

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.386 of 2013

Arising Out of PS. Case No.-32 Year-2008 Thana- GOREAKOTHI District- Siwan

Wazir Ahmad , Son of Imamuddin, Resident Of Village - Lilaru, Police
Station- Goreakothi, District- Siwan

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

Criminal Appeal (DB) No. 187 of 2013

Arising Out of PS. Case No.-32 Year-2008 Thana- GOREAKOTHI District- Siwan

Prem Pandit , son of Late Hari Pandit Resident Of Village - Lilarow , Police
Station - Goreakothi , District - Siwan.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

Criminal Appeal (DB) No. 220 of 2013

Arising Out of PS. Case No.-32 Year-2008 Thana- GOREAKOTHI District- Siwan

Indradeo Ram, Son Of Late Hari Pandit , Resident Of Village- Lilerow,
Police Station- Goreakothi, District- Siwan

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

(In Criminal Appeal (DB) No. 386 of 2013)

For the Appellant/s : Sri Kanhaiya Prasad Singh, Sr. Advocate

Sri Prateek Mishra, Advocate

Sri Raghav Prasad, Advocate

For the Respondent/s : Sri Mayanand Jha, A.P.P.



(In Criminal Appeal (DB) No. 187 of 2013)

For the Appellant/s : Sri Kanhaiya Prasad Singh, Sr. Advocate
Sri Prateek Mishra, Advocate
Sri Raghav Prasad, Advocate

For the Respondent/s : Sri Mayanand Jha, A.P.P.

(In Criminal Appeal (DB) No. 220 of 2013)

For the Appellant/s : Sri Kanhaiya Prasad Singh, Sr. Advocate
Sri Prateek Mishra, Advocate
Sri Raghav Prasad, Advocate

For the Respondent/s : Sri Mayanand Jha, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

Date : 27-08-2018

1. Appellants in all the aforesaid three Appeals were convicted and sentenced in Sessions Trial No. 239 of 2009 /G.R. No. 796 of 2008 [arising out of Goreakothi P.S. Case No. 32 of 2008] , and as such, all the three Appeals were taken up together and are being disposed of by this common judgment.

2. By judgment dated : 25.02.2013 all the three appellants were convicted for commission of offence under Section 302/34 of the Indian Penal Code, 1860 (hereinafter referred to as the “I.P.C.”) , however, appellant / Wazir Ahmad in CR. APP (DB) No. 386 of 2013 was also convicted for commission of offence under Section 27 of the Arms Act, 1959



(hereinafter referred to as the “Arms Act”). By order dated – 28.02.2013 all the appellants under Section 302/34 of the I.P.C. were sentenced to undergo imprisonment for life and to pay a fine of Rs. 10000/- each. In default of payment of fine they were directed to further undergo imprisonment for two years. For offence under Section 27 of the Arms Act, appellant / Wazir Ahmad in CR. APP (DB) No. 386 of 2013 was further sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 2000/-. In default of payment of fine he was directed to additionally undergo imprisonment for one year. The judgment of conviction and sentence was passed by Sri Janardan Tripathi, learned Adhoc Additional District and Sessions Judge -V, Siwan (hereinafter referred to as the “ trial judge”) in Sessions Trial No. 239 of 2009 /G.R. No. 796 of 2008.

3. Short fact of the case is that on 02.05.2008 at 14.00 Hours (2.00 P.M.) Sub Inspector of Police Sri Binod Kumar (P.W. 5) , S.H.O., Goreakothi Police Station recorded fardbyan of Sandeep Kumar Yadav (P.W. 2), S/o Sri Sitaram Yadav. The fardbyan was recorded near Chitoli Mor. The informant at 2.00 P.M. on 02.05.2008 gave fardbyan near Chitoli Mor on metalled road. He stated that adjacent to his village- Gopalpur one Government pond was settled with Manohar Bind (P.W. 1). In the



said pond his brother -Ranjeet Kumar Yadav (deceased) and one Upendra Yadav (deceased) who was friend of his deceased brother jointly were doing the job of fishery. Wazir Alam [appellant in CR. APP (DB) No. 386 of 2013] , Prem Pandit [appellant in Cr. APP (DB) No. 187 of 2013] , Indradeo Ram [appellant in CR. APP (DB) No. 220 of 2013] and Buchan Mian who were having criminal antecedent were insisting that they will be doing fishing of the said pond. On the date of occurrence in the morning at 8-10 A.M. his brother- Ranjeet and his friend- Upendra Yadav and also Pattedar /Manohar Bind (P.W. 1) (settlee) had fished out about 10-12 Kilograms of fish from the said pond and sold it. Thereafter, his elder brother -Ranjeet Yadav (deceased), his friend - Upendra Yadav (deceased), Santosh Kumar Yadav and settlee/ Manohar Bind (P.W. 1) all came to his house and after taking meal they started to proceeded to Chitauli market. The informant also followed them and he was moving behind them. At about 12.30 noon when they were about to reach Chitoli Mor at the old Boring from back side on two motorcycles four accused persons namely: Wazir Khan [appellant in CR. APP (DB) No. 386 of 2013], Prem Pandit [appellant in CR. APP. (DB) No. 187 of 2013], Buchan Mian and Indradeo Ram [appellant in CR. APP (DB) No. 220 of 2013] variously armed over took his brother



Ranjeet Yadav and Upendra Yadav and after intercepting by using filthy language said as to why they had conducted fishing and then, Wazir Alam and Buchan Mian from fire arm which they were carrying in their hands started indiscriminate firing whereupon both of them fell down and started squirming. The informant, Santosh and Manohar Bind (P.W. 1) due to fear fled away. Thereafter, the accused persons on the same motorcycles fled towards Mustafabad. Thereafter, the informant went to the place of occurrence and saw that his brother -Ranjeet Yadav and his friend- Upendra Yadav were dead. There was pool of blood. The said fardbyan was read over to him and after finding it correct the informant- Sandeep Kumar Yadav put his signature and as a witness to the fardbyan, Ram Pukar Yadav (P.W. 4), Sitaram Prasad (not examined), Jeevan Prasad (P.W. 3) and Prabhunath Yadav (not examined) put their signature and Manohar Bind (P.W. 1) put his L.T.I. On the basis of the said fardbyan on the same day at 6.00 P.M. a formal F.I.R. vide Goreakothi P.S. Case No. 32 of 2008 was registered for the offence under Sections 302/34 of the I.P.C. and Section 27 of the Arms Act against the aforesaid three appellants and one Buchan Mian.

4. During investigation, all the accused persons were taken into custody and after collecting materials to show



involvement of the accused persons, on 08.08.2008 charge- sheet was submitted against all the four F.I.R. named persons and one another accused namely : Shah Alam who was subsequently acquitted. Thereafter, on 13.08.2008 learned Chief Judicial Magistrate took cognizance of offence and the case was committed to the court of Sessions on 03.07.2009 and it was numbered as Sessions Trial No. 239 of 2009. In the case on 06.04.2010 charge under Section 302/34 of the I.P.C. was framed against : (1) Wazir Ahmad (appellant), (2) Buchan Mian, (3) Prem Pandit (appellant), (4) Indradeo Ram (appellant); and (5) Shah Alam. On the same day charge under Section 27 of the Arms Act was framed against Prem Pandit (appellant), Buchan Mian and Indradeo Ram (appellant). However, charge under Section 27(3) of the Arms Act was framed on the same day separately against Wajir Alam [appellant in CR. APP (DB) No. 386 of 2013]. It may be clarified that during the trial one of the accused namely- Buchan Mian absconded, and as such, only four accused persons were tried together. The trial of accused Buchan Mian was separated on 17.09.2012.

5. During the trial to prove its case on behalf of the prosecution altogether six witnesses were examined. Out of six witnesses, P.W. 1 (Manohar Bind) and P.W. 2 - Sandeep Kumar



Yadav / informant are eye witnesses to the occurrence, whereas, P.W. 3 - Jeevan Prasad (uncle of the deceased / Ranjeet Kumar Yadav and also uncle of the informant) was examined as hearsay witness and he was also witness to the fardbyan. P.W. 4 - Ram Pukar Yadav (brother of the deceased - Upendra Yadav) was examined as hearsay witness. Besides this, he is witness to the inquest reports also. P.W. 6 (Dr. Binay Kumar) on 02.05.2008 was posted as Medical Officer in Sadar Hospital, Siwan and he conducted post -mortem examination on two dead bodies. P.W. 5 (Binod Kumar Singh) is the Investigating Officer of the case.

6. After completion of prosecution evidence, all the circumstances and evidences brought on record during trial were explained to the appellants and their statement under Section 313 of the Code of Criminal Procedure, 1973 was recorded in which they claimed to be innocent, however from defence side no witness was examined.

7. Sri Kanhaiya Prasad Singh, learned senior counsel, assisted by Sri Prateek Mishra and Sri Raghav Prasad, learned counsel for the appellants submits that prosecution has not established its case beyond all reasonable doubt , and as such , the appellants are entitled to be acquitted by way of extending benefit of doubt. It has been argued that during trial none of the



independent witnesses have come forward to support the prosecution case. Sri Kanhaiya Prasad Singh, learned senior counsel for the appellants has argued that the presence of informant at the time of occurrence appears to be doubtful considering the fact that P.W. 1 -Manohar Bind in paragraph - 1 of his evidence has categorically stated that after taking meal he along with two deceased and one Santosh Kumar Yadav had proceeded towards the Chitoli market. Meaning thereby, that while the deceased with P.W. 1 and Santosh Kumar Yadav were moving, the informant (P.W. 2) was not present with them, and as such, the very presence of the informant at the place and time of occurrence as claimed by him appears to be doubtful. Sri Kanhaiya Prasad Singh, learned senior counsel for the appellants, has further argued that prosecution has miserably failed to establish the genesis of the case. He submits that it was the case of prosecution that two persons were done to death due to dispute of fishing from pond which was said to be settled in the name of P.W. 1, however, during trial, prosecution had not produced any chit of paper to show that the said pond was ever settled in favour of P.W. 1. He has argued that even the Investigating Officer in his evidence has categorically accepted that he has not investigated the case on the issue of settlement of pond.



8. Sri Kanhaiya Prasad Singh, learned senior counsel for the appellants has also argued that mentioning of F.I.R. No. in the inquest reports suggests that F.I.R. was ante-dated. He submits that in the case formal F.I.R. was drawn at 6.00 P.M. on the date of occurrence and it is the case of the prosecution that inquest report of two dead bodies were prepared in between 2.00 P.M. - 3.00 P.M. According to Sri Kanhaiya Prasad Singh, learned senior counsel for the appellants once inquest report was prepared prior to lodging of the F.I.R., in column – 1 of the inquest report there was no reason for incorporating the F.I.R. No., however, in the inquest report in column -1 F.I.R. No. has also been inserted. It creates doubt on the prosecution case. Sri Singh has also argued that there is apparent inconsistency in the evidence of witnesses as well as Investigating Officer on the point of sending dead bodies from the place of occurrence to Siwan for post-mortem examination. He submits that witnesses have stated in their evidence that from the place of occurrence dead bodies were loaded on Police Jeep and firstly were carried to Police Station and from Police Station dead bodies were sent to Siwan for post-mortem examination, however, the Investigating Officer in clear term has stated that dead bodies were sent for post-mortem examination directly from the place of occurrence itself. On



aforesaid grounds it has been argued that prosecution has not been able to establish its case beyond all reasonable doubt, and as such, learned trial judge has committed serious error in passing the judgment of conviction and sentence.

9. Sri Mayanand Jha, learned Additional Public Prosecutor submits that it is true that in the case only two persons have come forward claiming to be eye witness to the occurrence but their evidences are vividly clear and their evidence was itself sufficient for holding the appellants guilty and rightly the learned trial judge has passed the judgment of conviction and sentence. He further submits that oral evidence has also been corroborated by the medical evidence, since it was the case of prosecution that in the occurrence indiscriminate firing was made by the accused persons and on the person of the deceased such injuries were noticed. So far deceased - Ranjeet Yadav is concerned on his person three entry wounds and three exit wounds caused by fire arm were noticed whereas on the person of Upendra Yadav two entry and two exit wounds of fire arm were found. Besides this, it has been argued that it is specific case that dispute arose since deceased had conducted fishing in the Government pond which was settled with P.W. 1 and then, in a pre-planned manner, while deceased with others were moving for Chitoli market they were



followed by accused persons on two motorcycles carrying lethal weapons i.e. fire arm and they intercepting both the deceased indiscriminately fired causing their instantaneous death. According to Sri Mayanand Jha , learned A.P.P. witnesses have categorically stated that at the place of occurrence which was metalled road near old pump house, huge blood was found and both the deceased were found in pool of blood. At the place of occurrence two fired cartridges were also found, however the Investigating Officer had committed some error and this was the reason that the Investigating Officer despite finding fired cartridges and also noticing blood at the place of occurrence did not prepare seizure list. According to Sri Mayanand Jha, learned A.P.P. due to such apparent error committed by the Investigating Officer which appears to be not intentional, the prosecution case may not be considered as suspicious.

10. Besides hearing learned counsel for the parties, we have examined entire evidences available on record. Before proceeding, it would be necessary to examine firstly the evidence of the informant, who is none else but eye witness to the occurrence. P.W. 2 (Sandeep Kumar Yadav) deposed that occurrence had taken place on 02.05.2008 at 12.30. He stated that besides his village there is one Government pond. Auction of the



said pond was held in favour of Manohar Bind (P.W. 1) and Ranjeet (deceased) and Upendra (deceased) were doing fishing work in the said pond. Wazir Alam, Prem Pandit , Buchan Mian and Indradeo Ram were having criminal antecedent and they told that from the said pond they would conduct fishing. On 02.05.2008 in the morning at 9-10 his brother Ranjeet, Upendra and Manohar Bind had fished out about 10-12 Kilograms of fish which was sold. After selling fish, his brother -Ranjeet , Upendra, Santosh and Manohar Bind came to the house of the informant and all took meal together. After taking meal all the four persons proceeded towards Chitoli market. The informant also followed them. While he was moving behind them before Chitoli Mor near one old boring when they were moving on foot, from back side four accused persons on two motorcycles arrived. Amongst them, there were Wazir Alam (appellant), Prem Pandit (appellant), Buchan Mian (absconder) and Indradeo Ram (appellant). They were carrying **carbine**. Again he stated that they were carrying fire arm. All of them intercepted Ranjeet and Upendra after moving ahead and started saying by using filthy language that they had conducted fishing, thereafter Wazir Alam and Buchan Mian started indiscriminate firing on Ranjeet and Upendra on which both of them fell down and started squirming.



The informant due to fear fled away to some distance. Informant further deposed that the accused persons again on the same motorcycle went towards Mustafabad. Informant then again went to the place of occurrence and saw that his brother -Ranjeet Yadav and Upendra Kumar Yadav had already died and at the place of occurrence profused blood had fallen. Daroga Ji arrived at 2.00 P.M. and recorded his fardbyan on which he put his signature. His signature was marked as Ext. 1. He further identified the signature of Ram Pukar Yadav (P.W. 4) , Sitaram Yadav (not examined) , Jeevan Prasad (P.W. 3) and Prabhunath Yadav (not examined) which were marked as Ext. 1/1, 1/2, 1/3 , 1/4 respectively. In his evidence in paragraph - 8 the informant stated that Police recorded his re-statement. He voluntarily said that witness - Santosh Kumar Yadav had connived with the accused persons after taking money and this was the reason that he did not want to examine Santosh Yadav as witness. This witness was cross- examined at length, however on examination of the entire evidence we do not find any sufficient material to consider the evidence of informant as doubtful. Meaning thereby, that informant has truthfully deposed during the trial.

11. P.W. 1 (Manohar Bind) is another eye witness to the occurrence . This witness was the settlee of the pond in question.



He stated that on the date and time of occurrence he was with Ranjeet (deceased), Upendra (deceased) and Santosh near Chitoli State Boring on metalled road. He further stated that pond was in Gopalpur village which was near the house of Ranjeet. The said pond was auctioned in his favour which was being looked into by Ranjit and Upendra. He further stated that appellant / Wazir Alam was threatening and pressurizing them not to conduct fishing in the said pond. Along with Wazir, Buchan Mian and Prem Pandit were also present. He stated that Wazir Alam was supported by Buchan Mian and Prem Pandit also. He further stated that about 10-12 Kilograms of fish they had fished out and sold it. At that very time Wazir Alam, Buchan Mian and Prem Pandit had arrived and threatened to shoot him down and thereafter, they returned back. The informant and this P.W. 1 thereafter came back and after taking meal while they all four reached before Chitoli Mor near State Boring on two motorcycles four accused persons from Mustafabad arrived. One motorcycle was being driven by Buchan Mian and pillion rider was Wazir Alam. On another motorcycle Indradeo and Prem Pandit were there. Wazir Alam from his **carbine** gave two shots of firing on Ranjeet. After getting the shot he fell down. Upendra caught the **carbine**. Then, Buchan Mian fired six round on Upendra which



hit him, and thereafter, all the accused persons fled away and P.W. 1 by raising alarm also fled away. Thereafter, villagers arrived there. In paragraph -8 of his evidence he deposed that the accused persons were threatening and restraining them from giving evidence. This witness was also cross- examined at length, however, in paragraph - 11 of his cross- examination he has reiterated that the said Government pond was settled in his name. The settlement was for about four years in his favour. In paragraph -14 of his cross- examination he further stated that deceased -Upendra was given charge to look after the said pond. At the time of fishing this witness was present with Upendra (deceased), Manohar (P.W. 1) and Ranjeet. About 12 Kilograms of fish was fished out, however 10 Kilograms were sold. In paragraph – 17 of his cross -examination he has categorically stated that none of the accused persons had given any money for settlement and he reiterated that the accused persons were not having any right for fishing. In paragraph – 42 of his cross- examination he further stated that Upendra was shot from front side and Ranjeet was also shot from front side from a distance of about two hands. At this juncture, it is necessary to indicate that in post- mortem examination report charring injuries were also found. His attention was drawn to his previous statement made



during investigation which has been dealt with in paragraph -46 of his cross- examination . Learned counsel for the appellants has also drawn our attention to evidence of Investigating Officer/ P.W. 5 and in paragraph - 43 of his evidence P.W. 5 / I.O. has stated that in his previous statement before the Police this witness had not stated that from carbine Ranjeet was given two shots of firing. Of – course, there are some contradictions, but on examination of the same it appears that same is immaterial.

12. P.W. 3 -Jeevan Prasad (uncle of the deceased) was examined as hearsay witness. He stated that he was informed regarding the occurrence by Santosh Kumar Yadav. It may be clarified that since Santosh Kumar Yadav had not been examined as prosecution witness, the evidence of this witness on the point of occurrence appears to have no relevance, however, he stood as a witness to the fardbyan.

13. P.W. 4 -Ram Pukar Yadav (brother of the deceased) is a hearsay witness. He in his evidence has stated that he was informed by Manohar Bind (P.W. 1) regarding entire occurrence and participation of the accused persons. Since P.W. 1 has categorically deposed depicting the role played by the appellants, there is some substance in the evidence of P.W. 4. Besides this, he has proved signature on the inquest reports and in paragraph - 8



and 10 of his evidence he stated that paper in respect of dead bodies (inquest report) was prepared at the place of occurrence and from the place of occurrence dead bodies were firstly carried to Police Station and thereafter it was sent to Siwan for post-mortem examination.

14. P.W. 6 (Dr. Binay Kumar) on 02.05.2008 was posted as Medical Officer in Sadar Hospital, Siwan and on the same day at 6.20 P.M. he firstly conducted post- mortem examination on the dead body of Upendra Yadav and found following ante- mortem injuries:-

“ Rigor mortis was present in all four limbs.

(1) 1/2” circular wound with inverted and charred margin on the right side of lower chest in mid Axillary line, in 10th intercostal space (entry wound)

(2) 1” circular wound with everted margin on the back of chest in left side in posterior Axillary line in 10th intercostal space (exit wound).

[Both one and two communicates with each other]

(3) 1” circular wound with charred and inverted margin on right side flank just above anterior superior iliac spine (entry wound)

(4) 1 ½” circular wound with everted margin on the left side of flank above iliac crest (exit wound)
[Both 3 and 4 communicates with each other]

On dissection – Both lungs intact, heart intact. Both chamber empty, liver ruptured , spleen ruptured , abdominal cavity was full of blood and clots. Some parts of small and large gut were torned. Bladder was empty. Stomach contained semi digested food material. Other viscera were pale and intact.

Time since death - 6 to 24 hours.

Cause of death - Haemorrhage and shock due to fire arm injuries.”

He proved the post -mortem examination report conducted on the person of Upendra Yadav, which was marked as



Ext. 4. On the same day he also conducted post -mortem examination on the dead body of Ranjeet Yadav and noticed following anti -mortem injuries:-

“ Rigor mortis was present in all four limbs. There were fracture of right clavicle.

(1) 1” circular wound with charred and inverted margin on back of left side of chest near inferior scapular border (entry wound).

(2) 1½” circular wound with everted margin on anterior surface of left lower chest (exit wound)

both (1) and (2) communicates with each other.

(3) 1/2” circular wound with charred and inverted margin on antero medial surface of right upper arm (entry wound).

(4) 1” circular wound from posterior border of right axilla with everted margin (exit wound)

both (3) and (4) communicates with each other.

(5) 1” circular wound with charred and inverted margin on nape of neck (entry wound)

(6) 2” circular wound on lateral surface of left upper chest with everted margin

both (5) and (6) communicates with each other.

(7) Parietal bone of skull on left side was torned there was fracture of frontal bone of skull.

On dissection – Inside skull was full of blood and clots. Both lungs ruptured. Cavity was full of blood and clots. Heart was intact with both chamber empty. Stomach contained semi digested food material. Liver, spleen, kidney were intact. Bladder was empty.

Time since death – 6 to 24 hours.

Cause of death - Haemorrhage and shock due to fire arm injuries.”

He further proved the post -mortem examination report in respect of Ranjeet Yadav, which was marked as Ext. 4/1.



15. On examination of the evidence of P.W. 6 (Dr. Binay Kumar) as well as post- mortem examination reports, it is evident that both the deceased were done to death by indiscriminate firing. Meaning thereby, that oral evidence has been supported by the medical evidence.

16. P.W. 5 (Binod Kumar Singh) was the Officer -in-charge on 02.05.2008 in Goreakothi Police Station. He stated that on the same day at 13.05 Hours (1.05 P.M.) he received telephonic information regarding the occurrence. Thereafter, with armed forces he rushed to the place of occurrence and at the place of occurrence he recorded fardbyan of the informant. He has proved the fardbyan, which was marked as Ext. 2 and also proved entire formal F.I.R., which was marked as Ext. 3. In paragraph – 12 of his evidence he has given description of the place of occurrence i.e . near the metalled road as was stated by the informant. Of-course on examination of the evidence of the Investigating Officer it has been noticed that Investigating Officer had not conducted investigation in its right perspective, however, we are of the view that such errors committed by the Investigating Officer are not enough to disbelieve the specific prosecution case which has been brought on record by the evidences already discussed here-in-above.



17. So far submission of Sri Kanhaiya Prasad Singh, learned senior counsel for the appellants that presence of informant at the place of occurrence was doubtful, is concerned, we are of the opinion that on examination of the evidence of the informant it is very much clear that he was following four persons including the two deceased, and as such, there was possibility that the persons who were proceeding ahead might not had noticed as to who was coming behind them. Similarly, the submission advanced by learned senior counsel for the appellants that genesis of the case has not been established due to non -production of paper of settlement, is concerned, we are of the opinion that since it was consistent case of P.W. 1 as well as informant that the pond in question was settled in favour of P.W. 1 and repeatedly he deposed, even in cross- examination and no other evidence has been brought on record by the defence to show that P.W. 1 was not the settlee of the pond, the aforesaid submission of learned senior counsel for the appellants may not be treated as forceful. Moreover, prosecution witnesses have categorically stated that after fishing was made by the deceased they were threatened by the appellants particularly appellant – Wazir Ahmad, and thereafter, on the same day they were followed and they were done to death by indiscriminate firing. Regarding the submission



of mentioning of F.I.R. No. in the inquest reports, we are of the opinion that there is possibility that after preparing inquest reports which were prepared at the place of occurrence the Police while returned back to the Police Station and F.I.R. was drawn there is possibility that the Investigating Officer might had mentioned Case No. in the inquest reports. Moreover, on this issue in cross-examination no such questions were asked by the defence. Similarly, the stand taken by learned senior counsel for the appellants that there is inconsistency in respect of sending dead bodies from the place of occurrence to Siwan for post- mortem examination, we are of the opinion that there is consistent evidence that from the place of occurrence dead bodies were carried on Police Jeep firstly to Police Station and from Police Station on another vehicle dead bodies were sent to Siwan for post-mortem examination, and as such, said inconsistencies are having no significance for deciding the case otherwise.

18. In view of aforesaid evidences, which we have discussed here-in-above, we are of the considered opinion that the learned trial judge has committed no error in passing the judgment of conviction and sentence, and as such, there is no need to interfere with the same. Accordingly, all the aforesaid three Appeals are dismissed.



19. Appellant /Indradeo Ram in CR. APP (DB) No. 220 of 2013 was enlarged on bail by order dated : 05.04.2013 and appellant /Prem Pandit in CR. APP (DB) No. 187 of 2013 by order dated - 19.03.2013 was directed to be released on bail and they are enjoying the privilege of bail. Since their Appeal against their conviction and sentence has already been dismissed, they are directed to surrender before the court below forthwith, otherwise, the learned trial court is required to take all steps for securing their presence for serving sentence.

(Rakesh Kumar, J)

(Arvind Srivastava, J)

praful/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01 -09-2018
Transmission Date	01 -09-2018

