

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3302 of 2025

Arising Out of PS. Case No.-45 Year-2020 Thana- SC/ST District- Araria

Maheshwar Rishidev Son of Late Dharm Lal Rishidev Village Tamganj Tola,
Bibiganj, Ward No. 10, Police Station - Narpatganj, District - Araria.

... .. Informant/Appellant

Versus

1. The State of Bihar
2. Ashok Yadav Son of Raju Yadav R/o Village Tamganj Tola, Bibiganj, Police Station - Narpatganj, District - Araria.
3. Rajo @ Raju Yadav Son of Late Kalanand Yadav R/o Village - Tamganj Tola, Bibiganj, Police Station - Narpatganj, District - Araria.
4. Krityanand Yadav Son of Late Rasik Lal Yadav R/o Village Tamganj Tola, Bibiganj, Police Station - Narpatganj, District - Araria.
5. Pramod Yadav Son of Raju Yadav R/o Village Tamganj Tola, Bibiganj, Police Station - Narpatganj, District - Araria.
6. Babita Devi Wife of Ashok Yadav R/o Village Tamganj Tola, Bibiganj, Police Station - Narpatganj, District - Araria.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Bidhanesh Misra, Adv.
For the State	:	Mr. Sadanand Paswan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 18-11-2025

The present criminal appeal has been preferred against the judgment of acquittal dated 13.06.2025 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in Special (SC/ST Case No. 123/ 2020, CIS No. 123/ 2020, whereby and whereunder respondents no. 2 to 6 have been acquitted by the learned Trial Court from the charges under Sections 341/34, 323/34, 354/34, 504/34 of the Indian Penal Code and Section 3(i)(s) of SC/ST(POA) Act.



2. According to fardbeyan of the informant/appellant, the occurrence is of 26.05.2020 at about 10:00 AM. The informant unfolded the story of prosecution that Government of Bihar has settled 1 acre and 7 decimal land in favour of the informant upon which the accused persons/respondent no. 2 to 6 were illegally constructing a house. It is alleged that informant, his wife and daughter forbade the accused persons from doing so, upon which accused persons started abusing the informant by taking caste name and claimed that land in question belonged to them and if informant comes to the said land, he would be killed. It is further alleged that when the informant forbade to abuse, the accused persons assaulted the informant by means of fist and lathi. It is further alleged that when informants' wife and daughter came to rescue, respondent no. 2/Ashok Yadav by holding the hair thrashed the informant's wife on the ground. Thereafter, all the accused persons concertedly assaulted the informant's wife and daughter and tore their clothes due to which they became undressed. It is alleged that informant was assaulted in such a manner that he became unconscious. It is alleged that accused persons constructed four thatched house upon the informant's land. During course of assault, silver neckless of informant's wife was



also snatched.

3. On the basis of written report of the informant (appellant), Araria SC/ST P.S. Case No. 45 of 2020 was instituted under Sections 341, 323, 354, 504, 506, 34 of the IPC, Section 3(2)(va), 3(1)(g) of SC/ST Act and investigation was taken up by the police. The police after investigation submitted charge-sheet against all the accused persons i.e. respondent no. 2 to 5, except Babita Devi/ respondent no. 6 but the concerned court took cognizance against all the accused persons under Sections 341, 323, 354, 504, 506, 34 of the IPC, Section 3(2) (Va), 3(1)(g) of SC/ST Act. Thereafter, the case was committed to the Court of Sessions. Charges were framed under Sections 341/34, 323/34, 354/34, 504/34 of the IPC and Section 3(1)(s) of SC/ST Act against the respondent nos. 2 to 6. Charges were read over to respondent nos. 2 to 6 to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether five witnesses viz. PW1 Buchni Devi, PW2 Rubi Devi, PW3 Maheshwar Rishidev (informant), PW4 Vijay Kumar Ram (Investigating Officer) and PW5 Manoj Yadav. Some documentary evidence were also adduced on behalf of the prosecution which are as under:-



Ext-1 : Signature of informant on written statement.

Ext-2 : Charge sheet

Ext-3 : Formal FIR

Ext-4 : Registration of SC/ST P.S. Case No. 45 of 2020 on written statement.

5. The defence has not adduced any oral or documentary evidence.

6. After closure of prosecution evidence, the statement of the accused persons was recorded under Section 313 Cr.P.C. in which they denied the prosecution story and after conclusion of trial, learned trial court has acquitted the accused persons/ respondent no. 2 to 6.

7. Learned counsel for the appellant submitted that while passing the judgment of acquittal the learned trial court has wrongly held that present case is of civil nature. The learned trial court has also held that there was inordinate delay in lodging the FIR, but same cannot be a ground for acquittal. It has been submitted that the concerned court has not appreciated and evaluated the evidence of all the prosecution witnesses, who have supported and corroborated the story of prosecution. The trial court failed to consider the material available on record and reached to the wrong finding and acquitted the accused persons/ respondent no. 2 to 6. In the light of aforesaid facts and



circumstances of the case, the judgment of acquittal passed by the concerned court is neither tenable nor sustainable in the eye of law or on facts and hence, same is liable to be set aside.

8. Learned APP appearing for the State has submitted that as per initial version of prosecution story, there is delay of near about 10 days in lodging the FIR as the alleged occurrence took place on 26.05.2020 and FIR has been registered on 04.06.2020 and no plausible explanation has been given regarding the said delay which questions the authenticity of the prosecution story. The prosecution story alleged that on 26.05.2020 at 10:00 AM illegal construction was being made by the accused persons/ respondent no. 2 to 6 upon the land of the informant and despite wife and daughter were assaulted, they have not lodged the case on the date of the occurrence. The concerned court has recorded the finding that during course of written argument the informant stated that the alleged occurrence took place by the accused persons to usurp the land in question by preparing a forged document which is illegal but the present FIR has not been lodged for the said purpose. Learned APP further submits that FIR does not disclose that accused persons prepared forged document. FIR also does not disclose that accused persons has documentary proof regarding



the land in question and the said document has been produced by the accused persons in court and the court is recorded finding that the said dispute is of civil nature and the court has recorded that after perusing the material on record the prosecution has failed to prove the case and the accused persons are liable to be acquitted. Learned APP further submits that P.W. 3 is informant of the case and his statement is full of inconsistencies and discrepancies. P.W. 3 has admitted that he made hue and cry when he was unconscious. He has stated that he was assaulted in such a manner that he became senseless. He has stated that he approached clinic of Dr. Ajay Kumar at Forbesganj after two days of the occurrence but his treatment was not done as said clinic was closed. During course of adducing evidence PW-3 has already admitted that he approached thana after 2-3 days but no reason has been explained as to why he did not approach thana on the same day of occurrence. He has also stated that statement of informant's wife/PW-1 and his daughter/PW-2 was recorded by the police but PW-1 and PW-2 denied that any query was made by the police. In this way, statements of PW-1 and PW-2 are quite inconsistent with the evidence adduced by PW-3. Learned APP further submits that the statement of PW-3 does not carry weightage as he was being injured and he was not



treated just because clinic was closed. He has not pointed out the reason as to why the FIR was not lodged on the date of the occurrence. His statement is also not consistent with the statement of PW-1 and PW-2 regarding query made by the police to PW-1 and PW-2. In this way, the very credibility and authenticity of PW-3 does not carry any weight. They are full of infirmities and inconsistencies and the very authenticity of the prosecution story is doubtful in the light of the dispute between both the parties as land in question is the genesis of the dispute and in cases of land dispute, facts are generally exaggerated to make the offence graver. Learned APP further submits that PW-5/Manoj Yadav at para-4 of his cross examination has stated that he has no knowledge regarding the occurrence, so his evidence is of no use. Learned APP further submits that PW-4/Vijay Kumar Ram is investigating officer of the case. He has himself stated that first time he visited the place of occurrence on 04.06.2020 i.e. near about 10 days of the occurrence. He has stated at para-2 that he recorded the statement of witness/ Kanchan Devi and Ruby Devi but PW-1 and PW-2 clearly stated that no query was made to her by the police. PW-4 has admitted that there is land dispute between the parties. In this way, the very prosecution story is doubtful in the light of facts that there



is considerable delay of near about 10 days and statements of all the prosecution witnesses do not carry credibility and authenticity and they are very much doubtful as two prosecution witnesses have stated that no query was made to the police. In this way, their statements are devoid of credibility. PW-1 at one time she has stated that her statement was recorded two times by the police but again she stated that she met the police once but no query was made to her by the police. In this way, her statement is full of inconsistencies and discrepancies. PW-2 Rubi Devi has admitted during cross-examination that no query was made to her by the police. Then her statement lacks authenticity and credibility. It has been submitted that there is dispute between the parties with regard to the land in question and no chit of paper regarding treatment was produced and there is considerable delay of near about 10 days in lodging the FIR and no explanation was given. Learned APP further submits that in order to attract the provision of SC/ST (POA) Act, the FIR has been lodged levelling the false allegation and there was no material available to constitute the offence of SC/ST Act. Apart from that, doctor, who is an expert witness, has not been examined in the present case and injury sustained by the injured has not been brought on record. In absence of examination of



doctor, it is difficult to prove the injury of injured who are claiming that they have sustained injury in the alleged occurrence. In this way, judgment of acquittal passed by the trial court is based on the materials available on record and there is no reason to interfere with the impugned judgment.

9. In criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned trial court 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 ***Surajpal Singh & Ors. Versus The State*** reported in ***1952 SCR 193***, paragraph 13 of which reads as under:

“..the High court has full power to review the evidence upon which the order of acquittal was founded. But it is equally well settled that the presumption of innocence of the accused is further reinforced by his acquittal by the trial Court and the findings of the trial Court which



had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons.”

10. In the case of *Ghurey Lal versus State of Uttar Pradesh* reported in (2008) 10 SCC 450 in paragraph 75, the Hon’ble Supreme Court reiterated the said view and observed as under:

“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.”

11. In the present appeal, the point which is necessary for consideration is:

"Whether the prosecution has proved the case beyond the shadow of reasonable doubt ?"

12. The trial Court has analyzed the evidence of P.Ws. 1, 2 3, 4 and 5, out of whom PW-1 is wife of informant, PW-2 is daughter of informant, PW-3 is informant of the case, PW-4 is investigating officer of the case and PW-5 is Manoj



Yadav. PW-1 has supported the story of prosecution including the time of occurrence but in cross-examination PW-1 has stated two different stories, firstly her statement was recorded twice before the police and again she stated that she met the police once but police had not made any query with her. PW-2 Rubi Devi in her examination-in-chief stated about the assault and abuse made by the accused persons and also stated that she was also assaulted by them when she came to rescue but in cross-examination she has stated that police did not inquire anything from her. PW-3 Maheshwar Rishideo is informant of the case and in his examination-in-chief he has reiterated the initial version of prosecution story. PW-3 has stated that he went to the clinic of Dr. Ajay Kumar, Forbesganj after two days of the occurrence but no treatment was given to him as clinic was closed. PW-3 has himself admitted that he went to thana after 2-3 days of the occurrence but he did not explain as to why he did not go to thana just or after one day of the occurrence, as no fact of panchayati has come in the deposition of PW-3 on the basis of which it can be said that due to said reason the informant could not go to thana. PW-5 Manoj Yadav has stated that he has no knowledge regarding the occurrence and hence, his evidence is of no use. PW-4 Vijay Kumar Ram is investigating officer of



the case. He has stated that he went to the place of occurrence first time on 04.06.2020 i.e. near about after 10 days of the occurrence but the informant/PW-3 has himself stated that after 15 days of lodging of FIR, police reached at the place of occurrence. PW-4 has stated that he has recorded the statement of Maheshwar Rishideo, Buchi Devi and Rubi Devi but Buchi Devi and Rubi Devi have himself stated that police did not make any query with them. PW-4 has also accepted the fact of land dispute.

13. The trial court has recorded the finding that from perusal of evidence of the prosecution witnesses, it is evident that there is land dispute between the parties and both parties claim that land in question was settled in their favour through the same khata and khesra number and even the informant has not denied the claim of the accused persons that land in question was settled in their favour through same khata and khesra. Except the informant, only two prosecution witnesses, who are wife and daughter of the informant, have supported the story of prosecution and they have clearly stated that investigating officer had not made inquiry with them. The informant has himself admitted that he went to lodge FIR 2-3 days later but it is clear from the FIR that informant has lodged



the FIR near about after 10 days of the occurrence and he has not explained the reason for the said delay. The informant clearly states in his written argument that occurrence has been committed by the accused persons for usurping the land by forging the documents but the present FIR has not been lodged for the said purpose, nor was it filed with the knowledge that the accused had created fake documents. Furthermore, the informant was aware that accused persons possessed document related to the land in question, which they had presented to the court. Therefore, the entire case appears to be of civil nature and the prosecution has completely failed to convince the court about the authenticity of the FIR. Therefore, the accused persons deserve to be acquitted as a result of which, the trial court acquitted the accused persons/ respondent no. 2 to 6 from the charges under Sections 341/34, 323/34, 354/34, 504/34 of the Indian Penal Code and Section 3(i)(s) of SC/ST(POA) Act.

14. I am dealing with an appeal against acquittal and shall keep in mind the principles governing the cases of appeal against acquittal. The principles have been reiterated by the Hon'ble Supreme Court in catena of decisions.

15. In the case of ***H.D. Sundara and Others vs. State of Karnataka*** reported in ***(2023) 9 SCC 581***, Hon'ble



Supreme Court, in paragraph 8, has held as follows :

“8. In this appeal, we are called upon to consider the legality and validity of the impugned judgment State of Karnataka v. H.K. Mariyapp, 2010 SCC OnLine Kar 5591 rendered by the High Court while deciding an appeal against acquittal under Section 378 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C”). The principles which govern the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 Cr.P.C can be summarized as follows:

“8.1. The acquittal of the accused further strengthens the presumption of innocence;

2. The appellate court, while hearing an appeal against acquittal, is entitled to the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and 8.5. The



appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

16. In **Chandrappa Vs. State of Karnataka, (2007) 4 SCC 415, Hon’ble Supreme Court** after referring to several authorities has held as follows:

“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the



presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

(Emphasis Supplied)

17. In **Murugesan Vs. State, (2012) 10 SCC 383,**

Hon’ble Supreme Court has held as follows:

“ 18. Before proceeding any further it will be useful to recall the broad principles of law governing the power of the High Court under Section 378 CrPC, while hearing an appeal against an order of acquittal passed by a trial Judge.

19. An early but exhaustive consideration of the law in this regard is to be found in the decision of Sheo Swarup v. King Emperor [(1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] wherein it was held that the power of the High Court extends to a review of the entire evidence on the basis of which the order of acquittal had been passed by the trial court and thereafter to reach the necessary conclusion as to whether order of acquittal is required to be maintained or not. In the opinion of the Privy Council no limitation on the exercise of power of the High Court in this regard has been imposed by the Code though certain principles are required to be kept in mind by the High Court while exercising jurisdiction in an appeal against an order of acquittal.....

20. The principles of law laid down by the Privy Council in Sheo Swarup(supra) have been consistently followed by this Court in a series of



subsequent pronouncements

21. A concise statement of the law on the issue that had emerged after over half a century of evolution since Sheo Swarup (Supra) is to be found in para 42 of the Report in **Chandrappa v. State of Karnataka [(2007) 4 SCC 415**

.....
32. In the above facts can it be said that the view taken by the trial court is not a possible view? If the answer is in the affirmative, the jurisdiction of the High Court to interfere with the acquittal of the appellant-accused, on the principles of law referred to earlier, ought not to have been exercised. In other words, the reversal of the acquittal could have been made by the High Court only if the conclusions recorded by the learned trial court did not reflect a possible view. It must be emphasised that the inhibition to interfere must be perceived only in a situation where the view taken by the trial court is not a possible view. The use of the expression “possible view” is conscious and not without good reasons. The said expression is in contra²³. Having dealt with the principles of law that ought to be kept in mind while considering an appeal against an order of acquittal passed by the trial court, we may now proceed to examine the reasons recorded by the trial court for acquitting the accused in the present case and those that prevailed with the High Court in reversing the said conclusion and in convicting and sentencing the appellant-accused.

33. The expressions “erroneous”, “wrong” and “possible” are defined in Oxford English Dictionary in the following terms:

“erroneous.— wrong; incorrect.

wrong.—(1) not correct or true, mistaken.

(2) unjust, dishonest, or immoral.

possible.—(1) capable of existing, happening, or being achieved.

(2) that may exist or happen, but that is not certain or probable.”

34. It will be necessary for us to emphasise that a possible view denotes an opinion which can exist or be formed irrespective of the correctness or otherwise of such an opinion. A view taken by a



court lower in the hierarchical structure may be termed as erroneous or wrong by a superior court upon a mere disagreement. But such a conclusion of the higher court would not take the view rendered by the subordinate court outside the arena of a possible view. The correctness or otherwise of any conclusion reached by a court has to be tested on the basis of what the superior judicial authority perceives to be the correct conclusion. A possible view, on the other hand, denotes a conclusion which can reasonably be arrived at regardless of the fact where it is agreed upon or not by the higher court. The fundamental distinction between the two situations have to be kept in mind. So long as the view taken by the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, the view taken by the trial court cannot be interdicted and that of the High Court supplanted over and above the view of the trial court.

35. A consideration on the basis on which the learned trial court had founded its order of acquittal in the present case clearly reflects a possible view. There may, however, be disagreement on the correctness of the same. But that is not the test. So long as the view taken is not impossible to be arrived at and reasons therefor, relatable to the evidence and materials on record, are disclosed any further scrutiny in exercise of the power under Section 378 CrPC was not called for.”

(Emphasis Supplied)

18. In **Hakeem Khan Vs. State of M.P., (2017) 5**

SCC 719 , Hon’ble Supreme Court has held as follows:

“ 9 [Ed. : Para 9 corrected vide Official Corrigendum No. F.3/Ed.B.J./29/2017 dated 13-7-2017.] . Having heard the learned counsel for the parties, we are of the view that the trial court's judgment is more than just a possible view for arriving at the conclusion of acquittal, and that it would not be safe to convict seventeen persons accused of the crime of murder i.e. under Section 302 read with Section 149 of the Penal Code....”



(Emphasis Supplied)

19. In **Babu Sahebagouda Rudragoudar Vs. State of Karnataka, 2024 SCC Online SC 561**, 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.”

(Emphasis Supplied)

20. In the present case, the very initial version of prosecution story creates doubt with regard to lodging of the FIR. The PW-4/ I.O. has stated that for the first time he reached at the place of occurrence on 04.06.2020 i.e. near about after 10 days of the occurrence and the informant/ PW-3 has stated that police reached at the place of occurrence after 15 days of lodging the FIR. Since the inception of lodging the FIR, version



of prosecution story is quite shaky. There is considerable delay of near about 10 days in lodging the FIR but the same has not been explained by the prosecution side. The very background of the prosecution story is doubtful regarding the occurrence as the genesis of the case is based upon land dispute and both sides are claiming their right over the land in question. The trial court has recorded the finding that during course of written argument on behalf of the informant, plea was taken that alleged occurrence has been committed by the respondents no. 2 to 6 to usurp the land in question by preparing a forged document but the present FIR has not been lodged for the said cause. The trial court has also recorded that said matter is of civil nature. The trial court has also highlighted that informant has not been examined by the doctor, though he is claiming that he has sustained injury and reason given for non examination of informant is beyond the perception of a prudent man. Informant has assigned the reason for not examined by the doctor as clinic of the doctor was closed. It was beyond the imagination of any prudent person that if a person suffers injury but he could not get treatment just because clinic was closed. Apart from that, doctor, who is an expert witness, has not been examined in the present case and injury sustained by the injured has not been



brought on record. In absence of examination of doctor, it is difficult to prove the injury of injured who are claiming that they have sustained injury in the occurrence. Apart from that, there are several inconsistencies and infirmities in the evidence of prosecution witnesses due to which prosecution has failed to prove the case beyond reasonable doubt.

21. Thus, in the opinion of this Court, the trial Court has taken a plausible view based on the evidence available on the record. The view taken by the trial Court cannot be held to be bad or perverse. Under such circumstances, no case for interference with the impugned judgment is made out.

22. In the result, the present criminal appeal preferred against the judgment of acquittal dated 13.06.2025 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, (SC/ST), Araria in Special (SC/ST) Case No. 123/ 2020, CIS No. 123/ 2020 is dismissed at the admission stage itself.

23. Pending I.A.'s, if any, stands disposed of.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	AFR
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