

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (DB) No.693 of 2013**

Arising Out of PS. Case No.-206 Year-2011 Thana- Nawada District- Nawada

Arvind Singh @ Pullu Singh, S/o Ramadhin Singh, Resident of Village-  
Sishwan, P.S- Nawada, District- Nawada.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

**CRIMINAL APPEAL (DB) No. 521 of 2013**

Arising Out of PS. Case No.-206 Year-2011 Thana- Nawada District- Nawada

1. Maheshwari Singh, Son of Late Beni Singh
  2. Shivji Singh, Son of Late Ramawatar Singh.
  3. Ganesh Singh, Son of Ram Naresh Singh
- All are residents of Village- Siswan, P.S.- Nawada, District- Nawada.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

(In CRIMINAL APPEAL (DB) No. 693 of 2013)

For the Appellant/s : Mr. Aaruni Singh, Advocate.

For the Respondent/s : Mr. Ajay Mishra, APP.

(In CRIMINAL APPEAL (DB) No. 521 of 2013)

For the Appellant/s : Mr. Raj Kumar, Advocate.

Mr. Rajnish Kumar, Advocate.

For the Respondent/s : Mr. Ajay Mishra, APP.

**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**

**and**

**HONOURABLE MR. JUSTICE PRAKASH CHANDRA**

**JAISWAL**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE PRAKASH CHANDRA  
JAISWAL)**

**Date : 12-03-2019**

As both the criminal appeals have cropped up from the  
same judgment, hence aforesaid two appeals are being heard  
together and disposed of by this common judgment.

**2.** Heard learned counsel for the appellants and learned  
APP for the State on these criminal appeals.



3. These criminal appeals have been preferred against the Judgment and Order of conviction and sentence dated 13.05.2013 passed by Ad hoc Additional Sessions Judge-II, Nawadah in Sessions Trial No. 35 of 2012 / 01 of 2012 arising out of Nawadah Town P.S. Case No. 206 of 2011 whereby the learned trial court convicted the accused persons namely Arvind Singh @ Pullu, Naresh Singh, Maheshwari Singh, Shivji Singh and Ganesh Singh for the offence punishable under Section 302/34 of the Indian Penal Code and sentenced them to undergo Rigorous imprisonment for life and also slapped them with the fine of Rs. 10000/- each and in default of payment of fine to further undergo R.I. for six months under the aforesaid Section.

4. Factual matrix of the case is that Nawadah Town P.S. Case No. 206 of 2011 was instituted under Section 302/34 of the Indian Penal Code against the accused Arvind Singh @ Pullu Singh, Rajeshwar Singh @ Rajo Singh, Ramnaresh Singh, Maheshwari Singh, Ganesh Singh and Shivji Singh on the basis of the fardbeyan of Vyas Deo Prasad Singh, Son of Late Parmeshwar Singh recorded by P.S.I. Raja of P.S. Nawada Town on 20.04.2011 at 8 PM at Sadar Hospital Nawada with the allegation in succinct that on 20.04.2011 at around 05:30 PM informant along with his son namely Narendra Kumar @ Ghaplu had gone to the boring of Jitendra Kumar @ Ripu for watering the grass of his field. He had taken the plastic delivery



pipe from the boring of Jitendra Kumar @ Ripu to his field through the field of Arvind Singh @ Pullu Singh and was to take water through aforesaid pipe. In the meantime Arvind Singh @ Pullu Singh, Rajeshwar Singh @ Rajo Singh, Ram Naresh Singh, Maheshwari Singh and Ganesh Singh arriving there started slating them over taking water through their field. Whereupon the informant told them that he would remove the pipe from their field after watering his field. In the meantime, Shivji Singh arrived there with tractor, whereupon Rajeshwar Singh gave him order to plough the field. Then Shivji Singh crushed his pipe through his tractor. When he and his son Narendra Kumar @ Ghaplu raised protest against it, all of them gave order to assault them and gave them chase. Then they escaped towards their house. Accused persons also followed them. As soon as they arrived in the eastern lane located near the house of the informant, Ram Naresh Singh and Maheshwari Singh caught hold his son Narendra Kumar and Rajeshwar Singh gave order to assault him, whereupon Arvind Singh taking out dagger from his waist gave dagger blow on the left chest of his son with intention to do away with his life. Shivji Singh and Ganesh Singh whipped out pistol from their waist and resorted firing scaring the people to eliminate them in case of coming close to them. So the villagers namely Chandrabhushan Singh, Jitendra Kumar @ Ripu, Mithilesh



Kumar and others preferred to stay at some distance. Then all the accused persons left the scene. Thereafter the informant rushed his son to Sadar Hospital, Nawada with the help of his family members and villagers where he succumbed to his injury during the course of treatment.

5. Aforesaid case was investigated by the police and on conclusion of the investigation, I.O. submitted charge-sheet against five accused persons namely Arvind Singh, Ram Naresh Singh, Maheshwari Singh, Shivji Singh and Ganesh Singh showing the accused Rajeshwar Singh @ Rajo Singh as not sent up.

6. On receiving the chargesheet and the case diary and perusing the same, the learned Magistrate took cognizance of the offence and committed the case to the court of sessions and after commitment and on transfer finally the case came in the seisin of Ad hoc Additional Sessions Judge-II, Nawadah for trial.

7. Charge against the accused persons namely Arvind Singh @ Pullu Singh, Ram Naresh Singh, Maheshwari Singh, Shivjee Singh and Ganesh Singh was framed under Section 302/34 of the Indian Penal Code. Charge was read over and explained to them by the Court to which they pleaded not guilty and claimed to be tried.

8. To substantiate its case, in ocular evidence, the



prosecution has examined altogether eight prosecution witnesses namely, Jitendra Kumar @ Ripu Kumar as PW-1, Radhakrishna as PW-2, Chandra Bhushan Prasad Singh as PW-3, Manoj Kumar as PW-4, Dr. Ashok Kumar who has conducted the autopsy of the cadaver of the deceased as PW-5, Mithilesh Singh as PW-6, informant Vyas Deo Prasad Singh as PW-7 and S.I. Raja who also happens to be the I.O. of the case as PW-8. Prosecution has also filed and proved some documents by way of documentary evidence in the case.

9. Statement of the accused persons was recorded under Section 313 of the Code of Criminal procedure. Denying the occurrence, defence has taken the case that Narendra Kumar @ Ghaplu in inebriated condition intruding into the house of Arvind Singh tried to outrage the modesty of his wife and wife of Arvind Singh had caught him hold whereupon Mithilesh Singh in order to extricate Narendra Singh @ Ghaplu from the clutch of his wife gave dagger blow on the hand of his wife unfortunately it hit the chest of the deceased Narendra Kumar. Accused persons have also examined three witnesses namely Surendra Kumar as DW-1, Krishna Kant Kumar Singh as DW-2 and Satyendra Singh as DW-3 in buttress of their case.

10. After hearing the parties and perusing the record, the learned trial court passed the aforesaid Judgment and Order of conviction and sentence as detailed in the earlier paragraph.



**11.** Being aggrieved and dissatisfied with the aforesaid Judgment and Order of conviction and sentence, convict Arvind Singh @ Pullu Singh has preferred Criminal Appeal (DB) No. 693 of 2013 and convicts Maheshwari Singh, Shivji Singh, Ganesh Singh and Ram Naresh Singh have preferred Criminal Appeal (DB) No. 521 of 2013. During the pendency of the appeal, appellant Ram Naresh Singh of Criminal Appeal (DB) No. 521 of 2013 passed away, hence appeal stood abated against him.

**12.** The point for consideration in this case is, as to whether the prosecution has been able to bring home the charge levelled against the appellants beyond all reasonable doubts or not.

**13.** It is submitted by learned counsel for the appellants that the statement of the witnesses regarding the genesis of occurrence and their presence at different stages is not uniform and consistent. It is further submitted that on perusal of the evidence of the witnesses and I.O, it appears that they have given different statement regarding genesis of occurrence, manner of occurrence, etc., hence their evidence is not worth credence. It is further submitted that the manner of occurrence also does not stand established by the prosecution. Informant is not the eye witness of the occurrence rather has been planted at the belated stage to facilitate the lodging of the



F.I.R. after due deliberation and consultation and his statement stands in quite contradiction to the fardbeyan and his statement recorded under Section 161 Cr.P.C. PW-3 Chandra Bhushan Prasad Singh in Para-9 of his cross-examination has denied the presence of the informant and other witnesses at the place of occurrence at the time of occurrence and barring PW-1 Jitendra Kumar @ Ripu Kumar and PW-3 Chandra Bhushan Prasad Singh, all the witnesses examined by the prosecution happen to be relative of the deceased and interested witnesses of the case and PW-1 and PW-3 are men of rivalry groups. No independent witness of the occurrence has been examined by the prosecution. Thus, the aforesaid inconsistent ocular testimony of the interested witnesses does not stand corroborated by the independent witness of the occurrence. It is further submitted that there has been inordinate delay of two days in sending the F.I.R. to the Court though as per the account of I.O., the Court is located at few steps of the P.S and prosecution has also not ascribed plausible and convincing reason to explain the aforesaid delay in sending the F.I.R. to the Court which creates serious doubt about the prosecution case. It is also submitted that circumstances of the case brought on record have not been put to the accused persons while recording their statement under Section 313 Cr.P.C. Hence aforesaid circumstances cannot be considered against them. It is also submitted that the I.O. has not



brought on record any objective evidence of the case. Thus the prosecution has utterly and miserably failed to substantiate the prosecution case and bring home the charge levelled against the appellants beyond all reasonable doubts by adducing consistent, trustworthy, reliable and worth credence evidence. Hence, aforesaid judgment and order of conviction and sentence passed against the appellants is liable to be set aside and the appellants are entitled to be acquitted.

**14.** On the other hand, learned APP for the State advocating the correctness and validity of the impugned Judgment and Order of conviction and sentence submitted that PW-3 Chandra Bhushan Prasad Singh and the informant Vyas Deo Prasad Singh happen to be eye witness of the occurrence. They have unanimously supported the prosecution case and other witnesses examined by the prosecution have also corroborated the prosecution case. The ocular evidence of the prosecution stands corroborated by the medical evidence as well and learned trial court correctly appreciating the facts and evidence available on record has rightly passed the impugned Judgment and Order of conviction and sentence which is liable to be upheld and these criminal appeals are shorn of merit and are liable to be dismissed.

**15.** From perusal of the record, it appears that to substantiate its case, the prosecution has examined altogether



six material witnesses in the case namely Jitendra Kumar @ Ripu Kumar (PW-1), Radhakrishna (PW-2), Chandra Bhushan Prasad Singh (PW-3), Manoj Kumar (PW-4), Mithilesh Singh (PW-6) and informant Vyas Deo Prasad Singh (PW-7). It is pertinent to mention here that as per the account of the witnesses, there are three places of occurrence, first is the field of Arvind Singh, second is the door of the informant (PW-7) and the deceased and third is the Tinmuhani. Out of the aforesaid witnesses, informant (PW-7) and PW-1 have claimed themselves to be the eye witness of the occurrence taken place at all the three places while rest four witnesses are the witnesses of the second and third place of occurrence i.e. door of informant and Tinmuhani. Informant (PW-7) and PW-1 have made an abortive bid to support the prosecution case by deposing in their respective examination-in-chief in consonance to the prosecution case that at the time of occurrence when the informant and his son Narendra Kumar @ Ghaplu had gone to the boring of Jitendra Kumar @ Ripu for watering his field, Ripu asked them to come after laying the pipe. Then after laying the pipe they regressed to Ripu, whereupon Ram Naresh Singh, Maheshwari Singh, Rajeshwar Singh, Ganesh Singh and Arvind Singh @ Pullu Singh arrived there and started slating them raising protest against laying pipe through their field. Whereupon the informant told them that as their field is barren



one they would remove the pipe after watering his field. Then they divulged that they would not allow to take water through their field as they do not pay the extortion money. In the meantime, Shivjee Singh arrived with the tractor there. Then Rajeshwar Singh gave him order to plough the field and the pipe as well by the tractor. Responding the same, Shivjee Singh damaged his pipe into pieces through tractor. Whereupon he and his son raised protest, then Rajeshwar Singh gave order to assault them. Then all the accused persons gave them chase to assault. Then they started escaping and arrived at their door. Accused persons also gave them chase to the aforesaid place. As soon as they intended to enter into the house, Maheshwari Singh and Naresh Singh caught hold the hand of his son while Shivjee Singh and Ganesh his legs and taking him at Tinmuhani shoved him there. Then Rajeshwar Singh gave order to eliminate him whereupon Arvind Singh whipped out dagger from his pant and assaulted on his left chest by means of dagger. Shivjee Singh and Ganesh Singh whipped out pistol from their waist and resorted firing scaring the people to eliminate them in case of coming close to them. Thereafter, all the accused persons left the scene. Then the informant and others tied the wound of the victim with the cloth and rushed him to Sadar Hospital, Nawadah where the doctor declared him brought dead. Whereas PW-2, PW-3, PW-4 and PW-6 have made an abortive bid to



support the occurrence taken place at IInd and IIIrd place of occurrence i.e. door of the informant and Tinmuhani as discussed by us hereinabove. The aforesaid witnesses have claimed themselves to be the eye witness of the occurrence arriving at the place of occurrence at first. PW-1 Jitendra Kumar @ Ripu Kumar has claimed to have arrived at the aforesaid three places of occurrence following the accused persons from his field, but from perusal of the testimony of PW-1, it appears that he does not happen to be eye witness of the occurrence as in Para-21 of his cross-examination he has stated that he had not divulged to the I.O. that following the accused persons he arrived at his door. PW-3 Chandra Bhushan Prasad Singh has also ruled out witnessing of the occurrence by the informant and other witnesses as well as in Para-9 of his cross-examination he has stated that at the time of stabbing Narendra by the accused, neither the informant nor any villager was present there and PW-4 Manoj Kumar has also ruled out witnessing of the occurrence by PW-3 Chandrabhushan Prasad Singh and PW-6 Mithilesh Singh as in Para-5 of his cross-examination he has stated that after the occurrence he made hulla and responding the same, PW-6 Mithilesh Singh, PW-3 Bhushan Singh, Tunni and Gujjan arrived at the place of occurrence. PW-2 Radhakrishna has claimed to have witnessed the occurrence from his terrace and the window installed in the terrace. But



from perusal of the testimony of PW-2 itself, it appears that he has claimed to have witnessed the occurrence from the terrace of ground floor of his house. Tinmuhani is located after lanes having several houses on both sides as stated by him in Para-3 of his cross-examination hence the aforesaid place of occurrence which is Tinmuhani must not be visible from the aforesaid terrace of PW-2. Moreover from perusal of the testimony of PW-2, it appears that attention of the said witness was drawn by the defence in Para-11 of his cross-examination regarding his statement given before the Court and that given before the I.O. under Section 161 Cr.P.C. regarding the material aspect of the case about taking tea by him at his terrace and witnessing from the terrace that the informant Vyas Deo Prasad Singh (PW-7) and his son Narendra Kumar were escaping making hulla to save them. As soon as they tried to enter in the house, Naresh and Maheshwari caught hold hand of Narendra and Shivjee and Ganesh his legs and lifted him in the lane. Rajeshwar Singh caught hold Vyas Deo Prasad Singh. He also hurled brick upon them which hit Shivjee Singh. I.O. (PW-8) was confronted with the aforesaid contradiction and in Para-21 of his cross-examination, he has corroborated the aforesaid contradiction between the statement of the said witness. Hence in view of the said contradiction, said witness appears to have taken altogether different stand before the Court regarding the aforesaid material



aspect of the case and he does not appear to be worth credence and reliable. Moreover, PW-2 has also ruled out witnessing of the occurrence by him and other witnesses as in Para-1 of his examination-in-chief and Para-18 of his cross-examination he has stated that hulla was made after taking place of occurrence and responding hulla all the persons including the family members of his own and informant had arrived there. In the aforesaid facts and circumstances and in view of aforesaid testimony of the witnesses it appears that the aforesaid witnesses do not happen to be eye witness of the occurrence.

**16.** PW-1 Jitendra Kumar @ Ripu has stated in Para-1 of his examination-in-chief that lifting Narendra Kumar @ Ghaplu the accused persons took him behind the house of the informant Vyas Deo Prasad Singh near the temple and pushed him on the ground there while PW-4 has stated in Para-1 of his examination-in-chief that taking Narendra Singh the accused persons shoved him on the ground in the lane located towards east of the house of the informant Vyas Deo Prasad Singh whereas PW-6 and PW-7 in Para-1 of their respective examination-in-chief have stated that taking Narendra Singh @ Ghaplu, accused persons shoved him at Tinmuhani. Thus there appears to be vital contradiction between the testimony of the aforesaid witnesses regarding the place of occurrence as some witnesses have stated the place of occurrence behind the house



of the informant, some in eastern lane of the house of informant while some at the Tinmuhani while the informant in his fardbeyan has stated that Arvind Singh stabbed his son in the eastern lane located near his house in course of escaping to his house. In view of the aforesaid vital contradiction between the place of occurrence as stated by the aforesaid witnesses and the prosecution case, it appears that the aforesaid witnesses have actually not witnessed the occurrence and their testimony does not appear to be worth credence and reliable and does not inspire our confidence to hold conviction of the appellants relying upon them.

17. As per the witnesses account, the blood was fallen at the place of occurrence and as per the prosecution case, the field and the pipe of the informant was ploughed and crushed into pieces by accused Shivjee Singh by means of his tractor and during the course of occurrence, informant and his son rushed away from field of Arvind Singh followed by the accused persons, but from perusal of the testimony of the I.O. (PW-8), it appears that in Para-6 of his cross-examination he has stated he had not found any incriminating material at the place of occurrence. He had also not found any attire there at the time of investigation. In para-7 of his cross-examination, he has stated that he had not mentioned in the case diary about finding of the foot prints at the place of occurrence. In Para-8 of his



cross-examination, he has also stated that he had not mentioned in the case diary about sign of passing of any tractor through the field. In Para-27 of his cross-examination he has further stated that he had not found any damaged pipe in the field. He had also not found any delivery pipe of the length of 200 feet there. In para-31 of his cross-examination he has stated that he did not find any cartridge at the first place of occurrence. He has also not found any mark of firing on the wall. In Para-5 of his cross-examination, he has stated that he had not recovered any dagger from the house of the appellant Arvind Singh. Thus, no objective evidence has been brought on record by the prosecution.

**18.** From perusal of the record, it appears that PW-7 Vyas Deo Prasad Singh happens to be informant of the case, PW-2 Radhakrishna brother of the informant, PW-6 Mithilesh Singh cousin brother of the informant and PW-4 Manoj Kumar nephew of the informant. Though PW-1 Jitendra Kumar @ Ripu and PW-3 Chandra Bhushan Prasad Singh happen to be independent witnesses of the occurrence, but as discussed by us hereinabove, they do not happen to be eye witness of the occurrence. As per the fardbeyan, besides Chandra Bhushan Singh, Jitendra Kumar @ Ripu and Mithilesh Singh, other villagers had also witnessed the occurrence. I.O. has recorded the statement of the witnesses Ratan Singh, Amlesh Kumar,



Niwas Kumar, Ashok Singh, Upendra Singh, Uday Singh, Balram Singh and Ram Charitra Singh regarding the occurrence. Out of them Santosh Kumar Singh, Ratan Singh, Amlesh Kumar and Niwas Kumar happen to be charge sheet witnesses but the aforesaid independent witnesses have not been examined by the prosecution rather withheld by it and no plausible and convincing reason has been ascribed by the prosecution for their non-examination. Hence adverse inference is drawn against the prosecution and non-examination of the aforesaid independent witnesses creates serious doubt about the prosecution case.

**19.** Defence has taken the case by giving suggestion to the informant and also in his statement recorded under Section 313 Cr.P.C that the deceased in inebriated condition entering into the house of Arvind Singh tried to outrage the modesty of his wife and he was caught hold by his wife. In the meantime, Mithilesh Singh arrived there and in a bid to extricate the deceased from the clutch of the wife of Arvind Singh, he gave dagger blow in the hand of his wife, but unfortunately it hit the chest of deceased Narendra Singh @ Ghaplu which proved fatal. From perusal of the post mortem report, it appears that the doctor conducting the autopsy of the cadaver of the deceased has reported that the stomach contains 100 ml of fluid and alcoholic smell. DW-1 Surendra Kumar and DW-3 Satyendra



Singh examined by the accused persons in their respective examination-in-chief have stated that in the course of regressing when they arrived near the door of Vyas Singh they witnessed Ghaplu falling down arriving there and uttering that Mithilesh has assaulted him by means of dagger. Moreover, there is no repetition of blow. Had the accused persons intended to eliminate the deceased who were six in number and the deceased was alone, they would have eliminated him by making indiscriminate stabbing. Hence, aforesaid aspect of the case and testimony of the witnesses goes to strengthen the defence case that the deceased might have been assaulted by Mithilesh Singh in the course of extricating him from the clutch of the wife of Arvind Singh who had caught him hold while making attempt to outrage her modesty in inebriated condition by the deceased. Though the evidence of the defence witnesses is generally not taken into consideration in serious offence, but in the facts and circumstances of the case, we find it proper and appropriate to consider the same to come to the right conclusion of the case.

**20.** From perusal of the statement of the appellants recorded under Section 313 Cr.P.C. it appears that no incriminating circumstances brought on record by the prosecution has been put to the appellants while recording their statement under Section 313 Cr.P.C. to enable them to explain the same. Hence, aforesaid circumstances cannot be considered



against the appellants. Hon'ble Apex Court in **Vikramjit Singh Alias Vicky Vs. State of Punjab** reported in **(2006) 12 SCC 306** has been pleased to rule that the circumstances which according to the prosecution lead to proof of the guilt against the accused must be put to him in his examination under Section 313 Cr.P.C., this having not been done, appellant acquitted. Hon'ble Apex Court in **Sharad Birdhichand Sarda Vs. State of Maharashtra** reported in **(1984) 4 SCC 116** has been pleased to rule that circumstances in respect of which accused not examined under, cannot be used against him.

**21.** Moreover, as the accused Rajeshwar Singh @ Rajo Singh has been exonerated and has not been sent up for trial by the I.O. after investigation of the case but even then the appellants in their statement under Section 313 Cr.P.C. have been questioned about stabbing Narendra Singh @ Ghaplu by Arvind Singh at the exhortion of Rajeshwar Singh @ Rajo Singh.

**22.** From perusal of the record, it appears that the fardbeyan of the informant was recorded on 20.04.2011 at 8 PM and the F.I.R. was lodged on 20.04.2011 at 11:30 PM, but the aforesaid F.I.R. was sent to the court after inordinate delay of two days on 22.04.2011 though as per the account of the I.O., the court is located at few steps from the P.S. but no plausible and convincing explanation has been ascribed by the



prosecution to explain the aforesaid inordinate delay in sending the F.I.R. to the court which creates serious doubt about the prosecution case.

**23.** From perusal of the testimony of PW-2 and PW-7, it appears that both the parties are on inimical terms as PW-2 has stated in Para-6 of his cross-examination that there was quarrel between his family and family of Naresh Singh much earlier and a case was lodged regarding the aforesaid quarrel and PW-7 informant has stated in Para-10 of his cross-examination that the case was fought with the accused Ram Naresh in the year 1973. He was the informant in the said case while Ram Naresh Singh and his family members were the accused. In Para-22 of his cross-examination, he has further stated that barring the accused persons he has no animosity with other persons. Though animosity cuts both the edge, but in view of the aforesaid unreliable ocular testimony of the interested witnesses of the case, non-corroboration of their evidence by the independent witness of the occurrence, not bringing on record objective evidence of the case and inordinate delay in sending the F.I.R. to the Court etc., false implication of the appellants at the hand of the prosecution party due to aforesaid animosity cannot be ruled out.

**24.** In the facts and circumstances of the case and in view of the plausible defence taken by the appellants in the case,



we find and hold that the prosecution has utterly and miserably failed to substantiate the prosecution case and bring home the charge levelled against the appellants beyond all reasonable doubts by adducing consistent, convincing, reliable and worth credence evidence. Hence, the impugned judgment and order of conviction and sentence passed by the learned trial court against the appellants is set aside and the appellants are acquitted of the charge levelled against them. As the appellant Arvind Singh @ Pullu Singh [Criminal Appeal (DB) No. 693 of 2013] is in custody, he is directed to be released forthwith from the custody, if not wanted in any other case, while as rest of the appellants are on bail, they are discharged from the liability of their bail bonds.

**25.** Accordingly, these criminal appeals are allowed.

**(Rakesh Kumar, J)**

**( Prakash Chandra Jaiswal, J)**

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