

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.123 of 2006

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1. Parsuram Prasad, Son of Jagarnath Prasad, Resident of village - Amiyan, P.S. - Bihiyan, District – Bhojpur.
 2. Sunil Prasad, Son of Ram Naresh Prasad, Resident of Village- Amiyan, P.S. - Bihiyan, District – Bhojpur.
 3. Anil Prasad, Son of Ram Naresh Prasad, Resident of Village- Amiyan, P.S. - Bihiyan, District – Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sunil Kumar, Advocate Mr. Pankaj Kumar, Advocate
For the Respondent/s	:	Mr. A. M. P. Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV JUDGMENT

Date: 30.06.2025

Heard Mr. Sunil Kumar, learned counsel for the appellants assisted by Mr. Pankaj Kumar and Mr. A. M. P. Mehta, learned APP for the State.

2. Learned counsel for the appellants submits that Bharat Prasad, Naresh Prasad @ Ram Naresh Prasad, Chhotak Prasad and Pramod Prasad have died during the pendency of the appeal. So, the appeal against them stands abated under the provision of Section 394 of the Code of Criminal Procedure vide order dated 24.06.2024 and 14.11.2024, respectively.

3. The present appeal has been filed under Section 374(2) of Code of Criminal Procedure, 1973



(hereinafter referred as 'Cr.P.C') challenging the Judgment of conviction dated 31.01.2006 and order of sentence dated 04.02.2006 passed by the learned Additional District and Sessions Judge, F.T.C.-1st, Ara, Bhojpur in Sessions Trial No. 209 of 1999 by which the appellants have been convicted for the offence punishable under Sections 304 and 307 of the Indian Penal Code (hereinafter referred as 'IPC'). The appellant namely Parsuram Prasad has been sentenced to undergo rigorous imprisonment for ten years for the offence punishable under Section 304 of the IPC and further rigorous imprisonment for seven years for the offence punishable under Section 307 of the IPC. Rest of the appellants namely Sunil Prasad and Anil Prasad have been sentenced to undergo rigorous imprisonment for seven years for the offence punishable under Section 304 of the IPC and further rigorous imprisonment for five years for the offence punishable under Section 307 of the IPC. All the sentences have been ordered to run concurrently.

4. The brief facts leading to the filing of the present appeal is that the informant, namely Jitendra Yadav (PW-4) recorded his statement at Bihiyan Police Station on 25.10.1995 at about 1:25 PM is that on 24.10.1995 at about 4.00 PM, wrestling was going on near Kali Temple in Village Amiya and in which the deceased Vishnudeo Yadav (nephew of the



informant) had some altercation with Baijnath Prasad (Son of Manjee Prasad), a co-villager and due to which Bharat Prasad, Naresh Prasad, Parsuram Prasad, all co-villagers of the informant (PW-4) arrived there after some time. According to the informant (PW-4), due to old enmity accused started assaulting the deceased nephew of the informant with *Lathi* and bricks bats. Upon information when the informant went to rescue the deceased nephew appellant Bharat Prasad assaulted him with *Lathi* on his head as a result of which he became injured and fell down. Accused are alleged to have assaulted the deceased nephew with *Lathi* and bricks after surrounding him and as a result thereof he became unconscious on the spot itself. Sheo Govind Yadav (not examined), Anant Yadav (not examined) and others are said to have arrived, who had witnessed the alleged occurrence and rescued the prosecution party. It is also alleged that the informant (PW-4) brought his deceased Nephew to Ara Hospital for treatment, from where the deceased is said to have been taken to Patna on the advice of the Doctor at Ara. It is further alleged that the deceased was unconscious and was admitted in Government Hospital, Patna where he was being treated. The Informant (PW-4) stated that there after he came to the Police station and gave his statement in this regard.



5. On the basis of the fardbeyan of the informant (PW-4), Bihiyan P.S. Case No. 120 of 1995 was registered on 25.10.1995 at about 1:25 PM, for the offences punishable under Sections 302 of the IPC after completion of investigation, charge-sheet vide charge sheet No. 9 of 1996 on 28.01.1996 was submitted against accused persons for the offences punishable under Sections 341, 323, 337, 504 and 304 read with 34 of the IPC and accordingly the cognizance of offences under Sections 307 and 304 of the IPC was taken, against altogether eight accused persons and the case was committed to the Additional District and Sessions Judge (F.T.C. -Ist), Ara, Bhojpur. The charges were framed against the accused persons which was explained to them and they denied of prosecution taking plea of false implication in the case and claimed to be innocent.

6. On behalf of prosecution altogether 7 witnesses were examined to substantiate the charges leveled against the appellants, who are namely, PW-1 Dr. K. P. Singh has examined the injuries on the person of Jitendra Yadav (PW-4) and has proved injury report (Ext. 1), PW-2 (brother of the deceased) Satyendra Yadav, PW-3- Raj Kumar Yadav (cousin of the deceased), PW-4 Jitendra Yadav (Informant) and PW-5- Surendra Nath Singh (formal witness who proved the certified copy of the FIR.) have deposed in support of the prosecution on



point of occurrence. PW-6 Dr. Bishnudeo Prasad claims to have held autopsy on the deceased on 06.11.1995 at about 10:10 AM. and prepared postmortem report, which was marked as Ext. 4. PW-7 Krishna Bihari Tiwari (Investigating Officer).

7. PW-1 Dr. K.P. Singh in his Examination-in-Chief stated that on 24.10.1995 he was posted at Behiya Health Centre. On the same day at about 9:30 PM. he examined Jitendra Yadav and found following injuries:-

(i) Lacerated wound 1 ½ x ½ x ¼ cm on middle of head.

(ii) Lacerated wound 1 x ½ " x ¼ " on left frontal aspect of head.

opinion both the injuries were caused by hard and blunt substance and simple in nature.

Doctor identified his injury report which has been marked as Ext-1.

In his cross-examination he stated that both the injuries are of superficial in nature and may be caused by friendly hands.

8. PW-2 Satyendra Yadav, the younger brother of the deceased in his Examination-in-Chief stated that the alleged occurrence took place on 24.10.1995 at 4:00 PM. At that time he was near Kali temple and there is also Gorbardhan hill near Kali temple. While wrestling was performed on the eve of Gobardhan Puja near Kali Temple, Sanjay Yadav assaulted



Pramod Prasad for pinching him. Naresh Prasad, Bharat Prasad, Parshuram Prasad, Pramod Prasad, Anil Prasad, Sunil Prasad, Manji Prasad, Chhotak Prasad started assaulting him there. Naresh Prasad and Parshuram Prasad assaulted the deceased Vishnudev Yadav with *lathi* causing injury on the left side of his head and as a result thereof he fell down in injured condition. PW-4 Jitendra Yadav (informant) went to save the deceased, who was also getting hit by the appellant Bharat Prasad with *lathi* on his head. Both the injured Vishnudev Yadav and Jitendra were brought to Bihiya Hospital for treatment. Jitendra was treated there and Vishnudev was referred to Ara. When they reached Ara, the Ara Doctor referred them to PMCH Patna and he was treated in Patna. During treatment Vishnudev Yadav died in PMCH. The accused person who hit the injured with the *Lathi* was intoxicated. He further stated that his statement was recorded at the police station.

8.i. In his cross-examination, he stated that he had himself saw the occurrence and had not heard from others. He further stated that he did not give the statement to the police officer that he came to know about the incidence that Bharat Prasad, Parshuram Prasad, Naresh Prasad, and Mad Prasad beat his brother Vishnu Dev Yadav with sticks, bricks and stones and injured him on the head. When Jitendra Yadav went to rescue



him, Bharat Prasad attacked him with *Lathi* and he received injury on the head.

8.ii. He further stated that he was distributing prasad at the place where Gobhardhan Puja was being performed and the temple of Goddess Kali was adjacent to the said mountain in north direction and the Wrestling was performed in the south-west direction of Gobhardhan mountain. There was a huge crowd at the place where the wrestling was going on and at that time he was distributing Prasad. While the wrestling was going on, suddenly a commotion broke out and people started running here and there and bricks and stones were also thrown. During this Vishnu Dev Yadav got injured. He also stated that he can recall that who was fighting with whom instead of the disturbance broke out and bricks and stones were being thrown.

8.iii. He further stated that Vishnu Dev became unconscious after getting hit by the accused persons and fell unconscious at the place itself and from that place his family members took him to the home. When he again felt unconscious at home his family took him to the Ara hospital he also went to Ara with the injured from where deceased was referred to Patna P.M.C.H. and he also accompanied the deceased in hospital. He



further stated that near *akhada*, at a distance of ten foot on the left side, Vishnu Dev was lying down but blood was not oozing from his head. There was injuries in the eye of the deceased and blood oozing out from there.

9. PW-3 Raj Kumar Yadav in his examination-in-chief stated that the alleged incident took place on 24.10.1995 at 4:00 PM. At that time on the eve of Govardhan Puja wrestling was going on and in the programme of wrestling there was altercation between Pramod and Sanjay. Sanjay abused Pramod upon which Pramod assaulted Sanjay. Ram Naresh and Parsuram assaulted Vishundeo with lathi on his head. They also assaulted Jitendra Yadav (PW-4) who went for rescue of Vishundeo. Jitendra Yadav ran to save him. Bharat Prasad hit him on the head with a stick and he also got hit by the stick on his head. He also stated that they took the injured to Bihiya hospital for treatment. Jitendra was treated and Vishnu Dev was referred to Ara hospital where from he was referred to PMCH hospital and he died during course of treatment.

9.i. In his cross-examination, he stated that he had given statement to the police, his statement was recorded four days after the alleged incident. Before Vishnudev Yadav died, he had given his statement to the police. He had told the



police that on being pinched, Sanjay started abusing and Pramod started hitting him, upon this Vishnu Yadav went to kill him, upon this Parshuram, Ram Naresh, Bharat, Prabhav, Sunil, Anil, Chhotak, Manji started hitting Vishnudev. He had told the police that Ram Naresh and Parshuram started hitting Vishnudev with sticks due to which Vishnudev's head got injured. He further stated that Jitendra Yadav went to save Vishnudev, so Bharat Prasad hit him with a stick and he also receive injury on his head and after that both the injured were taken to Bihiya hospital for treatment.

9.ii. He further stated that Vishnudev died after 10 days of the alleged incidence. Jitendra's statement was not recorded on the day he was taken to Bihiya hospital. We reached Bihiya hospital 10:00 PM. Vishnudev and Jitendra were taken to Bihiya hospital from the place of the alleged incident and not convey them to home and Jitendra's statement was recorded in Bihiya hospital. Jitendra did not come to Patna hospital with Vishnudev, he stayed in Bihiya hospital.

9.iii. He further stated that he was in Puja at that time when alleged incidence took place. There was a crowd of thousands of people around the arena. When the fight started and there was a ruckus and *halla*, his attention went towards the



place of the incidence. The people showing the wrestling were not intervening because bricks and stones were thrown. Vishnudev Yadav (deceased) and Jitendra (PW-4) got hit by the same bricks and stones. He also stated that at the time when the bricks were being thrown, the wrestlers continues their wrestling and huge crowd watching it and the fight ended due to mediation and intervention of other people went to their respective places.

9.iv. He stated that where Vishnudev and Jitendra fell, there was no blood. Jitendra's forehead was bruised and Vigun Dev's head was not broken. Vishnu Dev and Jitendra were lying side by side. He had not seen from which direction the bricks and stones were thrown and stated that bricks and stone coming from every direction. Firstly he stated that Parshuram and Ram Naresh work in the railways and on that day also they had gone on duty. Then he stated that they had not gone on duty.

10. PW-4 Jitendra Yadav (informant) in his Examination-in-Chief stated that on 24.10.1995 at 4:00 PM he was in Govardhan Puja. As on that date there was Gobardhan Puja and a program of wrestling was also organized near Govardhan hill. Pramod pinches Sanjay this led to a fight. In the



midst of the fight, bricks and stones started flying. Apart from them, Parashuram hit Vishnudev with a stick. He was hit on the left side of the head. Vishnudev fell unconscious after being hit. When he went to save him, Bharat hit him on the left side of his head with a stick. He along with his nephew went to Bihiya Hospital for treatment. He was treated and Vishundev was referred to Sadar Hospital, Ara. Then Vishundev was referred from Ara to PMCH and during treatment, Vishundev Yadav died in Patna.

10.i. In his cross-examination, he stated that Police registered a case on his statement. On the day of alleged incident he went to Bihiya hospital on his own and after him Vishnudev and others reached there by train. After half an hour of the incident he left for the hospital from the village. Vishnudev was unconscious and lying at the place of the incident and he had made arrangements to take Vishnudev to the hospital. Again he says that he was not aware of the fact that Vishnu Dev was injured, therefore, his brother and nephew took him to the hospital. He reached the hospital on 24.10.1995 at 8:00 PM and he came to Bihiya by taking the railway line. He showed his wounds to the doctor and doctor examined his wounds as soon as he reached there. By that time blood was also oozing from the wound on his head. Blood had also fallen on his



white clothes. He had shown his blood stained cloth to police.

10.ii. He further stated that before Vishnudev was admitted to P.M.C.H, he registered his FIR. On 25.10.1995 at 12:00 PM. he took Vishnudev to the hospital and Vishnudev was admitted to P.M.C.H. He was admitted in the Government Hospital of Ara where he is undergoing treatment. He further stated that he was treated by a Government Doctor B.P. Yadav in Ara. He also stated that Dr. Radhey Shyam was available in Bihiya. but Vishnudev was not treated by Dr. Radhey Shyam.

11. PW-5 Surendra Nath Singh formal witness in his Examination-in-Chief stated on 24.11.1985 he was posted in copying department of Ara Civil Court on that day he received the copy of Case No 120 of 1995. After verification, he signed it and then certified it. He identified certified copy of FIR which has been marked as Ext. 2. He further stated that he has proved photocopy of the formal First Information Report. He stated that after the copy was verified by him, it was issued by the copying department.

12. PW-6 Dr. Bishnudeo Prasad in his Examination-in-Chief has stated that on 06.11.1995 he was posted as Assistant Professor Forensic Medicine Department at P.M.C.H. Patna. On that date at 10:10 AM. he performed



postmortem examination on the dead body of Vishun Dev Yadav aged about 20 years. Dead body was identified by Constable Rama Kant Sharma No-9988. As per observation of the Doctor rigor mortis was present on all over the body. He found following antemortem injury. Stitch wound of 3 cm was present on the left temporal to left parietal region of the head and dissection of head, chest and abdomen, was done the craniotomy was done injury of 2" x 1" was present on the left temporal bone. Blood and blood clots were present on the left side of brain. The bladder spleen and both kidneys were found congested. The stomach contain about 4 oz of watery fluid, urinary bladder was found empty.

12.i. As per opinion of the Doctor cause of death was shock and haemorrhage due to head injury. Nature of violence could not be ascertained due to surgical intervention. He further stated that postmortem examination had been done within 24 hours after death. He identified postmortem report which has been marked as Ext-4.

13. PW-7 the Investigating Officer in his Examination-in-Chief stated that on 25.10.1995 he was posted as Assistant Sub Inspector in Bihiya Police Station. Bihiya Police Station In charge Shri V.N. Singh asked him to register



Bihiya Police Station Case No. 120 of 1995 and entrusted the responsibility of investigation to him. During the investigation, he took the statement of the plaintiff Jitendra Yadav again and issued letter of inquest report. He also visited the place of occurrence and gave details of place of occurrence. The place of incident is near the Kali Mandir about 100 yards west of village Ameya Tola, Gobardhan hill was just adjacent to the Kali temple, wrestling was being organized near the said hill and it is said that the fight took place there.

13.i. He further stated that during the course of investigation, the statements of witnesses Anant Yadav, Satendra Yadav, Sanjay and Raj Kumar Yadav were taken. Jitendra Yadav, the informant, came to the police station and gave information that the victim of this case, Vishun Dev Yadav, died in the course of treatment in P.M.C.H. on 06-11-1995. During the course of investigation, he received the postmortem report of deceased Vishnudev Yadav from P.M.C.H. Patna. The death review report is in the writing of R.P. Singh, Assistant Sub Inspector, Peer Bahor Police Station, which should be marked as Ext.5. During the course of investigation, he took the statements of other witnesses.

14. After closure of the prosecution evidence, the



appellants were examined under Section 313 of the Cr.P.C where they claimed that the prosecution evidence is false and they are innocent and have been falsely implicated in the present case.

15. The learned Counsel for the appellants submitted that the impugned judgment of conviction and order of sentence are not sustainable in the eye of law or on facts. Learned trial Court has not applied its judicial mind and erroneously passed the judgment of conviction and order of sentence and from perusal of the evidences adduced on behalf of the prosecution it is crystal clear that the prosecution's case is false and fabricated.

15.i. The learned Counsel for the appellants further submitted that according to PW-1 Dr. K.P. Singh who examined the informant Jitendra Yadav (PW-4) on 24.10.1995 at about 9:30 PM found both injuries inflicted on him was superficial in nature and caused by hard and blunt substance and also simple in nature. But as per the deposition of the PW-4 Jitendra Yadav on 24.10.1995 at about 4:00 PM went to Hospital. Further he stated that he reached in hospital on 24.10.1995 at about 8:00 PM. Blood was also fallen on his white shirt which was produced to the Investigating Officer who



prepared the Seizure list. But the said statement has not been brought either on record or on the exhibition.

15.ii. He further submitted that PW-2 Satyendra Yadav was examined as eye witness of the alleged occurrence but he has given complete different version of occurrence from that of informant (PW-4). In para-6 of his deposition he stated that when Gobardhan Puja was going on then he was distributing the "Prashad" and at that time at the place of wrestling all of a sudden nuisance was created as a result of which the visitors started to flee away hither and thither and brick batting was going on during which Vishundeo Yadav received injury. During cross-examination he further stated in his deposition that after receiving injury Vishundev Yadav became unconscious and fell down from where he was taken away to his house by his family members and when his condition was deteriorated then family members took him to Ara Hospital. So he has described a complete different story from that of PW-4 Jitendra Yadav on which the F.I.R. is based. When attention of this witness was drawn with respect to his previous statement made before police under Section 161 Cr.P.C. and on cross examination of the Investigating Officer (PW-7) it would appear that PW-2 had not seen the alleged occurrence and has stated as hearsay witness. Thus, the claim of



this witness of having seen the alleged occurrence from his own eye is contradictory.

15.iii. He further submitted that PW-3 Raj Kumar Yadav has also not supported the prosecution version rather he has narrated a different story in his deposition which falsify the entire occurrence as alleged by the informant PW-4. The informant has also narrated a complete different story of occurrence in his deposition from that of first information report. As PW-4 in his deposition stated that at first he went to hospital thereafter he went to police station with doctor's slip but that doctor's slip was not brought on record. According to him on the alleged date of occurrence his statement was recorded by the police but that statement was not brought on record by the prosecution.

15.iv. He further submitted that PW-3 in his deposition stated that informant Jitendra PW-4 gave his statement before the police in Bihiyan Hospital He further stated in his deposition that blood stained shirt was shown by him to the Sub-Inspector who prepared the seizure list on which he put signature, but the Seizure list was not brought on record by the prosecution. He also stated in his deposition that he was standing near the place of wrestling during quarrel stampede



started. When attention of PW-4 was drawn with respect to earliest statement of this witness before the police then he named only appellants Bharat Prasad (dead), Naresh Prasad (dead), Parshuram Prasad, Pramod Prasad (dead) who are alleged to have assaulted the deceased by lathi and he has also admitted that he did not disclose the name of Sunil and Manji before the police.

15.v. He further submitted that PW-6 Dr. Bishundeo Prasad found stitched wound of 3" on left temporal region to left parietal region on his head. In the opinion of the doctor cause of death was shocked and haemorrhage due to head injury. Nature of violence could not ascertain due to Surgical interference. PW-7 namely Krishna Bihari Tiwari (I.O.) stated in his deposition that he visited the place of occurrence but he did not found wrestling court at the place of occurrence and neither blood stain was found nor he found any piece of bricks at the place of occurrence and when his attention was drawn with respect to the deposition of PW-2 and PW-3 then he categorically said that they have not stated that they have seen the place of occurrence and, thus, the deposition of the PW-2 and 3 cannot be taken into consideration in the present case and the same is fit to be discarded.



15.vi. He further submitted that from the facts and material collected during trial, it is apparent that the prosecution has failed to establish the place of occurrence, time of occurrence, manner of occurrence and genesis of occurrence and also motive of occurrence. He also submitted that the prosecution also has not disclosed that the appellant no.5 Pramod Prasad also received injury in the alleged occurrence. The Investigating Officer visited the place of occurrence but he did not found the wrestling place at the place of occurrence and also not found sign of stampede at the place of occurrence and no sign of blood was found at place of occurrence and, thus, it is apparent that the prosecution has failed to establish the charges leveled against the appellants beyond shadow of all reasonable doubts.

16. However, learned APP for the State defends the impugned judgment of conviction and the order of sentence submitting that there is no illegality or infirmity in the impugned judgment and order of sentence, because prosecution has proved its case against the appellants. In view of the aforesaid statements and the evidences on record, learned trial Court has rightly convicted the appellants and the present appeal should not be entertained.



17. At this stage, I would like to appreciate the relevant extract of entire evidence led by the prosecution before the Trial Court. I have thoroughly perused the materials on record and as well as given thoughtful consideration to the submissions advanced by both the parties.

18. On deeply studied and scrutinized all evidences, it is evident to note that there are serious inconsistency in the deposition of prosecution witnesses with respect to the occurrence of alleged incidence which are as follow:

(i) PW-2 in contradiction to the other prosecution witnesses stated in paragraph no.8 of his deposition stated that after receiving injury Vishnudev Yadav became unconscious and fell down from where he was taken away to his house by his family members and when his condition was deteriorated then family members took him to Ara Hospital. As the other prosecution witnesses stated that the deceased and PW-4 were taken to the hospital directly from the place of incidence.

(ii) PW-3 is not the eye witness of the occurrence as in paragraph no.8 of his deposition he stated that he was performing *puja* at the time of occurrence and on *halla* his attention was drawn towards the place of incidence so his



statement with respect to the place of occurrence can not be believed.

(iii) Moreover, PW-3 in para no.7 of his deposition stated that substances which related to the portion of incidence after the alleged occurrence which can be taken into consideration that PW-4 the informant gave his statement before the police was not recorded in Bihiyan hospital in contradictory to this further on same paragraph in subsequent line he stated that the statement of PW-4 was recorded in the Bihiyan hospital.

(iv) PW-4 in paragraph no.6 of his deposition stated that he went to the hospital by his own foot which is not reliable as after sustaining the injury there is no possibility of reaching hospital by foot. He also stated that he had no knowledge that deceased sustained injury and he had taken him to the hospital. Moreover in paragraph no.8 of his deposition he state that he was treated in Ara hospital by Dr. B. P. Yadav which is in contradictory to the deposition of other prosecution witnesses.

(v) In the present case it is also evident from the deposition of PW-6 that the deceased has not sustained injury in the transaction stated by prosecution story as there is only single injury sustained by him which is not reliable as the numbers of



bricks and stones were thrown.

(vi) PW-7 did not find any wrestling court at the place of occurrence and neither blood stain was found nor he found any piece of bricks at the place of occurrence.

19. The Hon'ble Apex Court in the case of ***State of Maharashtra v. Kashirao and Ors. (2003) 10 SCC 434*** laid down the essential ingredients required to be proved in case of an offence under Section 307 of IPC. The relevant portion of the judgement reads as under:

“20..... The essential ingredients required to be proved in the case of an offence under Section 307 are:

(i) that the death of a human being was attempted;

(ii) that such death was attempted to be caused by, or in consequence of the act of the accused; and

(iii) that such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as.

(a) the accused knew to be likely to cause death; or

(b) was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause

(a) death, or

(b) such bodily injury as is likely to cause



death, the accused having no excuse for incurring the risk of causing such death or injury.

20. In the present case it is crystal clear upon analyzing the facts and material on the record that there was no intention to kill or no knowledge that death will be caused as the transaction which resulted in death of deceased is not fully established beyond the shadow of all reasonable doubts. Hon'ble Supreme Court in the case of ***State of U.P. v. M.K. Anthony AIR 1985 SC 48***:- Some contradictions are natural due to passage of time and stress. But serious contradictions affecting core facts may render prosecution unreliable. The Court acquitted the accused due to material contradictions in eyewitness testimony.

21. In ***Babu v. State of Kerala (2010) 9 SCC189***:- The Court emphasized that prosecution evidence must be trustworthy and consistent. When witnesses contradict themselves materially the benefit must go to the accused. Doubt arose due to discrepancies in the time and sequence of events, leading to acquittal. In ***Vikas v. State of Maharashtra (2008) 2 SCC 516***:- Contradictions between FIR and deposition, and between witnesses, were central to acquittal. The benefit of doubt was extended due to failure of prosecution to prove guilt



beyond reasonable doubt. In the present case there are major contradictions on material particulars which become fatal for the prosecution case.

22. Considering the above facts, it is crystal clear that the prosecution has not established its case beyond the shadow of all reasonable doubts. Hence, the Judgment of conviction dated 31.01.2006 and order of sentence dated 04.02.2006 passed by the learned Additional District and Sessions Judge, F.T.C.-1st, Ara, Bhojpur in Sessions Trial No. 209 of 1999 is set aside and the accused/appellants are acquitted from the charges leveled against them. As the appellants are on bail, they are discharged from liability of their bail bonds.

23. Accordingly, this appeal stands allowed.

24. Office is directed to send back the trial Court records and proceedings along with a copy of this judgment to the trial court, forthwith, for necessary compliance, if any.

(Ramesh Chand Malviya, J)

Anand Kr.

AFR/NAFR	NAFR
CAV DATE	16.06.2025
Uploading Date	30.06.2025
Transmission Date	30.06.2025

