

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3888 of 2024

Arising Out of PS. Case No.-113 Year-1997 Thana- ARA NAGAR District- Bhojpur

Sahendra Singh Son of Late Triveni Singh Resident of Village - Krishnagarh,
Deoriya, P.S. and P.O. - Krishnagarh, District - Bhojpur, PIN - 802313

... .. Appellant/s

Versus

1. The State of Bihar
2. Radha Charan Sah Son of Late Haribansh Sah Resident of Mohalla - Babu Bazar, P.S. - Ara Town, District - Bhojpur, PIN - 802301
3. Shatrudhan Prasad Son of Late Haribansh Sah Resident of Mohalla - Babu Bazar, P.S. - Ara Town, District - Bhojpur, PIN - 802301
4. Kanhaiya Prasad Son of Sri Radha Charan Sah Resident of Mohalla - Babu Bazar, P.S. - Ara Town, District - Bhojpur, PIN - 802301
5. Gopal Rai Son of Sri Devnath Yadav Resident of Village - Nek Nam Tola, P.S. - Barhara, District - Bhojpur, PIN - 802313
6. Tribhuvan Prasad Son of Sri Brahmadeo Prasad Resident of Village - Nek Nam Tola, P.S. - Barhara, District - Bhojpur, PIN - 802313

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vikash Kumar Sharma, Advocate
For the Respondent/s : Mrs. Abha Singh, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 06-02-2025 Heard Mr. Vikash Kumar Sharma and Ms. Madhuri

Kumar, learned counsel for the appellant and Mr. Abhay Kumar,

learned Spl.P.P.

2. The present appeal has been preferred against:

*“the judgment dated 04.07.2024
passed in Sessions Trial No. 75 of 2024/G.R.
No. 1031 of 1997 (arising out of Ara Town
P.S. Case No. 113 of 1997) by Sri Satyendra
Singh, Special Judge, M.P./M.L.A. Court cum
Additional Sessions Judge- III Ara, Bhojpur,*



whereby and where under, Respondents no. 2 to 5 have been acquitted of all the charges framed against them for the offences under Sections 148 and 307 of the Indian Penal Code, 1860 as well as that of section 27 of Arms Act, while in the case of Respondent no. 6, Tribhuvan Prasad, it is directed to the extent of the impugned order whereby he has been acquitted of the charges framed for the offences under Sections 148 and 307 of the Indian Penal Code, 1860. It may be noted for record that he has been convicted for the charge under section 27 of Arms Act and sentenced to undergo rigorous imprisonment for three years and a sum of Rs 5,000/- as fine and in default of payment, further undergo S.I. for one month more.”

3. As per the prosecution story, the two political parties had given a call for close down of the town on 03.05.1997 and during the joint peaceful procession under the leadership of Surendra Singh (PW-4), as it was moving towards Ara Chowk, the respondents herein armed variously arrived on a jeep, got



down and opened fire in the air. The further allegation is of giving butt injury to some of the participants including Sahendra Singh (appellant herein). The attack was to kill Surendra Singh and to demoralize the workers of the two political parties.

4. The Police/S.D.O., Ara were present at the place and thereafter, the FIR.

5. The Police investigated the matter, submitted charge-sheet, under different Sections of the Indian Penal Code as also section 27 of the Arms Act. This followed cognizance and thereafter the trial commenced/concluded on 04.07.2024.

6. The Court came to the conclusion that so far as the respondents, Radha Charan Sah, Shatrudhan Prasad, Kanhiya Prasad and Gopal Rai are concerned, no case is made out against them and they are acquitted of the charges under sections 307 and 148 read with section 149 of the I.P.C. and section 27 of the Arms Act for want of sufficient evidence.

7. So far as the accused (respondent no. 6), Tribhuvan Prasad is concerned, though he was acquitted of the charges under sections 307, 148 read with 149 of the I.P.C., he was found guilty under section 27 of the Arms Act and sentenced as under:

Sr. No.	Name of the Accused	Convicted under Sections	Imprisonment	Fine	Imprisonment in default of payment of fine
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1.	Tribhuvan Prasad	Section 27 of the Arms Act	03 years of rigorous imprisonment	Rs. 5,000/-	One Month simple imprisonment
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8. Aggrieved by the acquittal of the respondent nos. 2 to 6, the present appeal.

9. Mr. Sharma representing the appellant/injured (Sahendra Singh) submits that the fire-arms were used by the respondent nos. 2 to 6, it was seized and later released. In that background, exonerating them of the charges under section 307 of the I.P.C. and Section 27 of the Arms Act, the Trial Court clearly erred and thus, the order needs interference.

10. It is his further submission that all of the respondents opened fire whereafter the assault took place which has been ignored by the learned Trial Court.

11. Mrs. Abha Singh, learned A.P.P. on the other hand submits that though the appellant claims opening of the fire, there is nothing on record to show that any used cartridge was recovered/seized by the Police and/or presented before the learned Trial Court. The Trial Court found Tribhuvan Prasad guilty of Section 27 of the Arms Act and accordingly, convicted/sentenced him. Further, she has taken this Court to the injury report of Sahendra Singh (appellant herein) to show that there are certain bruises on the person of the appellant which has



been found by the Doctor (PW-3) to be simple in nature and in that background, the learned Trial Court was justified in exonerating him of the charges under Section 307 of the I.P.C.

12. Having gone through the facts of the case and materials on record/beside the submissions put forwarded by the parties, this court is in full conformity with the submissions made by the learned APP that the seizure of the arms of the respondent nos. 2 to 6, has/have nothing to do with the assault allegation against them. Further, as rightly pointed out by the learned Spl.P.P., no used cartridge was recovered/seized and/or presented before the Court to justify the contention put forwarded herein.

13. It is to be noted that the informant is Surendra Singh who is not before the Court rather it is Sahendra Singh who as per the prosecution story was injured has come against the order/judgment.

14. An assault allegation made, the political rivalry may be there between the parties, that cannot be the basis to misuse the process of law when there is clear finding of the learned Trial Court which resulted into exoneration of the charges so far as the respondent nos. 2 to 5 are concerned beside dropping Section 307 of the I.P.C. so far as respondent no. 6 is concerned.



15. In that background, the only conclusion that can be arrived at by this Court is that the present appeal is fit to be dismissed.

16. Accordingly ordered.

17. The present appeal stands dismissed.

(Rajiv Roy, J)

Adnan/-

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