

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (DB) No.208 of 1994**

Ashok Singh son of late Ram Nandan Singh, resident of village-Mohanpur,  
P.S. Bakhari, District-Begusarai.

... .. Appellant/s

Versus

State Of Bihar

... .. Respondent/s

with

**CRIMINAL APPEAL (DB) No. 277 of 1994**

Devendra Singh son of Jhari Singh resident of village-Mohanpur, P.S.  
Bakhari, District-Begusarai.

... .. Appellant/s

Versus

State Of Bihar

... .. Respondent/s

**Appearance :**

(In Cr. Appeal (DB) No. 208 of 1994 and Cr. Appeal (DB) No. 277 of 1994)

|                      |   |                                                                               |
|----------------------|---|-------------------------------------------------------------------------------|
| For the Appellant/s  | : | Mr. Ansh Prasad, Adv.<br>Mr. Shubham Prakash, Adv.<br>Mr. Rajeev Ranjan, Adv. |
| For the Respondent/s | : | Ms. Shashi Bala Verma, APP                                                    |

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**and**

**HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA**

**ORAL JUDGMENT**

**(Per: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA)**

**Date : 21-08-2025**

The aforesaid appeals under Section 374 (2) of the Criminal Procedure Code, 1973 (hereinafter referred as 'Cr.P.C.') have been preferred against the common judgment of conviction and order of sentence dated 12.04.1994 passed in Sessions Case No. 65 of 1993 (arising out of Bakhari P.S. Case No. 69 of 1992) by the learned Additional Sessions Judge-6th, Begusarai, whereby and whereunder the learned Trial Judge has convicted the appellants of both the aforesaid appeals for commission of offence under Section 302/34 IPC as also Section



27 of the Arms Act and sentenced them to undergo rigorous imprisonment for life under Section 302/34 IPC and rigorous imprisonment for seven years under Section 27 of the Arms Act. The sentences have been directed to run concurrently.

2. The short facts of the case based on the *fardbeyan* of Sanjeev Kumar Singh (P.W.9) recorded on 28.08.1992 at 10:30 PM at Balha Bandh on the street at Mohanpur village is that on 28.08.1992 at around 06:00 PM, while the informant had gone west of his village for inspecting his chilli fields and his father Chandra Shekhar Singh was coming back from his duty at Jaimanglagarh Forest Department on a cycle, he saw Ashok Singh, Devendra Singh, Umesh Singh, Rishidev Singh and two other unknown persons, whom he could identify by face, coming out of the maize fields and surrounding his father, whereafter they resorted to indiscriminate firing by means of pistol on account of which his father got badly injured and fell in the flank besides the road. It is next alleged that the informant started shouting loudly due to which all the accused persons started running towards the southern side and Priyabrat Singh (P.W.1), Raj Kumar Singh (P.W.2), Prem Singh (P.W.8), Hare Krishna Singh (P.W.5), etc. came running to the place of occurrence and witnessed the occurrence. The father of the



informant died on the spot at the place of occurrence itself. The reason for the occurrence has been alleged by the informant to be an old enmity with the accused persons due to which they killed his father by firing gun shots. The said *fardbeyan*, besides being signed by the informant, was also signed by two other witnesses Priyabrat Singh (P.W.1) and Suresh Prasad Singh (not examined).

3. After recording the *fardbeyan*, a formal FIR bearing Bakhari P.S. Case No. 69 of 1992 was registered for offences under Sections 302 r/w Section 34 of the IPC and Section 27 of the Arms Act against four named accused persons including the present appellants and two unknown persons on 29.08.1992 at 01:30 AM. After investigation, the police submitted charge-sheet on 28.11.1992 against the four FIR named persons including the present two appellants for offences under Sections 302/34 of the IPC and Section 27 of the Arms Act. On the basis of the said charge-sheet and the materials available on record, cognizance was taken on 02.12.1992 under the same sections against the appellants and two others. The case was then committed to the Court of Sessions on 02.02.1993 and a perusal of the said order would show that the proceedings against accused Rishi Dev Singh was dropped as he had died. After commitment, the case



was numbered as Sessions Case No. 65 of 1993, whereafter the learned Trial Judge framed charges on 22.03.1993 against the present two appellants and one Umesh Singh, who though was convicted and sentenced by the impugned judgment and had also filed an appeal bearing Criminal Appeal (DB) No. 259 of 1994, however the same has stood abated vide order dated 31.10.2017, in view of his death.

4. During the course of trial, the prosecution in order to substantiate its case, examined eleven witnesses out of whom, P.W.1, Priyabrat Singh (cousin brother of the informant) is a signatory to the FIR P.W.2, Raj Kumar Singh (brother of the informant) and P.W.5, Hare Krishna Singh (*gotiya* of the informant) have both been declared hostile by the prosecution. P.W.3, Balmiki Choudhary, P.W.4 Rabindra Singh and P.W.7 Sudhir Prasad Singh are formal witnesses who have proved the seizure list and the inquest report. P.W.8 Prem Singh is a tendered witness who is also a signatory to the inquest report. P.W.6 Rajeev Kumar Singh (son of the deceased) and P.W.9 Sanjeev Kumar Singh (son of the deceased as also the informant of this case), both claim to be eyewitness. P.W.10 Awadhjee Singh is the Investigating Officer, while P.W.11 Dr. Anand Kumar Sharma is the doctor, who has conducted the postmortem



examination of the dead body of the deceased. Five witnesses have also been examined on behalf of the defence who are Pappu Singh (D.W.1), Pramod Kumar Singh (D.W.2), Manohar Kumar Singh (P.W.3), Dr. Rajeshwar Prasad Mishra (D.W.4) and Nandlal Tati (P.W.5).

5. We have heard the arguments of the learned counsel for the appellants and the learned APP for the State at length.

6. Mr. Ansh Prasad, learned counsel for the appellants, duly assisted by Mr. Shubham Prakash has, at the outset contended that there are several inconsistencies between the first information report and the statements of the witnesses adduced during trial. He has submitted that the place of occurrence itself has not been proved/established as the Investigating Officer has not been able to bring on record any objective evidence to establish the same. As against the allegation of indiscriminate firing by 5 to 6 persons, no empty cartridges were recovered from the place of occurrence, as such the same were neither seized nor produced. It has been further submitted that no blood was found or seized from the place where the deceased allegedly received gun shot and moreover, the blood stained earth seized from the flank where the deceased had fallen, was also not sent for forensic examination. He further submits that the cycle,



















































































