

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.754 of 2017

Arising Out of PS. Case No.-68 Year-2012 Thana- JADIA District- Supaul

Yoganandan Kumar Yogesh Son of Late Rajendra Yadav R/o vill - Navdihi,
P.S. - Jadia, Distt. - Supaul

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sunil Yadav @ Bablu Yadav Son of Umesh Prasad Yadav R/o vill - Vidyanagar, P.S. - Jadia, Distt. - Supaul
3. Umesh Prasad Yadav @ Laddu Yadav Son of Late Laxmi Yadav R/o vill - Vidyanagar, P.S. - Jadia, Distt. - Supaul
4. Anil Yadav Son of Umesh Prasad Yadav R/o vill - Vidyanagar, P.S. - Jadia, Distt. - Supaul
5. Arun Yadav Son of Umesh Prasad Yadav R/o vill - Vidyanagar, P.S. - Jadia, Distt. - Supaul
6. Ajay Jha @ Guddu Jha Son of Jawahar Jha R/o vill - Belapatti, P.S. - Triveniganj, Distt. - Supaul

... .. Respondent/s

Appearance :

For the Appellant : Mr. Udit Narayan Singh, Adv.
Mr. Sanjeev Nikesh, Adv.
For the State : Mr. Dilip Kumar Sinha, APP
For Respondents No. 2 to 6 : Mr. Sanjay Singh, Sr. Adv.
Mr. Rajesh Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)

Date : 12-10-2023

1. Heard Mr. Udit Narayan Singh and
Mr. Sanjeev Nikesh, the learned advocates for the



appellant/informant who is aggrieved by the judgment of acquittal of respondents no. 2 to 6, who have been represented here by Mr. Sanjay Singh, the learned senior advocate as well as Mr. Rajesh Kumar Sinha, the learned advocate. We have also heard Mr. Dilip Kumar Sinha, the learned A.P.P. for the State.

2. By way of the present appeal, the appellant has challenged the acquittal of respondents no. 2 to 6 by the learned Additional Sessions Judge-1, Supaul vide judgment dated 03.05.2017 passed in Sessions Trial No. 23 of 2015 arising out of Jadia P.S. Case No. 68 of 2012.

3. According to the written statement (Ext. 2) of the informant (PW-18), the occurrence took place on 22.05.2012 for which the written statement was given to S.H.O., Jadia, Supaul and whereafter the FIR was registered.

4. The prosecution case, in brief, is that on 22.05.2012 at about 01:00 AM, 8-9 criminals arrived all of a sudden at the gate of the informant. It is said that the informant's father was found sitting on a cot in the corridor of the *dalan* and the informant's father is said to have been conversing with the informant's elder brother (PW-17) in the light of the lantern. It is alleged that miscreants surrounded them from all sides. It is alleged by the informant that the accused persons, namely, Sunil Yadav @ Bablu



Yadav and Ajay Jha @ Guddu Jha caught both the hands of the informant's father and thereafter Anil Yadav and Umesh Prasad Yadav @ Laddu Yadav shot at the father of the informant. They were exhorted by Arun Yadav. Consequently, the victim received injuries on his right shoulder.

5. On the basis of written statement (Ext. 2) of the informant (PW-18), Jadia P.S. Case No. 68 of 2012 dated 22.05.2012 was registered under Sections 302, 120(B), 34 of the I.P.C. and Section 27 of the Arms Act.

6. The police, however, on investigation found the occurrence true against the unknown and submitted the final form against the accused persons/respondents no. 2 to 6, showing the allegation against them to be false. The learned Chief Judicial Magistrate, Supaul however differing with the police report took cognizance under the aforesaid sections against the respondents no. 2 to 6 on the basis of the materials available on record.

7. The learned Trial court was pleased to frame charges under Sections 302/34 and 120(B) of the I.P.C. against all the accused persons. Further, the Trial court framed charge under Section 27 of the Arms Act against the accused Anil Yadav and Umesh Prasad Yadav. The respondents had pleaded not guilty and claimed to be tried.



8. In order to bring home the guilt of the respondents no. 2 to 6, the prosecution examined altogether twenty witnesses. PW-1 Kailu Yadav, PW-2 Raghunandan Yadav, PW-3 Mangan Mehta, PW-4 Jai Prakash Ram, PW-5 Damodar Yadav, PW-6 Pramod Yadav, PW-7 Dr. Sanjay Kumar Mishra, PW-8 Dr. Arun Kumar Singh, PW-9 Dr. Mihir Kumar Verma, PW-10 Kumari Sulochna, PW-11 Prakash Yadav, PW-12 Shankar Kumar, PW-13 Geeta Devi, PW-14 Kumari Hema, PW-15 Shyam Sundar Yadav, PW-16 Hari Nandan Prasad, PW-17 Ram Nandan Yadav, PW-18 Yognandan Kumar Yogesh (informant), PW-19 Dr. Surendra Nath Das and PW-20 Jitendra Sahni (I.O.).

Prosecution has relied upon following documentary evidence on record:-

Ext. 1- Postmortem report.

Ext. 1/1- PW-8 proved his signature on postmortem report.

Ext. 1/2- PW-9 proved his signature on postmortem report.

Ext. 2- Fardbeyan.

Ext. 3- Protest letter.

Ext. 4- Injury report proved by Dr. Surendra Nath Das (PW-19).

Ext. 5- Final form.



Defence has not examined any witness on its behalf but some documents have been filed which have been marked as Ext. A to J.

However, the defence of the respondents no. 2 to 6, as gathered from the cross examination of prosecution witnesses as well as from his statement under Section 313 of the Cr.P.C., is of total denial of the charge.

9. The learned Trial court after examined the witnesses on behalf of the prosecution, acquitted the respondents no. 2 to 6 of all the charges.

10. The learned Advocates for the appellant/informant has submitted that the Trial court has not considered the statement of informant and other eye witnesses of the case and has passed the impugned judgment on the basis of planted witnesses produced by the police as PWs. 1 and 2. PWs. 10 to 18 have fully supported the case of the prosecution. PW-18, who is the informant of the case and also an eye witness of the occurrence, has fully supported the case of the prosecution but the learned Trial court disbelieved the version of prosecution witnesses only on the ground that they are not independent witnesses; rather they are relatives of the deceased. The learned Trial court wrongly considered the postmortem report and deposition of the doctors, which is grave



error in passing the impugned judgment. Lastly, they submitted that in the light of aforesaid facts and circumstances of the case, the impugned judgment is fit to be set aside.

11. On the contrary, the learned Advocates appearing for the respondents no. 2 to 6 have submitted that PW-1 though has been declared hostile but during the cross-examination, he has admitted that at 8:00 to 8:30 PM, Amin Sahab @ Rajendra Yadav was taken away by a vehicle and he slept in the room after taking meal and on hearing hulla he found Amin Sahab dead and he did not identify any of the assailants. PW-2 is also full fledged prosecution witness. Though, he is not an eye witness of the occurrence but he fully endorsed the statement of his brother (PW-1) who is the watchman of informant. His statement is quite consistent with his earlier version along with version of PW-1, as stated in para -3 of his deposition. In this way, PWs. 1 and 2 have specifically and clearly supported the earlier version in their deposition and their version is quite intact. PWs. 3, 4 and 6 have not seen the occurrence. The version of PWs. 17 and 18 are quite inconsistent with the story of prosecution. There is no source of light to identify any of the assailants. The earlier statement of PW-17 is quite inconsistent with the deposition made in the court. The statement of PW-18 is quite inconsistent with the deposition made



in the court and he has improved his earlier version of deposition that on barking of dogs he awoke. Keeping in view the infirmities and inconsistencies in the deposition of PWs. 17 and 18, they are not eye witness of the occurrence. Even motive as alleged in the initial version of story of prosecution has not been proved by the PWs. 17 and 18. The I.O. (PW-20) has not found any motive in committing the said occurrence. In this way, the prosecution has failed to prove the case and the I.O. has also found the accusation false against the respondents no. 2 to 6 and the learned Trial court has rightly passed the impugned judgment acquitting the respondents no. 2 to 6 and there is no reason to interfere with the impugned judgment.

12. It is worth to say that deceased Rajendra Yadav has also been known as Amin Saheb.

13. It is necessary to discuss and screened out the prosecution witnesses one by one.

14. PW-1 Kailu Yadav during examination-in-chief has stated that he did not see the occurrence and he has been declared hostile. In para 3 of his deposition he has stated that at 8:00 to 8:30 PM Rajendra Yadav (deceased) was taken away on a vehicle and on the sound of firing the witnesses awoke and saw Rajendra Yadav who was lying dead on a cot. On the basis of record, it is



found that PW-1 is an employee of informant (PW-18) and he has been assigned duty to watch the house. Naturally he is inclined to speak for his employer and there is no reason to speak against the employer who is informant of the case. Apart from that, the statement of PW-1 is consistent with the statement of PW-20 (I.O.) as well as PW-2. The I.O. (PW-20) has clearly stated that Raghunandan Yadav (PW-2) has stated that at about 1:00 AM in night some one has fired pellet and he went to the house of informant (PW-18) and found Rajendra Yadav lying dead on verandah and PW-1 has pointed out that on the day of the occurrence at 8:00 PM Rajendra Yadav (deceased) was taken on vehicle. On hearing the sound of firing he saw the deceased was lying dead on cot and he has not seen as to who has killed the deceased. The statement of PW-1 at the relevant time that neither he has seen the occurrence nor did see the accused persons at the place of occurrence and the said version of PW-1 was quite consistent with the statement of PW-20 (I.O.) as well as PW-2.

15. PW-2 Raghunandan Yadav is brother of PW-1. He has specifically stated that his brother/PW-1 resides with the deceased and he reveals that deceased had been suffering from illness three to four months ago from the occurrence and he was taken away by the vehicle. On the point of taking away the



deceased by a vehicle, the statement of both witnesses are quite consistent and there is no reason to disbelieve the statement of PW-1 as PW-1, being an employee, has to serve the interest of informant as he has duty to watch the house and he cannot detach himself from the family affairs of the informant (PW-18). The statement of PW-1 cannot be discarded as the prosecution has not re-examined the statement of PW-1 which has been stated in para 3 of his cross-examination and his evidence is quite intact on the point that deceased has been taken on vehicle at 8:00 to 8:30 PM. PWs-1 and 2 have clearly stated that they have not seen the occurrence and they came at the place of occurrence on hearing the sound of firing.

16. PW-3 Mangan Mehta has stated that he has not seen the occurrence and he found the dead body of Rajendra Yadav. He has not made any significant statement that as to who has killed the deceased. In this way, he has not supported the story of prosecution.

17. PW-4 Jai Prakash Ram has stated that he has also not seen the occurrence. He has stated that accused persons/respondents no. 2 to 6 have been falsely implicated in the present case on account of enmity.



18. PW-5 Damodar Yadav has stated that he knew both sides. He has pointed out that Rajendra Yadav has been died on account of pellet injury. He has stated that there is enmity between both the sides and most striking statement made by this witness is that he went to the place of occurrence and made a query as to who has killed the father of informant, it is pointed out by the informant that he cannot identify the assailant. In this way, his statement is crystal clear that he has not supported the case of the prosecution rather he has stated that even the informant is not in a position to identify the assailant.

19. PW-6 Pramod Yadav has also not seen the occurrence. His evidence is neither trustworthy nor convincing.

20. PW-7 Dr. Sanjay Kumar Mishra, PW-8 Dr. Arun Kumar Singh and PW-9 Dr. Mihir Kumar Verma conducted postmortem examination of deceased on 22.05.2012 at 7:30 A.M. and found following injuries:-

Description of firearm injury:-

Wound of entry (No.1)- Size 1/2" x 1/2", shape- circular with irregular margin communicating with interior. Site- skin overlying medial angle of right scapula. Tattooing and charring around the wound seen with presence of blood.



Wound of entry (No.2)- Size 1" x 1/3", shape- oval and elongated, margins- irregular and inverted with presence of blood. Site-Just behind tip of right shoulder joint.

The cause of death is attributed to CR failure resulting from both cardiogenic and neurogenic shock, stemming from the injuries due to a close firearm-discharge.

The time elapsed since the occurrence of death was within 24 hours. Notably, rigor mortis was observed solely in the lower limbs only.

The said postmortem report is marked as Ext.-1. PW-8 proved his signature on postmortem report which is marked as Ext.1/1. PW-9 proved his signature on postmortem report which is marked as Ext.-1/2.

21. PW-10 Kumari Sulochna has projected herself to be an eye witness of the alleged occurrence during examination-in-chief as she has stated that accused person/respondent, namely, Anil Yadav and Umesh Prasad Yadav @ Laddu Yadav made firing towards Rajendra Yadav who sustained injury from the said firing. She has stated that she saw accused person/respondent, namely, Sunil Yadav @ Bablu Yadav and Arun Yadav who had caught Rajendra Yadav (deceased). During cross-examination, she claims that she was sleeping and at 1:00 AM she heard the sound of firing



of two pellets and on the sound of said firing, she went to the gate. She has further stated that she reached at the gate after firing as mentioned in para-9 of her cross-examination. When the credibility of this witness is tested, it is found that if she reaches at the gate after firing, then how she claims that she has seen as to who has made firing first towards the deceased and who has made firing afterwards. She admitted at para 16 that her father-in-law disclosed to her the name of all the accused persons and said name has been stated by her in the court. In this way, her evidence is neither trustworthy nor convincing in the light of statement as deposed by her in the court.

22. PW-11 Prakash Yadav is not an eye witness of the occurrence rather he is a factual witness who narrates that he saw Amin Yadav who sustained pellet injury on his shoulder and he was taken to Triveniganj hospital and he did not ask from the family members of the deceased as to who made firing. He has not in any way supported the case of the prosecution.

23. PW-12 Shankar Kumar is son of Ram Nandan Yadav (PW-17) and grandson of the deceased who projected himself as an eye witness of the alleged occurrence and during examination-in-chief he has stated that he has seen the occurrence and Anil Yadav and Umesh Prasad Yadav @ Laddu Yadav made firing



causing gun shot injury on the shoulder of deceased/Rajendra Yadav. He explained the participation of other accused/respondent, namely, Sunil Yadav @ Bablu Yadav, Ajay Jha @ Guddu Jha and Arun Yadav. During cross-examination he has denied the suggestion that he has not identified the accused person. On the said point, the I.O. (PW-20) has clearly stated in para 6 of his deposition that neither Kailu Yadav (PW-1) nor Geeta Devi (PW-13) nor Shankar Kumar (PW-12) nor Mangan Mehta (PW-3) has stated as to who has committed the occurrence. It is necessary to test the credibility of the said witness who has projected himself as an eye witness of the occurrence but he has not given statement before the I.O. that he has identified any of the accused person for committing the said occurrence. The I.O. (PW-20) has already stated that PW-12 has not identified any of the accused persons but during course of adducing evidence he has projected himself as an eye witness of the occurrence. During cross-examination attention has already been drawn by the defence on the said point. In this way, his evidence is not trustworthy in the light of given facts and circumstances of the case and he is not eye witness of the occurrence.

24. PW-13 Geeta Devi has stated that she identified the accused person during the course of fleeing away. During cross



examination she has stated that she has not seen the occurrence of firing. During cross examination, she has denied the suggestion that she has not identified the accused person. On the said point, the I.O. (PW-20) has clearly stated in para 6 of his deposition that PW-13 (Geeta Devi) has not stated as to who has committed the occurrence.

25. PW-14 Kumari Hema has projected herself to be an eye witness of the occurrence. She has stated about participation of all the accused persons/respondents no. 2 to 6 in the alleged occurrence. During cross-examination, she has stated that she saw the occurrence from a distance of 6 to 7 hands through a whole. From perusal of evidence of PW-14 that during the night how she has seen the occurrence through a whole where the I.O. (PW-20) has clearly stated that none of the witnesses has stated about the glow of light. Prudently and pragmatically, it is very difficult to find visibility to see the occurrence at night through a particular whole. In this way, her evidence is neither trustworthy nor convincing in the light of given facts and circumstances of the case.

26. PW-15 Shyam Sundar Yadav is not an eye witness of the occurrence as he heard regarding the said occurrence from his



sister/Sunaina Devi on phone. His evidence is neither trustworthy nor convincing.

27. PW-16 Hari Nandan Prasad is Pharmacist of Primary Health Centre, Triveniganj who gave first aid to Rajendra Prasad (deceased) and referred him to Supaul Hospital.

28. PW-17 Ram Nandan Yadav is the elder son of deceased. He narrates the story of prosecution that he identifies five accused persons in glow of lantern out of eight-nine in number at about 1:00 A.M. in night on the date of occurrence. He was talking with his father, and his two sons, namely, Shankar Kumar (PW-12) and Amit (not examined) were present there. His father was being forced to lay upon cot. He has specifically and categorically supported the initial version of prosecution story. He has further stated that PW-18 was being chased and he escaped in the field of maize and he came after five minutes at the gate. During cross-examination, he stated that he hid himself under the cot at the time of alleged occurrence. He has admitted that lantern was being showed to the police and there was no any source of light except lantern. PW-17 has stated during cross-examination at para 11 that he has not stated before the police that he was sleeping with his son. It is necessary to testify the credibility of said witness in the light of given facts which was deposed during deposition.



PW-20 (I.O.) has stated in para 10 of his deposition that Ramnandan Yadav (PW-17) was not talking to his father rather he was sleeping with his son in his room. The most striking fact deposed by PW-20 (I.O.) that neither lantern nor torch was produced in which identification was made. Two cots were not found at the place of occurrence. The statement of PW-17 is quite inconsistent with the statement of PW-20 (I.O.) on the point of availability of lantern that is source of identification at the place of occurrence. From perusal of evidence adduced by PW-17, it is crystal clear that while he hid under the cot, his father was forced to lie down on the cot and was shot at a point blank range almost touching the cot. Prudently, there cannot be supposition that person under the cot can see the occurrence which has taken place outside the cot during night. PW-20 (I.O.) completely negates the version that he was talking to his father at 1:00 A.M. as the earlier version of PW-17 is that he was along with his son in his room. Keeping in view the aforesaid background of inconsistencies and infirmities in the statement of PW-17, his statement is neither convincing nor trustworthy to base the conviction of respondent nos. 2 to 6.

29. PW-18 Yognandan Kumar Yogesh is the son of deceased/Rajendra Yadav and he gave the written report in his



writing and put signature upon the said application, which stands marked as Ext.-2. He has also reiterated the initial story of prosecution. During the course of deposition, he has improved the initial version of story of prosecution that he heard barking of dogs and then, he proceeded for urinal and his elder brother PW-17 and PW-12 (nephew) was present at the place of occurrence prior to the occurrence. His statement is quite inconsistent with the statement of PW-20 (I.O.) that neither lantern nor torch was produced and no identification was done in the light of said article. The informant did not produce the torch and he did not point out regarding the place of urinal. PW-17 has clearly stated before the I.O. that he was sleeping with his son and he was not talking with his father, as same was deposed by PW-20 (I.O.) in his deposition. The deposition of PW-18 is quite inconsistent with the statement of PW-20 (I.O.). In the background of aforesaid facts and circumstances of the case, he cannot be called as an eye witness of alleged occurrence and his version is neither convincing nor trustworthy.

30. PW-19 Dr. Surendra Nath Das examined one Rajendra Yadav on 22.05.2012 who came for treatment at about 02:00 AM and he referred the injured to Sadar Hospital on the same day. He prepared injury report which bears his signature and



said injury report has been marked as Ext. 4. During cross examination, he stated that he did not mention that for which injury the injured was referred to Supaul.

31. PW-20 Jitendra Sahani is I.O. of the case. He got the charge of investigation of the present case on 22.05.2012 which is on the basis of written report. He recorded the re-statement of the informant (PW-18). He inspected the place of occurrence and identified the P.O. During the course of investigation, inquest report was prepared and he recorded the statement of other witnesses. He prepared production cum seizure list of *khokha* and he obtained CDR and postmortem report and seized *khokha* was sent to F.S.L., Patna for examination. He found the accusation false against the accused persons and submitted final form which bears his writing and signature and same stands marked as Ext. 5. During the course of investigation, he recorded the statement of Kailu Yadav (PW-1) who did not identify any of the accused persons. The most striking feature of deposition of PW-20 is that neither lantern nor torch was produced in which identification was being pointed out. He did not find any lantern in hanging condition on the place of occurrence. He did not find two cots on the P.O. The informant neither did produce any torch nor did he point out regarding urinal at any place. The I.O. has stated that informant



(PW-18) did not point out from which distance and at which place the assailants are being identified. During the course of immediate investigation, neither Kailu Yadav (PW-1) nor Geeta Devi (PW-13) nor Amit (not examined) nor Shankar Kumar (PW-12) nor Mangan Mehta (PW-3) disclosed the name of the assailants. The I.O. (PW-20) has specifically stated that PW-17 (elder brother of the informant) did not state that he was making conversation with his father rather he was sleeping with his son in his room. In para 11 of his deposition, the I.O. has stated that PW-2 (Raghuandan Yadav) disclosed that at 1:00 AM there was noise that some one fired. PW-20 has clearly pointed out that Kailu Yadav (PW-1) was present at the place of occurrence who is the brother of PW-2 and PW-1 pointed out in earlier statement recorded by the I.O. (PW-20) that at 8:00 PM deceased/Rajendra Yadav @ Amin Sahab was taken on vehicle by Yogesh, Shyam Sundar and other and thereafter he slept after taking meal and it is not known as to when all returned. On raising hulla, he saw that Amin Sahab was found dead. PW-20 has stated that PW-4 (Jai Prakash Ram) did not disclose as to who has killed. In para 21 the I.O. (PW-20) has stated that on the basis of investigation he found the accusation false against the accused persons.



32. From perusal of statement of PW-20 (I.O.), it is clear that none of the prosecution witnesses has clearly seen the occurrence through naked eye. The statement recorded by the I.O. during the course of investigation clarifies that source of identification was not produced even though the occurrence took place in the dead silence of night. The statement of PW-17 and PW-18 (informant) are quite inconsistent and full of infirmities regarding the accusation against the respondents no. 2 to 6. From the deposition of all the prosecution witnesses, it is crystal clear that none of the prosecution witnesses was present at the place of occurrence. PW-17 has already clarified when her statement was recorded by the I.O. that he was at his room with his son and he was not making conversation with his father. The I.O. has clarified that previously PW-17 has not stated during the course of investigation before the I.O. that he was making conversation with his father rather he was sleeping with his son in his room. In this way, the statement of PW-17 is quite inconsistent with the earlier statement recorded by the I.O. Source of identification i.e. neither lantern nor torch was produced to the I.O. The I.O. prominently visited the P.O. immediately and he did not find any source of identification at the P.O. There is no reason to disbelieve the version of I.O. as he recorded the statement of all the prosecution



witnesses and he identified the P.O. and during course of investigation found that accusation against the respondents no. 2 to 6 are false.

33. Now, it is necessary to shed light on the deposition of PW-1. His statement is quite consistent with the earlier statement recorded by the I.O. and his statement favours the defence/respondents no. 2 to 6. PW-2 who is the brother of PW-1 has corroborated the version of PW-1 and the deposition of PWs. 1 and 2 are quite natural being a brother sharing same information before the I.O. and the Court and there is no reason to discard the statements of said witnesses.

34. It is necessary to quote here the relevant judgment passed by the Hon'ble Supreme Court in the case of *Veerendra Vs. State of M.P.*, reported in **AIR 2022 SC 3379** wherein it has been held that if the prosecution witnesses are supporting defence version, same will be binding on the prosecution.

35. In such a scenario, the statement made by the prosecution witnesses in favour of the accused would certainly inure to the benefit of accused persons and same view is reiterated by the decision of *Raja Ram Vs. The State of Rajasthan* reported in **(2005) 5 SCC, 272**.



36. In the present case, PW-1 even though has been declared hostile, his evidence in para 3 is quite consistent with the previous statement recorded by the I.O. (PW-20) and his statement is also quite consistent with the statement of PW-2 who is brother of PW-1 but PW-2 has not been declared hostile and he is full fledged prosecution witness. PW-1 has not been re-examined by the prosecution which is stated in para 3 of his cross-examination.

37. It has been held in catena of judgments that prosecution witnesses cannot be discarded as they are merely interested witness or they are related to each other, unless their evidence is full of infirmities, discrepancies, anomalies and above all major contradictions uprooting the base of prosecution story.

38. In this context, the explanation of the Trial court rejecting the evidence of interested witness does not sound good. The reasoning of the Trial court while discarding the witnesses on the basis of related witness is not fully explained and does not have sound reasoning.

39. We have gone through the evidence of prosecution witnesses and it is found that none of the prosecution witnesses are eye witness and their evidence is full of infirmities and discrepancies. Their evidence is neither trustworthy nor



convincing in the background of the facts and circumstances, as already discussed in the foregoing paragraphs.

40. Thus, we do not find any reason to interfere with the judgment of acquittal of the respondents no. 2 to 6.

41. The appeal, thus, stands dismissed.

(Alok Kumar Pandey, J)

(Ashutosh Kumar, J)

shahzad/-amit

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.10.2023
Transmission Date	18.10.2023

