

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.444 of 2004

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1. Sitaram Beldar, son of late Gujo Beldar, R/o Village Belsira, Police Station-Shambhuganj, District-Banka.
 2. Munilal Yadav, son of late Beldeo Yadav, R/o Village Belsira, Police Station-Shambhuganj, District-Banka.
 3. Gore Ram, son of late Chhote Ram, R/o Village-Kangah, Police Station-Shambhuganj, District-Banka.
 4. Brahmdeo Beldar, son of late Sohan Beldar, R/o Village-Laxmipur, Police Station-Amarpur, District-Banka.
 5. Panchu Beldar, son of late Dhaneshwar Beldar, R/o Village-Pathki, Belsira, Police Station-Shambhuganj, District-Banka.

... .. Appellants

Versus

State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr. Abhas Chandra, Advocate, Amicus Curiae
For the Respondents	:	Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 20-09-2025

Nobody is present on behalf of the Appellants.

2. Hence, Mr. Abhas Chandra, Advocate is appointed as *amicus curiae* to assist this Court on behalf of the Appellants.

3. The present Appeal has been preferred by the Appellants against the impugned judgment of conviction and order of sentence dated 25.05.2004, whereby all the Appellants



have been found guilty under Section 395 of the Indian Penal Code and acquitted of the charge under Section 412 of the Indian Penal Code.

4. The prosecution case as emerging from the written report of the Informant, **Laxmi Chaudhary**, (P.W.8) is that the Appellants along with other co-accused persons committed dacoity, taking away clothes and a cash amount of Rs.250/-, which the Informant was carrying on a Bullock cart. As per further case of the prosecution, the accused were unknown to the Informant. In the course of offence, the co-villagers gathered at the place of occurrence and one of the accused got apprehended by the villagers, and the apprehended person confessed his guilt before them and disclosed the name of other co-accused including the Appellants and the case property was also recovered from the co-accused, Kamo Ram, who has already died in the course of trial and the trial has abated against him.

5. So, in course of trial, charge under Section 395 and 412 of the Indian Penal Code was framed against the Appellants.

6. In the course of trial, altogether ten witnesses, including the Informant/victim, (P.W.8 Laxmi Chaudhary) were



examined.

7. **P.W.1** is **Sridhar Panjiara**, who is the Mukhiya of the village, but he is not an eye witness to the occurrence, **P.W.2** is **Harendra Prasad Yadav** who is a tendered witness, **P.W.3.** is **Brahmdeo Chaudhary**, and he is a hearsay witness, **P.W.4,** **Bhuneshwar Mandal** and **P.W.5. Sikandar Panjiara** are also tendered witnesses, **P.W.6** is **Nand Kishore Singh** who is also a hearsay witness, **P.W.7. Bhola Yadav**, who is also a tendered witness, **P.W.8. Laxmi Chaudhary** is the Informant, **P.W.9** is **Niranjan Chaudhary**, who is the son of the Informant, but he is not an eye witness to the occurrence, though he has identified the case property in TIP and **P.W.10 is Shiv Narayan Yadav**, a witness who has proved the formal FIR.

8. P.W.8 is the Informant and he has reiterated his statement as made in his written report. However, there is no evidence that he has identified the Appellants in dock during the trial. There is also no evidence of the prosecution to show that TIP was conducted and the Appellants were identified during the TIP by the Informant. There is also no witness who has identified the Appellants during the Trial. As per the FIR, the Appellants were not known to the Informant. There is also no witness to prove the seizure of the case property.



9. After the prosecution evidence, the Appellants were examined under Section 313 Cr.PC, in which no incriminating circumstances were confronted to the Appellants. Only one line question was put to them that on 7th January, 1986, the Appellants had committed dacoity. But no incriminating circumstances were confronted to the Appellants.

10. I heard learned counsel for the Appellants and learned APP for the State.

11. Learned counsel for the Appellants submits that the impugned judgment and order of sentence are not sustainable in the eye of law, because the whole judgment is based on no evidence. As per the First Information Report, the Appellants were not known to the Informant, nor the Appellants were arrested on the spot. The name of the Appellants transpired in the confessional statement of the co-accused, Kamu Ram, made before the villagers who reached the place of occurrence after halla. But there is not evidence to prove this extra judicial confession made by the co-accused, Kamu Ram and except this confessional statement of co-accused, Kamu Ram, there is no other evidence of the prosecution and for want of any proof in regard to extra judicial confession, there is no evidence on record to prove the prosecution case against the Appellants.



12. As such, the whole judgment is based on no evidence and hence, the same is not sustainable in the eye of law.

13. However, learned APP for the State supports the impugned judgment and order of sentence submitting that there is no infirmity or illegality in the impugned judgment and order of sentence and the appeal deserves to be dismissed.

14. I considered the rival submissions of the parties and perused the material on record.

15. I find that the Informant, P.W.8 is only star witness of the prosecution, but even as per his evidence, only occurrence of dacoity is proved. But there is no material in the evidence of P.W.8 to connect the Appellants with the offence which had taken place. The Appellants were unknown to the Informant and one of the co-accused, Kamu Ram was arrested on the spot and rest of the co-accused had fled away and the name of the Appellants had transpired in the confessional statement of Kamu Ram, who is not the Appellant, herein before the villagers who had gathered at the place of occurrence on hulla, but there is no witness to prove this extra judicial confession as claimed by the informant(P.W.8), in which the name of the Appellant had transpired, and except this extra



judicial confession, there is no basis to prove the complicity of the Appellants in the alleged offence. But there is no material on record which may prove this extra judicial confession of co-accused, Kamu Ram. Even there is no evidence on record to show recovery of the looted property. There is only identification of the looted property in TIP, but there is no witness to prove wherefrom this property were recovered.

16. As such, there is no material on record to connect the Appellants with the alleged offence of dacoity committed in this case. For want of such evidence, the prosecution has badly failed to prove its case against the Appellants beyond all reasonable doubts, and hence, the impugned judgment and order of sentence are liable to be set aside.

17. Accordingly, the Appeal is allowed and the Appellants are acquitted of charge and their bail bonds stand discharged.

18. L.C.R. be sent back to the court concerned forthwith along with a copy of this Judgment.

19. The assistance rendered by learned Amicus Curiae is highly appreciated and the Secretary, Patna High Court Legal Services Authority is directed to pay Rs.7,500/- to him towards honorarium. This payment must be made within a month after



receipt of this order.

20. Send a copy of this Judgment to the Secretary,
Patna High Court Legal Services Authority for information and
needful.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.09.2025
Transmission Date	24.09.2025

