

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.223 of 2022**

Arising Out of PS. Case No.-129 Year-2014 Thana- BHABHUA District- Kaimur (Bhabua)

MANOJ PRASAD Son of Rajeshwar Prasad Resident of Village - Paiya, P.s.-
Sonhan, Distt.- Kaimur at Bhabhua.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Digvijay Kumar Ojha
For the Respondent/s : Mr.Zeyaul Hoda

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 12-05-2026

The present appeal has been filed against the judgment of conviction, dated 13.12.2021, and the order of sentence, dated 15.12.2021, passed, in Sessions Trial No. 447 of 2014, in connection with Bhabhua Police Station Case No.129 of 2014, by learned Additional Sessions Judge-XI, Kaimur, at Bhabhua, whereby the appellant has been convicted for the offences punishable under Section 307 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for seven years and fine of Rs. 20,000 and, in default in payment of fine, to undergo further simple imprisonment for six months.

2. The prosecution story, in brief, is that, the informant, Rajeshwar Prasad, in his fardbayan recorded by Sub Inspector of



Police Mithilesh Kumar of Bhabhua Police Station, in the Emergency Ward of Sadar Hospital, Bhabhua, stated that on 25.03.2014, at 6:00 PM, he was sitting in his room with his wife Aarti Devi. The informant's brother, Manoj Prasad, his wife, Soni Devi and his father, Kameshwar Prasad, was also sitting nearby. At that very moment, accused Soni Devi started abusing wife of the informant, Aarti Devi, for partition. When the informant objected, appellant Manoj Prasad also started abusing. When the informant objected, his father, Kameshwar Prasad, started abusing him and ordered to kill them. Upon this, the informant's brother, Manoj Prasad, stabbed the informant in the chest by means of knife. The informant staggered and fell down. After this, the appellant stabbed him four or five times in the chest. Meanwhile, accused Soni Devi started beating Aarti Devi with a stick. Seeing the informant fell, his wife, Aarti Devi, came in his rescue, but Aarti Devi was also stabbed and injured. The informant and his wife fell down at the spot. Thinking them dead, accused persons fled away from the place of occurrence.

3. Based on the above fardbayan given by the informant on 25.03.2014 in connection with the above incident, Bhabhua Police Station Case No.129 of 2014 was registered against three accused persons, namely, Manoj Prasad, Soni Devi, and



Kameshwar Prasad, under Sections 341/324/307/34 of the Indian Penal Code.

4. After registration of the First Information Report, the investigation commenced and after completion of investigation, charge sheet No. 57/2014, dated 30.09.2014, was submitted against all three accused under Sections 341/323/324/504/307/34 of the Indian Penal Code.

5. On 17.11.2014, the learned Chief Judicial Magistrate, Kaimur, at Bhabhua, took cognizance of the offences on 17.11.2014, under Sections 341/323/324/504/307/34 of the Indian Penal Code against all the three accused persons and the case was committed to the Court of Sessions on 11.12.2014.

6. Further, charges were framed on 19.01.2015 for the offences punishable under Sections 341, 504, 307 and 34 of the Indian Penal Code against the accused. The accused persons denied the charges, pleaded not guilty and claimed to be tried.

7. The prosecution in order to substantiate its case, has examined as many as eight witnesses and exhibited some documents on its behalf. List of prosecution witnesses and exhibits are being mentioned herein under:-

List of Prosecution Witnesses :

Prosecution witness no.	Name of witness	Description
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1.	Aarti Devi	eye witness/injured
2.	Harihar Paswan	Hostile witness
3.	Sitaram Singh	Hearsay Witness
4.	Rajeshwar Prasad	Informant/eye-witness and injured
5.	Ajay Kumar Paswan	Investigating Officer
6.	Nepali Prasad	Hostile Witness
7.	Sachidanand Pandey	Formal witness
8.	Dr. Ajay Pratap	Doctor

List of Exhibits on behalf of the prosecution :

Exhibit No.	Description of the Exhibit	Date/proved by
1	Fardbeyan	07.09.2015
2	Formal F.I.R	03.10.2015
3	Signature of Dr. Ajay Pratap on injury report of Rajeshwar Prasad	05.02.2020
3/1	Signature of Dr. Ajay Pratap on supplementary injury report of Rajeshwar Prasad	05.02.2020
3/2	Signature of Dr. Ajay Pratap on injury report of Aarti Devi	05.02.2020
4	Injury Report of Rajeshwar Prasad	15.02.2021
4/1	Supplementary injury report of Rajeshwar Prasad	15.02.2021
4/2	Injury Report of Aarti Devi	15.02.2021
1	Fardbeyan	07.09.2015

8. The prosecution evidence was closed on 15.02.2021.

Thereafter, the statement of the accused persons were recorded under section 313 (1) (b) of the Code of Criminal Procedure, 1973



on 03.10.2019, in which they denied all the incriminating evidence brought against them.

9. The defence did not adduce any witness on its behalf, but has brought on record two documents, which were exhibited during the trial. List of documents exhibited on behalf of the defence are being mentioned hereunder:-

List of exhibits on behalf of the defence :

Exhibit No.	Description	Date
A	C.C. of Summon order passed in Complaint Case No.337/2014	12.02.2020
A/1	C.C. of Complaint Case No.337/2014	12.02.2020

10. Learned Counsel for the appellant submits that the appellant and the informant are full brothers and there was admitted family dispute with regard to partition of the house/land. He further submits that there was no premeditated mind and just in spur of the moment, the scuffle took place between the parties while all of them were sitting in the same place. He further submits that there was case and counter case between the parties inasmuch as the accused Soni Devi has filed Complaint Case No. 337 of 2014 for the same occurrence, allegedly took place in the house of the informant on 25.03.2014, against the informant, his wife and others. He further submits that there is allegation in the First



Information Report that the appellant assaulted the wife of the informant by means of knife and lathi, but the doctor has found the injury sustained by the wife of the informant caused by hard and blunt substance. He next submits that the informant and his wife have sustained simple injuries. There was no repetition of knife blows.

11. On the other hand, learned Additional Public Prosecutor submits that the deposition of the eye-witnesses/injured to the occurrence are consistence and the learned Trial Court has rightly convicted the appellant and acquitted two other accused persons and there is no illegality in the impugned judgment of conviction, warranting any interference of this Court. The appeal, being devoid of any merit, is fit to be dismissed.

12. I have heard learned Counsel for the parties and have perused the materials available on record.

13. It would be apposite to discuss the oral/documentary evidence as available on record to re-appreciate the evidence for just and proper decision of the present appeal.

14. Considering the nature of allegation levelled in the fir and has emerged during trial of the case, I would like to first deal with the medical evidence of the doctor (PW 8).



15. PW 8 is Dr. Ajay Pratap. This witness, in his examination-in-chief, has stated that 25.03.2014, at 8:40 PM, he has examined Rajeshwar Prasad, about 35 years old, and found the following injuries on his body:

“(i) Stab injury over left chest over mid clavicular line at the level of nipple about size 1" x 1/2" x cavity deep, red in colour;

(ii) Stab injury over left chest at the level of mid axillary line at the level of left nipple about size 1" x 1/2" x cavity deep, red in colour; and

(iii) Stab injury over left chest at the level of mid axillary line at the level of eight rib about size 1" x 1/2" x cavity deep, red in colour.”

16. The doctor has opined that the injuries were caused by sharp and pointed weapon and are simple in nature.

17. This witness has further deposed that on the same day at 8:45 PM, he examined injured Aarti Devi, aged about 32 years, and found the following injuries:-

“(i) Lacerated wound over dorsal aspect of right hand about 1" x 1/2", red in colour with irregular margin.”

18. The doctor (PW 8) has found the injury of injured Aarti Devi simple in nature, caused by hard and blunt substance.



19. In the cross-examination, this witness (PW 8) has deposed that he had not taken the signature of the injured on the injury reports. This witness has also not mentioned about the bleeding from the wound at the time when the injured were brought before him in the injury reports. He further deposed that the injuries caused to the injured/informant may be caused by falling on a pointed article. This witness has further admitted that the injury of Aarti Devi could not have been caused by falling; rather, the same may be caused if any heavy object fell upon her.

20. The findings of the doctor and his opinion, with regard to the injuries have not been in dispute at the trial. I, too, do not notice anything inherently improbable or incorrect in the findings of the doctor or his opinion, with regard to the cause of injuries given by him.

21. In the circumstances mentioned above, the main question for determination before this Court is as to whether the appellant is the person who was instrumental for causing injuries to the informant and his wife.

22. Now, coming to the rest of the prosecution witnesses, I would like to mention here that out of the rest seven prosecution witnesses, PW 2 (Harihar Paswan) and PW 6 (Nepali Prasad) have been declared hostile at the instance of the prosecution, PW 3



Sitaram Singh) is a hearsay witness, PW 7 (Sacchidanand Pandey) is a formal witness, who has proved the signatures of PW 8 on the injury reports/supplementary injury report and PW 5 (Ajay Kumar Poaswan) is the Investigating Officer of this case. PW 1 (Aarti Devi and PW 4 (Rajeshwar Prasad), the informant, are the only eye-witnesses to the occurrence.

23. PW 2 (Harihar Paswan) in his examination-in-chief has deposed that while he was coming after working and reached near the *nahar*, the villagers told him that there was a scuffle between Rajeshwar and the appellant. After hearing this, he went to his house. He further deposed that he knew nothing about the occurrence. This witness (PW 2) was declared hostile.

24. In his cross-examination by the prosecution, this witness (PW 2) has deposed that the police has enquired from him and he had not seen the scuffle. He further deposed that he heard about the scuffle and also heard that Rajeshwar Prasad and Aarti Devi have got injuries and had gone to Banaras for treatment.

25. This witness (PW 2) has denied that he had disclosed before the police that when he went to the house of Rajeshwar Prasad, he saw Rajeshwar Prasad and Aarti Devi in badly injured conditions. He further denied that the appellant, his wife and father had caused injuries to Rajeshwar Prasad and Aarti Devi.



26. In the cross-examination by the defence, this witness (PW 2) has deposed that he had not seen the occurrence.

27. PW 6 (Nepali Prasad), in his examination-in-chief, has deposed that he knew nothing about the occurrence and the police had not taken his statement. This witness (PW 6) was declared hostile.

28. In his cross-examination by the prosecution, this witness (PW 6) has deposed that he had not stated before the police that on 25.08.2014 at about 6 PM in the evening, he was at his house and saw that there was a scuffle going on in between the informant and the appellant and when he went there, he saw that the appellant, Soni Devi and Kameshwar Prasad, all variously armed with lathi, danda, knife, were abusing and assaulting Rajeshwar Prasad (informant) and Aarti Devi.

29. In the cross-examination by the defence, this witness (PW 6) has deposed that he did not see the incident with his own eyes.

30. PW 3 (Sita Ram Singh), in his examination-in-chief, has deposed that about 1½ years ago at 6 PM, while he was on his terrace, he heard a commotion coming from Rajeshwar's house and he went there and saw many people had gathered there. Rajeshwar, along with his brother, Ramta, was there and



Rajeshwar had three stab wounds around his chest. Everyone there was saying that the appellant had stabbed him. Rajeshwar and his family were never asked who stabbed him. Rajeshwar was lying on the ground. His wife was crying there, saying that the appellant had stabbed him.

31. In the cross-examination, this witness (PW 3) has deposed that Rajeshwar was wearing a shirt at the time of occurrence and his wife was wearing a blouse and a saree. There was a minor property dispute between the two brothers.

32. PW 5 (Ajay Kumar Paswan) is the Investigating Officer of this case. He, in the examination-in-chief, has deposed that on 25.03.2021, he was posted in the Sonhan Police Station as Sub-Inspector of Police. He deposed that the alleged occurrence took place in the courtyard and he recorded the statements of witnesses, namely, Aarti Devi, Harihar Paswan, Sita Ram Singh, Ajay Sharma, and Nepali Chandravanshi. He also procured the injury reports of the injured persons. Based on the statements of the witnesses, supervision notes, and the instructions of senior officer, he found the occurrence to be true against the three accused persons and submitted charge sheet accordingly.

33. In his cross-examination, PW 5 has deposed that he recorded the restatement of the informant at Sadar Hospital,



Bhabhua. He visited the place of occurrence on the day of the occurrence, but he did not see any blood at the place of occurrence. This witness has also not inspected the cloth of the informant (PW 4).

34. Now, coming to the evidence of the two eye-witnesses of the occurrence, I would first deal with the evidence of PW 1, the wife of the informant (PW 4) and one of the injured also.

35. PW 1 (Aarti Devi) has deposed, in her examination-in-chief, that while she was in the house, her husband, Rajeshwar Prasad, her brother-in-law Manoj Prasad (the appellant), her father-in-law Kameshwar Prasad and the wife of the appellant, Soni Devi, were also there. This witness and accused Soni Devi was in the house while her husband, father-in-law and the appellant were in the courtyard of the house. The accused Soni Devi started abusing this witness. When Soni Devi started abusing me regarding partition, this witness came into the house from the courtyard. Her father-in-law Kameshwar started beating me by hand and danda. When the husband of this witness came to the aangan, the appellant inflicted three knife blows. When this witness tried to save her husband, the appellant stabbed her too, due to which she started screaming. From Sonhan Police Station,



they were brought to Sadar Hospital, Bhabua. The husband of this witness was treated for ten days. Her husband was referred to Banaras on the same day. This witness was treated at Sadar Hospital, Bhabhua. The husband of this witness returned home from B.H.U., Banaras, after ten days of treatment.

36. In her cross-examination, this witness (PW 1) has deposed that all four brothers of her husband lived in the same courtyard and there is no partition of the house among themselves.

37. This witness (PW 1) has further deposed that her husband was wearing a kurta and full-sleeved jacket at the time and that kurta is in the hospital. This witness has further deposed that she also sustained injury near the wrist of right hand. This witness further denied that she did not receive injury by assault; rather the injury was caused by bangles. Except this injury, this witness has not sustained any other injury. This witness (PW 1) has further deposed that she did not know that the appellant had lodged any case against them. This witness has deposed that it is false that we entered into the room of the accused persons and committed theft and to save from that case, this false case has been lodged.

38. This witness (PW 1) has deposed that blood had fallen in the aangan where the scuffle had taken place. They went



to Banaras for treatment. This witness met with the police in the Bhabhua hospital. The police had not come in the aangan of the house in presence of this witness because they had gone to Bhabhua hospital.

39. Now, coming to the deposition of PW 4 (Rajeshwar Prasad), who is the informant of this case and the injured also. This witness (PW 4), in his examination-in-chief, has deposed that on 25.03.2014 at 6 PM, he and his wife (PW 1) was in his house and no one else was there. At that time, accused Soni Devi, who is the wife of the appellant, started abusing for partition and when the wife of this witness objected her from abusing, the appellant also started abusing. When this witness forbade to abuse, the father of this witness, Kameshwar Prasad, told the appellant to beat him. After that, the appellant brought a knife and stabbed him in the chest. When his wife came in his rescue, Soni Devi also beat her with danda, due to which she sustained injury in her hand. The appellant also inflicted a knife blow on the hand of the wife of this witness. This witness fell down at the spot, then the villagers took him and his wife to Bhabhua Hospital, where they were treated. The police came to Bhabhua Hospital, where the statement of this witness was recorded. The police read the statement over to him and on finding it correct, he put his



signature on it. This witness also deposed that the doctors at Bhabhua Hospital has referred this witness to B.H.U., where he was admitted in the Emergency.

40. In cross-examination, this witness (PW 4) has deposed that there was a case for the partition and the partition has still not taken place. He denied that the brothers have divided the property among themselves and the father had not been given any share. The father of this witness lives with the brothers of this witness, namely, Kamta and the appellant.

41. This witness (PW 4) has further deposed that the blood had fallen at the place of occurrence and since he remained hospitalized for 10 days after the incident, he did not show the place of occurrence to the police. The police came to his house on the next day when he was not in his house. The neighbours of this witness had not come at the time of occurrence; rather, they came after the occurrence, to whom this witness had shown the injuries. This witness has shown his injuries to Ashok Prasad (not examined), Ramta Prasad (not examined) and 2-4 persons of the village.

42. This witness (PW 4) has denied that no occurrence of stabbing of assault had taken place and for pressurizing for partition, this false case has been lodged.



43. This witness (PW 4), in the last, has deposed that he is satisfied with the partition which has taken place.

44. From the depositions of PW 2, PW 3 and PW 6, it is very much clear that they have not seen the occurrence. This fact also finds strength from the deposition of the informant (PW 4) that at the time of occurrence, no villager had come and the villagers came only after the incident had taken place. PW 3 has deposed to the extent that the informant has sustained injuries from knife, but he had not disclosed the source of information he got that the informant was assaulted by means of knife.

45. It is the consistent depositions of the two eye-witnesses to the occurrence, i.e. PW 1 and PW 2, that blood had fallen at the place where scuffle had taken place, but the Investigating Officer (PW 5) has not found any trail of blood in the house of the informant (PW 4) while he inspected the place of occurrence. The Investigating Officer (PW 5) has also not recovered the weapon (knife) by which assault has been made. The exact place of occurrence has also not been disclosed by the prosecution witnesses.

46. It is the further case of the prosecution in the First Information Report that the appellant had stabbed the knife upon the informant (PW 4) 5-6 times and the appellant also inflicted



one knife blow on the wife of the informant (PW 1), apart from the assault made by the wife of the appellant upon the wife of the informant by danda and hands. The doctor (PW 8) has also opined in his cross-examination that the injuries sustained by the informant (PW 4) may happen if he falls on a pointed substance. The informant (PW 4) has not deposed any repetition of knife blows upon him. As such, from the evidence of eye-witnesses to the occurrence, it cannot be safely said that the actual manner of occurrence has been disclosed by the prosecution witnesses.

47. In the face of the medical evidence on record, there can be no escape from the conclusion that the informant (PW 4) sustained only three stab injuries and that too, simple in nature, and the wife of the informant (PW 1) did not sustain any knife injury and the only one injury sustained by the wife of the informant (PW 1) is caused by hard and blunt substance and is also simple in nature.

48. In the face of the evidence of PW 1 and PW 4 and also in the face of the medical evidence on record, discussed above, there can be no escape from the conclusion that the description of the occurrence, given by PW 1 and PW 4, is not safe to place reliance upon inasmuch as the evidence of these witnesses are nothing, but ad-mixture of half-truth and untruth.



This apart, the half-truth and untruth are so inextricably mixed with each other that it is impossible to disengage the truth from falsehood.

49. It is also the admitted case of the prosecution that there was dispute over partition of the house.

50. Considering the fact that there was, admittedly, enmity between the informant, on the one hand, and the appellant, on the other hand. Enmity is a double-edged weapon, which cuts both the ways. While enmity may be a reason for committing an offence, such as, present one, enmity may also be a reason for either falsely implicating an enemy as an accused or roping in an enemy, who may be innocent.

51. In the circumstances indicated above, it was impossible to place implicit reliance on the evidence of PW 1 and PW 4. In the absence of any other evidence, supporting the description of the occurrence given by the eye witnesses, one has no option, but to hold that none of these witnesses can be treated or held to be wholly reliable. Even if their evidence is not rejected by the Court as wholly unreliable, their evidence would fall, at best, in the category of those witnesses, who are neither wholly reliable nor wholly unreliable.



52. It is trite that the witnesses, ordinarily, fall into three distinct categories, namely, (i) wholly reliable, (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable. If the witness is wholly reliable, his evidence can be implicitly relied upon and such a witness's testimony can be made basis for conviction of an accused. Similarly, when a witness is found to be wholly unreliable, no reliance can at all be placed on his evidence and his evidence has to be rejected outright. When, however, a witness is found to be neither wholly reliable, nor wholly unreliable, his evidence cannot be accepted as true unless his evidence is found to have been corroborated by some credible independent evidence, direct or circumstantial.

53. The evidence of the eye-witnesses, which the prosecution has adduced in the present case, cannot be safely relied upon unless the same is found to have been corroborated by some credible independent evidence, direct or circumstantial.

54. It is also an undisputed position of law that one infirm witness cannot be treated to have corroborated the evidence of another infirm witness meaning thereby that witnesses of same brand cannot be taken to have corroborated each other. Thus, when a witness is neither wholly reliable nor wholly unreliable, his evidence cannot be taken to have been corroborated by a



witness of the same brand, namely, a witness, who is neither wholly reliable nor wholly unreliable, for, evidence is not to be counted, but weighed.

55. Situated thus, it is clear that merely because some persons, claiming themselves to be eye-witnesses, have given evidence describing the occurrence, their evidence cannot be made basis for holding them truthful witnesses, when their evidence is inconsistent, contradictory and belied by each other's evidence, particularly when their evidence is found to have not been corroborated by credible independent evidence, direct or circumstantial.

56. Because of the nature of evidence, which is available on record, the least, which ought to have been done by the learned Trial Court, was to accord benefit of reasonable doubt to the accused persons inasmuch as I am clearly of the view that in the light of the evidence on record, which I have discussed above, it was too hazardous to convict the appellant, particularly, when I find that the evidence, which the prosecution has adduced, is an admixture of half-truth and untruth and it is not only difficult, but wholly impossible to disengage the truth from the falsehood. The benefit of such a situation ought to have been given to the appellant.



57. In the backdrop of what has been discussed and pointed out above, I am of the considered view that the prosecution has failed, in the present case, to bring home the charges against the appellant beyond reasonable doubt and that the appellant was entitled to be accorded benefit of doubt.

58. In the result, this appeal succeeds. The impugned conviction of the appellant by the judgment, under appeal, and the consequential sentence, passed under the impugned order, are hereby set aside. The appellant is held not guilty of the offence, for which he stood convicted, and is acquitted of the same under benefit of doubt.

59. The appellant is already on bail. The bail bonds of the appellant are hereby cancelled and his sureties shall stand discharged.

60. The Registry is directed to return the Lower Court's Record forthwith along with a copy of this judgment.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	27-04-2026
Uploading Date	12-05-2026
Transmission Date	12-05-2026

