

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 1077 of 2012

Arising Out of PS. Case No.-11 Year-2007 Thana- Raniganj District- Araria

1. Pawan Yadav S/o Balkrishna Yadav, R/V – Barbanna, P.S. - Raniganj,
District – Araria
2. Amardip Yadav S/o Chandrenand Yadav R/V – Koshikapur, P.S. -
Raniganj, District – Araria.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with
Criminal Appeal (DB) No. 1049 of 2012

Arising Out of PS. Case No.-11 Year-2007 Thana- Raniganj District- Araria

1. Sushil Yadav
2. Sunil Yadav
Both sons of Late Suryanand Yadav @ Surya Yadav @ Surji Yadav, R/V –
Koshikapur, P.S. - Raniganj, District – Araria.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

with
Criminal Appeal (DB) No. 1074 of 2012

Arising Out of PS. Case No.-11 Year-2007 Thana- Raniganj District- Araria

Sushil Yadav son of Vidyanand Yadav resident of village - Koshikapur, P.S.
Raniganj, Distt. - Araria

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

(In Criminal Appeal (DB) No. 1077 of 2012)

(In Criminal Appeal (DB) No. 1049 of 2012)

(In Criminal Appeal (DB) No. 1074 of 2012)

For the Appellant/s : Mr. Kanhaiya Prasad Singh, Sr. Advocate
Mr. Ajay Kumar Thakur, Advocate
Mr. Pratik Mishra, Advocate



For the Respondent/s : Mr. Ritwaj Raman, Advocate
Mrs. Reena Sinha, Advocate
Mr. Ajay Mishra (A.P.P.)

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

Date : 15-05-2018

Appellants in all the aforesaid three appeals were tried together and were convicted & sentenced by common judgment and as such, all the aforesaid three appeals were heard together and are being disposed of by this common judgment.

2. All the appellants by judgment dated 6th September, 2012 were held guilty and convicted for commission of offence under Section 302 of the Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.') and Section 27 of the Arms Act, 1959 (hereinafter referred to as 'Arms Act'). By order dated 15-09-2012, all the aforesaid appellants for commission of offence under Section 302 of the I.P.C. were sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 10,000/- (ten thousand) each. In default of payment, they were directed to further undergo simple imprisonment for six months. They were awarded rigorous imprisonment for three years for commission of offence under Section 27(i) of the Arms Act and



to pay a fine of Rs. 2,000/- (two thousand) each and in default of payment, they were directed to undergo imprisonment for two months. All the sentences were directed to run concurrently. The appellants were convicted and sentenced in Sessions Trial No. 753 of 2009/Trial No. 55 of 2009 by Sri Jitendra Nath Singh, learned Adhoc Additional Sessions Judge 4th, Araria (hereinafter referred to as 'Trial Judge').

3. Short fact of the case is that on 15-01-2007 at 4:30 PM, Sub-Inspector of Police Sri M.K.Sinha (P.W.10) of Raniganj Police Station recorded *fardbeyan* of Chandan Kumar Yadav (P.W.4) S/o Late Jagdish Prasad Yadav of village Koshikapur, Police Station – Raniganj, District – Araria. The *fardbeyan* was recorded near Kajradhar on metal road. In the *fardbeyan*, it was disclosed by the informant that he and his other family members, who were accused in Raniganj P.S. Case No. 5 of 2005 registered for offence under Sections 147, 148, 149, 324, 302, 342 of the I.P.C. and Section 27 of the Arms Act, were on bail. In the said sessions trial, 15.01.2007 was the date fixed for evidence. In the said case, for attending date, he with his brother Awadhesh Yadav (deceased) and Ashok Yadav (P.W.1) on one motorcycle had gone to Araria. Prior to him, Anil Yadav (deceased), Rajendra Yadav (deceased) and



