

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.532 of 2003

Arising Out of PS. Case No.-71 Year-1993 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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1. Awadh Singh Son of Sri Satrughn Singh Resident of Village - Chaparadah,
P.S. - Magadh Medical, District - Gaya
 2. Birju Singh Son of Sri Satrughn Singh Resident of Village - Chaparadah,
P.S. - Magadh Medical, District - Gaya

... .. Appellants

Versus

The State of Bihar

... .. Respondents

Appearance :

For the Appellant	:	Mr. Abhishek Kumar, <i>Amicus Curiae</i>
For the State	:	Mr. A.M.P. Mehta, APP
For the Informant	:	Mr. Rashid Izhar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

C.A.V. JUDGMENT

Date : 27-02-2026

The present appeal is filed under section 374(2) read with section 389(1) of the Code of Criminal procedure, 1973 (herein after “Cr.P.C.”) challenging the judgment of conviction and order of sentence dated 22.11.2003 passed by the learned 7th Additional Session Judge, Gaya, in connection with Sessions Trial No.75 of 1999, whereby the appellants Awadh Singh and Naro Singh @ Narendra Singh (since deceased) have been sentenced to undergo rigorous imprisonment for three years for the offence under section 324 of the Indian Penal Code (for short “I.P.C.”) and the appellant- Awadh Singh has been further sentenced to undergo rigorous imprisonment for two years for the offence under section 27 of the Arms Act. Both the sentences, imposed upon aforesaid appellants were directed to



run concurrently. Whereas, appellant- Birju Singh has been sentenced to undergo rigorous imprisonment for three years for the offence under section 325 of the I.P.C. No separate sentence has been imposed upon the convicted-appellants under section 149 of the I.P.C.

2. During the pendency of this appeal, the original appellant no.2 namely, Naro Singh @ Narendra Singh had died and *vide* order dated 29.08.2024, the appeal stood abated as against him and therefore, now, this appeal is restricted only with respect to appellants herein.

3. The prosecution case is that the informant namely, Ramdeo Yadav, made a statement before the Officer-in-Charge of Magadh Medical Police Station stating therein that on 08.11.1993 at about 12.00 noon while the informant was cultivating a piece of land with a tractor along with his sons, the appellants along with three to four unknown persons came there, armed with different weapons like *Garasa* and *Bhala* and surrounded the informant and asked him not to cultivate the said land otherwise he would be killed by them. Thereafter, the accused persons stopped the tractor and the appellant - Awadh Singh, fired upon the informant but he managed to escape the shot and took shelter behind the tractor. Thereafter, the



appellant - Birju Singh dragged the informant in open area and assaulted him with *lathi* and the appellant -Naro Singh (since deceased) assaulted the informant with *Garasa*. In the said assault, the informant sustained cut injury on his left palm and fracture in his left hand and some minor injuries on the rest of his body. It is also alleged that when the informant fell on the ground, the accused persons also assaulted the sons of the informant, however, upon hearing the *hulla*, the local persons came there. It is further alleged that the occurrence was seen by one Laknan Yadav, Jatan Yadav and other local people and the cause of occurrence is that in the previous year the Court had appointed the informant as Receiver of the land in question and in pursuance thereof, the informant used to cultivate the said land. It is next alleged that the accused persons used to threaten the informant for not cultivating the land in question.

4. On the basis of the statement of the informant, the F.I.R being Magadh Medical P.S. Case No.71 of 1993 dated 08.11.1993 was registered for the offence under sections 147, 148, 149, 307, 323, 324, 326 of the I.P.C and under section 27 of the Arms Act. The informant was sent to the Medical officer, A.N.M.C.H. for his examination. After institution of the FIR, the police proceeded with the



investigation and after completion of investigation, charge-sheet was submitted. Thereafter, the trial court took cognizance against the appellants and the case was committed to the Court of Sessions for trial.

5. During the course of trial, altogether six witnesses were examined in support of the prosecution case, which are as under:-

P.W.-1	Kapil Yadav (son of the informant)
P.W.-2	Vijay Yadav (son of the informant)
P.W.-3	Jatan Yadav (local resident)
P.W.-4	Ramdeo Yadav (informant)
P.W.-5	Dr. Frasat Hussain (Doctor)
P.W.-6	Smt. J.D. Sharma (S.I. and I.O.)

6. Apart from the oral evidences, the documentary evidences were also exhibited on behalf of the prosecution, which are as follows:-

Exhibit- 1	Injury Report
Exhibit- 1/1	Injury Report prepared by the I.O.
Exhibit- 2	Original First Information Report
Exhibit- 3	Original Case Diary
Exhibit- 4	Certified copy of the order sheet dated 21.11.1988 and 17.07.1992 of Case no. 3180 of 1988 under section 145 of Cr. P.C

7. After completion of prosecution evidence, the statement of the appellants was recorded under section 313 of the Code of Criminal Procedure, in which the appellants denied the allegation and stated that they are innocent and have



falsely been implicated in the present case and claimed to be tried.

8. The defense did not procedure any witnesses, however two documents as were exhibited on behalf of the defense, which are as under:-

Exhibit- A	Certified copy of the judgment in case no. 223/C of 1993
Exhibit- B	Certified copy of the order sheet dated 26.07.1999 of Case No. 3180 of 1988

9. The trial court, upon appreciation of the evidence adduced in the trial, has found the appellants guilty of the offences and has sentenced them to imprisonment, as noted above, by its impugned judgment of conviction and order of sentence.

10. The learned *Amicus Curiae* appearing for the appellants has submitted that while convicting the appellants, the trial court has failed to appreciate the fact that the rifle from which, the appellant no.1 is alleged to have fired upon the informant, was neither recovered from the place of occurrence nor was it produced before the court during the trial, also the pellets of the shot alleged to have been fired, was also not recovered or produced during the trial.

11. The *Amicus Curiae* has next submitted that



all the prosecution witnesses are relatives of the informant and has further submitted that the trial court has failed to appreciate the fact that the driver of the tractor, who was cultivating the land in question at the time of occurrence was not examined as a witness though as per the F.I.R. he was present at the time of occurrence.

12. It has been submitted by learned *Amicus Curiae* that the trial court has also failed to appreciate the fact that no documents were produced or adduced showing the fact that he was appointed as a Receiver by the court, inasmuch as, the Investigating Officer (P.W.-6) during the investigation also did not produce any document showing the appointment of the informant as a Receiver of the land in question. It is, therefore, the contention of learned *Amicus Curiae* that the informant himself was not authorized by the competent court to cultivate the land, since the Circle Officer was the Receiver appointed by the Court.

13. The learned counsel for the informant while opposing the present appeal has submitted that the informant was cultivating the land lawfully, but the appellants with an intention to kill the informant came at the place of occurrence and fired upon the informant, however, he somehow managed to



escape the shot and saved his life. It is, therefore, the submission of the learned counsel for the informant that the appellants are the aggressors of the aforesaid incident and had assaulted the informant with *Garasa*, *lathi* and firearm causing grievous injuries.

14. It is next submitted by the learned counsel for the informant that due to the said assault the informant sustained injuries, which are grievous in nature and the same has been confirmed by the injury report and the deposition of P.W.5- Doctor.

15. Learned APP for the State has supported the impugned judgment of conviction and the order of sentence by submitting that the trial court upon appreciating the relevant documents as well as the depositions of the witnesses adduced during the trial has convicted the appellants and therefore, this court may not interfere with the same.

16. I have considered the submissions of the parties and perused the materials available on record including the original trial court records.

17. Upon a meticulous perusal of the records including the F.I.R. and the depositions, it appears that in the present case, the appellant - Awadh Singh had fired upon the



informant, the appellant- Naro Singh @ Narendra Singh (since deceased) had used a *Garasa* to inflict grievous injuries to the informant, whereas, the appellant- Birju Singh had used *lathi* to assault the informant. From the reading of the records, it also appears that the informant in order to dodge the gun shot had tried to take shelter behind the tractor, however, the bullet/pellet is said to have hit the tractor standing in the field. Further, from the perusal of the injury report and the deposition of P.W.-5, it is apparent that the informant had sustained five injuries, out of which three were grievous in nature and two were simple in nature.

18. The trial court while convicting the appellants had placed a decisive reliance upon the injury report, the deposition of the Medical Officer (P.W.-5) and the deposition of the informant himself and thereafter, came to the conclusion that the offence of voluntarily causing grievous hurt is made out against the appellants.

19. At this stage, it would be apposite to refer to the judgment of the Hon'ble Supreme Court rendered in the case of *Anuj Singh vs. State of Bihar*, reported as **2022 SCC OnLine SC 497** to emphasis the ingredients of section 324 of the I.P.C. In the aforesaid decision, the Hon'ble Supreme Court



has held as under:-

“20. It is a well-known fact that the term “hurt” simply means performing an act which leads to physical pain, injury or any disease to a person. At times, hurt may be caused voluntarily or it can be caused by using dangerous weapons or mean. A person will be liable to have caused hurt voluntarily through dangerous weapons and means under Section 324 IPC which reads as under:—

“324. Voluntarily causing hurt by dangerous weapons or means.— Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description



*for a term which may extend to
three years, or with fine, or with
both.”*

**21. To establish an offence under Section 324
IPC, the presence of following ingredients is a
must which are as follows:—**

**1. Voluntary hurt caused to another person
by the accused, and**

2. Such hurt was caused:

**a. By any instrument used for
shooting, cutting or stabbing, or
any other instrument likely to
cause death, or**

**b. By fire or other heated
instruments, or**

**c. By poison or other corrosive
substance, or**

d. By any explosive substance, or

**e. By a substance that is dangerous
for the human body to swallow,
inhale, or receive through blood,
or**

f. By an animal.

22. *When a person commits an offence of
voluntarily causing hurt by dangerous weapons
and means under Section 324 of Indian Penal
Code, then such person shall be punished with
imprisonment for a period of three years, or
with fine.” (emphasis supplied).*

20. At the cost of repetition, it is required to be



noted that the trial court had given decisive strength to the evidence given by P.W.-5 (Doctor) and the injury report prepared by this witness. Evidently, the appellants, had gone to the place of occurrence with deadly weapons and had caused grievous injuries on the informant, which is corroborated from the injury report as well as the statement of the P.W.- 05 (Doctor).

21. Pertinently, the informant was cultivating the land which was given to him lawfully by a competent court, as on the date of occurrence. Therefore, the very presence of the appellants at the place of occurrence with deadly weapons and having caused grievous injuries on the informant clearly establishes the ingredients of section 324 of the I.P.C.

22. In view of the above, this Court does not find any error in the impugned judgment of conviction and therefore, this Court is not inclined to interfere with the impugned judgment of conviction.

23. Now, at this stage, this Court has noted that the trial Court had failed to ascribe any reasons for imposing the maximum punishment as permissible under the statute. The Hon'ble Supreme Court in the case of *State of Rajasthan vs. Mohan Lal, (2018) 18 SCC 535* has held as under:-

“10. Currently, India does not have structured



sentencing guidelines that have been issued either by the legislature or the judiciary. However, the courts have framed certain guidelines in the matter of imposition of sentence. A Judge has wide discretion in awarding the sentence within the statutory limits. Since in many offences only the maximum punishment is prescribed and for some offences the minimum punishment is prescribed, each Judge exercises his discretion accordingly. There cannot, therefore, be any uniformity. However, this Court has repeatedly held that the courts will have to take into account certain principles while exercising their discretion in sentencing, such as proportionality, deterrence and rehabilitation. In a proportionality analysis, it is necessary to assess the seriousness of an offence in order to determine the commensurate punishment for the offender. The seriousness of an offence depends, apart from other things, also upon its harmfulness.

11. This Court in *Soman v. State of Kerala* (2013) 11 SCC 382 observed thus: (SCC p. 393, para 27)

“27.1. Courts ought to base sentencing decisions on various different rationales — most prominent amongst which would be



proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable. In case of illicit and underground manufacture of liquor, the chances of toxicity are so high that not only its manufacturer but the distributor and the retail vendor would know its likely risks to the consumer. Hence, even though any harm to the consumer might not be directly intended, some aggravated culpability must attach if the consumer suffers some grievous hurt or dies as result of consuming the spurious liquor.



12. The same is the verdict of this Court in *Alister Anthony Pareira v. State of Maharashtra* (2012) 2 SCC 648 wherein it is observed thus: (SCC p. 674, para 84)

“84. Sentencing is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: the twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.

13. From the aforementioned observations, it is clear that the principle governing the imposition of punishment will depend upon the facts and circumstances of each



case. However, the sentence should be appropriate, adequate, just, proportionate and commensurate with the nature and gravity of the crime and the manner in which the crime is committed. The gravity of the crime, motive for the crime, nature of the crime and all other attending circumstances have to be borne in mind while imposing the sentence. The court cannot afford to be casual while imposing the sentence, inasmuch as both the crime and the criminal are equally important in the sentencing process. The courts must see that the public does not lose confidence in the judicial system. Imposing inadequate sentences will do more harm to the justice system and may lead to a state where the victim loses confidence in the judicial system and resorts to private vengeance.” (emphasis supplied).

24. In view of the law laid down in the afore-quoted decision, it is abundantly clear that the trial court must impose appropriate, adequate, just, proportionate and commensurate sentence upon the convict. In the present case, though the trial court had convicted the appellants but no specific, separate and cogent reasons have been assigned for imposing the maximum punishment. From the perusal of the injuries sustained on the informant, it is clear that the appellant



Naro Singh @ Narendra Singh had inflicted *Garasa* blow to the informant causing grievous injuries. Pertinently, the aforesaid appellant has already died during the pendency of this appeal. Further, the appellant-Birju Singh had inflicted *lathi* blow causing simple injuries and the appellant-Awadh Singh had fired upon the informant but the same did not hit the informant. Moreover, it appears from the report of the Senior Superintendent of Police, Gaya, that both the surviving appellants are in their advanced age approaching approximately 80 years and they are in a senile condition.

25. In view of the aforesaid facts and in the interest of justice, this Court deems it appropriate to sustain the judgment of conviction but modify the impugned order of sentence. Accordingly, this Court modifies the impugned order of sentence to the period already undergone by the appellants and further imposes a fine of Rs.25,000/- (Rupees Twenty Five Thousand) each on the appellants herein, which shall be paid to the informant or his surviving legal heirs and in default of payment of fine, the appellants herein shall undergo simple imprisonment of one month.

26. The present order shall be communicated to the concerned trial court for necessary execution.



27. The records reveal that the appellants herein are on bail, therefore, the bail bonds of the appellants shall stand cancelled after the execution of the modified sentence. The trial court is directed to ensure the recovery of the fine imposed from the appellants herein and pay the same to the informant or his surviving legal heirs.

28. Accordingly, this appeal is partly allowed with the modification in the impugned order of sentence, as indicated above.

29. The original records be transmitted to the concerned trial court.

30. The Patna High Court Legal Services Committee is hereby directed to pay an amount of Rs.10,000/- (Rupees Ten Thousand Only) to Mr. Abhishek Kumar, learned *Amicus Curiae* as consolidated fee for rendering his valuable professional service for the disposal of the present appeal.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	09.12.2025
Uploading Date	27.02.2026
Transmission Date	27.02.2026

