

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.398 of 1995

.....
{Against the Judgment of conviction and Sentence Order dated 28.11.1995
passed in Sessions Trial No.108 of 1986 by the learned 3rd Additional
Sessions Judge, Saharsa}

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Parmanand Mehta, son of Late Devi Lal Mehta, resident of village-Kash
Nagar, P.S. Sonbarsa, District-Saharsa.

... .. Appellant.

Versus

The State of Bihar

... .. Respondent.

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with
Criminal Appeal (DB) No. 4 of 1996

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1. Rajendra Singh, son of Ghughli Singh.
2. Devendra Singh, son of Ghughli Singh.
3. Ghughali Singh, son of Late Munilal Singh.
All Appellants no.1 to 3 resident of village-Kash Nagar, P.S. Sonbarsa,
District-Saharsa.
4. Jai-Jai Ram Mehta, son of Sita Ram Mehta.
5. Pramod Mehta, son of Jageshwar Mehta.
6. Sita Ram Mehta, son of Guneshwar Mehta.
All Appellant Nos.4 to 6 residents of village-Bahuarba, P.S. Salkhua,
District-Saharsa.

... .. Appellants.

Versus

The State of Bihar

... .. Respondent.

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Appearance :

(In Criminal Appeal (DB) No. 398 of 1995):

For the Appellant : Ms. Shaheen Begum, Amicus Curiae.
For the State : Mr. Shiwesh Chandra Mishra, A.P.P.

(In Criminal Appeal (DB) No. 4 of 1996)

For the Appellants : Mr. Parmeshwar Mehta, Advocate.
For the State : Mr. Dilip Kumar Sinha, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 16-07-2018

Heard the parties.



2. These criminal appeals have arisen out of the common Judgment of conviction and sentence order dated 28.11.1995 passed in Sessions Trial No.108 of 1986 by the learned 3rd Additional Sessions Judge, Saharsa, by which and whereunder, the learned 3rd Additional Sessions Judge, Saharsa, convicted the appellants for the offences punishable under Sections 302/34 and Section 201 of the Indian Penal Code and, accordingly, sentenced them to undergo imprisonment for life for the offences punishable under Sections 302/34 of the Indian Penal Code and to undergo rigorous imprisonment for three years for the offence punishable under Section 201 of the Indian Penal Code. The learned 3rd Additional Sessions Judge, Saharsa, directed that both the above stated sentences shall run concurrently.

3. P.W.4 Bindeshwari Mehta gave his fardbeyan to P.W.9, namely, S. Rizvi, at 07.15 P.M. on 15.03.1985 to this effect that his elder brother, namely, Siya Ram Mehta was residing with him as well as his parents but he had constructed a hut on the land, adjacent to the house of the appellant Sita Ram Mehta 15 days ago and he used to visit the aforesaid hut but never stayed in the said hut in the night. The appellant Sita Ram Mehta was carrying enmity with Siya Ram Mehta and even both



had no talking term. The appellant Sita Ram Mehta used to give threatening to Siya Ram Mehta. P.W.4 further claimed that on the same day at about 06.30 P.M., he along with Siya Ram Mehta was going to market and when reached near the crossing, one Dukhan Paswan came there and gave information to Siya Ram Mehta that he was being called by the wife of the appellant Sita Ram Mehta. Siya Ram Mehta having got the aforesaid information proceeded towards the house of the appellant Sita Ram Mehta. P.W.4 (informant) further claimed that he, too, followed Siya Ram Mehta. He further claimed that Siya Ram Mehta as soon as reached near the door of Sita Ram Mehta, all of a sudden, Sita Ram Mehta, Jai-Jai Mehta, Pramod Mehta, Permanand Mehta, Ghughali Singh, Devendra Singh and Rajendra Singh came there and caught hold Siya Ram Mehta and took him away towards the east side. The above stated Siya Ram Mehta raised alarm and having heard the alarm of Siya Ram Mehta, P.W.4 ran towards Siya Ram Mehta but, in the meantime, he heard two rounds of gun shot firing and out of fear, he could not proceed ahead and, immediately, went to the police station to give information in respect of the aforesaid occurrence.

4. P.W.9 recorded the fardbeyan of P.W.4 and



forwarded the aforesaid fardbeyan to the Sonbarsa Police Station for institution of the case under Section 364 of the Indian Penal Code and, subsequently, Sonbarsa P.S. Case No.16 of 1985 under Sections 144 and 364 of the Indian Penal Code and Section 27 of the Arms Act was registered. However, P.W.9 had already taken the charge of investigation and, in course of investigation, he recorded the further statement of P.W.4, inspected the place of the occurrence in the evening of 15.03.1985. The dead body of Siya Ram Mehta was recovered in the morning of 16.03.1985 in a field. P.W.9 went there and prepared the inquest report. However, in the meantime, before recovery of the dead body of Siya Ram Mehta, P.W.7 produced blood stained 'Dhoti', which was seized by P.W.9. After recovery of the dead body, P.W.9 again visited the place of occurrence and seized blood from the place of occurrence. He also seized two 'Pattis' of bamboo, stained with blood. The blood stained earth and the aforesaid blood stained bamboo were sent to the Forensic Science Laboratory but the aforesaid articles were returned from the Forensic Science Laboratory without any chemical examination. However, after completion of investigation, P.W.9 submitted the charge sheet against the appellants.



5. The cognizance of the offence was taken and, accordingly, after commitment of the case to the court of sessions, the appellants were put on trial before the learned court below.

6. The appellants, Jai Jai Ram Mehta, Parmanand Mehta, Ghughali Singh, Rajendra Singh and Devendra Singh stood charged for the offences punishable under Sections 302/34 of the Indian Penal Code, whereas the appellants Sita Ram Mehta and Pramod Mehta were, separately, charged for the offence punishable under Section 302 of the Indian Penal Code. Furthermore, all the seven appellants stood charged for the offence punishable under Section 201 of the Indian Penal Code. The appellants denied the charges and claimed to be tried.

7. To prove the charges, the prosecution examined, altogether, 9 witnesses and got exhibited the post-mortem report, inquest report, seizure list etc.

8. The statements of the appellants were recorded under Section 313 of the Code of Criminal Procedure in which they reiterated their innocence and claimed their false implication. The appellants also produced 4 defence witnesses to prove their false implication in the present case.

9. The learned trial court after scrutinizing and



analyzing the evidences, available on the record, convicted and sentenced the appellants in the manner, as we have already stated above.

10. Learned counsel appearing on behalf of the appellants challenged the impugned Judgment of conviction and sentence order, arguing that the learned trial court failed to appreciate the evidences, available on the record, in its right perspective. He further submitted that the deceased was a veteran criminal and a man of questionable character and, as a matter of fact, he was killed by some unknown persons and none had seen the actual killing of the deceased but after recovery of the dead body of the deceased, P.W.4 in collusion with one Yugal Kishore Mehta, Advocate, and others got implicated the appellants. He further submitted that it has come in the evidence that the dead body of the deceased was recovered in the morning of 16.03.1985 and, as a matter of fact, after recovery of the dead body of the deceased, antedated First Information Report was lodged by P.W.4 and that is the reason, the fardbeyan of P.W.4 reached to the concerned court on 18.03.1985, i.e., after three days of the registration of the First Information Report and no explanation regarding the aforesaid delay has been given by the prosecution. He further submitted



that, no doubt, some witnesses claimed to have seen the alleged occurrence but their evidence does not appear to be true because the dead body of the deceased was found more than two kilometers away from the house of the appellant Sita Ram Mehta and P.W.9 did not find any blood in front of the house of the appellant Sita Ram Mehta at the time of his first visit. He further submitted that, moreover, the so-called eye witnesses have made contradictory statements and also improved their statements in course of trial and, therefore, no reliance can safely be placed upon the evidences of the so-called eye witnesses.

11. Learned Amicus Curiae also challenged the impugned Judgment of conviction and sentence order by adopting the argument advanced by the learned counsel appearing in Criminal Appeal (DB) No.4 of 1996.

12. On the other hand, learned Additional Public Prosecutor supported the impugned Judgment of conviction and sentence order, arguing that the eye witnesses very clearly stated that it were the appellants, who had called the deceased and took him towards east side of the house of the appellant Sita Ram Mehta and, subsequently, in the next morning, the dead body of the deceased was recovered from the field and, therefore, the



aforesaid established facts clearly go to show that it were the appellants, who not only kidnapped the deceased but also committed his murder. Learned Additional Public Prosecutor further submitted that the prosecution has also proved the motive because it has specifically been stated by the witnesses that the appellants wanted to grab the lands of the deceased and, therefore, there is no scope for this Court to interfere into the impugned Judgment of conviction and sentence order.

13. Having heard the rival contentions of both the parties, we went through the records.

14. Admittedly, altogether 9 prosecution witnesses have been examined. Out of them P.W.1 Kusma Devi is the mother of the deceased and she claimed that she is mother of appellant Sita Ram Mehta too. She claimed that deceased constructed his house adjacent to the land of Sita Ram Mehta and due to aforesaid construction of house by the deceased, enmity developed between the appellants and the deceased. She further claimed that on the alleged date of occurrence, she had seen the appellants going towards the house of appellant Sita Ram Mehta. She also claimed that on the alleged date of occurrence, the wife of Sita Ram Mehta had come for calling the deceased Siya Ram Mehta but on her call, Siya Ram Mehta



did not go with her rather he went towards the market. She further claimed that his another son, namely, Bindeshwari Mehta (P.W.4) also followed the deceased and she, too, followed the deceased as well as P.W.4. She further claimed that again the wife of the appellant Sita Ram Mehta came at Chowk and took the deceased Siya Ram Mehta to her house. She claimed that when the deceased Siya Ram Mehta went to the house of the appellant Sita Ram Mehta, she heard the sound of firing and, in the meantime, P.W.4 and one Rajo Mehta returned back and P.W.4 disclosed that the appellants had killed the deceased Siya Ram Mehta. She further claimed that P.W.4 went to Kash Nagar Police FANDI, whereas the appellants took away the dead body of the deceased. She further claimed that she as well as others had kept vigil over the house of the appellant Sita Ram Mehta till whole night and the dead body of the deceased was recovered in the same night from an orchard and the aforesaid orchard was situated adjacent to the house of the appellant Permanand Mehta. She further stated that in the next morning, several persons had assembled near the dead body of the deceased. The evidence of this witness goes to show that the dead body of the deceased was recovered in the same night from an orchard and the deceased had gone to the house of the



appellant Sita Ram Mehta on the call of the wife of the appellant Sita Ram Mehta. Furthermore, the evidence of this witness also goes to show that she had not seen the actual killing of the deceased and she had only seen the appellants going towards the house of the appellant Sita Ram Mehta. However, on being cross examined, she stated that the appellant Sita Ram Mehta is her elder son but he had separated from her 10-12 years ago and got constructed his house near the house of the appellant Permanand Mehta. She frankly denied that her husband had one another wife, namely, Sandhya Devi, and the appellant Sita Ram Mehta was the son of the aforesaid Sandhya Devi. She also admitted that the deceased Siya Ram Mehta had gone to jail in connection with a dacoity case but stated that the deceased Siya Ram Mehta was implicated in the aforesaid dacoity case by the appellant Sita Ram Mehta. She also admitted that the deceased never visited the house of the appellant Sita Ram Mehta due to enmity. She further admitted that in the evening of the alleged date of the occurrence, the wife of Sita Ram Mehta had come to her house and asked Siya Ram Mehta to accompany her but she stopped Siya Ram Mehta from going to the house of the appellant Sita Ram Mehta but, even then, Siya Ram Mehta went to the house of the appellant Sita Ram Mehta. She further



admitted that she had not made statement before the police to this effect that on the alleged date of the occurrence, she had seen the appellants going towards the house of the appellant Sita Ram Mehta. She also admitted that more than 200 persons had encircled the house of the appellant Sita Ram Mehta after the occurrence and the aforesaid persons had asked the appellants not to take away the dead body but they chased the villagers.

15. P.W.2 claimed to have seen the occurrence. He stated that he had gone to attend the call of nature and heard the cry of the deceased Siya Ram Mehta and saw the appellant Sita Ram Mehta, carrying the deceased Siya Ram Mehta and having seen the appellant Sita Ram Mehta and the deceased, he went running towards the house of the appellant Sita Ram Mehta and saw the remaining appellants there and out of them, appellant Pramod Mehta and appellant Sita Ram Mehta were armed with country made gun and they shot fire on the deceased. This witnesses further claimed that all the appellants dragged the dead body of deceased Siya Ram Mehta and fled away from there along with dead body of deceased Siya Ram Mehta. This witness stated that in the next morning, he had seen the dead body of the deceased beneath a Shisham tree. On being cross examined by the defence, this witness admitted that Shri Yugal



Kishore Mehta, Advocate, is his co-villager and he further admitted that he as well as his brother and others were accused in the murder case of Rajo Mehta and in that case, his counsel was Shri Yugal Kishore Mehta. This witness further admitted that his house is situated on the land of Yugal Kishore Mehta, Advocate. This witness expressed his inability to say as to whether appellant Parmanand Mehta is the nephew of Yugal Kishore Mehta, Advocate. This witness also expressed his inability to say as to whether the appellant Parmanand Mehta is the son of Devi Lal Mehta, who happens to be the brother of Yugal Kishore Mehta. This witness admitted that the deceased Siya Ram Mehta was a criminal. The evidence of this witness goes to show that this witness is somehow related with Yugal Kishore Mehta, Advocate, and, furthermore, this witness could not dare to deny the relation of appellant Parmanand Mehta with Yugal Kishore Mehta, Advocate.

16. P.W.3 Munnilal Mehta is not an eye witness of the alleged occurrence but stated that one day prior to the alleged occurrence, he had seen the the appellants Ghughali Singh, Devendra Singh and Rajendra Singh at the tea shop of Anup Sah and at that time, Ghughali Singh was carrying a leather bag in his hand. This witness admitted that he along



with his brother Yugal Kishore Mehta was accused in the case of murder of Saryug Mehta and in the aforesaid murder case, he was remanded in jail custody but he expressed his inability to say as to whether appellant Sita Ram Mehta was a witness in the aforesaid murder case. This witness also expressed his inability to say as to whether appellant Sita Ram Mehta had filed Sanaha several times against him as well as his brother Yugal Kishore Mehta and, similarly, appellant Parmanand Mehta had filed Sanaha against him. The evidence of this witness goes to show that this witness is brother of Yugal Kishore Mehta, Advocate, and this witness as well as his brother Yugal Kishore Mehta, Advocate and others were accused in the murder case. Furthermore, this witness also could not dare to deny this fact as to whether appellant Sita Ram Mehta was a witness in murder case of Saryug Mehta.

17. P.W.4 is the informant of this case and claims himself to be full brother of the deceased Siya Ram Mehta as well as appellant Sita Ram Mehta. This witness supported the prosecution story and stated that he along with the deceased Siya Ram Mehta was going to Kash Nagar Market and as soon as reached near the crossing of Lakuna Tole, one Dukhan Paswan came there and told the deceased that the wife of the



appellant Sita Ram Mehta was calling him and, thereafter, the deceased Siya Ram Mehta went to the house of the appellant Sita Ram Mehta. This witness claimed that he, too, followed the deceased Siya Ram Mehta and as soon as the deceased Siya Ram Mehta reached near the house of appellant Sita Ram Mehta, appellants encircled him and took him towards east side. This witness claimed that his brother raised alarm and having heard his alarm, he went there and heard the sound of firing. This witness claimed that the appellant Sita Ram Mehta shot fire and, similarly, the appellant Pramod Mehta also shot fire. This witness claimed that he had seen the appellant Parmanand Mehta carrying gun in his hand. He further stated that he went running to Police FANDI, where his fardbeyan was recorded. This witness further stated that in the next morning, the dead body of his brother was recovered. This witness, on being cross-examined by the defence, admitted this fact that one Saryug Mehta was murdered and in the case of murder of Saryug Mehta, his brother, deceased Siya Ram Mehta, along with Yugal Kishore Mehta, Advocate, and the brother of Yugal Kishore Mehta, Advocate were accused and in that case, appellant Sita Ram Mehta was witness against the deceased Siya Ram Mehta and others. This witness further admitted that



the murder of Saryug Mehta had taken place prior to the institution of the present case. This witness also admitted that Yugal Kishore Mehta, Advocate had inimical term with his brother on account of land dispute and the appellant Parmanand Mehta is the nephew of Advocate Yugal Kishore Mehta. This witness further admitted that the appellant Sita Ram Mehta and the deceased Siya Ram Mehta had no talking terms since long. This witness further admitted that the appellant Sita Ram Mehta had given Sanaha against him as well as the deceased prior to institution of the present case. This witness further admitted that when deceased Siya Ram Mehta went to the house of appellant Sita Ram Mehta, he remained standing on the road. This witness stated that he had made statement before the Police that when he reached near the house of appellant, he saw that the appellant Pramod Mehta and appellant Sita Ram Mehta shot fire on the deceased Siya Ram Mehta but when P.W.9 was cross-examined by the defence and attention of P.W.9 was drawn towards the statement of P.W.4 recorded under Section 161 of the Code of Criminal Procedure, P.W.9, specifically, stated that P.W.4 had not made statement before him to this effect that the appellant Pramod Mehta and the appellant Sita Ram Mehta fired from their guns, as a result whereof the deceased Siya Ram



Mehta fell down there. The aforesaid fact goes to show that P.W.4 improved his statement in course of trial. Moreover, this witness further stated that, immediately, he went to Police Chowki, where he gave information to Police Jamadar and, thereafter, Police proceeded in search of the dead body of deceased but, even after hectic search, the dead body of the deceased could not be traced out in the aforesaid night and, thereafter, the Police returned to the police station. Here, we would like to say that P.W.1 in her evidence admitted that the dead body of the deceased was recovered in the night of the alleged date of the occurrence. This witness further stated that when the dead body of deceased could not be traced out, he returned to his home, whereas P.W.1 stated that more than 200 persons had encircled the house of the appellant in the night of alleged occurrence. The attention of this witness was drawn towards filing of Protest Petition and this witness admitted that he had filed Protest Petition, mentioning therein that he along with his other family members had kept vigil over the house of the appellant Sita Ram Mehta and heard the appellants, who were making plan to throw the dead body into a pond and, thereafter, he raised alarm, which attracted several villagers, who came there and, thereafter, the appellants fled away from



there after throwing the dead body in the field.

18. P.W.5 Krishnadeo Bhagat is a witness on the inquest. This witness stated that the police had prepared the inquest report before him and had also seized the blood stained grass as well as earth and prepared the seizure list. This witness also stated that the police seized two blood stained 'Pattas' of bamboo and prepared the seizure list in his presence. This witness further stated that P.W.7 Hazari Ram gave blood stained cloth to police in his presence. On being cross examined by the defence, this witness admitted that all the documents were prepared in police station and he had only put his signature on the aforesaid documents. He further admitted that all the above stated documents had already been prepared before taking his signature on the said documents.

19. P.W.6 Md. Abul Hassan has been tendered, whereas P.W.7, namely, Hazari Ram has been declared hostile.

20. P.W.8 Dr. I.B. Singh stated that he did post-mortem examination on the dead body of the deceased on 17.03.1985. This witness found, altogether, three injuries on the person of the deceased and opined that the cause of death of the deceased was due to aforesaid injuries and P.W.9 S. Rizvi is the Investigating Officer of this case. P.W.9 stated that on



15.03.1985, he was posted at Kash Nagar (Sonbarsa) Police Station and on that very date, he got an information and recorded the fardbeyan of P.W.4. This witness stated that after recording the fardbeyan, formal F.I.R. was drawn up and he took the charge of investigation. This witness further stated that after recording the further statement of P.W.4, he went to the place of occurrence and inspected the place of occurrence but did not find any sign of blood on the place of occurrence. This witness further stated that he searched the deceased but he could not succeed to trace out the deceased and on the same day, he returned to the police station. This witness further stated that P.W.7 Hazari Ram gave blood stained 'Dhoti' to him at the police station and he prepared the production list of that blood stained 'Dhoti'. He further stated that again, on the next day, he went to the place of occurrence and on that date, the dead body of the deceased was found lying in the field. This witness stated that he prepared the inquest report. He further stated that he found the trail of blood from the house of the appellant Sita Ram Mehta to the place, where the dead body of the deceased was found. He also found two "Pattis" of bamboo having blood stained on that 'Patties' near the dead body of the deceased. He further stated that he sent the blood stained earth, blood stained



Dhoti as well as blood stained 'Patties' to the Forensic Science Laboratory, Patna, but the aforesaid blood stained 'Dhoti, earth and 'Patties' of bamboo returned from the Forensic Science Laboratory un-examined. This witness admitted that he did not send the blood stained 'Dhoti', blood stained earth and blood stained 'Patties' of bamboo again for chemical examination. He further admitted that the place, from where the dead body was recovered, was at a distance of near about one kilometer from the FANDI (Police Chowki) and, similarly, the distance between the house of the appellant Sita Ram Mehta and FANDI was about one kilometer. This witness further admitted that he did not find any blood inside or outside the house of the appellant Sita Ram Mehta. This witness further admitted that the dead body of the deceased was recovered on 16.03.1985 at about 06.00 A.M. This witness also admitted that the deceased Siya Ram Mehta was a hardened criminal.

21. On careful perusal of the above stated evidences, it is explicit clear that the alleged occurrence took place on 15.03.1985 at about 06.30 P.M. and the dead body of the deceased was recovered on 16.03.1985 at about 06.00 A.M. Although P.W.4 as well as P.W.8 claimed that the fardbeyan of P.W.4 was recorded on 15.03.1985 at 07.15 P.M. and formal



F.I.R. was drawn up on 16.03.1985 but, admittedly, the formal F.I.R. was put up before the concerned court on 18.03.1985.

22. It has been argued on behalf of the appellants that the fardbeyan of P.W.4 is an antedated document and, as a matter of fact, after recovery of the dead body of the deceased, P.W.4 gave his fardbeyan and due to previous enmity implicated the appellants.

23. Admittedly, there is an inordinate delay in reaching the F.I.R. to the concerned court and the prosecution has not explained the aforesaid delay.

24. No doubt, it is well settled principle of law that only on the ground of delay in sending the F.I.R. to the concerned court, the entire prosecution case cannot be doubted but if the other evidence and circumstance creates doubt about the genuineness of the prosecution case, the delay, in sending the F.I.R. to the concerned court, plays an important role in deciding the genuineness of the prosecution case.

25. In the present case, as per prosecution case, P.W.8 reached at the place of occurrence on 15.03.1985, after recording the fardbeyan of P.W.4, and on that very date, he inspected the place of the occurrence but did not find any sign of blood near the house of the appellant Sita Ram Mehta nor



found the dead body of the deceased. Furthermore, it is case of the prosecution that on the next date when P.W.8 visited the place of occurrence, he found the trail of blood from near the house of the appellant Sita Ram Mehta upto the place where the dead body was recovered. Therefore, the aforesaid contradictory statements of P.W.8 makes the prosecution case doubtful, particularly, in the circumstance, when there was delay in sending the First Information Report to the concerned court within 24 hours from recording the fardbeyan of P.W.4. P.W.4 as well as other witnesses, specifically, admitted that the relation of the appellant was strained with the informant as well as his other family members. Although, P.W.1 and P.W.4 claimed that the appellant is full brother of the informant (P.W.4) and the deceased but the defence witnesses stated that the appellant is the step brother of the deceased and there was enmity between the appellant Sita Ram Mehta and the family of P.W.4. Furthermore, P.W.2 has admitted that his house is situated on the Parti land of one Yugal Kishore Mehta, Advocate, and P.W.4 admitted that there was enmity between Yugal Kishore Mehta, Advocate, and his nephew, namely, Parmanand Mehta, who is appellant in Criminal Appeal (DB) No.398 of 1995. Furthermore, the prosecution witnesses admitted that prior to



the alleged occurrence, aforesaid Yugal Kishore Mehta, Advocate, and others were made accused in a murder case and in the aforesaid murder case, appellant Sita Ram Mehta had deposed against Yugal Kishore Mehta and others. Therefore, the aforesaid fact clearly goes to show that there was long standing enmity between Yugal Kishore Mehta and the appellants.

26. As we have already discussed that there was delay in sending the F.I.R. to the concerned court and, furthermore, we find that there was long standing enmity between the parties and, therefore, in the aforesaid circumstances, the false implication of the appellants cannot be doubted in the present case.

27. Admittedly, on the alleged date of occurrence, the prosecution witnesses did not take any pain to search the deceased. Furthermore, we find that not an independent witness of the village of the parties came forward to support the prosecution case though the witnesses admitted that there were houses of the co-villagers near the house of the appellant Sita Ram Mehta and, therefore, in our view, in the aforesaid circumstance, the appellants are entitled to get the benefit of doubt.



28. On the basis of the aforesaid discussions, these appeals are allowed. The impugned Judgment of conviction and sentence order is hereby set aside and the appellants are acquitted of the charges, giving them benefit of doubt. The appellants are on bail. They are discharged from the liabilities of their bail bonds.

29. Let the copy of the first page and last page of the Judgment be handed over to the learned Amicus Curiae for needful.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24.07.2018.
Transmission Date	24.07.2018.

