

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.229 of 2025

Arising Out of PS. Case No.-12 Year-2006 Thana- KHUDAGANJ District- Nalanda

Vijendra Prasad @ Vijindra Prasad S/o- Late Lalji Prasad Village- Daura Po-
Khudaganj Ps- Khudaganj Dist- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Inod Chourasia S/o- Late Munni Chourasia Village- Manjhve Ps- Hisua Dist- Nawada
3. Binod Chourasia S/o- Late Munni Chourasia Village- Manjhve Ps- Hisua Dist- Nawada
4. Ram Janam Chourasia S/o- Late Munni Chourasia Village- Manjhve Ps- Hisua Dist- Nawada
5. Vijay Chourasia S/o- Sri Rajendra Prasad Chourasia @ Sri Rajendra Chourasia Village- Manjhve Ps- Hisua Dist- Nawada
6. Dharmendra Chourasia S/o- Sri Kedar Chourasia Village- Manjhve Ps- Hisua Dist- Nawada
7. Mukesh Chourasia S/o- Sri Radhe Chourasia Village- Daura Bauri Durga Asthan Po- Khudaganj Ps- Khudaganj Dist- Nawada
8. Sanjay Chourasia S/o- Binod Chourasia Village- Daura Bauri Durga Asthan Po- Khudaganj Ps- Khudaganj Dist- Nawada
9. Vishvnath Chourasia S/o- Kuldeep Chourasia Village- Daura Bauri Durga Asthan Po- Khudaganj Ps- Khudaganj Dist- Nawada
10. Moti Chourasia S/o- Late Bhondu Chourasia @ Late Bhonu Chourasia Village- Daura Bauri Durga Asthan Po- Khudaganj Ps- Khudaganj Dist- Nawada
11. Yugal Chourasia S/o- Late Lala Mahto @ Late Lala Chourasia Village- Daura Bauri Durga Asthan Po- Khudaganj Ps- Khudaganj Dist- Nawada

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ravi Kant Kumar, Advocate
For the Respondent/s : Mr. Ajay Mishra, Spl PP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 11-09-2025

The present criminal appeal has been preferred



under Section 413 of the Bharatiya Nagrik Suraksha Sanhita, 2023 against the judgment of acquittal dated 25.10.2024 passed by the learned Additional Sessions Judge- 5th at Hilsa, District- Nalanda in Sessions Trial No. 769 of 2006, G.R. No. 290 of 2006, CIS No. 682 of 2015, arising out of Khudaganj P.S. Case No. 12 of 2006, whereby Respondent Nos. 2 to 11 have been acquitted by the learned trial Court from the charge of Sections 147, 148, 149, 323, and 302 of the Indian Penal Code and Section 27 of the Arms Act.

2. The prosecution case, in brief, is that on 14.03.2006 at 8:30 p.m., accused persons, namely, 1. Inod Chourasia, 2. Binod Chourasia, 3. Ram Janam Chourasia, 4. Vijay Chourasia, 5. Dharmendra Chourasia, 6. Mukesh Chourasia, 7. Sanjay Chourasia, 8. Vishvnath Chourasia, 9. Moti Chourasia, 10. Yugal Chourasia, all armed with sticks and guns, formed an unlawful assembly and assaulted Santosh Kumar, Singhasan Prasad and Genda Devi. The accused Inod Chaurasia and Sanjay Chaurasia were armed with rifles and the rest of the accused were armed with sticks and bricks and stones. The alleged occurrence happened near the house of Yugal Chourasia. At that time, the father of the informant, Lalji Chourasia went there while strolling and protested against the assault that was



happening, thereupon, all the above mentioned ten accused started brutally beating Lalji Chaurasia with sticks and bricks. Meanwhile, Inod Chourasia and Sanjay Chourasia fired two bullets each, from the rifle they were carrying. Due to the injuries, his father died at about 12:30 a.m. After this, all the above accused persons threatened the informant and his family, and out of fear, they went into hiding in their house, and in the morning informed the local watchman about the same. In the meanwhile, all the ten accused persons fled from the village.

3. On the basis of written statement of the informant, Khudaganj P.S. Case No. 12 of 2006 was instituted under Sections 147, 148, 149, 323 and 302 of Indian Penal Code and Section 27 of the Arms Act and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 to 11 and, accordingly, cognizance was taken. Thereafter the case was committed to the Court of Sessions. Charges were framed against the accused persons under Sections 149, 323 and 302 of Indian Penal Code and Section 27 of the Arms Act to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether five witnesses i.e. PW-1 Shrawan Kumar Chourasia,



PW-2 Ramashish Yadav, PW-3 Shambhu Kumar Chourasia, PW-4 Sudama Prasad, PW-5 Ramanand Chaurasia. 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 on the basis of the materials available on record and the evidence produced before the Court, acquitted the accused persons noting that the facts of the incident are unclear. The learned trial Court has also observed that in relation to this incident, no conclusive and credible evidence has been brought on record and that the evidence adduced by the prosecution is not sufficient to prove the facts of the case. The learned trial Court in Paragraph No. 10 of the impugned judgment held as under:

“10. प्रस्तुत वाद में बचाव पक्ष के विद्वान अधिवक्ता तथा विद्वान अपर लोक अभियोजक के तर्कों को विस्तारपूर्वक सुना एवं अभिलेख का अवलोकन किया। साक्षी सं० 01, 02, 03, 04 एवं 05 ने मुख्य परीक्षण में कहा है कि घटना के बारे में कुछ नहीं जानते हैं। इस वाद में अनुसंधानकर्ता, चिकित्सक एवं अन्य साक्षियों का साक्ष्य नहीं कराया गया है। उपरोक्त तथ्यों से प्रतीत होता है। इस प्रकार घटना के सम्बन्ध में कोई निश्चयात्मक एवं विश्वसनीय सबूत अभिलेख पर नहीं लाया गया है। अभियोजन पक्ष के मामले के तथ्यों पर विश्वास किए जाने हेतु कोई मजबूत आधार अभिलेख पर मौजूद नहीं हैं।

अतः उपरोक्त समस्त तथ्य एवं परिस्थितियों को ध्यान



में रखते हुए एवं अभिलेख पर उपलब्ध साक्ष्यों के मध्येनजर प्रतीत होता है कि अभियोजन द्वारा दिया गया साक्ष्य मामले के तथ्यों को साबित करने के लिए पर्याप्त नहीं है।”

6. Learned counsel for the appellant has submitted that the learned trial Court has miserably failed to appreciate the fact that there is no delay in lodging the F.I.R and acquitted the Respondent Nos. 2 to 11, without giving the proper opportunity to the charge sheet prosecution witnesses such as informant, Investigating Officer, doctor and others.

7. The learned counsel for the respondent-State has submitted that there is no illegality or perversity in the judgment of the learned trial Court, and the order of the learned trial Court requires no interference in the present case.

8. We have heard learned counsel for the appellant and the respondent, and have also gone through the records of the case.

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

10. In the present case, altogether five witnesses have been examined by the prosecution. All the five witnesses are independent witness, however, they have not supported the



prosecution case and have stated that they have no knowledge of the said occurrence. Further, the informant, the doctor who conducted postmortem, and the I.O. have not been examined. No medical evidence has also been adduced by the prosecution. Such absence of evidence cast a serious doubt on the time, place and manner of the alleged occurrence.

11. Further no corroborative evidence has been produced before the learned trial Court, which has supported the prosecution case, and such the prosecution story cannot be believed. The evidence which has been produced before the learned trial Court are not enough, and the prosecution witnesses have not supported the prosecution case. In absence of any evidence incriminating the accused persons, we find that the prosecution has failed to discharge its duties and has not proved the case against the accused persons beyond the shadow of reasonable doubts. Thus, the learned trial Court has rightly acquitted the accused persons.

12. The findings recorded by the learned trial Court do not suffer from any illegality and perversity. In a criminal case, the identity of the accused is to be established, so as to prove his guilt 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.

13. 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 ***Mrinal Das vs. State of Tripura*** reported in ***(2011) 9 SCC 479***, Paragraph Nos. 13 & 14 of which read as under:

"13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two



reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference....."

14. In the case of ***Ghurey Lal vs. State of Uttar Pradesh*** reported in ***(2008) 10 SCC 450*** in Paragraph No. 75, the Hon'ble Supreme Court observed 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."

15. 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.

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

17. Accordingly, the present appeal is dismissed.

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

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Anushka/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.09.2025
Transmission Date	

