

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.115 of 2005

1. Raj Kishore Singh.

2. Brij Nandan Singh,

Both appellant nos. 1 and 2 sons of late Gupt Lal Singh.

3. Arun Kumar Singh.

4. Anil Kumar Singh.

5. Udai Kumar Singh.

All appellant nos. 3 to 5 are sons of Raj Kishore Singh.

6. Shyam Kumar Singh.

7. Ram Kumar Singh.

Both appellant nos. 6 and 7 are the sons of Braj Nandan Singh.

All resident of village- Manjhouli, P.O.- Manjhouli, P.S.-
Bakhtiyarpur, Sub-Division- Barh, District- Patna.

... .. Appellants

Versus

State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr. Anurag Pandey, Advocate
For the State	:	Mr. A.M.P. Mehta, APP
For the Informant	:	Mr. Rudal Prasad, Advocate
		Mr. Kaushal Kishor, Advocate
		Ms. Priyanka Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 08-05-2026

The present appeal has been filed under sections 374(2) read with section 389(1) of the Criminal Procedure Code, 1973 by the appellants challenging the judgment of conviction and the consequential order of sentence dated 10.02.2005 passed by the learned Additional District and



Sessions Judge-IV, Barh in Sessions Trial (S.T.) No.502 of 1990, whereby the appellants were convicted and sentenced as under:-

Appellant	Conviction under sections	Sentence
Appellant No.1- Raj Kishore Singh	Sections 323, 448, 307 and 34 of the Indian Penal Code.	R.I. for 10 years under Section 307/34 of the Indian Penal Code. R.I. for 6 months under Section 448 of the Indian Penal Code. No separate sentence under Section 323 of the Indian Penal Code. Sentences to run concurrently.
Appellant No.2- Brij Nandan Singh (<i>Deceased</i>)	Sections 323, 448, 307 and 34 of the Indian Penal Code.	R.I. for 10 years under Section 307/34 of the Indian Penal Code. R.I. for 6 months under Section 448 of the Indian Penal Code. No separate sentence under Section 323 of the Indian Penal Code. Sentences to run concurrently.
Appellant No. 3- Arun Kumar Singh (<i>Deceased</i>)	Sections 323, 448, 307 and 34 of the Indian Penal Code.	R.I. for 10 years under Section 307/34 of the Indian Penal Code. R.I. for 6 months under Section 448 of the Indian Penal Code. No separate sentence under Section 323 of the Indian Penal Code. Sentences to run concurrently.
Appellant No. 4- Anil Kumar Singh	Sections 323, 448, 307 and 34 of the Indian Penal Code.	R.I. for 10 years under Section 307/34 of the Indian Penal Code. R.I. for 6 months under Section 448 of the Indian Penal Code. No separate sentence under Section 323 of the Indian Penal Code. Sentences to run concurrently.
Appellant No. 5 - Udai Kumar Singh	Sections 323, 448, 307 and 34 of the Indian Penal Code	R.I. for 10 years under Section 307/34 of the Indian Penal Code.



	and Section 27 Arms Act.	R.I. for 6 months under Section 448 of the Indian Penal Code. R.I. for 3 years under Section 27 Arms Act. No separate sentence under Section 323 IPC. Sentences to run concurrently.
Appellant No. 6- Shyam Kumar Singh	Sections 323, 448, 307 and 34 of the Indian Penal Code and Section 27 Arms Act.	R.I. for 10 years under Section 307/34 of the Indian Penal Code. R.I. for 6 months under Section 448 of the Indian Penal Code. R.I. for 3 years under Section 27 Arms Act No separate sentence under Section 323 of the Indian Penal Code. Sentences to run concurrently.
Appellant No. 7- Ram Kumar Singh	Sections 323, 448, 307 and 34 of the Indian Penal Code.	R.I. for 10 years under Section 307/34 of the Indian Penal Code. R.I. for 6 months under Section 448 of the Indian Penal Code. No separate sentence under Section 323 of the Indian Penal Code. Sentences to run concurrently.

2. The learned trial Court *vide* the impugned judgment of conviction and the order of sentence had convicted all the appellants under sections 323, 448 and under section 307 read with section 34 of the Indian Penal Code, 1860 (for short “I.P.C.”). By the order of sentence, all the appellants have been sentenced to undergo rigorous imprisonment for a period of ten years for the offence under section 307/34 I.P.C., and rigorous imprisonment for six months for the offence under section 448 I.P.C. No separate sentence was awarded under section 323



I.P.C. Appellant nos. 5 and 6, namely Udai Kumar Singh and Shyam Kumar Singh respectively, were additionally convicted under section 27 of the Arms Act and they were sentenced to undergo rigorous imprisonment for three years thereunder. All the substantive sentences imposed upon the convicted appellants were directed to run concurrently.

3. During the pendency of the present appeal, the appellant No.2 namely, Brij Nandan Singh and appellant No. 3 namely, Arun Kumar Singh have died and accordingly the present appeal stood abated against them. Therefore, the present appeal survives and is restricted to appellant Nos. 1, 4, 5, 6 and 7 only.

4. The case of the prosecution, as emerging from the *fardbeyan* of the informant, based on which the present FIR being Bakhtiyarpur P.S. Case No. 88 of 1989, came to be registered is that, on 16.04.1989 at about 9:30 P.M. at village Manjhauli, while the informant, Ram Kishore Singh (P.W-03), along with Arbind Kumar Singh (brother-in-law of the informant), Chandrika Singh and Sarvendra Singh, were sitting on a *chowki* in his *sehan* (courtyard) of his residential house, just below his *darwaza*, the seven named accused persons, along with two unknown persons, all variously armed with pistol,



lathi, *gandasa* and *bhala*, entered into his *darwaza*, and surrounded him. It is the case of the prosecution that thereupon, on the exhortation and order of the appellant no.1-Raj Kishore Singh, the appellant no.5 - Udai Kumar Singh fired upon the informant with an intent to kill him, which is said to have hit his head, and immediately thereafter appellant no.6-Shyam Kumar Singh is said to have fired another shot upon the informant, which hit the back portion of his head causing bleeding injuries. The prosecution has further alleged that when Rajesh Kumar, the son of the informant, rushed to rescue his father, he too was assaulted by the accused persons by *lathi*, fists, slaps and kicks, whereof he is said to have sustained injuries. It has also been alleged that during the said occurrence, the appellant no.4 - Anil Kumar Singh took away Rs.100/- from the pocket of the informant and appellant no.7-Ram Kumar Singh removed his woolen *chadar* (blanket). It has further been stated by the informant that the accused persons wanted to usurp his landed properties by killing him and his only son named above.

5. Accordingly, on the basis of the written report of the informant, the present F.I.R. *vide* Bakhtiyarpur P.S. Case No.88 of 1989 was instituted against all the seven convicted appellants, under sections 147, 148, 447, 323, 379 and



307 of the Indian Penal Code, read with section 27 of the Arms Act. Upon investigation, charge-sheet dated 30.01.1990 against all seven accused persons was submitted and thereafter, cognizance was taken by the learned A.C.J.M., Barh, and since the offence under section 307 I.P.C. was triable exclusively by the Court of Sessions, the case came to be committed to the Court of Sessions on 22.09.1990, ultimately giving rise to the instant Sessions Trial No.502 of 1990. In the trial, the appellants pleaded not guilty and claimed to be tried.

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

P.W.-1	Rajesh Kumar (injured son of the informant)
P.W.-2	Chandra Dev
P.W.-3	Ram Kishore Singh (injured- informant)
P.W.-4	Dwarika Prasad Singh (hostile)
P.W.-5	Arbind Kumar (Brother-in-law/sala of informant)
P.W.-6	Dr. Jai Kumar Singh (Doctor)
P.W.-7	Devendra Kumar (Investigating Officer)

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

Exhibit-1	Signature of the informant, Ram Kishore Singh, on the written report.
Exhibit- 1/1	Injury report of Ram Kishore Singh, prepared by Dr. Jai Kumar Singh.
Exhibit- 2	Injury report of Rajesh Kumar, prepared by the



	Investigating Officer in the handwriting of A.S.I. Baban Baitha.
Exhibit- 2/1	Injury report of Ram Kishore Singh, prepared by the Investigating Officer in the handwriting of A.S.I. Baban Baitha.
Exhibit- 3	Charge-sheet.

8. After completion of prosecution evidence, altogether fourteen defence witnesses were examined on behalf of the appellants in the trial, which are as under: -

D.W.-1	Shyam Kumar Rai
D.W.-2	Buddhev Singh
D.W.-3	Sadshiv Pandit
D.W.-4	Bindeshwar Rai
D.W.-5	Ramanand Prasad
D.W.-6	Raj Kumar
D.W.-7	Jai Prakash Singh
D.W.-8	Krishnadev Prasad
D.W.-9	Bhola Prasad
D.W.-10	Sitaram Prasad
D.W.-11	Raj Kumar Pd. Singh
D.W.-12	Ram Sagar Prasad
D.W.-13	Dharmendra Kumar
D.W.-14	Rajendra Chaudhary

9. The defense adduced a voluminous body of documentary exhibits in their support, which are as under:-

Exhibit- A	Endorsement on the written report of Bakhtiyarpur P.S. Case No. 270/88
Exhibit-B	Formal FIR of Bakhtiyarpur P.S. Case No. 270/88.
Exhibit-C	Fardbeyan of Bakhtiyarpur P.S. Case No. 109/90.
Exhibit- D	Written report dated 02.12.1995 of the informant.
Exhibit-B/2	Formal FIR of the same case arising out of the written report dated 02.12.1995.



Exhibit-A/2	Written report dated 17.07.1988 of informant Ram Kishore Singh.
Exhibit-A/3	Application dated 29.05.1988 of informant, Ram Kishore Singh, addressed to the Sarpanch, Rukunpura.
Exhibit-D	Complaint Petition of Case No. 446(c)/88.
Exhibit-B/3	Formal FIR of Bakhtiyarpur P.S. Case No. 99/89.
Exhibit- H	Plaint of Title Suit No. 69/95.
Exhibit-H/1	Amendment petition dated 03.01.1996 in Title Suit No. 69/95.
Exhibit-H/2	Another amendment petition dated 03.01.1996 in Title Suit No. 69/95.
Exhibit-H/3	Plaint of Title Suit No. 96/92.
Exhibit-J	Certificate dated 27.02.2004 issued by the Central School, Khaprail, District-Darjeeling.
Exhibit-J/1	Certificate dated 09.01.2004 issued by the General Secretary, Bar Association, Patna City.
Exhibit-J/2	Certificate dated 29.01.2004 issued by the Secretary, Bar Association, Barh.
Exhibit-J/3	Certificate dated 11.02.2004 issued by the Secretary General, Advocate Association, High Court, Patna.
Exhibit-J/4	Certificate dated 31.01.2004 in the name of accused Uday Kumar Singh issued by Engineer Puneet Kumar.
Exhibit-R	Deed of gift dated 03.07.1988 executed by Most. Devan Kuer in favour of accused Brij Nandan Singh and Raj Kishore Singh.
Exhibit-I	Identity card of accused Brij Nandan Singh, issued by the Election Commission.
Exhibit – I/1	Identity card of accused Raj Kishore Singh, issued by the Election Commission.
Exhibit – L	Order dated 06.05.1989 in Case No. 1989/85
Exhibit – L/1	Order sheet of Bakhtiyarpur P.S. Case No. 24(9)/79.
Exhibit – L/2	Order sheet of G.R. Case No. 1559/88 dated 03.07.1992.
Exhibit – L/3	Order sheet of G.R. Case No. 1559/88 dated 19.12.1998.



Exhibit – L/4	Order sheet of Criminal Revision No. 37/99 dated 07.12.2001.
Exhibit – L/5	Order sheet of Criminal Misc. Case No. 748/02 dated 25.06.2003.
Exhibit – L/6	Order dated 18.07.1992 in Case No. 33(M) of 1988
Exhibit – L/7	Order sheet of Criminal Misc. No. 877/95 dated 02.11.1995
Exhibit – L/8	Order sheet of Case No. 15(M)/89 dated 05.04.2003.
Exhibit – L/9	Order sheet of Criminal Revision No. 371/02 dated 21.05.2002
Exhibit – L/10	Order sheets dated 25.01.1990.
Exhibit – L/11	Order dated 17.03.1990 in Harijan P.S. Case No. 7/89.
Exhibit – L/12	Order sheet dated 28.04.1990 of Title Suit No. 69/95.
Exhibit – L/13	Order dated 21.07.1998 of Title Suit No. 96/92.
Exhibit – K	Khatian of Tauzi No. 2021, Khata No.93, Survey Plot No. 92.
Exhibit – M	Final form of Bakhtiyarpur P.S. Case No. 24 dated 28.09.1979.
Exhibit – N	Supplementary charge-sheet of Bakhtiyarpur P.S. Case No. 270/88.
Exhibit – N/1	Charge-sheet of Bakhtiyarpur P.S. Case No. 270/88.
Exhibit – N/2	Charge-sheet of G.R. Case No. 509/89.
Exhibit – O	Deposition of Chandradev Singh dated 07.04.1989.
Exhibit – P	Judgment of G.R. Case No. 509/89.
Exhibit – P/1	Judgment of Sessions Trial No. 26/97.
Exhibit – P/2	Judgment of Sessions Trial No. 573/97.
Exhibit – Q	Police report in Case No. 1389/88.

10. The learned trial Court, upon appreciation of the evidence adduced at the trial, had found all the seven appellants guilty and passed the impugned judgment of conviction and order of sentence. Aggrieved thereby, the



appellants have preferred the present Criminal Appeal.

11. At the outset, the learned counsel for the appellants has assailed the impugned judgment of conviction and order of sentence as being contrary to the weight of evidence and the same has been passed without testing the allegation against the medical evidence. It is submitted that the conviction rests upon three highly interested witnesses, namely, P.W.3-informant, P.W.1, the only son of the informant, and P.W.-5 the brother-in-law of the informant. Learned counsel for the appellants has pointed out that the trial Court has itself recorded that no independent witness was available on record to support the case of the prosecution.

12. Adverting to paragraph no.14 of the impugned judgment, learned counsel for the appellants has submitted that the deposition of P.W.2- Chandra Dev Singh stood discarded by the trial Court as a chance witness who had made improvements before the Court, and P.W.4-Dwarika Prasad Singh, the only truly independent witness, was declared hostile for stating, in unequivocal terms that no firing incident had taken place at the place of occurrence, contracting the case of the prosecution. Further, it is submitted that admittedly, the informant had stated that at the time of occurrence, he was



accompanied by two other persons namely, Chandrika Singh and Sarvendra Singh and that the incident was witness by 10-15 local villagers, however, none of them were examined during the course of trial.

13. It is emphasized by learned counsel for the appellants that admittedly there were multiple cases between the parties over landed properties and therefore, the informant and the prosecution witnesses were highly interested witnesses and as such, the rule of prudence demanded independent corroboration in material particulars. In support of this submission, learned counsel for the appellants has relied upon a decision of the Hon'ble Supreme Court rendered in the cases of *Dalip Singh & Ors. vs. State of Punjab*, reported as *AIR 1953 SC 364*; *Masalti & Ors. vs. State of U.P.*, reported as *AIR 1965 SC 202*; *Vadivelu Thevar vs. State of Madras*, reported as *AIR 1957 SC 614*; *Lallu Manjhi & Anr. vs. State of Jharkhand*, reported as *(2003) 2 SCC 401* and *Sucha Singh & Anr. vs. State of Punjab*, reported as *(2003) 7 SCC 643*.

14. It has been submitted by learned counsel for the appellants that according to the prosecution, the allegation against the appellants is of close-range pistol firing with an intent to commit the murder of the informant, however it is



submitted that the same stands wholly demolished by the deposition of the Medical Officer, P.W.6-Dr. Jai Kumar Singh, and the medical injury report (Ext.1/1) since the medical evidence does not corroborate the case of the prosecution, but on the contrary, totally contradicts the same. In the first place, the dimensions of the so-called firearm injuries are inconsistent with close range firearm injuries being superficial in nature. It is the categorical submission of the learned counsel of the appellants that the nature of injuries having been found to be simple is wholly inconsistent with two close-range pistol shots aimed at the head of the informant. It is pointed by the learned counsel that no fractures or grievous penetrating wounds have been found on the injured informant. It is further submitted by the learned counsel for the appellants that P.W.6 has, in his deposition, has categorically stated that there is complete absence of charring, blackening, tattooing, the effect of gas, flame, carbon, or any burnt margins around either of the alleged firearm injuries which would inexorably accompany a close-range firing. It is emphasized by the learned counsel for the appellants that the so-called pellets are stated to have been visible to the naked eye and have been removed without any operative or surgical intervention. Adverting to the cross-



examination of the Medical Officer, P.W.6, the learned counsel for the appellants has underscored that the aforesaid witness has expressly conceded that, since the injuries were lacerated and not punctured, therefore, it is possible that the pieces of pellet could have been inserted into the wounds without difficulty. It is, therefore, the submission of the learned counsel for the appellants that injuries sustained by the injured informant may have been fabricated.

15. The learned counsel for the appellants has drawn strength from the decision of the Hon'ble Supreme Court in the cases of *Mohinder Singh vs. The State*, reported as *AIR 1953 SC 415* wherein it has been held that when a lethal weapon is used, the prosecution must bring expert evidence to connect the injuries with the weapon and failure to do so, is fatal to the case of the prosecution. Further, unexplained inconsistencies between the witness and the medical evidence creates fatal doubt over the case of the prosecution. He has further relied upon the decisions of the Hon'ble Supreme Court rendered in the cases of *Ram Narain Singh v. State of Punjab*, reported as *(1975) 4 SCC 497*; *Amar Singh & Ors. vs. State of Punjab*, reported as *(1987) 1 SCC 679* and *Gangabhavani v. Rayapati Venkat Reddy & Ors.*, reported as *(2013) 15 SCC 298*.



16. It has been argued by learned counsel for the appellants that the alleged pellets and the alleged pistols were not produced during the course of trial though according to the deposition of P.W.6, Medical Officer, the pellets recovered from the wounds of the informant were sealed in a glass vial and dispatched to the police station along with his injury report. Further, P.W.7, Investigating Officer, however, has wholly omitted to make any reference to the said pellets in his deposition. Moreover, the said pellets have admittedly never been produced before the trial court and were never sent for forensic, ballistic or chemical examination. Furthermore, no pistol has ever been seized or recovered much less linked to the appellants.

17. Learned counsel for the appellants has further argued that although P.Ws. 1, 3 and 5 have asserted that the clothes of the injured were heavily blood-stained, yet, no blood-stained cloth was seized, sealed or produced during the trial. Further, adverting to the deposition of P.W.-7, the Investigating Officer, the learned counsel has submitted that again though the aforesaid witness had deposed that he had found something "blood like" at the place of occurrence, but the said material was neither seized nor sent for chemical



examination. It is, therefore, the categorical submission of the learned counsel for the appellants that, in a case whose *gravamen* is firearm assault accompanied by alleged copious bleeding, the cumulative effect of non-production of alleged pellets, non-seizure of pistols and non-recovery of the blood stained clothes or blood like substance from the place of occurrence, reduces the prosecution to a case of allegation without proof and is fatal.

18. The learned counsel for the appellants has relied upon the decisions of the Hon'ble Supreme Court in the cases of *Munna Lal vs. State of U.P.*, reported as (2023) 18 SCC 661; *Ram Singh vs. State of U.P.*, reported as (2024) 4 SCC 208, *Tomaso Bruno & Anr. vs. State of U.P.*, reported as (2015) 7 SCC 178 and *Takhaji Hiraji vs. Thakore Kubersing Chamansing & Ors.*, reported as (2001) 6 SCC 145 and has argued that the fact of non-recovery of pistol from the place of occurrence and non-production of pellets during the trial assumes significance since the medical evidence contradicts the case of the prosecution and the supporting evidence is forthcoming only from the interested witnesses and therefore, the failure / neglect to seize the alleged weapons used in the offence has the effect of gravely denting the case of the



prosecution.

19. The learned counsel for the appellants has next argued that, as per Exhibit- 1/1, it is clear that the medical examination of P.W.1, the son of the informant, took place at 1:30 A.M. and that of the informant took place at 2:00 A.M. on 17.04.1989, however P.W.7, the Investigating Officer, on the contrary, has deposed that he visited the place of occurrence only at 8:00 A.M. on 17.04.1989 and had examined the injuries himself whereupon he had got the police injury reports (Exhibits 2 and 2/1) to be drawn up, and only thereafter he had sent the injured informant and his son to the doctor for their medical examination. It is argued by the learned counsel for the appellants that these two accounts are contradictory to the case of the prosecution. It is pointed out by the learned counsel for the appellants that the sequence in which the injured informant and his son were examined by the Medical Officer itself creates doubts on the case of the prosecution. It is argued by the learned counsel for the appellants that P.W.1 is said to have suffered only fist and *lathi* injuries, yet he was attended to prior to the informant, at 1:30 A.M. while the informant, who is said to have suffered two grievous head firearm injuries with critical bleeding, was attended subsequently at 2:00 A.M. on the same



night. It is, therefore, submitted that, this sequence, according to the learned counsel for the appellants, is wholly inconsistent with rational and prudent medical practice. It is doubtful that despite the supposed gravity of his head injuries, the informant was admittedly never hospitalized. It is further the submission of the learned counsel for the appellants that the alleged occurrence took place at village Manjhauli at 9:30 P.M. on 16.04.1989, which was only at a distance of 06 kilometers from the police station, yet the same was reported only at about 1:00 A.M. on 17.04.1989. It is argued that this unexplained delay of about three to four hours gave the informant full opportunity for deliberation, consultation, embellishment and the introduction of a coloured version. The learned counsel for the appellants had drawn strength from the decisions of the Hon'ble Supreme Court rendered in the cases *Thulia Kali v. State of Tamil Nadu*, reported as (1972) 3 SCC 393, *Tahsildar Singh v. State of U.P.*, AIR 1959 SC 1012 and *Bhaskarrao v. State of Maharashtra*, (2018) 6 SCC 591.

20. It is next submitted by learned counsel for the appellants that in the trial the defence had adduced several documentary evidences as well as examined fourteen witnesses to demonstrate that the informant has been in a habit of using



the criminal law against the present appellants as a tool of vengeance. Therefore, it is the argument of learned counsel for the appellants that the defence had clearly demonstrated the propensity on the part of the informant to weaponize the criminal process against the appellants and their branch of the family. However, advertent to paragraph no. 8 of the impugned judgment of conviction, the learned counsel for the appellants has submitted that the learned trial Court had merely dealt with the defence evidence in a single sentence brushing it aside on the bare reasoning that since enmity was admitted no detailed discussion was required. It is argued that the defence case, however, was not merely that there was enmity, but that the enmity had ripened into a settled pattern of false implication and that the present case was one further link in a chain of vexatious prosecutions.

21. Learned counsel for the State has supported the impugned judgment of conviction and sentence and has submitted that no grounds for interference is made out. He has submitted that the learned trial Court after duly appreciating the evidence on record, had passed a reasoned judgment of conviction and therefore, the same does not suffer from any illegality and this Court may not interfere with the same.



22. I have considered the submissions of the parties and perused the materials on record.

23. The crux of allegation against the appellants is of having forcibly entered the dwelling house of the informant, armed with weapons and thereupon appellants nos. 5 and 6 having shot at the informant, which had hit him on his head from a close range.

24. At the outset, it is noted that both the prosecution side as well as the appellants are close agnates having descended from a common stock, who have remained embroiled in several rounds of earlier litigation, both civil as well as criminal in nature, primarily emanating from disputes over ancestral landed properties. Pertinently, from the perusal of the records, it transpires that the defence had adduced a voluminous body of evidence in order to illustrate this prior enmity existing between the parties, including the records of Bakhtiyarpur P.S. Case No. 270 of 1988, Case No. 99 of 1989 and Case No. 109 of 1990, among others, which were instituted by the present informant and had ultimately culminated in acquittal or final form (Exhibits- A, B, B/2, B/3, C, D). It is also noted that by an order dated 18.07.1992 passed by the learned Additional Chief Judicial Magistrate, Barh, in connection with



Case No. 33(M) of 1988 (Exhibit- L/6), the learned A.C.J.M., Barh had directed the Assistant Public Prosecutor to file a complaint against the instant informant for forgery. In paragraph no.08 of the impugned judgment of conviction, the learned trial Court had itself recorded the existence of enmity between the parties and further that there were several litigation over property dispute.

25. From the perusal of the impugned judgment of conviction, it is clear that the learned trial Court had placed decisive reliance over the depositions of the three witnesses, that is, the informant, the son of the informant and the brother-in-law of the informant, all of whom are not only related to the appellants, but were highly interested parties.

26. The Hon'ble Supreme Court in the case of ***Gangabhavani v. Rayapati Venkat Reddy & Ors.***, reported as (2013) 15 SCC 298 has held as under:-

Evidence of related/interested witnesses

“15. It is a settled legal proposition that the evidence of closely related witnesses is required to be carefully scrutinised and appreciated before any conclusion is made to rest upon it, regarding the convict/accused in a given case. Thus, the evidence cannot be disbelieved merely on the ground that the witnesses are related to each other or to the deceased. In case the



evidence has a ring of truth to it, is cogent, credible and trustworthy, it can, and certainly should, be relied upon. (Vide Bhagaloo Lodh v. State of U.P. [(2011) 13 SCC 206 and Dahari v. State of U.P. [(2012) 10 SCC 256.

16. *In State of Rajasthan v. Kalki [(1981) 2 SCC 752, this Court held: (SCC p. 754, para 7)*

“7. As mentioned above the High Court has declined to rely on the evidence of PW 1 on two grounds: (1) she was a ‘highly interested’ witness because she ‘is the wife of the deceased’.... For, in the circumstances of the case, she was the only and most natural witness; she was the only person present in the hut with the deceased at the time of the occurrence, and the only person who saw the occurrence. True, it is, she is the wife of the deceased; but she cannot be called an ‘interested’ witness. She is related to the deceased. ‘Related’ is not equivalent to ‘interested’. A witness may be called ‘interested’ only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be ‘interested’. In the instant case PW 1 had no interest in protecting the real culprit, and falsely implicating the



respondents.”(emphasis added)

(See also Chakali Maddilety v. State of A.P. [(2010) 12 SCC 72]

17. *In Sachchey Lal Tiwari v. State of U.P. [(2004) 11 SCC 410, while dealing with the case this Court held : (SCC pp. 414-15, para 7)*

“7. ... Murders are not committed with previous notice to witnesses—soliciting their presence. If murder is committed in a dwelling house, the inmates of the house are natural witnesses. If murder is committed in a street, only passers-by will be witnesses. Their evidence cannot be brushed aside or viewed with suspicion on the ground that they are mere ‘chance witnesses’. The expression ‘chance witness’ is borrowed from countries where every man's home is considered his castle and everyone must have an explanation for his presence elsewhere or in another man's castle. It is quite unsuitable an expression in a country where people are less formal and more casual, at any rate in the matter of explaining their presence.”

18. **In view of the above, it can safely be held that natural witnesses may not be labelled as interested witnesses. Interested witnesses are those who want to derive some benefit out of the litigation/case. In case the circumstances reveal that a witness was present on the scene of the occurrence and had witnessed the crime,**



his deposition cannot be discarded merely on the ground of being closely related to the victim/deceased.” (emphasis supplied).

27. The Hon’ble Supreme Court in the case of ***Mohd. Rojali Ali & Ors. vs. State of Assam*** reported as (2019) 19 SCC 567 had explained as to who is an ‘interested witness’ and the ‘related witness’ and held as under:-

“13. As regards the contention that all the eyewitnesses are close relatives of the deceased, it is by now well settled that a related witness cannot be said to be an “interested” witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between “interested” and “related” witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of a litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see State of Rajasthan v. Kalki (1981) 2 SCC 752; Amit v. State of U.P. (2012) 4 SCC 107 and Gangabhavani v. Rayapati Venkat Reddy (2013) 15 SCC 298). Recently, this difference was reiterated in Ganapathi v. State of T.N. (2018) 5 SCC 549, in the following terms, by referring to the three-Judge Bench decision in State of Rajasthan v.



Kalki (1981) 2 SCC 752; (Ganapathi case, SCC p. 555, para 14)

‘14. “Related” is not equivalent to “interested”. A witness may be called “interested” only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be “interested”.’

14. In criminal cases, it is often the case that the offence is witnessed by a close relative of the victim, whose presence on the scene of the offence would be natural. The evidence of such a witness cannot automatically be discarded by labelling the witness as interested. Indeed, one of the earliest statements with respect to interested witnesses in criminal cases was made by this Court in Dalip Singh v. State of Punjab (1953) 2 SCC 36], wherein this Court observed: (SCC p. 44, para 24)

‘26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent



person.'

15. *In case of a related witness, the Court may not treat his or her testimony as inherently tainted, and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent. We may refer to the observations of this Court in Jayabalan v. State (UT of Pondicherry) (2010) 1 SCC 199 : (SCC p. 213, para 23)*

'23. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested witnesses, the approach of the court, while appreciating the evidence of such witnesses must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the interested witnesses but the court must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim.' (emphasis supplied).

28. Further, the Hon'ble Supreme Court in the case of ***Mohd. Jabbar Ali & Ors. v. State of Assam, (2023) 19 SCC 672***, had summarized the principles on rule of prudence for interested and partisan witnesses and held as under :-

"49. It is noted that great weight has been



attached to the testimonies of the witnesses in the instant case. Having regard to the aforesaid fact that this Court has examined the credibility of the witnesses to rule out any tainted evidence given in the court of law. It was contended by the learned counsel for the appellant that the prosecution failed to examine any independent witnesses in the present case and that the witnesses were related to each other. This Court in a number of cases has had the opportunity to consider the said aspect of related / interested / partisan witnesses and the credibility of such witnesses. This Court is conscious of the well-settled principle that just because the witnesses are related / interested / partisan witnesses, their testimonies cannot be disregarded, however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinised with greater care and circumspection. In Gangadhar Behera v. State of Orissa (2002) 8 SCC 381, this Court held that the testimony of such related witnesses should be analysed with caution for its credibility.

50. *In Raju v. State of T.N., (2012) 12 SCC 701, this Court observed : (SCC pp. 709-10, para 29)*

“29. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised and the



evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a rule of prudence and not one of law, as held in *Dalip Singh* (1953) 2 SCC 36 and pithily reiterated in *Sarwan Singh* (1976) 4 SCC 369 in the following words: (*Sarwan Singh* case, p. 376, para 10)

‘10. ... The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration.’

(emphasis supplied)

51. Further delving on the same issue, it is noted that in *Ganapathi v. State of T.N.* (2018) 5 SCC 549, this Court held that in several cases when only family members are present at the time of the incident and the case of the prosecution is based only on their evidence, Courts have to be cautious and meticulously evaluate the evidence in the process of trial.”



29. It is therefore, settled that, though mere relationship between parties does not vitiate the testimony of the witnesses by itself, however, the rule of prudence demands that in such cases, the Court must approach the testimony of interested witnesses with heightened caution requiring corroboration in material particulars. Pertinently, in a faction ridden case, where the parties are embroiled with prior litigation and a degree of propensity is illustrated to weaponize the criminal law, evidence must be approached with greater care and analyzed for cogency and credibility.

30. From the impugned judgment of conviction, the structure upon which the conviction has been founded is seen to be conspicuously narrow. The case has been allowed to rest upon three witnesses alone, that is, P.W.3, the informant himself; P.W.1, his only son; and P.W.5, his real brother-in-law. The deposition of P.W.-2 Chandra Dev Singh stood discarded by the trial Court as a chance witness, who had made improvements before the trial Court and more importantly, the deposition of P.W.-4 Dwarika Prasad Singh, the only truly independent witness produced by the prosecution, had stated that no assault and no firing had taken place at the alleged place and time of occurrence. The aforesaid P.W.-4 Dwarika Prasad



Singh was declared as hostile and his statements were also discarded in *toto*.

31. The prosecution had also failed to produce the independent witnesses who, as per the informant himself, had gathered at the place of occurrence. Further, the *fardbeyan* of informant (P.W.3) itself recites that, at the time of the alleged occurrence, he was in the company of Arbind Kumar Singh, Chandrika Singh and one Sarvendra Singh. Furthermore, the prosecution witnesses, in their depositions, have asserted that ten to fifteen villagers had assembled at the place of occurrence. Yet, neither Chandrika Singh, nor Sarvendra Singh, nor any of the ten to fifteen villagers admittedly present, was produced in the trial. This omission on the part of prosecution assumes even greater significance considering the facts of the present case whose *gravamen* is armed entry and close-range firearm assault within an inhabited rural homestead.

32. P.W.-2, in his deposition, had attributed the firing to appellant no.7 Ram Kumar Singh, whereas, the prosecution case carried into trial attributed the second shot to appellant no.-6 Shyam Kumar Singh. This discrepancy goes to the very root of the incident since it strikes at the very identity of the alleged shooter.



33. The nucleus of the allegation against the appellants under section 307 read with section 34 IPC and Section 27 of the Arms Act is that the appellants nos. 5 and 6 had fired upon the informant from close range, with an intent to commit his murder. However, these allegations run contrary to the medical evidence of P.W.-6, Dr. Jai Kumar Singh and the medical injury report (Ext.1/1). *Firstly*, the dimensions and depth of the alleged firearm injuries are wholly out of consonance with the prosecution case of close-range pistol firing aimed at the head of the informant. These injuries, as recorded in the medical injury report, are lacerated, superficial wounds which are muscle-deep alone and no fracture and penetrating wounds were present. Further, from the perusal of the injury report, it is clear that the informant had emerged with two simple, lacerated, muscle-deep injuries, which P.W.-6 had categorically opined to be simple in nature.

34. *Secondly*, the well-known forensic *indicia* of close-range firing, that is, charring, blackening, tattooing, the effect of gas, flame and carbon, and burnt margins around the wound, were all admittedly absent on the injuries sustained by the informant and P.W.-6, Medical Officer, in his deposition had categorically affirmed the absence of all such signs around



either of the two alleged firearm injuries.

35. *Thirdly*, as per the deposition of the Medical Officer, the pellets recovered from the person of the informant did not require any operative or surgical procedure and were removed upon visual inspection alone, which is again wholly inconsistent with the allegation of close-range firearm injuries. Further, this witness in his cross-examination had conceded that the injuries sustained by the informant may have been fabricated since the pieces of pellet could be inserted into the said injuries without any difficulty, and could equally be removed without any operation or surgical intervention. From the cross-examination of the Medical Officer, it appears that the theory of fabricated injuries for false implication could not be ruled out.

36. *Fourthly*, besides the above-mentioned factors, the prosecution has compounded the discrepancy by withholding the pellets in the trial which were recovered from the person of the informant. The Medical Officer, P.W.6, had deposed that he had recovered one pellet from each of the two head injuries which were sealed in a glass vial and dispatched to the police station along with the injury report. However, neither the Investigating Officer, P.W.7, had made any reference whatsoever to the said pellets in his deposition, nor were these



pellets ever produced in the trial. The pellets recovered were thus never sent for forensic analysis much less being linked to any firearm or to the appellants.

37. The Hon'ble Supreme Court in the case of ***Ram Narain Singh vs. State of Punjab***, reported as (1975) 4 SCC 497, relying upon ***Mohinder Singh v. The State***, reported as AIR 1953 SC 415 had held as under:-

“14. Where the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence or the evidence of the ballistic expert, this is a most fundamental defect in the prosecution case and unless reasonably explained it is sufficient to discredit the entire case. In Mohinder Singh v. State [1950 SCC 673, this Court observed in similar circumstances as follows:

“In a case where death is due to injuries or wounds caused by a lethal weapon, it has always been considered to be the duty of the prosecution to prove by expert evidence that it was likely or at least possible for the injuries to have been caused with the weapon with which and in the manner in which they are alleged to have been caused. It is elementary that where the prosecution has a definite or positive case, it is doubtful whether the injuries which are attributed to the appellant were caused by a gun or by a



rifle.”

It is obvious that where the direct evidence is not supported by the expert evidence, then the evidence is wanting in the most material part of the prosecution case and it would be difficult to convict the accused on the basis of such evidence. While appreciating the evidence of the witnesses, the High Court does not appear to have considered this important aspect, but readily accepted the prosecution case without noticing that the evidence of the eye witnesses in the Court was a belated attempt to improve their testimony and bring the same in line with the doctor's evidence with a view to support an incorrect case.”

38. In the case of ***State of Gujarat vs. Jayrajbhai Punjabhai Varu***, reported as ***(2016) 14 SCC 151***, the Hon’ble Supreme Court has held that prosecution has to prove the guilt of the accused beyond all reasonable doubt. It is also the rule of justice in criminal law that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other towards his innocence, the view which is favourable to the accused should be adopted. In case of ***Nikhil Chandra Mondal vs. State of W.B.***, reported as ***(2023) 6 SCC 605***, the Hon’ble Supreme Court has held that it is a settled principle of law that however strong a suspicion may be, it cannot take place of a proof beyond reasonable doubt.



39. In view of the aforesaid discussions, this Court is of the considered opinion that the prosecution has failed to prove its case beyond the reasonable doubt since the case of the prosecution is founded upon three highly interested witnesses, who have shown a propensity to weaponize criminal law against the appellants and therefore, not only the trial Court ought to have considered their testimonies with greater caution but also as a rule of prudence ought to have required independent and material corroboration, which is absent in the present case, the medical evidence does not support the case of the prosecution and rather runs contrary to the same and the omission on the part of the prosecution to produce the pellets and pistol during the trial.

40. From the foregoing discussions, the conviction of the appellants cannot be sustained and accordingly, the impugned judgment of conviction and the consequential order of sentence dated 10.02.2005 passed by the learned Additional District and Sessions Judge-IV, Barh in Sessions Trial (S.T.) No.502 of 1990 is hereby set aside.

41. Accordingly, the appeal is allowed. The appellant nos. 1, 4, 5, 6 and 7 are acquitted of all the charges. Since the appellant nos.1, 4, 5, 6 and 7 are on bail, they are



discharged from the liability of their bail bonds.

42. The original trial case records be transmitted
to the concerned trial court forthwith.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	27.02.2026
Uploading Date	14.05.2026
Transmission Date	14.05.2026

