

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.536 of 2025

Arising Out of PS. Case No.-674 Year-2023 Thana- SUPAUL District- Supaul

Sudhanshu Kumar Gautam S/o- Ramanandan Singh R/o-Village-Thera, P.S.- Warsaliganj, District-Nawada.

... .. Appellant/s

Versus

1. The State of Bihar
2. Deepvansh Paswan @ Deepvansh Kumar S/o- Ramesh Paswan Village- Kariho W.No-6, Ps- Supaul Dist- Supaul
3. Rohit Raj @ Munna Pathak, S/o- Dharmendra Pathak Village- Kariho (Ward no. 5), Ps Supaul, Dist-Supaul

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Onkar Nath, Advocate
For the Respondent/s : Mr. Parmeshwar Mehta, Spl PP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 18-09-2025

The present criminal appeal has been preferred under Section 413 of the *Bharatiya Nagrik Suraksha Sanhita, 2023* against the judgment of acquittal dated 03.01.2025 passed by the learned Additional Sessions Judge-III, Supaul in Sessions Trial No. 43 of 2024 (CNR No. BRSU010014112024 and GR No. 1981/2023), arising out of Supaul P.S. Case No. 674 of 2023, whereby Respondent Nos. 2 and 3 have been acquitted by the learned Trial Court from the charge of Sections 302, 34 and 120(B) of the Indian Penal Code.

2. The prosecution case, in brief, is that Raushan



Kumar who is the brother-in-law of the informant, used to ply a car bearing registration number BR01PP6280 with *Uber*. On 22.08.2023, his car was booked for going to Supaul and at 10:00 PM, Raushan spoke to his wife on mobile phone and informed her that he is staying at Supaul in a hotel alongwith the customers and that he would return Patna the next day. He also conveyed the same information to his friend Manish at 10:24 PM. Thereafter, Raushan's mobile phone was switched off and was switched on again at 01:05 AM. When Manish contacted Raushan on his mobile phone, the call was answered by someone else who did not provide any satisfactory response. When Manish asked that person to bring Raushan on the call or else he would report the matter to emergency number 112, the call was disconnected and Raushan's mobile phone was switched off. Thereafter, the next morning, the owner of the said car and the officer-in-charge of the Supaul police station informed that dead body of Raushan Kumar was found inside the car and there were several marks of assault on his head and marks of knife assault on his body, and his face was also crushed. The family members of Raushan reached the place and found his dead body. It is also stated in the application, that Raushan possessed two mobile phones having connection



numbers 7004519935 & 9279915905, both of which were missing. Additionally, his driving license, ATM Card, some other documents and his wallet were also found to be missing. The car which the deceased was plying was found at the outskirts of Supaul city. The informant made suspicion against the company UBER & OLA in the commission of the said offence.

3. On the basis of written statement of the informant, Supaul P.S. Case No. 674 of 2023 was instituted under Sections 302, 34 and 120(B) of Indian Penal Code and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 and 3 and, accordingly, cognizance was taken. Thereafter, the case was committed to the Court of Sessions. Charges were framed against the accused persons under under Sections 302, 34 and 120(B) of Indian Penal Code to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether five witnesses i.e. PW1- Dr. Vikash Kumar, PW2- Vidyanand Sah, PW3- Sikender Prasad Yadav, PW4-Sudhanshu Kumar Gautam and PW5- Rajesh Kumar. The prosecution has also produced certain documents which were marked as



Exhibits, i.e., Exhibit 1- Post-mortem report, Exhibit 1/1- Signature of Dr. Manoj Kumar on the post-mortem report, Exhibit 1/2-Signature of Dr. ASP Sinha on the post-mortem report, Exhibit 2- Application of the informant marked in the evidence of the informant Sudhanshu Kumar Gautam, Exhibit P3/PW5- Endorsement, Exhibit P4/PW5- Seizure list of car, Exhibit P5/PW5- Seizure list of blood stains clothes of the accused Deepvansh Kumar, Exhibit P6/PW5- Seizure list of blood stains clothes from the house of the accused Munna Pathak, Exhibit P7/PW5- Seizure list of mobile phone from the house of the accused Deepvansh Kumar, Exhibit P8/PW5- Seizure list of mobile phone from the house of the accused Munna Pathak. 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 materials available on record do not bear out the charges levelled against the accused persons as the prosecution failed to link the accused persons with the commission of the offence and thus, the prosecution cannot be said to have proved the charges against the accused persons beyond reasonable doubts. The learned



Trial Court held that there are no eyewitness in the present case, and no material evidence has been produced before the learned Trial Court proving the guilt of the accused persons. The CDR report had also not been proved on record. The relevant paragraph of the impugned judgment is reproduced as under:-

“11.Herein, there is no eye witness in this case. PW2 & PW3 are hostile and they did not support the case of prosecution. The witness PW1 is the doctor who proved the postmortem report Ext.1 that shows that death was caused due to multiple injuries as found on his body. The witness PW4 is the informant who reached at the place of occurrence when he received the information by the police. The persons who first visited the place of occurrence was the I/O himself and the then SHO of PS Supaul. The I/O however collected & recovered the evidence like wooden stick from the car, clothes, mobile phones and the car, but he did not send any of the recovered articles for their examination to the FSL nor any of the articles were produced in the court by the prosecution during trial nor the alleged CDR was proved on record. The I/O did not make any inquiry regarding the ownership of the alleged recovered mobile phones nor he made any inquiry was made from the persons in whose names the connection of mobile phone numbers were delivered. Therefore the material available on record do not bear out the charges as levelled against the accused persons A1 & A2 as the prosecution failed to link the accused persons A1 & A2 with the commission of the offence and thus the prosecution can not be said to have proved the charges against the accused persons beyond the reasonable doubts and hence the accused persons A1 & A2 deserve to be acquitted.”

6. Learned counsel for the appellant has submitted



that the learned Trial Court has failed to appreciate that the present occurrence is the result of the circumstantial evidence, and the learned Trial Court has wrongly acquitted the accused persons based on the ground that no FSL Report was received of the seized articles. He further submits that the learned Trial Court has not considered the CDR details of the mobile used in course of commission of the offence as also the record of the Uber and Ola which confirmed the online booking done by the accused Rohit Raj.

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-State 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, there is no eyewitness to the alleged occurrence. PW2 and PW3 have been named as an independent witness by the prosecution. However, they've



stated in their evidence that they have no information about the alleged occurrence and have not given their statement to the police. Thus, they've been declared hostile.

11. The Doctor has opined that the death of the accused has been caused due to multiple injuries by sharp cutting objects, however no weapon used to inflict such injuries have been produced before the learned Trial Court. It is further observed that the prosecution has relied on evidence of the seized articles, such as the clothes, mobile phones, and a wooden stick. However, these have not been sent for forensic examination and no FSL Report has been sought for which would link these items with the alleged occurrence.

12. Further, the prosecution has relied upon the CDR report of the deceased and the accused persons, and the record from the Uber Company of the cab booking details. However, these have not been brought on record by the prosecution in the present case.

13. PW4 is the informant in the present case and he is not an eyewitness to the alleged occurrence. He arrived at the place where the body of the deceased was found on the basis of information by the police. Further, he had only alleged suspicion on Ola and Uber company in his written statement, which he has



testified before the learned trial court.

14. As such, the present case is a case of circumstantial evidence, where the prosecution has failed to link the chain of circumstances in a manner where no gap is left while proving the guilt of the accused persons. In **Tomaso Bruno v. State of U.P.**, reported in (2015) 7 SCC 178 the Apex Court has held the following:-

“12. In every case based upon circumstantial evidence, in this case as well, the question that needs to be determined is whether the circumstances relied upon by the prosecution are proved by reliable and cogent evidence and whether all the links in the chain of circumstance are complete so as to rule out the possibility of innocence of the accused.”

15. In the present case, no witness or documentary evidence has been brought on record before the learned Trial Court which would establish the guilt of the accused persons. Therefore, in the present case the chain of circumstances have not been completed in a manner which would rule out the innocence of the accused persons.

16. Thus, 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.

17. 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 (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 reappraise, 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....."

18. In the case of **Ghurey Lal vs. State of Uttar Pradesh** reported in **(2008) 10 SCC 450** in paragraph 75, the Hon'ble Supreme Court has 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."

19. 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.

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

21. Accordingly, the present appeal is dismissed.

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

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Anushka/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2025
Transmission Date	

