

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.9 of 2025**

Arising Out of PS. Case No.-172 Year-2018 Thana- RAGHUNATHPUR District- Siwan

Ramesh Yadav, Son of Manji Yadav, Resident of Village- Patar Bhusi Tola,
P.S.- Raghunathpur, Distt.- Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Kashi Nath Yadav, Son of Late Nandji Yadav,
3. Raju Yadav @ Raju Kumar Yadav, Son of Kashi Nath Yadav
4. Arjun Yadav @ Arjun Kumar, Son of Kashi Nath Yadav
All residents of Village- Patar Bhusi Tola, P.S.- Raghunathpur, District-
Siwan

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Angad Kunwar, Advocate Mr. Surendra Kr. Mishra, Advocate
For the State	:	Mr. Ajay Mishra, A.P.P.
For the Respondents	:	Mr. Ajay Kumar Pandey, Advocate Mrs. Shyama Rani, Advocate

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

Date : 01-09-2025

The present criminal appeal has been preferred under Section 372 of the Code of Criminal Procedure against the judgment of acquittal dated 21.10.2024 passed by the learned 3rd Additional Sessions Judge, Siwan in Sessions Trial No. 190 of 2021, arising out of Raghunathpur P.S. Case No. 172 of 2018 (G.R.No. 5688 of 2018) whereby Respondent Nos. 2 to 4 have been acquitted from the charge of Sections 307, 323, 447 and



504/34 of the Indian Penal Code.

2. Vide order dated 07.05.2025, Trial Court Records was called for, which was received on 16.06.2025.

3. The prosecution case, in brief, is that on 01.10.2018 at about 2:00 p.m., the informant's villager, namely, Kashinath Yadav (the accused) was abusing the father of the informant (Manji Yadav) and also said that he was doing Jadu-Tona on the accused persons by keeping rice and clove at the door of the accused persons. Thereafter, Kashinath Yadav and his sons, namely, Raju Yadav, Arjun Yadav and Abhishek Yadav assaulted the informant's father by means of *lathi and danda*, causing him head injury. One Sheo Belash Yadav is also alleged to have sustained injuries during the alleged occurrence. The injured persons were taken to Raghunathpur Hospital from where they were referred to Sadar Hospital, Siwan for their treatment.

4. On the basis of written report of the informant, Raghunathpur P.S. Case No. 172 of 2018 was instituted under Sections 307, 323, 447 and 504/34 of the I.P.C. and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 to 4 and, accordingly, cognizance was taken. Thereafter, the case was committed to the Court of Sessions. Charges were framed



under Sections 307, 323, 447 and 504/34 of the I.P.C against the accused persons to which they pleaded not guilty and claimed to be tried.

5. During the trial, the prosecution did not produce any witness, or any evidence before the learned trial court. 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 acquitted the accused persons.

6. Learned counsel for the appellant has submitted that the informant and the chargesheet witnesses have not received any notice regarding trial and the accused persons were acquitted erroneously by the learned trial court. The learned trial court failed to appreciate the injuries of Manji Yadav and Sheo Bilash Yadav being grievous in nature and erroneously acquitted the accused persons.

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

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

9. It is apparent from the records of the case that the



prosecution has not produced any witness or documentary evidence before the learned trial court. It is incumbent upon the prosecution to prove the case beyond the shadow of reasonable doubt. As per the trial court records, all due process of giving notice was followed, including a D.O. letter to S.P., Siwan. The learned trial court in paragraph 8 of the impugned judgment held the following:

“8. The Charge against the accused persons has been framed on dated 06-01-2022. Thereafter even after issuance of all the processes including the D.O. letter to S.P. Siwan, the prosecution has not adduced any single witness. Thereafter the prosecution evidence was closed. Hence this is a case of no evidence.”

10. The prosecution has failed to discharge its duty by not producing any witness or documentary evidence before the learned trial court.

11. In the instant case, it appears from the records as also the judgment under challenge that the prosecution did not adduce any evidence in support of the case, either direct or circumstantial, and no relevant document was produced before the court in support of the case. Therefore it is a clear case of ‘no evidence’.

12. If the prosecution fails to produce any evidence or



any witnesses before the court, even after process is duly served upon them, then the court can close prosecution evidence. When there is neglect or deliberate delay on part of the prosecution, the fundamental right of speedy trial of the accused person under Article 21 would be violated. Thus, the learned trial court rightly closed the prosecution evidence and acquitted the accused persons.

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 a 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 are 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 v. State*** reported in **1951**

SCC 1207:

“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 v. 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 apex court further reaffirmed this view in ***Mrinal Das v. 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 reappraise, 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 is dismissed, and pending application(s), if any, is also disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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