

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3592 of 2021

Arising out of PS. Case No.-86 Year-2017 Thana- ARA MUFFSIL District- Bhojpur

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Jitendra Singh @ Jitendra Kumar Singh Son of Late Shree Ram Singh
Resident of Village - Gangher, P.S. Arrah Muffasil, District - Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

.. ... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Ataul Haque, Advocate

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ANSUL @ ANSHUL RAJ
ORAL JUDGMENT

Date : 27-01-2026

This appeal has been preferred by the appellant for setting aside the impugned judgment of conviction and order of sentence dated 09.07.2021 and 31.07.2021 respectively passed by learned 2nd Additional District & Sessions Judge, Bhojpur at Arrah in S.Tr. No. 242 of 2019 arising out of Arrah Muffasil P.S. Case No. 86 of 2017, whereby the concerned Trial Court has convicted the appellant for the offence punishable under Section 307 of the Indian Penal Code (for short 'I.P.C.') and sentenced to undergo rigorous imprisonment for ten years and fine of Rs. 50,000/- only and for the offences under Section 504/34 IPC one year and six months R.I. and fine of Rs. 10,000/- only.

2. The brief case of the prosecution, as per *fardbeyan*



of informant, namely, Harendra Singh (P.W.-2) is that the appellant who is the cousin of the informant Harendra Singh came to his native village on 24.04.2017. On the same day, due to a domestic dispute, the appellant, appellant's brother namely Krishna Singh and his mother Parvati Devi were abusing the informant at around 02:00 P.M. and when the informant and his mother stopped them from abusing, the accused suddenly came out of the room with a pistol in his hand and fired a shot at the informant, which hit him on his back and he fell down. After falling down, the accused fired another shot. Upon the informant's shouting the accused left the house with the pistol in his hand and said that whoever comes in his way will be shot. The informant's father and a villager Yogendra Singh took the injured to the police station and then to Sadar Hospital Arrah for treatment where after primary treatment by the doctor, he was referred to P.M.C.H., Patna where he was treated from 24.04.2017 to 29.04.2017. During which period no statement was recorded by any police officer. Due to this, the informant gave a written application to Arrah Mufassil on 01.05.2017. Based on the written application of the informant, Arrah Mufassil P.S. Case No. 86 of 2017 under Sections 341, 323, 504, 307 read with 34 of the IPC and under Section 27 of the



Arms Act was registered against the appellant and other co-accused persons namely Krishna Singh and Parvati Devi.

3. After completion of investigation and on the basis of materials collected during investigation, the Investigating Officer of this case submitted charge-sheet No. 51 of 2018 dated 30.04.2018 under Sections 341, 323, 504, 307/34 of the IPC and Section 27 of the Arms Act against the appellant before the learned Trial Court.

4. The learned trial court after perusal of materials collected during investigation and hearing the accused/appellant took cognizance on 16.05.2018 under Sections 341, 323, 504, 307/34 IPC and Section 27 of the Arms Act, thereafter, the charges were framed on 09.08.2019 under Sections 341, 323, 504, 307 & 34 of the IPC against the appellant, which was explained to the appellant, to which, he pleaded not guilty and claimed to be tried.

5. To substantiate its case, the prosecution has examined altogether five witnesses. They are:-(i) **PW-1 Sunaina Devi** (ii) **PW-2 Harendra Singh (Informant)**; (iii) **PW-3 Rekha Devi**; (iv) **P.W. 4 Dr. Ashok Kumar Pandey**; (v) **P.W. 5 Shambhunath Pandey (IO)**.

6. Apart from the oral evidence, the prosecution has



also relied upon following exhibits/documentary evidences,
which are:-

Sl. No.	No. of exhibits	Name of documents exhibited
1.	Exhibit-1	Signature of the informant on the fardbeyan.
2.	Exhibit-1/1	Signature of the father of the informant namely Bali Ram Singh on the fardbeyan.
3.	Exhibit-1/2	Signature of the S.H.O. on the F.I.R. namely Shrikant Ram.
4.	Exhibit-2	Injury Report
5.	Exhibit-3	Final Form/Chargesheet.

7. On the basis of evidences/circumstances as surfaced during the trial, the learned trial court has examined the appellant/accused under Section 313 of the CrPC, where he completely denied the evidences surfaced during the trial and claimed his complete innocence.

8. Taking note of the evidence as surfaced during the trial and after considering the arguments as advanced by both the parties, the learned Trial Court has convicted the appellant for the offences under Section 307 of the IPC and sentenced him in the manner as indicated above.



9. Being aggrieved with the aforesaid judgment of conviction and order of sentence, the appellant has preferred the present appeal. Hence, the present appeal.

10. I have considered the rival submissions canvassed by the learned counsel appearing for the parties and also perused the deposition of the witnesses examined during trial before learned trial court.

11. It appears from perusal of record that altogether five witnesses have been examined during trial. **P.W.-1, Sunaina Devi**, who is mother of the informant has deposed that the appellant has shot two bullets which hit on the back of the informant. Thereafter, he was taken to the hospital. She has further deposed that due to partition of land in the family the present occurrence has taken place. **P.W.-2, Harendra Singh**, the informant of this case has supported the prosecution case as narrated above. **P.W.-3, Rekha Devi** has been declared hostile during trial. **P.W.-4, Dr. Ashok Kumar Pandey**, who is the doctor and had examined the informant, has deposed that oval shaped wound injury below the neck, i.e., 0.6 cm X 0.4 cm was found on the informant. **P.W.-5, Sambhunath Panday**, the Investigating Officer of this case has supported the case of the prosecution.



12. It also appears that there is delay of six days in lodging the FIR. The delay is sought to be explained by treatment at PMCH. It seems that neither the treatment record at PMCH nor the version provided at PMCH has been brought on record thus making the initial version unavailable. This casts shadow of doubt on the prosecution version in view of Hon'ble Supreme Court decision rendered in the case of **Thulia Kali vs. The State of Tamil Nadu** reported in (1972) 3 SCC 393.

13. Having carefully considered the witnesses', testimony and the medical evidence, I find no grounds to interfere with the appellant's conviction.

14. However, the matter arises out of a land dispute and no previous conviction has been proved against the appellant. He has remained in custody for six years six months and is facing prosecution for last nine years and is in his 30's. Taking a holistic view, ends of justice would be saved if he is sentenced to period already undergone. Accordingly, the sentence awarded to the appellant is reduced to the period already undergone by him.

15. In the result, the appeal is dismissed with the aforesaid modification in the sentence.

16. Office is directed to send back the trial court



records along with a copy of this judgment to the learned trial court, forthwith.

(Ansul @ Anshul Raj, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.01.2026
Transmission Date	31.01.2026

