

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2965 of 2022

Arising Out of PS. Case No.-389 Year-2019 Thana- BARH District- Patna

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Anant Kumar Singh @ Anant Singh Son Of Late Chandradeep Singh
Resident Of Village - Nadawan, P.S.- Barh, District - Patna.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

With

CRIMINAL APPEAL (SJ) No. 3073 of 2022

Arising Out of PS. Case No.-389 Year-2019 Thana- BARH District- Patna

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SUNIL RAM S/o Late Dukhi Ram R/o village- Nadwan, P.S.- Barh,
District- Patna

... .. Appellant

Versus

The State of Bihar

... .. Respondent

=====

Appearance :

(In CRIMINAL APPEAL (SJ) No. 2965 of 2022)

For the Appellant/s : Mr.P.N. Shahi, Sr. Advocate
Mr.Shivam, Advocate

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

(In CRIMINAL APPEAL (SJ) No. 3073 of 2022)

For the Appellant/s : Mr.Santosh Kumar Pandey, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT

Date : 14-08-2024

Heard Mr. P.N. Shahi, learned senior counsel for
the appellants in both these appeals and Mr. Ajay Mishra,
learned Additional Public Prosecutor for the State.

2. Both these appeals have been heard together
and are being disposed of by this common judgment.



3. Both above-mentioned appeals have been filed under Section 374(2) of the Code of Criminal Procedure (in short the "Cr.P.C.") for setting aside the judgment of conviction dated 14th June, 2022 and order of sentence dated 21st June, 2022 passed by learned Special Judge, M.P./M.L.A., Patna in connection with Special Case No. 01 of 2020 arising out of Barh P.S. Case No. 389 of 2019, whereby and whereunder the appellants have been convicted for the offences under Sections 414, 120(B) of the Indian Penal Code and Sections 25(1-A)/35, 25(1-AA)/35, 26/35 of the Arms Act and Section 4 of the Explosive Substances Act, 1908 and sentenced to undergo imprisonment for a term of 10 years under Section 25(1-A)/35 of the Arms Act with fine of Rs. 20,000/-, in case of default of payment of fine, they shall undergo further sentence for six months. The learned trial court awarded same punishment i.e. imprisonment for a term of 10 years and fine of Rs. 20,000/- for the offence under section 25(1-AA)/35 of the Arms Act. Further, learned trial court awarded R.I. for a term of 10 years with fine of Rs. 50,000/- to the



appellants/convicts for the offence under Section 4 of the Explosive Substances Act, in case of default in payment of fine, they shall further undergo imprisonment of one year. A sentence of imprisonment for a term of three years was awarded to the appellants/convicts by the learned trial court under Section 414 of the I.P.C. with further observation that the same punishment is being awarded for the offence under Section 120B of the I.P.C. All the sentences was ordered to run concurrently by learned trial court and period of custody undergone by the appellants/convicts in judicial custody ordered to be set-off from the punishment provided to them.

Brief facts of the case

4. The case of the prosecution as it appears available from self-statement of the informant, who is Sanjeet Kumar (PW-1), Police Inspector-cum-S.H.O. of Barh Police Station, recorded on 16.08.2019 at 8:00 P.M. at village - Nadawan (place of raid) that a confidential information was received by him that the appellant namely, Anant Kumar Singh, M.L.A. from Mokama Constituency, had kept hidden illegal prohibited arms and explosive substance



in his house at village-Nadawan, P.S.-Barh, District – Patna and he is planning to take it away elsewhere. Having such information, the informant, recorded a Sanha (station diary entry) and informed about the same to his senior police officials. Thereafter, a team was constituted comprising of S.H.O. of Mokama Police Station Sri Rajnandan; S.H.O. of N.T.P.C. Police Station Sri Amardeep Kumar; S.H.O. of Pandarak Police Station Sri Raman Prakash Basisth; S.H.O. of Hathidah Police Station Sri Ravi Ranjan Singh and S.H.O. of Belchhi Police Station Sri Akhilesh Singh. The informant alongwith members of the raiding team proceeded to village Nadawan. When they reached at the house of appellant Anant Kumar Singh, by that time other police officials and armed forces were already present over there. The informant further stated that main door of the house of the appellant was found locked, whereafter, the informant requested the Sub-Divisional Officer, Barh, for deputing an Executive Magistrate for lawful search. On such request, Sri Amrendra Kumar Singh, Executive Magistrate/PW-13 reached there at 10:45 A.M. On inquiry, the villagers informed that one Sunil



Ram, co-accused/convict, looks after the house of the concerned M.L.A. and he has a key for the said lock. The informant further stated that the villagers informed that Sunil Ram look-after the house, cattle and farming of the appellant Anant Kumar Singh. Thereafter, Sunil Ram, co-accused/appellant was apprehended and asked to open the lock of the house in question. The informant stated that no person was ready to become independent witness of the search, thereafter, Constable Ajeet Kumar Singh (PW-10) and Shrawan Kumar (PW-11) who were present there, became independent witnesses and thereafter, lock of the house was opened. The informant further stated that from Khaparposh (brick plate) room situated on the left side, after entering from main door of the house, a yellow colour plastic bag was found in the north-eastern corner of the room and on opening the same, one A.K. 47 automatic fire arms and loaded Magazine were recovered, which was found wrapped with white plastic, newspaper and carbon by putting tape over the same. Upon unloading the magazine, 26 live cartridges of 7.62 mm were recovered. The mark of R8286



on the body receiver, RV7286 on Bolt and TR2496 on Bolt carrier with piston were found on the body of the recovered A.K.47. A plastic box covered by newspaper was also found behind the Iron Almirah, where some substance appearing as explosive, was found to be kept, and on possibility of being explosive substance, bomb disposal squad was called for, when they reached there and enquired about the same, they found metallic explosive substance, accordingly, A.T.S. Bihar, Patna was informed. A team of A.T.S. Bihar came at the spot and after investigation, they found two grenades wrapped with carbon which was kept inside the plastic box. The informant further alleged that on inquiry from the nearby people, it was informed that the house in question belongs to Anant Kumar Singh, the appellant-convict, who is M.L.A. from Mokama Constituency. Thereafter, co-accused Sunil Ram, was arrested on spot and taken into custody. Upon aforesaid self-statement of the informant, a First Information Report i.e. Barh P.S. Case No. 389 of 2019 was registered for the offences under Sections 414/120(B) of the Indian Penal Code and Section 25(1-A), 25(1-AA), 25(1-



B)A/25(1-B)C/26/35 of the Arms Act and Section 3/4 of the Explosive Substances Act and Section 13 of the U.A.P. Act.

5. The police after investigation submitted charge-sheet No. 398/2019 dated 04.11.2019, which was submitted in the court on 05.11.2019. Thereafter, cognizance was taken on 06.11.2019 and case was committed to the court of session on 17.06.2020.

6. To substantiate its case, the prosecution has examined altogether 13 witnesses, which are as under:

PW-1	Sanjeet Kumar (informant of the case)
PW-2	Rajnandan, Officer-in-Charge of Mokama P.S.
PW-3	Ram Prakash Vasisth, Officer-in-charge of Pandarak P.S.
PW-4	Ravi Ranjan Singh, Officer-in-Charge of Hathidah P.S.
PW-5	Amardeep Kumar, Officer-in-Charge of N.T.P.C. P.S. Barh
PW-6	Dilip Kumar, Assistant Director of Forensic Sciences Laboratory, Patna, who is said to have examined AK-47 Rifle and 26 live cartridges allegedly recovered from the place of occurrence.
PW-7	Amit Kumar Choudhary, Assistant Director, Forensic Sciences Laboratory, Patna, who has examined Grenades Cell which was recovered from the place of occurrence.
PW-8	Ashish Kumar Singh, Dy.S.P. Jamui, who has received seized arms and explosive substance sent by PW-9.



PW-9	Lipi Singh, A.S.P. Barh (I.O. of the case)
PW-10	Shravan Kumar, Reserve Guard, Barh P.S.
PW-11	Ajeet Kumar Singh, Reserve Guard, Barh P.S.
PW-12	Kumaril Satyanand, Deputy Collector, Patna, who proved the signature of the then D.M., Patna on the prosecution sanction order (Ext. 8/I, 8/II and 8/III)
PW-13	Amrendra Kumar Sinha, the then B.D.O. Barh and was deputed as Magistrate for search and seizure.

7. Apart from the oral evidence, the prosecution has also relied upon following documents/exhibits in order to prove the charges:-

Exhibit Nos.	List of Documents
Exhibit – 1	Formal Information Report
Exhibit – 2	Self-statement of Sanjeet Kumar
Exhibit – 3	Seizure list
Exhibit – 3/1 & 3/2	Signature of witnesses on the seizure list
Exhibit – 3/3	Signature of Magistrate Amrendra Kumar Sinha on the seizure list.
Exhibit – 4	Report of forensic science laboratory
Exhibit – 5	Report of forensic science laboratory
Exhibit – 6	Report of Sergeant Major
Exhibit – 7	Letter of Sanjay Kumar, Assistant Secretary, Bihar Vidhan Sabha to ASP, Barh, Patna dated 20.09.2019
Exhibit - 8	Sanction order of District Magistrate, Patna
Exhibit – 8/1,	Initial of the District Magistrate on the



8/2 & 8/3	sanction order
Exhibit – 9	Document of All India Institute of Medical Science, New Delhi in respect of accused Anant Kumar Singh.
Exhibit – 10 & 11	Forwarding letters to forensic science laboratory for the examination of recovered arms ammunition and explosive substance from the place of occurrence.
Exhibit – 12	Charge-sheet and
Exhibit – Y	Questionnaire letter issued by BDO Barh to ASP Barh Patna Letter No. 2203/16.10.2019.
Exhibit – (I)	AK-47
Exhibit – (II) to Exhibit (II)/ (XXIV)	25 Live Cartridges
Exhibit – (III) & (III)/(I)	One empty cartridge and one pellet.
Exhibit (IV)	One empty magazine.

8. On the basis of evidence as surfaced during the trial, the learned trial court has examined the appellants/convicts under Section 313 of the Code, where they completely denied their involvement by denying the incriminating evidences surfaced during the trial and stated that they were implicated with this case falsely and claimed their complete innocence.

9. On behalf of the defence, altogether 34 witness



were examined by the learned trial court which are as under:

DW-1	Sujeet Kumar
DW-2	Manikant Kumar
DW-3	Purshottam Kr. Singh
DW-4	Dhananjay Kr. Singh
DW-5	Kunj Bihari Sharma
DW-6	Anil Kr. Singh
DW-7	Chandramauli Prasad Sharma
DW-8	Shyam Bihari Kumar
DW-9	Gopal Sharan Singh
DW-10	Sunil Kumar Singh
DW-11	Mithilesh Kumar
DW-12	Deepak Kumar Singh
DW-13	Ramesh Prasad Singh
DW-14	Satyendra Kumar Singh
DW-15	Mritunjay Kumar
DW-16	Mritunjay Kumar
DW-17	Ramanuj Singh
DW-18	Madhusudan Singh
DW-19	Suryamani Singh
DW-20	Shiv Kumar Singh
DW-21	Shyam Nandan Mahato
DW-22	Mithilesh Kumar Singh
DW-23	Tuntun Ram
DW-24	Shivam Kumar
DW-25	Nityanand Pandey
DW-26	Rajesh Kumar
DW-27	Manoj Kumar @ Yogendra Kumar
DW-28	Gopal Ram
DW-29	Gautam Prasad Singh



DW-30	Lalan Kumar
DW-31	Sanjeet Kumar Singh
DW-32	Rishikesh Sharma
DW-33	Nawal Kishore Singh
DW-34	Chandra Shekhar Prasad Singh

10. Taking note of the evidence as surfaced during the trial and the arguments as advanced by the parties, the learned Trial Court has convicted both the appellants/convicts for the offences under Sections 414, 120(B) of the Indian Penal Code and Section 25(1-A)/35, 25(1-AA)/35, 26/35 of the Arms Act and Section 4 of the Explosive Substance Act, 1908 and sentenced them in the manner as stated above.

11. Being aggrieved with the aforesaid judgment of conviction and order of sentence, the appellants/convicts has preferred the present appeal.

12. Hence, the present appeal.

Submission on behalf of the appellant/convict

13. Mr. P.N. Shahi, learned senior counsel appearing on behalf of the appellant/convict submitted that



implication of appellant/convict namely, Anant Kumar Singh @ Anant Singh (appellant of Cr. Appeal (SJ) No. 2965 of 2022) with the present case is a classical example to show that how a political person which does not found fit, within the designed framework of ruling political party can be falsely implicated with serious criminal case as of present. In support of his submission, it is pointed out that the F.I.R. in issue (Exhibit '1') was lodged under Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the "U.A.P. Act") only for the reason that a police officer not below the rank of Dy.S.P. can be made investigating officer of the case, though after investigation charge-sheet was not submitted for the offence under U.A.P. Act. It is submitted that at the time of recovery, investigating officer of this case/PW-9 namely, Lipi Singh, who was a Probationer IPS Officer, posted as Dy.S.P. Barh was the daughter of the then prominent national leader of ruling party. It is submitted that appellant/convict was implicated falsely with present case just after the election, when he refused to fall within designed frame of ruling political party.



14. It is further submitted by Mr. Shahi, that the case of the prosecution is doubtful from its very inception for the reason that as per the case of the prosecution, the house of appellant/convict, Anant Singh located at village – Nadawan, Sub-division, Barh, District – Patna was found closed at the time of raid. When raiding party arrived at the house of appellant/convict, it came to know from co-villagers (name not specified), who were gathered over there that co-accused Sunil Ram (appellant of Cr. Appeal (SJ) No. 3073 of 2022) is the caretaker of the house of the appellant/convict, Anant Singh, who was also found roaming there. Upon said information, Sunil Ram was searched and a key was found from his possession with which the lock of the house of appellant/convict, Anant Singh was opened, but, interestingly neither said lock nor the key were seized or produced during the trial, suggesting a serious doubt regarding the case of the prosecution.

15. It is submitted by Mr. Shahi that prohibited recovered fire-arm i.e. A.K. 47 and live cartridges was alleged to be recovered from the house of the appellant at



about 11:15 A.M., was not seized at the place of recovery and no seizure list was prepared thereof in presence of independent witnesses, however, prosecution witnesses deposed that the prohibited fire-arms were brought at police station and seized over there. The gap of 6 to 7 hours is very crucial and important having all probabilities of tampering with recovered fire-arms creating a serious doubt *qua* sealing and seizure of arms and explosive substance like Hand-grenade. It is submitted that no doubt conviction can be secured on the basis of exclusive testimony of departmental witnesses i.e. police personnel, but same must inspired confidence regarding truthfulness of prosecution case.

16. It is further submitted that in view of major contradictions regarding recovery, sealing of prohibited fire-arms, preparation of seizure list, non-examination of independent witnesses etc. were completely overlooked by the learned trial court, while recording the impugned judgment of conviction, making it questionable for the reason that all such aforesaid major contradictions, which



surfaced during the trial makes prosecution witnesses to fall under the category of “**wholly unreliable**” witnesses.

17. In support of his submission as made above, Mr. Shahi relied upon the legal reports of Hon’ble Supreme Court as available through **Amarjit Singh alias Babbu Vs. State of Punjab [1995 Supp (3) SCC 217]; Nand Lal v. State of Chhattisgarh [(2023) 10 SCC 470]** and also **Tahir v. State (Delhi) [(1996) 3 SCC 338]**.

18. It is also submitted by Mr. Shahi that PW-10, PW-11, PW-12 and PW-13 does not find mention their name in the charge-sheet and their statements are not available under Section 161 of the Cr.P.C. and as their statement could not recorded during course of investigation, they appears deposed first time before the court during the trial, therefore, learned trial court committed grave error while accepting the deposition of these witnesses in favour of conviction. In support of his submission, Mr. Shahi also relied upon legal report of Hon’ble Supreme Court, as available through **Ram Lakhn Singh & Others Vs. State of Uttar Pradesh [(1977) 3 SCC 268]**.



19. It is pointed out that there is nothing available on record which may suggest or prove that the house in issue is being exclusively occupied by the appellant/convict, Anant Singh. There is no khata and khersra number are available *qua* property in issue, neither any documentary evidence surfaced during trial to suggest that same is under exclusive occupancy of appellant Anant Singh. It is an ancestral property of appellant, Anant Singh situated at village-Nadawan, having different co-sharer, where on very rare occasion appellant/convict visits. There is no evidence on record that when on last such occasion said house/premises was visited by the appellant/convict, Anant Singh, and also that house in issue was not visited by any one after the last visit of appellant, Anant Singh, if any.

20. It is submitted by Mr. Shahi that prosecution miserably failed to prove that prohibited fire-arms i.e. A.K.47 alongwith its magazines, live cartridges and also two live Grenades were recovered from the conscious physical possession of appellant/convict. It is admitted position that at the time of raid, the appellant was in judicial custody in



some other case. Prosecution also failed to establish that convict Sunil Ram was a caretaker of the house of the appellant/convict. There is no documentary or oral evidence regarding this fact. It is pointed out from the testimony of prosecution witnesses that nothing can be gathered during raid of the house in issue which may suggest that court has reason to believe regarding knowledge of appellants/convict for having prohibited fire-arms and live Grenades in alleged house and, therefore, the conviction which appears to secured with the aid of Section 35 of the Arms Act, appears bad in the eyes of law. In support of submission, Mr. Shahi, relied upon the legal report of Hon'ble Supreme Court as available through **Pabitar Singh Vs. State of Bihar [1972 AIR SC 1899]**.

21. While concluding argument, it is submitted by Mr. Shahi, learned senior counsel that compliance of Section 100(4) of the Cr.P.C. relating to search and seizure of premises has also not been followed in the present case. It appears from deposition of almost all prosecution witnesses that a crowd of co-villagers were gathered over there, but no



attempt was ever made by the raiding party to make them independent witnesses and, therefore, starting from opening of house to its search, recovery, sealing and seizure etc. of prohibited recovered arms, where nothing appears supported by independent witnesses and as such on all these scores, judgment of conviction as recorded by the learned trial court became questionable. In support of his submission, learned senior counsel relied upon the legal report of Hon'ble Supreme Court as available through **Sahib Singh Vs. State of Punjab [(1996) 11 SCC 685]**.

Submission on behalf of the State

22. Mr. Ajay Mishra, learned Additional Public Prosecutor for the State, while opposing the appeal, submitted that merely on the ground of certain fault on the part of investigating officer, the case of prosecution cannot be disbelieved. A faulty investigation cannot be a ground for quashing of judgment of conviction.

23. In support of his submission, learned A.P.P. relied upon legal report of Hon'ble Apex Court as available through **Ram Bihari Yadav Vs. State of Bihar [(1998) 4**



SCC 517] and submitted that if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the law-enforcing agency but also in the administration of justice.

24. Mr. Mishra further referred the legal report of Hon'ble Supreme Court as available through **Karnel Singh Vs. State of M.P. [(1995) 5 SCC 518]**; wherein it has been categorically held by Hon'ble Apex Court that in case of defective investigation the court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect and to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective.

25. It is pointed out that evidence of police personnel cannot be discarded particularly when it was specific case of the prosecution that they tried to procure independent witnesses from the public but no one was willing



to join the raid as a witness due to terror of appellant. In support of submission, learned A.P.P. relied upon the legal report of Hon'ble Apex Court as available through **Brij Pal Vs. State (Delhi Administration) [(1996) 2 SCC 676]**.

It is submitted that save and except certain minor contradictions, there is no irregularities as far sealing, seizure of prohibited fire-arms are concerned. It is pointed out that mismatching of seized materials is due to typographical error.

26. Learned A.P.P. submitted that appellant/convict, Anant Singh furnished his address before Election Commission, the same premises, as his house, situated in Village-Nadawan, district – Patna, and, therefore, there is no dispute regarding the sharing of premises by appellant/convict. It is pointed out that co-accused Sunil Ram is a close associate of appellant/convict since 2004 and he participated in several heinous offences along with appellant/convict as accomplice.

27. Learned A.P.P. further submitted that as per mandate of Section 161 of the Cr.P.C., it is not mandatory



that oral statement taken by the investigating officers must be reduced in writing as word 'may' is used thereof. It is submitted that different political interest is not an available ground as to absolve criminal responsibility, which otherwise appearing convincing from the available evidence.

28. Learned A.P.P. further relied upon the legal reports of Hon'ble Supreme Court in the cases of **Zahira Habibulla H. Sheikh and Another Vs. State of Gujarat and Others [(2004) 4 SCC 158; Durga Prasad Gupta Vs. State of Rajasthan through CBI [(2003) 12 SCC 257]** and **Chandra Prakash Vs. State of Rajasthan [(2014) 8 SCC 340]** in support of his submission.

29. In view of the aforesaid, learned A.P.P. submitted that there is no occasion to interfere with the judgment of learned trial court, whereby both appellants were convicted.

30. I have perused the trial court records carefully and gone through the evidences available on record as also considered the rival submissions as canvassed by learned counsel appearing on behalf of the parties. It appears



apposite to discuss the evidence available on record for the purpose of its re-appreciation for just and proper disposal of this appeal.

Discussion of Evidence:

31. P.W-1 is Sanjeet Kumar who is the informant of this case and was posted as Police Inspector-cum-S.H.O. at Barh Police Station on 16th August, 2019, where he received a secret information at about 3:15 A.M. that arms and explosive substance are kept hidden in ancestral house of the appellant M.L.A. Anant Kumar Singh at village -Nadawan which are planned to be transported somewhere else. He forwarded this information to his senior officers. He recorded Sanha (Thana entry) for said information and directed ASI Mukund Paswan (not examined), who was on night patrolling duty to arrive immediately at village-Nadawan and also informed senior officers to constitute a team, which upon his request was constituted comprising of S.H.O. Hathidah P.S., Ravi Ranjan Kumar Singh (PW-4); S.H.O. Mokama P.S. Raj Nandan (PW-2); S.H.O. Pandarak Ram Prakash Vasisth (PW-3); S.H.O.



N.T.P.S. P.S., Barh, Amardeep Kumar (PW-5) and S.H.O. Belchhi P.S. He proceeded from police station at about 4:00 A.M. with armed forces and arrived at about 4:30 A.M. at the house of appellant Anant Singh at village - Nadawan. He found that before his arrival, the house of appellant, Anant Singh, was surrounded by night patrolling team and armed force persons headed by police officer Mukund Paswan. After arrival, he found that the main gate of the house was closed with a lock. Information of said fact was given to the senior police officers and also to S.D.O. Barh, as to appoint Magistrate. Finally, he came to the house of appellant, Anant Singh, of vilalge - Nadawan with armed force at about 10:00 A.M. At about 10:40 A.M. Amrendra Kumar Sinha, (B.D.O., Barh/PW-13), who was appointed as Magistrate, came over there. It appears from his deposition that seeing police action, persons of neighbourhood gathered over there, from whom the enquiry was made regarding the occupants of the house, whereupon some persons from said crowd disclosed that Sunil Ram (co-convict of Cr. Appeal (SJ) No. 3073/2022), resident of same village i.e. Nadawan remains



in possession of one key of said house, who was identified by nearby people, who further disclosed that he is the person who take care of the house of MLA Anant Singh and also look after his agricultural activities. Upon said disclosure, with the help of police personnel co-convict Sunil Ram was arrested and was asked to open the lock. A request was made to the persons gathered over there to become independent witness of this case, but none of them come forward due to terror of MLA Anant Singh, whereafter, Ajeet Kumar Singh (PW-11) and Shrawan Kumar (PW-10), both members of Reserved forces, Barh were taken as an independent witnesses. After compliance of lawful search of raiding team members, main gate of the house of appellant Anant Singh was opened by co-convict Sunil Ram, and, thereafter, each room was searched one by one, where in course of said search in eastern side of the house, there was a west facing room, where in north-west corner one Iron made Almirah was kept, behind which a yellow plastic bag was found kept, which after opening, found with one AK-47 automatic rifle with plastic grip, one magazine wrapped in



paper and plastic having length of one *warlust* which upon unloading found with 26 cartridges of 7.62 mm. Out of which 22 cartridges was of one type and four cartridges was of another type. All such materials were found collectively wrapped with white plastic and paper having carbon tape. It is further deposed that behind of aforesaid Almirah a plastic box was also found which was covered with carbon and paper and was looking like explosive substance, for which information was given to senior police officers, whereupon a bomb explosive squad was sent to village-Nadawan, which upon inspection said that same is explosive substance, containing metals and asked raiding team not to handle with it. Said information was given to ATS, Bihar, which sent one bomb disposal squad. He further deposed that the seizure list regarding recovered AK-47, magazines and hand grenades was prepared at about 7:45 (P.M.) in presence of two independent witnesses namely, Ajeet Kumar Singh (PW-11) and Shrawan Kumar (PW-10) and obtained thumb impression of Sunil Ram on said seizure list. A copy of said seizure was supplied to co-convict Sunil Ram also. He



recorded his self-statement at about 8:00 P.M. at place of occurrence itself. Hand-grenade was kept safely by covering with sand bag as per direction of the ATS team and, thereafter, came to the police station alongwith seized materials cartridges, magazine which was found in yellow bag and all the seized materials, as per seizure list alongwith, co-convict Sunil Ram, whereafter, formal F.I.R. was drawn at 10:30 P.M. He identified said F.I.R., which was in his handwriting and also bears his signature over there which upon his identification before the court was exhibited as **Exhibit '1'**. It is deposed that self-written statement was prepared at the place of occurrence itself. He identified his self-written statement which is computer typed and also identified his signature over there, which upon his identification, was exhibited as **Exhibit '2'**. He also identified his signature on search cum seizure list, which is computer typed and upon his identification before the court was exhibited as **Exhibit '3'**. He deposed to made his statement before I.O. of this case/PW-9. He identified both appellants, who were present in court.



31.1. Upon cross-examination, it was deposed that **Exhibit '2'** was typed by Constable Sanjay Anand (Constable No. 7267) which is running in three pages. He stated that it is nowhere mentioned in **Exhibit '2'** that typing was made under his dictation. He denied the suggestion that self-written statement is not before him. He stated that he know the difference between self-written and typed. He further stated that the statement, which is before him (**Exhibit '2'**) is a typed copy and not self-written. He also stated that it is not mentioned in typed copy of seizure that same was typed by typist after going through his self-written statement. He stated that both independent witnesses of seizure list are police constable (reserved force) of Barh Police Station. He identified the arrest memo of co-convict Sunil Ram, which upon his identification was marked as **Exhibit 'X'**. It is stated that said arrest memo is not disclosing any time of arrest. He accepted that it cannot be gathered out of arrest memo that appellant/convict, Sunil Ram, was arrested before preparation of seizure list. He deposed as not to know the co-convict Sunil Ram prior to



this occurrence. He also stated by affirming that **Exhibit '2'** does not provide details regarding any person of village - Nadawan, who identified the appellant/convict Sunil Ram and disclosed about his father's name. He categorically deposed that no seizure list was prepared regarding key. It was deposed that he is not even aware that with whom said key is available at present. It was stated that he informed regarding the occurrence to A.S.P. Barh, Smt. Lipi Singh (PW-9), City S.P. Kantesh Mishra, Sr.S.P., Patna. He informed A.S.P. Barh and Sr. S.P. Patna regarding occurrence from his service mobile phone. He stated that it is mentioned in **Exhibit '2'** that nearby peoples upon inquiry disclosed that house is of Mokama MLA Anant Kumar Singh @ Anant Singh and all goods may belongs to him. He clarified further that goods means seized materials. He categorically stated that it is nowhere mentioning in **Exhibit '2'** that who are those persons who helped him to identify the house of appellant Anant Kumar Singh and disclosed that the seized materials may belongs to him. It appears from his deposition that none of the members of the raiding team



were aware about the house of appellant Anant Singh prior to this occurrence. It is nowhere mentioned in **Exhibit '2'** regarding such persons, who were entered into the house. It is also not mentioning that when they arrived at the house in issue. It is also not disclosing that house in issue was identified by appellant/convict Sunil Ram and on the basis of his disclosure the seized materials were recovered. It is not even mentioned that Sunil Ram was enquired about the identification of the house and also about the seized materials mentioned in **Exhibit '3'**. It was dark about 7:30 P.M. on 16th August, 2019, where it is also not mentioned in **Exhibit '2'** regarding any arrangement of light. He deposed that it is also not mentioned in **Exhibit '2'** that whether seized materials were sealed at the place of occurrence or at the police station. He categorically deposed that **Exhibit '2'** is not disclosing whether any mark of identification was given to the seized materials. It is stated that as the F.I.R. in issue was lodged under the U.A.P. Act, it could not be investigated by a police officer below the rank of Dy.S.P. On the date of occurrence, ASP Smt. Lipi Singh was the Sub-



Divisional Police Officer (S.D.P.O.) who became the investigating officer of this case. He categorically deposed that **Exhibit '2'** was prepared after preparing Exhibit '3'. The occurrence was neither videographed nor photographed, so as to make it clear that from where the seized materials were recovered. He denied the suggestion that seized materials were not recovered from the place which was shown in seizure list. It was stated that in April, 2019, there was Parliamentary Election of Munger Lok Sabha constituency and Barh Police Station falls under said constituency. It is stated that in said election, Smt. Neelam Devi, wife of MLA Anant Singh, was contesting election as a candidate of Indian National Congress (in short 'INC') from Munger Parliamentary Constituency and Rajiv Ranjan Singh @ Lalan Singh was contesting as JD(U) candidate, which was alliance of NDA. At that point of time, NDA was in power, both at the Centre as well as State. At that point of time, Smt. Lipi Singh/PW-9 was posted as ASP Barh and Rajesh Ranjan was posted as S.H.O. Mokama. He denied the suggestion that these two officers were helping otherwise to



Rajiv Ranjan Singh @ Lalan Singh, for which a complaint was lodged by the wife of appellant Anant Singh before election commission and on said complaint, Lipi Singh (PW-9) was transferred to Patna as Dy.S.P. ATS, who again, re-transferred to Barh after completing election process. He stated that father of Lipi Singh (PW-9) namely, R.C.P. Singh, was a member of Upper house (Rajya Sabha) from JD(U) at the time of election. He denied the suggestion that on instruction/direction of Lipi Singh (PW-9) under a conspiracy out of political enmities by using political influence, the appellant Anant Singh was implicated with this case falsely. He denied the suggestion that even after torturing to appellant, Sunil Ram, as he denied to be a witness against Anant Singh, he was falsely implicated with this case.

31.2. Upon cross-examination on behalf of appellant convict Sunil Ram, he stated that **Exhibit '1'** is not disclosing regarding mentioning of any Sanha. Same is also not mentioning in **Exhibit '2'**. He denied the suggestion that there was no secret information. He denied the



suggestion that he did not mention the name of place in **Exhibit '2'** from where the seized materials was recovered. It was stated that raiding team was constituted by City S.P. and information about same was given to him over telephone. He did not received any written information in this regard. He stated that Mukund Paswan Sub-Inspector and Ajeet Kumar Singh, Sub-Inspector (Armed Force), and Shrawan Kumar alongwith one more person amongst the first who arrived at the place of occurrence/recovery. It was stated that he remained at the place of occurrence for about 18 to 19 hours. He proceeded from place of occurrence at about 10:00 P.M. In between, place of occurrence was also visited by Lipi Singh (PW-9), City S.P., Patna, who came together at same time, near about 1:00 P.M. and remained there for 2 to 3 hours. It was stated that ATS team came at the place of occurrence between 5 to 6 P.M. He categorically stated that AK-47 rifle at place of occurrence was recovered at 11:50 A.M. and by that time no seizure list was prepared and his statement or statement of any police officers were also not recorded by that time. He stated that **Exhibit '2'** is



not mentioning the recovery time of AK-47. It is also not disclosing the seizure time of plastic box. He categorically stated that AK-47 had already seized before arrival of Lipi Singh (PW-9) and City S.P. He denied the suggestion that nothing was recovered from the place of occurrence and upon instruction of Lipi Singh (PW-9) and under a political conspiracy falsely implicated the accused/appellant. He stated to be aware about the law/rule regarding search and seizure. He did not issued any notice to any person of village Nadawan in writing to be a witness of the occurrence. He stated that it is true that he never asked appellant Anant Singh during investigation even on phone regarding recovery. He stated that AK-47 rifle is also provided to police force. He also denied the suggestion that he lodged a false case as Barh P.S. Case No. 177/2019 on 06.04.2019 against one Gajanand Pandey, under instruction of Lipi Singh/PW-9 who proposed the name of Neelam Devi, wife of appellant Anant Singh in 2019 parliamentary election while filing her nomination. He denied the suggestion that as Anant Singh refused to help ruling JD(U) in 2019



parliamentary election, and his wife was contesting the election as a Congress Candidate, he was implicated falsely out of political rivalry with the present case.

31.3. Upon recall his examination-in-chief was again recorded on 29.03.2022, while he came alongwith material exhibits before the court.

31.4. On 29.03.2022, he he came to the court alongwith a box mentioning Barh P.S. Case No. 389/2020 dated 16.08.2019 lodged under Section 414, 120B of the Indian Penal Code and 25(1-A)25(1-AA)25(1-B)26/35 of the Arms Act; Section 3/4 of the Explosive Substances Act and Section 13 of U.A.P. Act. It was containing report of Forensic Science Laboratory, Patna SL No. 1816/2019, which shows as SL 1 - A-47 bearing No. R (torn thereafter) - One; SL 2 - 25 7.62 X 39 live cartridges - Twenty five; SL 3 - one fired cell and one bullet - Two and; SL 4 - One magazine of A-47 - One, bearing the signature of Assistant Director dated 25.09.2019. It also bears the signature of the person who packed it. Wooden box was sealed with cloth which was bearing the seal of Assistant Director, FSL. Said



material exhibits were in connection with Barh P.S. Case No. 389/2019 dated 16.08.2019. From the order of court in presence of both parties, the seal of aforesaid box was opened before the court. The first sealed cloth was having with one A-47 mark with 'A' and FSL No. 1816/19 bearing short signature of Sargent Major. He identified said seized rifle being the same rifle which was seized from the house of appellant, Anant Kumar Singh, which upon his identification exhibited as material **Exhibit '1'**. In second sealed cloth, which was opened in presence of both the parties, two sealed envelops were found, one was of yellow colour and another was of white colour. The yellow colour envelop was mentioning with FSL No. 1816/19 and was marked with B2 to B26, and one short signature and in white colour envelop mentioning with FSL No. 1816/19 B15 (A) B16(A) which was bearing short signature of Assistant Director, FSL.

31.5. Upon opening, yellow envelop, as aforesaid, in presence of both parties, 25 live cartridges were found and on each of 25 live cartridges, four short signatures were available, marked with B2 to B26. It was deposed that all 25



live cartridges on 16.08.2019 was seized from the ancestral house of Mokama MLA, which he identified before the court and upon his identification exhibited as material **Exhibit II to XXIV**. Upon opening of white envelop in presence of parties, it was containing with one empty cartridge, which was mentioned with at its base 7.62. The body of empty cartridge was written with FSL No.1816/19 having one short signature and mark BI(A) and also one pellet having mark BI(b)(A) and also have a short signature which were exhibited as material **Exhibit III and III/I**. Third seal was of a bag which was written with FSL No. 1816/19 Mark C, and was bearing short signature of Assistant Director. Another side of said bag was written with FSL No. 1816/19 Mark C. A-47 was containing with one empty cartridge, A-47 mentioning with Barh P.S. Case No. 379/2019 dated 16.08.2019 under Section 414, 120B of the IPC and 25(1-A)/25(1-AA)/25(1-B)A/25(1-B)C/26/35 of the Arms Act, $\frac{3}{4}$ of the Explosive Substance Act and Section 14 of the UAP Act, bearing short signature of A.C.J.M. Barh, dated 17.08.2019 and two short signatures dated 22.08.2019



Mark 'C' and also mentioning FSL No.1816/19 Mark 'C' and also short signature of FSL Assistant Director. Upon his identification, it was exhibited as material **Exhibit IV**. He stated that as **Exhibit III** (seizure List), also mentioning of two Grenades, which was not produced before the court. It is stated that said Grenades, as per order of court, was destroyed by FSL after testing it.

31.6. Upon cross-examination, it was deposed by him that material exhibits related with Barh P.S. and not with the Mokama P.S. It was stated that the box which was sealed with cloth having one pasted paper where he did not mentioned anything and he did not mentioned even description of arms and cartridges over there. It was not even written by FSL team before him. He marked only MR47/19 on cloth. Said cloth is also not bearing his signature. Said cloth is also not bearing signature of witnesses Ajeet Kumar Singh and Shrawan Kumar and also appellant Sunil Ram. It was stated that said cloth was not sealed by him rather by FSL. He accepted that on said cloth overwriting was made on date 16.08.2019. He also stated



that material **Exhibits I, II, III & IV** were not sent by him for forensic examination. He did not help FSL while testing seized materials. There was no separate seal on wooden box, which was sealed under cloth and neither said wooden box was mentioning with any P.S. Case Number. Neither it was bearing signature of Ajeet Kumar Singh and Shrawan Kumar and accused/appellant Sunil Ram. It was not containing his signature also. He stated that said wooden box containing a Hindi Newspaper Dainik Bhaskar dated 27.08.2019, Tuesday, published from Patna. Said wooden box was not having any carbon paper. It was stated by him that material **Exhibit '1'** does not bearing his signature and signature of Ajeet Kumar Singh, Shrawan Kumar and accused Sunil Ram and also not having signature of Ajeet Kumar Singh on said material **Exhibit '1'**. On said material Exhibit '1' Barh P.S. Case No. 389/2019 dated 16.08.2019 was not written by him. Said material **Exhibit '1'** is also not mentioning any Malkhana Number and date. Said material **Exhibit '1'** which bearing the signature of FSL officer, was not done before him. **Material Exhibit '1'** was not sealed in bag by him and



it is also not bearing his signature and signature of Ajeet Kumar Singh, Shrawan Kumar, and accused Sunil Ram. The signature of Dy.S.P. Police Line as available on said cloth was not done before him.

31.7. It is stated by him that second bag having 25 cartridges does not mentioning anything, neither it was bearing signature of anyone. Said bag was not even sealed by him. Material **Exhibit II** to **II/XXIV** and **III to III/I** are also not stated to bearing signature of Ajeet Kumar Singh, Shrawan Kumar, and accused Sunil Ram and also said material exhibits are not mentioning with any Malkhana number of Barh Police Station. Yellow colour envelop and white colour envelop from which material **Exhibit II to XXIV and III to III/I** were took out, was also not mentioning his signature and signature of Ajeet Kumar Singh, Shrawan Kumar, and accused Sunil Ram. Said material exhibits also not having Malkhana number of Barh Police Station. **Exhibit- IV** is also not containing his signature and signature of Ajeet Kumar Singh, Shrawan Kumar, and appellant Sunil Ram, neither having any



Malkhana number of Barh Police Station. It was stated that material exhibits are not bearing his seal. It is also stated that FSL number of material **Exhibit IV** was not given before him. He denied the suggestion that no any such material exhibits were recovered from the ancestral house of Anant Kumar Singh. He also denied implication under political conspiracy. He stated that the I.O. of this case, Dy.S.P. Lipi Singh, is not present in court room. Whereas, he categorically stated that it is correct that today Mrs. Lipi Singh (PW-9) is present in chamber of court and stated that he met with Lipi Singh/PW-9 in court premises today. He stated to come for deposition on court summon. Learned counsel appearing on behalf of the appellant Sunil Ram adopted the same cross-examination as aforesaid upon recall of this witness.

32. PW-2 is Rajnandan. He was posted as S.H.O. Mokama on the date of occurrence and was a member of raiding team. He joined the raiding team under the instruction of senior police officers. It was deposed by him that from co-villagers, he came to know that house in



issue belongs to Mokama MLA Anant Singh and is under the care of Sunil Ram (co-convict) of same village - Nadawan. It was also stated that it was disclosed by unknown villagers that the key of the house remains with Sunil Ram and it was also disclosed that said Sunil Ram is roaming here only. Upon said information, immediately Sunil Ram was taken into custody. None of the villagers came forward to become witness due to terror of MLA Anant Singh. Whereafter, two constables became witnesses and in presence of Executive Magistrate i.e. BDO, Barh, the lock of the house was opened. He deposed in the same manner regarding recovery of AK-47 rifle, magazines, live cartridges and also about two live Hand-grenades, as it was deposed by PW-1/informant. As per his deposition, it appears that two Hand-grenades were also recovered, therefore, for security purpose, police personnel were deployed. He identified both appellants/convicts during the trial before the learned trial court.

32.1. Upon cross examination on behalf of appellant/convict Anant Kumar Singh, It was stated by him



that he received information to join raid at about 6:30 A.M. He was posted in Mokama Police Station during the time of election. It was stated by him that appellant Anant Singh contested State Assembly election as an independent candidate in year 2015 and elected in the year 2020 also, he contested MLA election as a candidate of RJD. He never received information from election commission in writing that the people of Mokama do not participate in election due to terror of Anant Singh. He never received any information regarding same in writing from any person. It was stated that no search warrant was obtained by him from any court for searching the house of appellant Anant Singh. He stated to be aware about the provision of Section 100(4) of the Code of Criminal Procedure (in short the 'Cr.P.C.'). He stated that it is correct that no written notice was given to any person of village Nadawan by any of the raiding team member to be the witness of the search. It was stated by him that the house of appellant and identification of Sunil Ram (co-convict) was made separately. He also stated that the name of persons who identified Sunil Ram and also



identified the house of Anant Singh are not mentioned in FIR. He stated to know the difference between self-written statement and a typed statement, where he said Exhibit '2' is a typed statement and not a self-written statement. It was deposed that Lipi Singh, the then A.S.P. Barh is the I.O. of this case. He recorded his statement in this case on 16.08.2019 at Barh Police Station at about 11:00 P.M. He stated categorically that his signature is not available as a witness on F.I.R., seizure list, arrest memo or any other related documents. He also stated that only the signature of informant/PW-1 is available on seizure list and F.I.R. He failed to disclose that with whom the seized key recovered from Sunil Ram is kept with at present. He categorically stated that first work related with seizure was started at about 8:00 P.M. They remained at village Nadawan till 10:00 P.M. He also stated that **Exhibit '2'** is not saying that seized materials were sealed and marked properly. It was stated that mobile phone number of Anant Kumar Singh being MLA of the area was available at the police station, but he was not talked with him regarding search of his house and seized



materials, neither fact of said effect was mentioned anywhere in **Exhibit '2'**. It is submitted that after notification of 2019 parliamentary election, SHO of Mokama police station namely, Rajesh Ranjan was transferred. He stated that the wife of appellant Anant Singh namely, Smt. Neelam Devi contested parliamentary election as a candidate of Indian National Congress from Munger Constituency, where Rajiv Ranjan Singh @ Lalan Singh was also contesting as a JD(U) candidate. It was stated by him that JD(U) is an alliance of NDA and at that point of time, it was ruling party of Bihar and also at Centre. He stated that he know by name Sri R.C.P. Singh, but failed to state that he is the father of Lipi Singh. He denied the suggestion that videography and photography of alleged recovery dated 16.0.2019 was not done for the reason that no such occurrence took place on that date. He also denied the suggestion that Sunil Ram made accused with this case only for the reason that he refused to be a witness against appellant/convict Anant Singh. He stated that first seizure was effected at about 8:00 P.M., where Exhibit '2' is not mentioning the fact that



whether there was any arrangement of light or not. It is also not mentioned whether any torch light, generator light or emergency light were available at the place of occurrence.

32.2. Upon cross-examination on behalf of the appellant Sunil Ram. It was stated by him that appellant Sunil Ram was arrested at about 9:00 P.M. and till then convict Sunil Ram was eating and moving together with them, but was not allowed to go anywhere as per his will. It was stated that Sunil Ram is the resident of same village - Nadawan. He did not informed the family members of Sunil Ram regarding his arrest. He denied the recovery of any cloths of Sunil Ram from the place of occurrence/recovery. He denied the suggestion that Sunil Ram was not the caretaker of the house of appellant Anant Kumar Singh. He denied the suggestion that Sunil Ram was not arrested from the place of occurrence and neither any key was recovered from him. He accepted that he registered a case during Lok Sabha Election, where wife of Anant Singh (appellant) was informant with allegation that his vehicle was intentionally dashed by a truck while she was going alongwith her



husband Anant Singh. He denied the suggestion that he alongwith other police officers lodged false case against Mokama MLA Anant Singh on the instance of Lipi Singh/PW-9.

33. P.W.-3 is Raman Prakash Vasisth. On 16.08.2019, he was posted as S.H.O. Pandarak. He stated that he was arrived at the place of occurrence on 16.08.2019 at about 10:00 A.M. He supported the occurrence on same line, regarding recovery of AK-47 Rifle, Hand-grenade alongwith magazines and live cartridges, which was found wrapped in a box with carbon and newspaper as it was stated by PW-1/informant.

33.1 Upon cross-examination on behalf of Anant Singh, it was stated by him that he is aware about the legal position as available under Section 100 of the Cr.P.C., and same was followed in the present case. It was stated by him that informant in this case (PW-01) issued legal notice under said provision, but he is not in position to name such persons to whom said notice was issued. It was stated that place of search was barricading since early morning but failed to



disclose the time. He said to return Pandarak Police Station at 9:00 P.M. Even by that time, place of recovery was barricaded. He proceeded from village-Nadawan somewhere between 8:15 to 8:30 P.M. It was stated by him that Lipi Singh/PW-9 came to the place of occurrence alongwith Superintendent of Police (Rural) Sri Kantesh Mishra somewhere between 1:00 to 2:00 P.M. and remained there for about 2 to 2½ hours. It was stated by him that he again proceeded for Barh Police Station on 17.08.2019 at about 7:40 A.M. and reached there somewhere between 8:00 to 8:15 A.M. and remained there till 4:00 to 4;30 P.M. In said time period, SHO Barh came to police station frequently and at about 1:00 P.M., the Dy.S.P. Barh came there. His statement was recorded by I.O. of this case namely, Lipi Singh. He returned back to Pandarak Police Station at about 4:00 P.M. It was stated that seized materials, which were seized on 16.08.2019 was not produced before him today in court. He failed to disclose the name of the person, who helped to identify the appellant Sunil Ram. He also failed to give description of said person.



33.2. Upon cross-examination on behalf of the appellant Sunil Ram, it was stated by him that he did not sign on any paper as a witness on the date of occurrence/recovery. He has no evidence in support of the fact that he was present at the place of occurrence on 16.08.2019. He failed to state whether appellant Sunil Ram is resident of village-Nadawan or not. He denied the suggestion that appellant/convict Sunil Ram was not arrested from village Nadawan on 16.08.2019.

34. PW-4 is Ravi Ranjan Singh. He deposed that on the date of occurrence, he was posted as S.H.O. Hathidah Police Station. He also claimed to be arrived at the place of occurrence at about 10:00 A.M. and supported the materials recovered during search of the house of appellant/convict Anant Singh on the same line as it was deposed by PW-1/informant.

34.1. Upon cross-examination on behalf of appellant Anant Singh, it was stated by him that he cannot say that at present with whom the key of house in issue is available. He remained at the place of occurrence till 10:00



P.M. He also stated that he is not aware whether any search warrant was issued. He was not asked to be the witness of the seizure list by the informant/PW-1. He denied to know that what action was taken by the informant/PW-1 at the place of occurrence/recovery. He failed to state that any special team was constituted by Lipi Singh/PW-9 where he was also one of the member. He also stated about political rivalry between appellant/ convict and the candidate of ruling party during parliamentary election of Lok Sabha constituency as the wife of appellant Anant Singh was one of the constesting candidate.

34.2. Upon cross-examination on behalf of convict/appellant Sunil Ram, it was stated that he could not disclose the name of persons, who were asked to be witness of seizure list. He did not saw seizure list of this case. He denied the suggestion that appellant/convict Sunil Ram was not arrested from village Nadawan on the date of occurrence. He denied as to lodge this case falsely against appellant/convict Anant Singh out of political conspiracy.

35. PW-5 is Amardeep Kumar. He deposed that



he was posted as SHO, NTPC, Barh on 16.08.2019 and was one of the member of raiding team which conducted search in the house of appellant Anant Singh at village Nadawan. He deposed that B.D.O. Barh/Executive Magistrate (PW-13) came to the house of Anant Kumar Singh by 10:45 A.M., and by that time Iron gate of said house was locked. He stated in same manner regarding obtaining key from Sunil Ram on the basis of identification made by unknown co-villager and supported the recovery in the manner as it was deposed earlier by PW-1 and other prosecution witnesses.

35.1. Upon cross-examination on behalf of Anant Kumar Singh, he deposed as to identify both appellants/convicts during the trial. It was stated that he returned from place of occurrence at about 10:00 P.M. It was stated by him that Dy.S.P. Barh, namely, Lipi Singh came at the place of occurrence somewhere between 1:00 to 2:00 P.M. and remained there for two to three hours. He has no written paper in support of the fact as to join raid. He recorded his statement in Barh Police Station on the next day of the occurrence. He stated to be present at place of



occurrence for security purpose only and it was stated by him that Sunil Ram was arrested somewhere between 7:00 to 8:00 P.M. and by that time he was under police security. He stated to saw only preparation of seizure list which was prepared somewhere between 7:00 to 8:00 P.M. but was not gone through its contents. It was stated that seized explosive substance was kept in open place just beside the place of recovery. It was stated that no search warrant was obtained by Sanjeet Kumar/PW-1 from court regarding search of the house of Anant Kumar Singh. He failed to disclose whether any photography or videography was done. It was stated that at that point of time he was with smart phone, but he did not made any photographs or videography *qua* occurrence, knowing the fact that same could be done. He categorically stated that he is not in position to state that with whom the lock and key of the appellant house is available at present and also to whom it was given on the date of occurrence. He categorically stated that on the date of occurrence neither Anant Singh nor his family members was present at place of occurrence. He denied the



suggestion that Sunil Ram was made accused in this case because he refused to be a witness against Anant Singh.

35.2. Upon cross-examination on behalf of accused Sunil Ram, it was stated that he did not sign any paper on the date of occurrence as a witness. It was stated by him that A.T.S. and FSL team did not come to the place of occurrence alongwith Lipi Singh, Dy.S.P. It was denied that he did not name Sunil Ram during investigation. He did not disclose the name of Sunil Ram before investigating officer during investigation.

36. PW-6 is Dilip Kumar, Assistant Director, FSL, Patna. He was posted thereof on 28.09.2019. He received a sealed wooden box through special messenger PSI Raman Prakash Vasisth, where sealing appears to be done on 04.09.2019 under memo no. 3051/2019 issued from the court of Additional Chief Judicial Magistrate, Barh dated 19.08.2019 mentioning thereof Barh P.S. Case No. 389/19 dated 16.08.2019 for the offence under Section 414/120B of the I.P.C.; 25(1-A)/25(1-AA)/25(1-B)/A/25(1-B),C/ 26/35 of the Arms Act,3/4 of Explosive Substance Act



and Section 13 of the U.A.P. Act. It was deposed by him that said box which was received by him was containing one AK-47, 26 live cartridges of 7.62 x 39 mm calibre alongwith its magazine. He marked Rifle which was wrapped in cloth as 'A'. The body of Rifle was bearing police case number and signature of learned A.C.J.M. He marked live cartridges from BI to B26 and marked magazine as 'C'. The magazine was containing cartridge of 7.62 x 39 mm calibre. Thereafter, he took a cartridge mark 'BI' and fired it from AK-47 Rifle in firing room and thereafter marked fired cell and fired bullet as 'BIS(A)' and 'BIb(A)' respectively. He submitted test report where it has been stated that AK-47 Mark 'A' is foreign weapon of 'AK' Family of 7.62 x 39 mm calibre numbered as R8276. Its britch block number was RV7286, Piston No. TR2496, Gas Tube No. 644195. This weapon was with four lense and four grove and its right side was twisted. This weapon was found working and effective on testing in laboratory. This weapon was tested before firing, whereupon chemical analysis residue of fire-arm was found, which was indicative of the fact that firing was made from said weapon.



Live cartridge of 7.62 x 39 mm calibre mark as 'BI' to 'B26' was Indian made live cartridge, which upon testing in laboratory found live and effective. Magazine mark 'C' was found fit to load cartridge of 7.62 x 39 mm calibre. He identified the report before the court, which was typed by one Shyam Sundar Pandit bearing his signature and was counter signed by in-charge director of FSL, Patna, which upon his identification exhibited as **Exhibit '4'** before the court during trial.

36.1. Upon cross-examination on behalf of appellant Anant Kumar Singh, it was stated by him that **Exhibit '4'** on its facial perusal failed to speak that who tested material exhibits and on which date it was done. He categorically stated that material **Exhibit 'C'** found different in specification. Later on, he said that same is due to typographical error. It was stated that no correction certificate was issued regarding said typing mistake. It was stated that on the base of 26 live cartridges only Indian made and 7.62 x 39 mm calibre was mentioned, except that nothing was mentioned on its base. It was stated by him



that material Exhibit A, B & C was bearing only signature of A.C.J.M., Barh and no Malkhana register number was mentioned thereof. It is stated that the first page of **Exhibit '4'** is a printed form of FSL which is being given under Section 293 of the Cr.P.C. It is further stated that nothing is mentioned on **Exhibit '4'** which may suggest that who received material exhibits on behalf of Forensic Science Laboratory. He denied the suggestion that first page of **Exhibit '4'** was pre-typed. He further stated that the seal impression under which material exhibit was received is nowhere mentioned Exhibit '4'. It is not stated even regarding specimen of seal. Material Exhibit A, B & C was in a box wrapped in a cloth. It was stated that it is not mentioned in his report whether same was found sealed in said cloth or not. He denied the suggestion that he prepared report under administrative and political pressure. He stated that it is correct that the photographs of material Exhibits A, B & C are not the part of Exhibit '4'. He was declined to cross-examine on behalf of appellant/convict Sunil Ram.

37. PW-7 is Amit Kumar Choudhary, Assistant



Director, FSL, Patna. He was posted on 27.08.2019 as Assistant Director in Forensic Science Laboratory, Patna. On same day, he received plastic container in two cloth packet mark as 'A' and 'B' having Hand-grenade. After opening cloth packet one percussion cap printed with Lot No. 32KF3/93, A92 and one Aluminum tube having length of five Cm. and diameter .7 Cm. was found, upon opening aluminum tube yellow colour powder was found. He stated that upon opening of second cloth packet, one Grenade cell mark with 'A2' one base plug numbered as 36MMK1,ZIA98 and one spring, one liver, one striker rod and one safety pin were found. Grenade cell was found written 434M/KF91, from opening of which light brown colour crystal material was found. It was further stated that plastic container mark 'B' upon opening found mark 'B1' and percussion cap printed with Lot No. 41KF-93 and one aluminum tube having length 5 cm and diameter .7 cm was found. Upon opening aluminum tube, yellow colour powder was found. On opening of next cloth packet mark 'B/2' , one Grenade cell, one base plug no.36MMK1(A)89, One spring, one liver, one striker rod



and one safety pin were found. It was mentioned on Grenade cell 83M/KF89, upon opening, light brown colour crystal was found. This witness further deposed that both aforementioned Hand-grenades was defused by Police Inspector, Shashi Bhushan Kumar of BDS Team, ATS, Bihar, Patna on 17.08.2019 at Barh Police Station. It was stated that following results was obtained after his examination (I) Mark-A/1 and B/1 mercury fulminate which is primarily high explosive; (II) above mentioned aluminum tube which marked cloth packet A1 and B1, which are detonator, ingredients of which is PETN (Pentaerythritol Tetranitrate, Lead Azide, Lead Styphnate and Aluminum) which is also high explosive and used in blasting operating; (III) above mentioned Grenade Shell which is cloth packet A2 and B2 having ingredient military origin (36MMK1 Military Hand-grenade) having composition of Trinitrotoluene, which generally used as explosive charge. It was stated further that from above test report it is apparent that defused material which was received for testing was a military Hand-grenade. He identified his test report which was typed by



one Shyam Sundar Pandit bearing his signature, which upon his identification was exhibited as **Exhibit '5'** before learned trial court.

37.1. Upon cross-examination on behalf of Anant Kumar Singh, it was stated that test report is not mentioning that on which date it was tested in laboratory. It is stated that from perusal of **Exhibit '5'**, it cannot be gathered that test was carried by him. It is further stated that **Exhibit '5'** is not mentioning anywhere that both received Hand-grenades were received in connection with Barh P.S. No. 389/2019 or it bears signature of any police officers or judicial officers or any mark of identification. It was also stated that test report is not speaking anything about the weight of both Hand-grenades. It was stated by him that Shell mark was not made available to him as to tally with seal. He denied the suggestion that under police pressure, he furnished test report. He was declined to cross-examine on behalf of appellant Sunil Ram.

38. PW-8 is Aashish Kumar, Deputy Superintendent of Police, Reserve, Jamui. On



22.08.2019, he received materials in sealed bag through letter no. 2864/Barh dated 20.08.2019 issued from Ms. Lipi Singh, Dy.S.P. Barh, in connection with Barh P.S. Case No. 389/2019, which was given to him by ASI Abhay Kumar Singh alongwith order No. 1672277 dated 22.08.2019 accompanied by Hawaldar Mohan Ram (227) and constable Saheb Sharma (6886) on 22.08.2019 during office hour. It was stated that sealed bag was bearing short signature of ACJM, Barh and for testing, the said seal was opened by him, where he found one automatic weapon AK-47, 26 cartridges of 7.62 x 39 mm calibre, one magazine. All exhibits bearing P.S. Case Number and short signature of ACJM, Barh. All exhibits were tested and after testing the same, test report was directed to prepare, which was typed by PTC Raju Ranjan (2683). The test report runs as:

Exhibit 'A' – 7.62 x 39 mm bore AK-47 made automatic weapon which provided to Central and State police personnel. It also falls under prohibited category of arm. The body of Arm was mentioned with R8276, RV7286 on Back side and Brich block, TR2496 on Piston, 6M4195 on Tube



Gas. It was stated that Guard Hand Lower and Upper and Foldable Butt was local made. Upon testing each part was found operational. Its trigger, pressure and firing pin was also in working condition. The said fire-arm was found functional. For identification, it was marked as 'A'.

Exhibit II – B1 to B26 - 7.62 x 39 mm bore total of 26 live cartridges where percussion cap was not marked with firing pin, where on the base of 21 cartridges KF05 7.62 A7 was mentioned, whereas on the base of four cartridges it was mentioned as OFV09A7, one cartridge was mentioned with OFV08A7. All cartridges were prohibited and it was marked as B1 to B26.

Exhibit III - 7.62 x 39 mm bore, a company made magazine, where it was consisting of bottom plate and Spring with platform. It was in working condition and marked as 'C'. It was stated that after test, the seized materials were marked with his signature, which was sealed again in presence of ASI Abhay Kumar Singh, Hawaldar 927 (Mohan Ram) and constable 6886 (Saheb Sharma) and handed over to Abhay Kumar Singh with original copy of test



report in sealed envelop during office hour. He identified his signature on typed test report, which was typed by P.T.C. (2683) Raju Ranjan, and upon his identification, said report was exhibited as **Exhibit '6'** during trial.

38.1. Upon cross-examination on behalf of appellant Anant Kumar Singh, it was stated that he put his signature on material exhibits by marker. Date was also mentioned over there, used marker was permanent in nature, which cannot be erased by hand. He is not aware whether said mark can be erased by using any chemical or not. He failed to depose about any Malkhana number which was given to said material exhibits. He did not mentioned in his test report regarding force of trigger and firing pin. He was unaware of the fact that how much trigger pressure is required to make it functional in case of AK 47 Rifle. He was also found unaware about firing pin force. He stated that the pressure of trigger in firing pin suggests whether both are working or not. He also stated that his test report is lacking with spring pressure attached with magazine. It was stated that only by knowing the spring pressure, it can be said that



whether magazine is working or not. It was stated by him that his report is in three part. Exhibit 'A' is about AK47; Exhibit 'B' is about cartridges and Exhibit 'C' is about magazine. He denied to prepare wrong test report under pressure of senior officers.

38.2. Upon cross-examination on behalf of appellant Sunil Ram, it was stated by him that test report is missing the signature of typist.

39. PW-9 is Investigating officer of this case, who is Lipi Singh and was posted as Dy.S.P. Barh on 16.08.2019. She was stated to be informed that as F.I.R. in issue was lodged for the offence under U.A.P. Act, therefore, investigation can be done only by a police officer rank of Dy.S.P. and, therefore, it should be investigated by her. Consequent upon, she on 16.08.2019 took charge of investigation of this case at about 10:45 P.M. First of all, after taking charge of investigation, she perused the F.I.R. which was on the basis of self-written statement of Sanjeet Kumar/PW-1, who was posted as Inspector of Barh Police Station. Thereafter, she recorded the statement of B.D.O.



Barh (PW-13), who was deputed at place of occurrence as Executive Magistrate and subsequently, she also deposed to record the statement of police inspector, Raj Nandan, S.H.O. Mokama (PW-2) Police Station. She also deposed to record the statement of arrested accused Sunil Ram, son of late Dukhi Ram, resident of village – Nadawan, P.S. - Barh, District – Patna and also recorded the criminal antecedent of appellant Anant Singh before lodging of the present case, who found involved in 53 criminal cases. She visited village – Nadawan on 17.08.2019 and inspected the place of occurrence. She deposed about the description of house in issue from where the seized materials was recovered. She asked independent witnesses for recording their statement, but no one turned up due to terror of MLA Anant Kumar Singh. She sent requisition for court permission regarding testing of seized arms, cartridges and explosive substance. She also recorded the statement of Inspector Amardeep Kumar, S.H.O. N.T.P.C.,/PW-5; S.H.O. Inspector Ravi Ranjan Singh, S.H.O. Hathidah/PW-4; Inspector Ram Prakash Vasisth, S.H.O., Pandarak/PW-3 and S.H.O.



Belchhi. She received the order of court regarding testing of seized fire-arms and also to defuse the live Hand-grenades after testing it. She also recorded the re-statement of Ram Prakash Vasisth/PW-3. She also recorded the statement of MLA Anant Kumar Singh (appellant) on 02.09.2019, who is named accused in this case. The statement was recorded after taking appellant in police custody which was recorded in Mahila Police Station, Patna. She requested Sr.S.P. Patna for constituting a SIT for assisting in investigation of this case. She deposed that all witnesses, whose statement was recorded by him were supported the occurrence. She also obtained from B.D.O. Barh a report regarding ownership of the house in issue, which she received from B.D.O., Barh through letter No. 223 dated 16.10.2019, which was marked as 'Y' (with objection). It was stated to be mentioned in said letter that the same address as of place of occurrence was furnished by wife of the appellant in parliamentary election 2019. She received sanction regarding prosecution from District Magistrate, Patna on 19.10.2019, which was made available to her by letter no. XV-3317 dated



17.10.2019. It was also deposed by her that appellant furnished his address while receiving treatment in AIIMS Delhi as resident of village Nadawan, P.S. - Barh, District - Patna. She identified the said medical report and on her identification it was exhibited as **Exhibit '9'**. She also signed her signature over requisition letter on 27.08.2019 bearing No. 2999/19 sent to Director, Forensic Science Laboratory, Patna, where she sent material exhibits for testing. The said signature over requisition, upon her identification, exhibited as **Exhibit '10'**. She further identified her signature over requisition letter No. 3051/19 dated 29.08.2019 regarding testing of AK-47 Rifle, 26 live cartridges and magazine, which upon her identification exhibited as **Exhibit '11'**. It was stated by her that charge-sheet was submitted through charge-sheet No. 398/2019 dated 04.11.2019 for the offence under Section 414/120(B) and Section 25(1-A), 25(1-AA), 25(1-B(C/26/ 26(3)/35 of the Arms Act, Section 3/4 of the Explosive Substance Act. She identified her signature over charge-sheet, which upon her identification exhibited as **Exhibit '12'**.



39.1. Upon cross-examination on behalf of appellant Anant Kumar Singh, it was stated by her that she is not the eye witness of any recovery/seized material of this case. She also affirmed to visit village Nadawan on 16.08.2019 before lodging F.I.R. somewhere between 1:30 to 2:00 P.M. and remained there for about 2 hours. She did not come with informant/PW-1. It was stated by her that the raiding team was not constituted by her alongwith Sanjeet Kumar/PW-1. It was stated that after submission of charge-sheet she was transferred on 01.01.2020 and upon his transfer she was handed over this case to police inspector, who was by that time Incharge of Dy.S.P., Barh, and he was none but the informant Sanjeet Kumar. It was stated by her categorically that charge-sheet in this case was not submitted under U.A.P. Act, but F.I.R. was lodged under Section 13 of U.A.P. Act. It was also stated by her that she did not mention in charge-sheet that investigation for offence under Section 13 of U.A.P. Act is still open. She denied the suggestion that offence under Section 13 of U.A.P. Act was intentionally added so as she can take investigation of the



present case. It was stated by her that she did not mention in case diary that in how many cases appellant was convicted or not. She not even mentioned that in how many cases, out of 53 criminal cases, he was acquitted. She did not mention in case diary that from whom she came to know about the place of occurrence. She did not find any name plate on the premises in issue. She did not mention any Malkhana number regarding seized material in case diary. She also failed to mention in the case diary that seized materials were received by her. She also failed to mention in case diary that who helped her to identify the house of appellant Anant Kumar Singh and who disclosed about the boundary. It was stated by her that Khata/Khesra or boundary of house in issues not mentioned by informant/PW-1 in F.I.R. She stated to perused the seizure list which was prepared at about 7:45 P.M., on the date of occurrence but failed to disclose whether she forwarded F.I.R. or seizure list to concerned court. She failed to depose whether on 16.08.2019, Anant Kumar Singh was informed regarding search of his house or not. She also shows her unawareness whether his wife was



informed regarding said search and seizure. She also failed to depose whether any search warrant was with informant of this case, where she also stated that she even personally did not obtain any search warrant of house in issue. She did not made any correspondence to appoint Executive Magistrate (PW-13) neither requested anyone over telephone that Executive Magistrate is necessary to appoint. An attention was drawn to her regarding her aforesaid statement and she was shown a letter No. 633 dated 16.08.2019 which was denied by her. Said letter shows that the same was forwarded to Dy.S.P. Barh for information and necessary action, where Amrendra Kumar Sinha, B.D.O. Barh (PW-13) was appointed as Executive Magistrate. She also said to record the statement of B.D.O. Barh in para '4' of the case diary where he mentioned about the said letter. She denied the suggestion that she intentionally denying about the letter no. 633 dated 16.08.2019 for the reason that said raid was conducted only on her direction. She denied the suggestion that no raid was conducted on 16.08.2019 and report was prepared by sitting only at Barh Police Station. She failed to



state whether any parliamentary election was in the month of April 2019 or not. Later on, she stated that Lok Sabha election was conducted in the year 2019. She stated to transfer on 24th April, 2019 or 25th April 2019 from Barh. She stated that Barh Sub-Division falls under Munger Lok Sabha constituency. It was also stated by her that Mokama legislative constituency falls under Barh Sub-division. She again transferred to Barh in last week of May, 2019 or 1st week of June, 2019. Before her transfer, she was posted as Dy.S.P. A.T.S., Bihar, Patna. She stated that while she was posted in Barh by that time Rajiv Ranjan Singh @ Lalan Singh filed his nomination as JD(U) Candidate from Munger Parliamentary constituency. She failed to depose whether Smt. Neelam Singh, wife of Anant Kumar Singh, filed her nomination as a candidate of Indian National Congress from same constituency. She stated that her father Sri R.C.P. Singh, is from JD(U) and member of Rajya Sabha since 2010. She failed to say whether he is General Secretary of JD(U). She also stated that when Nitish Kumar was Rail Minister, his father was his P.A. She denied the suggestion



that on complain of Neelam Devi she was transferred along with S.H.O. Mokama, Rajesh Ranjan. It was stated by her that the search cum seizure list of this case was prepared on 16.08.2019, which was witnessed by constable (5461) Ajeet Kumar Singh and constable (6391) Shravan Kumar. It was categorically stated by her that she did not recorded the statement of Ajeet Kumar Singh and Shrawan Kumar in case diary. She also stated that it is correct to say that Ajeet Kumar Singh and Shrawan Kumar are not the charge-sheet witnesses. It was also affirmed by her that search and seizure list is also bearing the signature of Amrendra Kumar Sinha, B.D.O./PW-13 who was deputed as Executive Magistrate, but he was also not made a charge-sheeted witness. She failed to say regarding place of posting of constable Ajeet Kumar Singh and Shrawan Kumar. During investigation only she met with these two witnesses. She said that it is correct that statement of these two witnesses were not recorded in the case diary. She denied the suggestion that as these two witnesses did not supported the occurrence and seizure, therefore, their statements were not



recorded in case diary. She denied the suggestions that now these two witnesses are pressurizing to depose in court against appellants, otherwise, they may terminate from their service. She stated that the F.I.R. and seizure list are not speaking about Khata and Khesra number of place of recovery and same also not disclosing the name of persons who identified the house in issue. Upon specific questions, she replied that self-written and typed copy both are different. She denied the suggestion that for lodging F.I.R. self-statement of Sanjeet Kumar (PW-1) was torn and after pressurizing him a typed copy was prepared and he was forced to sign over there. She accepted that Sanjeet Kumar (PW-1) was her subordinate. It was stated by her that during investigation she obtained police remand of Anant Kumar Singh for two days, which was obtained by her on 31.08.2019. She stated that no entry was made in the case diary on 01.09.2019. She also stated that there is no entry in case diary on 02.09.2019 regarding her arrival and departure. It was stated that during remand period, the appellant/convict Anant Singh was not taking any other place



except Mahila Police Station. She stated to be correct that list of family members of Anant Kumar Singh was not called for from any concerned police officer. She stated to be correct that it is not mentioned in the case diary whether during investigation she found house in issue at village Nadawan as open or closed with lock or sealed or was in custody of anyone. She stated to be posted as Dy.S.P., Barh on 05.04.2019. She could not remember whether one Gajanand Pandey was proposed the name of Neelam Devi during her nomination. She denied that informant/PW-1 on 5-6.04.2019, on her instruction lodged a false police case, which was registered as Barh P.S. Case No. 177/2019 implicating said Gajanand Pandey falsely in an arms case. She stated that she went to Saket Court at Delhi for remand of appellant Anant Kumar Singh, but she could not remember whether she was using a vehicle bearing No. DL-1CX 6582 bearing sticker of Member of Parliament. She also failed to say that which vehicle she had used in Delhi. She denied the suggestion that she intentionally not disclosing her vehicle number as the vehicle which was being used by



her in Delhi i.e. DL-ICX 6582, belongs to one Ranveer Nandan, Member of Bihar Legislative Assembly, who belongs to JD(U). She denied to help Lalan Prasad Singh, who was contesting election from Munger constituency, at the instance of her father who was by that time National Secretary of JD(U) and, therefore, when she re-transferred to Barh as matter of revenge falsely implicated MLA Anant Kumar Singh with the present case. She stated as to correct that she did not recorded the statement of any F.I.R. named witness like Mukund Paswan, Ram Kumar Ram, Mohan Ram, Sikandar Yadav and Saheb Verma. She denied the suggestion that she recorded the statement of only such S.H.O. who made statement of her choice. She stated not to seize any materials during investigation. She also stated that fire-arms of series AK-47 also being supplied to Bihar Police. During course of investigation she never visited to the house of Sunil Ram. She further stated that no one come forward due to terror of Sunil Ram. It was stated by her that time of arrest of Sunil Ram is not mentioned on arrest memo and it is also not mentioned thereof that information of his arrest



was given to any of his family members. She also stated that place of arrest is shown as village Nadawan, without specifying any particular place or house. She denied suggestion that she has no right to investigate this case, but she did it out of political rivalry and submitted wrong charge-sheet against appellant.

40. PW.10 is Shrawan Kumar. He was posted as a reserved guard on 16.08.2019 at Barh Police Station. He proceeded for village Nadawan on same very day for the house of appellant Anant Singh under telephonic direction of S.H.O. and was directed to remain there only. He stated that the materials mentioned in Exhibit '3' i.e. AK-47, 26 live cartridges and two Hand-grenades were recovered before him. He identified his signature on **Exhibit '3'**. Upon his identification, it was exhibited as **Exhibit 3/1**.

40.1 Upon cross-examination, it was stated that he had not met with Anant Kumar Singh between 15th August, 2019 to 21st August 2019. He was on patrolling duty alongwith Mukund Paswan, Ajeet Kumar Singh and Ram Kumar Ram. It was stated that he could not collect the



name of persons who typed seizure list. It was typed at the place of occurrence. He did not mention the date below his signature. It was categorically stated by him that upon direction of Magistrate Saheb (PW-13) he signed over there. He signed seizure list upon direction of senior officials being a constable. He again reiterated that upon direction of Magistrate Saheb (PW-9) being an independent witness, he signed over seizure list.

40.2. Upon cross-examination on behalf of appellant Sunil Ram, it was stated that informant/PW-1 informed Mukund Paswan at about 4:00 A.M. He denied to sign seizure list at police station rather stated that he signed it at the place of occurrence itself.

41. PW-11 is Ajeet Kumar Singh. He was also posted as Reserve Guard at Barh Police Station on 16.08.2016. He stated that the material exhibits as mentioned in **Exhibit '3'** i.e. AK-47, Magazine with 26 live cartridges and two Hand-grenades in plastic bag were recovered before him. He identified his signature on **Exhibit '3'** and on his identification it was marked as **Exhibit 3/2.**



41.1. Upon cross-examination, he stated that he met with PW-9 on place of occurrence on 16th August, 2019, thereafter, he never met with her. He also said that he never met with PW-9 even on 17th and 18th August, 2019. He was on night patrolling duty on 15th August, 2019. He could not collect that which type of duty he was doing on 16th August 2019. He failed to name the person who typed the seizure list. He did not even saw any person typing the seizure list. He stated as not to mention the date under his signature on seizure list.

42. PW-12 is Kumaril Satyanand, Deputy Collector Patna. He was posted on 17.10.2019 as Deputy Collector, Patna. He identified the sanction for prosecution already exhibited as **Exhibit '8'** and also identified all three signatures of Kumar Ravi, the then District Magistrate, Patna. Upon his identification all three signatures of the then D.M. Patna were exhibited as **Exhibit '8', Exhibit '8/1'** and **Exhibit '8/2'** respectively.

42.1. Upon cross-examination, he stated that the order which is **Exhibit '8'** is neither under his dictation nor it



was typed by him. He further stated that original copy of sanction order is not before him.

43. PW-13 is Amrendra Kumar Sinha, who was posted as B.D.O. Barh on 16.08.2019 and deputed as Magistrate with raiding team, which conducted raid in village Nadawan. It was deposed by him that he received information over telephone from S.D.M., Barh, in this connection, he was also informed by Inspector, Sanjeet Kumar/PW-1. He went village-Nadawan through his government vehicle and found that police personnel were already arrived by that time. He stated to arrive there at 10:45 A.M. and saw several S.H.Os. of different police stations. He found the main gate of residence of appellant Anant Kumar Singh closed. On the instance of some persons co-convict Sunil Ram was arrested having key of main gate, thereafter, he searched 20 – 25 police personnel alongwith Sanjeet Kumar/informant who entered into the house of appellant Anant Kumar Singh. He also deposed in the same manner regarding recovery as deposed by PW-1 and other prosecution witnesses. He stated to prepare seizure list of



house in issue at place of occurrence itself, which was prepared at 7:45 P.M. It was signed by two Guards namely, Shrawan Kumar and Ajeet Kumar Singh. He left the place of occurrence by 8:30 P.M. and again visited the Barh police station somewhere between 11:00 to 11:30 P.M. on next day, where he meet with A.S.P. He identified his signature on search cum seizure, which upon his identification exhibited as **Exhibit '3/3'**. It was stated, upon cross-examination that he was deputed under written order of S.D.M. Barh. He received e-mail of that effect at 5:30 P.M. on 16.08.2019, but received telephonic instruction earlier to that. It was stated by him that in aforesaid letter, it was mentioned that upon information of Dy.S.P. Barh for raid on 16.08.2019, there is need of deputation of a Magistrate and thereby requested to depute such Executive Magistrate, I Amrendra Kumar Sinha, B.D.O. Barh was directed to be deputed as Magistrate. It was stated that as per said order, he must accompanied with Dy.S.P. Barh during raid. **Exhibit '3'** does not have signature of I.O. He also stated that **Exhibit '3'** is not suggesting that by whom materials were



seized. He was also not aware of the house of Anant Kumar Singh in capacity of B.D.O., Barh. **Exhibit '3'** is also missing the signature of any independent persons like village head, sarpanch etc. He did not even called any elected Ward Member of Nadawan. He categorically stated that on 16.08.2019 none of family members of Anant Kumar Singh was present. He failed to disclose about family members of appellant Anant Kumar Singh. It was stated that he never attempted to know whether appellant Anant Kumar Singh was a member of joint family. He also deposed that the 'key' through which the lock of residence of appellant Anant Singh was opened, was not seized. He stated that it was Sanjeet Kumar (PW-1) who identified co-convict Sunil Ram by saying that he is the caretaker of appellant Anant Singh, but he did not ask PW.1 that from whom he came to know that he is a caretaker of appellant Anant Singh. It was stated that he did not photographed or videographed of the place of occurrence through his mobile. He stated to make his statement before A.S.P., Barh that he received information from S.D.M., Barh as to remain with raiding team at village Nadawan. In this



context, he was also informed by Sanjeet Kumar (PW-1), S.H.O. Barh and in furtherance of said information he went to village Nadawan through his government vehicle. It was stated that name of typist is not mentioned over **Exhibit '3'**. It was stated by him that from the residential premises of appellant nothing incriminating was gathered like photo or any documents which may suggest that the house in issue belongs to appellant Anant Kumar Singh or her wife Neelam Devi or any of his family members. It was stated that Exhibit '3' is not showing any Khata Khesra. He denied to sign over Exhibit '3' under the direction of PW-9.

43.1. Upon cross-examination on behalf of appellant Sunil Ram, it was stated by him that no documents was prepared regarding search of 20 to 25 police personnels separately, who were searched by him before entering the house of the appellant Anant Singh. It was stated by him that Sunil Ram was arrested at 8:00 P.M. He shows his unawareness regarding any memo of arrest and not even signed that.

CONCLUSION:



44. At the outset, it would be important to mention that in such type of cases the most crucial factors which are to be looked into, whether the search, seizure and sealing of seized weapons were made in accordance with law or not leaving any room for tampering with the recovered arms and ammunition. It is also to be considered that whether the process of search, seizure and sealing were effected in presence of independent witnesses or not, and if not at least whether any attempt was made on the part of police to procure independent witnesses. Evidence, as surfaced during trial, must be cursory examined on aforesaid aspects as to find out whether the prosecution established its case beyond all reasonable doubts during the trial.

45. Coming to the facts of this case, it appears that house in issue which said to belongs appellant Anant Singh was found **"locked"**. No family members were present over there. When raiding team arrived at the house in issue, people of neighbourhood who were mainly co-villagers gathered over there and some of them as per deposition of PW-1 (who is the informant of this case)



disclosed that house in issue is under care of appellant/convict Sunil Ram. On instance of some unknown person, said Sunil Ram, who was found roaming nearby, was apprehended by police and one **"key"** was found from his possession. With the help of which entry gate of the house was opened. This appears from the deposition of all prosecution witness that said "lock" and "key" were not seized. It creates a serious doubt whether the house in issue was opened or closed as claimed by the prosecution and if it was closed as it deposed by the prosecution witnesses, then, in that case, none seizure of "lock" and "key" bears a serious lacuna on the part of the prosecution, which creates a doubt regarding entire raid from its very inception.

46. It would be apposite to reproduce the provision of Section 100(4) of the Code of Criminal Procedure, which appears relevant while searching any place, which is to be legally taken care of.

"100. Persons in charge of closed place to allow search. - (4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such



inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do."

47. From deposition of PW-1, PW-2 and PW-5, who are senior police officers of S.H.O. ranks, it appears that peoples, who were present at place of occurrence, were asked to be an independent witnesses of the search of the house in issue of appellant Anant Singh, but they refused to join the duty due to fear of Anant Singh, who was the MLA of that area. PW-1 categorically stated that no notice in writing was issued to any persons to be witness of search in view of Section 100(4) of the Cr.P.C. as discussed above, but PW-3 categorically stated that the compliance of Section 100(4) of the Cr.P.C. was followed, but it was refused to receive. No such notice was brought on record during the trial. Consequent upon, two constables from Reserved force of Barh Police Station namely, Ajeet Kumar Singh (PW-11) and Shrawan Kumar (PW-10) were asked to be independent witnesses for which they have been agreed upon and thereafter search process was carried out. In this context, it would be appropriate to mention that these witnesses are



not the charge-sheeted witness and their statement was not recorded during course of investigation under Section 161 of the Cr.P.C. as it appears from the deposition of PW-9, who is none but the I.O. of this case.

48. Now coming to the deposition of PW-10, who is one of the witness of the seizure list namely, Shrawan Kumar, deposed before the court for the first time as he was not the charge-sheeted witness and his statement was not available under Section 161 of the Cr.P.C. He categorically stated that he signed the seizure list only upon instruction of PW-13, who is the Executive Magistrate deputed over there. He also stated that being constable, he signed seizure list as per direction of senior police officers. His this deposition sufficient to suggest that he cannot be said an independent witness as he signed over seizure list being a subordinate police constable. The said PW-13 who is the Executive Magistrate of entire search, seal and seizure also not made charge-sheeted witnesses. These facts accepted categorically by PW-9 in her cross-examination. [paragraph running from 57 to 60]. Further, seizure list witness namely, Ajeet Kumar



Singh (PW-11), who was also not a charge-sheeted witness deposed first time during the course of trial, despite of the facts that both these police personnel were present at place of occurrence even before arrival of raiding party.

49. Having all such backgrounds, two facts can be gathered easily that compliance of Section 100(4) of the Cr.P.C. not appears to be followed in the present case and the seizure list witnesses who are reserved police constables of Bihar Police are not appears independent witnesses, which further creates a serious doubt *qua* case of the prosecution regarding entire seizure. Moreover, seizure list witnesses i.e. PW-10 and PW-11, though stated that the materials mentioned in Exhibit '3' i.e. AK.47, 26 live cartridges and two Hand-grenades were seized before them, but they are silent whether those were sealed at the place of occurrence. As per deposition of PW-1/Informant, it appears that AK-47 Rifle was recovered at 11:15 A.M. but at that point of time no seizure list was prepared. As per deposition of PW-1 and other prosecution witnesses, it appears that these recovered weapons and cartridges were sealed at 7:45 P.M. after



preparing seizure list. Certainly, it further creates a serious doubt that with whom these weapons and magazines alongwith live cartridges were kept for long eight (8) hours and in such circumstances, chance of tampering of recovered articles cannot be ignored. There is no explanation on behalf of the prosecution for such delay regarding non-sealing of weapons. In this context, it would be appropriate to reproduce paragraph '7' of **Amarjit Singh @ Babbu's case** (supra) which is as under:

"7. The entire prosecution case, thus, is clouded with number of infirmities which compel this Court not to accept such an unworthy evidence. These infirmities have been brushed aside by the Designated Court by observing that since the model number of the revolver was noted down, the non-sealing of the revolver or the handing over of the same to some other police official or a private person, who has not been examined are of no consequence. We are unable to agree and subscribe to this view in a case of this nature. The non-sealing of the revolver at the spot is a serious infirmity because the possibility of tampering with the weapon cannot be ruled out. The report of PW 4 that the weapon is capable of being fired is insignificant since it cannot be said with certainty as to what was the condition of the weapon at the time of the recovery, apart from the evidence of PW 4 that he did not test-fire the revolver."

50. It would be further apposite to reproduce para



'6' of **Sahib Singh's case** (supra) which reads as under:

"6. Having gone through the record we find much substance in each of the above contentions. Before conducting a search the police officer concerned is required to call upon some independent and respectable people of the locality to witness the search. In a given case it may so happen that no such person is available or, even if available, is not willing to be a party to such search. It may also be that after joining the search, such persons later on turn hostile. In any of these eventualities the evidence of the police officers who conducted the search cannot be disbelieved solely on the ground that no independent and respectable witness was examined to prove the search but if it is found — as in the present case — that no attempt was made even by the police officer concerned to join with him some persons of the locality who were admittedly available to witness the recovery, it would affect the weight of evidence of the police officer, though not its admissibility. We next find from the record that the arms and ammunition allegedly recovered from the appellant and seized were not packeted and sealed. In *Amarjit Singh v. State of Punjab* [1995 Supp (3) SCC 217 : 1995 SCC (Cri) 828] this 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. From the record we further find that there is no evidence to indicate with whom the revolver was after its seizure by PW 3 till it was sent to the Arms Expert for testing through Head Constable Baita Singh. This missing link also weakens the prosecution case. For all these infirmities we are of the view, that the appellant is entitled to the benefit of reasonable doubt."



51. It is an admitted position out of deposition of PW-9 that PW-10 & PW-11, who are the seizure list witnesses, PW-12 and PW-13 who are the witnesses regarding sanction and Magistrate deputed at place of recovery respectively, were not examined during investigation and they do not find place as charge-sheet witnesses. The impact of their non-examination certainly deprived appellant/convict from their valuable right of defence as they could not contradict their earlier version as surfaced during investigation. None availability of statement of these crucial witnesses under Section 161 of the Cr.P.C. badly shadowed the case of the prosecution. In this context, it would be apposite to reproduce paragraph **37** of **Ram Lakhan Singh's** case (supra) which reads as under:

"37. It is true that no enmity or grudge is suggested against this witness, but we find that this witness was not even examined by the police nor was he cited in the charge-sheet. In a grave change like the present, it will not be proper to place reliance on a witness who never figured during the investigation and was not named in the charge-sheet. The accused who are entitled to know his earlier version to the police are naturally deprived of an opportunity of effective cross-examination and it will be difficult to give any credence to a statement which was given for the first time in Court after about year of the occurrence. We cannot, therefore, agree that the High Court was right in accepting the evidence of this witness as lending assurance to the testimony of other



witnesses on the basis of which alone perhaps the High Court felt unsafe to convict the accused."

52. No doubt conviction can be secured on the basis of the exclusive deposition of police personnels but it must inspired confidence regarding its truthfulness *qua* occurrence in view of the legal report of Hon'ble Supreme Court, as available through **Tahir's** case (supra). For better understanding of legal position, it would be apposite to reproduce the relevant paragraph of the aforesaid judgment, which reads as under:

"6. no infirmity attaches to the testimony of police officials, merely because they belong to the police force and there is no rule of law or evidence which lays down that conviction cannot be recorded on the evidence of the police officials, if found reliable, unless corroborated by some independent evidence. The Rule of Prudence, however, only requires a more careful scrutiny of their evidence, since they can be said to be interested in the result of the case projected by them. Where the evidence of the police officials, after careful scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form the basis of conviction and the absence of some independent witness of the locality to lend corroboration to their evidence, does not in any way affect the creditworthiness of the prosecution case."

53. Having aforesaid position of law in hand, now it is to be examined that how these material witnesses who are none but the higher police officers of the rank of S.H.O.



whether appears trustworthy *qua* occurrence in issue or not.

54. In this context, it would be apposite to discuss about **Exhibit '2'**, which is the statement of Sanjeet Kumar/PW-1/informant of this case, which was deposed to be recorded in his handwriting on 14.08.2019 at about 8:00 P.M. at the place of occurrence. But from perusal of Exhibit '2' it appears that same is typed copy. The attention was taken in this regard that whether any computer was available on spot itself as to type, but same was denied. The witnesses are appear to be aware about difference between typed copy and self-written statement. Even the I.O./PW-9 is aware about this fact, therefore, the first and foremost question which arises that how at place of occurrence at about 8:00 P.M. without any arrangement of light, as per deposition of PW-1, the computer typed statement of PW-1/informant was recorded. It also appears from **Exhibit '2'** that a *Sanha* (information in station diary) was lodged out of secret information, but same was not brought on record. It also appears from his deposition that Inspector Mukund Paswan and Armed Force Hawaldar Ram Kumar Ram, Ajeet



Kumar Singh, and Shrawan Kumar were asked to arrive village Nadawan who were on patrolling duty. Interestingly, said Mukund Paswan and Ram Kumar Ram were not examined during the trial and Ajeet Kumar Singh and Shrawan Kumar were deposed first time during the court as PW-10 and PW-11. S.H.O. Belchhi, who was also member of raiding team was not examined during the trial. It appears from deposition of PW-1 that he came to know from certain person that one "key" of the house also remains with appellant convict Sunil Ram indicating that the other key of the said lock also may available with some persons, which prosecution failed to explained. It also appears from deposition of PW-1 that the self-statement was recorded at place of recovery and **Exhibit '2'** was typed by constable Sanjay Anand (C2 to C7), in view of such contradiction, examination of Sanjay Anand appears more crucial for prosecution, but he was also not examined during the trial. The time of arrest of appellant Sunil Ram is also not mentioned in his arrest memo. PW-1 affirmed the fact that no seizure list was prepared regarding "key" which was to be



found in possession of appellant Sunil Ram. He also stated that **Exhibit '2'** is not mentioning whether any light was present over there. In such circumstances the computer typed statement at place of occurrence appears doubtful in terms of deposition of PW.-1. It appears that PW-1 categorically deposed that no notice was ever issued to the villagers of Nadawan contrary to the statement of PW-3 that such notice was issued in compliance of Section 100(4) of the Cr.P.C.. The statement of these two police personnel who are senior police officers are appears contradictory *qua* following the legal procedure as available under Section 100(4) of the Cr. P.C.

55. When PW-1 cross-examined on recall on 29.03.2022, he stated that the sealed weapon box was found with Hindi Newspaper Dainik Bhaskar dated 27.08.2019, Tuesday, Patna Edition. The finding of this newspaper inside sealed box in view of the fact that recovered weapons was seized and sealed on 16.08.2019 at the place of occurrence, becomes questionable creating serious doubts regarding entire search, sealing and seizure.



This witness affirmed the fact that arms in issue found wrapped under newspaper, if it is so, then, certainly it must be of on or before 16.08.2019. This crucial discrepancy was not appears answered by the prosecution during the trial. It appears from deposition of PW-2 that the first work regarding seizure was initiated at about 8:00 P.M. and Sunil Ram was arrested about 9:00 P.M. and till then appellant/convict was with them. PW-3 stated that he returned from place of occurrence by 9:00 P.M. to his police station i.e. Pandarak and by that time even at the place of search was barricaded, which begin from night itself. It also appears that there was no any search warrant regarding search of the premises. PW-4 also stated despite of his presence that he cannot say that who were asked to be witness of seizure list. PW-5 stated that Sunil Ram was arrested between 7:00 to 8:00 P.M. contrary to the statement of PW-2. It also appears from deposition of PW-9 that she was not requested to depute any Magistrate regarding occurrence to S.D.M., Barh over telephone. Contrary to her aforesaid statement **Exhibit 'A'** was shown



to her, which is a letter No. 633 dated 16.08.2019 issued in this regard. This fact was also affirmed by PW-13 who is Executive Magistrate that his deputation was made on the request of PW-9. Having all such discrepancies amongst the deposition of witnesses who are none but police personnels, they cannot be categorized as a "**wholly reliable witness qua recovery**". In aforesaid context, it would be apposite to reproduce para 32 and 33 of **Nand Lal's** case (supra) which reads as under:

"**32.** Undisputedly, the present case rests on the evidence of interested witnesses. No doubt that two of them are injured witnesses. This Court, in *Vadivelu Thevar v. State of Madras* [*Vadivelu Thevar v. State of Madras*, 1957 SCC OnLine SC 13 : 1957 SCR 981 : AIR 1957 SC 614] , has observed thus : (AIR p. 619, paras 11-12)

"**11.** ... Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

(1) Wholly reliable.

(2) Wholly unreliable.

(3) Neither wholly reliable nor wholly unreliable.

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category



of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.”

33. It could thus be seen that in the category of “wholly reliable” witness, there is no difficulty for the prosecution to press for conviction on the basis of the testimony of such a witness. In case of “wholly unreliable” witness, again, there is no difficulty, inasmuch as no conviction could be made on the basis of oral testimony provided by a “wholly unreliable” witness. The real difficulty comes in case of the third category of evidence which is partly reliable and partly unreliable. In such cases, the court is required to be circumspect and separate the chaff from the grain, and seek further corroboration from reliable testimony, direct or circumstantial.”

56. It is an admitted position that no Khata and Khesra of plot in issue was mentioned in **Exhibit '2'**. The house in issue was identified that same belongs to Anant Kumar Singh was on the instance of unknown villagers who gathered at the time of police raid. Even PW-9 deposed during trial that house in issue is the ancestral house of appellant Anant Singh. It is the case of the prosecution also that same was found locked. Appellant/convict Anant Singh also said in his statement recorded under Section 313 Cr.P.C. that he visited his village on exceptional occasion only.



57. The prosecution also failed to brought on record that whether appellant/convict visited his ancestral house soon before the occurrence or when it was lastly visited. This fact is important in view of joint occupancy of the premises in issue being ancestral house of the appellant Anant Singh. The prosecution failed to produce even any fact on record which may suggest that appellant Anant Singh was under knowledge having such arms in his house and, therefore, the main legal ingredient of the offence in issue i.e. "possession" also appears doubtful. In this connection Section 35 of the Arms Act, which reads as under:

"35. Criminal responsibility of persons in occupation of premises in certain cases.—Where any arms or ammunition in respect of which any offence under this Act has been or is being committed are or is found in any premises, vehicle or other place in the joint occupation or under the joint control of several persons, each of such persons in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, vehicle or other place shall, unless the contrary is proved, be liable for that offence in the same manner as if it has been or is being committed by him alone."

58. In this context, it would be further apposite to reproduce para '11' and '12' of the legal report of Hon'ble



Supreme Court as available through **Pabitar Singh's** case (supra), which are as under:

"11. The next and the crucial question that arises is whether the prosecution has established the essential ingredients of the offence in the light of the provisions of Section 35 of the Act. It has been urged that when the appellant was using the kitchen it was legitimate to expect that he would be aware of the existence of the gun which was concealed there. The gun was concealed in such a manner that it was not visible to the naked eye. Although there may be very grave suspicion that the appellant was aware of the existence of the gun but the prosecution is bound to establish facts from which the court could have reason to believe that he was aware of the existence of the unlicensed firearm. We are not satisfied in the present case that any such facts have been established.

12. Lastly it cannot be over-emphasised that in cases of the present nature where not only the liberty of a citizen is involved but also his whole career on conviction a person in service is bound to be dismissed great care and attention should be devoted by the courts to all questions of law and fact which unfortunately has not been done in the present case. That has led to miscarriage of justice. The appellant is entitled to the benefit of doubt and he is hereby acquitted."



59. As far sealing of seized materials are concerned, it appears that same was produced in Barh P.S. Case No. 389/2020 dated 16.08.2019. It may be a typographical error but again on magazine it was found written as Barh P.S. Case No. 379/2019 dated 16.08.2019. All such discrepancies appears from examination-in-chief of PW-1 itself dated 29.03.2022, when he was examined on recall. These two facts creates a doubt regarding entire seizure and sealing. There was no signature of PW-1 over sealed cloth. Exhibit '1' was lacking with signature of PW-1 and seizure list witnesses PW-10 and PW-11 respectively. It was also lacking of Malkhana register number. There was nothing written on the cloth from which 26 cartridges were produced before the court. None of the exhibits of bullet were found signed by PW-1 and seizure list witnesses as aforesaid. Similarly is the position of **Exhibit '4'**. It appears from deposition of PW-6, who is the Assistant Director, FSL that typed report was prepared by one Shyam Sundar Pandit who was not examined during the trial. He admitted that **Exhibit '3'** was found with different specification. It was also



stated by him that 26 live cartridges were marked only with Indian made 7.62 x 39 mm and nothing was written except that. It was also affirmed by him that material exhibit A, B & C were only bearing the signature of A.C.J.M., Barh and no Malkhana register number was available. All such facts creating a serious doubt that whether all such materials were deposited with police station Malkhana before sending it to Forensic Science Laboratory. PW-6 did not even mentioned in his test report regarding sealed impression which he received. He also failed to mention in his test report, whether material **Exhibits A, B & C** were received by him in sealed cloth or not. It further transpired from deposition of PW-7 that two Hand-grenades were defused by Shashi Bhushan Kumar, B.D.S. Team, A.T.S. Bihar, Patna on 17.08.2019. He was neither examined during the trial nor any destruction report of said effect was brought on record. He also stated that he did not mention in his report (**Exhibit '5'**) that whether both Hand-grenades was mentioned with Police Station Number i.e. Barh P.S. Case No. 389/2019 or bearing any signature of police officers or any judicial



officers. He also failed to disclose about the description of Hand-grenades particularly regarding its weight. PW-8 who is the Dy.S.P. (Reserve), stated that his report is lacking with spring pressure of magazine which is essential to find out whether said magazine is in working condition or not. He also stated that his report is lacking whether any firing was made from AK-47 or not. His report is also lacking with firing pin force and trigger force which is essential to find out whether trigger pressure and firing pin force which is sufficient to suggest weapons as an effective weapon.

60. All such evidences established beyond doubt that sealing of recovered weapons were not done properly to rule out any tampering and it was also not tested in proper manner as to suggest whether the recovered weapons were effective and functional which is a relevant fact to establish the case of prosecution beyond reasonable doubt.

61. Deposition of PW-1 and PW-9 clearly suggest that the wife of appellant/convict was contesting election from Munger Lok Sabha Constituency as a candidate of Indian National Congress. It also appears from the



deposition of PW-9 that she is the daughter of Mr. R.C.P. Singh who was the prominent leader of ruling alliance of the State. It also appears from their deposition that a case under Arms Act was lodged against one Gajanand pandey, who was the proposer for Smt. Neelam Devi, in Barh Police Station. A complaint was also made to election commission by wife of appellant Anant Singh regarding conduct of I.O. /PW-9 and S.H.O. Mokama for helping the JD(U) candidate. It is also an admitted position that during election PW-9 was transferred to Patna and she again came back as Dy.S.P. Barh after completion of election. From the deposition of PW-1 it appears that PW-9 was present in court premises on 29.03.2022 and was found sitting in chamber of court. (name of judicial officer not specified).

62. Having all such backgrounds, the political enmity and over activism on part of PW-9 cannot be ruled out straightway. It also transpired from deposition of the prosecution witnesses that photography or videography of alleged raid, search and seizure were not made despite of having sufficient time as same was conducted for long 12 to



14 hours, which may be a best electronic evidence in this case, even no photograph or videography was done despite of availability of smart phone as it transpired from deposition of witnesses, which was denied on specific questions.

63. The prosecution witnesses also stated categorically that nothing incriminating as photographs, cloth etc. of appellants were found inside the house in issue as to suggest that same was under occupancy of appellant Anant Kumar Singh. All such facts further creates a doubt regarding case of the prosecution.

64. As far appellant/convict Sunil Ram is concerned, it appears that none of the prosecution witnesses including PW-1 and PW-9 could established during the trial that he was the caretaker of the house in issue of appellant/convict Anant Kumar Singh. The alleged "key", with which the gate of house was opened, was also not seized. The prosecution is completely silent that what happened with said "lock" and "key". Even his arrest memo is not mentioning time of arrest. Nothing found inside the house in issue which may suggest that it was under care of



appellant/convict Sunil Ram. No independent witnesses examined in this case in support of prosecution case *qua* this fact, rather several defence witnesses who examined during the trial stated that there was no relation between appellant/convict Anant Kumar Singh and appellant/convict Sunil Ram. It is an admitted position that appellant Sunil Ram is also a resident of same village, therefore, his presence in village cannot be viewed with doubt. It also not appears from the deposition of any of the prosecution witnesses particularly PW-1 and PW-9 that there is "**reason to believe**" regarding having knowledge of fire-arm inside the house *qua* appellant/convict Sunil Ram and also Anant Kumar Singh @ Anant Singh and, therefore, their conviction which appears to be secured with aid of Section 35 of the Arms Act not appears convincing.

65. Hence, the judgment of conviction dated 14th June, 2022 and order of sentence dated 21st June, 2022 passed by learned Special Judge, M.P./M.L.A. Patna in connection with Special Case No. 01 of 2020 arising out of Barh P.S. Case No. 389 of 2019 is hereby quashed and set-



aside.

66. Both above-mentioned appeals stand allowed.

67. Accordingly, both above-named appellants, namely, Anant Kumar Singh @ Anant Singh and Sunil Ram are acquitted of the charges levelled against them by the learned trial court. Both appellants are in custody. They are directed to be released forthwith, if their presence is not required in any other case.

68. Let a copy of this judgment alongwith the Trial Court Records be sent to the learned Trial Court forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	01.08.2024
Uploading Date	14.08.2024
Transmission Date	14.08.2024

