 in Cr.App. DB No. 552/12)
5. Mahanand Yadav (appellant no. 5 in Cr.App. DB No. 552/12)



- 6. Brahmanand Yadav @ Hiren Yadav (app. no. 3 in Cr.App. DB No. 552/12)**
7. Nageshwar Yadav (appellant no. 2 in Cr.App. DB No. 552/12)
8. Kaila Yadav @ Balram Yadav (sole appellant in Cr.App. DB No. 628/12),

all residents of Narha, P.S. Raghapur, Distt. Supaul. Immediately after seeing the informant, the accused Dukhan Yadav, taking name of his son Mahadev Sharma with abusive language said that he had stood as witness and he was his enemy and he ordered to shoot him. On such statement of accused Dukhan Yadav, all other accused persons supported him and all the accused persons simultaneously said to kill him. Thereafter, Kaila Yadav @ Balram Yadav, who was carrying a country-made pistol in his hand, pointing to his son fired, which hit his son and thereafter, he fell down. He had received gun shot injury in his stomach. On alarm, being raised by the informant to help, his villagers 1. Yogendra Yadav (P.W.4), 2. Bauwa Yadav @ Arvind Kumar Yadav (P.W.2) and number of other persons, who had seen accused persons fleeing away, arrived there. With the help of villagers, the informant carried his injured son Mahadev Sharma to Government Hospital, Simrahi, where doctor declared him dead. The informant reiterated that said occurrence had taken place on 30-08-1996 at about 11:00 AM on a pitch road near Narha Berdah chowk. The reason for the occurrence was



explained by the informant that the accused persons were having old animosity with Subi Lal Yadav and amongst them, number of litigations were pending. The informant son i.e. Mahadev Sharma (deceased) had given evidence from the side of Shiv Lal Yadav against the accused persons named in the F.I.R. He claimed that in a deep rooted conspiracy, the aforesaid accused persons, due to the reason that his son had stood as witness earlier, had killed his son by means of pistol. After the contents of the F.I.R. was explained to him, he put his L.T.I.

5. The police, after recording fardbeyan of the informant on the same date at 2:30 PM on 30-08-1996, drew the formal F.I.R., vide Raghapur P.S. Case No. 87 of 1996, for offence under Sections 302, 34 of the Indian Penal Code and Section 27 of the Arms Act, 1959 against nine accused persons namely;

- (1) Singheshwar Yadav
- (2) Dukhan Yadav
- (3) Badri Yadav
- (4) Ramanand Yadav
- (5) Mahanand Yadav
- (6) Brahmanand Yadav
- (7) Hiren Yadav
- (8) Nageshwar Yadav
- (9) Kaila Yadav @ Balram Yadav.

6. At this juncture, it is necessary to clarify that Brahmanand Yadav was having alias name as Hiren Yadav, still



the informant in his fardbeyan had stated as if there were two accused persons one Brahmanand Yadav and the other Hiren Yadav, however; parentage of both the accused in the F.I.R. was given as the same. This fact has been clarified even in the evidence of Brahmanand Yadav, who himself has stated his name as Brahmanand Yadav @ Hiren Yadav.

7. After registering F.I.R., police started investigation, however; during investigation, accusation against other accused persons, except Kaila Yadav @ Balram Yadav, was not found true and as such, chargesheet was submitted against Kaila Yadav @ Balram Yadav. However, learned Chief Judicial Magistrate, differing with the police report, by order dated 04-11-1996 took cognizance of offences, as if, all F.I.R. named accused persons had committed offence. On 07-04-1998, after completion of formality of supply of police paper, the case was committed to the court of sessions, thereafter, it was numbered as Sessions Trial No. 43 of 1998. On 10-11-2006, charge under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, 1959 was framed against all the seven accused persons including Brahmanand Yadav @ Hiren Yadav. Since before charge, one of the accused Singheshwar Yadav had already died, his case stood abated.



8. Since the accused persons denied their charges and claimed to be tried, the prosecution, to establish its case, examined altogether eight witnesses, out of them P.W.-1 Upendra Ram and P.W.-3 Jagen Yadav turned hostile, whereas, P.W.-4 Yogendra Yadav and P.W.-5 Budhni Devi were examined as hearsay witness. In the trial, only one witness has come forward to depose as eye-witness, who is Arvind Kumar Yadav @ Bauwa Yadav and he has been examined as P.W.2. P.W.-7 Mahakant Sharma and P.W.8 Mohan Sharma were witnesses only to inquest report, whereas, P.W.6 Dr. Chandra Kishore Prasad had conducted *post-mortem* examination on the dead body of the deceased. In the present case, the investigating officer has not come forward to be examined as prosecution witness and as such, in the case, fardbeyan, formal F.I.R. and even inquest report were not got proved and exhibited. Only signature of P.W.7 on inquest report was got exhibited as Ext. 2 and post mortem examination report was proved as Ext. 1.

9. Sri Kanhaiya Prasad Singh, learned senior counsel assisted by Sri Rakesh Kumar Jha, learned counsel for the appellants, after placing entire evidences, has argued that though prosecution has not proved its case beyond all reasonable doubt, the learned Trial Judge, on inconsistent evidence, has held



appellants guilty and passed judgment of conviction and sentence. Sri Singh has argued that false implication in the *fardbeyan* is evident from the fact that one accused, who was having alias name, was arrayed as if there were two accused persons with two different name. He has argued that in appeal no. 2 i.e. Cr. Appeal (DB) No. 552 of 2012, Brahmanand Yadav was having alias name as Hiren Yadav, even then, in the F.I.R., it was described that nine accused persons, including Brahmanand Yadav and Hiren Yadav had participated in the occurrence. He further submits that fact disclosed in the *fardbeyan* is itself contradictory to the evidence of so called sole eye-witness namely Arvind Kumar Yadav @ Bauwa Yadav. During the trial, though occurrence had taken place at 11:00 AM, none of the independent witness has come forward to claim as an eye-witness to the occurrence. It has been argued that the appellants were fixed as per dictate of one Subi Lal Yadav, who was none else but the father of the sole eye-witness i.e. P.W.-2 Arvind Kumar Yadav @ Bauwa Yadav. He submits that in the evidence, this fact has come that number of litigations were pending in between Subi Lal Yadav and appellants' side. The deceased was closely associated with Subi Lal Yadav, since he was working as labourer of Subi Lal Yadav and this was the reason that all the



appellants were falsely implicated in the present case. By way of referring to evidence of P.W.2, who is so-called eye-witness, he has argued that there are number of inconsistencies in his own deposition and as such, no reliance can be placed on his evidence. Besides this, it has been argued that it is a peculiar case, in which, neither *fardbeyan*, formal F.I.R. nor inquest report was got proved. In this case, the prosecution had purposely withheld the investigating officer and investigating officer has not deposed in the case, which has seriously prejudiced the case of the defence. He submits that though, sole eye-witness had made entirely different disclosure in his statement recorded under Section 161 of the Cr.P.C., but in his evidence during trial, he had said entirely different story. However, in absence of investigating officer, the defence was prevented from drawing attention of this witness to his exact previous statement recorded under Section 161 of the Cr.P.C. He submits that other witnesses have only been introduced, as hearsay witness, and no one, save and except P.W.2, has come forward to support the prosecution case and there is no other evidence on record to prove the case of prosecution beyond all reasonable doubt. On the aforesaid ground, it has been argued that the learned Trial Judge was required to extend the benefit of



doubt to the appellants, but incorrectly order of conviction and sentence has been passed.

10. Sri Ajay Mishra, learned Addl. Public Prosecutor, opposing the appeals, has argued that in this case, though P.W.2 is only eye-witness, but it has been argued that if in a criminal trial, even on the evidence of solitary witness, who is otherwise reliable, conviction may not be interfered with.

11. Besides hearing learned counsel for the parties, we have minutely perused entire evidence i.e. documentary and oral evidence. At the very outset, it is necessary to indicate that informant of the present case was father of the deceased, but during pendency of the trial, since he died, his evidence was not got recorded. Though, the informant himself died before deposition, the prosecution has miserably failed to take any step to get the said *fardbeyan* exhibited. The prosecution has also not taken any step to formally get the formal F.I.R. as well as inquest report proved and all the three important documents have not been marked as exhibits in the present case. During the trial, only signature of one of the inquest witness was got identified and proved as exhibit and one *post-mortem* examination report. Ofcourse, the evidence of the doctor, who conducted *post-mortem* examination, is in consonance with the fact disclosed in



the evidence of P.W.2, but in the present case, the evidence of P.W.2 itself appears to be not truthful. Accordingly, it is necessary to examine as to what P.W.2, who had claimed to be eye-witness, had stated during the trial.

12. P.W.2 Arvind Kumar Yadav @ Bauwa Yadav, in his deposition, has disclosed that on the date and time of occurrence, son of the informant namely Mahadev Sharma (deceased) had inquired from him as to why the shop of his brother was closed. He was intimated that his brother had gone for taking lunch, thereafter, the deceased Mahadev Sharma and his father Tilai Sharma returned back. The P.W.2 also started to move to his house for taking lunch and when he reached near Narha Berda Chowk, he seen the appellants/accused persons near the house of one Bhumi Yadav. Thereafter, all the accused persons surrounded Mahadev Sharma (deceased) and Tilai Sharma (father of the deceased and informant), then Dukhan Yadav (appellant in Cr.Appeal DB No. 596/12) said that he is the person, who had given evidence against them in court, and said to kill him. On this, Kaila Yadav (appellant in Cr.Appeal DB No. 628/12) gave a shot from his pistol on Mahadev Sharma, which hit in his abdomen, who fell down. Thereafter, accused persons fled away by saying that their work had already been done. On



alarm, being raised by P.W.2, Virendra Yadav, Dhalai Sharma, Tilai Sharma and Mohan Sharma (P.W.8) arrived there and injured was carried to hospital on a rickshaw, where immediately after seeing the injured, the doctor declared him dead. In paragraph – 6 of his deposition, P.W.2 Arvind Kumar Yadav @ Bauwa Yadav stated that his father was earlier assaulted and in the said case, Mahadev Sharma (deceased) had stood as witness. In paragraph 17, 18 and 19 of his cross-examination, the defence side had tried to draw attention to his previous statement made before the police. It may be indicated that in absence of examination of investigating officer, certainly defence were not in a position to exactly draw the attention of this witness to his previous statement. In paragraph – 28 of his cross-examination, on being asked as to whether he was made accused earlier in any case, he straightway denied and said that he was never made accused, however; in the next paragraph of his cross-examination i.e. paragraph – 29, he accepted that he was made accused and remained in custody in Sessions Trial No. 151 of 2005. He further denied about the knowledge of the fact that his father was accused in Sessions Trial No. 114 of 1992 and his brother Mantu Yadav was accused in a case for offence under Section 394 of the Indian Penal Code. Again in paragraph – 37



of his cross-examination, he had denied that he was accused in Raghapur P.S. Case No. 54 of 2007 (State vs. Arvind Yadav) and he also denied that said Arvind Yadav was a different person. It is pertinent to mention here that ofcourse on oath in paragraph – 37, this witness had stated that he was not accused in Raghapur P.S. Case No. 54 of 2007 (State vs. Arvind Yadav) from the defence side, a document has been brought on record i.e. certified copy of F.I.R. of Raghapur P.S. Case No. 54 of 2007, in which, this witness with his parents name namely Subi Lal Yadav was made F.I.R. named accused. He was made accused as Arvind Yadav @ Bauwa Yadav S/o Subi Lal Yadav. Though, in his evidence, he had made categorical statement that after inquiry about the closure of the shop, deceased with his father returned back, then he also moved for his house for taking lunch and he had seen entire occurrence. In paragraph – 48 of his cross-examination, he has said that he had seen the occurrence while he was standing at his door beside the road side and he had seen the deceased while he was falling down. In paragraph 53, he denied the suggestion that he had given a false evidence and deceased was a criminal and he was done to death by other gang of criminals. On examination of the evidence of this witness, two things are clear. Firstly, even on oath he had made incorrect and



false statement and secondly, he has given statement, which was not fully in consonance with the facts disclosed in the *fardbeyan*. In his evidence, there were number of inconsistencies and contradictions and as such, only on the evidence of this witness, it was not appropriate to hold all the appellants guilty. Besides P.W.2, there is no other witness, who had seen the occurrence.

13. P.W.4 Yogendra Yadav has stated that he had heard that Mahadev Sharma was killed by Kaila Yadav (appellant in Cr.Appeal DB No. 628/12). In paragraph – 1 of his evidence, he has stated that he had heard *hulla* from his house, then he went to the pitch road Narha, where he was told that Mahadev Sharma was killed. Thereafter, he returned back to his house. However, P.W.2 Arvind Kumar Yadav @ Bauwa Yadav in paragraph 11 of his evidence has stated that deceased was carried to hospital on a rickshaw and alongwith him, Tilai Sharma (father of the deceased), Jagen Yadav (P.W.3) and Yogendra Yadav (P.W.4) were also with them. If the evidence of this witness is treated as correct, then certainly evidence of P.W.2, who has solely claimed to be eye-witness, comes under the cloud of doubt and suggests that P.W.2 was not truthful witness. This witness in paragraph – 2, has further stated that Subi Lal Yadav (father of P.W.2) had earlier lodged a case against Kaila Yadav (appellant in Cr.Appeal



DB No. 628/12) and in his cross-examination, this witness has clarified in paragraph – 4 that he himself had not seen the occurrence and he was told by Tilai Sharma that Kaila Yadav had killed Mahadev Sharma. On perusal of paragraph – 6 of cross-examination of P.W.4, it is evident that he had stated that for deposition in the court, this witness was brought by Subi Lal Yadav through a train and he also said that he had seen Subi Lal in the court. In paragraph – 15 of his cross-examination, he accepts that he was a labourer of Subi Lal since his childhood. In paragraph – 22, he denied the suggestion that he had deposed in connivance with Subi Lal Yadav. Though, this witness has not claimed to be eye-witness to the occurrence and he was only hearsay witness, on examination of his evidence, this fact is clear that dispute in between Subi Lal Yadav and appellants side was continuing since long and this witness was labourer of Subi Lal Yadav. On his evidence, the evidence of P.W.2 may not be treated as truthful.

14. P.W.5 Budhni Devi, who is mother of the deceased and widow of the informant. She is hearsay witness and she stated that her son had deposed in favour of Subi Lal Yadav against accused persons and this was the reason for the said occurrence. In paragraph – 2 of her cross-examination, she has



accepted that from her village, she was carried by Subi Lal to give evidence in the case. She accepts that Subi Lal Yadav was a rich-man and she was poor person and her husband and her father-in-law were also worker of Subi Lal Yadav. She further stated that Subi Lal was having four sons and number of cases were pending against his sons. In same paragraph, her attention was tried to be drawn to her previous statement recorded under Section 161 of the Cr.P.C. before the police that she had said that at the time of occurrence, her husband had gone outside with cattle for grazing. She further denied that she had said that her son was ploughman of Subi Lal Yadav. She further accepted that whatever she was told to say, she had deposed. On examination of her evidence, it is evident that had the investigating officer been produced by the prosecution, the defence-side would have drawn attention of this witness to her previous statement made before the police, in which, she had stated that at the time of occurrence, her husband was gone outside for grazing with cattle, so there was no reason that her husband, who was shown to be present at the place of occurrence, had not witnessed the occurrence.

15. P.W.6 Dr. Chandra Kishore Prasad, who was posted as Medical Officer at Sub-Divisional Hospital, Supaul at the



relevant time, had conducted post-mortem examination on the dead body of the deceased and had noticed following facts and injuries:-

“1. Rigor mortis present in all limbs.

2. Punctured lacerated wound 1 cm x 1cm x 10 cm. In size circular in shape with blackening signing of the margin on the abdomen 2 cm right lateral to the umbilicus. The age of the wound inverted indicating the wound of the entrance.

On Dissection:

1. Lacerated wound 2 cm x 1cm x whole thickness of the upper third portion of the descending column.

2. Abdominal cavity filled with blood, blood clot and thickal materials.

3. Stomach intact and empty.

4. Liner, spleen and both kidneys intact and pale.

5. Urinary bladder intact and empty.

6. Genital organ intact.

7. Heart intact and all chambers are empty.

8. Lungs intact and pale.

9. Metallic bullet recovered from the abdominal cavity and sealed in clean vial and handed over to the constt. For exhibition.

Cause of death – Haemorrhage and shocks with two cardiac respiratory arrest caused by fire arm.

Time elapsed since death P.M. held between 6 to 24 hrs.”

He has proved the post-mortem examination report, which was marked as **Ext.1.**

16. P.W.7 Mahakant Sharma and P.W.8 Mohan Sharma are witness to the inquest report and P.W.7 Mahakant Sharma had proved his signature on inquest report, which was marked as **Ext. 2.** However in his cross-examination, he stated that he had



no knowledge as to on which paper, police had got his signature. He stated that since the police had asked him to put signature, he had signed it. He clarified that his signature was taken on way, while he was returning to his house.

17. P.W.8 Mohan Sharma has only said that he had put his L.T.I. on inquest report. He accepted that father of Mahadev Sharma (deceased) i.e. Tilai Sharma (informant) was his uncle.

18. P.W.1 Upendra Ram and P.W.3 Jagen Yadav have turned hostile. Though, P.W.3 Jagen Yadav had turned hostile, his hostility also creates serious doubt on the evidence of sole eye-witness i.e. P.W.2, who in his deposition, had stated that this witness i.e. Jagen Yadav and P.W.4 Yogendra Yadav were amongst them, who had carried the injured to hospital on rickshaw.

19. In view of aforesaid evidences, the Court is of the opinion that the learned Trial Judge was not right in holding all the appellants guilty. The absence of investigating officer has seriously prejudiced the case of the defence. In absence of investigating officer, even place of occurrence was also not properly proved, even by any other police official. No reason has been assigned by the prosecution as to why the investigating officer was not produced for evidence and what was the reason



for not formally proving the *fardbeyan*, formal F.I.R. and inquest report.

20. In this case, only evidence was of P.W.2 (Arvind Kumar Yadav @ Bauwa Yadav), who had claimed to be eye-witness to the occurrence, however; his inconsistent deposition before the court below does not inspire confidence on his evidence and as such, only on the sole evidence of P.W.2 (Arvind Kumar Yadav @ Bauwa Yadav), it was not safe to hold all the appellants guilty and as such, we are of the considered opinion that the learned Trial Judge was required to acquit the appellants by extending the benefit of doubt. Since the learned Trial Judge has committed error in not appreciating the evidence of P.W.2 in its right perspective, the Court has got no option but to set aside the impugned judgment of conviction and sentence.

21. Accordingly, by way of extending benefit of doubt, the appellants of all the aforesaid three appeals are acquitted and judgment of their conviction and sentence dated 29.05.2012 passed by Sri S.N.Srivastava, learned Adhoc Additional District & Sessions Judge-I, Supaul in Sessions Trial No. 43 of 1998 (arising out of Raghapur P.S. Case No. 87 of 1996) is, hereby, set aside and all the three appeals are allowed.



22. In this case, except appellant Kaila Yadav @ Balram Yadav (in Cr. Appeal DB No. 628 of 2012), all other appellants are on bail. Accordingly, they are discharged from the liability of their bail-bonds and since the judgment of conviction and sentence has been set aside and the appellant Kaila Yadav @ Balram Yadav (in Cr. Appeal DB No. 628 of 2012) is in custody, it is, hereby, directed to release him forthwith, if not wanted in any other case.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	23.12.2017
Transmission Date	23.12.2017

