

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1062 of 2024**

Arising Out of PS. Case No.-135 Year-1998 Thana- NATHNAGAR District- Bhagalpur

Ashok Kumar @ Suresh Mandal S/O Late Chandradeo Prasad Sharma @
Chulhai Mandal R/O Village- Raghapur, ward no 01, P.S- Nath Nagar,
District- Bhagalpur

... .. Appellant

Versus

1. The State of Bihar
2. Pappu Mandal S/O Late Surya Narayan Mandal R/O Village- Raghapur, P.S-
Nath Nagar, Distt.- Bhagalpur.
3. Ajay Mandal S/O Late Surya Narayan Mandal R/O Village- Raghapur, P.S-
Nath Nagar, Distt.- Bhagalpur.
4. Shankar Mandal S/O Late Surya Narayan Mandal R/O Village- Raghapur,
P.S- Nath Nagar, Distt.- Bhagalpur.
5. Shashi Mandal S/O Late Jago Mandal R/O Village- Raghapur, P.S- Nath
Nagar, Distt.- Bhagalpur.
6. Govind Mandal S/O Ram Mandal R/O Village- Raghapur, P.S- Nath Nagar,
Distt.- Bhagalpur.
7. Shovin Mandal @ Shobhan Mandal S/O Ram Mandal R/O Village-
Raghapur, P.S- Nath Nagar, Distt.- Bhagalpur.
8. Raj Kumar Mandal S/O Late Bhola Mandal R/O Village- Raghapur, P.S-
Nath Nagar, Distt.- Bhagalpur.
9. Janta Mandal S/O Late Dasu Mandal R/O Village- Raghapur, P.S- Nath
Nagar, Distt.- Bhagalpur.
10. Bhim Mandal @ Bhima Mandal S/O Late Dasu Mandal R/O Village-
Raghapur, P.S- Nath Nagar, Distt.- Bhagalpur.
11. Ghanshyam Mandal S/O Late Uzaran Mandal R/O Village- Raghapur, P.S-
Nath Nagar, Distt.- Bhagalpur.
12. Ram Mandal S/O Late Hansu Mandal R/O Village- Raghapur, P.S- Nath
Nagar, Distt.- Bhagalpur.

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Ranjan Kumar Jha, Advocate
For the Resp. Nos. 2 to 12:	:	Mr. Vijay Shankar Upadhyay, Advocate
For the State	:	Mr. Abhimanyu Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

Date : 31-03-2026



Heard learned counsel for the appellant, learned counsel for the respondents no. 2 to 12 and learned Additional Public Prosecutor for the State.

2. This appeal has been preferred for setting aside the judgment dated 08.07.2024 passed by learned Additional Sessions Judge-IV, Bhagalpur (hereinafter referred to as 'learned Trial Court') in Sessions Trial No.1566 2004, arising out of Nath Nagar P.S. Case No.135 of 1998, wherein and whereby the learned Trial Court has acquitted the respondents no.2 to 12 of all the charges, i.e. under Sections 307/34 of the Indian Penal Code (hereinafter referred to as 'IPC') and Section 27 of the Arms Act.

3. At the outset, learned counsel for the respondents no.2 to 12 as well as learned Additional Public Prosecutor for the State admit that respondent no. 12 has died. There is also a report of Sarpanch, Village Court-Raghopur, Block-Nathnagar, District-Bhagalpur, regarding death of respondent no.12, vide letter no.05.2025 dated 17.03.2025.

4. In that view of the matter, let the name of the respondent no.12 be expunged/deleted from the array of the parties.

5. The prosecution case, based on *fardbeyan* of the informant, Suresh Mandal (PW-4), is that on 23.07.1998 at about 04:00 p.m., the informant was sitting in front of his door, in the meantime, Shankar Mandal fired upon the informant by gun,



which hit upon palm of left hand. Thereafter, all accused persons-respondents no.2 to 12 came armed with musket and surrounded the house of the informant. Surya Narayan Mandal was saying to kill the informant. After firing, all the accused persons fled away. The informant stated that land dispute is going on regarding which a Title Case is going on in Bhagalpur Court.

6. It appears that after investigation of the case, police submitted charge-sheet bearing Charge-sheet No.139/1998 showing sufficient materials to proceed against the accused persons for the offences punishable under Sections 147, 148, 149, 324 and 307 of the IPC as also under Section 27 of the Arms Act. Accordingly, the learned C.J.M., Bhagalpur took cognizance of the offences and finding that one of the allegations against the respondents is that of attempt to murder and the said offence is triable by a Court of Sessions, the learned Magistrate committed the records to the Court of Sessions on 29.11.2004, where the Sessions Trial No.1566/2004 was registered and charges were explained to accused persons, which they denied and claimed to be tried. Accordingly, learned Trial Court framed charges vide order dated 06.05.2005 under Section 307/34 of IPC and Section 27 of Arms Act.

7. In the Trial Court the prosecution has examined, as many as, nine witnesses. Thereafter, the statement of the accused



was recorded under Section 313 of the Code of Criminal Procedure (Now Section 351 of the Bharatiya Nagarik Suraksha Sanhita).

8. The defence has examined two witnesses and also exhibited certain documentary evidences.

9. In the nature of judgment we are going to pass, the description of the name of the witnesses and the documents adduced by the parties as evidence in course of trial are not required to be recorded.

10. It appears that by the impugned judgment, the learned Trial Court acquitted all the accused persons of the charges framed against them. The present appeal has been preferred against the said judgment.

11. On 30.09.2024, when the appeal was taken up for consideration, this Court passed the following order:

“Learned counsel for the appellant submits that it would appear from the discussions made in the impugned judgment that the accused persons in this case were facing charges under Section 307/34 of IPC and Section 27 of the Arms Act but the learned trial court has instead of discussing the evidences of the witnesses adduced in this case, has discussed the evidences of some other case in which the accused was facing a charge under Section 302 of IPC. It is submitted that grave injustice has been caused to the appellant of this case by not considering the materials



available on the record of this case before the learned trial court.

2. Issue notices to respondent Nos. 2 to 12 through both by ordinary process as well as under registered cover with A/D for which requisites etc. must be filed within two weeks from today.

3. Call for the trial court's records in connection with S. Tr. No. 1566 of 2004 arising out of Nath Nagar P.S. Case No. 135 of 1998 from the court of learned Additional Sessions Judge-IV, Bhagalpur.

4. We also think it just and proper to call for a report from the trial court's in the light of the submissions of the appellant noted hereinabove.

5. List this case after service of notice on respondent Nos. 2 to 12 with the records or on 28.11.2024 whichever is earlier, under appropriate heading."

12. It appears that after receipt of the order dated 30.09.2024, the then Additional Sessions Judge-IV, Bhagalpur, informed this Court vide letter no.82/2024 dated 16.10.2024 as under:

"Letter No. 82/2024

From : Rakesh Ranjan Singh

Additional Sessions Judge-IV

Bhagalpur

To,

The Assistant Registrar

Patna High Court

Sub: **Regarding send the LCR of S.T. No. 1566 of 2004 A/o Nath Nagar P.S. Case No. 135 of 1998 and report in compliance of order dt. 30.09.2024 of Our Hon'ble Patna High Court in Cri. Appeal (DB) No. 1062 of 2024.**



Bhagalpur, Date: 16.10.2024

Sir,

This is with reference to the captioned subject matter. The LCR of the abovementioned case is called for vide order Dt. 30.09.2024 of our Hon'ble Patna High Court in Cr. Appeal (D.B.) No. 1062 of 2024 (3) along with a report in the light of submissions of the Ld Counsel of the appellant. In compliance of the abovementioned order of our Hon'ble High Court I am sending the LCR of abovementioned case as well as the required report. The Ld. Counsel has submitted before the Hon'ble Court that the Court of ADJ-IV, Bhagalpur has decided the present case on the basis of discussion on the evidence of another case. In this regard I have to submit that the judgement in this case by the ADJ-IV, Bhagalpur is based on the evidences on record in the present case only but during the printing of the final judgement of this case some paras of one previously decided case by the ADJ-IV, Bhagalpur was inadvertently pasted in the copy of the judgement of the present case due to machine error as well as clerical error, which was corrected after having information of the said mistake vide order dt. 22.08.2024 in S.T. No. 1566/2024, since the said error was purely human error and clerical in nature.

Hence the above is submitted along with the LCR of S.T. No. 1566/2004 with request to place before the Hon'ble Court for perusal and needful.

Yours Faithfully

Sd/-

(RAKESH RANJAN SINGH)



Additional Sessions Judge-IV
Bhagalpur”

13. It is evident that instead of accepting his gross negligence in not going through the draft judgment before signing the same, the learned Presiding Officer went on explaining the mistake by saying that during the printing of the final judgment of the case some paras of one previously decided case by the ADJ-IV, Bhagalpur was inadvertently pasted in the copy of the judgment of the present case due to machine error as well as clerical error. We refuse to accept this statement of the then learned Additional Sessions Judge-IV, Bhagalpur.

14. Further, we find that in his letter, he has stated that the errors have been corrected after having information of the said mistake vide order dated 22.08.2024 in Sessions Trial No.1566/2004. We have noticed that the learned Trial Court has again committed mistake at this stage by amending its judgment under appeal after signing of the judgment as no Court had become *functus officio* and could not have amended the judgment by replacing the previous paragraphs by new paragraphs. It seems that the learned Court acted on the basis of a petition filed on behalf of the learned Additional Public Prosecutor Sri. PL Yadav that he found some typographical error in the judgment copy of the present case and the portion of judgment of anyother case is



typed/copied in the copy of the judgment of the present case, which is required to be corrected. Even at this stage, the Trial Court did not think it just and proper to give notice to the accused persons or the informant. Only later on, the Trial Court directed the office to inform both the sides of the case about this order so that they may apply a fresh copy of the certified copy. Fact remains that the informant/appellant had already obtained the certified copy of the judgment on 08.08.2024 itself and preferred the appeal before this Court on 30.08.2024.

15. We have found that even as the Trial Court took upon itself to make corrections in the judgment, again the Trial Court erred in recording paragraph-20 of the judgment which reads as under:

“20. Ld. A. P. P. on behalf of the State has submitted that altogether nine prosecution witnesses have been examined in this case including the informant, medical officer and I. O. out of which almost all the prosecution witnesses have supported the prosecution case during their evidence. The prosecution has also produced and marked five documentary evidences including postmortem report, death inquest report, formal F. I. R. and charge-sheet. The prosecution has successfully able to prove the chain of circumstances against the accused persons to prove their guilt. Hence, prosecution has been able to prove its charges as leveled against the accused persons.”



16. On perusal of the records, we find that in paragraph-20 again incorrect/wrong facts, may be of an another case, are stated.

17. Learned counsel for the accused-respondents no.2 to 11 as well as learned Additional Public Prosecutor for the State submit that this is a gross mistake and shake the confidence of the Stake-holders. The learned Trial Court has not only proceeded to carry on the corrections on his own by deleting and adducing several paragraphs in the judgment rather once again the errors of identical nature have crept into in the impugned judgment.

18. Having regard to the afore-mentioned admitted position that the learned Presiding Officer at first instance passed the impugned judgment by recording the evidences of an another disposed off case and subsequently did not hesitate in deleting certain paragraphs from the said judgment and in adding fresh paragraphs in the judgment, we set aside the impugned judgment dated 08.07.2024 of the learned Trial Court without entering into the merit of the case.

19. The records are remitted to the learned Trial Court to pass a fresh judgment after giving an opportunity of hearing/submissions to all the parties.

20. The learned Principal District and Sessions Judge, Bhagalpur shall assign the appeal to a learned Trial Court presided



over by any other District and Additional Sessions Judge or he may himself hear the matter. The entire exercise be concluded within a period of three months from the date of receipt of a copy of this order.

21. Since we have set aside the judgment of acquittal and are remitting the matter for passing fresh judgment, the accused (respondents no.2 to 11), who were earlier on bail shall continue to remain on bail on the same bail bond.

Gross acts of omission- action in administrative side to be considered

22. Having come across the kind of gross act of omission by the then Additional Sessions Judge-IV, Bhagalpur, we are of the considered opinion that the matter is required to be placed before the Hon'ble Chief Justice for taking an appropriate view of the matter. This has become all the more necessary as Mr. Ranjan Kumar Jha, learned counsel for the appellant has placed before us one order passed by the same Presiding Officer in (Anticipatory Bail Application No.2559/2024), arising out of Pirpanti P.S. Case No.164/2016 registered under Section 394 of IPC. It is stated that while considering the anticipatory bail application in the case of Md. Rahul @ Khidir @ Md. Rahu Sekh vs. State of Bihar, on 13.11.2024 an identical error has occurred in the order as the learned Presiding Officer has discussed some other



case by mentioning the description of case as Antichak P.S. Case No.68/2024 for the offence punishable u/s 341, 323, 498(A), 504, 506 of IPC. This shows the regular phenomena of the Court presided over by this officer, it *prima facies* gives an impression that the Presiding Officer is not discharging his duties as a judicial officer with due diligence and care. He is not perusing the draft judgment/order before putting his signature thereon. It seems necessary to consider the matter in administrative side.

23. We make it clear that out observations as regards the conduct of this officer is *prima facie*. In case the matter proceeds in administrative side the same will remain uninfluenced by the observations of this Court in this part of the judgment.

24. The records be placed, accordingly, before the Hon’ble Chief Justice.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.04.2026
Transmission Date	02.04.2026

