

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.165 of 2016

Arising Out of PS. Case No.-86 Year-2000 Thana- CHANPATIA District- West Champaran

Pankaj Kumar Son of Sri Jaikishun Kunwar Resident of Village- Shikarpur,
Police Station- Sakta, District West Champaran.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 240 of 2016

Arising Out of PS. Case No.-156 Year-2000 Thana- CHANPATIA District- West Champaran

- 1. SHEIKH JAHANGIR @ SK. JEHANGIR, Son of Late Sheikh Meer Hasan
- 2. Nauroj Alam, son of Sheikh Mustaqueem
- 3. Md. Bhola son of Md. Kuraish
- 4. Sheikh Karmullah @ Karmullah son of Late Sheikh Navi Alam All are Residents of village- Lal Parsa, P.S.- Sikta, Dist.- West Champaran

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 243 of 2016

Arising Out of PS. Case No.-156 Year-2000 Thana- CHANPATIA District- West Champaran

RAFI AHMED @ NANHAK

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :
(In CRIMINAL APPEAL (SJ) No. 165 of 2016)
For the Appellant : Mr. Ajay Kumar Thakur, Advocate
Mr. Mudit Mat, Advocate
Mr. Shivam, Advocate
Mr. Purushottam Kumar, Advocate
For the State : Mr. Abha Singh, APP
(In CRIMINAL APPEAL (SJ) No. 240 of 2016)



For the Appellants : Mr. Ajay Kumar Thakur, Advocate
For the State : Mr. S.A. Ahmad, APP
(In CRIMINAL APPEAL (SJ) No. 243 of 2016)
For the Appellant : Mr. Birendra Kumar Singh, Advocate
For the State : Mr. Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 05-05-2026

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

2. Since all these three appeals arise out of the same judgement of conviction and order of sentence, they are being taken up together and disposed of by this common order.

3. These appeals have been filed challenging the judgment of conviction dated 14.01.2016 and order of sentence dated 18.01.2016 passed by the learned 2nd Additional Sessions Judge, West Champaran, Bettiah in connection with Sessions Trial No. 86 of 2001 arising out of Chanpatia P.S. Case No. 156 of 2000 whereby and whereunder these six appellants have been convicted for committing offence under Sections 364 and 34 of the Indian Penal Code and have been sentenced to undergo rigorous imprisonment for ten years with a fine of Rs. 5,000/- each and in case of default in payment of fine, to further undergo rigorous imprisonment for three month.

4. The prosecution story, in brief, is that informant,



namely Birendra Prasad Gupta, alleged that he is a member of the Indian Communist Party (Male) and on 06.09.2000, after finishing his work, he was returning to his party office with Anil Kumar on a motorcycle and on the way at Tikuliya Chowk, a *Gypsy* bearing Registration No. DL2CA-0283, on which six to seven occupants were seated armed with rifle and guns, came and forcibly got the informant seated in the vehicle. It is further alleged, the accused persons tied the informant and started assaulting him and reached near Gopalpur Police Station where the police tried to stop the vehicle but the accused persons resorted to firing and exploding bomb on the police, however, they were chased and apprehended with arms, ammunition and bombs.

5. In this case, in order to bring home guilt of these accused-appellants, the prosecution has examined altogether eight witnesses. P.W. 1, namely Satya Narayan Prasad. P.W. 2, namely Chhedi Paswan. P.W. 3, namely Dinesh Prasad Gupta. P.W. 4, namely Yogendra Prasad Yadav. P.W. 5, namely Anil Kumar. P.W. 6, namely Birendra Prasad Gupta, who is informant of the present case. P.W. 7, namely Sanjay Kumar Yadav. P.W. 8, namely Ram Naresh Prasad Singh, who is the Investigating Officer of the case. The prosecution has also adduced



documentary evidences, which are marked as:-

Exhibit 1	Signature of Birendra Prasad Gupta on <i>Fardbeyan</i>
Exhibit 2	<i>Fardbeyan</i>
Exhibit 3	F.I.R.
Exhibit 4	Signature of Ram Naresh Prasad Singh on seizure-list
Exhibit 5	Certified Copy of judgment dated 12.01.1996 passed in Sessions Trial No. 25 of 1988
Exhibit 5/1	Certified copy of F.I.R. of Gopalpur P.S. Case No. 37 of 2000
Exhibit 6	Certified copy of F.I.R. of Sikta P.S. Case No. 45 of 1987
Exhibit 6/1	Certified copy of charge-sheet of Gopalpur P.S. Case No. 37 of 2000
Exhibit 7	Certified copy of order sheet dated 08.07.2002 passed in Sessions Trial No. 92 of 2001
Exhibit 8	Certified copy of F.I.R. of Sikta P.S. CASE No. 80 of 1996
Exhibit 9	Certified copy of F.I.R. of Sikta P.S. CASE No. 89 of 1996

6. On the other hand, the defence has two witnesses. D.W. 1, namely Md. Raza and D.W. 2, namely Doa Hakim. The defence has also adduced documentary evidences, which are marked as:-

Exhibit A	Order sheet dated 07.09.2000 to 22.11.2000 of Sessions Trial No. 107 of 1998
Exhibit B	Certified copy of charge-sheet of Sikta P.S. Case No. 63 of 1997
Exhibit C	Certified copy of charge in Sessions Trial No. 107 of 1998
Exhibit D	Certified copy of F.I.R. of Sikta P.S. Case No. 63 of 1997
Exhibit E	Letter of District Arms Magistrate, Bettiah bearing Letter No. 147 dated 06.12.2000
Exhibit F	Certified copy of judgment dated 30.11.11 passed in Sessions Trial No. 92 of 2001

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

8. Learned counsel appearing for the appellants assails



the order of conviction and sentence on multiple grounds. He contends that the prosecution has not proved its case beyond reasonable doubt and the trial court ought to have acquitted the appellants. He contends that for the same occurrence, two F.I.Rs. were lodged. One by the informant i.e. Chanpatia P.S. Case No. 156 of 2000 and another by the police i.e. Gopalpur P.S. Case No. 37 of 2000, which was instituted under Sections 147, 148, 149, 356 and 307 of the Indian Penal Code. Sections 25(1-b)a, 26 and 27 of the Arms Act and Sections 3, 4 and 5 of the Explosive Substance Act and in the said case, the appellants were put on trial vide Sessions Trial No. 92 of 2021 and were acquitted vide judgment exhibited as Exhibit- F. He further contends that Exhibits A, B and C relates to a murder case in which informant of the present case is one of the accused and in the said case, brother of co-accused Alamgir was murdered by the informant. The informant, in collusion with the police, got the present false and concocted case lodged. Informant is an office bearer of the C.P.I. (Male). He contends that as per allegation in the *fardbeyan*, on the *Gypsy*, the informant was badly assaulted by all the accused persons, however, the said allegation is falsified because the informant has not received any injury whatsoever. In the present case, although the



appellants were charged under the Arms Act but have not been convicted under the same because for the same set of charges, they have already been acquitted in Sessions Trial No. 92 of 2001. Learned counsel for the appellants further contends that there are several inconsistencies and material contradictions in oral evidence which were brushed aside by the learned trial court. He contends that there is contradiction in deposition of P.W. 5 and P.W. 6 about the number of occupants on the *Gypsy*, the number of persons who got down from the *Gypsy* and caught the informant. P.W. 6 has named 6 persons whereas P.W. 5 has named only two persons who caught the informant. P.W. 5 has not only denied to identify any of the accused persons but has also excluded the presence of any witness when he and informant had fallen at *Tikauliya Chowk*. P.W. 1 has neither disclosed the number of occupants nor named any of the accused though he claimed to have identified them by their face. He further contends that in this case, the appellants were not put on T.I.P. and were identified at the dock during trial. He submits that in absence of any T.I.P., the identification in the Court for the first time is to be discarded. In this regard, he has placed reliance upon latest judgment of the Hon'ble Apex Court passed in the case of *Nazim and Others versus The State of*



Uttarakhand passed in **2025 INSC 1184**. It is further contended that P.W. 2 has not made any whisper about firing or explosion of bomb at the alleged place of occurrence. It is lastly contended that in this case, no independent witness has been examined on behalf of the prosecution and all the prosecution witnesses are related to the informant and are highly interested witnesses. Hence, in absence of testimony of the independent witness, the testimony of interested witnesses cannot be relied upon. Moreover, there evidence suffers from serious infirmity and is, therefore, wholly unreliable and also untrustworthy. Thus, the prosecution has failed to prove the case beyond all reasonable doubts and the trial court has wrongfully convicted these appellants ignoring material contradictions and hence, the appellants are fit to be acquitted.

9. On the other hand, learned Additional Public Prosecutor for the State has submitted that in this case, the prosecution has examined altogether 8 witnesses including the informant and all of them are eye-witnesses, who have supported the prosecution case and their evidence has corroborated each other. Thus, there is no need of any interference in this appeal and there is no reason to differ with the findings of the learned trial court and the judgment of



conviction and order of sentence are justified and legal.

10. Heard the rival submissions, perused the evidenced led at the trial and perused the judgment of the Hon'ble Apex Court passed in the case of *Nazim and Others versus The State of Uttarakhand (supra)*. This Court finds that in this case, admittedly for the same occurrence, two different F.I.Rs. were lodged. One by the informant i.e. Chanpatia P.S. Case No. 156 of 2000 and another by the police i.e. Gopalpur P.S. Case No. 37 of 2000. Appellants were put on trial in connection with Gopalpur P.S. Case No. 37 of 2000 as well and were acquitted and the said judgment has been exhibited as Exhibit F. From perusal of the evidences, this Court finds that there are several inconsistencies and contradictions in oral evidence of the witnesses with place of occurrence, manner of occurrence and number of accused involved in the occurrence. The deposition of P.W. 5 and P.W. 6 are contradictory. P.W. 6 stated that six persons caught him whereas P.W. 5 has stated that two persons caught the informant. P.W. 2 has stated about involvement of four persons and has not stated regarding firing of arms and explosion of bomb whereas P.W. 3 has deposed that seven persons were engaged in overpowering the informant. P.W. 3 has also deposed that the motorcycle was of green color



whereas other witnesses have stated that the same was of red color. Though the said occurrence is said to have taken place in a public place, however, there is no independent corroboration of the prosecution witnesses and all the witnesses are interested witnesses. The discussion made in Paragraph No. 22 and the findings recorded in Paragraph No. 24 of the impugned judgment makes the oral evidence inconsistent, unreliable and doubtful.

11. 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 miserably failed to prove the case beyond reasonable doubt.

12. In that view of the matter, the impugned judgment of conviction dated 14.01.2016 and order of sentence dated



18.01.2016 passed by the learned 2nd Additional Sessions Judge, Bettiah, West Champaran in connection with Sessions Trial No. 86 of 2001 arising out of Chanpatia P.S. Case No. 156 of 2000 are hereby set aside with respect to these appellants only.

13. Appellants, above named, are acquitted of all the charges and are discharged from the liability of their bail bonds in connection with this case.

14. Accordingly, this appeal stands allowed.

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

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
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