

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.667 of 2016**

Arising Out of PS. Case No.-71 Year-2000 Thana- GORAUL District- Vaishali

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1. Ram Kishun Singh
 2. Harendra Singh Both are Late Kamat Singh null
 3. Kapal Singh S/o Saryug Singh
 4. Mahendra Singh S/o Ram Prasad Singh Al are Resident of Vill- Rashulpur
Karigawan, P.S. Goraul, Distt- Vaishali.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Rajeev Ranjan, Advocate Mr. Rajiv Kumar Rana, Advocate
For the State	:	Mr. Shyed Ashfaque Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 06-05-2026

Heard learned counsel appearing for the appellants
and learned Additional Public Prosecutors appearing for the
State.

2. This appeal has been filed challenging the
judgment of conviction and order of sentence dated 14.08.2016
passed by the learned Sessions Judge, Vaishali at Hajipur in
connection with Sessions Trial No. 08 of 2002 arising out of



Goraul P.S. Case No. 71 of 2000 whereby and whereunder these four appellants have been convicted for committing offence under Sections 148 and 427 of the Indian Penal Code and have been sentenced to undergo simple imprisonment for one year under Section 148 of the Indian Penal Code and to pay a fine of Rs. 500/- each under Section 427 of the Indian Penal Code and in case of default of payment of fine, appellants are directed to further undergo simple imprisonment for one month.

3. The prosecution story, in brief, is that Kumar Singh is the *Pattidar* of informant and there is land dispute between them since past 6 to 7 years. On 23.06.2000, all the F.I.R. named accused persons, including these appellants and 10 to 15 unknown persons, armed with deadly weapons, came and started illegally ploughing the field of informant where he had planted chilli and lady finger. Thereafter, the accused persons came to the house of informant and co-accused Harish Chandra Singh made indiscriminate firing and Appellant Nos. 1 and 4, namely Ram Kishun Singh and Mahendra Singh, exploded bomb due to which wife of informant, namely Urmila Devi, sustained injuries. It is further alleged that all the accused persons assaulted informant with fist and slap and hearing the



sound of bomb and firing, neighbors of the informant came at the spot, who saw the occurrence and on 24.06.2000, Goraul P.S. Case No. 71 of 2000 was lodged for the offence punishable under Sections 147, 148, 149, 323, 447, 324, 307, 427 and 504 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3 and 4 of the Explosive Substance Act.

4. In this case, in order to bring home guilt of these accused-appellants, the prosecution has examined altogether eight witnesses. P.W. 1, namely Bhikhari Singh, is *Samdhi* of the informant and is a hearsay witness. P.W. 2, namely Ram Lotan Singh, who was named as a witness in the F.I.R. has been declared hostile. P.W. 3, namely Haridwar Singh, is a formal witness. P.W. 4, namely Ram Deo Singh, is a hearsay witness and related to the informant. P.W. 5, namely Ram Shabhit Singh, is informant of the present case. P.W. 6, namely Urmila Devi, is wife of the informant, an injured witness and has supported the prosecution case. P.W. 7, namely Dr. Bhola Nath Jha, is the doctor who examined the injured and has stated that the injuries are simple and superficial in nature. P.W. 8, namely Shiv Shambhu Singh, is a formal witness. Other than prosecution witnesses, I.O. Madan Prasad has been examined as Court



Witness 1 (C.W. 1). The prosecution has also adduced documentary evidences, which are marked as:-

Exhibit 1	Signature of Harish Chandra on seizure list
Exhibit 2	Signature of Ramshobhit Singh on <i>fardbeyan</i>
Exhibit 3 & 3/1	Injury report
Exhibit 4	Formal F.I.R.
Exhibit 5	<i>Fardbeyan</i>
Exhibit 5/1	Endorsement of In-charge Police Station Goraul on <i>fardbeyan</i>

5. On the other hand, the defence has not produced any oral evidence but have adduced documentary evidence, i.e. Certified copy of Goraul P.S. Case No. 69 of 2000 which was registered on 23.06.2000 for the offence punishable under Sections 447, 323, 324, 307 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3 and 4 of the Explosive Substance Act, which has been marked as Exhibit A.

6. After hearing the parties, the learned trial court convicted these appellants and sentenced them, as indicated in the opening paragraph of this order.

7. Learned counsel appearing for the appellants assails the order of conviction and sentence on multiple grounds. He contends that in this case, there is admitted land dispute between the parties and the alleged occurrence took place without pre-meditation, in a sudden fight in the heat of passion upon sudden quarrel over a minor land dispute. For the same set of



occurrence, Goraul P.S. Case No. 69 of 2000 was lodged against informant and other on 23.06.2000 itself and in retaliation and only with a view to save their skin from the aforesaid case, on the next date, i.e. on 24.06.2000, the present F.I.R. has been lodged. From bare perusal of the F.I.R. it is apparent that there is absolutely no specific accusation of overt act against Appellant Nos. 2 and 3. So far as Appellant Nos. 1 and 4 are concerned, though they are alleged to have exploded bomb due to which wife of informant, namely Urmila Devi, has sustained injuries, however, doctor has opined the injuries as simple in nature. Moreover, all other accused persons have already been acquitted by the learned trial court. It is further contended that though it is alleged in the F.I.R. that the occurrence took place in broad day light and many independent witnesses have seen the occurrence, however, no independent witness has been examined on behalf of the prosecution to prove the case. P.W. 1, P.W. 4 and P.W. 6, who have supported the prosecution case, are related to the informant and are highly interested witnesses and thus, their testimony cannot be relied upon. Therefore, the prosecution has failed to prove the case beyond reasonable doubts and the trial court has wrongfully convicted these appellants ignoring material contradictions and hence, the appellants are fit to be



acquitted.

8. *Per contra*, learned Additional Public Prosecutor for the State submits that the evidence on record unmistakably points to the guilt of the appellants. The prosecution could prove that it was these appellants committed the occurrence. Charges against the appellants was proved by the prosecution witnesses beyond all reasonable doubt and, therefore, the learned Trial Court was fully justified in convicting the appellants under Sections 148 and 427 of the Indian Penal Code.

9. On going through the rival submissions, evidences and upon perusal of the records, this Court finds that in this case, there is admitted land dispute between the parties and there is case and counter-case. Allegations are general and omnibus against all the accused persons. Doctor has found the injuries, allegedly caused by these appellants, simple in nature. Moreover, all the witnesses are highly interested witness and no independent witness has been examined on behalf of the prosecution to prove the case. Ram Lotan Singh (P.W. 2) who was named as a witness in the F.I.R. itself has denied about the incident and has been declared hostile. Moreover, P.W. 1 and P.W. 4 have deposed that they came after hearing the *hulla* and



are hearsay witness. The alleged incident took place in the year 2000 itself.

10. It is settled law that in criminal cases, since life and liberty of the accused are involved, a strict standard of proof is required as to prove the guilt of the accused. It is not the preponderance of the probabilities that establishes the guilt of the accused. It is necessary that the evidence on record must prove it beyond reasonable doubt. A conviction cannot be based on the consideration that the prosecution story may be true. The accused can only be convicted if the court reaches the conclusion that the prosecution story must be proved. The burden of proving the guilt of the accused is upon the prosecution. In this case, the prosecution has failed to prove the guilt of these appellants beyond reasonable doubt and thus, the appellants are entitled to be given the benefit of doubt.

11. Accordingly, the impugned judgment of conviction and order of sentence dated 14.08.2016 passed by the learned Sessions Judge, Vaishali at Hajipur in connection with Sessions Trial No. 08 of 2002 arising out of Goraul P.S. Case No. 71 of 2000 are hereby set aside with respect to these appellants only.



12. In that view of the matter, appellants, above named, are discharged from the liability of their bail bonds in connection with this case.

13. Accordingly, this appeal stands allowed.

14. Interlocutory application/s, if any, also stands disposed off.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
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