

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.427 of 2021**

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna

Bhola Kumar Son Of Ram Pravesh Singh, Resident Of Village - Hasanpura,
P.S.- Beur, Dist.- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 441 of 2021

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna

Ranjeet Kumar @ Bittu S/O Late Naveen Singh @ Navin Singh, R/O Village-
Medani Chak, P.S. Beur, District-Patna

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 467 of 2021

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna

Vikky Kumar @ Vikky Son Of Krishnadeo Rai, Resident Of Shivchak, P.S. -
Gaurichak, District - Patna.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 497 of 2021

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna



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Ajay Kumar @ Ajay Rai Son Of Dwarika Rai @ Dawarika Prasad, Resident
Of Chhakan Tola, North Mandiri, P.S.- Budha Colony, District- Patna.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

with

CRIMINAL APPEAL (DB) No. 502 of 2021

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna

=====

Ranjan Kumar S/O Ram Pravesh Singh, R/O Hasanpura, Beur, P.S.-beur,
District-Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

with

CRIMINAL APPEAL (DB) No. 572 of 2021

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna

=====

Bhavya Prakash @ King Son Of Late Sadan Kumar, Resident Of Ram
Lakhan Mahto Flat, P.S. - Jakkanpur, District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

with

CRIMINAL APPEAL (DB) No. 1150 of 2023

Arising Out of PS. Case No.-241 Year-2016 Thana- BEUR District- Patna

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Santosh Kumar Son Of Late Shyam Babu Rai, R/O Village- Hasanpura,
Hasanpura Road, Near The House Of Uday Kumar Mukhiya, P.S.- Beur,
Dist.- Patna

... .. Appellant/s

Versus

The State of Bihar



... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (DB) No. 427 of 2021)

For the Appellant/s : Mr. Devendra Kumar Sinha, Sr. Advocate
Mr. Alaxander Ashok, Advocate.
Mr. Pramod Kumar Singh, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.
Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.

(In CRIMINAL APPEAL (DB) No. 441 of 2021)

For the Appellant/s : Mr. Manish Kumar Singh, Advocate.
Ms. Munni Kumari Moon, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.
Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.

(In CRIMINAL APPEAL (DB) No. 467 of 2021)

For the Appellant/s : Mr. Sunil Kumar Pathak, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.
Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.

(In CRIMINAL APPEAL (DB) No. 497 of 2021)

For the Appellant/s : Mr. Sunil Kumar Pathak, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.



Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.
(In CRIMINAL APPEAL (DB) No. 502 of 2021)
For the Appellant/s : Mrs. Soni Srivastava, Advocate.
Mr. Santosh Kumar Singh, Advocate.
Ms. Sarandha Suman, Advocate.
Mr. Ravi Bhardwaj, Advocate.
Mr. Sanjay Kumar, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.
Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.
(In CRIMINAL APPEAL (DB) No. 572 of 2021)
For the Appellant/s : Mr. Santosh Kumar Singh, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.
Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.
(In CRIMINAL APPEAL (DB) No. 1150 of 2023)
For the Appellant/s : Mr. Ajeet Kumar Ojha, Advocate.
For the State : Mr. Ajay Mishra, APP
For the informant : Mrs. Jayanti Jha (in person)
Ms. Surya Nilambari, Amicus Curiae.
Mr. Vijay Kumar Sinha, Advocate.
Mr. Arvind Kumar Srivastava, Advocate.
Mr. Satendra Kumar Bhatnagar, Advocate.
Mr. Santosh Kumar, Advocate.
Mr. Krishna Murari Prasad, Advocate.
Mr. Kumar Shivam Sinha, Advocate.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE JITENDRA KUMAR)

Date :30-09-2024



All the appeals have been taken up together for hearing and disposal because they arise out of the same impugned judgment of conviction dated 04.03.2021 passed by learned Additional Sessions Judge-IX, Patna, in Sessions Trial No. 133 of 2017, whereby all accused/appellants were acquitted of charge framed under Section 379 of the Indian Penal Code but were found guilty of charge framed under Sections 120B and 302 read with Section 34 of the Indian Penal Code and under Section 27 of the Arms Act and appellant/Ranjeet Kumar @ Bittu was also found guilty under Section 25(1-B)a & 26 of the Arms Act.

2. By the impugned order of sentence dated 16.03.2021, six appellants, namely, Ranjeet Kumar @ Bittu, Ranjan Kumar, Bhola Kumar, Ajay Kumar @ Ajay Rai, Bhavya Prakash @ King and Vikky Kumar were sentenced to imprisonment for life under Section 302 and Section 120B of the Indian Penal Code each and they were directed to pay a fine of Rs.50,000/- each and were sentenced to rigorous imprisonment for 5 years and directed to pay a fine of Rs.5,000/- under Section 27 of the Arms Act. Appellant/Ranjeet Kumar @ Bittu was additionally sentenced to rigorous imprisonment for two years and directed to pay a fine of Rs.2,000/- under Section



25(1-B)a of the Arms Act and was further sentenced to rigorous imprisonment of four years and was directed to pay a fine of Rs.4,000/- under Section 26 of the Arms Act. There was also default clause. All the sentences were directed to run concurrently.

3. Appellant Santosh Kumar was not present on 16.03.2021. Hence, his sentence was deferred and arrest warrant was issued against him and on his arrest, he has been sentenced by the impugned order dated 16.11.2022, whereby he was sentenced to rigorous imprisonment for life under Sections 302 and 120B of the Indian Penal Code each and was sentenced to rigorous imprisonment for 5 years and directed to pay a fine of Rs.5,000/- under Section 27 of the Arms Act. In case of his failure to pay the fine, the fine amount was directed to be recovered as arrear of land revenue out of his estate at his cost.

4. By the order of sentence, the fine liable to be paid by the convict/appellant was directed to be paid to the informant herself and her minor children. Patna District Legal Services Authority was also recommended to pay adequate compensation to the victim (informant and her minor children).



Factual Background

5. On the *fardbeyan* of the informant Jayanti Jha, Beur P.S. Case No. 241 of 2016 was registered under Section 302, 379 and 120B read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act against Ranjeet Kumar @ Bittu, Ranjan Kumar, Santosh Kumar, Bhola Kumar, Sukesh Kumar, Rohit Kumar and others and on the self statement of Inspector-cum-S.H.O. of Beur P.S. Dhirendra Kumar Pandey dated 15.09.2016, Beur P.S. Case No. 242 of 2016 under Section 25(1-B)a and 26 of the Arms Act was lodged against appellant Ranjeet Kumar @ Bittu.

6. After investigation in Beur P.S. Case No. 241 of 2016, charge-sheet bearing No. 338 of 2016 dated 30.11.2016 was filed against Ranjeet Kumar @ Bittu, Santosh Kumar, Ranjan Kumar, Bhola Kumar, Rohit Kumar, Ajay Kumar, Bhavya Prakash and Vicky Kumar showing Sukesh Kumar as absconding, for offence punishable under Sections 302 and 120B read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

7. After investigation in Beur P.S. Case No. 242 of 2016, charge-sheet bearing No. 333 of 2016 dated 30.11.2016 was submitted against appellant/Ranjeet Kumar @ Bittu for the



offence punishable under Sections 25(1-B)a and 26 of the Arms Act.

8. After taking cognizance of offence in both the cases by learned Judicial Magistrate, the cases were committed to the Court of Sessions and they were numbered as Sessions Trial No. 133 of 2017 and Sessions Trial No. 614 of 2017 respectively. However, on 25.09.2017, Sessions Trial No. 614 of 2017 was amalgamated in Sessions Trial No. 133 of 2017 on application of the appellant/Ranjeet Kumar @ Bittu. In his application, Ranjeet Kumar had submitted that both the cases had been allegedly committed in the same transaction and hence there should be a joint trial of both the cases. The amalgamation was not opposed by the prosecution.

9. During the trial, charges were framed under Sections 302, 120B and 379 read with Section 34 of the Indian Penal Code and under Section 27 of the Arms Act against all the appellants. Additional charge under Section 25(1-B)a and 26 of the Arms Act was also framed against the appellant/Ranjeet Kumar @ Bittu.

Prosecution Case

10. The prosecution case of Beur P.S. Case No.241 of 2016 as emerging from the fardbeyan of the informant Jayanti



Jha recorded by A.S.I. Devendra Kumar Singh at PMCH on 13.09.2016 at 10:30 am at Emergency Ward is that there is a shop of his husband Ramchandra Jha dealing in marble and tiles in the name of "Today Marble" at Beur more, Patna. At 8 O'Clock in the evening of 12.09.2016, her husband was returning home by motorcycle, taking vegetables and milk and as he was just twenty steps away from our home, the Appellants/Accused Ranjeet Kumar, Ranjan Kumar, Santosh Kumar, Bhola Kumar, Sukesh Kumar, Rohit Kumar @ Jeetu and others, whom she can identify after seeing, surrounded him and started rapid firing at him by their pistols. Ranjeet @ Bittu had fired at his left side of chest. Ranjan Kumar fired at his left shoulder and Santoh Kumar fired at Chest. Bhola Kumar, Sukesh Kumar and Rohit Kumar @ Jeetu fired at left arm and palm of right hand and elbow of right hand. After seeing the firing, she started shouting loudly and informed the police by her mobile. Thereafter, they fled away by white car of Santosh and motorcycle towards Hasanpura. Thereafter, she reached, in the fearful condition near the injured husband. Thereafter she reached near her injured husband and with the help of local people, she took him to S.S. Hospital, Anisabad. But due to serious conditions of her husband, she took her husband to



P.M.C.H and admitted him in the Emergency Ward at PMCH at 09:05 P.M. where the doctor declared him brought dead. She has claimed that she had witnessed the occurrence with her own eyes. She has also stated that the reason behind the dispute was that the shop of the husband was in the name of “Galaxy Marble” and he was doing very well in his business and due to this, Ranjan Kumar started conspiring for his selfish reason to get that shop removed and he started threatening to kill her husband. For this reason, her husband left that shop and started a new shop at the distance of 100 meter from the first shop but dispute regarding the first shop continued. On account of being angry, the accused persons under conspiracy had killed her husband. She has also claimed that earlier Ranjeet @ Bittu who had given Rs.1,50,000/- to Rohit @ Jeetu to kill her husband. He was sent to jail on 14.12.2015 by the police. She has also claimed that on the date of occurrence, her husband was carrying Rs.50,000/- for commercial purpose which was stolen by the accused persons after killing him. They also took away golden chain weighing 30 grams from the neck of her husband. She has also claimed that three persons were doing reconnaissance around her house since 6:00 P.M. whom she could identify them after seeing their face.



11. The prosecution case of Beur P.S. Case No. 242 of 2016 as per the self statement of the Inspector-cum-S.H.O. of Beur Police Station Dhirendra Kumar Pandey dated 15.09.2016 at 23:15 hours is that as per confessional statement of accused Ranjeet Kumar @ Bittu of Beur P.S. Case No. 241 of 2016, he had proceeded from police station along with some police personnel for recovery of arms and ammunition and at the instance of the accused Ranjeet Kumar, one 7.65 mm country made pistol made of iron and fiber and two live cartridges unloaded from the magazine of the said pistol were recovered and seized. On demand, no documents in regard to the seized arms and cartridges were produced by the accused.

Prosecution witnesses at the Trial

12. During the joint trial, the prosecution examined the following nine witnesses:-

- (i) **P.W.-1** – Jayanti Jha (informant)
- (ii) **P.W.-2** – Aarti Devi
- (iii) **P.W.-3** – Jayantrika Devi (mother of the deceased)
- (iv) **P.W.-4** - Aditya Kumar Jha
- (v) **P.W.-5** - Dr. Sanjay Kumar (doctor)
- (vi) **P.W.-6** - Rajan Chandra Jha (son of the informant)
- (vii) **P.W.-7** – Ajay Narayan Jha
- (viii) **P.W.-8** – Sanjay Kumar (I.O. of Beur P.S. Case No. 241 of 2016)
- (ix) **P.W.-9** – Dhirendra Kumar Pandey
- (x) **P.W.-10**- Nayan Ojha (FSL Expert)
- (xi) **P.W.-11**- Vishwambhar Prasad (I.O. of Beur P.S.



Case No. 242 of 2016)
(xii) **P.W.-12-** Uday Kumar Singh(Sergeant Major)
(xiii) **P.W.-13-** Das Ashok Kumar
(xiv) **P.W.-14-** Dhananjay Kumar Singh
(xv) **P.W.-15-** Devendra Kumar Singh
(xvi) **P.W.-16-** Devendra Kumar Jha

Prosecution Exhibits at the Trial

13. The prosecution also brought on record the following documentary evidences:

Exhibit. 1- Signature of witness Jayanti Jha on fardbayan of Beur P.S. case no. 241/16

Exhibit. 1/1- Signature of witness Vinay Narayan Jha on fardbayan of Beur P.S. Case No. 241/16

Exhibit. 1/2- Signature of witness Aditya Kumar Jha on fardbayan of Beur P.S. Case No. 241/16

Exhibit. 2- Signature of informant Jayanti Jha on statement U/S 164 Cr.P.C.

Exhibit. 3- Certified copy of charge-sheet in Beur P.S. 206/14 u/s-120B , 302/34 of the Indian Penal Code filed against accused Ranjeet @ Bittu, Anil Paswan, Sahil and Rohit @ Bittu.

Exhibit 3/1-certified copy of FIR in Beur P.S. 02/2015 dated 04-01-15 u/s-307/34 of IPC against accused Ranjeet @ Bittu, Anil Paswan, Sahil, Rohit @ Bittu and Subham Kumar

Exhibit. 3/2- Certified copy of charge sheet in Beur P.S. 02/2015

Exhibit. 3/3- Certified copy of FIR in Beur P.S. 22/2015 dated 03-02-15 u/ss-399 and 402 of I.P.C and Sections- 25(1AA),26,35 of Arms Act against accused Ranjeet @ Bittu, Ranjan Kumar, Anil Paswan, Sahil Kumar and Rohit @ Bittu

Exhibit. 3/4- Certified copy of confessional statement of accused Ranjeet Kumar @ Bittu in Beur P.S Case No-22/15



Exhibit. 3/5- Certified copy of confessional statement of accused Rohit Kumar @ Bittu in Beur P.S Case No-22/15

Exhibit. 3/6- Certified copy of confessional statement of accused Sahil Kumar @ Lopi in Beur P.S Case No-22/15

Exhibit. 3/7- Certified copy of confessional statement of accused Anil Paswan @ Bhura in Beur P.S Case No-22/15

Exhibit. 3/8- Certified copy of seizure list of Beur P.S. case no 22/2015

Exhibit. 3/9- Certified copy of forwarding report of the accused persons in Beur P.S. Case No.-22/2015

Exhibit. 3/10- Certified copy of order sheet dated 22-02-15 & 23-02-15 regarding rejection of bail to accused Ranjan Kumar and Ranjeet Kumar @ Bittu in Beur P.S. Case No.-22/2015

Exhibit. 3/11- Certified copy of FIR in Beur P.S. case no-274/15 dated 15-12-15 u/ss- 399, 402 of I.P.C and Sections 25(1A),26,35 of Arms Act against accused Rohit @ Jitu and Ranjeet @ Bittu

Exhibit. 3/12- Certified copy of FIR in Beur P.S. Case No.-242/16 dated 16-09-16 u/s 25(1B)a & 26 of Arms Act against accused Ranjeet Kumar @ Bittu

Exhibit. 3/13- Certified copy of FIR in Beur P.S. Case No.-243/16 dated 16-09-16 u/s 25(1B)a, 26 & 35 of Arms Act against accused Ajay Kumar, Vikky Kumar and Bhavya Prakash @ King.

Exhibit. 3/14- Certified copy of charge sheet in Beur P.S. Case No.-243/16 filed against accused Ajay Kumar, Vikky Kumar and Bhavya Prakash @ King

Exhibit. 3/15- Certified copy of confessional statement of accused Ajay Kumar in Beur P.S. Case No.-243/16

Exhibit. 3/16- Certified copy of seizure list of Beur P.S. Case No.-243/16 dated 16.09.2010

Exhibit 3/17- Certified copy of order sheet dated



14-12-16 to 01-04-17 in S. Tr. No. 851/2016

Exhibit 3/18- Certified copy of order sheet dated 06.04.2017 in S. Tr. 851/2016

Exhibit.3/19- Certified copy of order dated 17.04.2017 in S. Tr. 851/2016

Exhibit.3/20- Certified copy of order sheet dated 28-04-17 to 06-10-17 in S. Tr. No.- 851/2016 dt. 28.04.2017

Exhibit.3/21- Certified copy of statement of informant Jayanti Jha u/s 164 Cr.P.C. in Beur P.S. Case No.- 241/2016

Exhibit. 4- Signature of Aarti Devi on Seizure list of Beur P.S Case No.-241/16

Exhibit. 4/1- Signature of Aditya Kumar Jha on Seizure list of Beur P.S Case No.- 241/16

Exhibit. 5- Post-mortem Report of deceased Ram Chandra Jha

Exhibit. 6- Entire Seizure list of Beur P.S. Case No.- 241/2016

Exhibit. 7- Entire Seizure list of Beur P.S. Case No.- 242/2016 marked with objection of defence.

Exhibit.8- Production-cum-Seizure list of Beur P.S. Case No.-386/16 dated 12-11-16 in which Jayanti Jha had produced a computer typed letter of threatening given to her from jail by the accused namely Ranjeet @ Bittu

Exhibit.9- Charge-Sheet No.338/2016 of Beur P.S case no-241/16

Exhibit.10- Application dated 09.11.2016 given by the 1.O. Sanjay Kumar to the Court of J.M.- Ist. Class, Savita Rani, for sending only the arms for test to F.S.L, Patna

Exhibit 10/1- Forwarding Letter No.-122 dated 09-11-16 directed to the Director, F.S.L. Patna for sending of the arms and ammunition seized in Beur P.S Case No.-242/16 &



243/16 and also the pellets found from the body of the deceased for testing

Exhibit.10/2- Application dated 27.11.2016 given by the I.O. Sanjay Kumar to the Court of J.M.- Ist. Class, Savita Rani, for sending the helmet having hole of bullet at its back for test to F.S.L, Patna

Exhibit.10/3- Application dated 17.10.2016 given by the I.O. Sanjay Kumar to the Court of J.M. Ist. Class, Savita Rani, for permission to send the arms seized in Beur P.S. Case No. 242/16 & 243/16 for test to F.S.L., Patna

Exhibit 10/4- Application dated 20.09.2016 given by the I.O. Sanjay Kumar to the Court of J.M.-Ist Class, Savita Rani, for permission to send the empty shells seized in Beur P.S. Case No.-241/16 for test to F.S.L, Patna

Exhibit 10/5 - Application dated 20.09.2016 given by the I.O. Sanjay Kumar to the of J.M.-Ist Class, Savita Rani, for permission to send the pellets obtained from department of F.M.T, P.M.C.H, Patna in Beur P.S Case No.-241/16 for test to F.S.L, Patna.

Exhibit. 11- Application dated 26.10.2016 given by the I.O. Sanjay Kumar to the Court of J.M.-Ist. Class, Savita Rani, for remanding the accused Ajay Rai, Vikky Kumar and Bhavya Prakash @ King in Beur P.S Case No.-241/16

Exhibit.12- Application dated 10.01.2017 given by the I.O. Sanjay Kumar to the Court of J.M.-Ist Class, Rahul Kumar, for information regarding continuing of investigation against accused Sukesh Kumar in Beur P.S. Case No.-241/16

Exhibit.12/1- Application dated 02.02.2017 given by the I.O., Sanjay Kumar to the Court of J.M.- Ist Class, Rahul Kumar with a prayer of passing order on petition dated 10-01-17 regarding continuing of investigation against accused Sukesh Kumar in Beur P.S. Case No.-241/16

Exhibit 13- Self statement of informant Dhirendra Kumar Pandey in Beur P.S. Case No. 242/2016

Exhibit-13/1-Endorsement on the self statement of



Beur P.S. Case No.-242/2016

Exhibit 14-FSL Report No.-2181/16 dated 25-08-18 with regard to Beur P.S Case No. 241/16

Exhibit 14/1-Signature of witness Das Ashok Kumar on F.SL Report

Exhibit 15-Arms Test Report dated 01.10.2016 of Beur P.S case no-242/16 dated 16-09-16

Exhibit 16 - Sanction order of D.M., dated 16.11.2016 in Beur P.S Case No.-242/16 dated 15-09-16

Exhibit 17-Entire statement of Jayanti Jha recorded US 164 Cr.PC.

Exhibit. 18- Attested copy of death inquest report

Exhibit 19- Fardbeyan of informant Jayanti Jha

Exhibit. 20- Certified copy of order dated 31-12-15 passed by S.D.M., Patna Sadar in case No. 2063(m)/2015 filed by deceased Ram Chandra Jha against accused Ranjeet @ Bittu

Exhibit. 21- Certified copy of order dated 12.11.2016 of National Lok Adalat in case 2063(m)/2015 filed by deceased Ram Chandra Jha against accused Ranjeet @ Bittu

Exhibit. 22- Certified copy of report of police given to S.D.M., Patna Sadar for initiation of proceeding u/s 107 of Cr.PC on the application of deceased Ram Chandra Jha against accused, namely, Ranjeet @ Bitu, Ranjan Kumar, Subham Kumar and Sukesh Kumar

Exhibit. 23- Cenified copy of application dated 09.11.2015 given by deceased Ram Chandra Jha to S.S.P., Patna alleging about threat to his life and property from accused Ranjeet Kumar @ Bittu

Exhibit 24- Certified copy of Informatory Petition No.-3802/2015 filed by deceased Ram Chandra Jha against accused Ranjeet Kumar @ Bittu, Ranjan Kumar, Bhola Kumar, Sukesh Kumar, Subham Kumar, Sahil @ Loki, Rohit @ Bittu and Anil Paswan in the Court of C.J.M., Patna



Exhibit. 25- Carbon copy of application dated 13.07.2014 given by deceased Ram Chandra Jha to S.H.O. of Gardani Bagh regarding dispute over shop with one Pintu

Exhibit 25/1- Application dated 28.01.2015 given by Ram Chandra Jha to S.H.O., Beur P.S. regarding demand of rangdari and threatening to kill given to him by accused, namely, Ranjeet @ Bittu, Ranjan Kumar, Bhola Kumar, Sukesh Kumar and Subham Kumar

Exhibit. 25/2- Application dated 28.01.2015 given by Ram Chandra Jha to S.H.O Beur P.S regarding demand of Rs.- Four Lakh and threatening to kill by accused Ranjeet Kumar @ Bittu and four others after entering into his house.

Exhibit.26- Attested copies of Sanha No. 432/16, 453/16, 381/16 and 386/16 of station diary of Beur P.S lodged on information of Jayanti Jha regarding murder of her husband and also regarding threatening given by accused persons of Beur P.S. Case No.-241/16 to kill her if she did not withdraw the case against accused persons

Exhibit.27- Original letter dated 21.04.2016 of S.S.P., Patna regarding demand for fee of the bodyguard appointed with the deceased Ram Chandra Jha in the light of impending threat to his life.

Exhibit. 28- Original letter dated 17.06.2016 of S.S.P., Patna regarding withdrawal of bodyguard from deceased Ram Chandra Jha

Material Exhibits:-

M Exhibit. I- Black Helmet having a hole on the back allegedly worn by Ram Chandra Jha

M Exhibit. II- Seized pistol in Beur P.S Case No.- 242/16

M Exhibit. II/1 to II/3-Three pistols seized in Beur P.S. Case No.-243/16

M Exhibit III to III/9- Ten empty shells in a sealed yellow envelope

M Exhibit IV to IV/7- Eight bullets in a sealed &



packed white envelope

M Exhibit V. -Empty glass bottle

M Exhibit VI to VI/7-Four bullets & four shells

Documents marked for identification

Exhibit "X" to "X/2"- Three photographs allegedly of surroundings of the P.O. of Beur P.S. Case No.-241/16 for identification

Exhibit. "X/3"- Xerox copy of Informatory Petition No.-3802/15

Exhibit. "X/4"- Xerox copy application given to S.S.P.

Exhibit. "X/5"- Xerox copy of Hindustan paper cutting dated 16.12.2015 containing news of arrest of accused Rohit to whom accused, namely, Ranjeet @ Bittu had allegedly given a contract to kill Ram Chandra Jha

Exhibit. "X/6"- Xerox copy letter dated 06.05.2016 given by Ram Chandra Jha to D.G.P., Bihar, Patna, for saving his life and property from all accused persons

Exhibit. "X/7"- Xerox copy of Letter No. 4804, dated 21.04.2016 of S. S.P, Patna

Exhibit. "X/8"- Xerox copy of Dainik Jagran News Paper cutting dated 28.05.2016 regarding failure of plan to kill Ram Chandra Jha

Exhibit. "X/9"- Xerox copy of Letter No. 6716 dated 17.06.2016 of S.S.P., Patna

Exhibit. "X/10"-Xerox copy of Letter No. 7531 dated 06.07.2016, of S.S.P, Patna regarding appointment of bodyguard with deceased Ram Chandra Jha

Exhibit. "X/11"- Xerox copy of FIR of Shastri Nagar P.S. Case No. 286/2017 dated 23.05.2017



Statement U/s 313 Cr.PC.

14. After closure of the prosecution evidence, accused persons were examined under Section 313 Cr.PC confronting them with incriminating circumstances which came in the prosecution evidence, so as to afford them opportunity to explain those circumstances. During this examination, they admitted that they had heard the evidence of prosecution witnesses against them. But they did not explain any circumstance, though they claimed that the prosecution evidence was false and they are innocent. However, all the appellants have taken plea of *alibi* stating that at the time of alleged occurrence, they were somewhere else, and not at the place of occurrence. Appellant/Ranjeet @ Bittu has stated that at the time of alleged occurrence, he was in Ranchi. Appellant/ Santosh Kumar has also stated that he was also at his shop in Hasanpura at the time of alleged occurrence. Appellant/Ranjan Kumar has also stated that at the time of alleged occurrence, he was at village- Bhetbara situated in police station Gopalpur, Patna. Appellant Bhola Kumar has claimed that he was also at his home situated at Hasanpur at the time of the alleged occurrence. Appellant Ajay Rai has stated that he was also at his home situated at North Mandiri, Patna at the time of alleged



occurrence. Appellant/Bhavya Prakash @ King has stated that he was at his home situated at old Jakkanpur. Appellant/Vikky Kumar has also stated that he was also at his home situated at Shivchak at the time of alleged occurrence.

Defence witnesses at the Trial

15. Appellants have also examined following two witnesses in their defence:

- (i) **D.W.1-** Prashant Kumar Singh
- (ii) **D.W.2-** Ajit Kumar

16. However, no documentary evidence was brought on record by the appellants in their defence.

Finding of the Trial Court

17. Learned Trial Court after appreciating the evidence on record and considering the submissions of the parties passed the impugned judgment finding that the prosecution has proved its case against the appellants beyond all reasonable doubts, relying upon P.W.-1/informant/Jayanti Jha and P.W.-6/Rajan Chandra Jha as eye-witnesses.

Submissions of the parties

18. We have heard learned counsel for the appellants and learned A.P.P. for the State. We have also heard the informant in person besides her counsel and *Amicus Curiae* appointed to assist this Court on behalf of the informant.



19. Learned counsel for the appellants have submitted that the impugned judgment of conviction and order of sentence passed by learned Trial Court are not sustainable in the eye of law or on facts. Learned Trial Court has not properly appreciated the evidence on record and has erroneously convicted the appellants, whereas all the appellants should have been acquitted of all the charges for want of any cogent legal evidence on record which could have connected the appellants with the alleged offence.

20. To substantiate their submissions, they have submitted that the first version of the prosecution case has been deliberately suppressed by not bringing on record the detailed information given by the informant to the police on mobile. The statement of Arti Devi (P.W.-2) as given by her at the place of occurrence before the police has also been withheld by the prosecution.

21. They have further submitted that the FIR has been deliberately lodged after about 15 hours of the occurrence for consultation and deliberation so that a concocted/embellished FIR implicating the innocent persons only on the basis of suspicion and enmity could be lodged. The inquest report was also prepared at 10:05 AM on 13.09.2016 prior to giving



fardebayan at 10:30 AM or lodging of the FIR at 12:15 PM on 13.09.2016.

22. They have further submitted that in the case on hand, there is no eye-witness, though the informant/Jayanti Jha (P.W.-1) and P.W.-6/Rajan Chandra Jha, son of the deceased, have been falsely projected as eye-witnesses. To substantiate this submission, they have submitted that the claim of these two witnesses to be eye-witness is not supported by the I.O. The I.O. has not found light at the place of occurrence. Even the car as claimed by the informant in regard to hiding behind was also not found by the police. The unnatural conduct of these two eye-witnesses at the time of occurrence also creates serious doubt that they were present at the place of occurrence.

23. Previous enmity between the informant and the appellants is also admitted and it is this enmity on account of which the Appellants have been falsely implicated only on the basis of suspicion. Suspicion however strong, can not take the place of proof.

24. They have also claimed that the testimonies of these two witnesses who are claimed to be eye-witnesses are full of contradictions and improvements and unnatural conduct making them unreliable witnesses.



25. They have also submitted that the articles which were seized during investigation were not properly seized and sealed. This vitiates the recovery and seizure, making serious dent into the prosecution case.

26. They have also submitted that there is no eye-witness or direct evidence in support of the prosecution case and the circumstantial evidence are not such which form a complete chain of circumstances leading to irresistible conclusion that the appellants were guilty of the alleged offence. They have also submitted that not a single independent witness has been examined in support of the prosecution case and all the private witnesses which have been examined were family members of the deceased and highly interested to secure conviction of the appellants on account of previous enmity.

27. Per contra, **the informant/Jayanti Jha (P.W.-1)** has made emotional submissions praying for not only upholding the conviction of the appellants but to enhance the sentence by awarding death sentence to them, though there is no such appeal on behalf of the State for enhancement of sentence of the appellants.

28. **Learned Amicus Curiae and learned APP** for the State have submitted that the prosecution has proved its case



against all the Appellant beyond reasonable doubts. Hence, the Appellants have been rightly convicted and appropriately sentenced.

29. To substantiate their submissions they have submitted that the informant/Jayanti Jha (P.W.-1) and Rajan Chandra Jha (P.W.-6) are eye-witnesses and despite lengthy cross-examination, their testimonies stand intact in support of the prosecution case against the appellants and their evidence is sufficient to uphold the impugned judgment of conviction and orders of sentence. Though there are minor contradictions here and there in their testimonies, they do not go to the root of the prosecution case against the appellants. All links of the complete criminalological chain comprising when, how, where, who and why of the occurrence have been well proved by these two eye-witnesses.

30. They have also submitted the evidence of family members of the deceased cannot be discarded solely on the ground of their relationship with the deceased, nor could the prosecution case be doubted only on the ground that independent witnesses have not been examined.

31. They have also submitted that There is also no abnormal/inordinate delay in recording the *fardebayan* and



lodging of the FIR. They have further submitted that whatever delay is there, is well explained. The informant whose husband was brutally killed, could hardly be in such state of mind to give a detailed account of occurrence immediately after it. She was frequently getting unconscious.

Some Principles of Appreciation of Evidence

32. We have thoroughly perused the material on lower court records including evidence and given thoughtful consideration to the submissions advanced by all the parties.

33. In view of the submissions of learned counsel for the parties, it would be pertinent to refer to some principles of appreciation of evidence before we proceed to discuss evidence on record.

34. It is true that prosecution case cannot be thrown out or doubted on the sole ground that the independent witnesses have not been examined because as per experience, civilized people are generally insensitive when a crime is committed in their presence. They withdraw both from the victim and the vigilante. They keep themselves away from the Court unless it is inevitable. The Court is therefore required to appreciate the evidence of even related witnesses on its own merit, instead of doubting the prosecution case for want of independent



witnesses. [Refer to **Appabhai and another Vs. State of Gujarat, 1988 Supp SCC 241**].

35. It is also settled principle of law that the evidence of any relative or family members cannot be discarded only on account of his or her relationship with the deceased. The evidence of such witnesses has to be weighed on the touchstone of truth and at most the court is required to take care and caution while appreciating their evidence. In this regard, one may refer to the following judicial precedents:

- (i) **Abhishek Sharma Vs. State (NCT of Delhi)**,
2023 SCC OnLine SC 1358;
- (ii) **Yogesh Singh Vs Mahabeer Singh & Ors**;
(2017) 11 SCC 195;
- (iii) **Mano Dutt and another Vs. State of UP**;
(2012) 4 SCC 79;
- (iv) **Daulatram Vs. State of Chhattisgarh**,
2009 (1) JIJ 1;
- (v) **State Vs. Saravanan**, (AIR 2009 SC 152);
- (vi) **State of U.P. v. Kishanpal**, (2008) 16 SCC 73;
- (vii) **Namdeo Vs. State of Maharashtra**,
(2007) 14 SCC 150;
- (viii) **State of A.P. Vs. S. Rayappa**,. (2006) 4 SCC 512;
- (ix) **Pulicherla Nagaraju Vs. State of A.P.**,
(2006) 11 SCC 444;
- (x) **Harbans Kaur Vs. State of Haryana**;
(2005) 9 SCC 195;
- (xi) **Hari Obula Reddy and Ors. Vs. State of AP**,
(1981) 3 SCC 675
- (xii) **Piara Singh and Ors. Vs. State of Punjab**,
(1977) 4 SCC 452

36. This is also settled principle of law that minor discrepancies, contradictions, improvements, embellishments or omissions on trivial matters not going to the root of the



prosecution case should not be given undue importance. But if they relate to material particulars of the prosecution case, the testimony of such witnesses is liable to be discarded. In this regard, one may refer to the following judicial precedents:

- (i) **C. Muniappan & others Vs. State of T.N.**,
(2010) 9 SCC 567;
- (ii) **State of U.P. Vs. Krishan Master**,
(AIR 2010 SC 3071);
- (iii) **Appabhai & Anr. Vs. State of Gujrat**,
AIR 1988 SC 696;
- (iv) **Shivaji S. Bobade & Anr Vs. State Of Maharashtra**,
(1973 AIR 2622);
- (v) **Sanjay Kumar Vs. State of Bihar**,
2019 SCC OnLine Pat 1077;
- (vi) **State of Madhya Pradesh Vs. Dal Singh**,
(2013) 14 SCC 159;
- (vii) **Smt. Shamim Vs. State (GNCT of Delhi)**,
2018 (4) PLJR 160;
- (viii) **S. Govidaarju Vs. State of Karnataka**,
2013 (10) SCALE 454
- (ix) **Narotam Singh vs. State Of Punjab And Anr.**
(AIR 1978 SC 1542)
- (x) **Leela Ram Vs. State of Haryana**,
(1999) 9 SCC 525;
- (xi) **Subal Ghorai and Ors. Vs. State of WB**,
(2013) 4 SCC 607;
- (xii) **Yogesh Singh Vs. Mahabeer Singh & Ors.**,
(2017) 11 SCC 195.

37. In regard to delay in lodging the F.I.R., it is also settled principle of law that mere delay in lodging the FIR is not necessarily fatal to the case of the prosecution. However, the delay must be sufficiently explained to the satisfaction of the Court, failing which, the veracity of the prosecution case becomes doubtful on account of possibility of embellishment in the prosecution version and in such situation, the delay becomes



fatal to the prosecution.

38. Hon'ble Supreme Court in **Meharaj Singh Vs. State of U.P., (1994) 5 SCC 188** has observed that delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story.

39. In **Gajanan Dashrath Kharate Vs. State of Maharashtra, (2016) 4 SCC 604**, Hon'ble Apex Court has again observed that delay in setting the law into motion by lodging of complaint and registration of first information report is normally viewed by courts with suspicion because there is possibility of concoction and embellishment of the occurrence. So it becomes necessary for the prosecution to satisfactorily explain the delay. The object of insisting upon a prompt lodging of the report is to obtain early information not only regarding the assailants but also about the part played by the accused, the nature of the incident and the names of witnesses.

40. In **Ramdas & Ors. Vs. State of Maharashtra, (2007) 2 SCC 170**, Hon'ble Supreme Court has again observed that it is no doubt true that mere delay in lodging the first



information report is not necessarily fatal to the case of the prosecution. However, the fact that the report was lodged belatedly is a relevant fact of which the court must take notice. This fact has to be considered in the light of other facts and circumstances of the case, and in a given case the court may be satisfied that the delay in lodging the report has been sufficiently explained. In the light of the totality of the evidence, the court of fact has to consider whether the delay in lodging the report adversely affects the case of the prosecution. That is a matter of appreciation of evidence.

41. Similar view has been expressed by Hon'ble Apex Court in the following judicial precedents also in regard to the effect of delay in lodging FIR:

- (i) **Om Prakash v. State of Haryana,**
(2014) 5 SCC 753
- (ii) **State of H.P. v. Gian Chand,**
(2001) 6 SCC 71
- (iii) **Kilakkatha Parambath Sasi v. State of Kerala,** (2011) 4 SCC 552
- (iv) **Kanhaiya Lal v. State of Rajasthan,**
(2013) 5 SCC 655
- (v) **Thulia Kali Vs. State of T.N.,**
(1972) 3 SCC 393
- (vi) **State of Punjab Vs. Ramdev Singh,**
(2004) 1 SCC 421,
- (vii) **State of A.P. Vs. Punati Ramulu & Ors.,**
1994 Supp (1) SCC 590

42. In regard to transmission of FIR to local Jurisdictional Magistrate, it has been also held by Hon'ble Supreme Court in **Chotkau Vs. State of U.P., (2023) 6 SCC**



742 that the delay in forwarding the FIR may certainly indicate the failure of one of the external checks to determine whether the FIR was manipulated later or whether it was registered either to fix someone other than the real culprit or to allow the real culprit to escape. While every delay in forwarding the FIR may not necessarily be fatal to the case of the prosecution, courts are duty-bound to see the effect of such delay on the investigation and even the creditworthiness of the investigation.

43. In regard to the inquest report having been prepared prior to lodging of the FIR, **Hon'ble Supreme Court in Ramesh Baburao Devaskar & Ors. Vs. State of Maharashtra, (2007) 13 SCC 501** has observed that first information report cannot be lodged in murder case after inquest has been held. However, subsequently in **Sambhu Das Vs. State of Assam, (2010) 10 SCC 374, Hon'ble Apex Court** again had occasion to deal with a situation where inquest report was prepared two hours prior to lodging of the FIR. Here, it was argued that FIR had lost its authenticity on account of it being recorded subsequent to the inquest report. Disapproving such contention, the Hon'ble Supreme Court had held that it might not be true in all cases and all circumstances. Such general proposition could not be applied universally by holding that if



the FIR was lodged for whatever reason after recording the inquest report, the same would be fatal to the prosecution.

44. As such, in case FIR is preceded by inquest report, veracity/authenticity of the prosecution case is not automatically lost. It has to be tested by appreciating the attending circumstances.

45. In regard to motive, **Hon'ble Supreme Court** in **Shivaji Chintappa Patil Vs. State of Maharashtra, (2021) 5 SCC 626** has also held that motive plays an important link to complete the chain of circumstances in a case of circumstantial evidence. However, in case of direct evidence motive has no much importance.

46. In regard to motive and suspicion, **Hon'ble Supreme Court** in **Ramesh Baburao Devaskar & Ors. Vs. State of Maharashtra, (2007) 13 SCC 501**, has held that proof of motive by itself may not be a ground to hold the accused guilty. Enmity, is a double-edged weapon. Whereas existence of a motive on the part of an accused may be held to be the reason for committing crime, the same may also lead to false implication. Suspicion against the accused on the basis of their motive to commit the crime cannot by itself lead to a judgment of conviction. In **Pritinder Singh Vs. State of Punjab, (2023) 7**



SCC 727] also, **Hon'ble Apex court** has held that howsoever strong a suspicion may be, it cannot take place of a proof beyond reasonable doubts. Similar view has been taken by **Hon'ble Supreme Court in Narendra Kumar Vs. State (NCT of Delhi), (2012) 7 SCC 171.**

47. In **Dilawar Hussain Vs State of Gujarat, (1991) 1 SCC 253**, it has been also held that there is also no place for sentiments or emotion in the Court of Law. Acquittal or conviction depends on proof or otherwise of the criminological chain which invariably comprises why, where, when, how and who. Each knot of the chain has to be proved, beyond shadow of doubt to bring home the guilt. Any crack or loosening in it weakens the prosecution. Each link, must be so consistent that the only conclusion which must follow is that the accused is guilty.

Prosecution Evidence

48. Now, coming to the prosecution evidence on record, we find that **P.W.-1 Jayanti Jha** is the informant and widow of the deceased Ramchandra Jha. In her **examination-in-chief**, she has deposed that occurrence had taken place at 8:00 pm on 12.09.2016. At that time, she was near Mithlanchal Colony crossing. Her son Rajan Chandra Jha was also with her.



He saw that her husband Ramchandra Jha (deceased) came there on a motorcycle. On the crossing, accused Bittu @ Ranjeet Kumar, Ranjan, Bhola, Santosh, Sukesh, Ajay, Vikky, Bhawya Kumar @ King and 5-7 other persons came. All of them caught the handle of the motorcycle of her husband and got him down. Rajeet @ Bittu fired the first shot on *panjra* (chest), Ranjan fired at left shoulder, Santosh Kumar fired at *panjra* of left chest and Bhola Kumar, Sukesh Kumar and Rohit Kumar @ Jittu fired at palm of right hand of her husband. They were firing from their pistols. Sukesh fired at right elbow and Bhola fired at left arm. King Kumar @ Bhawya Prakash fired at head leading to fall of his helmet, but he (accused) put the helmet again on his head. Ajay Rai, Vikky and Raju Rai fired at his chest. All were carrying pistols and all had fired. They were carrying 5-6 pistols and they fired at her husband by exchanging the pistols. Thereafter, they did 4-5 air firing. 4-5 of them sat in the white car of Santosh and went away towards Hasanpura. Four persons went towards Hasanpura by two motorcycles. 4-5 of them sat on the bridge near Bajrangbali temple. She then informed the police about the occurrence. The information was given immediately after the occurrence, thereafter she made mobile call to her sister and brother. After the occurrence, she went near her husband. He



was bleeding. Thereafter she called her sister and son of her sister. No passers-by stopped despite her request. Then Aditya Kumar Jha (son of her sister) came and he slept before one motorcyclist and requested him to take her husband to hospital. The son of her sister and the motorcyclist took her husband to S.S. Hospital. On the way to S.S. Hospital, there was one police station. She had asked police for one vehicle but she was not given any vehicle by the police. S.S. Hospital, Anisabad did not admit him. Thereafter she called Gardanibagh Mobile Vehicle to take him to Paras Hospital but request was rejected. Then she took her husband to PMCH in an auto-rickshaw. Aditya was with her. Enroute, near the court crossing, she met S.S.P., Patna, who also accompanied to PMCH. Her husband was declared dead at PMCH. Police came at PMCH where her statement was recorded and after finding fardbeyan correct, she put her signature on it. Her elder brother Vinay Narayan Jha and Aditya Jha have also put their signatures on her fardbeyan. Her statement was also recorded before Judicial Magistrate. She identified Santosh, Ranjan, Ranjeet Kumar @ Bittu, Bhola, Bhavya Prakash @ King, Vikky, Ajay and others, who were present.

49. She has further deposed in her examination-in



chief that in January, 2017, the accused persons had extended threat to kill. Accused Ranjan, Bhola, Ranjeet and Sukesh had also extended threat. She does not know the name of some others. They had called her husband at Hasanpura Bridge. She prohibited her husband to go there and she asked her husband to call them instead. Her husband had started tiles business in 2014 with Ranjeet @ Bittu in the name and "Galaxy Marble." The shop had started in July, 2014. The whole shop was built by her husband. By agreement, Bittu had given a cheque. Her husband had sold Alto vehicle for Rs.1,50,000/-. The said cheque was given by Bittu, because vehicle was sold to him. But cheque had bounced. On the day of giving cheque, he had got endorsement that the whole money has been paid. Rajiv Roy had signed as a witness. The reason behind the dispute was entry of Ranjan into the business which was protested by her husband. But Bittu had stated that he was just learning. Thereafter, Ranjeet and Ranjan in connivance with owner of the house got her husband beaten and get the case registered. In 2015 Ranjeet Kumar got himself attacked. In 2014 Ranjeet had committed murder of Ravi. In 2015 he fired at Binod Singh. The case was registered and he was sent to jail. Her husband had lodged a case against the accused persons for extending threat. Ranjeet had hatched



conspiracy in the jail to kill her husband. He had hired criminal for Rs.5,00,000/- to kill her husband. Regarding threat, information was given to S.S.P. Vikas Vaibhav on 11.9.2015. Inquiry was conducted and Bittu was arrested and the case was lodged against him and he was sent to jail. Her husband was given bodyguard, but the security guard was closed in July, 2016, and in September, 2016, her husband was killed.

50. She has further deposed in her examination-in-chief that on the day of occurrence at 6 O'clock in the evening, three persons viz. Ajay, Vikky and King were doing reconnaissance around her house, which was informed by her to her husband and he was requested to come home at the earliest. Her Mobile Nos. are 9308141602 and 8407808437. The Mobile nos. of her husband are 9334064661 and 8877634604. At 7:26 in the night, a call came from her husband that he is coming home as he has already purchased vegetables and milk. Thereafter, when she called back to her husband at 7:36 P.M., there was no response. Thereafter, she proceeded out from her house. There is a house of D.I.G. in the vicinity. She saw there a crowd. When she reached there, all were assaulting her husband by holding him. She had seen the occurrence from rear of the car which was standing there in the vicinity. One electric bulb of



200 watt was on. One gold chain of 30 grams, one ring and 1,00,000/- rupees were also taken away from her husband.

51. In her **cross-examination**, she has deposed that in the business, 70% share was of Bittu and remaining 30% share was of her husband. She has further deposed that from the house of DIG, she saw that at Mithlanchal Colony crossing there is crowd. In the vicinity of second floor, there was one light burning. Her house is situated at distance one bamboo and 12-13 steps from Mithlanchal Colony road. There are 13-14 houses in between her house and Mithlanchal Colony road. Mithlanchal Colony crossing is at the distance of 40-50 steps or 100 feet from her house. She has denied the suggestion that her house is 400 feet away from Mithlanchal Colony crossing and the house of DIG is at Mithlanchal Colony road at the distance of 40 feet from her house and her house is situated at the distance of 2-3 bamboos at the road coming from Beur More and the road coming from Anisabad. She could not tell the distance between her shop and Anisabad traffic circle. There are about 14-15 houses between Mithlanchal Colony road and Mithlanchal Colony crossing, one of them being that of DIG. She again sated that between Mithlanchal Colony road and Mithlanchal Colony crossing, there are 4-5 houses. From Beur more, one road goes



towards Anisabad and another goes to bypass. Her fardbeyan was recorded on 13.09.2016. In the fardbeyan, she has stated her husband was carrying Rs.50,000/- for commercial purpose.

52. She has further deposed in her cross-examination that the occurrence had taken place for 4-5 minutes. The place of occurrence is a lonely area. Prior to the occurrence, there were 14-15 persons and after the occurrence, there was no person. Out of 14-15 persons, she knew 8-9 persons. She had already litigation with 4 or 5 persons out of them. She again said that she had litigation with 6-7 accused persons out of them but again she said that no litigation was going on with any of them. She does not know about Kotwali P.S. Case No. 474 of 2013. Her husband had criminal case with Ajit Kmar Mishra but she does not know the case number. Her husband had lodged Complaint Case No. 21004 of 2014 against Lalbabu Keshri and others, but she does not remember it. She also does not remember that her husband lodged Criminal Complaint Case No. 20788 of 2014 against Ajit Kumar Mishra. Shakti Kumar Prasad had lodged a Money Suit against her husband bearing Money Suit No. 1264 of 2014, but she does not remember it. She has also no information whether Shakti Kumar Prasad had lodged a Complaint Case No. 2720 of 2014 against her husband.



She does not remember whether Beur P.S. Case No. 76 of 2012 has been lodged against her husband and others. The house of DIG is situated at the distance of 60-70 feet from the place of occurrence. Beur police station is situated at the distance of 2-3 kilometer from the place of occurrence, but none of her family went to the police station. She has given her oral statement at PMCH. She gave her statement after 14-15 hours of the occurrence. For how long she gave statement, she does not remember.

53. She has further deposed in her cross-examination that motorcycle of her husband was standing at the place of occurrence. He did not show the motorcycle to the I.O. Her husband was wearing a helmet. The helmet was handed over to the police. She stayed at the place of occurrence for 4-5 minutes. At that time she was having mobile and she informed the police regarding the occurrence naming the accused persons. For how long she talked with the police, she does not remember. She does not know the name of the Motorcyclist who took her husband to hospital. Voluntarily, she had stated that Aditya was holding her husband on the Motorcycle and he was sitting on another Motorcycle. She also does not remember the name of the person who was driving the motorcycle. He knows Amarjeet



Yadav of Hasanpura. She has no information whether a teacher, who has been teaching at the house of Amarjeet Yadav had carried her husband on his Motorcycle. She has denied the suggestion that it was the teacher who informed her about the occurrence. She has denied the suggestion that the teacher had left his cycle at the place of occurrence and took her husband to hospital on the Motorcycle of her husband and the cycle of the teacher had been seized by the Police. She is also not aware whether the cycle of the teacher has been released on P.R. bond of the teacher. She does not know the number of the Auto rikshaw driver nor does she know the name of the Auto driver who took her husband to PMCH from S.S. hospital.

54. She has further deposed in her cross-examination that she had reached Emergency Ward of PMCH between 8:30 to 9:30 P.M. She stayed there for about 12-13 hours. How long treatment was given to her husband, she was not aware of, because she was not conscious. She does not know when she regained her consciousness. She could not tell whether she got consciousness in the night or day. She is not aware when her husband was declared dead by Doctor in PMCH. No medicine was required during treatment of her husband at PMCH. She is not aware when the dead body of her husband was sent for



postmortem because she had come back to home and the male members were at PMCH. She could not tell the time when she came back to home from PMCH. She has also deposed that she heard sound of firing at the place of occurrence and saw the occurrence with her own eyes and she took 1 ½ minutes to reach the place of occurrence from her house and at that time, her two daughters namely, Guriya Kiran and Roshni Kiran were at home. At the place of occurrence, there were 16-17 persons and all were criminals and none of them were from the locality and she stayed at the place of occurrence for 4-5 minutes. There were three vehicles besides the Motorcycle of her husband at the place of occurrence. No local persons came out of the house after firing. She did not raise any *hulla* for saving her husband nor did she embarrassed the body of her husband nor did she requested the criminals not to kill him because her son was along with her. He was 10-13 years old. The police had not seized any articles from the place of occurrence in her presence.

55. She has further deposed in her cross-examination that there were about 16-17 firing and the firing was continuous. There were 4-5 pistols. The firing ended in 1 ½ minutes. Pistols were exchanged by the criminals. She had seen the occurrence from the distance of 1 ½ *laggas*. The criminals could not see her.



She was hiding herself in the rear of a car. The place of occurrence is 12-14 feet wide. She does not know the length of the place of occurrence. On both sides of the P.O, there was water. She could not say to which direction the accused were standing. Her husband was standing facing towards Hasanpura and accused had surrounded him standing closely and they were 16-17 in numbers. Some may have missed the firing. After receiving the gun shot injuries, her husband did not fall down but all the criminals got him seated near the Motorcycle. As the Criminals were surrounding her husband from all directions, she could not see who was holding which part of the body of her husband. She did not try to save her husband. She had reached the place of occurrence prior to the occurrence because her husband had not received her phone call at 6:36 O'clock. The accused persons had also reached there but they could not see her because they were busy in killing her husband.

56. She has further deposed in her cross-examination that from the place of occurrence, she had called her sister also who reached at the place of occurrence at 8:05 O'clock and she lived at the place of occurrence till 8:10 O'clock. Her *Fardbeyan* was recorded at 1-1:30 O'clock in the afternoon. She does not remember how many times she made her statements



before the police during investigation. She also does not remember whether the Test Identification Parade of the seized articles were done before her or not. She was not taken to jail by the I.O. for identification of the accused because they were already known her. Her husband also used to do sale and purchase of land and work of contractor. Her husband did not fall down after gun shot because all the accused were holding him. The clothes of her deceased husband got soaked in blood from head to leg. Police had seized his full pant and shirt from PMCH. When she met SSP, Patna en-route PMCH, she gave oral information to him for about one minute about the occurrence. She had informed the name of the accused also to him. She never saw the accused persons sitting together to hatch the conspiracy, but she had seen three persons doing reconnaissance around her house. She has denied the suggestion that she was not at the place of occurrence and she had not witnessed the occurrence and she has falsely implicated the accused persons on account of business dispute. In her *fardebayan*, she has given her statement that she could identify the rest accused when she would see them, but she was not called by the I.O. during investigation for any T.I.P.

57. She has further deposed in her cross-examination



that she does not know when the appellant/Bhavya Prakash @ King was made an accused in the case. He had no business with her husband. However, she has deposed that Bhavya Prakash had enmity with her husband because in 2014, he had threatened her husband to vacate the Galaxy Marble shop, failing which, he would face consequence. However, she does not remember the date or month of such threat given by Bhavya Prakash, nor did she or her husband give any information to the Police in regard to such threat. Bhavya Prakash had no sharing in the business of Galaxy Marble. 4-5 persons used to come along with Bittu for drinking liquor and used to make various planning and when it was opposed by her husband, he was killed by them. However, she has not seen such occurrence with her own eye. Such thing, she had heard from her husband. But her husband had not given such information to the Police in this regard. She had stated in her *fardebayan* that she had taken her husband to hospital with the help of local people. She has no knowledge about geographical directions. She knows that sun arises in the east, but she does not know in which direction, the sun sets. She knows Bhavya Prakash since prior to the occurrence. There was no crowd near the house of DIG when she went out from her house. During investigation she used to meet the I.O. On the



road going Hasanpura to Beur Mor, there is a shop of the appellant/Santosh. She is not aware whether cement, iron rods, stone chips and bricks were supplied by that shop to her husband. She is also not aware whether Rs.2,950/- were outstanding of Santosh against her husband in regard to supply of that construction material. Santosh had nothing to do with marble business. In regard to the information she had given to the police from the place of occurrence, a sanha has been registered but she is not aware of its number. She is not aware whether it bears *sanha* no. 432 dated 12.09.2016. She had no relationship with Santosh.

58. She has further deposed in her cross-examination that before the fardbeyan, she did not send anybody to the police station to give information regarding the occurrence because she had given information to the police on telephone. On information, the police had come to the place of occurrence when she had left the place of occurrence along with her husband but at the time of visit of the police, her sister Arti Jha and her son Aditya Jha were present there. She has denied the suggestion that she had not seen the occurrence. Her husband had gone to jail on complaint of one Siddhartha Khatri in regard to sale of land. Her husband had taken power-of-attorney from



Dr. Ajit Kumar Mishra on payment of rupees fifteen lacs that land was sold to Dr. Siddhartha Khetri. One Shakti Kumar had also lodged a criminal case against her husband. He had not gone to jail in that case. She did not deny the suggestion that Siddhartha Khetri and Shakti Kumar had filed two criminal cases each against her husband but she did not remember whether her husband had also lodged any case against them. After the gunshot at her husband, she was the first person to reach there. Her injured husband was taken to S.S. Hospital on motorcycle of Aditya Jha. That motorcycle was being driven by somebody else and Aditya Jha was holding his husband on the motorcycle. She on the motorcycle of her husband being driven by another unknown man accompanied the motorcycle carrying her husband to S.S. Hospital. Both the motorcyclists went up to PMCH. From PMCH, she returned by Police vehicle and the motorcycle of her husband was being used at PMCH. She does not know the name of the motorcyclists who drove the motorcycle from place of occurrence to S.S. Hospital till date.

59. She has further deposed in her cross-examination that she never raised any *hulla* when her husband was shot at. She prohibited her son also from raising any *hulla*. His son went back to home and she raised *hulla* after the accused persons



went away from the place of occurrence. Before raising hulla, she made telephone call to the son of her sister. At the time of occurrence, first of all, she give telephonic information to Beur Police Station. Thereafter, she gave information to S.S.P., Patna and third time, she gave her *fardebayan*. Her *fardebayan* was recorded at 10:30 in the morning on 13.09.2016 and till this *fardebayan*, she was with the dead body of her husband at PMCH. After the *fardebayan*, she came back to her home. At the time of *fardebayan*, she was with the dead body of her husband in the Emergency Ward. She has denied the suggestion that the occurrence has not taken place as she has deposed.

60. P.W.-6 is Rajan Chandra Jha, son of the deceased, Ram Chandra Jha. He is aged about 15 years, but his deposing capacity has not been tested by learned Trial Court as required under Section 118 of the Evidence Act before examining him. In his **examination-in-chief**, he has deposed as deposed by her mother/informant earlier. In his **cross-examination**, he has deposed that he reached near his father within five minutes of firing. Only he and his mother were there and no other persons were present. After walking 6-7 bamboo and turning to right, his house can be found. There were two white cars on the place occurrence. Behind one car, they were



hiding and another car was used by the accused to flee away. He could not tell the number of vehicles. At the time of occurrence, he was studying in 8th class. On the Mithilanchal Colony road, there were no shops at the time of occurrence. He has denied the suggestion that nobody had seen who killed his father. He does not know a bamboo is equivalent to how many feet or meter. He could not tell which part was held by which accused persons. He has not raised any *hulla*. He came silently from his house and went to his house silently. He has denied the suggestion that his father has been killed in dark night by unknown criminals who were having enmity with him and accused persons have falsely been implicated and occurrence has not been seen by him or any other witness. He could not see the fire arms was having one or two pipes. He also could not see the colour of the fire arms. He could not see whether the firing hit the car or motorcycle or not. He and his mother had hidden for 3-5 minutes after the occurrence. He could not tell about the occurrence to anybody. By the time, they reached behind the car, he had not heard any sound of firing.

61. P.W.-2 is Arti Devi, who is the sister of the informant. In her **examination-in-chief** she has deposed that the occurrence had taken place at 8 pm on 12.09.2016. At that time



she was at her home. By mobile call, her sister, Jayanti Jha/Informant, informed her that Bittu, Bhola, Ranjeet, Sukesh, Santosh and other 5-6 persons have shot her husband dead. At the time of call, the informant was at Mithilanchal Colony, Hasanpura mor. She reached on the place of occurrence on motorcycle of her son, Aditya. She found that Shri Ram Chandra Jha was lying on the ground taking support of his motorcycle having helmet on his head. He was covered in blood. He had received gun shot injury on the left side of *panjra*, left hand and in his head. He had about 13-14 gun shot injuries. Her sister was crying for help to save her husband, but nobody came forward. On her arrival, two people came on motorcycle. She requested them for help. With their help, Ram Chandra Jha was taken to S.S. Hospital on motorcycle. Her sister also accompanied that motorcycle. She stayed back at the place of occurrence. Thereafter, she went to the house of Jayanti Jha where her three children were there and advised them to keep the door closed and again came back to the place of occurrence. Thereafter, police came on the place of occurrence. She gave information about the occurrence to the police. In torch light, blood was found on the ground and the yellow part of cartridge was recovered. Helmet of Ram Chandra Jha and his sleepers were



also seized. Seizure list was prepared by the police. By that time, Aditya Jha had also come back at the place of occurrence. He also signed on the seizure list. Thereafter, he went back to her home with her son and again she went to P.M.C.H along with her son. Ram Chandra Jha was dead and her sister was lying unconscious. She stayed at the hospital till the morning.

62. In her **cross-examination**, P.W.-2 has deposed that she has no knowledge about business of her sister, nor has she any concern with it. She had given all information to the police regarding the occurrence as per hearsay from her sister as well as what she had seen on the place of occurrence. The police had written down all the information. She does not know what happened to her statement given to the police. On the place of occurrence, her statement was first one to the police. When she had reached the place of occurrence, only her sister and her injured husband were there. She had not signed on the seizure list. She had put her signature only on her statement given to the police and had not put any signature on any other document.

63. P.W.-3 is Jayantrika Devi. She is mother of the deceased. In her **examination-in-chief**, she has deposed that at the time of occurrence, she was at home. She came out from her home after hearing the sound of firing and came to know from



the ladies talking that her son has been killed by Bittu, Ranjan, Bhola, Ranjeet, Sukesh, Santosh and Rohit. Thereafter she reached the place of occurrence at Mithilanchal colony turning. Informant/Jayanti Jha, her son Rajan Jha, Arti Jha, and Aditya Jha were already there. Her injured son was taken to hospital with the help of motorcyclist. Then she went to P.M.C.H.

64. In her **cross-examination P.W.-3** has deposed that the occurrence was seen by the local ladies who had gone to answer the call of nature. Her son, Ram Chandra Jha was living with his family separately from her. She is living with her husband and children. There are 3-4 houses in between her house and the house of Ram Chandra Jha. She has denied the suggestion that she has deposed falsely on instructions of her daughter-in-law, Jayanti Jha/Informant.

65. P.W.-4 is Aditya Kumar Jha. He is the son of the informant's sister. In his **examination-in-chief** he has deposed that the occurrence had taken place at 4 pm on 12.09.2016. At that time he was at his home. A phone call came from the informant on the mobile of his mother. Thereafter her mother informed him that Ram Chandra Jha has been shot at by Rajan, Bittu, Sukesh, Bhola and Santosh. At that time the informant was at Mithilanchal colony turning. Then he proceeded to the



place of occurrence on motorcycle along with his mother and when he reached the place of occurrence, he saw the informant weeping and Ram Chandra Jha was sitting on the ground near the motorcycle and blood was oozing from his body and blood had thickened on the ground. Besides the informant, her son Rajan Chandra Jha was also there at the place of occurrence and saw Jayantrika Devi, mother of Ram Chandra Jha coming. He sent Rajan to his home. The informant was seeking help from the passers-by. Two motorcyclists stopped and came to their help and with their help, he got Ram Chandra Jha seated on the motorcycle and he was holding him by sitting behind and one of those men was driving the motorcycle and took him to S.S. Hospital. The informant was also following his motorcycle by sitting on another motorcycle. When the S.S. Hospital refused to admit him, he started taking Ram Chandra Jha to P.M.C.H in an auto-rickshaw. En-route he saw the S.S.P, Patna coming from the opposite direction. He got down from the auto-rickshaw and asked for help from him and informed him about the occurrence. He went towards the auto-rickshaw and he turned towards his home and reached at the place of occurrence and saw many police men there. His mother was also there. The police was searching in torch light. The sleeper and helmet of Ram Chandra



Jha and cartridges were recovered by the police and the same was seized and he signed on the seizure list. Thereafter he came back to his home along with his mother. Thereafter he went to P.M.C.H along with his mother. Ram Chandra Jha had died. His body was lying in the emergency ward. The informant was weeping and frequently getting unconscious and she was crying that Bittu and Rajan has killed her husband. He had also put his signature on the inquest report.

66. In his **cross-examination, P.W.-4** has deposed that his house is situated at the distance of 100-150 meter from the place of occurrence and at a distance of 200 meter from the house of Ram Chandra Jha. The motorcycle on which he carried Ram Chandra Jha to the S.S. Hospital belonged to him and the another motorcycle belonged to the informant. The unknown motorcyclist had got their motorcycles standing near the place of occurrence. In the auto-rickshaw in which he carried Ram Chandra Jha to the P.M.C.H besides him and the informant , police were also sitting in the auto-rickshaw. At S.S. Hospital many relatives had also arrived and both the motorcycles were given to them and he proceeded to P.M.C.H in the auto-rickshaw. From the place of occurrence, the police had collected about 10-15 cartridges. After walking 50-100 meters straight



from the place of occurrence and turning right and walking 15-20 steps, one finds the house of the informant. He has no information whether there is any house situated on that route. His house is situated prior to the place of occurrence. Then comes the place of occurrence and then comes the house of the informant. His house and the house of the informant are situated in different directions from the place of occurrence. The place of occurrence is situated at the turning of Hasanpura road towards Mithilanchal Colony. At the place of occurrence, it was he who had taken out the helmet from the head of Ram Chandra Jha and put the helmet beside him. He did not remember whether there was any blood stain on the helmet or not. He has denied the suggestion that there was any occurrence taken place as deposed by him.

67. P.W.-5 namely, Dr. Sanjay Kumar is the doctor who conducted the Postmortem on the body of deceased Ram Chandra Jha and thereafter prepared the Postmortem report which he has identified and proved during his evidence which has been marked as Exhibit-5. During postmortem, he found rigor mortis present all over the body and there were multiple entry wound of size (i) $\frac{1}{2}$ cm x 1 cm, (ii) $1\frac{1}{2}$ cm x 1 cm, (iii) $1\frac{1}{2}$ cm x 1 cm, (iv) $1\frac{1}{2}$ cm x 1 cm, (v) $1\frac{1}{2}$ cm x 1 cm, Oval



shaped burn and blackened inverted margin with abrasion and contusion were present on left chest region, (i) middle line left side 18 cm, (ii) $\frac{1}{2}$ cm below nipple left side, 15 cm left of middle line, (iii) 7 cm below of nipple, (iv) 12 cm from middle line, (v) 21 cm left from middle line, (vi) 4 cm below axilla. The bullet piercing into skin-soft tissues and entering into left chest cavity by fracture of 4 to 5th ribs anterior. Then piercing into left lung through and through and making diaphragm to abdominal cavity. Pellet was present posterior cavity of right side abdomen, left chest cavity and abdomen over filled with blood and blood clots. Entry wound of size (I) $1\frac{1}{2}$ cm x 1 cm (ii) $\frac{1}{2}$ cm x 1 cm, oval shaped with burn and blackening inverted margin with abrasion and contusion collar were present (i) left shoulder (ii) 10 cm below left shoulder. The bullet piercing into skin soft tissues. One bullet exit wound on posterior surface of upper arm of size $1\frac{1}{2}$ cm x 1 cm margin inverted. One pellet found on upper arm latero-posterior surface. (iii) Entry wound of size 3 cm x $\frac{1}{2}$, 2cm x 1 cm oval shaped with burn and blackening inverted margin with abrasion and contusion present on latero-posterior surface 12 cm below right elbow joint and posterior surface 9 cm below right elbow joint. Bullet piercing into skin and soft tissue exit wound do not found also pellet found in



muscles part. (iv) Entry wound of size 1 ½ cm x 1 cm oval shaped with burn and blackening inverted margin with abrasion and contusion collar was present on dorsal surface of right palm. The bullet piercing into skin and soft tissues and fracture of 3rd and 4th metacarpal bone. There not exit and broken pellet also found. (v) Entry wound of size 3 cm x1 cm oval shaped with burn and blackening inverted margin with abrasion and contusion collar was present below right shoulder 16 cm and 8 cm from axilla. (vi) Entry wound of size 1 cm x 1 cm oval shaped with burn and blackened inverted margin abrasion and contusion collar was present over left occipital region, 11 cm back to left ear and also Extra dural and sub scalp haematoma present. In his report, he has opined that the cause of death was hemorrhage and shock and head injury resulting from projectile fire arm injury. The time elapsed since death was stated within twenty four hours approximately. He has also deposed that these injuries were sufficient to cause death in ordinary course of nature.

68. In his **cross-examination**, **P.W.-5** has deposed that he had found total ten holes including the entry and exit. He has again deposed that there were total twelve holes including ten entry wound and two exit wounds on the body of the deceased.



He had also found injury on the back occipital region in the head. It is injury no.6. However, it is not mentioned in the inquest report. Blood was oozing from that injury. In such situation, the helmet should have got stain of blood. He has not read the medical jurisprudence. He does not know the distance from which firing can cause burn and blackening. He had denied the suggestion that he had given the postmortem report without doing examination of the dead body. He has not mentioned from which injury bullets or pellets were recovered. He did not find exit wounds of five multiple entry wounds. Bullets and pellets are found from two different kinds of ammunition. Injury no. 5 and 6 had no exit wound. No pellet and bullets were found from the injuries.

69. P.W.-7 is Ajay Narayan Jha, who is brother of the informant. In his **examination-in-chief**, he has deposed that the occurrence had taken place on 12.09.2016. He received call at 6:00 O' clock when he was in his village. On telephone, the informant stated to him that the deceased has been shot at by Bittu, Ranjan, Santosh, Ajay, Rohit, Sonu, Sukesh and Bhavya Prakash. In the night itself, he set for PMCH, Patna. On the next date, i.e., 13.09.2016, after 12:00 O' clock, the dead body was handed over after postmortem. When he reached the hospital, he



found that her sister was unconscious and taking the names of the accused persons in unconscious condition. He could not identify any of the accused.

70. In his **cross-examination**, **P.W.-7** has not seen the occurrence. He has stated as per hearsay from his sister. He has denied the suggestion that he has deposed falsely.

71. P.W.-8 is **Sanjay Kumar**, who was **the I.O of the case**. In his **examination-in-chief** he has deposed that on 13.09.2016 he got the charge of the investigation in Beur P.S. Case No. 241 of 2016. This case has been lodged on the fardbeyan of the Informant/Jayanti Jha. After taking charge he received inquest report from P.M.C.H. The place of occurrence as informed is Mithilanchal colony turning situated at the distance of about 1.5 kilometer to the South of Beur police station. The Mithilanchal Colony turning is adjacent to Hasanpura road in Mithilanchal colony. To the North of the place of occurrence lies two electric poles, vacant land filled with water, to the South Beur-Hasanpura main road, to the East One electric pole is without any wire and cemented road Mithilanchal colony to the West and one house, Malvika-C18 Mithilanchal Colony at the distance of 35 meter facing East. This road goes towards the house of the deceased. On the place



of the occurrence blood in huge quantity, sleepers, helmet and empty cartridges were recovered and seized. Seizure list is exhibit no.6. After inspection of the P.O., statement of Ram Chandra Jha, Jayantrika Devi and Arti Devi were recorded. Thereafter he reached P.M.C.H. and collected the pellets recovered from the dead body of the deceased and sealed it in a jar and kept it in police *malkhana*. The next day at 9:35 am, police inspector and incharge of the police station came and stated to him that the wife of the deceased was stating the Ajitwa and Ranjitwa had killed her husband and she was getting unconscious frequently and on account of her getting unconscious frequently, her *fardebayan* could not be recorded.

72. He has further deposed in his cross-examination that during custody, confessional statement of Ranjit Kumar @ Bittu was recorded and at his instance, one 7.65 mm country made pistol with two loaded cartridges in the magazine was recovered from murgi farm and the same was seized. The seizure list is exhibit no. 7 and on the basis of this seizure, Beur P.S. Case No. 242 of 2016 was lodged on 15.09.2016 under Section 25(1-B)a 26 of the Arms Act against the accused Ranjit Kumar @ Bittu. On 16.09.2016 from 70 feet road, accused Ajay Rai, Bhavya Prakash @ King and Vikky Kumar @ Vikky were



arrested with fire arms and cartridges and lodged Beur P.S. Case No. 243 of 2016 on 16.09.2016. The seized pellets and cartridges were sent to FSL, Patna for testing with permission of the Court. On 08.10.2016 postmortem report was received. He filed application for sending the black helmet. The helmet was having hole on the back side. He received materials seized in Beur P.S. Case No. 242 of 2016 and 243 of 2016 for testing. On 09.11.2016 the seized helmet, cartridges and pellets and arms were sent to FSL for testing. The information regarding the occurrence was received by him in the evening on 12.09.2016 when he was on patrolling duty. The information was received at about 20.08 O'clock. But the case was not registered on the basis of this information. Only Officer-in-Charge can explain why the FIR was not registered. The FIR was registered on 12:15 O' Clock on 13.09.2016. Copy of the FIR was sent to the Judicial Magistrate on 14.09.2016. The Court is situated at the travelling time of 20-25 minute by motorcycle or any other vehicle. The reason for delay in sending the FIR to learned Magistrate is not given in the diary. Ranjit Kumar @ Bittu was not arrested but he had himself surrendered in the Court. The arms was recovered at 23:00 O' clock on 15.09.2016. The witness to the seizure was passers-by, not local persons. Even



the context of seizure was not mentioned. On which date, Ranjit Kumar @ Bittu had put his signatures on the seizure list is not mentioned. The seized arms was not sealed on the place of occurrence that was deposited in malkhana. But no M.R. No. of malkhana was marked whereas in Beur Police Station, malkhana, arms of various cases have been deposited. He has denied the suggestion that no arms was recovered from murgi farm at the instance of the accused, nor was any recovery made in presence of the witnesses, nor seizure list was prepared and false seizure list has been prepared in Police Station. Seizure list on the place of occurrence was made at 08:25 PM and that seizure list carries Beur P.S. Case No. 241 of 2016 whereas the said FIR was lodged on the next date on 13.09.2016. He has further deposed that the material seized from the place of occurrence like empty cartridges, slipper and helmet were handed over to him not in sealed condition. They were open. FSL report has been received in regard to seized helmet which was having hole. That report is not with him.

73. He has further deposed in his cross-examination that during investigation, he examined only family members of the deceased, because no independent witnesses were available. He has not mentioned in the seizure list that slipper, helmet and



cartridges having stain of blood. He has not drawn site plan of the place of occurrence. The road passing through the place of occurrence is not a busy one. From the place of occurrence, the house of the informant is visible. He is not aware whether the malkhana of Beur Police Station maintains a register. He knows that whenever any material is seized and deposited in malkhana, it is entered into register with marking of M.R. number. However, in the present case, there is no M.R. number and malkhana mark on the article seized in this case. Whatever articles were seized on the place of occurrence, were not sealed. One Sanha was lodged in regard to statement of the informant regarding her statement on the basis of her statement that Jitua and Ranjitwa had killed her husband.

74. He has further deposed that the informant and her son Rajan Chandra Jha had not given any statement before him that they had seen the occurrence hiding behind a car.

75. He has further deposed that he had reached the place of occurrence after 8 pm on 12.09.2016. He has not mentioned in case diary that there was any electric light coming from the electric pole. However, he has mentioned that he had inspected the place of occurrence in torch light. No blood was seized from the place of occurrence.



76. He has also deposed that the informant had not made any statement before him that at the place of occurrence she requested the passers by to stop and help her and then Aditya Kumar Jha came on motorcycle and with the help of unknown motorcyclists her husband was taken to S.S. Hospital and en-route, she had requested the police station to provide a vehicle and S.S. Hospital had refused to admit her husband and she took her husband to P.M.C.H. in auto rickshaw, where he was declared dead. The informant had also not stated to him that in January, 2015 the accused Ranjit, Bhola, Sukesh and others had extended any threat. It was also not stated by the informant to him that Ranjit had entered into the business of her husband and on protest her husband got beaten by the house owner. The informant had also not stated to him that Ranjit hatched conspiracy to kill her husband and hired one criminal for Rs.5 lacs. The informant had also not stated to him that on the date of the occurrence at about 6 pm, three persons namely, Ajay. Vikky and King were doing reconnaissance around her house and she gave information about it to her husband. She has also not stated that she requested her husband to come at the earliest. The informant has also not stated to him that on the date of the occurrence at 7:26 her husband had informed on telephone that



he was coming and she herself dialed at 7:36 and her husband did not receive his call and thereafter, she proceeded out from the house in *nighty*. She had also not stated to the I.O. that from the house of D.I.G, she saw crowd. She had also not stated that the accused were killing her husband and she was seeing the occurrence from the rear of the car. She had also not stated that one 200 watt. bulb was burning and one golden chain and one lac rupees were also taken away by the accused. The informant had also not stated to him that prior to the occurrence, deadly attacked on her husband and about that attack and about that attack, information was given to the Police Station on 28.01.2015. The informant had also not stated to him that from the site of house of DIG, she had seen crowd at mithilanchal colony turning and electric light was burning on the second storey of the house there. It is true that the place of occurrence is a lonely place. The first information received at 20:08 O' clock on 12.09.2016 regarding the occurrence was that a man has received gunshots at Mithila Colony, Hasanpura. The deceased/Ram Chandra Jha was admitted in PMCH at 09:05 PM where he was declared brought dead and the dead body was received at 22:30 O' clock on 12.09.2016. On 12.09.2016 when he reached at the place of occurrence, he neither found the



motorcycle, nor any white car. When he visited the place of occurrence for the first time he had recorded the statement of Arti Devi and even her signature was taken on her statement. The specimen of the seal of the seized articles was not sent to the FSL.

77. He has further deposed that Rajan Chandra Jha had not stated to him that at 7:30 pm his mother had made phone call to his father to come home soon because three persons were doing reconnaissance and in response to which his father had stated that he was coming and his mother again made call to his father within 10-15 minutes. Rajan Chandra Jha has also not stated to him that when he reached Mithilanchal colony road, he saw crowd on the Mithilanchal Colony turning and they had hidden behind a white coloured car wherefrom the crowd was at the distance of 2-3 bamboo. Rajan Jah had also not stated to him that the first gun shot was made by Rajan on the left chest of his father and thereafter Rajan fired at the left shoulder and thereafter Santosh, Ajay and Vicky fired on the left chest. Bhola fired at the left arm and then Bhavya Prakash fired at the head and Sukesh fired at the right elbow and Rohit fired at the palm of the right hand. He had also not stated to him that there was light in the adjoining house and there was light coming from the



electric pole and he saw the occurrence in that light. He had also not stated to him that his mother had first made call to police station and then to his mausi, Arti Devi.

78. He has further deposed that The fardbeyan and the FIR do not carry the name of Bhavya Prakash @ King. Even in the re-statement, the informant had not taken the name of Bhavya Prakash @ King and she had stated only herself as the eye witness to the occurrence. Even during investigation besides confessional statement, he could not get any material against Bhavya Prakash @ King nor did he find any criminal incident of the accused Bhavya Prakash @ King. The informant had not given statement to him that Bhavya Prakash had fired at the head of her husband, Ram Chandra Jha.

79. He has further deposed the the informant had also not made statement to him that her son Rajan Chandra Jha was also with her at the place of occurrence. It was also not stated to him by the informant that after the gun shot, the helmet of Ram Chandra Jha had fallen down, but the accused Bhavya Prakash had re-put his helmet on his head. The informant had also not stated to him that at 06:00 O' clock in the evening, three persons, viz., Ajay, Vikky and King were doing reconnaissance around her house. Rajan Chandra Jha had not stated to him that



Bhavya Prakash had fired at the head of his father.

80. P.W.-9 is **Dhirender Kumar**, who was posted as Police Inspector cum In-charge of Police Station on 15.09.2016. He had recorded the confessional statement of the accused Ranjit Kumar @ Bittu and at his instance, as per the testimony, he recovered loaded pistol of 7.65 mm from murgi farm in the presence of two passers-by. He does not remember whether the recovered arms was sealed at the place of recovery or not. He does not remember even the date and time of the recording of his confessional statement. He does not remember even the witnesses in the presence of whom, his confessional statement was recorded. The arms was recovered from bush. He brought the arms at the Police Station and deposited in malkhana. He does not remember whether malkhana number was given on the deposited arms. He had sealed the seized arms at Police Station. However, he does not remember how it was sealed. He also does not remember whether signature of Ranjit Kumar @ Bittu was taken on the paper which was tested on the arms. He had not put his signature on the seizure list.

81. P.W.-10 is **Nayan Ojha**, who was Assistant Director, FSL, Patna. He has testified regarding testing of the seized articles and cartridges and the helmet. Regarding the hole



in the helmet, he has deposed that there was no sign of burning around that hole. There was not even sign of crack around the hole on the helmet. He has denied the suggestion that the articles which were sent to FSL for testing, were not seized in the present case.

82. P.W.-11 is **Viswambhar Prasad**, who was a Sub Inspector, posted at Beur Police Station on 16.09.2016. He was Investigating Officer of Beur P.S. Case No. 242 of 2016. In his **examination-in-chief**, he has deposed that the arms were seized from the broken pipe adjoining the road situated to the west of the murgi farm.

83. P.W. 12 is Uday Kumar Singh, who is Sergeant Major. He was posted at the New Police Centre, Patna on 01.10.2016. He is a witness who had tested the efficacy of the arms which was seized in Beur P.S. Case No. 242 of 2016.

84. P.W.13 is Das Ashok Kumar, who had put his counter signature on the FSL Report regarding the articles seized in the case.

85. P.W. 14 is Dhananjay Kumar Singh, who has prepared the inquest report of the deceased, Ram Chandra Jha at the Emergency Ward, P.M.C.H. In his **examination-in-chief** he has deposed that the dead body was received at 10:30 pm on



12.09.2016 and the inquest was prepared by him at 10:05 am on 13.09.2016. There is no mention of FIR number in the inquest report. Because it was prepared prior to the lodging of the FIR.

86. P.W. 15 is Devendra Kumar Singh, who is the ASI posted at P.M.C.H. on 13.09.2016. He had recorded the fardbeyan of the informant of Beur P.S. Case No. 241 of 2016 at 10:30 am on 13.09.2016.

87. P.W.-16 is Devendra Kumar Jha, who had brought certified copy of the sanha no. 432 of 2016, 453 of 2016, 381 of 2016 and 386 of 2016.

Defence Evidence

88. Now coming to the witnesses examined by the accused in their defence, we find that **D.W. 1** is **Prashant Kumar Singh**. He is a witness in support of plea of alibi as taken by the accused, Ranjeet Kumar @ Bittu. In his **examination-in-chief** he has deposed that at the alleged time of occurrence, Ranjeet Kumar was at Ranchi in regard to sale-purchase of land. He has also deposed that he a dealer in sale-purchase of land and Ranjeet Kumar is also a such dealer and on 12.09.2016, Ranjeet Kumar @ Bittu had gone to Ranchi to see one land along with two customers by the Patna-Ranchi Train and they had reached Ranchi at 3:00 pm. He had taken those



persons towards Ranchi ring road to see the land and they returned Patna via. Patna-Hatiya train which starts at 7:00 pm. In his **cross-examination** he has deposed that the land which they had seen belongs to Baliram Sahoo.

89. D.W.-2 is Ajit Kumar, who has also deposed in support of plea of alibi taken by Ranjeet Kumar @ Bittu. In his **examination-in-chief** he has deposed that in the evening on 12.09.2016, he had gone to Chitkohra market. Mithilanchal Colony turning lies on the way from chitkohra market to his village because it is close to his village. On that turning he had reached at 7:45 pm while returning from the market and saw 4-5 persons doing altercation on account of which the road was getting blocked. He stopped and started seeing for about half an hour. He stayed there. But he did not find Ranjeet Kumar there. During that stay, he did not hear any sound of firing. He did not see any motorcycle or car standing there. There was no light on the electric pole. In his **cross-examination** he has deposed that he could not identify the persons who had assembled at the Mithilanchal Colony turning and entering into altercation.

Appreciation of Evidence and Findings of this Court

90. From perusal of the prosecution evidence, we find that out of total 16 witnesses, six witnesses – P.W.-1, P.W.-2,



P.W.-3. P.W.-4. P.W.-6 and P.W.-7 are non-official witnesses and all are closely related with the deceased Ramchandra Jha. Rest witnesses are official witnesses.

91. We further find that out of six non-official witnesses, two witnesses – P.W.-1 Jayanti Jha (informant) and P.W.-6, Rajan Chandra Jha, (son of the informant and deceased) have claimed to be eye witnesses and rest non-official witnesses are post occurrence witnesses.

92. Out of official witnesses, P.W.-5 is the Doctor who conducted postmortem examination on the dead body of the deceased Ram Chandra Jha; P.W.-9 is Officer-in-Charge of Beur Police Station who recorded the confessional statement of appellant Ranjit Kumar; P.W.10 is FSL expert; P.W.-11 is the informant of Beur P.S. Case No. 242 of 2016; P.W.- 12 is Seargent Major who tested the efficacy of “seized arms”; P.W.- 13 is also an Officer of the Patna FSL Laboratory; P.W.-14 is the Police Officer who prepared the inquest report of the deceased Ram Chandra Jha; P.W.-15 is Police officer who recorded the fardbeyan of the informant of Beur P.S. Case No. 241 of 2016 and P.W. - 16 is formal witness of certified copy of Sanha.

93. We further find that there is no dispute regarding post occurrence facts and circumstances. The deceased Ram



Chandra Jha has died of firearm injuries as per P.W.-5 Dr. Sanjay Kumar who conducted postmortem examination on his dead-body finding 12 holes including 10 entry wounds and 2 exit wounds on his body and had opined that the cause of death was haemorrhage and shock caused by firearm injuries. It is also not in dispute that from Mithilanchal colony More situated in Beur Police Station, the deceased was taken to S.S. Hospital from he was taken to PMCH by the informant and Aditya Kumar Jha (P.W.-4) who is son of sister of the informant. It is also not in dispute that the deceased Ramchandra Jha was admitted in PMCH on the same day i.e. on 12.09.2016 at at **9:05 O'clock** in the evening and he was declared brought dead. It is further found that the inquest report was prepared on the next day at 10:05 O'clock in the morning and Fardbeyan of the informant (P.W.-1) was subsequently recorded after 25 minutes at 10:30 A.M. and formal FIR was lodged at 12:15 O'clock in the afternoon on the same day i.e. on 13.09.2016. The postmortem was commenced at 12:30 P.M. on 13.09.2016.

94. We further found that only dispute is regarding who has killed the victim Ramchandra Jha.

95. In this regard, we find that only P.W.-1 Jyanti Jha (wife/informant) and P.W.-6 Rajan Jha, (son of the deceased)



who are projected to be eye witnesses to the occurrence. Other witnesses are only hearsay witnesses regarding the assailants of the victim Ramchandra Jha. Needless to say that hearsay evidence has no evidentiary value. Refer to the following judicial precedents in this regard:

- (i) **Neeraj Datta Vs. State (NCT of Delhi)**
(2003) 4 SCC 731
- (ii) **Rajendra Prabhu Chikane and Anr. Vs. State of Maharashtra and Ors.** (2007) 13 SCC 511

96. We further found that the appellants have strongly disputed the presence of P.W.-1 and P.W.-6, on the place of occurrence, have claimed that they have been falsely implicated by the informant on the basis of suspicion arising out of enmity.

97. It is in the aforesaid context, we require to appreciate the evidence of P.W.-1 and P.W.-6 with care and caution to find out whether the appellants have caused the death of the victim Ram Chandra Jha.

98. From careful perusal of the testimony of P.W.-1, Jayanti Jha, who is wife of the deceased and informant of the case, that her testimony is full of material contradictions and improvements. In her detailed Fardbeyan, she has not stated that her son (P.W.-6) was also along with her at the place of occurrence. In her Fardbeyanb, she has also deposed that after seeing the firing being done by the appellants at her husband,



she started shouting loudly and informed the Police by her Mobile. But subsequently, in her examination-in-chief, she has deposed that she did not shout for fear of being killed. She also developed her statement by deposing that she was seeing the firing from rear of a car along with her son (P.W.-6). In her testimony, she further introduced the story of electric light at the time of occurrence coming from electric pole. However, as per the I.O., the Police had not found any electric bulb or a car around the place of occurrence. Moreover, when the police reached the place of occurrence within few minutes of the occurrence, she inspected the P.O. in torch light. Even P.W.-2, Arti Devi (Sister of Informant) has also deposed that the police after arrival at the P.O. inspected the P.O. in torch light.

99. We further find that the informant (P.W.-1) in her fardbeyan has not stated anything about reconnaissance of her house by three appellants and her talk with her husband before the occurrence and reaching the place of occurrence in that context. But in her examination-in-chief, she has introduced a story of reconnaissance of her house by three appellants and her talk with her husband. We further also find that making improvement of her statement in examination-in-chief, she has deposed that after reaching the place of occurrence, she went



behind the car lying in the vicinity of the place of occurrence and started watching the occurrence, whereas, as per her own testimony, when she reached the place of occurrence, the occurrence was not taking place. Her husband, as per her own testimony, arrived at the P.O. by his motorcycle when she had already arrived and hid in the rear of the white car lying in the close vicinity. But where was occasion for her to hide herself behind the car in advance of the occurrence?

100. In her testimony before the court, she has also deposed that when the assailants were shooting at her husband, she did not go near her husband to protect him. She did not even cry for help, nor did she request the assailants not to kill. It is very hard to believe such reaction of a wife seeing her husband being killed in front of her.

101. We also found that the I.O. in his testimony has clearly deposed that the informant had not stated before him regarding electric light coming from the electric pole at the place of occurrence. As per further testimony of the I.O., the informant had also not stated to him regarding the reconnaissance of her house by three appellants and her talk with her husband. She had also not stated to the I.O. that she was seeing the occurrence from behind the car standing in the



vicinity. She had also not stated to him that 200 watt electric bulb was burning at the place of occurrence. She had also not stated to the I.O. that her son Rajan Chandra Jha (P.W.-6) was also along with her at the place of occurrence.

102. The aforesaid material contradiction and improvements in the testimony of the informant (P.W.-1) renders her untrustworthy witness. It is very difficult for this Court to believe her and act upon her testimony.

103. Even, P.W.-6 who has been projected as eye witness is also not reliable and trustworthy. He was about 10-13 years old at the time of occurrence and at the time of his deposition, he was about 15 years old. As such, he was child. But before his deposition, the learned Trial Court has not tested his deposing capacity as required under Section 118 of the Evidence Act. So in the absence of any certificate of learned Trial Court that P.W.-6 was competent to depose, his testimony could not be relied upon. Moreover, his presence at the place of occurrence is highly doubtful. His mother who is informant had not stated of his presence along with her in her fardbeyan. His reaction to the occurrence makes his presence at the P.O. doubtful. In his cross-examination, he has deposed that he had not raised any hulla while seeing the occurrence and he had



gone to the place of occurrence silently and he returned to his home silently also silently He did not cry when his father was being killed by the assailants. He did not even, tell anybody about the occurrence. It is very hard to believe such conduct of the child when his father was being killed in front of him.

104. The I.O. (P.W-8) has also deposed that even P.W-6, Rajan Chandra Jha had not stated to him that at 7:30 his mother had made any phone call to his father to come home at the earliest because three persons were doing reconnaissance and in response to which his father had stated that he was coming and his mother again made a call to his father within 10-15 minutes. P.W.-6, Rajan Chandra Jha has also not stated to the I.O. that when he reached Mithilanchal Colony road he saw crowd at the Mithilanchal Colony turning and he along with his mother had hidden behind the white colour car.

105. It appears to us that P.W.-1 and P.W.-6 have not seen the occurrence taking place. They reached the place of occurrence after hearing the sound of firing. Their house is situated within the range of hearing of sound of firing from place of occurrence. Their house is situated in close vicinity of the place of occurrence. Such belief is reinforced by the testimony of P.W.-3, Jayntrika Devi, mother of the deceased



who came out from her house after hearing the sound of firing. The house of P.W.-3 is also situated near the house of the informant. Only 3-4 houses are there in between her house and the house of the informant (P.W.-1) and P.W.-6. As such, even P.W.-1 and P.W.-6 have not seen the occurrence, but on account of suspicion arising out of previous enmity with the appellants, the informant has named the appellants in her fardbeyan.

106. In view of the aforesaid evidence on record, the delay in lodging FIR and that too after inquest report and the delay in transmission of the FIR to jurisdictional Magistrate assume importance. The occurrence had taken place at around 8:00 P.M. on 12.09.2016. At 9:05 P.M., the victim was admitted in P.M.C.H and declared brought dead. Inquest was made at 10:05 A.M. on 13.09.2016. Fardbeyan was recorded at 10:30 A.M. on 13.09.2016 and FIR was lodged at 12:15 P.M. on 13.09.2016.

107. The only explanation coming from the I.O. regarding delay in recording of fardbeyan and lodging the FIR is that the informant was frequently getting unconscious. But as per testimony of the informant herself, it clearly transpires that after the occurrence, she was actively participating in carrying her injured husband from the place of occurrence to S.S.



Hospital and from S.S. Hospital to PMCH and during this period, there is not even whisper regarding the informant getting unconscious. She was fully conscious and active and she had even informed the police on her mobile just after the occurrence and police had even reached the place of occurrence and inspected the P.O. and even recorded the statement of P.W.-02 Aarti Devi who is sister of the informant and as per testimony of P.W.-2, she had given a detailed statement to the police regarding occurrence and the accused and even she had signed her statement which could have been treated as fardbeyan. Moreover, prior to such statement of P.W.-2, we also find that as per testimony of P.W.-1, she had given detailed information about the occurrence and the accused to the police immediately after the occurrence. But all these statements of P.W.-2 and P.W.-1, which are first versions are withheld by the police. As such, the police has not recorded the fardbeyan at the earliest opportunity, ruling out possibility of concoction and embellishment by consultation and deliberation. The possibility of concoction and embellishment of the fardbeyan is further reinforced by the fact that the FIR was lodged subsequent to preparation of the inquest report. The informant and the police had become well aware of the detailed injuries received by the



victim. Such detailed graphic description of injuries received by the deceased was also not possible as per the facts and circumstances of the case. Such suspicion is strengthened by the testimony of the informant also. As per her testimony, her husband was surrounded by the assailants from all directions and she was watching the occurrence from some distance from rear of the car. As such, it was not possible for her to see the exact injuries being caused by the appellants to the victim, more so, when the occurrence had taken place in dark night with no electric light there.

108. In this context, delay in transmission of the FIR to the Judicial Magistrate also assumes importance. The Beur police station is in close vicinity of the Court, as per testimony of the I.O. himself. It would take only 20-25 minutes by vehicle to reach the court from the police station. But, despite this fact, the FIR which was lodged at 12:05 P.M on 13.09.2016, was not sent to the Jurisdictional Magistrate on the same day. It was sent to the Magistrate on the next day.

109. In view of the delay in lodging the FIR and transmitting the same to the learned Judicial Magistrate after one day and preparation of the inquest report prior to recording the fardbeyan and lodging the FIR, the prosecution version of the



occurrence as emerging from the fardbeyan loses its veracity and authenticity. It becomes highly doubtful.

110. It is also pertinent to note that as per testimony of P.W.-1 (informant herself), her husband Ramchandra Jha was a land broker and contractor, besides being a shopkeeper. He had also enmity with persons other than the appellants. Her husband had lodged one criminal complaint bearing No. 21004 of 2014 against Lalbabu Keshri and others and one criminal complaint bearing No. 20788 of 2014 against Ajit Kumari Mishra. One Beur P.S. Case No. 76 of 2012 was also lodged against her husband. Siddharth Keshri and Shakti Kumar had also filed two criminal cases each against her husband and in one criminal case lodged by Siddharth Keshri, her husband was even sent to jail.

111. Even the recovery and seizure of the arms from the appellant, Ranjeet Kumar @ Bittu is doubtful in Beur P.S. Case No. 242 of 2016. As per P.W.-9, the arms were recovered from the bush, whereas P.W.-11 has deposed that the arms were seized from the broken pipe adjoining the road situated to the West of the murgi farm. Moreover, as per P.W.-8, Sanjay Kumar, the arms was not sealed at the place of occurrence, whereas, as per the testimony of P.W.-9, Dharendra Kumar, the arms were sealed at the police station, but signature was not put on the



seizure list by the seizing officer. As per further testimony of P.W.-8, Sanjay Kumar, the seized arms were deposited in malkhana without any M.R. number of malkhana on the arms despite the fact that in the police station malkhana, arms of several other cases were deposited. P.W.-8 has also deposed that even empty cartridges and helmet were not in sealed condition.

112. In Amarjit Singh Vs. State of Punjab, 1995 Supp (3) SCC 217, the Hon'ble Apex Court has observed that non sealing of the revolver at the spot is a serious infirmity because the possibility of tampering with the weapon cannot be ruled out.

113. In view of the aforesaid facts and circumstances, the Prosecution case regarding recovery of arms from the appellant Ranjit @ Bittu becomes highly doubtful

114. In view of the aforesaid facts and circumstances, we find that there are serious reasonable doubts in the prosecution case against the appellants. We have no option but to give benefit of doubt to the appellants and set aside the impugned judgment of conviction and orders of sentence.

115. Hence, all the appeals are allowed, setting aside the impugned judgment of conviction and orders of sentence, acquitting all the Appellants of all the charges.



116. The appellants are already on bail. They are discharged from their liability of their bail bonds.

Compensation to the victims

117. Though the appellants have been acquitted by giving benefit of doubts, the commission of the crime has been proved by the evidence on record. Deceased Ramchandra Jha was done to death by firearm injuries and he is survived by his widow Jayanti Jha who is informant herein and his one minor son, namely, Rajan Chandra Jha and two minor daughters namely, Surya Kiran and Roshni Kiran. Hence, there is no dispute that the informant and their minor children are victims in terms of Section 2(wa) Cr.PC as per which victim includes legal heirs of the deceased. The widow has lost not only consortium of her husband but even her dependency on him. The minor children have lost their father losing not only love and affection of their father but even their dependency upon him. Hence, the widow and her three minor children deserve succour from the State who has failed to protect the fundamental right of the deceased to live. Hence, all four victims are entitled to compensation as per Bihar Victims Compensation Scheme, 2014 as made under Section 357A Cr.PC and as per the Scheme as stands after amendment in 2018, minimum and maximum



compensation to a victim for loss of life is Rs.2,00,000/- and Rs.3,00,000/- respectively.

118. However, as per statement of the widow of the deceased Ramchandra Jha, she has got only Rs.1,50,000/- towards compensation from Patna District Legal Services Authority in compliance of the order of learned Trial Court dated 16.03.2021, whereas minimum compensation provided under the scheme is Rs. 2,00,000/-. As such, there is error apparent on face of the record while paying compensation to the victims by DLSA, Patna. In any case, the quantum of the compensation has to be above Rs 2,00,000/-. Moreover, the compensation scheme is a benevolent legislation. The concerned authority should not be shy to pay the maximum quantum of compensation as provided in the scheme, particularly in view of the fact that the quantum of compensation was fixed long back in 2018. Hence, we find that adequate compensation has not been provided to the victims as per the Scheme. Secretary, Bihar State Legal Services Authority, Patna is, therefore, directed to look into the matter and pay adequate compensation to the victims as per the Bihar Victims Compensation Scheme, 2014 as amended in 2018. A copy of this order be sent to the Secretary, BSLSA, Patna for needful.



119. Before we part with the appeals, we must appreciate the assistance provided by learned Amicus Curiae Ms. Surya Nilambari on behalf of the informant. Secretary, Patna High Court Legal Services committee is directed to pay Rs.15,000/- to learned Amicus Curiae towards honorarium.

120. The records of the case be returned to the Trial Court forthwith.

121. Interlocutory application/s, if any, also stand disposed of accordingly.

(Jitendra Kumar, J.)

I agree.

(Ashutosh Kumar, J.)

Ravishankar/S.Ali
/Chandan/Shoaib

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