

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.643 of 2013

Arising Out of PS. Case No.-214 Year-2006 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

=====

Ranjeet Kumar Jha @ Ranjeet Jha S/O Sri Shambhu Nath Jha Resident Of
Village- Agraul, P.S.- Sindhiya, District- Samastipur

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

with
CRIMINAL APPEAL (DB) No. 528 of 2013

Arising Out of PS. Case No.-214 Year-2006 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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Gauri Shankar Singh @ Bhola S/O Sri Surendra Prasad Singh Resident Of
Village- Mahmadda, P.S.- Pusa, District- Samastipur

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

with
CRIMINAL APPEAL (DB) No. 591 of 2013

Arising Out of PS. Case No.-214 Year-2006 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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Sidhnath Parasar S/O Gauri Shankar Mishra Resident Of Village
Mahammadpur, Police Station Sakara In The District Of Muzaffarpur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

with
CRIMINAL APPEAL (DB) No. 608 of 2013

Arising Out of PS. Case No.-214 Year-2006 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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Vinay Kumar Sharma S/O Late Jangali Sharma Resident Of Village- Sherpur,
P.S- Maner, District- Patna.



... .. Appellant/s
Versus
The State Of Bihar
... .. Respondent/s

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with
CRIMINAL APPEAL (DB) No. 730 of 2013
Arising Out of PS. Case No.-214 Year-2006 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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Mintu Singh @ Dhruv Nath Mishra @ Dhruv Nath Kumar @ Dhruv Nath
Parasar Son Of Late Gauri Shankar Mishra R/O Village-Mahammadpur
Badar, P.S.-Sakara In The District Of Muzaffarpur

... .. Appellant/s
Versus
The State Of Bihar
... .. Respondent/s

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Appearance :
(In CRIMINAL APPEAL (DB) No. 643 of 2013)
For the Appellant/s : Mr. Mukund Mohan Jha, Advocate
For the Respondent/s : Mr. Binod Bihari Singh, APP
(In CRIMINAL APPEAL (DB) No. 528 of 2013)
For the Appellant/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Vijay Kumar Singh, Advocate
Mr. Abhinav Shandilya, Advocate
For the Respondent/s : Mr. Binod Bihari Singh, APP
(In CRIMINAL APPEAL (DB) No. 591 of 2013)
For the Appellant/s : Mr. Surendra Pd. Singh, Sr. Advocate
Mr. S.K. Lal, Advocate
Mr. Sunil Kumar, Advocate
Mr. Pankaj Kumar, Advocate
For the Respondent/s : Mr. Sujit Kumar Singh, APP
(In CRIMINAL APPEAL (DB) No. 608 of 2013)
For the Appellant/s : Mr.
For the Respondent/s : Mr.
(In CRIMINAL APPEAL (DB) No. 730 of 2013)
For the Appellant/s : Mr. Surendra Pd. Singh, Sr. Advocate
Mr. S.K. Lal, Advocate
Mr. Sunil Kumar, Advocate
Mr. Pankaj Kumar, Advocate
For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)



Date : 19-10-2023

The present appeals have been filed by the appellants-convicts under Section 374(2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') assailing the judgment of conviction dated 28.05.2013 and order of sentence dated 04.06.2013, passed by learned 2nd Additional Sessions Judge, Muzaffarpur in Sessions Trial Nos.288 of 2009, 252 of 2010, 862 of 2008 and 548 of 2010, arising out of Kazi Mohammadpur P.S. Case No.214 of 2006, whereby appellants Mintu Singh @ Dhruvnath Parasar and Ranjeet Jha have been found guilty under Sections 302, 307, 120(B) and 201 of the Indian Penal Code (hereinafter referred to as 'IPC') as well as Section 27 of the Arms Act and sentenced to undergo life imprisonment under Sections 302 and 120(B) of the IPC and fine of Rs.1,00,000/- and in default of payment of fine, they have to undergo RI for five years. Appellants Mintu Singh @ Dhruvnath Parasar and Ranjeet Jha have also been found guilty under Section 307 IPC and sentenced to undergo imprisonment for ten years and fine of Rs.10,000/- and in default of payment fine, they have to undergo RI for two years. Appellants Mintu Singh @ Dhruvnath Parasar and Ranjeet Jha have further been found



guilty under Section 27 of the Arms Act and sentenced to undergo imprisonment for three years. So far as appellants, namely, Sidhnath Parasar, Vinay Kumar Sharma and Gauri Shankar Singh are concerned, they have been found guilty for the offences punishable under Sections 302 and 120(B) IPC and sentenced to undergo imprisonment for life and fine of Rs.10,000/- and in default of payment of fine, they have to undergo RI for one year. All the sentences are directed to run separately.

2. The factual matrix of the present case is as under:

“Fardbeyan of Gajendra Dubey came to be recorded by SHO Sudhir Kumar Singh at the residence of the informant on 10.12.2006 at 09:00 p.m. As per the *fardbeyan*, when the informant was on his way to a party to the house of the local MLC, he got a call from his nephew, namely, Sonu Kumar stating that three unknown persons came to his house and asked to open the gate by stating that they are men of Ranveer from Punaura. All the three persons entered into the house and started firing upon Satyendra



Dubey (brother of the informant), Kishun Dubey (son of the informant), Pankaj Thakur and Manoj Thakur. All the aforesaid persons sustained injuries and were admitted under care of Dr. Virendra Kumar. The informant thereafter directly rushed to the said nursing home and then shifted them to SKMCH, Gaya wherein the brother Satyendra Dubey and son Kishun Dubey of the informant succumbed to the injuries. The other two persons, namely, Pankaj Thakur and Manoj Thakur were under medical supervision in the hospital. On being questioned, Manoj Thakur and Pankaj Thakur also stated that three accused entered the house projecting themselves as men of Ranveer from Punaura and started arguing and said that Choudhary Ji had sent them. Those three persons were Shyam Sundar Pathak @ Vinod @ Mannu (page torn) and Ranjeet Kumar Jha. Thereafter the accused persons started firing from the firearms which they were carrying. One of the assailants also sustained injury in the said firing. During *hulla*, the nearby people gathered



and took the injured persons to the hospital. It is further stated in the *fardbeyan* that thereafter the informant came to his house from SKMCH. He found the dead body of a young person and police was also present. The informant gave a brief background, in light of the incident, and stated that his brother Satyendra Dubey used to give contractual work to transport goods of SFC, Muzaffarpur and a case was lodged against him. The said case was filed at the instance of Mintu Singh and two others. In addition to that, Satyendra Dubey had also got contract for transportation of SFC goods in Sitamarhi/Sheohar which was earlier done by Bhupendra Yadav who had also filed an FIR against Rajesh Choudhary and Tuntun Choudhary. Among other people, Sidhnath Parasar was also an accused in the said case. The informant further alleged that the members of the opposition party had been calling and asking them to leave the contract threatening with life. The informant further alleged that people



involved in killing of his brother along with his son and injuring two other persons are Mintu Singh, Rajesh Choudhary, Tuntun Choudhary, Sidhnath Parasar, Sunil Singh, Santosh Kumar Singh, Vinod Kumar Singh, Shyam Sundar Pathak and Ranjeet Kumar Jha.

3. After registration of the FIR, the investigating agency started investigation and during the course of investigation, recorded the statement of the witnesses, inquest *Panchnama* were prepared and dead bodies of three deceased were sent for *post mortem*. After the investigation was over, the investigating agency filed charge-sheet against the concerned accused persons. However, as some of the accused were not available, the charge-sheet came to be filed against some of the accused after they came to be arrested. As the offences were exclusively triable by the Court of Sessions, the concerned Magistrate Court committed the case to the Court of Sessions and before the Sessions Court, four different Sessions Trial Numbers were registered, i.e., Sessions Trial Nos.288 of 2009, 252 of 2010, 862 of 2008 and 548 of 2010.

4. Before the Trial Court, the prosecution examined 15 witnesses and also produced documentary



evidence. The defence has also examined 11 witnesses. Statement of the accused under Section 313 of the Code was also recorded and after conclusion of the Trial, the Trial Court passed the impugned order whereby the present appellants have been convicted, as observed hereinabove.

5. Heard Mr. Mukund Mohan Jha, learned counsel for the appellant and Mr. Binod Bihari Singh, learned A.P.P. for the respondent State in Cr. Appeal (D.B.) No.643 of 2013, Mr. Rajendra Narain, learned Senior Counsel, assisted by learned counsel Mr. Vijay Kumar Singh and Mr. Abhinav Shandilya for the appellant and Mr. Binod Bihari Singh, learned A.P.P. for the respondent State in Cr. Appeal (D.B.) No. 528 of 2013, Mr. Surendra Pd. Singh, learned Senior Counsel, assisted by Mr. S.K. Lal, Mr. Sunil Kumar and Mr. Pankaj Kumar, learned counsel for the appellant and Mr. Sujit Kumar Singh, learned A.P.P. for the respondent State in Cr. Appeal (D.B.) No. 591 of 2013 and Cr. Appeal (D.B.) No.730 of 2013.

6. Learned counsel appearing for the appellants mainly contended that the appellants were not identified by the family members of the informant and, in fact, they are not the eye-witnesses to the occurrence in question. Thus, they



are projected as eye-witnesses who are relatives and family members of the deceased. Thus, they are interested witnesses. It is further submitted that the informant got the information from his nephew, namely, Sonu Kumar that three unknown persons entered into their house and started firing in which four persons sustained firearm injuries and they were shifted to the hospital. The informant thereafter went to the hospital from where he got the names of the assailants and thereafter he came to his house. Prior to that the family members, i.e., the lady members of the family were present at the place of occurrence and the concerned police officer reached to the house of the informant before the informant reached to his house. However, none of the family members disclosed the names of the assailants to the said police officer. Thus, it is contended that the appellants are falsely implicated because of business rivalry.

7. Learned counsel for the appellants further submits that the Trial Court wrongly placed reliance upon oral dying declaration given by deceased Pankaj Thakur. It is further submitted that PW-5 Manoj Kumar Thakur, who is an injured eye-witness, has not identified any of the assailants. Thus, when the injured eye-witness had not identified the



assailants, the conviction recorded by the Trial Court is required to be quashed and set aside.

8. Learned counsel appearing on behalf of appellants Sidhnath Parasar and Gauri Shankar Singh have urged that no active role is assigned to the aforesaid appellants in commission of the offence. It is further submitted that there are major contradictions and exaggeration in the deposition of the prosecution-witnesses. Learned counsel, therefore, urged that the impugned order be quashed and set aside.

9. On the other hand, learned counsel appearing for the informant has vehemently opposed the appeals filed by the appellants-convicts. Learned counsel has pointed out about the motive on the part of the assailants to commit the alleged offences. Thereafter, it is submitted that PW-1, PW-2, PW-3, PW-5, PW-6, PW-7, PW-8, PW-9 and PW-10 are eye-witnesses to the incident in question. All the said witnesses have specifically deposed against the appellants-accused and more particularly with regard to the time, place of occurrence, number of assailants, types of weapon used and injuries sustained by injured, including the injury sustained by PW-5. It is further submitted that medical evidence in the form of



oral and documentary evidence of two prosecution witnesses, i.e., PW-4, Dr. Sohan Prasad Choudhary and PW-11, Dr. Mumtaj Ahmad, who conducted the *post mortem* of the deceased persons and testified with respect to the injuries sustained by the deceased persons and about the cause of death are on record. It is submitted that, as per the *post mortem* report, the death was caused due to shock and haemorrhage caused due to firearm injuries. It is further submitted that PW-15, Dr. Vijay Kumar Choudhary, who had given the treatment to injured witness Manoj Kumar Thakur, has also specifically narrated about the injury sustained by the injured witness. It is further submitted that there is an oral dying declaration of deceased Pankaj Thakur before the informant and the Trial Court has rightly placed reliance upon the same. Learned counsel further submitted that plea of *alibi* taken by the concerned appellants-convicts has not been proved from the deposition given by the defence witnesses.

10. Learned counsel lastly submitted that the present one is the case of triple murder and in the occurrence in question, the fourth person sustained injury. The prosecution has proved the case against the appellants-accused beyond reasonable doubt and, therefore, the Trial



Court has not committed any error while passing the impugned judgment of conviction and order of sentence.

11. Learned APP's. have also supported the submissions canvassed by learned counsel for the informant and urged that the present appeals be dismissed.

12. We have considered the submissions canvassed by learned counsel appearing for the parties and we have also perused the paper book and the evidence produced by the prosecution before the Trial Court. From the materials placed on record, it would emerge that the incident in question took place at 07:00 p.m. in the house of the informant. At about 09:00 p.m. on 10.12.2006, the fardbeyan of the informant came to be recorded by Inspector Sudhir Kumar Singh at the residence of informant Gajendra Dubey (PW-13). PW-13 stated in his examination-in-chief that on 10.12.2006 at 07:00 p.m., he received a call from Kishore Kumar @ Sonu. Sonu informed him that three persons entered into the house by opening the gate by saying that they are the persons of Ranveer Ji and immediately after entering into the house, the said persons opened fire from the firearms which they were carrying. The said firing was made on his brother Satyendra Dubey, his son Kishan Kumar, staff



member Pankaj Thakur and relative Manoj Kumar Thakur. All the four persons sustained injuries. It is further submitted that Sonu informed him that he is taking the injured to the hospital of Dr. Virendra Babu. The said witness, therefore, directly reached to the clinic of the doctor but the doctor was not available. Therefore, the injured persons were taken to Sri Krishna Medical College. Satyendra Dubey and Kishan Kumar were taken to operation theatre whereas two other injured persons, namely, Pankaj Thakur and Manoj Thakur were sitting in veranda. At that time, Kishan Kumar and Satyendra Dubey succumbed to the injuries sustained by them. At that time, Manoj Thakur informed the said witness that he identified Mintu Singh as one of the assailants. It is further stated by the said injured that when the said injured was sitting with the other injured person, Mintu Singh, Shyam Sundar Pathak @ Mannu and Ranjeet Kumar Jha entered the house giving name of Ranveer Ji Choudhary and thereafter started firing on all the four persons and in the said incident, one of the assailants also sustained injury. PW-13, the informant further stated that thereafter he went to his house and noticed that the police had reached to his house. The said witness also stated about the motive on the part of the accused



to kill Satyendra Dubey and others. He further stated that his *fardbeyan* was recorded by Daroga Ji. Daroga Ji read over the said *fardbeyan* to him and thereafter he put his signature on the same. During cross-examination, the said witness stated that he had seen Mintu Singh one year before the date of occurrence. He has further stated in the cross-examination that Sonu made telephone call at about 07:30 p.m. and informed that three unknown persons entered the house by opening the gate and started firing. He stayed at Medical College for 15 minutes and at that time Manoj Thakur and Pankaj Thakur were conscious and two injured were unconscious.

13. PW-1 Shanti Devi stated in her examination-in-chief that she along with other family members was sitting in the drawing room and Satyendra Dubey, Kishan Kumar, Manoj Thakur and Pankaj Thakur were sitting in the verandah. The said witness further stated that she heard the sound of opening of the door. They did not go outside and thereafter she heard the sound of firing. She went outside and saw that her son, her brother-in-law, Pankaj and Manoj sustained gun-shot injury. This witness further stated in her examination-in-chief that she identified Mintu Singh and



Ranjeet Jha among the assailants.

13.1. PW-1, in her cross-examination, stated that Mintu Singh used to come to her house to meet her family members. Mintu Singh used to call on telephone and often asked the whereabouts of her husband and brother-in-law. This witness further stated in her cross-examination that her husband and brother-in-law were contractors. PW-1 further stated in her cross-examination that her husband and brother-in-law had no dispute with anyone. It is further stated that licence of the rifle was in the name of her husband.

14. PW-2 Karuna Dubey deposed in her examination-in-chief that she along with her family members was sitting in her drawing room. In the meantime, she heard the sound of firing. She went outside and saw that her nephew had caught an accused and Ranjeet Jha and Mintu were firing. This witness further stated in her examination-in-chief that her husband and nephew fell down after sustaining gunshot injury. The accused, who was caught by her nephew, had also sustained gun-shot injury. In addition to that, Pankaj and Manoj Thakur had also sustained gun-shot injury. This witness further deposed that she knew the persons who fired. They used to visit her house for business purpose. Mintu



Singh and Ranjeet Jha used to visit her house. It is further deposed that the accused who was caught by her nephew died because of shots fired by the other two accused. This witness also identified Mintu Singh in Court.

14.1. PW-2 stated in her cross-examination that nobody from her family had fired shots. Pankaj Thakur was conscious when he fell down and this witness talked to him. This witness further stated in her cross-examination that she talked to Manoj in the hospital. She did not talk to Manoj at the place of occurrence.

15. PW-3 Kishore Kumar @ Sonu stated in his examination-in-chief that he is the nephew of the informant. The occurrence took place on 10.12.2006. It was 7 O' clock in the evening. This witness stated that he was talking with his family members. Other members of the family were sitting in verandah. In the meantime, this witness heard the sound of firing, they ran towards outside and saw that Kishan Kumar had caught hold of a person and Mintu Singh and Ranjeet Jha were firing. This witness further deposed in his examination-in-chief that his younger maternal uncle Satyendra Dubey, cousin Kishan Kumar, staff Pankaj Thakur, Manoj Thakur and the person who was caught by Kishan sustained gun-shot



injuries. When this witness and other made hue and cry, the person who were making firing, started to flee. This witness further deposed that a Tata Sumo Victa vehicle was standing there bearing Registration No.BR1P3140. Gauri Shankar Singh and Sidhnath Parasar were also there. They too sat in the vehicle and went towards Aghoriya Bazar. This witness further deposed in his examination-in-chief that they brought the injured persons to the clinic of Dr. Virendra Kishore which was found closed. In the meantime, police vehicle came and injured persons were brought to SKMCH where it was found that Satyendra Dubey and Kishan Kumar had died. Pankaj Thakur had also died after two days.

15.1. PW-3, in his cross-examination, has stated that Daroga Ji recorded his statement. This witness further stated in his cross-examination that he gave the same version of the occurrence to Daroga Ji what he was giving that day. It is further stated that he was in the room when the firing started. This witness further deposed that there was indiscriminate firing but, he cannot tell the number of bullets fired. All went outside the room together. When he reached, Satyendra Dubey and Kishan Kumar were in standing position and their faces were towards the North direction.



This witness further deposed in his cross-examination that the person who was caught by his elder brother was also making firing and two other accused were making firing whose faces were towards South. This witness further stated that they were making indiscriminate firing. No one had fired aiming them. They made a hue and cry. One person was caught who made firing and other two persons fled away. This witness gave statement to Daroga Ji that his maternal brother caught hold of an accused and Ranjeet Jha and Mintu Singh were making firing. This witness further stated that he knew Mintu Singh for the last three years. PW-3 further stated that he had only recognized the faces of the accused but got to know their names only from the Newspapers. He also stated that he spotted the color of the van as silver but did not notice the number and only got to know it after the police disclosed it.

16. PW-5 Manoj Kumar Thakur stated in his examination-in-chief that he also sustained bullet injury. He cannot remember the date of occurrence but the occurrence took place 4-5 years ago. This witness further deposed that he was sitting along with Satyendra Dubey, Miththu @ Kishan Pankaj. Thereafter two persons came and fired. He too sustained bullet injury and fell down. Satyendra Kishan



Dubey and Pankaj also sustained bullet injuries besides him. This witness further stated in his examination-in-chief that he was unconscious, therefore, he cannot identify the persons who made firing. The police had recorded his statement. This witness was declared hostile by the APP.

17. PW-6 Amit Kumar @ Mukesh stated that at the time of occurrence he was sitting in the drawing room and rushed to the spot when he heard the sound of firing and saw Mintu Singh and Ranjeet Jha firing shots at Satyendra Dubey, Kishan Kumar, Pankaj Thakur and Manoj Thakur. He also stated that one of the co-accused also sustained bullet injury. When they made a hue and cry, Mintu Singh and others fled away. There was dispute between the parties with regard to contract. This witness identified the accused who were present in Court.

17.1. This witness stated in his cross-examination that he had been working with Satyendra Dubey since the year 2000 and the transporting work, primarily, was done in Muzaffarpur. It is further stated that he had come to the court on warrant as he was being threatened not to give statement in the present case and, therefore, he was abstaining from court proceedings. PW-6 had also lodged an FIR against



the threat being given to him. It is further stated by PW-6 in his cross-examination that he might have said in the initial deposition that Mintu Singh and Ranjeet Jha were firing on the spot, however, he denied the fact by stating that he did not remember while deposing.

18. PW-7, Daya Shankar Singh stated that contract was in his name, but Satyendra Dubey actually performed the contract work. On the day of incident, this witness was in computer room of Satyendra Dubey. He came out of the room after hearing the sound of firing and saw Ranjeet Jha and Mintu Singh fleeing brandishing the pistol and he also saw Satyendra Dubey, Kishan Dubey, Manoj Thakur, Pankaj Thakur and Shyam Sundar @ Mannu in injured condition. Muhalla people also came there and the injured persons were brought to SKMCH for treatment. Satyendra Dubey and Kishan Dubey were declared 'dead' by the doctor. There was dispute between Mintu Singh and Satyendra Dubey with regard to a contractual work. It is further deposed by this witness that Daroga Ji seized ten empty cartridges, one extra magazine with eight cartridges, one purse, two packets of cigarette, one mobile of Nokia company and two Railway tickets.



18.1. This witness stated in his cross-examination that when he tried to apprehend the two absconding accused, they aimed guns at him. However, PW-7 further stated in his cross-examination that he only knew Mintu Singh and did not know the name of the other accused Ranjeet Jha and only got to know his name after the incident.

19. PW-8, Bibhuti Kumar also supported the prosecution case and identified the accused persons. This witness stated in his deposition that he along with other family members was sitting in the drawing room and rushed to the spot only after hearing the sound of firing and saw that Mintu Singh and Ranjeet Jha were firing from their guns on the four injured persons. Thereafter, PW-8 along with others chased the accused and they started fleeing away and a Sumo van was parked near Krishna Sweets accompanied by Gauri Shankar and Sidhnath Parasar who started the van and both the main accused fled away with that van.

19.1. PW-8 stated in his cross-examination that he knew Mintu Singh and Ranjeet Jha from before and knew the other two accused only by face. He further stated that he started chasing the accused while they were running towards the parked van at Krishna Sweets and gun was also aimed at



him, but he kept on chasing till both the accused ran away with the van accompanied with Gauri Shankar and Sidhnath Parasar.

20. PW-9, Awadhesh Kumar Singh in his examination-in-chief stated that while returning from his home, he stopped nearby to have betel leaf. In the meanwhile, he saw a white Sumo Victa vehicle standing by the road near Krishna Sweets and approximately 2-3 people were inside the van and one person was talking on phone while 2-3 others were standing outside the van. This witness also stated in his examination-in-chief that he saw Sidhnath Parasar and Mintu Singh talking to each other. Thereafter 2-3 unknown persons went towards Pankha Toli and then he also left the spot. It is further deposed that he only got to know about the incident next morning through Newspaper. This witness also stated that he knows Mintu Singh and Sidhnath Parasar.

21. PW-10, Om Prakash deposed in his examination-in-chief that he along with other family members was sitting in the drawing room and rushed to the verandah after hearing the sound of firing. This witness further stated that he saw that Mintu Singh and Ranjeet Jha were firing, due to which the uncle of this witness, namely, Satyendra Dubey,



Kishan Kumar, Pankaj Thakur, Manoj Thakur along with one accused sustained gun-shot injuries and they fell down and the persons who were firing started fleeing away towards outside. This witness further deposed that they chased the accused persons. This witness further stated in his examination-in-chief that the SHO visited the place and prepared the seizure list which was signed by him and by Dayashankar.

21.1. PW-10 has stated in his cross-examination that he used to do billing work. He was present in the house when the incident took place. He further stated in his cross-examination that approximately 10-15 persons had chased the accused. It is also stated that he had told everything to the police except for the death of the another accused person at the place of occurrence itself.

22. PW-12, Bhupendra Prasad Yadav is a contractor who has stated in his examination-in-chief that he got to know about the incident next day. He used to do independent contractual work at Sheohar and Dayashankar used to take contracts at Sitamarhi. Rajneesh Chandra also used to take contractual work at Sheohar. This witness further stated in his examination-in-chief that one day when he had



got the tender letter and was leaving the office with his brother, Sidhnath, Rajneesh Chandra and Mintu Singh asked him to leave the tender contract, snatched the tender paper and tore them and started beating him. It is further stated by this witness in his examination-in-chief that he lodged the FIR against them. However, the accused were released on bail and they kept on threatening not to take contract tenders otherwise he would lose his life. Subsequently a plan was made to kill Satyendra Dubey and he informed Pankaj about the same. This witness further stated that in the night of 10th December, 2006 he heard about the murder of Satyendra Dubey.

22.1 PW-12 has stated in his cross-examination that he used to take transportation contracts and before the tender was awarded to him, Rajneesh used to handle such work. This witness further stated in his cross-examination that he does not remember exact number and names of people against whom he had lodged the FIR. He also contradicted the fact that nobody had threatened him after getting out on bail. It is also stated that a meeting took place at Chandan's house in the last week of November or first week of December and he was not present in that meeting. This witness further stated



that he was also threatened.

23. PW-4 Dr. Sohan Prasad Chaudhary is the doctor who had conducted the *post mortem* of the dead body of the deceased Pankaj Kumar Thakur. He has found the following *ante mortem* injuries on the body:-

- (i) Wound of entry 1/4" diameter on left side of chest. 3" lateral to nipple. There was no blackening and charring but margin of wound abraded and inverted.
- (ii) Incised operated stitch wound 7" in size on mid abdomen (para-medium) & drainage tube incite on left side of abdomen. On detection all the internal organ were found pale.

There was fracture of fourth rib on left side & one bullet was recovered from the chest cavity which was handed over to accompanied constable. The lung was lacerated intestine was repaired. Right chamber of heart was full and left empty. Stomach was empty. Glader was empty. Details of chest operation may be asked from Surgeon who treated the patient.

Time elapsed since death between 6 hours to 18 hours.

Cause of death – Hemorrhage and shock due to above mentioned injuries caused by fire arm weapon.”



24. P.W. 11 Dr. Mumtaj Ahmad is another doctor who had conducted the *post mortem* of the dead body of the deceased Kishun Dubey and Satyendra Dubey. He has found the following *ante mortem* injuries on the body of deceased Kishun Dubey:-

“Blood stain was present on the body.

(i) One oval wound 1/4” in diameter with inverted mark and burning on the margin was found on front of chest 2.5” right and just below right nipple. It was only muscle deep.

(ii) One oval wound 1/4” in diameter with inverted and burning of the margin was found on front of abdomen 7” above and 1” left. It was going upward functioning the heart inside the chest and one bullet was recovered behind the heart.

Fluid blood was found inside the chest and abdominal cavity.

Deceased died in shock and hemorrhage as a result of above injuries caused by some fire arms, may be pistol arms.

Time since death - within 12 to 18 hours.”

24.1 He has found the following *ante mortem*



injuries on the body of deceased Satyendra Dubey:-

“(i) One oval wound 1/4” in diameter with inverted and burning of the margin was found on the front of right side of chest 1" above and just on right side of nipple. It was only muscle deep.

(ii) One oval wound 1/4" in diameter with inverted and burning of the margin was found on front of Chest 1/2" medial and on the level of right nipple. It was only muscle deep.

(iii) One oval wound 1/4" in diameter with inverted and burning of the margin was found on the front of left side of chest 2" above and just medial to left nipple. On dissection 3rd was fractured with punctured wound in heart and the Bullet recovered from the back of heart.

(iv) One oval wound 1/4" in diameter with inverted and at burning of the margin was found in front of right side of abdomen 5" below and just right to right nipple. On dissection punctured wound was found on inside Liver and one Bullet recovered from behind Liver.

(v) One oval wound 1/4" in diameter with inverted and burning of the margin was found on right side of front of abdomen 2.7" below and 5" right to umbilicus.



On dissection punctured wound were found at three places in intestinal loop and no projectile was recovered. It may pass away after striking the vertebra.

(vi) One oval wound $\frac{1}{4}$ " in diameter was found on front of the left side of abdomen 7" left and in the line of umbilicus.

It was only muscle deep.

Chest and abdomen cavity was filled with thrice blood.

Two Bullets were recovered from the body who handed over to the accompanied constable in sealed packet.

Caused of Death :- Deceased was caused death due to shock and haemorrhage caused by some firearm such as Pistol.”

25. PW-14, Sudhir Kumar Singh is the Investigating Officer of the case and he has deposed in his examination-in-chief that he got the information about the incident in the evening of 10.12.2006 at around 07:30 p.m. through a call and he immediately left for the spot along with other police personnel and found a dead body of unknown person in the verandah with blood spread in the area along with 10 empty 9 mm cartridges. This witness further deposed that he knew about the incident from the female members of



the house. He also seized the materials and sent the dead body for *post mortem* after preparing the inquest report. This witness further stated that he found a loaded magazine with eight live 9 mm cartridges and all the seized materials were presented under Ext.9 with signatures of two witnesses. This witness further stated in his examination-in-chief that the house of the informant is three storied having main gate on the ground floor which directly leads to verandah where the incident took place. The Investigating Officer found the dead body on the northern side of the verandah. The Investigating Officer further deposed that Pradeep Kumar, SHO, Mithanpura Police Station, on getting the information, started checking the vehicles and seized the alleged Tata Sumo PR-1-AP-3140 along with all the materials from the farm of Zahid Hussain. This witness further deposed that he recorded the statement of Zahid Hussain. The brother of the deceased Shyam Sundar Pathak arrived at the police station and demanded the dead body for last rites and on formal documentation, the body was given to him. This witness further stated that the fingerprint found on the Sumo vehicle and the fingerprints found on the spot has already been sent to FSL and report has been prepared in the FSL lab. This



witness, after investigation, submitted charge-sheet against Satrudhan Prasad (not named in the FIR), Shyam Sundar Pathak (deceased), Ranjeet Jha, Sidhnath Parasar and Mintu Singh.

25.1 The Investigating Officer in his cross-examination has stated that he along with the Store House In-Charge had gone to the police store house but found the lock broken and the exhibits missing from the store house. It is also stated by this witness in his cross-examination that he reached the spot at around 07:30 p.m. and had stayed in that house for approximately four hours and prepared inquest report of the dead body at around 08:30 p.m. It is further stated that he had taken the statement of Gajendra Dubey at around 10:30 p.m. (later on he said 09:00 p.m.). The Investigating Officer further stated that he had prepared the first seizure list at around 08:30 p.m. and thereafter he prepared another seizure list at 09:30 p.m. The Investigating Officer also stated that PW-1 Shanti Dubey had not told him that her son had caught hold of one of the accused whose name was Shyam Sundar Pathak. He also stated that the witness had not taken the name of Ranjeet Jha in her statement given before him. This witness further stated that



PW-2 Karuna Devi had not said that Mintu Singh and Ranjeet Jha were firing shots and they ran away when people came there. The Investigating Officer stated that PW-3 had neither told before him that he had seen Gauri Shankar on the day of incident nor did he say that his brother was holding one accused and two people were firing gunshots nor that the accused died of crossfire. The Investigating Officer further stated that PW-8 had not told before him that he knew Mintu Singh and Ranjeet Jha from before. He did not confess that he knew Siddhanath and Gauri Shankar from before.

25.2. The Investigating Officer in his cross-examination stated that PW-2 did not talk about identification of Ranjeet Jha. PW-3 also had not taken name of Ranjeet Jha firing gunshots. The Investigating Officer further stated in his cross-examination that he had wrongly written the date as 11.10.2006 in place of 11.12.2006, but did not give any application before the court to correct the same. It is further stated that PW-10 had not told him anything associated with the name of Ranjeet Jha. The Investigating Officer thereafter states that he had not made any entry in the case diary about inquest report of the unknown deceased found in the informant's verandah. The Investigating Officer also denies



receiving any report from the FSL about fingerprints or footprints from the car and the place of occurrence. This witness further stated in his cross-examination that he had not entered any criminal antecedent of Ranjeet Jha in the criminal record diary. The Investigating Officer also denies having any knowledge about surrender of Ranjeet Jha in court. He also denies that he had done verification of address of Ranjeet Jha.

26. DW-1 Shambhu Nath Jha has stated in his examination-in-chief that accused Ranjeet Jha is his son. He is B.A. Hon's. There is no case pending against him in the local police station or in Samastipur district. His son had got selected in CRP in 2004 while a student. His son was at his maternal grand parents' home, when it came to the knowledge that he is wanted in a case. This witness further states in his examination-in-chief that Inspector Sudhir Kumar Singh came to his house on 20.12.2006. Only then, he came to know that his son was wanted in the present case. It was he who informed that his son was going to be involved in a murder case at Muzaffarpur. He informed that his son Ranjeet Jha is going to be implicated. He can be saved only if the witness pays one lakh rupees. It is further deposed that he showed his



inability to pay the said amount. By the time police party reached his home, around 50 local people had gathered there. On that very day, Ranjeet Jha had gone to his maternal grand parents' house. He and others told Sudhir Singh that Ranjeet Jha bears a good character. He has got no criminal antecedent. Others stated that he may verify this fact from the *Mukhiya* and *Sarpanch*. Police did not record their statements. This witness further deposed that his son is innocent. He has surrendered in Court in the interest of justice. He could not get employed because of his implication in the present case.

26.1. This witness stated in his cross-examination that his statement was not recorded before the police. The anticipatory bail petition filed in Patna was rejected. At that time, a copy of FIR and character certificate as also paper regarding his appointment was given to the concerned Advocate. Police Inspector had come to his house on 20.12.2006. Sudhir Singh intimated that murder of 3-4 persons has been committed in which name of Ranjeet Jha is coming as a veteran criminal. He does not know Shyam Sundar Pathak. It is further stated by this witness in his cross-examination that he or his son had no visiting terms with Shyam Sundar Pathak. The distance between his house and



that of Shyam Sundar Pathak is 40-45 kms. Shyam Sundar Pathak is also a Brahmin. It is not a fact that his son had brought the motorcycle of the brother of Shyam Sundar Pathak. It is not a fact that his son Ranjeet Jha and Shyam Sundar Pathak had come to Muzaffarpur on the said motorcycle and his son and Shyam Sundar Pathak had gone to commit the crime where Shyam Sundar Pathak was apprehended and his son managed to escape. It is not a fact that Shyam Sundar Pathak's brother, namely, Santosh Kumar had come to collect the dead body of Shyam Sundar Pathak and that he told that his brother Shyam Sundar Pathak and Ranjeet Jha had come to Muzaffarpur on his motorcycle. He had not lodged any complaint in any Court or at any other place about the demand of one lakh rupees by the concerned Daroga. It is not a fact that his son Ranjeet Jha and Shyam Sundar Pathak were sons of two full sisters. It is not a fact that he had made false statements to save his son.

27. DW-2, DW-3, DW-4, DW-5, DW-6 and DW-9 are not material witnesses and they have deposed about the strike by the truck drivers which has been called on against low wages for which a meeting was held on 10.12.2006 at the residence of Mintu Singh which was called off after an



increment of Rs.300/- being promised.

28. DW-7 Dhruv Nath Kr. @ Mintu Singh has stated in his examination-in-chief that he got to know about the transportation contract of SFC through Pappu Singh, whom he met recently for business purposes. Thereafter in 2004 he started the contract for transportation at SFC, Sitamarhi which gave rise to animosity between him and the deceased Satyendra Dubey and his partner Bhupendra Yadav. It is further stated by Mintu Singh that the opposite party lodged an FIR in 2005 against him, his brother and Late father which led to loss of the contractual work. Satyendra Dubey and Bhupendra Yadav shifted their place of work to Sheohar and Muzaffarpur. In 2006, he and his brother purchased tender paper for Sheohar. This witness further stated in his examination-in-chief that he or his brother Sidhnath Parasar had no concern with the FIR of the present case or any accused of the present case. He or any of his family members had no concern or connection with the family of the deceased or his family members or the informant. It is a fact that FIR accused Rajesh Choudhary, Tuntun Choudhary, Sunil Singh etc. were relatives of deceased Satyendra Dubey and the informant Gajendra



Dubey. It is further deposed that he has falsely been implicated as an accused in the present case and he is innocent and has been falsely implicated by the police.

28.1. In his cross-examination by prosecution, he has stated that he does not know the name of the owner of the shop at Kalyani Chowk, but his elder brother knows. Previously, he worked in the said shop with his elder brother. It is further stated by this witness in his cross-examination that he does not remember that in connection with Dumra PS Case No.55/2006, four persons had been apprehended on spot while firing on Bhupendra Yadav, but none of his family members was apprehended. It is not the fact that he was making false statement to save Satyendra Dubey etc.

28.2. On recall in defence (Chief Examination), he stated that he maintained a register of truck plying in connection with contract work.

29. DW-8 Nand Ji Singh has stated in his cross-examination that he took charge of the investigation of the crime no.214/06 after the transfer of previous Investigating Officer Sudhir Kumar. When he was taking charge of the investigation, the matter was in control of CID Inspector Md. Khalin. After taking charge, the I.O. took statements of Shiv



Sundar Devi, Md. Murtaza, Rehmat Ali, Ramdeep Sharma, Mahesh Sharma and Viru Yadav @ Bharat Yadav. It is further stated that he along with Md. Khalil went to the said Kathal Bari locality wherein, on inquiry, they were informed that on the date of incident, i.e., 10.12.2006, a meeting was held between truck owners and truck drivers. He took statement of witness Manoj Kumar Thakur who said that on 10.12.2006 at about 07:00 p.m., he had gone to meet the family of Satyendra Dubey. Shortly thereafter, two persons got the gate opened and started firing from verandah during which he received gunshot on his right armpit and left hand due to which he got injured and fell down unconscious. After five days when he regained his consciousness, he came to know that the miscreants had fired on Satyendra Dubey, Miththu and Pankaj who died later on. Both the miscreants were young.

29.1. In his cross-examination, the I.O. stated that he did not know as to how and why the case was transferred to CID as he joined one month after the said transfer. He further stated that he could not elicit any reliable information as to whether there was any strike in Darbhanga district on the date of incident and when he visited Kathal Bari locality in



Darbhanga, he did not find Mintu Singh in the said residence and was informed that he had vacated the said residence, as described in para-26. The I.O. stated that, in the case diary, at serial No.99, a brief detail of both the previous incidents has been written and at para-4 it is written that the accused were found fleeing by vehicle. He did not take signatures of the witnesses on their statements. He denied the suggestion that he had conducted the faulty investigation conspiring with the defence side. He had not arrested anybody.

30. DW-10 and DW-11, namely, Sanjeev Ranjan Mishra and Mukesh Kumar respectively have not stated anything as regards the present incident. DW-10 has just deposed about the ownership of the house at Darbhanga and the tenancy of Mintu Singh of the same premises on the relevant date. DW-11 stated that Mintu Singh had taken contract in his name for Bihar State Food Supply Limited. He has verified the papers as exhibits D series.

31. From the aforesaid evidence led by the prosecution as well as the defence before the Trial Court, it is revealed that in the occurrence in question 3 persons lost their lives and one of the assailants also died in the said incident. Thus, in the occurrence in question all together 4 persons died



and one person sustained injuries. From the deposition of Dr. Sohan Prasad Chaudhary, P.W. 4, and Dr. Mumtaj Ahmad, P.W. 11, who have conducted *post mortem* of the dead body of the deceased Pankaj Kumar Thakur, Satyendra Dubey and Kishan Dubey, it is proved that the death of the deceased was caused by haemorrhage and shock due to the injuries caused by firearm weapon. Thus, the victims sustained fatal injuries which were all *ante mortem* in nature and confirming death of victims, homicidal in nature.

32. It further transpires from the evidence that P.W. 13 Gajendra Dubey, the informant, who was father of the deceased Kishan Dubey and brother of deceased Satyendra Dubey, has given the deposition that when he reached the hospital, he found that injured Satyendra Dubey and Kishan Dubey were taken to the operation theatre and were declared 'dead'. Thereafter, injured Pankaj Kumar Thakur and Manoj Thakur, who were sitting in the Verandah, had named Mintu Singh and Ranjeet Jha and deceased assailant as the persons who fired from their firearms upon 4 persons sitting in the Verandah at the relevant time. He also described the place of occurrence. He has stated that injured Pankaj Kumar Thakur gave his oral dying declaration before the informant in the



hospital, as a result of which P.W. 13 came to know about the names of the assailants and, therefore, when the informant reached to his house from the hospital, he gave *fardbeyan* before the police officer present in the house and in the first part of the *fardbeyan* he has stated about the information given on telephone by Sonu wherein he got information about the three unknown persons. However, when he had gone to the hospital, he got the names of the assailants from Pankaj Kumar Thakur and Manoj Thakur. In the second part of the *fardbeyan*, the said witness, i.e. informant, has referred the names of the assailants. Thus, we are of the view that the case put forward by the informant cannot be doubted.

32.1 It is also required to be noted that the testimony of P.W. 13 remained unchallenged in his cross-examination as the defence while cross-examining did not suggest to the said witness about the condition of the deceased and P.W. 4 Dr. Sohan Prasad Choudhary, who had performed *post mortem* of the dead body of the deceased, has not been cross-examined. Further, P.W. 14 Sudhir Kumar Singh, the Investigating Officer who recorded *fardbeyan* of the informant at about 9:00 p.m. on the date of occurrence at his residence, i.e. the place of occurrence, when he returned



from hospital and based thereupon the F.I.R. was registered at 10:30 p.m. containing names of accused persons as disclosed by deceased Pankaj Kumar Thakur. Thus, we are of the view that when the F.I.R. came to be registered immediately after the occurrence on the basis of information given by injured Pankaj Kumar Thakur and Manoj Kumar Thakur to the informant, the deposition given by P.W. 13, the informant, is not required to be discarded.

33. P.W. 5 Manoj Kumar Thakur, though was declared hostile in respect of identity of the accused persons, he supported the prosecution version to the extent of manner in which the occurrence took place, the number of persons involved in committing the offence and opening of indiscriminate firing by the assailants as well as the injuries suffered by himself and the other deceased. It is pertinent to note that defence has not cross-examined the said witness on the aspect of narration of said occurrence by Pankaj Kumar Thakur to P.W. 13, i.e. the informant.

34. Injured Pankaj Kumar Thakur, who subsequently succumbed to the injuries, at the earliest opportunity, gave his oral dying declaration before P.W. 13, the informant, before his death explaining the sequence of



events taken place which stands established by ocular evidence of other prosecution-witnesses which is also reliable, creditworthy and cogent as the said injured was in a conscious state and was in a position to speak.

35. P.W. 14, the Investigating Officer, after recording the statement of the informant and registration of the F.I.R. reached hospital and recorded statements of injured Pankaj Kumar Thakur in the hospital and the said witness stated that Pankaj Kumar Thakur was conscious and in a stable state of mind wherein he attributed the role to Mintu Singh, Ranjeet Jha and one another for firing from their firearms upon the persons sitting in the Verandah. It is relevant to note that nothing has been suggested to this witness, i.e. the I.O., about the medical condition of injured Pankaj Kumar Thakur who subsequently died.

36. P.W. 1, P.W. 2, P.W. 3, P.W. 5, P.W. 6, P.W. 8 and P.W. 10 being eye-witnesses to the occurrence, their evidence carries evidentiary value of ocular evidence and all the aforesaid witnesses have specifically deposed about the subject of the incident, i.e. time and place of occurrence, number of assailants, type of weapon used and injuries suffered by the victims, including injuries sustained by P.W. 5



and have stood their ground during the cross-examination and have further corroborated each other on a relevant material cause. The testimony of the aforesaid witnesses clearly establish the motive, intention and overt act played by each of the appellants in committing the multiple murder of the victims.

37. Merely because the aforesaid witnesses are family members or related witnesses, their deposition cannot be discarded as their presence at the place of occurrence was quite natural. If the deposition of the interested and related witnesses is trustworthy, such deposition is required to be accepted.

37.1 P.W. 9 Awadhesh Kumar Singh is an independent witness who deposed about the presence of a white coloured Tata Sumo Victa near the place of occurrence. The said witness further proved presence of accused Mintu Singh and Siddhanath Parasar before the occurrence and further saw Mintu going towards the place of occurrence with 2 to 3 persons. Further deposition of P.W. 3 and P.W. 8, who had chased the appellants/convicts Mintu Singh and Ranjeet Kumar Jha after the occurrence, i.e. their return to the second place of occurrence i.e. near Krishna Sweets where another



appellant Siddhanath Parasar and Gauri Shankar Singh were present and escaped in Tata Sumo.

38. So far as the motive for commission of the offence on the part of the accused is concerned, it is the specific case of the prosecution that due to business rivalry between the parties there was a dispute going on and, ultimately, the accused persons, by hatching a conspiracy, decided to eliminate the rival in the business, i.e. Satyendra Dubey in order to settle their score with him and, therefore, committed the heinous crime in which four persons, including one of the assailants, died. The prosecution had examined the witnesses from which it is duly proved that there was a dispute with regard to the contract for food transportation at S.F.C., Sitamarhi.

39. The defence has also examined 11 defence witnesses with a view to prove the defence with regard to the plea of *alibi* and false implication. However, we are of the view that from the deposition of the defence witnesses it cannot be established that the concerned appellants/convicts were not present at the place of occurrence and the present is a case of false implication. As discussed hereinabove, there are prosecution-witnesses who have supported the case of the



prosecution, who have seen the concerned appellants/convicts at the place of occurrence and injured Pankaj Kumar Thakur gave oral dying declaration before P.W. 13, the informant, which was immediately conveyed to the concerned police officer, P.W. 14, while giving the *fardbayan*.

40. From the aforesaid discussion, we are of the considered view that the prosecution has proved the case against the appellants/convicts beyond reasonable doubt and, therefore, the learned Trial Court has not committed any error while passing the impugned order and, hence, we are of the view that no interference is required in the present appeals.

41. Accordingly, Cr. Appeal (D.B.) Nos. 643 of 2013, 528 of 2013, 591 of 2013 and 730 of 2013 are dismissed.

42. It appears that appellant/accused Ranjeet Kumar Jha @ Ranjeet Jha in Cr. Appeal (D.B.) No. 643 of 2013, is already in custody.

42.1 Appellant Gauri Shankar Singh @ Bhola in Cr. Appeal (D.B.) No. 528 of 2013, appellant Sidhnath Parasar in Cr. Appeal (D.B.) No.591 of 2013 and appellant Mintu Singh @ Dhruv Nath Mishra @ Dhruv Nath Kumar @ Dhruv Nath Parasar in Cr. Appeal (D.B.) No. 730 of 2013 are



on bail. On convictions as recorded above, their bail-bonds stand cancelled and they are directed to surrender before the jail authority/concerned Court on or before 1st of December, 2023. If any of the above named appellants/accused fails to surrender before 1st of December, 2023 for any reasons, learned Trial Court to take appropriate legal steps to secure their arrest.

43. Since the sole appellant of Cr. Appeal (D.B.) No. 608 of 2013 namely Vinay Kumar Sharma has died during the pendency of the appeal, Cr. Appal (D.B.) No. 608 of 2013 stands abated.

(Vipul M. Pancholi, J)

Chandra Shekhar Jha, J: I agree.

(Chandra Shekhar Jha, J)

K.C.Jha/-

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