

Arising Out of PS. Case No.-351 Year-2022 Thana- UDAKISHUNGANJ District-
Madhepura

- Appellant/s

1. The State of Bihar
2. Manoj Rishideo S/o- Late Kartik Rishideo Village-Budhma Tola Orai,
W.No-10, Ps- Udakishunganj Dist- Madhepura

... .. Respondent/s

For the Appellant/s : Mr Shailendra Kumar Singh, Adv.
Ms. Bhagyashree Raj, Adv.
Ms. Rachna Rani, Adv.
Ms. Kumari Rashmi, Adv.

For the Respondent/s : Mr. Binay Krishna, SPP

3 28-01-2025 **Interlocutory Application No. 01 of 2024**

2. The aforesaid Interlocutory Application has been preferred for condoning the delay of 162 days in filing the present memo of appeal.

3. Though learned Special PP has objected to the statement made in the Interlocutory Application, taking into account the fact, the reasons that have been assigned in paragraphs 3 to 6, the Interlocutory Application No. 01 of 2024 is allowed.



Cr. Appeal (SJ) No. 5043 of 2024

4. Heard the parties.

5. This instant Memo of Appeal has been filed on behalf of the appellants for setting aside the impugned order dated 31.01.2024, passed by learned Additional District & Sessions Judge-1st- cum-Special Judge, SC/ST (POA) Act, Madhepura, passed in SC/ST Case No. 66/2023, which is arising out of Uda-Kishunganj P.S. Case No. 351/2022, dated 20.10.2022, registered under Section 302/120(B) of I.P.C., under Section 27 of Arms Act and under Section 3(2)(v), 3(2)(va) of SC/ST Act, by which order the learned Additional District & Sessions Judge, 1st-cum-Special Judge, SC/ST (POA), Madhepura has taken cognizance of the offence under Section 302/120(B) of I.P.C., under Section 27 of Arms Act and under Section 3(2)(v), 3(2)(va) of SC/ST Act against the appellants and five others.

6. As per the prosecution story, the informant alleged that due to land dispute the named accused persons including the two appellants came to their place armed variously and later, Kailu Manda, Kailash Singh and Uday Singh (appellant no.1) opened fire causing death of his father. Later, Fulchand Singh and Gajendra Singh @ Gajendra Prasad Singh (appellant no.2)



wanted the other accused to ensure that he is dead. Thereafter, the allegation is that all the accused persons again fired on the dead body. In between, they also took the caste name. This led to the FIR.

7. Learned counsel for the appellants submits that police investigated the matter and later submitted final form against them but later deviating from the said final form, the court has taken cognizance against them which resulted into coming to this Court. He submits that the court should have taken note of the statement made by the family of the deceased as came in paragraphs-38 and 44 of the case diary to decide the matter.

8. Learned Special PP, on the other hand, has again taken this Court to the FIR to show that role has been assigned to these two appellants by the eye-witness. One is alleged to have opened fire, the other wanted to ensure that the father of the informant is dead. In that background, when the eye-witness has named them, it is unfortunate that the police has submitted final form. He submits that the court rightly took cognizance in the matter.

9. Taking note of all the facts including the submissions of the parties, the two appellants are named in the



FIR, the eye-witness has assigned the role to them, in that background, whether the other family members deviated from the FIR or not, the said is the matter of deposition before the learned Trial Court.

10. So far as cognizance part is concerned, the court rightly took note of allegation against them and accordingly, took cognizance against them. No interference is required, the prayer of the appellants for bail and suspension of sentence stand rejected.

(Rajiv Roy, J)

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