

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.326 of 1995

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Pappu Singh, son of Shib Balak Singh, resident of village Batta Rampur, P.S.
Chanan, District Lakhisarai

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :
For the Appellant : Mr. Yogesh Chandra Verma, Sr. Adv.
Mr. Narsingh Tanti, Adv.
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 PARTHA SARTHY

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 29-04-2019

1. Heard learned counsel appearing for the appellant as
well as learned Additional Public Prosecutor for the State.

2. The sole appellant has been convicted for the offence
punishable under Sections 302/34 and 120-B of the Indian Penal
Code and has been sentenced to undergo imprisonment for life for
the offence punishable under Section 302/34 of the I.P.C. and
furthermore, he has been sentenced to undergo one month rigorous
imprisonment for the offence punishable under Section 120-B of
the I.P.C. However, both the sentences were ordered to run
concurrently.



3. The appellant has challenged the impugned judgment of conviction and sentence order dated 01.08.1995 passed by learned 7th Additional Sessions Judge, Munger in Session Case No. 496 of 1993 by which and whereunder he convicted and sentenced the appellant in the manner as stated above.

4. It is a very peculiar case in which one Shiv Balak Singh along with others including the appellant, allegedly, committed the murder of his two brothers and after that Lakhisarai (Chanan) P.S. Case No. 143 of 1991 was registered on the basis of ferdbeyan of wife of one of the deceased persons of this case.

5. PW-1 Kranti Devi is wife of deceased Ravindra Singh. She gave her ferdbeyan to S.I. P.N. Hazra of Chanan police station on 30.05.1991 at 4:30 P.M. at the premises of Higher Secondary School, Mananpur to this effect that since last several years dispute of partition was going on between her husband Ravindra Singh, BHAISUR Rambalak Singh and BHAISUR Shivbalak Singh as well as his sons because one Basudeo Singh and one Mosmat had transferred three bigha lands in favour of wife of Shiv Balak Singh. She, further, stated that although, the ancestral properties were partitioned but Shivbalak Singh did not want to give share in the above stated three bigha lands and the aforesaid lands were bone of contention between the above stated



persons. She, further, stated that Shiv Balak Singh due to the above stated partition dispute committed the murder of his younger brother Yogendra Singh for which a case was going on and in the aforesaid case, Shivbalak Singh was absconder since last several years. She, further, stated that on 30.05.1991, her husband Ravindra Singh and her BHAISUR Rambalak Singh went to irrigate their field but they did not return till 3:00 P.M. and after that she proceeded towards her field in search of her husband and her *BHAISUR* and as soon as she crossed Musahari and reached near Hauda, her co-villager Govardhan Sao came running from the side of the school and informed that firing was going on near the school. He also informed that Shivbalak Singh, Prem Kumar Singh, Pappu Singh (appellant) and three unknown persons were making firing. PW-1 claimed that she went running near her boring but she stopped near her boring out of fear and from there she saw her BHAISUR Rambalak Singh who was standing in his maize field and she further saw that Shiv Balak Singh gave butt of rifle blow on the head of Rambalak Singh and, thereafter, Prem Kumar Singh shot fire on the chest of Rambalak Singh as a result whereof, Rambalak Singh fell down in the field and died then and there. She claimed that remaining persons were making firing and having heard the sound of firing, her co-villagers and some other



persons started assembling there but due to fear nobody dared to proceed ahead. She, further, claimed that she saw her husband who was running towards the school. She as well as others followed her husband but while she was on her way, she heard sound of firing which was coming from the school side. She, further, claimed that after sometime, the miscreants fled away from the school and thereafter, she along with others went in the aforesaid school and found the dead body of her husband lying in pool of blood in one of the rooms of the school. She noticed that her husband had sustained firearm injury on his panjra. She claimed that FIR named accused persons committed the murder of her husband as well as her BHAISUR. She also expressed her suspicion regarding the conduct of Govardhan Sao who was peon of the aforesaid school because the aforesaid Govardhan Sao had not given information to her regarding the miscreants who had taken shelter in his school. She also expressed her suspicion against her villagers as well as the people of Mananpur Bazar.

6. On the basis of her ferdbeyan, Lakhisarai (Chanan) P.S. Case No. 143 of 1991 was instituted and formal FIR was drawn up against the appellant and five others for the offences punishable under Sections 302, 120-B of the I.P.C. and 27 of the Arms Act. PW-3 took charge of investigation. He investigated the



case and after completion of investigation, submitted charge sheet against the appellant and others. The cognizance of the offences was taken and the case was committed to the court of sessions, in usual way.

7. The appellant was, separately, put on trial in Session Case No. 496 of 1993 and accordingly, he stood charged for the offence punishable under Sections 120-B and 302/34 of the I.P.C. to which he denied and claimed to be tried.

8. In course of trial, prosecution examined, altogether, three prosecution witnesses and also got exhibited signature of PW-1 on ferdbeyan as Ext. 1, ferdbeyan as Ext. 2, formal FIR as Ext. 3, inquest reports as Ext. 4 series and postmortem reports as Ext. 5 series. The statement of appellant was recorded under Section 313 of the Cr.P.C. in which he reiterated his innocence and claimed his false implication. No evidence was adduced by the appellant in support of his defence but from perusal of statement recorded under Section 313 of the Cr.P.C. as well as trends of cross examination of prosecution witnesses, it appears that the defence of the appellant was total denial of the prosecution story.

9. The learned trial court after analyzing the evidence of prosecution witnesses and having relied upon the testimonies of PW-1, PW-2 and PW-3 coupled with documentary evidence



passed the impugned judgment of conviction and sentence order which is under challenge before this appellate court.

10. Learned counsel appearing for the appellant assailed the impugned judgment of conviction and sentence order arguing that the learned trial court failed to appreciate evidence in right perspective. Continuing his submission, he submitted that only PW-1 and PW-2 claimed themselves to be eye witness of the alleged occurrence but their depositions go to show that they had not seen the actual killing of the deceased. He submitted that PW-1 claimed in her ferdbeyan that when her husband and her BHAISUR did not return to the home, she went in search of her husband and reached near the Hauda where Govardhan Sao came running and informed her regarding the firing being made by Shiv Balak Singh, Prem Kumar Singh, appellant and three unknown persons but before the court she stated that she came out of the house having heard the sound of firing. Furthermore, PW-1 did not utter in her ferdbeyan regarding PW-2 as in her ferdbeyan PW-1 claimed that she went alone in search of her husband and Bhaisur but when she was examined before the court, she stated that having heard the sound of firing, she along with her mother in law Ramsakhi Devi (PW-2) came out of the house and went near the school and the aforesaid contradiction goes to show that PW-1



changed her statement before the court. He, further, submitted that PW-1 claimed in her ferdbeyan that Shivbalak Singh gave butt of rifle blow on the head of deceased Rambalak Singh and after that Prem Kumar Singh shot fire on him but the postmortem report of deceased Rambalak Singh goes to show that doctor did not find any firearm injury on the person of the deceased Rambalak Singh and, therefore, it is obvious that till the killing of deceased Rambalak Singh, no firing was made and the aforesaid fact also goes to show that PW-1 had not seen the killing of the deceased Rambalak Singh. He, further, submitted that PW-1 in her ferdbeyan claimed to have seen the appellant and others chasing her husband who entered in the premises of the school and subsequently, she heard the sound of firing and when the appellant and others left the premises of the school, she as well as others went in the room of the school where the dead body of husband of PW-1 was lying in pool of blood. He submitted that above stated statement of PW-1 goes to show that PW-1 had not seen the actual killing of her husband as her husband was killed inside the room of the school whereas according to PW-1 herself, she was not present in the said room. He further submitted that aforesaid admission of PW-1 can be looked from another angle. He submitted that PW-1 has admitted in her statement before the court that having heard



the sound of firing she went running near the school and it is obvious from perusal of ferdbeyan as well as postmortem report of deceased Rambalak Singh that prior to killing of husband of PW-1 no firing was made and, therefore, the aforesaid fact also goes to show that PW-1 is not an eye witness of the alleged occurrence. He, further, submitted that PW-1 completely changed the manner of occurrence in her statement before the court and, therefore, the aforesaid contradiction creates doubt about the claim of PW-1.

11. Learned counsel for the appellant, next, submitted that PW-2 claimed before the court that when she along with PW-1 and one Nilam Devi went running near the school, she saw that Shivbalak gave farsa blow to deceased Rambalak whereas Prema pierced bhala into the chest of deceased Rambalak as a result whereof deceased Rambalak fell down there. She also claimed that she saw Shivbalak, Prema, Pappu, Chandar Singh, Naresh, Kartik Verma, Acchay Chamar and Govardhan Sao who were present there. He submitted that PW-2 completely contradicted the statement of PW-1 because PW-1 claimed that Shivbalak Singh shot fire of semi (rifle) on the deceased Rambalak Singh and Prem Singh shot fire of gun which hit to deceased Rambalak. He submitted that the aforesaid contradiction in the statements of prosecution witnesses completely demolishes the manner of



occurrence and, therefore, it is obvious that prosecution failed to prove the manner of occurrence. She further claimed that deceased Ravindra went running to the school and he was chased by the appellant and others. She further claimed that Ravindra was assaulted by gun, rifle, pistol, etc. and after that appellant and others went towards Bhadui village. Learned counsel of the appellant submitted that the aforesaid statement of PW-2 goes to show that she had not seen the actual killing of the deceased Ravindra Singh and, therefore, no reliance can safely be placed upon the statement of PW-2.

12. Learned counsel for the appellant, next, submitted that PW-2 disclosed the cause of occurrence saying that Basudeo had transferred 3 bigha lands in favour of wife of Shivbalak Singh and deceased Rambalak, deceased Ravindra and Yogendra were demanding share in the aforesaid land and that was the reason deceased Rambalak and Ravindra were killed by Shivbalak Singh and his associates. She, further, claimed that prior to killing of Rambalak and Ravindra, Shivbalak and his associates had committed the murder of Yogendra. Learned counsel of the appellant submitted that aforesaid statement of PW-2 goes to show that Shivbalak had no occasion to commit the murder of deceased Rambalak and Ravindra Singh as the lands had already been



transferred in his favour and it were deceased Rambalak Singh and Ravindra Singh who were aggrieved by the aforesaid transfer and, therefore, the motive of the occurrence as claimed by the prosecution also appears to be doubtful.

13. Learned counsel of the appellant, next, submitted that there are so many contradictions in the depositions of PW-1 and PW-2 on the point of manner of occurrence as well as place of occurrence and the aforesaid contradictions go to root of the prosecution case and, therefore, no reliance can safely be placed upon the testimonies of PW-1 and PW-2. He, next, submitted that except PW-1 and PW-2, not a single independent witness came forward to support the prosecution case and, therefore, it can safely be said that the prosecution could not succeed to prove its case beyond all shadow of reasonable doubts and the appellant is entitled to be acquitted.

14. On the other hand, learned Additional Public Prosecutor appearing for the State supported the impugned judgment of conviction and sentence order arguing that PW-1 and PW-2, specifically, stated about the involvement of the appellant in the alleged crime and admittedly, accused Shivbalak Singh is full brother of the deceased persons of this case and PW-2 is mother of accused Shivbalak Singh as well as deceased persons of this case.



He, submitted that PW-2 has, specifically, stated that it were appellant and his associates who committed the murder of the deceased persons of this case and the statement of PW-1 and PW-2 is corroborated by the postmortem reports which have been exhibited in this case under Section 294 of the Cr.P.C. and, therefore, it is obvious that the prosecution has proved its case beyond all shadow of reasonable doubts and the learned trial court has rightly convicted the appellant for the offences punishable under Sections 302/34 and 120-B of the I.P.C.

15. Having heard the contentions of both the parties, we went through the record. As we have already stated that only three prosecution witnesses have been examined and out of them, PW-1 and PW-2 claimed themselves to be eye witness of the alleged occurrence whereas PW-3 is Investigating Officer of the present case. PW-1 Kranti Devi happens to be wife of deceased Ravindra Singh whereas PW-2 is mother of deceased persons as well as co-accused Shiv Balak Singh.

16. PW-1 Kranti Devi claimed that on the alleged date of occurrence at about 3.00 P.M. while she was at her home, she heard sound of firing and having heard the sound of firing, she along with PW-2 went running to the school. She, further, claimed that her husband as well as her BHAISUR Ram Balak Singh had



gone to their field since morning and while they were irrigating their field, FIR named accused Shiv Balak Singh shot fire of semi (rifle) which hit on the head of Ram Balak Singh and FIR named accused Prem Singh shot fire of gun which hit on the chest of Ram Balak Singh. She, further, claimed that the appellant and FIR named accused Kartik Verma, Akshay Ravidas, Gobardhan Sao, Chander Singh, Naresh Singh and some others were also present there. She, further, claimed that the appellant was armed with rifle whereas remaining persons were either armed with rifle or pistol. She claimed that having sustained firearm injury Ram Balak Singh fell down and died then and there. She, further, claimed that her husband started fleeing from there but he was chased by the above stated persons. She claimed that her husband entered in the school but the appellant shot fire on the chest of her husband and thereafter, Kartik Verma also shot fire on her husband which hit on his abdomen and thereafter, appellant again fired of his rifle which hit on the shoulder of her husband as a result whereof her husband died. She further stated that the appellant and his associates fled away towards Bhalui village making firing. She disclosed the reason of the alleged occurrence saying that there was land dispute between Shiv Balak Singh as well as her husband and BHAISUR. She also claimed that her younger brother in law, namely,



Yogendra Singh was also killed by the appellant and his associates one year prior to the alleged occurrence. She claimed that she gave her statement before the police at the aforesaid school. She identified the appellant before the court. In her cross-examination, she admitted that her cousin father in law, namely, Basudeo Singh had transferred 3 Bigha land in favour of wife of FIR named accused Shiv Balak Singh. She also admitted that her husband, BHAISUR as well as other family members were accused in the murder case of his co-villager Virendra Singh. She, further, admitted at para 12 of her cross-examination that her husband as well as his brothers including father of appellant had joint house but she along with PW-2 was residing in GOHAL which is at the distance of 500 yards from her residential house. She, further, admitted at para 13 of her cross-examination that she had disclosed in her fardbeyan that FIR named accused Shiv Balak Singh had assaulted the deceased Ram Balak Singh by means of Farsa but police wrongly mentioned in her fardbeyan that Shiv Balak Singh assaulted deceased Ram Balak Singh by means of rifle. She admitted that in her fardbeyan she had not stated that FIR named accused Shiv Balak Singh had assaulted deceased Ram Balak Singh by means of semi (rifle). However, she further admitted that in her fardbeyan, she had stated that having heard the sound of



firing she along with PW-2 went running near the school but she admitted at the same paragraph that she had not stated in her fardbeyan that deceased Ram Balak Singh had sustained firearm injury on his head. This witness further stated that Ram Balak Singh had sustained farsa injury on his head. She further stated that she had made statement before the police that Ram Balak Singh had sustained farsa injury. She further stated that she had claimed in her fardbeyan that Shiv Balak Singh, Prem Singh, Pappu Singh, Kartik Verma, Achhe Ravidas, Gobardhan, Chander Singh and Naresh Singh were also present there and Shiv Balak Singh was armed with semi rifle, appellant Pappu Singh was armed with rifle, Prem was armed with gun, Kartik Verma was armed with rifle, Achhe Ravidas was armed with rifle, Gobardhan was armed with rifle, Chander was armed with rifle, Naresh Singh was armed with rifle and Shri Bhagwan Singh was armed with pistol. This witness further admitted that she had not claimed before the police that the appellant Pappu Singh had shot fire on the chest of her husband rather she had stated in her fardbeyan that it was FIR named accused Prem Singh who shot fire on the chest of her husband. She further admitted that she had not seen Kartik Verma making firing on the abdomen of her husband and she had not disclosed the aforesaid fact at the time of recording her



fardbeyan. She further admitted that in her fardbeyan she had not disclosed that the appellant Pappu had shot fire on the shoulder of her husband. She, further, admitted at para 14 of her cross-examination that her husband was killed in a room of school but she claimed to have seen the killing of her husband. She denied this fact that in her fardbeyan, she claimed that she was of firm belief that appellant Pappu Singh and others had committed the murder of her husband. She admitted that in her fardbeyan, she had stated that when she along with several other persons went in the room of school, she found her husband lying in pool of blood and she had noticed firearm injury on the Panjra of her husband. She denied the suggestion of the defence that she had not seen the actual killing of deceased persons. She also denied the suggestion of the defence that her husband as well as BHAI SUR were criminal and they were killed by some other persons but she implicated the appellant and others due to previous land dispute.

17. PW-2 Ramsakhi Devi is mother of FIR named accused Shiv Balak Singh as well as deceased persons of the present case. This witness claimed that at the time of alleged occurrence, she was at her home and having heard the noise, she along with PW-1 and Neelam Devi went running near the high school and saw that FIR named accused Shiv Balak gave farsa



blow to deceased Ram Balak whereas FIR named accused Prema gave Bhala blow on the chest of deceased Ram Balak Singh as a result whereof deceased fell down on the ground. She, further, claimed that she had seen the appellant and others at the place of occurrence. She, further, claimed that deceased Ravindra Singh having seen the killing of deceased Ram Balak Singh started fleeing from there but he was chased by the appellant and others. She, further, claimed that however, the deceased Ravindra entered into the school but the appellant and others also entered into the school and committed the murder of deceased Ravindra and after that they fled away towards Bhadui village. She further claimed that she went near Ram Balak Singh as well as Ravindra Singh and found that both the above stated persons had already died. She also claimed that reason of the alleged occurrence was dispute regarding 3 Bigha land which had been transferred in favour of wife of Shiv Balak Singh. She failed to identify the appellant in court. However, there is no dispute on the point of identification because admittedly, the appellant is own grandson of PW-2 and, therefore, even if she failed to identify the appellant before the court, the said failure does not make any difference. The attention of this witness was drawn towards her statement recorded by Investigating Officer under Section 161 of the Cr. P. C and this



witness claimed that she had made statement before the police to this effect that she along with PW-1 and one Neelam Devi went to the place of occurrence and saw the entire occurrence. However, when defence asked a specific question from this witness as to who assaulted Ram Balak Singh by means of Sabal, this witness stated that she could not see who assaulted to whom as she had become unconscious. This witness claimed that she had made statement before the police that Shiv Balak Singh assaulted Ram Balak Singh by means of farsa whereas Prem assaulted Ram Balak Singh by means of bhala. This witness further admitted that she was residing with PW-1.

18. The testimonies of aforesaid PW-1 and PW-2 go to show that the occurrence took place at two places. First, the field where deceased Ram Balak Singh sustained injury and second, the room of school where deceased Ravindra Singh sustained injury. Furthermore, the testimonies of the aforesaid prosecution witnesses go to show that both the aforesaid witnesses were at their home and they went on the place of occurrence having heard the sound of firing as well as noise. PW-2 has admitted that deceased Ram Balak Singh sustained farsa and bhala injury and deceased Ravindra Singh started fleeing from there and entered into the school. Therefore, the aforesaid admission of PW-2 goes



to show that at the time of killing of deceased Ram Balak Singh, no firing was made and for the first time, firing was made when deceased Ravindra Singh started fleeing from there. PW-1 has admitted that she along with PW-2 went near the place of occurrence having heard the sound of firing. Therefore, the statements of PW-1 and PW-2 go to show that both the aforesaid witnesses went near the place of occurrence after hearing the sound of firing. We have already noticed that at the time of killing of Ram Balak Singh, no firing was made and for the first time, firing was made when deceased Ravindra Singh started fleeing from there. Therefore, the aforesaid fact reflects that neither PW-1 nor PW-2 had seen the actual killing of deceased Ram Balak Singh. Furthermore, we find that PW-1 has, nowhere, claimed in her fardbeyan that when she went near the place of occurrence, PW-2 was also along with her. We also find major contradictions in fardbeyan of PW-1 as well as her testimony. In her fardbeyan, PW-1 claimed that when her husband as well as her BHAISUR did not return to their home, she went in search of her husband and BHAISUR and while she reached near the school, her co-villager Gobardhan Sao came running from the side of school and informed that firing was being made near the school by Shiv Balak Singh, Prem Kumar Singh, appellant Pappu Singh and three



unknown persons. However, in her deposition, she completely deviated from the aforesaid statement and claimed that she along with PW-2 went near the school having heard the sound of firing. Furthermore, we find that there is major contradiction in fardbeyan as well as statement of PW-1 on the point of manner of occurrence. In her fardbeyan, she claimed that Shiv Balak Singh assaulted on the head of deceased Ram Balak Singh by kunda of rifle and Prem Kumar Singh shot fire on the chest of deceased Ram Balak Singh but before court she claimed that Shiv Balak Singh shot fire of rifle which hit on the head of deceased Ram Balak Singh whereas Prem Singh shot fire of gun which hit on the chest of deceased Ram Balak Singh. PW-1 in her fardbeyan claimed to have identified Shiv Balak Singh, Prem Kumar Singh and appellant Pappu Singh and according to her fardbeyan, there were three unknown persons but in her deposition before the court, she claimed to have identified some other persons such as Kartik Verma, Akshay Ravidas etc.

19. It is admitted case of the prosecution that the dead body of deceased Ravindra Singh was found in the room of high school and PW-3, the Investigating Officer has, specifically, stated that when he inspected the place of occurrence, he found the dead body of deceased Ravindra Singh in the room of high school.



Moreover, it is also the case of prosecution that deceased Ravindra Singh sustained firearm injury inside the room of aforesaid high school and PW-1 and PW-2 claimed that when deceased Ravindra Singh entered into the room of said school, they were standing behind the said school. Admittedly, PW-1 and PW-2 were not present in the room in which deceased Ravinder Singh was killed. Therefore, it is obvious that neither PW-1 nor PW-2 had seen the actual killing of deceased Ravinder Singh. PW-1 in her fardbeyan claimed that she was of firm belief that appellant Pappu Singh along with Shiv Balak Singh, Prem Kumar Singh and others committed the murder of her husband inside the room of above stated school but when she was examined before the court, she claimed to have seen the actual killing of deceased and stated that appellant shot fire on the chest and shoulder of her husband though when her attention was drawn towards her previous statement recorded by police, she admitted that she had not claimed before the police that it was appellant Pappu Singh who had shot fire on the chest and shoulder of her husband. Therefore, it is obvious that PW-1 has not only improved her statement in course of trial but her statement is also full of contradictions which go to the root of the prosecution case.



20. Almost similar position is in respect of statement of PW-2 who claimed before the court to be eye witness of the alleged occurrence but before the investigating officer she had not claimed herself to be eye witness as admitted by PW-3 in his cross-examination. No doubt, PW-2 is own grandmother of appellant and her two sons were killed in the alleged occurrence, allegedly, by her another son and others but it is also an admitted position that PW-2 was residing with PW-1 at the time of alleged occurrence and admittedly, the husband of PW-1 was killed. It is also an admitted position that there was serious land dispute between father of appellant as well as husband of PW-1 and, therefore, this possibility cannot be ruled out that PW-2 might be tutored by PW-1. Moreover, as we have already stated that the materials available on the record go to show that neither PW-1 nor PW-2 had seen the actual killing of deceased persons of the present case.

21. The present case can be looked from another angle. It is admitted case of the parties that there was serious land dispute and according to prosecution case, while deceased persons were irrigating their field, appellant and others being armed with rifle, gun etc. went there and assaulted the deceased Ram Balak Singh. The testimonies of PW-1 and PW-2 coupled with fardbeyan go to



show that it were FIR named accused Shiv Balak Singh and Prem Kumar Singh who assaulted the deceased and the appellant was only standing with them and no specific overt-act was attributed against the appellant. No doubt, PW-1 and PW-2 claimed that while deceased Ravinder Singh entered in the premises of the school, appellant and others chased them and they, too, entered in the premises of the school and committed the murder of deceased Ravinder Singh but it is obvious that the actual killing of deceased Ravinder Singh was not seen by PW-1 and PW-2 and, therefore, in view of the aforesaid facts also, no specific overt-act has been attributed against the appellant Pappu Singh. Therefore, in absence of any overt-act, only because of presence of appellant over the place of occurrence, it cannot be said with certainty that the appellant had also participated in the alleged crime, especially, in the circumstance, when no reliance safely be placed upon the testimonies of PW-1 and PW-2. Therefore, in our view, the appellant Pappu Singh is entitled to get benefit of doubt.

22. On the basis of aforesaid discussions, we are of the view that the prosecution could not succeed to prove its case beyond all shadow of reasonable doubts against the appellant Pappu Singh and, therefore, the impugned judgment of conviction and sentence order cannot sustain in the eye of law. Accordingly,



this criminal appeal is allowed and the impugned judgment of conviction and sentence order is, hereby, set aside. The appellant is acquitted of the charge framed against him giving benefit of doubt. The appellant is on bail. He is discharged from the liabilities of his bail bonds.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

shahzad/-rajeev

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	19.06.2019
Transmission Date	19.06.2019

