

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.568 of 2018

Arising Out of PS. Case No.-136 Year-2000 Thana- JAGDISHPUR District- Bhagalpur

1. Rajendra Yadav, Son of Late Dhurkheli Yadav
2. Krityanand Yadav Son of Late Singheshwar Yadav, Both resident of Village- Mohdipur, P.S. Jagdishpur, District- Bhagalpur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with
CRIMINAL APPEAL (DB) No. 575 of 2018

Arising Out of PS. Case No.-136 Year-2000 Thana- JAGDISHPUR District- Bhagalpur

1. Arvind Yadav Son of Sukdeo Yadav
2. Girish Yadav Son of Late Jamun Yadav
3. Pintaan Yadav Son of Nityanand Yadav Both resident of Village- Mohdipur, P.S. Jagdishpur, District Bhagalpur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

(In CRIMINAL APPEAL (DB) No. 568 of 2018)

For the Appellants	:	Mr. Praveen Kumar, Advocate
	:	Mr. Krishna Mohan, Advocate
For the State	:	Mr. Dilip Kumar Sinha, APP

(In CRIMINAL APPEAL (DB) No. 575 of 2018)

For the Appellant Nos 1 and 2	:	Mr. Praveen Kumar, Advocate
	:	Mr. Krishna Mohan, Advocate
For the Appellant No 3	:	Mr. Deepak Kumar Sinha, Advocate
For the State	:	Ms. Shashi Bala Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 23-07-2024

Heard Mr. Praveen Kumar, learned counsel for the
appellants in both the appeals except for appellant no. 3 in Cr.

Appeal (DB) No. 575 of 2018 who has been represented by Mr. Deepak Kumar Sinha, learned Advocate, Ms. Shashi Bala Verma and Mr. Dilip Kumar Sinha, learned Additional Public Prosecutor for the State.

2. These two appeals have been preferred for setting aside the judgment of conviction dated 26.03.2018 (hereinafter referred to as the 'impugned judgment') and the order of sentence dated 02.04.2018 (hereinafter referred to as the 'impugned order') passed by learned 2nd Additional District and Sessions Judge, Bhagalpur (hereinafter referred to as the 'learned trial court') in Sessions Trial No. 701 of 2002 arising out of Jagdishpur P.S. Case No. 136 of 2000.

3. By the impugned judgment, the appellants have been convicted for the offences punishable under Sections 147, 148, 302/149 and 201 of the Indian Penal Code (in short 'IPC'). The appellants, namely, Rajendra Yadav and Krityanand Yadav have been further convicted under Section 27 of the Arms Act. The appellants have been directed to suffer rigorous imprisonment for life with a fine of Rs.10,000/- under Section 302/149 IPC and in default of payment of fine, they will further undergo six months simple imprisonment. They have also been ordered to undergo one year rigorous imprisonment with a fine of Rs.500/- under Section

147 IPC and in default of payment of fine, they shall further undergo five days simple imprisonment. They have further been ordered to undergo three years rigorous imprisonment with a fine of Rs.1,000/- under Section 148 IPC and in default of payment of fine, they shall undergo additional 10 days simple imprisonment and under Section 201 IPC, they have been ordered to undergo two years rigorous imprisonment with a fine of Rs.1,000/- and in default of payment of fine, they shall undergo additional 10 days simple imprisonment. Further, the appellants, namely, Rajendra Yadav and Krityanand Yadav have been directed to suffer five years rigorous imprisonment with a fine of Rs.5,000/- under Section 27 of the Arms Act and in default of payment of fine, they will undergo two months simple imprisonment. All the sentences are to run concurrently.

Prosecution Story

4. The prosecution story is based on the *fardbeyan* of Ambika Nand Yadav (PW-6) recorded by Sub-Inspector of Police Jhulan Tiwari (PW-10) of Jagdishpur Police Station on 15.09.2000 at 22:30 hours at Mohdinpur Bahiyar. In his *fardbeyan*, the informant (PW-6) has stated that on 15.09.2000 at around 10 o'clock in the morning, his elder brother Hari Prasad Yadav (the deceased) had gone to Bhagalpur for the treatment of his son

Krishna Mohan Kanhaiya. At around 4 o'clock in the evening they got down near Mohdinpur Mor from a Maxi, from there his son came home by bicycle with his cousin brother and his elder brother Hari Yadav proceeded for his house by foot and when he reached on puliya near Singheshwar Mandal's house, he was chased by Arvind Yadav armed with axe, Prakash Yadav with a knife in his hand, Girish Yadav with a *hasua*, Krityanand Yadav armed with pistol and Surendra Yadav @ Bangat Yadav armed with *farsa*. All ran to kill him and Krityanand Yadav shot at his brother with pistol. Thereafter, his brother ran from there to save his life, in the meantime, from the east Nityanand Yadav, Nakul Yadav, Uday Yadav, Binod Yadav, Sukdev Yadav, Pintan Yadav, Chedi Prasad Yadav, Ajab Lal Yadav, Rajendra Yadav, Mrityunjay Yadav, Ajay Yadav, Nawal Kishore Yadav, Katak Yadav, Sachidanand Yadav, Langat Yadav, Ganesh Yadav and Lalan Yadav surrounded him armed with pistols, lathi, *bhala*, *farsa* and Rajendra Yadav shot at his brother as a result of which he fell down in the paddy field of Rameshwar Mandal. Thereafter, some persons caught hold of his brother and Girish Yadav, Arvind Yadav and Pintan Yadav by *hasua*, axe and *farsa* beheaded him. On hearing the sound of firing, nearby people Anirudh Yadav, Karu Yadav and Sikander Yadav came running near his brother and

the accused persons fled away to their respective houses. The reason behind the incident is ongoing land dispute and past enmity between them for which case is running in court.

5. After investigation of the case and on finding the same true, the Investigating Officer (I.O.) submitted chargesheet against the accused persons and based on the materials brought before the learned Chief Judicial Magistrate with the chargesheet, cognizance was taken and the accused persons were summoned. Since the offences disclosed in the chargesheet were found triable by the court of Sessions, the learned Chief Judicial Magistrate committed the records vide order dated 21.09.2002 to the court of Sessions where charges were explained to the accused persons, they denied the charges and claimed to be tried, whereafter the trial began.

6. In course of trial, the prosecution examined as many as 11 witnesses and exhibited documentary evidences to prove the guilt of the accused persons. On behalf of the defence, two witnesses were examined and some documentary evidences were exhibited. For sake of ready reference, the description of the prosecution and defence witnesses as well as the documents exhibited on their behalf are being shown hereunder in tabular form:-

List of Prosecution witnesses

PW-1	Krishna Mohan Kanhaiya
PW-2	Usha Devi
PW-3	Rupesh Kumar Yadav
PW-4	Bindeshwari Yadav
PW-5	Anirudh Yadav
PW-6	Ambikanand Yadav
PW-7	Sahdev Yadav
PW-8	Naresh Prasad Sah
PW-9	Dr. Sohan Prasad Chaudhary
PW-10	Jhulan Tiwary
PW-11	Laldev Paswan

List of documents exhibited on behalf of Prosecution

Exhibit ‘1’	Signature of Ambika Nand Yadav (PW-6) on the Fardbeyan
Exhibit ‘1/1’	Signature of Shiv Nandan Yadav on the Fardbeyan
Exhibit ‘2’	Signature of PW-8 on carbon copy of Inquest report
Exhibit ‘3’	Carbon copy of Post-mortem report
Exhibit ‘4’	Identification of the fardbeyan by PW-10
Exhibit ‘5’	Identification of pagination on the fardbeyan by PW-10
Exhibit ‘6’	Identification of the Formal FIR by PW-10
Exhibit ‘7’	Identification of C/S by PW-10
Exhibit ‘7/A’	Identification of Chargesheet no. 43/01 by PW-10
Exhibit ‘7/B’	Identification of Chargesheet no. 102/01 by PW-10

Exhibit ‘7/C’	Identification of Chargesheet no. 158/01 by PW-10
Exhibit ‘8’	Inquest Report

List of Defence Witnesses

DW-1	Parmanand Panjiyara
DW-2	Uday Prakash Chaudhary

List of documents exhibited on behalf of Defence

Exhibit ‘A’	Ordersheet of Title Appeal No. 35/96
Exhibit ‘B’	Decree of Title Appeal No. 96/90
Exhibit ‘C’	Judgment of Title Appeal No. 96/90
Exhibit ‘D’	Ordersheet of Miscellaneous Appeal No. 81/01

Findings of the learned Trial Court

7. The learned trial court examined the evidences available on the record and reached to a conclusion that so far as the charges levelled against 14 accused persons are concerned, the prosecution had failed to establish the charges against them beyond all reasonable doubts, therefore, 14 accused have been given the benefit of doubt and they have been acquitted of the charges. The learned trial court, however, found that the charges levelled against five accused persons who are appellants before the court have been proved beyond all shadow of doubts, therefore, they are liable to be convicted and sentenced accordingly.

8. This Court finds from the discussions made in the impugned judgment of the learned trial court that at one stage, the learned trial court has taken a view that PW-1 to PW-6 are the family members of the deceased, they are sons, nephew, wife and brother of the deceased who have tried to make exaggerated statements before police in course of their statement under Section 161 Code of Criminal Procedure (in short 'CrPC'). The learned trial court found that the I.O. (PW-10) had registered the information with regard to the murder of Hari Yadav and had recorded a Sanha No. 354 dated 15.09.2000 while proceeding to the place of occurrence for verification but the said Sanha was not proved before the court. The learned trial court has also noticed that the I.O. has stated in course of his evidence that on the next day i.e. 16.09.2000 in the morning, the head of the deceased was recovered but this witness has stated that the crops of the agriculture field of Rameshwar Mandal and Madhav Yadav were not found trampled, therefore, the trial court concluded that there was no physical fight by the accused persons at the place of occurrence. The trial court has noticed the statement of the I.O. recorded in paragraphs '7' to '12' of his deposition and has concluded that the family members of the deceased who have deposed in course of trial have made different statements from

their previous statements made before the police. The two independent witnesses, namely, Sahdev Yadav (PW-7) and Naresh Prasad Sah (PW-8) have stated that on hulla, they had reached to the place of occurrence and had seen the dead body of Hari Yadav. The witnesses have stated that in their presence, the family members of the deceased who are the witnesses in this case had stated that the murderers had shot dead the deceased, beheaded him and fled away with the head, they had not stated about the name of the accused involved in the occurrence.

9. In the aforementioned background of the findings recorded by the learned trial court while 14 accused persons have been acquitted of the charges, five accused persons have been convicted and sentenced as recorded hereinabove.

Submissions on behalf of the Appellants

10. Mr. Praveen Kumar, learned counsel for the appellants has made the following submissions:-

(1) In this case, the occurrence is said to have taken place on 15.09.2000 at about 04-04:30 pm near the house of one Singheshwar Mandal. The informant Ambika Nand Yadav (PW-6) claims that he was in the Bahiyar to see his agriculture paddy field and he was returning from Bahiyar at the relevant time. He claims that his nephews Rupesh Kumar Yadav (PW-3) and Krishan

Mohan Kanhaiya (PW-1) had seen the appellants and others near pulia which is situated near the house of Sigheshwar Mandal. This witness has not claimed in his examination-in-chief that he is an eye witness to the occurrence but in course of his cross-examination, he has claimed to have stated before the I.O. that he is an eye witness to the occurrence. The I.O. (PW-10) has stated in paragraph '13' of his deposition that the informant had not stated before him that his nephew Rupesh and Krishna Kanhaiya had seen Nityanand, Sachidanand Yadav, Nawal Kishore and others. He had also not stated that Sachidanand Yadav had a pistol in his hand. Nawal Yadav had a *farsa*, Katak Yadav was armed with Pistol and Girish Yadav was armed with a *farsa*. The I.O. has not corroborated the oral testimony of PW-1 in the manner stated by him in his evidence in course of trial. From the evidence of the informant (PW-6) and that of the I.O. (PW-10), it would appear that PW-6 had not claimed himself an eye witness in this case neither in the *fardbeyan* nor in his statement under Section 161 CrPC or in examination-in-chief in course of trial.

11. Learned counsel points out that PW-6 has stated in the cross-examination, in paragraph '12' that he had gone to the place of occurrence, thereafter Bindeshwari Yadav (PW-4), Anirudh Yadav (PW-5), Usha Devi (PW-2), Krishna Mohan

Kanhaiya (PW-1), Rupesh Kumar Yadav (PW-3) reached there. This witness had gone to the police station whereafter police came in the night at 10:00 pm and had recorded his statement. Learned counsel submits that while PW-6 has proved his *fardbeyan* which has been marked as Exhibit '1', it would appear from the evidence of Bindeshwari Yadav (PW-4) that according to him, when the police came in the village, he had gone to Ambika Nand Yadav where wife of the deceased, son of the deceased and nephew of the deceased were also present. Later on, Chaukidar Shivam Paswan had also arrived. PW-3 has stated that he had given his statement to Daroga which was not read over to him. He had put his thumb impression after giving his statement and Ambika Nand Yadav (PW-6) had also put his signature. It is submitted that this statement of PW-3 on which he had put his thumb impression and Ambika Nand Yadav (PW-6) had also signed the same, has been suppressed and later on, a different *fardbeyan* of Ambika Nand Yadav (PW-6) has been recorded which is the basis of lodging of the present FIR. According to learned counsel, from the evidence of PW-4 two things are evident. Firstly that police had come in the village on 15.09.2000 at 10:00 pm at the house of Ambika Yadav (PW-6) where this witness had also gone and he had given his

statement there, secondly it further appears that on 15.09.2000 during night hours, police had not gone to the place of occurrence.

12. Learned counsel points out that there is an inordinate delay in not only recording of the *fardbeyan* but there is a substantial delay in registration of formal FIR and then in sending the same to the court of learned CJM, Bhagalpur. It is pointed out that while *fardbeyan* has been recorded at 10:30 pm on 15.09.2000, it would appear from the formal FIR (Exhibit '6') that it has been registered on 16.09.2000 at 14:30 Hours. The formal FIR would also show that the information regarding occurrence was received in the police station on 15.09.2000 at 09:15 P.M. but there is no explanation as to why the *fardbeyan* of PW-6 who claims to have gone to the police station to inform the police about the occurrence was not recorded at the police station. The FIR was sent to the court of learned CJM on 18.09.2000, therefore, the very authenticity of the FIR has become doubtful in this case. Reliance has been placed on the judgment of the Hon'ble Supreme Court in the case of **Thulia Kali versus State of Tamil Nadu** reported in (1972) 3 SCC 393 and **Mehraj Singh versus State of U.P.** reported in (1994) 5 SCC 188. Paragraph '12' of both the judgments have been referred to, to submit that in this case, the inordinate delay in recording of the *fardbeyan*, lodging of the FIR

and sending the *fardbeyan* to the learned Jurisdictional Magistrate would prove fatal to the prosecution case.

13. Learned counsel submits that from the inquest report (Exhibit '8'), it would appear that it has been prepared on 16.09.2000 at 06:30 Hours but it does not bear any case number. Similarly, the postmortem report (Exhibit '3') would show that the dead body of the deceased was sent to hospital on 16.09.2000 at 01:00 PM and the postmortem was done at 02:30 P.M. on the same day. On the postmortem report also, there is no case number, only challan number has been mentioned. It is submitted that non-mentioning of the case number on the inquest report and the postmortem report would further show that till the time of sending the dead body for postmortem, the prosecution was in embryo and prosecution was not sure as to whose names should be included as accused in the FIR.

14. Learned counsel further submits that when the inquest report was prepared, the two independent witnesses who are PW-7 and PW-8 were present and they have stated that in their presence, the prosecution witnesses had stated that the murderers had killed the deceased and had fled away with his head. The prosecution witnesses had not disclosed names of any accused persons. Learned counsel submits that Rameshwar Mandal and

Madhav Yadav in whose field the dead body and the head were recovered have not been examined in this case. The I.O. (PW-10) had not seized the blood soaked soil from the place of occurrence, he had not found the crops in trampled condition and the I.O. has stated that till the time of writing of the *fardbeyan*, nobody had disclosed the name of any of the accused. It is submitted that all these evidences would only lead to conclude that the *fardbeyan* of PW-4 was suppressed and at a belated stage *fardbeyan* of PW-6 has been recorded by anti-dating and anti-timing, this is the reason for registration of FIR on 16.09.2000 at 02:30 pm. When the dead body was sent for postmortem, till that time, the *fardbeyan* was not recorded and no case was registered. It is submitted that with an afterthought name of the accused persons were mentioned in the *fardbeyan*.

15. It is also pointed out that in the inquest report, it is mentioned that the dead body was kept on a cot, there is no explanation as to how the dead body claimed to be placed on a cot and it becomes doubtful that the inquest report was prepared in Bahiyar where it is said to have been found. This circumstance only indicates the version of PW-4 who said that police had come in the village. It is submitted that when police came by that time

the dead body had been brought to the village and was kept on a cot.

16. It is also pointed out that PW-1, PW-2, and PW-3 are not the eyewitnesses to the occurrence. PW-1 has himself stated in paragraphs '9' and '17' that all the family members reached the place of occurrence after the occurrence. PW-2 has also stated in paragraphs '4' and '5' that she went to the place of occurrence after the occurrence. PW-1 had stated that Ambika Yadav (PW-6) was not at home. It is submitted that the two independent witnesses PW-8 and PW-9 are very important witnesses but the learned trial court has not attached proper evidentiary value to their evidence. Referring to the deposition of the I.O. from paragraphs '9' to '13', learned counsel submits that the I.O. has thoroughly contradicted the statements of the prosecution witnesses including the informant (PW-6).

17. Learned counsel for the appellants lastly submits that PW-1 to PW-6 are the family members of the deceased, prior enmity between the parties has been admitted by the prosecution, some of the prosecution witnesses came to depose in the trial from the jail, in such circumstance, the evidence of PW-1 to PW-6 would fall in the category of inimical, related and interested

witnesses, hence, they would require a careful scrutiny and their oral testimony be considered with all circumspection and care.

18. It is submitted that the learned trial court has, on the same set of evidence, acquitted fourteen accused persons. The learned trial court has categorically recorded that the I.O. has stated in his deposition that the prosecution witnesses had not stated before him in course of investigation as they have stated in course of trial before the court. In his submissions, the judgment of the learned trial court is perverted and the same is liable to be set aside.

Submissions on behalf of the State

19. In both the appeals, the two learned APPs namely Ms. Shashibala Verma and Mr. Dilip Kumar Sinha have defended the judgment of the learned trial court. It is submitted that PW-2, PW-4, PW-5 and PW-6 are the eyewitnesses to the occurrence, they have stated that at the time of occurrence, they were in the *bahiyar* where they had gone for working in their paddy field and had seen the occurrence from a short distance. The submission is that the evidence of an inimical, related and interested witness cannot be disbelieved outrightly. Their testimonies would be required to be considered and only after finding the credibility of the witnesses, probative value may be attached to their testimony.

In the present case, according to learned APPs, the prosecution witnesses are credible and there is no reason to reject their testimony.

20. As regards the delay in recording of the *fardbeyan* of PW-6, learned APPs would submit that as per prosecution case, the accused persons had beheaded the deceased by a sharp-cut weapon and had taken away his head east to the place of occurrence, therefore, the family members of the deceased as well as Police were in search of the head which was recovered only on the next day in the morning. PW-6 had gone to the Police Station whereafter Police came and his *fardbeyan* was recorded. In the facts of the present case, the delay of few hours in lodging of the FIR would not be unreliable.

21. As regards the acquittal of fourteen accused persons by the learned trial court and convicting the present appellants in the same trial on the same set of evidences, learned APPs would submit that acquittal of some of the accused would alone be not a ground to set aside the conviction of these appellants. It is submitted that in the present case, no vital contradiction has been found in the evidences of the prosecution witnesses and some minor discrepancies would not lead to throwing away the prosecution case. Learned APPs submit that the totality of the

circumstances as also the broad probabilities of the case cannot be lost sight of.

Consideration

22. We have heard learned counsel for the appellants and learned APPs for the State, as also perused the trial court's records. At the outset, we would remind ourselves with regard to the mode of appreciation of evidence and the general principles regarding presumption of innocence. In the case of **State of Punjab vs. Jagir Singh, Baljit Singh and Karam Singh** reported in **(1974) 3 SCC 277**, the Hon'ble Supreme Court has been pleased to hold that a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the crime with which he is charged. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. In the case of **Kali Ram vs. State of H.P.** reported in **(1973) 2 SCC 808**, the Hon'ble Supreme Court has observed *inter alia* as under:-

“Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his

innocence, the view which is favourable to the accused should be adopted.”

23. In the present case, the prosecution has examined as many as eleven witnesses. PW-1 to PW-6 are the close relatives of the deceased. PW-1 is the son, PW-2 is the wife, PW-3 is the nephew and PW-4 to PW-6 are the full brothers of the deceased. There is no independent witness in this case who has seen the killing of the deceased Hari Yadav but PW-7 and PW-8 are two independent witnesses who had gone to the place of occurrence after hearing *hulla* that Hari Yadav has been murdered. They are witnesses to the inquest report. PW-7 has stated that when he reached near the dead body of Hari Yadav, they had seen Ambika Yadav (PW-6), Usha Devi (PW-2), Krishna Mohan Kanhaiya (PW-1) and Rupesh Kumar (PW-3) present near the dead body. Later on, Daroga had also arrived and the aforementioned witnesses told Daroga that the murderers have shot dead Hari Yadav and fled away after beheading him. PW-8 has stated that he reached at the place of occurrence after hearing *hulla* about the murder of Hari Yadav. According to him, after he reached at the place of occurrence, wife of Hari Yadav (PW-2), Ambika Yadav (PW-6), Krishna Mohan Kanhaiya (PW-1) and Rupesh (PW-3) came there and Daroga also visited. PW-8 has also stated that the above mentioned witnesses told that the murderers had killed Hari Yadav

and after beheading him, they had fled away with the dead body. They had not stated about the name of the murderers.

24. Dr. Sohan Prasad Chaudhary (PW-9) who was an Associate Professor in JLNMCB, Bhagalpur has stated that on 16.09.2000 at 2:30 PM he had performed the postmortem examination on the dead body of Hari Yadav. The dead body was brought and identified by a Constable and Ambika Nandan Yadav, a relative. PW-9 notes the following antemortem injuries:-

“(i) Wound of entry 1/2 inch x 1/2 inch size on left side of back at scapula. There was no charring, blackening and tattooing in and around the wound. The margin had abraded colour. There was fracture of scapula.

(ii) Wound of exit 3/4 inch x 3/4 inch left side of chest. One inch below the nipple.

(iii) Incised wound of size 6 inch x 6 inch on the neck at 5th cervical vertebra. The head was amputated from the trunk and there was cut all the vessels and nerves including muscles and fourth and fifth cervical vertebra.

(iv) Lacerated wound of size 1 1/2 inch x 1/2 inch on left frontal with fracture (depressed type) of bone.

(v) Bruise one inch x half inch on right eyebrow.

(vi) Bruise one inch x half inch on left little finger with fracture of bone.

(vii) Bruise 2 1/2 inch x 1/2 inch on left thigh above knee joint.

(III) One dissection all the internal organ were found pale. Both chambers of heart was empty. Stomach contains semi digested food. Intestine contain gas and feces. Urinary bladder was empty.

Time elapsed since death- Between twelve hour to twenty four hour approximately.

Cause of death – Shock and hemorrhage due to above mentioned injuries.

Nature of weapon- Fire arm (injury No. one and two) and other injuries were caused by heavy sharp cutting weapon. This P.M. report is in my pen and bears my seal and signature. This P.M. report is the carbon copy of original P.M. report and it has been prepared in the same process. It is marked as Ext- ‘3’

(IV) Injury No. 4 may be caused by the fire arm.

Cross-examination- (one behalf of Arbind & two other accused persons)”

25. At this stage, on perusal of the inquest report and the postmortem report, this Court finds that the inquest report has been prepared by J. Tiwari, Sub-Inspector (PW-10) at village Mohidinpur on 16.09.2000 at 6:30 hours. It does not contain any case number or sanha diary entry number. It bears the date of making as 16.09.2000 but the seizure list witnesses have deposed that they had reached the place of occurrence after hearing *hulla* and Police came in their presence whereafter in their presence Daroga Ji had prepared the papers on which they had put their signatures. It has come in the evidence of the informant (PW-6) and other witnesses as well as the I.O. himself that Police reached the place of occurrence where the dead body was lying and PW-10 had recorded the *fardbeyan* of PW-6 at the place of occurrence, therefore, this Court finds that while the inquest report witnesses

have stated that the inquest report was prepared at the place of occurrence after Police reached, from the inquest report it appears that it has been prepared only on the next day i.e. on 16.09.2000 at 6:30 hours.

26. One of the contentions on behalf of the defence in this case is that the *fardbeyan* has been ante-dated and ante-timed and in this regard, attention of this Court has been drawn towards the evidence of Bindeshwari Yadav (PW-4) who has stated that Police came in the village at 10:00 PM and after Police reached they had gone to Ambika Yadav where wife of the deceased (PW-2) had also come. The son of Hari Yadav and nephew were also there and thereafter *Chowkidar* Shivam Paswan came. PW-4 has stated that he had given his statement and had put his thumb impression. Daroga had not read over his statement. Ambika had also put his signature there. From the evidence of PW-4, thus, it appears that Police had not gone to the place of occurrence directly, they came in the village at about 10:00 PM on 15.09.2000, recorded the statement of PW-4 in presence of PW-1, PW-2, PW-3 and PW-6.

27. So far as Anirudh Yadav (PW-5) is concerned, he is one of the brothers of the deceased but PW-4 has not stated about his presence when Police arrived in the village. The defence has

suggested PW-5 in his cross-examination that he was not in the village and had gone to Deoghar. The evidence of PW-4 regarding recording of his statement gains importance because it was the first version of the prosecution but the same has been suppressed. It is also noticed that according to PW-6 he had gone to the Police Station after the occurrence. I.O. (PW-10) has stated that he had recorded a Sanha bearing Number 354 dated 15.09.2000 and had proceeded with the Police force to village Mohidinpur. PW-10 had received a wireless information from Kajraili Police Station that in village Mohidinpur, Hari Prasad Yadav had been murdered. In evidence it has come that Kajraili Police Station is situated at a distance of one kilometer from the place of occurrence, therefore, it is found that PW-6 had gone to Kajraili Police Station to inform about the occurrence, otherwise the distance of Jagdishpur Police Station from the place of occurrence is fifteen kilometer. In the formal FIR it has been recorded that information with regard to the occurrence was received in Jagdishpur Police Station on 15.09.2000 at 9:15 PM. Thus, it appears that within one hour of the receipt of information, Police from Jagdishpur Police Station had arrived in the village Mohidinpur.

28. This Court finds from the formal FIR that even as the *fardbeyan* of PW-6 has been shown recorded on 15.09.2000 at

22:30 hours at Mohidinpur *bahiyar*, the formal FIR has been registered only on 16.09.2000 at 2:30 PM i.e. with a delay of sixteen hours thirty minutes. Not only that the formal FIR was sent to the court of learned Chief Judicial Magistrate, Bhagalpur only on 18.09.2000. The I.O. (PW-10) has stated that he had inspected the place of occurrence. In north to the place of occurrence is kachi rural road, in south is the paddy crop field of Rahi Mandal, in east is paddy crop field of Jaldhar Mandal and in west there is a rural *pagdandi rasta* and paddy crop field of Mani Chaubey. He had recovered the chopped off head of the deceased on 16.09.2000 in the morning at 5:00 AM with the help of the villagers, at a distance of 200 yards north-east in the paddy crop field of Madho Yadav which he brought to the place of occurrence where the trunk part of the body was lying and then he had prepared the inquest report. This Court finds that while the inquest report witnesses have stated to have seen only the trunk part of the dead body which was beheaded lying in the field of Rameshwar Mandal, they have not stated that in their presence the head was recovered and the inquest report was prepared on 16.09.2000 at 6:30 AM. This Court, therefore, records that the inquest report was not prepared on 15.09.2000, though the signature of the inquest report witnesses were obtained on the prescribed format. Had the two inquest report

witnesses (PW-7 and PW-8) would have signed the inquest report on 16.09.2000, they would have definitely stated in their evidence about having seen the head which was recovered on the next day and that they had put their signature on the next day of the occurrence in the morning.

29. This Court further finds that when the informant (PW-6) was examined, he claimed himself an eyewitness to the occurrence, according to him, he had seen the occurrence from a distance of 10 *katthas* of land which would be in near vicinity. He has stated that at least twenty persons had surrounded Hari Yadav and after Hari Yadav fell down, he was assaulted by the accused persons for 5-7 minutes. According to him, the paddy crops in the field of Rameshwar Mandal were trampled. It is important to note that in his cross-examination PW-6 has stated that the accused persons had fled away with the head of the deceased and had thrown it in the field of Madho Yadav. The evidence of PW-6 becomes highly doubtful that he had seen the accused persons taking away the head and throwing the same in the field of Madho Yadav. If PW-6 was aware of the place where the chopped head was thrown by the accused persons and the field of Madho Yadav was only at a distance of 200 yards from the place of occurrence, why did he not disclose it to the I.O. (PW-10) on 15.09.2000 itself

and why the I.O. (PW-10) has stated in his evidence that he recovered the head on the next day in the morning with the help of the villagers. The evidence of PW-6 and PW-10 together would lead to conclude that the story of recovery of the head on the next day i.e. 16.09.2000 is only an afterthought in order to give time to the prosecution to come out with the names of the accused after all deliberation. This Court would take a view that in fact the dead body head and trunk part were very much available at the place of occurrence on 15.09.2000 when Police arrived in the village, the dead body was found placed on a cot and the first version of PW-4 was recorded which has been suppressed.

30. In the aforementioned background, this Court further considers the fact that the occurrence took place at about 4-4:30 PM and Kajraili Police Station is situated at a distance of one kilometer, if the prosecution witnesses had seen the occurrence, why information was given to Police with a delay of about five hours. The prosecution witnesses are completely silent on this aspect. PW-6 has stated that he had gone to the Police Station but has not stated as to what time he had gone to the Police Station. The definite case of the prosecution is that Police had arrived and had recorded the statement of PW-6 (Exhibit '1') then a question arises as to why the FIR was not lodged in the same night and it

was kept pending till the postmortem examination of the dead body on 16.09.2000. From the postmortem report (Exhibit '3') it would appear that the dead body was received in the Bhagalpur Hospital on 16.09.2000 at 1:00 PM and the postmortem commenced at 12:30 PM but the postmortem report does not bear either sanha diary entry number or the police case number which could go a long way to show that till the time of sending of the dead body for postmortem, the prosecution story was still in embryo and no formal FIR was registered. It is only when the postmortem was done, the formal FIR has been shown registered on 16.09.2000 at 2:30 hours. The registration of the FIR on 16.09.2000 further becomes doubtful as the formal FIR was sent to the court of learned Chief Judicial Magistrate after more than twenty four hours only on 18.09.2000. As regards the delay in lodging and sending the FIR to the Magistrate, the Court would appreciate the evidences available on the record keeping in view that there is no straitjacket formula that every delay in sending the FIR to the Magistrate would necessarily lead to the inference that the FIR has not been lodged at the time stated or has been ante-timed or ante-dated or investigation is not fair and forthright (**Chotkau vs. State of Uttar Pradesh** reported in **AIR (2022) SC 4688**. In the cases of **Thulia Kali vs. State of Tamil Nadu**

reported in (1972) 3 SCC 393, **Hariprasad @ Kishan Sahu** reported in (2024) 2 SCC 557, **Jamna vs. State of U.P.** reported in 1994 Supp (1) SCC 185, **Ravinder Kumar and Another vs. State of Punjab** reported in (2001) 7 SCC 690 and **Tara Singh and Ors. vs. State of Punjab** reported in 1991 Supp (1) SCC 536, the Hon'ble Supreme Court has held that the delay in lodging of the First Information Report quite often results in embellishment which is a creature of afterthought. The relevant part of paragraph '12' of the judgment in the case of **Thulia Kali (supra)** are being reproduced hereunder for a ready reference:-

“12.....First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eyewitnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained.....”

31. Recently in the case of **Nand Lal and Ors. vs. State of Chhattisgarh** reported in **(2023) 10 SCC 470**, the Hon'ble Supreme Court has found that there was a delay of around four to five hours in lodging of the FIR which was not explained. The Hon'ble Court observed in paragraph '24', '29', '30' and '31' as under:-

“**24.** Believing the contents of the FIR that the incident has taken place at around 8.30 p.m. and that the injured persons had reached Baloda Bazar at around 10-11 p.m. where they were informed that they could not be treated unless a report was lodged, a further delay of around four to five hours in lodging the FIR has not been explained. The distance between Baloda Bazar and Suhela Police Station is approximately 15 km. It has come on record that there is an all-weather road connecting the two places. As such, at the most, it would take around 30-40 minutes to reach Suhela Police Station from Baloda Bazar. This delay of four hours in lodging the FIR is not at all explained.

29. That leaves us with the appeal of the other 3 accused, namely, Accused 8 Nandlal, Accused 9 Bhagwat and Accused 10 Ramdular. For considering their case we will have to take into consideration the delay in lodging the FIR. No doubt that in each and every case, delay in lodging the FIR would not be fatal to the prosecution case. It will depend upon facts and circumstances of each case. In the present case, as already discussed hereinabove, assuming that the incident

had taken place at 8.30 p.m. and the injured persons were at Baloda Bazar between 10-11 p.m., and taking into consideration that the distance between Baloda Bazar to Suhela Police Station is 15 km, a delay of four hours in lodging the FIR would cast a serious doubt on the genuineness of the prosecution case. It becomes more glaring since Accused 11 Naresh Kumar had, in any case, informed the police about the incident prior to 11.45 p.m. The suppression of the FIR lodged by him with respect to the attack on him by Atmaram (PW 1), so also the suppression of the FIR lodged by Atmaram (PW 1) against Accused 11 Naresh Kumar, adds to the doubt.

30. We may gainfully refer to the following observations of this Court in Ramesh Baburao Devaskar v. State of Maharashtra⁹.

“19. In a case of this nature, enmity between two groups is accepted. In a situation of this nature, whether the first information report was ante-timed or not also requires serious consideration. First information report, in a case of this nature, provides for a valuable piece of evidence although it may not be a substantial evidence. The reason for insisting on lodging of first information report without undue delay is to obtain the earlier information in regard to the circumstances in which the crime had been committed, the name of the accused, the parts played

9. (2007) 13 SCC 501 : (2009) 1 SCC (Cri) 212

by them, the weapons which had been used as also the names of eyewitnesses. Where the parties are at loggerheads and there had been instances which resulted in death of one or the other, lodging of a first information report is always considered to be vital.”

31. As held by this Court in Ramesh Baburao⁹, the FIR is a valuable piece of evidence, although it may not be substantial evidence. The immediate lodging of an FIR removes suspicion with regard to over implication of number of persons, particularly when the case involved a fight between two groups. When the parties are at loggerheads, the immediate lodging of the FIR provides credence to the prosecution case.”

32. In the present case, there is not only a delay in recording of the *fardbeyan* and lodging of the First Information Report, the delay has further occurred in sending the FIR to the court of learned Chief Judicial Magistrate, Bhagalpur. If the FIR was registered on 16.09.2000 at 2:30 PM, the receipt of the same in the court of learned CJM, Bhagalpur on 18.09.2000 is an unexplained delay fortifying the belief of this Court that, in a case of this nature where enmity between two groups is admitted, false implications of the members of the rival party by ante-dating and ante-timing the First Information Report cannot be ruled out. In the case of **Meharaj Singh (L/Nk.) vs. State of U.P. with Kalu vs. State of U.P. and Ors.** reported in (1994) 5 SCC 188, the

Hon'ble Supreme Court observed *inter alia* as under in paragraph

'12' of its judgment:-

“.....With a view to determine whether the FIR was lodged at the time it is alleged to have been recorded, the courts generally look for certain external checks. One of the checks is the receipt of the copy of the FIR, called a special report in a murder case, by the local Magistrate. If this report is received by the Magistrate late it can give rise to an inference that the FIR was not lodged at the time it is alleged to have been recorded, unless, of course the prosecution can offer a satisfactory explanation for the delay in despatching or receipt of the copy of the FIR by the local Magistrate. Prosecution has led no evidence at all in this behalf. The second external check equally important is the sending of the copy of the FIR along with the dead body and its reference in the inquest report. Even though the inquest report, prepared under Section 174 CrPC, is aimed at serving a statutory function, to lend credence to the prosecution case, the details of the FIR and the gist of statements recorded during inquest proceedings get reflected in the report. The absence of those details is indicative of the fact that the prosecution story was still in an embryo state and had not been given any shape and that the FIR came to be recorded later on after due deliberations and consultations and was then ante-timed to give it the colour of a promptly lodged FIR. In our opinion, on account of the infirmities as noticed above, the FIR has lost its value and authenticity and it appears to us that the same has been ante-timed and had not been recorded till the inquest proceedings were over at the spot by PW 8.”

33. In order to judge the totality of the prosecution case, this Court has gone through the entire evidence of the prosecution

witnesses. The attempt of this Court is to find out whether some of the prosecution witnesses who have claimed themselves an eyewitness to the occurrence are actually eyewitness and their oral testimony may be placed in the category of a wholly reliable witness. In this regard, when this Court goes through the deposition of Krishna Mohan Kanhaiya (PW-1) who is the son of the deceased, it is found that on the date of his deposition, PW-1 was twelve years old. The learned trial court has recorded that this witness is able to understand, he studies in Kajraili High School. In paragraph '7' of his deposition, PW-1 has stated that when he reached his house, then he heard *hulla* that his father has been murdered by the accused persons. He has not stated as to who told him about the accused persons and who had raised the *hulla*. In paragraph '9' of his deposition, PW-1 has stated that the occurrence took place at about 4:00 PM and thereafter all the persons of the family had come to the place of occurrence where the beheaded dead body of his father was lying. From his evidence, it is evident that he is not an eyewitness to the occurrence and according to him, all the persons of the family reached to the place of occurrence after the occurrence, therefore, according to PW-1, the family members are also not eyewitnesses to the occurrence.

34. It is further found from paragraph '10' of the deposition of PW-1 that Police had arrived at the place of occurrence but the statement of PW-1 was recorded on the next day. Despite presence of PW-1 at the place of occurrence, why his statement was immediately not recorded by the I.O. would further raise a doubt as to whether the prosecution was taking time in coming out with its case and for that reason no statement was being recorded. In paragraph '17' of his deposition, PW-1 has stated that when he reached his house by a cycle, at that time in his house, his mother, grandmother and uncle were present. His uncle's name is Subodh Yadav. This witness has stated that Ambika Yadav (PW-6) was not there. The statement of PW-1 in paragraph '10' is to be read with his statement in paragraph '32' wherein he has stated that when Daroga Ji came near the dead body then he had not told him about the occurrence which he has stated in the court. This witness was suggested that he was falsely deposing in this case after tutoring which he denied.

35. Usha Devi (PW-2) is the wife of the deceased. She is mother of PW-1. She has stated that at about 4:00 PM when her husband was returning from Bhagalpur, she was working in the paddy crop field and on hearing the sound of firing, she came on the ridge of the field and had seen that her husband had fallen

down in the field of Rameshwar Mandal. She had identified Rajendra Yadav, Krityanand Yadav, Arvind Yadav, Mangar Yadav, Prakash Yadav, Girish Yadav, Pintan Yadav who were fleeing away after killing her husband. She claims in paragraph '4' that after the occurrence she had gone to the place of occurrence where her family members namely Patar Yadav, Nawal Yadav, Chhedi Yadav, Ajay Yadav and others came. She has also stated in paragraph '5' that later on her *devar* came, she has again stated that her *devar* Ambika Yadav (PW-6) had accompanied her. From the evidence of PW-2 it would appear that she claims herself an eyewitness but according to PW-1 she was in the house and only after hearing *hulla* PW-1 and other members of the family had come to the place of occurrence. From the evidence of PW-2 itself it is also clear that Ambika (PW-6) had also come with PW-2 only after the occurrence. She has stated in paragraph '10' of her deposition that in the neighbouring paddy field there was no person, therefore a question would arise that from where Ambika Yadav (PW-6) came to accompany her and went to the place of occurrence.

36. PW-2 has stated that the agricultural field of Rameshwar Mandal is after four plots from the plot in which she was working but she had not shown that plot to Daroga Ji. In paragraph '16', she has stated that she did not make any statement

before Police when Police came near the dead body. She was suggested that she had made her statement after twelve-thirteen days which she denied. This witness has stated that that her husband (the deceased) was living in Bairiya but for what purpose he had come to the village from Bairiya Diyara was not known to her.

37. Rupesh Kumar Yadav (PW-3) is the nephew of the deceased. He has stated that at the time of occurrence, he was coming from his school by a bicycle, he claims to have seen the accused persons in the Jamua Bahiyar, he had taken PW-1 on his bicycle to the house. In his examination-in-chief, PW-3 has stated that he had gone to his house. In paragraph '9' of his deposition, he has stated that in his statement before Police, he had stated to have seen some of the accused persons but does not name Krityanand Yadav in paragraph '9' of his deposition. In paragraph '10', he has stated that he had gone to the place of occurrence after hearing about the murder of his elder father, he had gone with *Choukidar* Hari Paswan, PW-1 and PW2. Thereafter, Daroga Ji had come. From the evidence of PW-3, it is further clear that he is not an eyewitness and PW-2 had also gone to the place of occurrence along with him after getting the information about the murder of her husband.

38. In paragraph '12', PW-3 has stated that his statement was not recorded in the night. In paragraph '26' of his deposition, this witness has stated that he had not seen any person in the *bahiyar* at the time of going to and coming from the school. He had only seen the accused persons. Thus, from this statement of PW-3, it further appears that the claim of PW-2, PW-4, PW-5 and PW-6 that they were in the paddy crop field in the *bahiyar* near the place of occurrence at a distance of ten *katthas* of land only is false and such statements are not believable.

39. Bindeshwari Yadav (PW-4) has claimed that he had seen the occurrence from a distance of ten *katthas* of land and had heard the shout of his brother who was crying for help. He has stated in paragraph '4' that in the paddy crop field of Rameshwar Mandal, his brother had fallen down whereafter twenty accused persons were assaulting him. This Court finds that the claim of PW-4 as to his presence near the place of occurrence cannot be given any credence and it stands falsified from the evidence of PW-1, PW-2 and PW-3. His statement as regards the manner of occurrence has not been supported by the I.O. (PW-10). PW-10 had not found any sign of physical assault in the field and the paddy crops of Rameshwar Mandal were not found in trampled condition. Thus, the statement of PW-4 that twenty persons were

assaulting the deceased in the paddy crop field cannot be given any evidentiary value. Further, PW-4 has stated that all the accused persons went away firing but the I.O. did not find any empty cartridge at the place of occurrence. If such large number of persons were firing from their weapon, the evidence of the I.O. saying that he did not find any fired cartridge at the place of occurrence would lead to conclude that PW-4 is making a false statement. In paragraph '6', this witness has stated that when he reached near the dead body, flies were buzzing on the body of the deceased. Again, this Court finds that the statement of PW-4 is not believable because if he reached to the dead body from a distance of ten *katthas* only, then within such a short time, it is not possible that the flies would be present on the dead body. In paragraph '7', this witness has stated that on the next day i.e. on 16.09.2000, the dead body was laden on a truck after giving statement to Daroga. We have noticed that according to this witness, when Daroga came in the village in the night, this witness had gone to PW-6 where other witnesses were also present and he had made statement which was recorded by Daroga and his thumb impression was obtained, the same was witnessed by PW-6 but this statement of PW-4 has been suppressed by the prosecution. In the said background, the statement made in paragraph '7' saying that on the

next day, the dead body was laden on a truck after giving statement to Daroga is self-contradictory and it is an attempt to suppress his earlier statement made on 15.09.2000 in the night hours when Police had arrived in the village. In latter part of his evidence, he has stated that 50-60 persons had surrounded the deceased in the field of Rameshwar Mandal and according to him, the crops were trampled, he had left the place of occurrence after two-three hours when darkness had prevailed. From this part of his deposition, it is evident that PW-4 had returned to the village after two-three hours and had met Daroga in the village at 10:30 PM, he had recorded his statement on 15.09.2000 at 10:30 PM in the village. We have already seen that the I.O. has stated that there was no trampling of crops in the paddy field. According to this witness, he raised *hulla* whereafter Ambika Yadav (PW-6) had come, therefore, the claim of PW-6 that he had reached the place of occurrence whereafter others had come is in conflict with the evidence of PW-4.

40. Anirudh Yadav (PW-5) is one of the brothers of the deceased. He claims himself an eyewitness. This witness has again claimed that he was in the paddy crop field when the occurrence took place. He has stated that when Daroga came at about 9-10:00 PM, at that time he was near the dead body with the Chowkidar

and was protecting the same in lantern light. He does not talk of presence of PW-6 near dead body when Police came. According to him, Ambika Yadav (PW-6) told next day that the head is in the field of Madho Yadav. He has stated that all six brothers were in jail and he was himself in jail in murder case of Chhedi Yadav. Land dispute is admitted. This witness was suggested by the defence that he was not in the village and he was in Deoghar. This witness admits that Kanhaiya, Rupesh and wife of the deceased came first near the dead body, thereafter he, Ambika and Bindeshwari came. From his evidence, it is crystal clear that PW-5 is not an eyewitness.

41. Ambika Nand Yadav (PW-6) has come forward to claim that he is an eyewitness to the occurrence and had seen the occurrence. The conduct of PW-6 is highly doubtful. He has stated that after cutting the neck of his deceased brother, when Bangar Yadav took the same in his hand, this witness and all brothers rushed to save him then other accused persons started firing on them whereafter all the accused persons went away towards east side with the head and threw the same in the field of Madho Yadav and fled away. This Court has already noticed from the evidence of I.O. (PW-10) that he had not found any fired cartridge at the place of occurrence. The I.O. has claimed that the chopped off head of

the deceased was found next day in the field of Madho Yadav with the help of villagers. Thus, a question would arise that if PW-6 was aware of the place where the head had been thrown, why it was not disclosed to PW-10 in the night itself. The evidence of PW-6 would also lead to take a view that the head of the dead body was within the knowledge of PW-6 and it was recovered on 15.09.2000 itself but the inquest report was prepared on the next day only because the prosecution case was not coming out clearly with the name of the accused persons, therefore, the preparation of inquest report was delayed.

42. PW-6 had gone to the Police Station but he did not make any statement before Police. I.O. has stated that prior to recording of the *fardbeyan* of PW-6, nobody had told him about the accused persons which would only corroborate the evidence of PW-7 and PW-8 that in their presence the prosecution witnesses were only saying that the murderers had killed their brother and had fled away with the head.

43. The I.O. (PW-10) has contradicted the prosecution witnesses and it may be found from the findings of the learned trial court that the I.O. (PW-10) has in course of his cross-examination from paragraph '7' to '12' stated that the witnesses had not stated before him as they had deposed in the court. Thus the I.O.

contradicts the statement of the prosecution witnesses which would further lead this Court to believe that in fact there is no eyewitness to this occurrence and only at a much belated stage by ante-dating and ante-timing, the First Information Report was lodged implicating altogether nineteen accused persons because they were from the rival group and inimical to the prosecution side with whom land dispute was going on. It is a case of blind murder. The learned trial court has acquitted fourteen accused persons on the same set of evidence by disbelieving the prosecution witnesses in their respect.

44. This Court finds that on the basis of the kind of evidences which have come before the learned trial court, it would not be safe to convict the appellants solely on the basis of the evidence of inimical, related and interested witnesses who are not corroborated by any independent witness and material particulars.

45. We, therefore, set aside the impugned judgment and order of the learned trial court and acquit all the appellants of the charges, giving them benefit of doubt. The appellant Krityanand Yadav in Cr. Appeal (DB) No. 568 of 2018 is in jail, he would be released forthwith, if not wanted in any other case. All other appellants except Krityanand Yadav are on bail, hence they are discharged from the liabilities of their bail bonds.

46. Both the appeals are allowed.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

SUSHMA2/Rishi-

AFR/NAFR	
CAV DATE	
Uploading Date	29.07.2024
Transmission Date	29.07.2024