

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.243 of 2025

Arising Out of PS. Case No.-79 Year-2018 Thana- RAJNAGAR District- Madhubani

Birju Ram, S/O Late Basudev Ram, Village- Khangaon Purvi Tola, P.S.-
Pandol, District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Ajit Kumar Yadav S/O Yogeshwar Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
3. Manish Yadav S/O Daya Ram Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
4. Daya Ram Yadav S/O Yogeshwar Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
5. Dinesh Yadav S/O Mahendra Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
6. Prayag Yadav S/O Ram Charan Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
7. Raja Ram Yadav S/O Yugeshwar Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
8. Ganga Ram Yadav S/O Yugeshwar Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani
9. Ranjeet Yadav S/O Yugeshwar Yadav R/O Village- Mahinathpur, P.S.-
Rajnagar, District- Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs. Mina Singh, Advocate Mr. Bhaskar Shankar, Advocate
For the Respondent/s	:	Mr. Dilip Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 12-09-2025

The present criminal appeal has been preferred under
Section 413 of the *Bhartiya Nagrik Suraksha Sanhita, 2023*
against the judgment of acquittal dated 19.11.2024 passed by the



learned District and Additional Sessions Judge-I-cum-Special Judge (SC/ST), Madhubani in G.R. No. 42 of 2018/ T.R. No. 979 of 2022, arising out of Rajnagar P.S. Case No. 79 of 2018, whereby Respondent Nos. 2 to 9 have been acquitted by the learned Trial Court from the charge of Sections 143, 302, 201, 120-B, 504 of Indian Penal Code and Sections 3(2)(v), 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, 1989.

2. The prosecution case, in brief, as per the *fardbeyan* of the informant, is that the son of the informant (Baiju Ram) had gone to a *Mela* (fair) with two of his friends, namely, Ram Babu Ram (PW-4), and Chandu Ram (PW-5). In the fair, the son got a mobile call from Bharti Kumari, daughter of Daya Ram Yadav stating that her family members want to meet him. Whereupon, son of the informant, Baiju Ram (deceased) reached village Navtoli of Mahinathpur along with his two friends, mentioned above. Both his friends dropped him beside the main road near the house of Daya Ram Yadav stating that when he will call, they will come back. Thereafter, at about 12:41 to 12:48 AM, the son of the informant called his mother on her mobile phone bearing No. 9135384274 that Bharti Kumari, her father Daya Ram Yadav, Manish Kumar Yadav, Ganga Ram Yadav, Raja Ram Yadav, Ranjeet Yadav, Ajeet Yadav, Yugeshwar Yadav and Prayag



Yadav are assaulting him and they will kill him and also asked her to send some co-villagers and his father(informant) to save him. Thereafter, informant along with some co-villagers reached village Mahinathpur Navtol and went to Daya Ram's house and asked about his son Baiju Ram on which Daya Ram and others also abused him stating that his son has not come there. Thereafter they searched nearby Daya Ram's house, orchard and garden but nothing found and they returned back to his house at about 03:00 AM. On the same day at about 07:00 AM, rumors spread in the village that Baiju Ram was killed and his body is hanging in an orchard near Nand Gola Marnahiya Bhind Bandh. The informant along with co-villagers reached Marnahiya Bhind Bhinda, Mahinathpur, P.S.-Rajnagar and saw the dead body of his son hanging with the help of plastic coil in a *Jamun* tree and Rajnagar police was also present there. Police has taken the dead body of his son for further proceedings. The police also searched the house of Daya Ram Yadav and recovered Baiju Ram's shirts, chappal and pen from there. The police arrested Prayag Yadav and Dinesh Yadav from the spot. The informant has further stated that above named accused persons had killed his son in conspiracy with Bharti Kumari and with intention to conceal it, hanged Baiju Ram's dead body on a *Jamun* tree.



3. On the basis of *fardbeyan* of the informant, Rajnagar P.S. Case No. 79 of 2018 was instituted under Sections 143, 302, 120-B, 504 of Indian Penal Code, and Section 3(2)(v) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 to 9 and, accordingly, cognizance was taken. Thereafter the case was committed to the Court of Sessions. Charges were framed against the accused persons under Sections 143, 302, 120-B, 504 of Indian Penal Code, and Section 3(2)(v) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether ten witnesses i.e. PW1 Ramrup Ram, PW2 Fekan Ram, PW3 Anju Devi, PW4 Ram Babu Ram, PW5 Chandu Kumar Ram, PW6 Birju Ram, PW7 Dr. Binod Kumar, PW8 Rupak Ranjan Singh, PW9 Arvind Kumar and PW10 Ramesh Kumar Sharma. The prosecution has also produced certain documents which were marked as Exhibits, i.e., Identification of signature of the informant on the written *fardbeyan*; Identification of signature of Vijay Kumar Singh by the



informant; Identification of signature of Nanu Ray by the informant; Identification of signature of Dr. D.S. Mishra by Dr. B. Kumar; Identification of signature on postmortem report by Dr. Binod Kumar; Identification of signature of observer Dr. D.S. Mishra by Dr. Binod Kumar; Identification of endorsement by SHO Ranjan Singh; Carbon copy of the inquest report; Seizure-list, witness signature of Pintu Kumar Singh and Fekan Ram; Signature of Fekan Ram on the seizure-list; Signature of Pintu Kumar Singh on the seizure-list; Charge-sheet; Supplementary Charge-sheet; Injury certificate of Gangaram Yadav; Medical paper and Seizure-list. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, learned trial court has acquitted the accused persons.

5. The learned trial court held that the prosecution in the present case had failed to prove the motive of the alleged occurrence. The learned trial court further held that the place of occurrence and the articles which were recovered were not examined scientifically. No arms or articles which were used in the alleged occurrence had been produced by the prosecution. The learned trial court further held that the dead body of the deceased was recovered far from the house of the accused



persons, and as such serious doubts are also cast of the last seen theory of the prosecution. The learned trial court further found that from the evidence of PW5 and the contradiction of the statement of the informant in his *fardbeyan* and the evidence before the learned trial court, serious doubts are cast on the prosecution story. The relevant part of paragraph 12 of the impugned judgment is reproduced as under:

“In the entire prosecution story as well as prosecution evidence Ld. Spl. P.P. is failed to prove the motive of the occurrence. The prosecution is failed to prove that both victim and the minor girl are engaged in love affair and also failed to whether Bharti Kumari called her or not. The prosecution is also failed that the victim was murdered by accused person. One witness PW-5 Chandu Ram is hostile and he deposed in his examination-in-chief that on 24.03.2018 along with deceased and Rambabu had gone to Ruchaul from Khangaon at 08:00 pm to see mela. He further says that he does not know the occurrence. In para-2 he says that rumour spread in mela that Baiju was caught. A call was came to Rambabu by his mother and he does not know of the conversation between them. He does not know the mode of death of Baiju Ram.

So far the chain of the occurrence the prosecution is failed to establish chain of the occurrence. On the night of occurrence when the deceased murder talked his son by mobile and her son said that Bharti Kumari called him and he along with Rambabu Ram and



Chandu Ram went to her door where Manish Yadav and 8 others would kill him and hence the villagers be sent immediately. In the meantime Manish Yadav snatched his mobile. The parents of victim has not informed the police station and without giving any information they rushed to the village Mahinathpur. The police has failed to produce any arms or articles used in the occurrence. The prosecution is also failed to produced any forensic report of the occurrence. On the perusal of the postmortem report it appears that cause of death is asphyxia due to strangulation. The Id. Defence counsel also submitted that recovery of plastic chappal and pen was not duly examined and who has recovered the material is not clear.

The victim was lastly seen with Rambabu Ram and Chandu Ram and they altogether reached in the village Mahinathpur by motorcycle. The dead body was recovered far from the house of accused persons. The prosecution has not examined the PO the recovered article scientifically. The entire occurrence is ambiguous. So last seen theory is not in favour of prosecution.”

6. With respect to the offence charged under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the learned trial court held that the prosecution has been unable to prove that the alleged occurrence had been committed by the accused persons against the victim because he belongs to Scheduled Castes or Scheduled Tribes, which is an



essential requirement for an offence to be committed under this act. Therefore, the learned trial court on the basis of the materials available on record, and the evidence produced before the court, acquitted the accused persons observing that the prosecution has failed to prove the charge levelled against the accused persons as all the witnesses examined by the prosecution are circumstantial witness and are not the eye-witness and in the circumstantial evidence they have failed to prove the motive and last seen theory. The learned trial court has further observed that the chain of circumstantial evidence is not complete, the entire prosecution story is doubtful and the forensic evidence has not been produced by the prosecution.

7. Learned counsel for the appellant submits that the learned trial court has failed to appreciate the evidence of PW1 that the deceased had called his mother in the night and said that the accused persons were trying to kill him and asked her to send his father and co-villagers to save him, which was proved in the C.D.R. PW3, the mother of the deceased in her evidence also stated that the deceased had called her in the night and said that all the accused persons would kill him and her son was having love affairs with accused Bharti Kumari. The learned counsel for the appellants further submitted that the PW4 in his evidence has



mentioned every detail about the alleged occurrence in his examination before the learned trial court, and has corroborated the details of the alleged occurrence. The learned counsel for the appellants submitted that all the other prosecution witnesses have fully supported the alleged occurrence, and therefore, the learned trial court has perversely acquitted the accused persons, and the impugned judgment is fit to be set aside.

8. The learned counsel for the respondent-State submits that there is no perversity in the judgment of the learned trial court, and the prosecution had failed to prove the guilt of the accused before the learned trial court. Therefore, the order of the learned trial court requires no interference in the present case.

9. We have heard the counsel for the appellant and the respondent-State, and have also gone through the records of the case.

10. The sole question that requires consideration by this Court is whether the impugned judgment of acquittal requires any interference by this Court.

11. According to the *fardbeyan* of the informant, the son of the informant had called his mother, and said the accused persons were assaulting him, and were going to kill him. However, in the medical examination of the deceased, and the



evidence of the doctor before the learned trial court only ligature marks were found on the body of the deceased. The cause of death is strangulation, and except for this injury, there is no other injury on the dead body of the deceased. Therefore, there the medical evidence does not support the statement of the informant in the *fardbeyan*, and the prosecution has failed to explain this contradiction.

12. Further, as per the *fardbeyan*, the phone call of the deceased was received at 01:00 am in the midnight and the deceased had expressed the threat to his life by the family members of Bharti Kumari. However, during the trial the phone call said to be made between 11:00 PM – 12:00 AM. The evidence of the mobile phone call, was improved to be in line with the CDR (Call Detail Record) Report. Also, when the informant received the information about the phone call of his son, he did not report the same to the police, and directly went to the house of the accused persons. The said information whatsoever, was passed to the police and in the next morning, when the dead body of the deceased was found hanging in the Jamun tree. This creates a significant gap in the case of the prosecution and the prosecution has been unable to explain the conduct of the informant before the learned trial court.



13. The police has also searched the house of the accused persons, namely, Bharti Kumari and her family but no such incriminating article is said to have been recovered or brought on record during the trial to show that the deceased was at the house of the said Bharti Kumari. The prosecution did not produce any arms or articles which have been said to be used in the alleged occurrence, and the forensic report of the articles were not produced before the learned trial court.

14. Further PW-5, who had accompanied the deceased to the *Mela* and thereafter, as per the prosecution case, had gone to the house of Bharti kumari, has been declared hostile during the trial. He has stated in his evidence that he has no knowledge of the alleged occurrence, and had no information about what happened after he reached the *Mela*. He has further stated that he came to know about the alleged occurrence only after he returned from the fair.

15. Admittedly, there is no eye witness on the point of manner of occurrence. As such it is a case of circumstantial evidence where the prosecution has to prove the chain of circumstances in such a manner that no gaps are left in the prosecution case. In *Padala Veera Reddy v. State of A.P., 1991 SCC (Cri) 407*, the Apex Court had laid down the principles



which would need to be satisfied in cases of circumstantial evidence. The relevant paragraph of the judgment is reproduced as under:

“10. Before advertng to the arguments advanced by the learned Counsel, we shall at the threshold point out that in the present case there is no direct evidence to connect the accused with the offence in question and the prosecution rests its case solely on circumstantial evidence. This Court in a series of decisions has consistently held that when a case rests upon circumstantial evidence such evidence must satisfy the following tests:

- (1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;*
- (2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;*
- (3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and*
- (4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence....”*

16. Upon perusal of facts and evidence on record, and



the discussions made above, it is apparent the prosecution has been unable to complete the chain of circumstances in the present case. The prosecution has been unable to form a complete chain which would show that only the accused persons could have done the alleged crime, and such we find that the trial court has rightly acquitted the accused persons.

17. The findings recorded by the learned Trial Court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt of the accused beyond the shadow of all reasonable doubts. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

18. In criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned court below is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based is not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Surajpal Singh v. State***, as reported in ***1951 SCC 1207***:



“13. It is well established that in an appeal under Section 417 of the Criminal Procedure Code, the High Court has full power to review the evidence upon which the order of acquittal was founded, but it is equally well settled that the presumption of innocence of the accused is further reinforced by his acquittal by the trial court, and the findings of the trial court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons.”

19. In ***Chandrappa v. State of Karnataka***, as reported in **(2007) 4 SCC 415**, the Supreme Court reiterated this view, and laid down the general principles to followed while dealing with appeal against an order of acquittal. The relevant paragraph of the judgment is reproduced as under:

“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”,



“glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

20. The apex court further reaffirmed this view in the case of ***Ghurey Lal v. State of Uttar Pradesh*** as reported in ***(2008) 10 SCC 450***, paragraph 75 of which reads as under:

“75.The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”



21. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case if the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

22. In view of the above, we do not find any illegality and perversity in the findings recorded by the Trial Court.

23. Accordingly, the present appeal is dismissed.

24. Pending application(s), if any, shall stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.09.2025
Transmission Date	17.09.2025

