

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1506 of 2024**

Arising Out of PS. Case No.-145 Year-2009 Thana- CHARPOKHARI District- Bhojpur

Ram Bachan Singh @ Ram Vachan Singh @ Ram Bachchan Singh, male,
aged about 75 years, S/o Late Panch Lal Singh, R/o Village- Paliyadih, P.S.-
Charpokari, District- Bhojpur, Ara

... .. Appellant

Versus

1. The State of Bihar,
 2. Shree Surendra Singh, aged about 38 years, male, S/o Sukran Singh,
 3. Subhash Singh, aged about 38 years, male, S/o Bal Kishor Singh @
Sukhari Singh
 4. Sukaran Singh, aged about 70 years, male, S/o Late Jirakhan Singh,
 5. Nand Kishore Singh, aged about 78 years, male, S/o Late Sarvjeet Singh,
 6. Umesh Singh, aged about 38 years, male, S/o Late Dwarika Singh,
 7. Phulbabu Singh, aged about 41 years, male, S/o Nand Kishore Singh
- All resident of Village Paliyadih, P.S. Charpokhari, District-Bhojpur (Ara)

... .. Respondents

Appearance :

For the Appellant	:	Mr. Bachan Jee Ojha, Advocate
For the State	:	Mr. Sujit Kumar Singh, APP
For the Respondents	:	Ms. Anita Kumari Singh, Advocate

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

Date : 29-08-2025

The present criminal appeal has been preferred under
Section 372 of the Code of Criminal Procedure, 1973 against
judgment of acquittal dated 01.10.2024, passed by the learned
A.D.J.-III, Bhojpur (Ara) in Sessions Trial No. 398 of 2010,
arising out of Charpokhari P.S. Case No.145 of 2010, whereby



Respondent Nos.2 to 7 have been acquitted by the learned Trial Court from the charge of Sections 148, 149, 307, 341 of Indian Penal Code and Section 27 of the Arms Act.

2. The prosecution case, in brief, according to the *fardbeyan* of the informant, is that on 03.12.2009, Subhash Singh (respondent no.3) and his family members blocked the road adjoining the canal, whereupon the informant's nephew (Awadhesh Singh) removed that obstruction. On the next day, at about 07:00 A.M., the respondents again blocked the said road, upon which the informant's son Nawal Kishore Singh, (P.W.-1) asked the respondents not to block the road. Thereafter, Prabhu Singh, Nand Kishore Singh, Mohan Singh abused Nawal Kishore Singh (P.W.-1), and Subhash Singh, Manish Singh, Umesh Singh, all armed with country-made pistol; and Upendra Singh, Surendra Singh, Sukaran Singh, Nanhak Singh, Veer Bahadur Singh, Rajendra Singh, Mantu Singh, Sanjay Singh, Vimlesh Singh, Lal Babu Singh, Phul Babu Singh, Angrahil Singh armed with *lathi*, *bhala* and *farsa* came and assaulted the informant's son (P.W.-1). The informant further alleged that Subhash Singh opened fire on the informant's son (P.W.-1) with intention to kill him which hit his chest and he fell down. One Manish Singh also fired upon the informant, and the informant



received injury on his left arm; and Umesh Singh (Respondent no.6) also made multiple firing but did not hit anyone. The other accused persons assaulted the informant's son with *lathi*, *danda* and *farsa*. Thereafter, the injured persons, *i.e.*, the informant and his son were taken to the hospital for treatment.

3. On the basis of written report of the informant, Charpokhari P.S. Case No.145 of 2009 was instituted under Sections 147, 148, 149, 341 & 323/307 of the Indian Penal Code and Section 27 of the Arms Act 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 eleven witnesses, *i.e.*, PW-1 Nawal Kishore Singh, PW-2 Ram Bachan Singh, PW-3 Raj Kishore Singh, PW-4 Sunil Kumar @ Sunil Singh, PW-5 Ram Narayan Ram, PW-6 Divya Prakash Singh, PW-7 Bharat Singh, PW-8 Ram Nagina Ram, PW-9 Dr. Sanoj Kumar Singh, PW-10 Pawan Kumar Singh and PW-11 Dr. Praduman Prasad Singh. The prosecution has also produced certain documents which were marked as 'Exhibits':



Signature of Informant on *fardbeyan*, Signature of doctor Sanoj Kumar on discharge report, Signature of witness Ram Bihari Paswan on formal FIR, Signature of Gauri Shankar Sharma (I.O.) on charge-sheet and Signature of Doctor Praduman Singh on injury report. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 of the Cr.P.C. and after conclusion of trial, learned Trial Court has acquitted the accused persons.

5. Learned Trial Court while acquitting the accused persons held that no prosecution witness had supported the case of the prosecution. The learned Trial Court further held that the evidence of the witnesses before the Trial court were contradictory. The learned Trial Court in paragraph 10 of the impugned order held as under:

"-----साक्षी नवल किशोर ने अपने प्रतिपरीक्षण में कहा है कि गाँव में नहर उत्तर से दक्षिण जाती है जबकि राम बचन सिंह ने अपने प्रतिपरीक्षण में कहा है कि गाँव में नहर दक्षिण से उत्तर जाती है। साक्षी नवल किशोर सिंह ने अपने प्रतिपरीक्षण में कहा है कि मारपीट जिस जमीन पर हुई थी वह बिहार सरकार की जमीन है, उस जमीन पर खेती होती है जबकि राम बचन सिंह ने अपने प्रतिपरीक्षण में कहा है कि पुल पर से जो रास्ता पश्चिम जाता है उसके सटे दक्षिण तरफ बिहार सरकार की जमीन है, यह जोतने वाली जमीन नहीं है। राम बचन सिंह ने अपने प्रतिपरीक्षण में कहा है कि मेरा लडका घटना के समय शर्ट और लुंगी पहने था जबकि साक्षी नवल किशोर सिंह ने अपने प्रतिपरीक्षण में कहा है कि घटना



के समय वह स्वेटर और कुर्ता पहने था। सूचक ने अपने फर्द बयान में कहा है कि नवल किशोर मार खाकर गिर गये थे जबकि अपने प्रतिपरीक्षण में कहा है कि नवल किशोर मार खाकर बैठ गये थे। साक्षी नवल किशोर सिंह ने अपने प्रतिपरीक्षण में कहा है कि जहाँ घटना हुई थी वहाँ पर खून नहीं गिरा हुआ था जबकि राम बचन सिंह ने अपने प्रतिपरीक्षण में कहा है कि घटनास्थल पर खून गिरा था।-----"

6. The learned Trial Court also relied on medical evidence of the doctor. The Doctor (P.W.-9), who had examined the injury, stated in his evidence that the age of injury could not be determined. The learned Trial Court further held that there were no eye witnesses to the alleged occurrence, and none of the prosecution witnesses were present at the time of the alleged occurrence. Therefore, the learned Trial Court held that the prosecution was unable to prove the case beyond the shadow of reasonable doubts.

7. Learned counsel for the appellant submits that the learned Trial Court has failed to appreciate the evidence of the injured witnesses *i.e.*, the informant and his son, who were examined and cross-examined and proved the allegation against the accused persons. He further submits that the learned Trial Court has also failed to appreciate the evidence of the doctors, who clearly supported the gunshot injury of the injured and has



wrongly acquitted the respondent nos.2 to 7.

8. The learned counsel for the Respondents submitted that the learned Trial Court had rightly acquitted the respondents after considering the facts and evidence on record, and the order of the learned Trial Court requires no interference.

9. We have heard learned counsel for the appellant and have also gone through the records of the case.

10. The sole question that requires consideration by this Court is whether the impugned judgment requires any interference by this Court.

11. Upon a careful perusal of the impugned judgment of acquittal and the records before the learned trial court, it is apparent that the age of the injury has not been determined before the learned Trial Court. Further, the nature of the injury, i.e., whether it is simple or grievous has also not been determined. P.W.-9 and P.W.-11 are the Doctors, who have examined the injured person. P.W.-11, who examined the injured initially, had opined before the learned Trial Court that he found a single injury on person of PW-1 (Injured), and he could not determine whether the injury was simple or grievous, and referred him to Sadar Hospital, Ara. PW-9, who is the doctor who operated the injured, stated in his evidence that the date of



the injury could not be determined by him. PW-1 in his evidence has stated that the date of alleged occurrence is 04.12.2009, but PW-2 in his evidence states that the alleged occurrence is of 03.12.2019. Thus, in light of this, we find that the date of the occurrence is itself disputed in the present case.

12. Upon further perusal of the evidence and records before the learned Trial Court, we find that the place of occurrence, and the manner of occurrence is also inconsistent in the present case. PW-1, in his evidence, states that cultivation is done on the land on which, the alleged occurrence happened, but PW-2, in his evidence, states that no cultivation is done on the land where the alleged occurrence happened. PW-1 and PW-2 have also given contradictory evidence regarding the clothes which PW-1 (the injured) was wearing at the time of alleged occurrence. There also seems to be a contradiction in the manner in which the alleged occurrence was committed, PW-1 states that no blood was there, at the time of alleged occurrence, whereas, PW-2 states that blood was there at the place of the alleged occurrence. Further, the I.O. has not been examined before the learned Trial Court, and as such serious doubts are cast on the place of occurrence of the alleged incident. Thus, in light of these material contradictions, we find that the



prosecution has been unable to prove the case beyond reasonable doubts before the learned Trial Court.

13. 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.

14. 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 ***Surajpal Singh vs. State*** reported in ***1951 SCC 1207*** which reads as under:

“13. It is well established that in an appeal under Section 417 of the Criminal Procedure Code, 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.”

15. In ***Chandrappa vs. State of Karnataka*** reported in (2007) 4 SCC 415, the Supreme Court reiterated this view, and laid down the general principles to followed while dealing with appeal against an order of acquittal. The relevant paragraph of the judgment is reproduced as under:

“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, reappreciate 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.”

16. The Hon’ble Apex Court further reaffirmed this view in ***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....."

17. 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.

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

19. Accordingly, the present appeal stands dismissed.

(Sudhir Singh, J.)

(Rajesh Kumar Verma, J.)

*Gaurav Kumar,
Ibrar/-*

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.09.2025
Transmission Date	04.09.2025

