

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.68 of 2014**

Arising Out of PS. Case No.-58 Year-1994 Thana- LAKHISARAI District- Lakhisarai

1. Sukhdeo Yadav, S/o Late Dila Yadav,
2. Bijay Yadav
3. Ajay Yadav, Both are sons of Sukhdeo Yadav, All Resident of Village-
Dharhisir, P.S.- Chanan, District- Lakhisarai

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sidharth Harsh, Amicus Curiae
For the State	:	Mr. Abhay Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT**

Date : 18-02-2026

The instant appeal has been preferred by the appellants against the judgment of conviction dated 15.01.2014 and the order of sentence dated 16.01.2014 passed by the Court of the learned Adhoc Additional District & Sessions Judge-V, Lakhisarai, in Sessions Case. No. 212 of 1996 arising out of Lakhisarai Chanan P.S. Case No. 58 of 1994, whereby and whereunder the appellants have been convicted for the offence punishable under Section 365 of the Indian Penal Code (in short, "IPC"). The appellants have been sentenced to undergo simple imprisonment for three years with a fine of Rs. 500/- (Rupees Five Hundred) to each for the offence punishable under



Section 365 of the IPC. In default of payment of fine, they have been directed to undergo imprisonment for three months additionally.

Prosecution Story:

2. The substance of the prosecution story, as appearing from the FIR, is as follows:

The informant, Jagdeo Yadav, gave his fardbeyan at Chanan Police Station on 02.03.1994, alleging that a she-buffalo of appellant No. 1, Sukhdeo Yadav, had died due to some disease, but he suspected that it had been killed by the appellants. The informant further alleged that on 01.03.1994, when his brother, Ram Balak Yadav (the victim), was at his residence (dera) situated on the north-western side of the village at about 7:00–7:30 PM, all the accused persons/appellants came, abducted his brother, and handed him over to other criminals. Upon hearing his brother's alarm, the informant, along with his family members and other villagers, reached at the place of occurrence but did not find his brother there. The informant alleged that the accused persons/appellants had taken away his brother due to enmity arising out of a previous land dispute.

3. The informant recorded his fardbeyan on



02.03.1994 at Chanan Police Station and detailed the above-mentioned incident. Upon that basis, the formal FIR bearing Chanan P.S. Case No. 58 of 1994 was registered for the offence punishable under Section 364 read with section 34 of the IPC, which set the criminal law in motion.

4. After completion of the investigation, the appellants were charge-sheeted.

5. After cognizance of the alleged offence, the learned Magistrate committed the case of the appellants to the Court of Sessions for trial. The appellants namely, Bijay Yadav, Ajay Yadav and Sukhdeo Yadav, stood charged for the offence under Section 364 of the IPC. The said charge was read over and explained in Hindi to the appellants by the trial court, to which they pleaded not guilty and claimed to be tried.

6. During the trial, the prosecution examined altogether nine witnesses who are as under :-

PW-1	Kapurva Devi	Mother of the victim
PW-2	Jagdeo Yadav	Brother of the victim
PW-3	Sundar Yadav	Villager of the informant
PW-4	Ram Balak Yadav	The victim
PW-5	Ramdev Yadav	Villager of the informant (hostile witness)
PW-6	Mathura Yadav	Villager of the informant (hostile witness)
PW-7	Siddheshwar Yadav	Villager of the informant (hostile witness)
PW-8	Hardev Yadav	Villager of the informant (hostile witness)
PW-9	Chandeshwar Yadav	Villager of the informant (hostile witness)



7. In addition to the above mentioned ocular evidence, the prosecution proved and exhibited the following documents in documentary evidence :-

Ext-1	The signature of the informant on the fardbeyan
Ext-1/1	The signature of the victim on his statement recorded under section 164 of Cr.P.C.

8. After the completion of the prosecution evidence, the statements of the appellants were recorded under Section 313 of the Code of Criminal Procedure (in short, 'Cr.P.C.') by the trial court. The appellants denied the material circumstances appearing against them from the prosecution evidence; however, they did not take any specific defence while recording their statement.

9. In defence, the appellants produced and exhibited the following documents.

Ext-A	An order passed in Sessions Trial No. 336/2000
Ext-B	An order passed by Sub-Divisional Magistrate in the case No. 954M/1986

10. While convicting the appellants for the offence under Section 365 of the IPC, the learned trial court mainly placed reliance upon the testimony of the victim, Ram Balak Yadav (PW-4).



Submissions made by learned Amicus Curiae:—

11. Mr. Siddharth Harsh, learned Amicus Curiae appearing for the appellants, submits that there are serious contradictions among the statements made by the informant in his fardbeyan and the testimonies of the prosecution witnesses, including the victim, with regard to the manner of occurrence as well as the place of occurrence. The informant (PW-2) recorded his fardbeyan after a delay of one day from the commission of the alleged occurrence, despite the fact that it had come to his knowledge immediately after the commission of the alleged offence. From the narration of the prosecution story by the informant, enmity between the victim's family and the appellants was admittedly going on when the FIR was lodged. The so-called victim, who is the brother of the informant, himself returned from the clutches of the accused/appellants, and it is not the case of the prosecution that the victim was recovered by the police. Further, contradictory statements were made by the prosecution witnesses regarding the period of captivity of the victim. During the trial, PW-1 (mother of the victim) came up with a different story from that of mentioned in the FIR. The prosecution failed to examine the Investigating Officer before the trial court. PW-5 to PW-9 turned hostile.



Though, as per the prosecution, they did not claim themselves to be eyewitnesses of the occurrence, their evidence had some relevance regarding the subsequent part of the occurrence pertaining to the taking away of the victim by the accused; however, they did not say anything in support of the prosecution.

Submissions on behalf of the State:–

12. Learned APP appearing for the State opposes this appeal but fairly accepts that there was enmity between the victim's family and the appellants during the relevant period of time when the alleged occurrence is stated to have taken place. The victim himself returned 5–6 days after the commission of the alleged occurrence. Learned APP has also accepted that there are contradictions among the testimonies of the prosecution witnesses; however, he has supported the findings of the trial court by referring to the evidence of the victim and the statement recorded by him under Section 164 of the Cr.P.C., which are according to him completely corroborative of each other.

Consideration and Analysis:–

13. I have heard both sides, perused the evidence available on the trial court's record, and taken into consideration



the statements of the appellants as well as the findings of the trial court noted in the impugned judgment.

14. The manner in which the informant described the prosecution story in his fardbeyan shows him as an eyewitness to the occurrence. In his fardbeyan, the informant stated that on 01.03.1994 at about 7–7:30 PM, his brother, Ram Balak Yadav (the victim), was present at his residence (dera) situated on the north-western side of the village. The accused/appellants, namely Vijay Yadav, Ajay Yadav, and Sukhdeo Yadav, caught hold of his brother and thereafter handed him over to other accused persons. Upon this, his brother started crying for help while being taken away by the appellants. Thereafter, he (the informant), along with his family members and villagers, rushed to the *dera* (residence) of the victim and found his brother missing. The said narration of the incident made by the informant shows that he claimed himself to be an eyewitness; however, in his cross-examination, he did not remain consistent with this stand.

15. The informant deposed in his examination-in-chief that his brother raised an alarm when he was being taken away by the appellants and thereafter he also raised an alarm and rushed towards his brother but did not find him. In cross-



examination, he stated that the accused persons had taken his brother away before he reached the place of occurrence and that he did not meet any of the accused persons there. He further stated that he heard the cry of his brother from a distance of half a kilometre. From this statement, it is clear that he was not an eyewitness to the alleged abduction of the victim.

16. The informant detailed the complete manner of occurrence and the names of the accused/appellants in his fardbeyan, which formed the basis of the prosecution case and was lodged the next day after the alleged occurrence. However, as per the victim's own evidence, he returned from the captivity of the accused persons 5–6 days after the occurrence. As per the informant, when he reached the place of occurrence, he did not find either the victim or the accused persons. Therefore, how he obtained the details of the accused and the manner of occurrence immediately after the incident, which was reported one day later, has not been clarified by the prosecution through evidence.

17. PW-1, the mother of the victim, deposed in her examination-in-chief that at the time of the alleged occurrence, she was at her Bathan (cattle shed), her son, the victim, came there with food and, after giving the food, he started returning after covering some distance, the accused/appellants surrounded



and abducted him. The manner of occurrence as stated by this witness is completely different from that detailed in the FIR by the informant (PW-2) and also different from that detailed by the victim (PW-4) in his court evidence. Further, as per PW-1, she saw the accused persons from a distance of two Rassi (in village language, one Rassi is considered equivalent to 25 feet). Admittedly, it was a dark night at the time of the alleged occurrence. In such a situation, without any source of light, it would not have been possible for PW-1 to identify the accused persons or witness the occurrence as described by her.

18. PW-2, the informant, deposed in his examination-in-chief that at the time of the alleged occurrence, he was at his home and that his brother went to the dera of his father to deliver food, whereas PW-1 stated that the victim went to the bathan (cattle shed) to give food to her. In paragraph 5 of his cross-examination, PW-2 stated that his brother returned four days after the occurrence and did not disclose the names of the abductors. However, in the same paragraph, he stated that his brother disclosed the names of the accused. Thus, he did not remain consistent.

19. PW-3, an independent witness, stated in his examination-in-chief that on the alleged night at about 7:30 PM,



while he was inside his house, he heard the cries of Ram Balak Yadav (the victim), who was saying that he was being taken away by the appellants. However, in cross-examination, he stated that he did not see either of the appellants or the victim at the place of occurrence. Therefore, his evidence does not support the prosecution case.

20. PW-4, the victim, deposed that on the alleged day and time, he was going from his home to the bathan to deliver food then appellant Sukhdeo Yadav started following him with a lantern. While returning after delivering the food and upon reaching near the bridge at Devasthan, appellants namely Ajay Yadav and Vijay Yadav caught hold of him from both the sides. When he raised an alarm, five more persons equipped with guns arrived, tied his hands and mouth, and took him away. He further stated that the accused demanded money from him and, upon his inability to fulfill their demand, they freed him, after which he returned home. This story appears less believable, as the accused allegedly freed the victim without receiving any money, and there is no evidence that they contacted or pressured his family members regarding the said demand. In the fardbeyan, the informant stated that there was a land dispute between the appellants and his family; however, in



cross-examination, PW-4 stated that there was no such dispute. This indicates an attempt on his part to conceal the admitted enmity, and thus he does not appear to have come with clean hands before trial court.

21. According to PW-4, he was assaulted during captivity and remained in captivity for 5–6 days. Upon returning, he showed his injuries to the SHO but was not medically examined. Neither the police nor the victim himself or his family members took any steps to get his injuries medically treated, and no evidence or explanation was adduced in this regard.

22. The Investigating Officer was not examined, though he was an important witness to prove regarding the condition of the victim in which he was, when he returned back. His non-examination seriously prejudiced the appellants.

23. PW-5 to PW-9 turned hostile. Though they were cited as witnesses to a relevant portion of the occurrence, they denied their previous statements recorded before the police which goes against the prosecution to some extent.

Conclusion:–

24. In view of the facts and circumstances emerging



from the prosecution evidence discussed above, the prosecution story regarding the abduction of PW-4 does not appear reliable. Serious contradictions exist among the testimonies of the material witnesses. The informant falsely claimed himself to be an eyewitness, and the Investigating Officer was not examined, which proves fatal to the prosecution. Considering the admitted enmity between the parties at the time of the alleged occurrence, the conviction of the appellants under Section 365 of the IPC is not proper and sustainable. The appellants are entitled to the benefit of doubt, and the learned trial court committed a grave error in appreciating the prosecution evidence. Accordingly, the impugned judgment dated 15.01.2014 convicting the appellants under Section 365 of the IPC and the order dated 16.01.2014 sentencing them are hereby set aside. The appeal stands allowed.

25. The appellants are on bail; accordingly, they and their sureties are discharged from the liabilities of their bail bonds.

26. Let the records of the trial court, along with a copy of this judgment, be transmitted forthwith to the trial court for necessary compliance.

27. Mr. Sidharth Harsh, learned *Amicus Curiae* shall



be entitled to remuneration, as per notification dated 18.05.2017 issued by the State Government, to be paid by the Patna High Court Legal Services Committee for assisting this Court as *Amicus Curiae*.

(Shailendra Singh, J)

Annu/BKS-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20.02.2026
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