

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3104 of 2023

Arising Out of PS. Case No.-320 Year-2020 Thana- SALIMPUR District- Patna

1. Vicky Singh @ Ajit Kumar, Son Of Late Nandu Singh, Resident Of Village - Manjhauli, P.S. - Salimpur, Distt. - Patna
2. Ranjeet Singh, Son Of Late Nandu Singh, Resident of village - Manjhauli, P.S. - Salimpur, Distt. - Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellants	:	Ms. Deepshikha, Advocate Mr. Jai Prakash Singh, Advocate Mr. Dharmendra Kumar Paswan, Advocate Mr. Suraj Kumar, Advocate Mr. Amar Kumar, Advocate
For the Informant	:	Mr. Saroj Kumar Choudhary, Advocate
For the State	:	Mrs. Abha Singh

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 18-06-2026

Heard Ms. Deepshikha, learned counsel appearing for the appellants, Mr. Saroj Kumar Choudhary, learned counsel for the informant, and Mrs. Abha Singh, learned Additional Public Prosecutor for the State.

2. The instant criminal appeal has been preferred by the appellants against the judgment of conviction dated 05.04.2023 and the order of sentence dated 16.05.2023 passed in Sessions Trial No. 782 of 2021 arising out of Salimpur P.S. Case No. 320 of 2020 by the Court of the learned Additional District & Sessions



Judge-V, Barh, Patna, whereby and whereunder both the appellants have been convicted for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code (in short, 'IPC'). Appellant Vicky Singh @ Ajit Kumar has also been convicted for the offence punishable under Section 27 of the Arms Act. Both the appellants have been sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs. 50,000/- each for the offence under Section 307 read with Section 34 of the IPC, and in default of payment of fine, they shall further undergo simple imprisonment for a period of one year. Appellant Vicky Singh @ Ajit Kumar has been further sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 10,000/- for the offence under Section 27 of the Arms Act, and in default of payment of the said fine, he shall further undergo simple imprisonment for a period of three months. Both the sentences of imprisonment awarded to appellant Vicky Singh @ Ajit Kumar have been directed to run concurrently.

Prosecution Story:-

3. The prosecution case, in brief, is that the informant of the case got her fardbeyan recorded before the police officer, wherein she stated that on 23.11.2020 (Monday) at about 12:00 noon, she was returning after purchasing medicines from



Khusrupur Bazaar. When she reached near the house of one Gurudeo Singh, adjacent to Manjhauli Halt, the accused persons, namely Vicky Singh @ Ajit Kumar (appellant no.1), Ranjeet Singh (appellant no.2) and Roshan Kumar, who were already lying in wait, caught hold of her. When she protested, Ranjeet Singh (appellant no.2) exhorted the others by saying to shoot her. Thereupon, Vicky Singh @ Ajit Kumar (appellant no.1) with the intention to kill her, fired a shot from the pistol he was carrying, which hit her on the back. When she raised an alarm, Vicky Singh (appellant no.1) again fired another shot from the pistol, which also struck her on the back. Thereafter, Roshan Kumar arrived on a motorcycle and while abusing the members of her family, resorted to aerial firing. When the villagers opposed their acts, all the accused persons fled towards the west direction while firing shots. Before leaving, they threatened that they would kill her husband.

4. On the basis of the fardbeyan of the informant, a formal FIR bearing Salimpur P.S. Case No. 320 of 2020 was registered against three persons, including the appellants, for the offences punishable under Sections 341, 323, 504, 506, 354 and 307 read with Section 34 of the IPC, as well as Section 27 of the Arms Act, thereby setting the criminal law into motion.



5. After completion of the investigation, the police submitted a charge-sheet against all the FIR-named accused, including the appellants, for the offences punishable under Sections 341, 323, 307, 354, 504 and 506 read with Section 34 of the IPC and Section 27 of the Arms Act.

6. The appellants, along with another accused person, stood charged for the offences punishable under Sections 341, 323/34, 307/34, 354/34, 504/34 and 506/34 of the IPC, as well as Section 27 of the Arms Act. The charges were read over and explained to them in Hindi, to which they pleaded not guilty and claimed to be tried.

7. During the trial, the prosecution examined the following witnesses:

Sl No.	Name of witness	Description
PW-1	XXX	The victim, informant and the injured witness
PW-2	YYY	Father-in-law of the victim (eyewitness)
PW-3	Dr. Mridul Rai	Doctor who examined the victim
PW-4	Shambhu Singh	Brother of PW-2 (eyewitness)
PW-5	ZZZ	Husband of the victim
PW-6	Kamleshwar Ram	Investigating Officer

8. The prosecution also proved the following documents and got them marked as exhibits:

Exhibit No.	Description of Exhibit	Proved by/Attested by
Ext.-1	Signature of the informant on fardbeyan of Salimpur P.S. Case No.	PW-1



	320 of 2020	
Ext.-1/1	Signature of one Umesh Kumar on the fardbeyan	PW-5
Ext.-1/2	Signature of Shambhu Singh on the fardbeyan	PW-4
Ext.-2	Injury report of the victim	PW-3
Ext.-3	Entire Fardbeyan of Salimpur P.S. Case No. 320 of 2020	S.H.O., Salimpur P.S.
Ext. 4	Formal FIR of Salimpur P.S. Case No. 320 of 2020	S.H.O., Salimpur P.S.

9. After completion of the prosecution evidence, the statements of the appellants were recorded by the trial court under Section 313 of the Code of Criminal Procedure (in short, ‘Cr.P.C.’). The appellants denied the material circumstances appearing against them in the prosecution evidence and pleaded innocence.

10. The appellants did not give any evidence in their defence.

Consideration and Analysis:-

11. I have heard the learned counsels appearing for the parties, perused the impugned judgment, the evidences adduced by the prosecution, and the statements of the appellants recorded under Section 313 of the Cr.P.C.

12. The appellants stood charged for the offences punishable under Sections 341, 323/34, 307/34, 354/34, 504/34 and 506/34 of the IPC, as well as under Section 27 of the Arms



Act. However, appellant Ranjeet Singh has been convicted only for the offence punishable under Section 307 read with Section 34 of the IPC, whereas appellant Vicky Singh @ Ajit Kumar has been convicted under Section 27 of the Arms Act in addition to the offence punishable under Section 307 read with Section 34 of the IPC.

13. While convicting the appellants for the aforesaid charged offences, the learned trial court mainly placed reliance upon the evidence of PW-1, who is the informant as well as the injured witness.

14. The prosecution story is based on the fardbeyan of the informant (PW-1), which was recorded at PMCH, Patna on 25.11.2020 at 17:00 hours by one Uday Kumar, Assistant Sub-Inspector of Salimpur Police Station.

15. The informant alleged in her fardbeyan that on 23.11.2020 at 12:00 noon she was returning from Khusrupur market after having purchased some medicines and when she reached near the house of one namely, Gurudeo Singh, both the appellants and co-accused Raushan Kumar who were already present there, stopped her and the appellant Ranjeet Singh caught hold of her that was resisted by her and then the appellant Ranjeet Singh instigated the appellant Vicky Singh with abusing the victim



to kill her and then the appellant Vicky Singh who was carrying a pistol in his hand fired at her causing an injury to her back. And when she cried, the appellant Vicky Singh again fired and that shot also hit at her back and thereafter, the third accused Raushan Kumar brought a motorcycle and started abusing the family members of the victim and also fired in the air and when the villagers gathered, all the accused/appellants fled away from the place of occurrence. From this story, it appears that the alleged incident was pre-planned.

16. Now, I have to examine the evidence of the informant, who appears to be the most important witness for the prosecution, so as to ascertain whether her testimony is sufficient to corroborate and prove the allegations levelled by her.

16.1. The informant, examined as PW-1, deposed almost the same version of the prosecution story in her examination-in-chief, particularly with regard to the alleged roles of both the appellants. She was cross-examined at length by the accused/appellants, and except with regard to the distance of the accused from her at the time she sustained firearm injuries and the presence of her family members, who claimed themselves to be eyewitnesses, no serious contradiction emerges from her cross-examination. So far as the motive of the appellants to commit the



alleged occurrence is concerned, she stated in her cross-examination that the accused/appellants used to harass her by uttering vulgar words, for which she had complained about six months prior to the occurrence to their family members.

16.2. Here it is relevant that a land dispute had existed in between the informant and the appellants though the said dispute had been resolved but even then it did not come in her (informant) evidence that there was fully cordial relation between the victim's family and the appellants' family during the relevant period of time of the commission of the alleged occurrence. Further the victim deposed in her examination-in-chief that when she was returning from the market, the appellant Vicky Singh firstly caught hold of her and then started abusing her and during that course, the appellant Ranjeet Singh asked the appellant Vicky Singh to kill her by causing firearm injuries and also abused her at that time and only thereafter, the appellant Vicky Singh fired with a pistol and thereafter again fired upon her and both shots hit at her back. In the cross-examination she stated that at the time of firing, the appellants were at the distance of about 4 to 5 feet/ 2 deg (*Deg:- a term commonly used in village for measuring distance*). Though as per the learned counsel appearing for the appellants, the victim made contradictory statements with regard to the



position of her body when both shots were fired at her as before the trial court in the cross-examination she stated that she fell down after sustaining the second gunshot injury but no such statement was made by her in the fardbeyan.

16.3. This Court finds no substance in the said contention. The fardbeyan of the victim was recorded at PMCH, Patna while she was under treatment, and at that time she could not be expected to give complete details of her body position when both shots were fired at her.

17. Now, I come to the medical evidence, which is very important and relevant in the present matter, as the allegations levelled by the victim pertain to causing firearm injuries to her. The victim's injury report was exhibited as Ext.-2, and the following injuries were found by the medical expert, which are as under:

Injury details of the informant:-

(1) Entry wound of size 3cm x 1cm x depth could not be assessed over midback at level L3- L4.

(2) Exit wound of size 1cm x 1cm x depth could not be assessed over left inguinal region.

(3) Abrasion of size 2.5cm x 2cm over midback at below left infra scapular area.



Following investigation suggested:

* X-Ray whole abdomen- Erect

* X-Ray Chest [AP, PA, Lateral]

{Plate and report not provided.}

* USG whole abdomen- Mild Peritoneal Collection

- Rest normal

* Patient Managed Operatively on 23.11.2020.

* Finding was Hemoperitoneum with minor laceration of spleen. Patient discharged in well condition on 03.12.2020.

* Time since injury > 2 hours

* Cause of Injury- Penetrating Projecting Object.

* Nature of Injury- Grievous Injury

* Mark Of Identification- A mole over Chin

17.1. In the above medical opinion regarding the injuries of the victim, the medical expert opined in his report that the injuries were caused by a penetrating and projecting object, and all the injuries were opined to be grievous in nature.

18. Learned counsel appearing for the appellants has vehemently argued that the medical findings with regard to the number and nature of injuries seriously contradict the allegations levelled by the victim in her fardbeyan, particularly with regard to



the number of gunshots which allegedly hit her back. It is submitted that as per Ext.-2, only one entry wound was found over the mid back at L3–L4 level. Out of the remaining two injuries, one was found to be an exit wound over the left inguinal region, and the other was found to be an abrasion over the mid back below the left infrascapular area. Learned counsel further submits that if the prosecution story as narrated by the victim is taken to be true then there must have been two entry wounds on the back; but, only one entry wound was found, which, according to the appellants' counsel, falsifies the prosecution version. It is further submitted that the exit wound was of the size 1 cm x 1 cm, depth of which could not be assessed, whereas the entry wound was measured as 3 cm x 1 cm, depth not be assessable. It is contended that, as per settled principles of medical jurisprudence, the size of an exit wound is normally larger than that of an entry wound, and this discrepancy also creates a serious doubt on the prosecution case.

18.1. In support of this contention, learned counsel has placed reliance upon the judgment rendered by the Hon'ble Division Bench of this Court in Cr. APP (DB) No. 358 of 1993. Particular reliance has been placed upon paragraph no. 33 of the



said judgment, which is reproduced hereinbelow for ready reference:

“ 33. Mr. Thakur, learned amicus curiae submitted that the earliest version given to the police by the informant has been suppressed in the present case. He contended that the manner, time and place of occurrence were not proved by prosecution with cogent and reliable evidence. The witnesses examined in this case have deposed falsely with intention to implicate the accused-appellants. The informant did not support the manner of occurrence as stated by him in the FIR while being examined before the court. He completely changed his version. The other witnesses who were examined in this case have also contradicted the manner of occurrence as narrated in the FIR. He contended that the six witnesses who were examined as eyewitnesses in this case have contradicted each other giving different version. He further contended that P.Ws. 1, 2 and 3 are non-FIR witnesses and the persons who are mentioned as witness in the FIR have not been examined in this case. Therefore, an inference can be drawn that the witnesses mentioned in the FIR did not agree to support the case of the informant. Hence, the non-FIR witnesses were brought to support the case of the prosecution. He contended that falsity of the prosecution case would be evident from the medical evidence of the doctor who held the postmortem examination on the body of the deceased. The doctor said that he found three splinter injuries on the body of the deceased surrounded with blackening. He argued that splinters are used in a substance which can be made to explode like bomb. Finding of splinters in all the injuries



which were the cause of death of the deceased would clearly indicate that it was a death caused due to bomb explosion. He further contended that the doctor was not truthful while deposing before the court would be manifest from the fact that he said that blackening of margin of wound is possible if firing is made from a distance of 12, 20 and 30 meters. The said opinion of the doctor is contrary to it Modi's Medical Jurisprudence and Medical Jurispurendence authored by other experts who have said that there would be no blackening of margin if the firing is done beyond six feet. He further contended that in the instant case, though the informant claims that he sustained bhala injury, the injury report (Exhibit-2) would clearly show that the injury found on the person of the informant was caused by a hard and blunt substance."

19. On the other hand, Mr. Saroj Kumar Choudhary, learned counsel for the informant has argued that it is not necessary in every case for the exit wound to be larger than the entry wound, as the size of both wounds depends upon several circumstances.

19.1. I find substance in the aforesaid submission of learned counsel for the informant, as in every case it is not necessary that the exit wound must be larger than the entry wound. The size of the exit wound depends upon several factors, such as the amount of tissue through which the bullet passes, the bone struck by the bullet, and the path and obstructions through which



the bullet travelled while exiting the body. In the present case, the X-ray plate and X-ray examination report were not available before the medical expert when the opinion was rendered in the injury report. Though, before the trial court, PW-3, the doctor concerned, deposed that injury no. 3 was not a firearm injury but in his report (Ext.-2) he did not give any such opinion and merely mentioned the cause of injury as due to a penetrating and projecting object. Thus, there is some contradiction between the court evidence of the doctor (PW-3) and his opinion recorded in Ext.-2. As per medical jurisprudence, an abrasion may also be the result of a gunshot injury. Though there is some contradiction between the medical opinion in Ext.-2 and the ocular evidence of PW-1, who is the most important witness and the injured person, it is a settled proposition of law that ocular evidence prevails over medical opinion, particularly when such ocular evidence is consistent, as in the present case. Accordingly, this Court is not inclined to grant benefit to the appellants merely on the ground of the said contradiction.

20. Learned counsel appearing for the appellants has vehemently argued that in the instant matter the investigation remained completely faulty, as neither the alleged firearm nor the blood-stained clothes of the victim nor the blood-stained soil from



the place of occurrence were seized and produced before the trial court. Even the copy of the FIR was received by the concerned court 10 days after its institution, without any plausible explanation being furnished. Further, the police official, namely Uday Kumar, ASI, who recorded the fardbeyan, was also not produced and examined before the trial court. He was the best person to prove the circumstances under which the fardbeyan was recorded. These lacunas on the part of the police/prosecution have, according to the appellants' counsel, fatally prejudiced their defence.

20.1. Though some lapses as pointed out by learned counsel for the appellants, do appear in the present matter, yet despite the existence of such lapses, the evidence of the victim appears to be of sterling quality. These lapses do not go to the root of the matter so as to dislodge the substratum of the prosecution case and do not persuade this Court to form the opinion that the allegations levelled by the victim, which also find support from her injury report, are false. Accordingly, this Court is not inclined to grant any benefit to the appellants on account of the said lapses on the part of the investigating agency.

21. It has been argued by the learned counsel appearing for the appellants that the alleged incident is stated to have taken



place on 23.11.2020, whereas the FIR was registered on 25.11.2020 and no step was taken by any family member of the victim to lodge the FIR between 23.11.2020 and 25.11.2020, and the said delay renders the FIR unreliable.

21.1. I find no force in this contention, as the victim sustained gunshot injuries and was immediately rushed to the local hospital and thereafter referred to PMCH, Patna, where she remained under treatment for several days. She regained consciousness on 25.11.2020, and her fardbeyan was recorded immediately thereafter. In this regard, the testimonies of the victim (PW-1) and the Investigating Officer (PW-6) are relevant.

22. It has been further argued by the learned counsel for the appellants that as per the prosecution case, the alleged incident took place near the house of one Gurudeo Singh and none of the family members residing in the said house, was examined by the Investigating Officer and, apart from the family members of the victim, no independent person was examined as a prosecution witness. Consequently, the prosecution case remains entirely dependent upon the testimony of related witnesses.

22.1. I find no force in the said contention, as a perusal of the FIR does not indicate that any family member of the said Gurudeo Singh or any independent person having no relationship



with the victim had reached the place of occurrence at the time of the alleged incident. Though, in this regard, the Investigating Officer ought to have conducted an investigation by examining persons residing in the nearby houses and in the vicinity of the place of occurrence, and to that extent he appears to have been somewhat careless, however, the same does not affect the prosecution case in view of the other credible evidences available on record.

23. It has been further argued by the learned counsel appearing for the appellants that the principal allegation of firing and causing firearm injuries to the victim is against appellant no. 1, Vicky Singh @ Ajit Kumar. It is submitted that appellant no. 2, Ranjeet Singh, has been convicted solely with the aid of Section 34 of the IPC. Learned counsel contends that in the light of the testimony of PW-1, who is the most material witness for the prosecution, the alleged acts attributed to appellant no. 2 are not sufficient to establish that he shared a common intention with appellant no. 1, Vicky Singh @ Ajit Kumar, in the commission of the offence of attempt to murder. It is argued that the ingredients necessary for invoking Section 34 of the IPC against appellant no. 2 have not been proved beyond reasonable doubt.



23.1. I find no force in this contention, as from the FIR it is clearly evident that both the appellants, along with the third co-accused, firstly stopped the victim when she was returning from Khusrupur Market after purchasing medicines. The manner in which they stopped the victim and their position at the alleged place clearly show that the alleged incident was pre-planned and the victim was firstly caught hold which was resisted by her then the appellant Ranjeet Singh (appellant no.2) ordered and instigated the appellant Vicky Singh @ Ajit Kumar to kill the victim by opening pistol and only thereafter, the pistol was used and fired by the appellant Vicky Singh causing gunshot injury at her back and thereafter second gunshot was also fired by him. These sequences of events do not persuade this Court to form the opinion that appellant Ranjeet Singh was not having the intention to kill the victim along with the main assailant, Vicky Singh. Hence, his conviction with the aid of Section 34 of the IPC appears to be proper.

23.2. As far as the evidence of other witnesses, PW-2, namely YYY (father-in-law of the victim), PW-4 Shambhu Singh, brother of the father-in-law of the victim, and PW-5, ZZZ, husband of the victim, is concerned, though they have claimed themselves to be eye-witnesses to the occurrence but in the background of the



testimony of the victim, they do not appear to be eye-witnesses of the main incident. The learned trial court appears to have erred in treating them as eye-witnesses. However, even then, with regard to the circumstances happened just subsequent to the commission of the alleged occurrence, such as the victim's injured position, the place of occurrence, the steps taken by these witnesses in rushing the victim to the hospital, their evidence is relevant and to some extent helpful to the prosecution.

Conclusion:-

24. For the reasons discussed above, I am of the considered view that the allegations levelled by the informant (PW-1), who is the most important witness for the prosecution, find support from her ocular evidence and also from her injury report. The same are sufficient to inspire confidence of this Court with regard to her allegations. I find no reason to take a different view from that of the learned trial court, nor find any ground to interfere with the conclusion arrived at by the trial court in convicting both the appellants for the offences under Section 307 read with Section 34 of the IPC and convicting appellant Vicky Singh @ Ajit Kumar for the offence under Section 27 of the Arms Act, in addition thereto. There is no merit in this appeal; accordingly, the same stands dismissed.



25. Appellant No. 2, Ranjeet Singh, is on bail. He is, therefore, directed to surrender before the trial court within four weeks from today. In the event of his failure to surrender within the aforesaid period, the learned trial court shall take all necessary legal steps to secure his custody so that he may serve the remaining part of his sentence.

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

(Shailendra Singh, J)

maynaz/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	23.06.2026
Transmission Date	23.06.2026

