

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (DB) No.810 of 2025**

Arising Out of PS. Case No.-423 Year-2020 Thana- JAGDISHPUR District- Bhagalpur

Pradeep Yadav @ Deep Narayan Yadav S/O Late Uttam Yadav @ Sattan  
Yadav Resident of Village- Koyla Narayanpur, P.S- Jagdishpur, Distt.-  
Bhagalpur.

... .. Appellant

Versus

1. The State of Bihar
2. Bhairo Yadav S/O Late Siddhu Yadav R/O Brahmchari Tola, P.S- Ghogha,  
Distt.- Bhagalpur (According to F.I.R., Koyla Nrayanpur, P.S- Jagdishpur,  
Distt. Bhagalpur).
3. Sonu Yadav S/O Bhairo Yadav R/O Brahmchari Tola, P.S- Ghogha, Distt.-  
Bhagalpur (According to F.I.R., Koyla Nrayanpur, P.S- Jagdishpur, Distt.  
Bhagalpur).
4. Durga Yadav S/O Bhairo Yadav R/O Brahmchari Tola, P.S- Ghogha, Distt.-  
Bhagalpur (According to F.I.R., Koyla Nrayanpur, P.S- Jagdishpur, Distt.  
Bhagalpur).
5. Ashok Yadav S/O Late Ishwar Yadav R/O Brahmchari Tola, P.S- Ghogha,  
Distt.- Bhagalpur (According to F.I.R., Koyla Nrayanpur, P.S- Jagdishpur,  
Distt. Bhagalpur).
6. Arbind Yadav S/O Late Ishwar Yadav R/O Brahmchari Tola, P.S- Ghogha,  
Distt.- Bhagalpur (According to F.I.R., Koyla Nrayanpur, P.S- Jagdishpur,  
Distt. Bhagalpur).
7. Sittu Yadav S/O Niro Yadav R/O Brahmchari Tola, P.S- Ghogha, Distt.-  
Bhagalpur (According to F.I.R., Koyla Nrayanpur, P.S- Jagdishpur, Distt.  
Bhagalpur).

... .. Respondents

**Appearance :**

|                                 |   |                                                                                                                                    |
|---------------------------------|---|------------------------------------------------------------------------------------------------------------------------------------|
| For the Appellant               | : | Mr. Suresh Prasad Singh, Advocate<br>Ms. Kiran Kumari, Advocate<br>Ms. Pragya Kiran, Advocate                                      |
| For the Respondent Nos. 2,3,4,6 | : | Mr. Ajay Kumar Thakur, Advocate<br>Mr. Md. Imteyaz Ahmad, Advocate<br>Mr. Ritwik Thakur, Advocate<br>Ms. Vaishnavi Singh, Advocate |
| For the State                   | : | Mr. Bipin Kumar, A.P.P.                                                                                                            |

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)**



**Date : 23-09-2025**

The present criminal appeal has been preferred under Section 413 of the Bharatiya Nagrik Suraksha Sanhita against judgment of acquittal dated 30.05.2025 passed by the learned District and Additional Sessions Judge-XV, Bhagalpur in Sessions Trial No. 253 of 2024, arising out of Jagdishpur P.S. Case No. 423 of 2020, whereby Respondent Nos. 2 to 7 have been acquitted by the learned Trial Court from the charge of Sections 147, 148, 302/149, 341/149 and 323/149 of Indian Penal Code.

2. The prosecution case, in brief, is that on 12.12.2020 at about 08:00 p.m., the informant along with his son Shekhar and Manish went to Jagdishpur for purchasing medicine for his son Manish Yadav. At the time of return, when they reached at Chhoti Koyala near Pokhar Mor then, Bhairo Yadav, Sonu Yadav, Durga Yadav, Ashok Yadav, Arvind Yadav, Siddhu Yadav, all armed with hockey, rifle, country-made pistol, *lathi* and iron rod surrounded them. Bhairo Yadav ordered the aforementioned accused persons to kill the informant and his son Shekhar Yadav and Manish Yadav. They brutally assaulted the informant and his sons with the said weapons. When the informant raised alarm, then they tied their hands and after seeing persons on tractor, the accused persons fled away threatening to face dire consequences if they inform the



Police. All sustained injuries but Shekhar Yadav was grievously injured and was admitted to J.L.N.M.C.H., Bhagalpur where he died during the course of the treatment.

3. On the basis of *fardbeyan* of the informant, Jagdishpur P.S. Case No. 423 of 2020 was instituted under Sections 147, 148, 302/149, 341/149 and 323/149 of Indian Penal Code and investigation was taken up by the Police. The Police after investigation submitted charge-sheet against Respondent Nos. 2 to 7 and, accordingly, cognizance was taken. Thereafter, the case was committed to the Court of Sessions. Charges were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether twenty one prosecution witnesses i.e. PW1- Gainu Yadav, PW2- Birbal Harijan, PW3- Vipin Kumar Das, PW4- Rajesh Kumar @ Rajesh Paswan, PW5-Gulcharan Yadav, PW6- Nakul Yadav, PW7- Ritik Raj, PW8- Photo Yadav, PW9- Rita Devi, PW10-Saurav Kumar Yadav @ Shravan Kumar Yadav, PW11- Usha Devi, PW12- Manish Yadav, PW13- Ravindra Prasad Yadav, PW14- Shankar Yadav, PW15- Pradeep Yadav @ Deep Narayan Yadav (informant), PW16-Tehfa Devi, PW17- Lakshman Prasad Sah (IO), PW18- Dr. Sandip Lal, PW19- Ajay Kumar, PW20-



Sarveshtam Kumar (Forensic expert)& PW21- Dr. Jayant Kumar. The prosecution has also produced certain documents which were marked as 'Exhibits' i.e., Ext. P-1: The *fardbeyan* of Pradeep Yadav signed and written in handwriting of SI H.C. Upadhyay of Barari Police Station, Ext. P-1/1: Forwarding of *fardbeyan* signed and written in handwriting of SI H.C. Upadhyay of Barari Police Station, Ext. P-1/2: Paging in signature and handwriting on *fardbeyan* by the then SHO of Jagdishpur Police Station, Ext. P-2: The formal FIR in the handwriting of Manoj Kumar which bears the signature of SHO Brajesh Kumar, Ext. P-3: a photocopy of the Inquest Report in the handwriting and signature of the SI Umashankar Singh of Barari Police Station, ext. P-4: Mechanical Test Report issued by the Motor Vehicles Inspector, Bhagalpur, Ext. P-5: The Medical Board's opinion report, Ext. P-6: Final Report No. 299/23 dated 06.12.2023, Ext. P-7: The inspection report dated 14.06.2021 of primary place of occurrence, Ext. P-8: *Post mortem* report and Ext. P-9 : A certified informant copy of Jagdishpur PS Case No. 394/20. No witness has been examined on behalf of the defence. 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 observing that there is a contradiction in the statement of the informant and the evidence of the witnesses. Further, the learned Trial Court, after analyzing the facts and the evidence produced during the trial, has observed that due to previous enmity, the accused persons have been stated to be involved in the alleged incident.

6. Learned counsel for the appellant has submitted that when the cause of death could not be determined by the Doctor in the *post mortem* report, then such order of acquittal cannot be sustainable in law because deceased died due to assault by accused persons.

7. The learned counsel for the State has submitted that there is no perversity in the judgment of the learned trial court, and the prosecution has failed to prove the guilt of the accused before the learned Trial Court. Further, there is no such medical document produced by prosecution to show that deceased was taken to hospital for treatment after the alleged occurrence which took place on 13.12.2020 at 01:30a.m.

8. We have heard learned counsel for the appellant and the 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 requires any interference by this Court.

10. Upon meticulous examination of the evidence presented and the circumstances surrounding the case, this Court observes several significant deficiencies in the prosecution's case which collectively casts substantial doubt on the veracity of the allegations and the guilt of the accused.

11. The alleged occurrence is said to have taken place at approximately 8:00 PM and, given the timing of the incident, it would have been relatively dark and visibility would have been poor. Despite this, the prosecution has failed to disclose any source of identification of the accused persons. No witness has stated how they identified the accused under low-light conditions nor any independent method of identification (such as a lamp, vehicle light, or prior knowledge) has been brought on record. The identification of an accused is a fundamental requirement for establishing culpability and where no credible source or circumstances of identification are provided, the testimony regarding identification becomes inherently unreliable.

In the present case, the absence of such critical information regarding identification, especially given that the



incident occurred at night renders the prosecution's case doubtful. The Court, therefore, places significant weight on this *lacuna* while assessing the credibility of the witnesses and the prosecution story.

12. The First Information Report (FIR) and the testimonies of the witnesses during trial exhibit material contradictions. While the FIR contains general allegations, the witnesses, during trial, have sought to attribute specific acts to the accused persons. Additionally, the FIR mentions that the parties had gone to purchase medicine whereas during trial, it was stated that they had gone to purchase vegetables. Such discrepancies suggest that the prosecution's case has evolved during the trial which is impermissible and casts doubt on the credibility of the witnesses.

13. The medical evidence presented is inconsistent with the prosecution's narrative. Doctor (PW18) opined that the deceased might have died due to excessive bleeding resulting from a fracture of the left hip bone. However, the prosecution has failed to produce any medical document or hospital record showing that the deceased was admitted for treatment and subsequently succumbed to injuries inflicted by the accused. The absence of such corroborative medical evidence further undermines the



prosecution's case. The Hon'ble Supreme Court in **Thaman Kumar v. State of U.T. Chandigarh**, reported in (2003) 6 SCC 380, has observed in Para-16 of judgment as under:-

*“16. The conflict between oral testimony and medical evidence can be of varied dimensions and shapes. There may be a case where there is total absence of injuries which are normally caused by a particular weapon. There is another category where though the injuries found on the victim are of the type which are possible by the weapon of assault, but the size and dimension of the injuries do not exactly tally with the size and dimension of the weapon. The third category can be where the injuries found on the victim are such which are normally caused by the weapon of assault but they are not found on that portion of the body where they are deposed to have been caused by the eyewitnesses. The same kind of inference cannot be drawn in the three categories of apparent conflict in oral and medical evidence enumerated above. In the first category it may legitimately be inferred that the oral evidence regarding assault having been made from a particular weapon is not truthful. However, in the second and third categories no such inference can straight away be drawn. The manner and method of assault, the position of the victim, the resistance offered by him, the opportunity available to the witnesses to see the occurrence like their distance, presence of light and many other similar factors will have to be taken into consideration in judging the reliability of ocular testimony.”*

14. The FIR was lodged on 13.12.2020 at 17:45 p.m.,  
whereas the *post mortem* was conducted on 13.12.2020 at 11:40



a.m.. This discrepancy raises serious questions about the authenticity of the FIR and the sequence of events.

15. The cumulative effect of the aforementioned deficiencies namely; absence of identification, contradictions between the FIR and trial testimonies, inconsistencies in medical evidence, and discrepancies in the timing of the FIR and *post mortem* renders the prosecution's case highly doubtful.

16. We find that the findings recorded by the learned Trial Court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt of the accused beyond the shadow of a reasonable doubt. 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**, reported in **(2011) 9 SCC 479**, paragraphs 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....."*



In **Babu Sahebagouda Rudragoudar Vs. State of Karnataka**, reported in **2024 SCC Online SC 561**, the Hon'ble Supreme Court, after referring to relevant precedents, has observed as follows:

*“39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:*

*(a) That the judgment of acquittal suffers from patent perversity;*

*(b) That the same is based on a misreading/omission to consider material evidence on record;*

*(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.*

*40. The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court.”*

18. 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.

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

20. Accordingly, the present appeal is dismissed.

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

22. Before parting with this judgment, the Court places on record its appreciation for the valuable assistance rendered by learned counsel Ms. Kiran Kumari in effectively presenting the matter.

**(Sudhir Singh, J)**

**(Rajesh Kumar Verma, J)**

Sachin/-

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