

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1196 of 2018**

Arising Out of PS. Case No.-121 Year-2011 Thana- RAJPUR District- Buxar

Ram Suresh Yadav @ Langa Yadav @ Ram Suresh Singh Son of
Baliram Yadav, Resident of Village- Sarenja, P.S.- Rajpur, District-
Buxar.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s	:	Mr.Rajendra Narain, Sr. Advocate Mr.Rashmi Bharti, Advocate
For the Respondent/s	:	Mr.Shashi Bala Verma, APP

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and**

**HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT**

(Per: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA)

Date : 08-07-2026

Heard Mr. Rajendra Narain, learned senior advocate
appearing on behalf of the appellant and Mrs. Shashi Bala
Verma, learned A.P.P. for the State.

2. The present appeal preferred under section 374(2) of
the Cr.P.C. against the impugned judgment of conviction dated
29.08.2018 and order of sentence dated 31.08.2018, passed by
learned Additional District and Sessions Judge, VI, Buxar
passed in S. Tr. No. 114 of 2016 arising out of Rajpur P.S. Case
No. 121 of 2011, whereby and whereunder the appellant was
convicted for the offences punishable under section 302 of the
Indian Penal Code (in short the "I.P.C.") and ordered to undergo



rigorous imprisonment for life and also the fine of Rs. 25,000/-, further ordered to undergo R.I. for three years for the offence under section 27 of the Arms Act and fine of Rs. 1000/-. In default of payment of fine, three months R.I. was awarded to the appellant. The learned trial court ordered that all the sentences shall run concurrently.

Brief case of the prosecution

3. The brief case of the prosecution as it speaks through statement of Ramesh Rai (PW-3) that on 01.11.2011 at about 4:45 P.M., while he was returning to his home from his rice mill and came at Sarenja main road, he saw Ram Suresh Yadav @ Langa Yadav (the appellant), son of Baliram Yadav, Ashok Yadav, son of Baliram Yadav, both resident of village + Post – Sarenja; Jitendra Yadav, son of not known (Hira Yadav); resident of village – Kathtar. All three belonged to P.S. - Rajpur, District – Buxar, and equipped with rifle in their hand, fired upon his father Ranjeet Rai before him and further alleged that Sanjay Yadav, son of not known, R/o – village Taranpur, Hirdaya Yadav, son of not known, R/o – village Ekdar, Ramashish Yadav, son of not known, R/o – village Maraniya, Bihari Yadav, son of not known, R/o – village Taranpur, Umesh Yadav, son of Dipa Yadav, R/o – village Jagpurva, all are of



Rajpur police station, District – Buxar and were equipped with rifle in their hand, shouting to kill his father. It is also alleged that Baliram Yadav, son of Ramdeo Yadav, resident of Rajpur, district – Buxar, ordered to fire upon him and after firing, they were fled away in western side, thereafter, he came to his home and called his family members. The reason supplied behind the occurrence is that in panchayat election, Mukhiya Sukhraj Devi defeated the wife of elder brother of the deceased, namely, Shail Kumari Devi, and further reason was assigned that there are litigation between the parties in Buxar court, which asked to compromise forcibly. It is also stated that Mukhiya Sukhraj Devi, wife of Suresh Yadav @ Langa Yadav (the appellant) was shouting on road as to kill his father so that Shail Kumari Devi would not in position to contest panchayat election. The aforesaid statement was read by the informant and found it correct, he signed on the statement, in presence of his villagers namely, Shashi Bhushan Rai (PW-1), Jatashankar Rai and Brijmohan Rai (PW-7), son of Raghubansh Rai.

4. On the basis of said written information, Rajpur P.S. Case No. 121 of 2011 dated 01.11.2011 was registered for the offences punishable under sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act. After concluding



investigation, police submitted charge-sheet against the appellant for the offences punishable under sections 302, 120B/34 of the I.P.C. and section 27 of the Arms Act vide charge-sheet no. 03 of 2012. The learned jurisdictional Magistrate after perusal of materials and records took cognizance accordingly and after compliance of section 207 of the Cr.P.C. committed this case to the court of sessions under section 209 of the Cr.P.C. for its trial and disposal.

5. After commitment, learned trial court, upon perusal of records and materials collected during investigation framed charges against accused-appellant and explained the charges to the accused/appellant in his vernacular language, which he pleaded “**not guilty**” and claimed to be tried.

6. To substantiate its case, prosecution altogether examined following **09** witnesses:

PW-1 – Shashi Bhushan Sharma

PW-2 – Umesh Rai

PW-3 – Ranjeet Rai (Informant of the case)

PW-4 – Dr. Anil Kumar Singh

PW-5 – Achyutanand Rai

PW-6 – Ranglal Chouhan

PW-7 – Brij Mohan Rai

PW-8 – Shyam Bihari Rai, and

PW-9 – Braj Kishore Singh

7. The prosecution has also produced following



documentary evidence:

Exhibit '1' – Signature of informant on fard-e-beyan

Exhibit 1/1 & 1/2 – Signature of Achyutanand Rai and Ranglal Chouhan on the inquest report.

Exhibit '2' - Post-mortem report.

Exhibit '3' – Pages in FIR

Exhibit '4' – Formal FIR

Exhibit '5' – Inquest report of the deceased.

Exhibit '6' – Seizure list of blood soil.

Exhibit '7' – Sanha

Exhibit '8' & 8/1 – F.S.L. Report.

8. After examination of prosecution witnesses and by taking note of evidence as surfaced during trial, statement of accused/appellant was recorded under Section 313 of the Cr.P.C., which was denied by the appellant in totality by claiming his complete innocence and false implication.

9. Upon perusal of the evidence surfaced during the trial and hearing the parties, learned trial court convicted the accused/appellant for the offences punishable under section 302 of the IPC and section 27 of the Arms Act and passed the order of sentence as mentioned aforesaid. Being aggrieved with, the present appeal has been preferred by the accused/appellant.

10. Hence, the appeal.



Argument on behalf of the appellant

11. Mr. Rajendra Narain, learned senior advocate appearing on behalf of the appellant submitted that the appellant was falsely implicated with the present case being husband of the Sukhraj Devi, who won election defeating the wife of elder brother of the deceased. It is pointed out that as the wife of the appellant won the election, there was no occasion to commit murder of brother-in-law of defeating candidate namely, Shail Kumari Devi and, therefore, the motive as assigned through FIR cannot be said convincing.

12. It is further submitted by Mr. Narain that the informant and other prosecution witnesses are not the eye witness of the occurrence, rather they projected themselves as a chance witness and, therefore, several material contradictions were surfaced during the trial, which was completely overlooked by the learned trial court while recording the present impugned judgment of conviction.

13. In this context, Mr. Narain submitted that the maximum witnesses including the informant are interested witness being relative of the deceased and his family and therefore their testimony cannot be said under the category of **“wholly reliable”**, particularly when status of the informant and



witnesses claiming themselves as an eye witness appears doubtful.

14. It is further argued by Mr. Narain that trial of rest of the two accused was separated including the accused Ashok Yadav and Jitendra Yadav as trial no. 97/2012, who specifically alleged to fire upon the father of the informant. In this context, it is submitted that almost same prosecution witnesses were examined in the separate trial, who examined in the present case, but considering the material contradiction and also the ocular version of the prosecution witnesses not appears corroborating the medical evidence qua gunshot injury, by giving benefit of doubt, they were acquitted along with other co-accused persons, who faced the trial.

15. Taking shelter of acquittal of Ashok Yadav and Jitendra Yadav, who specifically alleged to fire upon the deceased father of the informant, it is submitted by Mr. Narain that one of the learned trial court who recorded the judgment of acquittal, could not believe common intention and also unlawful object and, therefore, on this score, the present conviction of the appellant which was recorded through separate trial (S. Tr. No. 114/2016) by another Sessions Judge is bad in the eyes of law.

16. It is also argued by Mr. Narain that appellant



himself is a man of criminal background as he was involved in some drug cases and therefore he might be killed by some other persons but to settle the political rivalry and also the pending litigation, the present false case was lodged against the appellant and his family members.

17. In support of the submission, Mr. Narain, relied upon the legal report of Hon'ble Supreme Court as available through **Punimati and Anr. Vs. State of Chhattisgarh and Ors.** reported in **2025 SCC OnLine SC 2866**; **Kannaiya Vs. State of Madhya Pradesh** reported in **2025 INSC 1246 = 2025 SCC OnLine SC 2270**; **Rajendra Singh and others Vs. State of Uttaranchal** reported in **2025 SCC OnLine SC 2148**.

18. While concluding argument, it is submitted by Mr. Narain that in view of aforesaid factual and legal aspects, it cannot be said with sure that involvement of appellant in murder of the father of the informant is doubtful and, therefore, he is equally entitled for the benefit of doubt, to establish its case beyond all reasonable doubt.

19. Mrs. Shashi Bala Verma, learned A.P.P. for the Sate, while opposing the appeal, submitted that minor contradictions are bound to be surfaced during the trial and, therefore, on the basis of same, conviction recorded by the



learned trial court which is fully corroborated with ocular evidence cannot be viewed with doubt

20. It is also submitted by learned A.P.P. that allegation against this appellant is specific as to fire upon the head of the father of the informant (PW-3) which appears consistent throughout during the trial in the testimony of all prosecution witnesses, which is also fully corroborated with the medical evidence. The bullet was also recovered and sent for forensic examination, which also corroborated the allegation.

21. Learned A.P.P. further submitted that acquittal of other set of accused through different session trial is of no relevancy qua appellant for the reason that in their given set of facts after appreciating the evidence, the benefit of doubt was extended to the other co-accused persons. Moreover, the acquittal of co-accused persons is also challenged by the first informant which is pending before this Court through separate appeal bearing Cr. Appeal (DB) No. 1291 of 2018.

22. It is also submitted that motive behind the occurrence was the political enmity and pending litigation between parties, accordingly, there is no occasion to interfere with the finding of the learned trial court which is based upon the correct appreciation of evidence.



23. We have perused the trial court records carefully and gone through the evidences available on record as also considered the rival submissions as canvassed by learned counsel appearing on behalf of the parties.

24. **PW-1 is Shashi Bhushan Rai**, who during trial supported the date and time of the occurrence and deposed that he was going towards road and when he came on pucca road and proceeded towards tea stall of one Hardeo Chouhan, he saw four motorcycles parked near to a Pakar tree. 8-10 persons were stand there and were equipped with rifle. While he was taking tea he saw that Ramesh Rai and his father were coming on motorcycle. It was the first day of *Chhath Puja* and *Chathvrati* were also going on road, in the meantime, motorcycle came over there and he saw that appellant namely, Ram Suresh Yadav @ Langa Yadav fired upon Ranjeet Rai, which hit on the back side of his skull and immediately he fell down, whereafter Ashok Yadav and Jitendra Yadav both fired on the chest of Ranjeet Rai, one fire by each. Thereafter, Ashok Yadav and Jitendra Yadav bolted their rifles to fire upon Ramesh Rai and fired upon him, whereafter Ramesh Rai fled away. He named 8-10 persons who were gathered over there as Ram Suresh Yadav @ Langa Yadav, Ashok Yadav, Jitendra Yadav, Umesh Yadav,



Ramashish Yadav, Bihari Yadav, Hirdaya Yadav and Sukhraj Devi. The accused persons after occurrence made indiscriminate firing and fled towards western side. He deposed that present occurrence took place due to panchayat election rivalry. He identified his signature on the fardbeyan of Ramesh Rai (PW-3) , which upon his identification exhibited as **Exhibit '1'**. He identified appellant before the accused as the same person who fired upon Ranjeet Rai. He also said on his own during his examination-in-chief that while he was coming for his deposition, he was threatened by appellant in court gallery saying that he would not remain alive.

24.1. Upon cross-examination, it was stated by him that he is the resident of village Sarenja. His PACs godown is near to the place of occurrence where he usually visit in evening. He deposed that near to the place of occurrence, there is a pond, where the ladies usually performed their rituals in the evening of Chhatt Puja festival. He also stated that 3-4 persons were also present at the tea shop who were not his co-villager. His house is at the distance of 500-600 yards from the house of the informant, namely, Ramesh Rai (PW-3). It was stated that as per him the occurrence took place on middle of the road near to Pakar tree, which is about 60-70 yards away from Sarenja



Mode. He also stated that in the western side of the shop of Hardeo there is another tree stall of one Ram Nath Kurmi and in southern side of the road there is a shop of Suresh Dhobi, saloon of Rajendra Thakur, Betel shop of Chhattu Chourasiya, the shop of Dipak Chouhan, Litti shop of Mukhtar Chouhan. It is further stated that the informant is not his brother, but out of social acquaintance he has brotherly relation. It is stated by him that he saw Ramesh Rai after air firing, which created a rucus like scene at the place of occurrence. He also got afraid and after hearing the sound of firing the accused started flee away. He saw the occurrence by hiding himself as he had no occasion to flee away. It was stated by him that Umesh Rai (PW-2), Achyutanand Rai (PW-5), Shyam Bihari Rai and Langru Chouhan arrived at the place of occurrence after the occurrence. He also stated that after the occurrence informant fled away, but he could not said that where he went, but he again noticed him after 4-5 minutes at the place of occurrence. It was stated that Daroga Jee (police) came somewhere between 7-8 P.M. on the date of occurrence. He could not saw whether the body was seen by Daroga Jee or not. Ramesh Rai was also present with him. At the time of recording of statement, he said to stand at some distance and when it was read over, he signed it. He denied the



suggestion that his statement with police was different. He denied that his statement was recorded on 13.11.2011. He could not remember that whether by that time post-mortem was conducted upon the deceased or not and further denied that after post-mortem he modulated the prosecution story. He affirmed his statement that he said to police that he sit on daily basis at his katra near to the place of occurrence and on the date of occurrence he was coming on foot and as he was away about 100 yards east from the place of occurrence, he heard the sound of 5-6 rounds of firing. He also affirmed his statement given before police that the persons who were in crowd are Ram Suresh Yadav @ Langa Yadav, Ashok Yadav, Baliram Yadav, Sukhraj Devi, Jitendra Yadav, Umesh Yadav, Sanjay Yadav, Hari Yadav, Bihari Yadav etc. He also affirmed that he said to police that Ashok Yadav and Jitendra Yadav came near to the motorcycle whereafter Ram Suresh Yadav @ Langa Yadav (appellant) fired upon the skull of Ranjeet Rai from his back and also stated that Jitendra Yadav, Ashok Yadav, Ramashish Yadav, Umesh Yadav, Ram Suresh Yadav, Bihari Yadav, Hirdaya Yadav, Sukhraj Devi fled towards western side after making firing. He stated that the panchayat election was won by Sukhraj Devi. It was also stated by him that his father was murdered in 1996 and



he was the informant in that case, where the appellant and Baliram Yadav was the accused. He could not say about the outcome of that case. He denied the suggestion that out of previous enmity and being close man of the informant, he deposed falsely.

25. PW-2 is Umesh Rai. He is the **brother of the informant** and also the son of the deceased. He also supported the date and time of occurrence. He also claimed himself as an eye witness of the occurrence saying that he was going to Chhatt Ghat and as he came to Sarenja Mode, he saw that four motorcycles were standing ahead 40-50 feet near to Pakar Tree, where 9-10 persons were also standing equipped with arms. He identified those persons as Ram Suresh Yadav @ Langa Yadav (appellant), Ashok Yadav, Baliram Yadav, Jitendra Yadav, Umesh Yadav, Hirdya Yadav, Bihari Yadav, Sanjay Yadav, Ramashish Yadav and Sukhraj Devi. He stopped at Mode itself and saw that one bullet motorcycle is coming from eastern side, on which his younger brother Ramesh Rai was at driver seat and his father (deceased) was sitting as pillion rider and when they came near to Langa Yadav (appellant), he fired upon him, but it could not hit. By that time, motorcycle came closely, whereafter Ashok Yadav and Jitendra Yadav stopped the motorcycle and



pulled his father from motorcycle, whereafter Langa Yadav (appellant) fired on backside of his father. Subsequently, Jitendra Yadav and Ashok Yadav also fired on his chest. He deposed that blood started oozing from the body of his father and he died on spot. His younger brother (informant) started to flee away but it was said by Sukhraj Devi (wife of the appellant) to kill him also, whereafter all opened fire upon him. After the occurrence, the accused persons fled away. He also deposed that occurrence took place due to election rivalry. He identified the appellant/accused during the trial.

25.1. Upon cross-examination, he stated that the informant is his brother and the date of occurrence was the first day of Chhath Puja. He also stated that a Chhath Ghat is available near to the place of occurrence where generally 200-300 people gathered on the occasion of chhath Puja. It was stated by him that the FIR was lodged in the night and in his earlier statement he said that occurrence took place at 10:00 P.M. He could not remember whether he was talked with the informant (PW-3) before the occurrence or not. He could not remember that while deposing in session trial no. 97/2012, he deposed that he met with Ramesh Rai before the occurrence. He also named the shopkeepers whose shops are closed to the place



of occurrence. It was stated that the first firing was made from a distance of 20-25 ft. It was also stated that after the first firing, second firing was made with an interval of one minute. He denied the suggestion that he could not made statement before the police that Jitendra Yadav and Ashok Yadav pulled his father from motorcycle. He also denied that he could not made statement before police that Jitendra Yadav and Ashok Yadav fired on the chest of his father and Sukhrajo Devi said to kill him also. He affirmed that motive behind the occurrence is only the election rivalry arising out of panchayat election. He denied that his father was not smuggler of heroine and he was convicted in any such case. He also denied that his father ever captured the house of anyone. He denied the suggestion that no such occurrence like present ever took place and also that his father was not in inimical terms with appellant/accused.

26. **PW-3 is Ramesh Rai.** He is the informant of this case and also the **son of the deceased.** He supported the date and time of the occurrence as stated in the FIR. At the time of occurrence, he was also returning to his home from his rice mill along with his father and when he came to Sarenja Mode, he saw that Ram Suresh Yadav @ Langa Yadav (appellant), Ashok Yadav, Baliram Yadav, Jitendra Yadav, Umesh Yadav, Hirdya



Yadav, Bihari Yadav, Sanjay Yadav, Ramashish Yadav and Sukhraj Devi were equipped with rifle in their hand, when he came near to them, Langa Yadav (appellant) fired upon him, in the meantime, his motorcycle also came closely to them, whereafter Ashok Yadav and Jitendra Yadav pulled his father from the motorcycle and thereafter Ram Suresh Yadav @ Langa Yadav fired on his skull from back, in his presence. Immediately, after receiving bullet shot his father fell down, whereafter Ashok Yadav and Jitendra Yadav fired on his chest. All persons were making fire in the air. Sukhraj Devi was also standing near to the place of occurrence and shouting to kill otherwise will again contest the election and when Langa Yadav (appellant) bolted rifle to fire upon him, he fled away to his home. He recorded his statement before police on same very day. He identified his signature on fardbeyan, which upon his identification, exhibited as **Exhibit '1'**. He also deposed that the occurrence took place due to election rivalry. He identified the appellant/accused in court.

26.1. Upon cross-examination, he stated that Umesh Rai (PW-2) is his own brother. After the occurrence, he went to his home, but he could not remember whether he talked with anyone or not. He could not even say that who were present in



the house. It was stated that he returned to the place of occurrence but could not stated about the time. He also stated that he remembered everything regarding the occurrence and he also made statement before the police that he was going on motorcycle. He could not said to police anything about the registration number of the motorcycle. There was no scratch on the motorcycle. He affirmed to depose earlier also in separate trial of this case, where he deposed that when he came near to Sarenja Mode, then he saw the accused persons. It was also affirmed that firing was made from 50 fts. It was also affirmed by him that he stated through FIR, that when he came near to accused persons, Ashok Yadav and Jitendra Yadav pulled his father from motorcycle but he remain seated. It was stated that at the time of first firing his father was sitting on the motorcycle and before second firing he was pulled from motorcycle, whereafter he had fled away. His father fell down immediately after receiving the bullet shot and by that time he was sitting on the motorcycle. It was stated that his father was accused in one NDPS Case, where he was acquitted from the High Court. He also supported the presence of Chhatvrati, where the occurrence took place. It was stated that he saw Langa Yadav (appellant) and other accused persons from a distance of 50 fts. It is further



stated that after the occurrence and before lodging FIR he met with Shashi Bhushan Rai (PW-1), Umesh Rai (PW-2), Ranglal Chouhan (PW-6), Suman Yadav, Baliram Yadav, Achyutanand Rai (PW-5), Shyam Bihari Rai (PW-8). They all met with him at the place of occurrence but he could not say that after passing what time he met with them at the place of occurrence. He remained at his house at about 10 minutes after the occurrence and he could not say whether in between he met with Umesh Rai (PW-2), Sourabh Rai (not examined), Abhishek Rai (not examined). Upon drawing his attention, he could not say that he deposed in another case related with same FIR qua another accused persons that within said 10 minutes he met with aforesaid persons. He could not say even the appellant was engaged in Chhath Puja on that day. It was stated that after the occurrence his motorcycle was seen by the Investigating Officer and Superintendent of Police, but no paper related with motorcycle was asked from him. He also stated that in the north of place of occurrence there is Tea stall of Ram Nath, Betal Shop of Panna Chourasiya, Litti Chokha of Hardeo Chouhan and Fish Shop of Mukhtiyar Chouhan. In south, there is saloon of Rajendra Thakur, betel shop of Chhathulal and fruit shop of Dipak Chouhan. He could not remember whether these



shopkeepers made statement before police or not. He recorded all his statement in FIR. He denied the suggestion that he did not said in FIR that at the time of occurrence he was on motorcycle. It was also stated that at the time of occurrence his father was wearing cream colour Kurta of Matka fibre. He could not say whether his cloth was seized by police or not. He denied the suggestion that his father was a heroine smuggler and no such occurrence took place as he deposed.

27. PW-4 is Dr. Anil Kumar Singh. He deposed that on the date of occurrence i.e. 02.11.2011, he was posted as Medical Officer at Sadar Hospital, Buxar and performed the post-mortem examination on the dead body of deceased Ranjeet Rai and found following anti-mortem injury, which are as under:

(i) Lacerated wound left lower chest 3" x 1¼" x organ deep with periphery of blackening with signing of heirs with inverted margin.

(ii) Lacerated wound left right parietal region below the costal margin 4½" x 2½" x skin deep with blackening at its external end with fatty tissue scattered over the margin.

(iii) Abrasion injury occipital region of skull in a diameter of 4 ½" with inverted margin fracturing



occipital temporal left parietals, sphnodial and nasal bones with lacerated margin with blackening at its left border brain matter found dram any out of the skull cavity.

A bullet 1¼” length and a bare diameter of 9 mm was recovered from the right chest cavity adhered to the posterior wall collected, sealed and leveled and handed over to the police personnel.

Body was brought and identified by constables Ram Asheri Singh and Jag Narain Singh, Right Eye semi closed left eye closed, small bleeding left nostrial and left ear.

Rigor mortis present in all the 4 limbs.

I to IV cervical vertebra fractured. Brain & Membranes – torn & anulged.

Larynx & Trachea – Severed at its upper end.

Lungs – Pale.

Heart – Both chambers empty.

Large vessels – Tributaries of carotids & Middle meningeal artiry severed.

Peritoneum – Torn, punctured wound left dome of diaphragm, O esophagus severed at its upper end.



Stomach – Semi digested food.

Liver – Pale

Spleen – congested.

Kidney – Pale

Bladder – Empty

other – N.A.D. (nothing abnormal detected)

*Cause of death – Hemorrhage & shock caused by fire
arm injuries.*

Time since death – between 4 to 24 hours.

28. It is further deposed by PW-4 that he has signed on the post-mortem report and identified the same and upon his identification, the report was marked as **Exhibit ‘2’**.

29. **PW-5 is Achyutanand Rai.** He is also supported the date and time of the occurrence as 01.11.2011 and 4:45 P.M. respectively. It was deposed by him that while he was returning from Buxar, after taking medicine from his Jeep and going to Sarenja, he saw rucus there and people were saying that his brother Ranjeet Rai was killed by Langa Yadav (appellant) gang. He found his brother dead. It was deposed that police prepared inquest report of his dead brother, which he signed. He also identified his signature over there. It was said that the occurrence took place due to election related enmities.



29.1. Upon cross-examination, he stated that he disclosed the name of persons to police, who said him about the occurrence. He recorded his statement before police at about 8:30 PM on the date of occurrence and by that time, inquest report was already prepared. It was also stated by him that one of the female family members lost election in the hand of Sukhraj Devi (wife of the appellant), against which she also filed appeal, which was rejected.

30. **PW-6 is Ranglal Chouhan**, who supported the date and time of occurrence as mentioned in the FIR. At the time of occurrence, he was standing on the Betel shop near to place of occurrence and saw that Ram Suresh Yadav @ Langa Yadav (appellant), Jitendra Yadav, Ashok Yadav and other accused persons were standing there, equipped with rifle. He also deposed that Ramesh Rai (PW-3) was coming from eastern side along with his father on motorcycle. Langa Yadav (appellant), Jitendra Yadav and Ashok Yadav stopped the motorcycle and dragged Ranjeet Rai from motorcycle, whereafter the appellant fired on the backside of the skull of Ranjeet Rai by his rifle. Jitendra and Ashok Yadav also fired on his chest. Sukhraj Devi said to kill Ramesh Rai (informant). Whereafter, everyone started to fire indiscriminately, but



Ramesh Rai fled away, whereafter the accused persons also fled away in western side. He also supported by saying that the occurrence took place in the background of enmities arising out of panchayat election. He also signed the inquest report of Ranjeet Rai. He identified the signature over the carbon copy, which upon his identification exhibited as **Exhibit 1/1A and Exhibit 1/2**. He identified the accused persons.

30.1. Upon cross-examination, he deposed that he signed the inquest report on the next day and Achyutanand Rai (PW-5) also signed with him. He made statement to police on 03.11.2011. He denied the suggestion that he never made statement before police that Langa Yadav (appellant), Jitendra Yadav and Ashok Yadav pulled Ranjeet Rai from motorcycle and thereafter Ram Suresh Yadav @ Langa Yadav (appellant) shot on the back of his head, whereafter, Jitendra and Ashok Yadav fired on his chest. He could not name the shopkeeper of the Betel shop, where he was standing. He affirmed that he made statement before police that Ramesh Rai @ Pintu started to flee away with motorcycle but it was pulled by back and thereafter the firing was made, resultantly deceased fell down from the motorcycle. He also stated that Ramesh Rai fled with motorcycle and was fled in the same direction in which the



accused persons were fled away and by that time Ranjeet Rai was lying on the road. He also affirmed that he made statement before police that Sukhraj Dev was shouting to kill Ramesh Rai also. He denied the suggestion that he is deposing as the deceased Ranjeet Rai was his accomplice in heroine smuggling case. It was stated that while he was eating betel, no one was on the road. He denied that the witnesses are known to Ranjeet Rai being the person of same criminal profile.

31. **PW-7 is Brij Mohan Rai.** He was the **younger brother** of the deceased Ranjeet Rai. He deposed that the occurrence is of 01.11.2011. It was around 4:45 P.M. He deposed that while he was going to rice mill by foot and reached Sarenja Mode, he saw that Ram Suresh Yadav, Ashok Yadav, Jitendra Yadav, Baliram Yadav, Umesh Yadav, Sukhraj Dev, Sanjay Yadav, Hirdya Yadav, Ramashish Yadav and Bihari Yadav all equipped with rifle in their hand were standing. At the same time, Ramesh Rai (informant) was coming with his elder brother Ranjeet Rai (deceased) on motorcycle and when they reached near to Pakar tree, Ashok Yadav and Jitendra Yadav dragged Ranjeet Rai from motorcycle, whereafter Ram Suresh Rai fired one shot on his skull and, thereafter, Ashok Yadav and Jitendra Yadav each of them fired one bullet on his chest. He



deposed that Sukhraj Devi, who was standing nearby, said the accused persons to kill Ramesh Rai also. He further deposed that after the occurrence Ramesh Rai fled away from there. He deposed that the alleged occurrence took place due to panchayat election. He stated that he identified the Ram Suresh Rai, Ashok Rai and other accused persons.

31.1. **Upon cross-examination**, he disclosed that police had taken his statement and he never said to police that the time of occurrence was 5:00 P.M. and not 4:45 P.M. He deposed to saw that as he reached near Pakar tree Ashok Yadav and Jitendra Yadav took off, Ranjeet Rai from his motorcycle, whereafter Ram Suresh Yadav shot at his skull and thereafter Ashok and Jitendra shot at his chest and Sukhraj Devi, who was present there, ordered the accused persons to kill Ramesh Rai (PW-3) also, thereafter Ramesh Rai fled away from the place of occurrence by taking his motorcycle. PW-7 further deposed that the distance between Sarenja Mode and Pakar tree is about 70 feets and accused persons were standing at Sarenja Mode. He deposed that he was the co-accused along with Surendra Kumar Jaiswal, Ranjit Rai, Uchhatanand Rai, Sachhitanand Rai, Ranglal Nonia, Umesh Chandra Rai, Manoj Rai in the case of smuggling of Heroine. He deposed that he had



met with Ramesh Rai at 5:00 P.M. and told him that he has seen the occurrence. He further stated that Sukhraj Devi had defeated his Bhabhi namely, Shail Kumari Devi in panchayat election, against which they had filed appeal also. Lastly, he deposed that the occurrence took place due to election disputes.

32. **PW-8 is Shyambihari Rai.** Who is the Investigating Officer of this case. He deposed that on 01.11.2011, while posted as the Station House Officer of Rajpur Police Station, he took over the investigation of Rajpur P.S. Case No. 121 of 2016. Upon assuming charge, he first inspected the place of occurrence situated at Sarenja Bazaar on the northern side of the Buxar–Kochas main road. He stated that a large quantity of blood was found scattered at the place of occurrence and the surrounding soil was soaked with blood. He further described the topography of the place of occurrence by stating that the road at the relevant place runs from east to west and, at a distance of about 10 feet south from the place of occurrence on the road, the dead body of Chhathu Lal Chaurasia, resident of Sarenja, was lying.

33. He further deposed that near the place of occurrence there was a Betel Shop and Pakad tree. He stated that Rajendra Thakur, resident of Sarenja, had a saloon there;



west of the saloon there is laundry and ironing shop of Suresh Dhobi; and in east there is partly constructed house of Siddhi Chauhan. He further stated that towards the north of the place of occurrence there is a hut-like tea and snacks shop of one Ramnath Kurmi, adjacent to which in the western side there was *Paan* stall of Madan Keshari, whereas to the east of Ramnath Kurmi's tea stall there was the *Paan* stall of Madan Kasera. Adjacent of which another "Pakad tree" and a hut-like litti and fish shop belonging to Mukhtar Chauhan @ Sadhu is there. He stated that he prepared the sketch map of the place of occurrence.

34. The witness further stated that he seized the blood-stained soil from the place of occurrence after preparing a proper seizure list. He recorded the re-statement of the informant and also recorded the statements of witnesses namely Shashibhushan Rai, Brijmohan Rai, Ranglal Chauhan, Shyam Bihari Rai, Umesh Rai and Sachchidanand Rai, all of whom supported the prosecution case during investigation. He further deposed that during the course of investigation, he found that accused Ram Suresh Yadav @ Langa Yadav had criminal antecedents involving five cases relating to murder and other offences. He obtained the post-mortem report and sent the



blood-stained soil to the Forensic Science Laboratory for examination.

35. Upon completion of investigation, finding the occurrence to be true, he submitted charge-sheet against accused Sanjay Yadav, Bihari Yadav, Hridaya Yadav and Ramashish Yadav under Sections 302, 120-B/34 of the Indian Penal Code and Section 27 of the Arms Act, while accused Ram Suresh Yadav @ Langa Yadav, Ashok Yadav, Mukhiya Sukhraj Devi and Jitendra Yadav by showing them absconders.

36. The witness further proved the documentary exhibits. He stated that the fardbeyan of the informant was recorded by Shailendra Kumar Mandal, the then Sub-Inspector of Rajpur Police Station, and endorsement thereon was made in his handwriting and signature, which he identified. The fardbeyan along with endorsement was marked as **Exhibit-3**. He further deposed that the formal F.I.R. was in the handwriting of constable Arun Kumar Srivastava bearing his signature, which was marked as **Exhibit-4**. He also identified the inquest report prepared by the then Sub-Inspector Jagnarayan Singh Yadav in his handwriting and signature, which was marked as **Exhibit-5**. He further identified the seizure list relating to seizure of blood-stained soil prepared in the handwriting and



signature of Sub-Inspector Shubhnarayan Tiwari, bearing his own signature as well, which was marked as **Exhibit-6**.

36.1. In his cross-examination, he stated that on 01.11.2011 he was present at Rajpur Police Station, where he received the fardbeyan recorded by Shailendra Kumar Mandal. He admitted that among the witnesses named in the F.I.R., namely Shashibhushan Rai, Umesh Rai, Achutanand Rai and Ranglal Chauhan, only Shashibhushan Rai had signed the fardbeyan and their signatures are indicative of the fact that the informant had given the statement in their presence. The witness further deposed that he recorded Station Diary Entry No. 1 on 01.11.2011 and Diary Entry No. 2 on 02.11.2011. He stated that in paragraph 27 of the case diary he recorded the statement of Shashibhushan Rai and in paragraph 26 he again recorded the statement of Ramesh Rai. He further stated that investigation was initiated on the basis of the F.I.R. and the occurrence report. According to him, the inquest report was prepared in paragraph 2 of the case diary and the same bear signatures of Ranglal Chauhan and Achutanand Rai. He further stated that the dead body was lying about 15–16 feet east of Sarenja Mod near a Pakad tree. He admitted that he had not explained the scale or meaning of “one foot” in the sketch map. He denied the



suggestion that the body was lying at a distance of 60–70 yards and reiterated that it was lying only 15–16 feet away. He further stated that though it was not mentioned in the F.I.R. that deceased and informant was coming on motorcycle, but same was subsequently mentioned during investigation. The witness deposed that after receiving the F.I.R., he inspected/visited the place of occurrence and thereafter left for the house of the informant at about 20:35 hours, reached there at about 23:35 hours and left at about 23:55 hours after completing the writings of case diary on 01.11.2011. He further stated that on 02.11.2011 he conducted raids at the houses of accused Ram Suresh Yadav, Ashok Yadav, Sukhrajon Devi and Baliram Yadav. Thereafter, he went to Atta village at about 2:10 A.M., to Ekhtar at about 3:41 A.M., and to Madhanian at about 4:15 A.M., before returning to the police station. He again visited Sarenja village at about 7:10 A.M., inspected the place of occurrence, prepared the sketch map and also prepared the seizure list. He further admitted that after inspecting the place of occurrence he again recorded the statement of Ramesh Rai. He stated that in paragraph 2 of the case diary, the name of the assailant was not mentioned and that the information recorded therein was based on hearsay. He expressed inability to state



whether an F.I.R. could be instituted solely on the basis of hearsay information. The witness further stated that paragraphs 1 and 2 of the case diary were written in his own handwriting. According to him, the fardbeyan was received at the police station at about 8:10 P.M., though the statement itself had been written at about 4:00 P.M. He admitted that no progress had taken place in the case between 8:00 P.M. and 10:10 P.M. He also admitted that the case diary did not mention whether any police personnel were present at the place of occurrence between 9:00 P.M. and 10:10 P.M. He further stated that paragraph 3 of the F.I.R. mentioned that the dead body was lying on the Buxar–Kochas main road near Sarenja Mode. The witness further stated that Ramnath Kurmi had merely stated before him that there was an election-related dispute between the parties. He also deposed that Shashibhushan Rai had stated in paragraph 27 of the case diary that he used to visit his Katra, situated about 100–150 yards east of the place of occurrence, almost every evening and sit there for some time, and that he had heard that such Katra belonged to Shashibhushan Rai. He further admitted that Shashibhushan Rai had not stated before him that Ashok and Jitendra came near to motorcycle, and Ram Suresh Yadav @ Langa Yadav fired at the deceased from behind



on his skull, or that Sanjay Yadav, Ramashish Yadav, Hridaya Yadav and Jitendra Yadav fled away under firing. He also admitted that Umesh Rai was not a named witness in the F.I.R. and that Umesh Rai had not stated in paragraph 34 of the case diary that Jitendra and Ashok had pulled his father from the motorcycle and shot him in the chest, nor that Raju had exhorted others by saying, "What are you waiting for, shoot him too." He further admitted that the F.I.R. did not contain any statement of Ramesh Rai to the effect that while he was travelling on a motorcycle with his father, Ashok Yadav and Jitendra Yadav came there and made his father get down from the motorcycle while he himself was sitting on it. He further stated that he had recorded the statement of Nandlal Chauhan in paragraph 29 of the case diary. According to him, Nandlal Chauhan had not stated before him that Langa Yadav, Ashok and Jitendra had made the deceased dragged from the motorcycle, and Ram Suresh Yadav fired at the back of his head, that Jitendra and Ashok fired at his chest, or that when Ramesh Rai @ Pintu attempted to flee with the motorcycle, he was dragged from it and shot at. He further admitted that Nandlal Chauhan had not stated that after occurrence accused persons fled away with motorcycle while Sukhrajon Devi was exhorting them to kill



Ramesh Rai as well. The witness further deposed that paragraph 24 of the case diary related to inspection of the place of occurrence and that such inspection was conducted on the day following the occurrence. He stated that he did not find any sign of trampling upon the blood lying at the place of occurrence and that he had seized the blood-stained soil therefrom. He further stated that he did not know whether the deceased Ranjit Rai, Brijmohan Rai, Achutanand Rai and Ranglal Chauhan had ever been arrested in a heroin case at Rajpur Police Station. He also expressed ignorance as to whether the post-mortem examination of the deceased had been conducted on the orders of the District Magistrate. Lastly, he denied the suggestion that the place of occurrence as stated by him was incorrect.

37. **PW-9 is Brajkishore Singh**, an Assistant Sub-Inspector of Police, deposed to produce station diary of Rajpur Police Station containing entries from 25.09.2011 to 26.11.2011, before the court. He stated that the station diary entry dated 01.11.2011 recorded at 17.05 hours, lodged on the basis of rumour, which was in the handwriting of the then Station House Officer , Sub- Inspector V. Prasad, whose handwriting and signature was identified by him. The said station Diary entry



was marked as **Exhibit 09**.

38. The witness further deposed that the police force had left the Police Station on the basis of information received through rumours communicated by some person. He also stated that the “Sanha entry” did not contain the name of any accused.

Conclusion

39. Having heard learned counsel appearing on behalf of the parties and upon perusal of evidence/material available on the record, it appears to us that the first and foremost issue which is required to be examined is whether PW-1, PW-2, PW-3 (informant), PW-5, PW-6 and PW-7 are chance and independent witnesses to the occurrence or their presence at the place of occurrence is doubtful. It is also to be examined that whether their testimony to be discarded being interested witness to the occurrence as they are relatives or in inimical terms with the appellant/accused.

40. In this context, it would be apposite to refer the testimony of PW-1 who categorically stated that PW-2 namely, Umesh Rai and PW-5 namely, Achyutanand Rai came at the place of occurrence after the occurrence i.e. after the alleged murder. In view of same, testimony of PW-2 and PW-5 claiming themselves as eye witnesses to the occurrence and claimed their



presence during the occurrence as a matter of chance at Sarenja Mode, which is the place of occurrence appears doubtful.

41. Now, coming to the testimony of PW-1, it can be gathered safely that he also claimed as an eye witness of the occurrence and claimed their presence near to the place of occurrence as a matter of chance. It appears that he is the signatory of fardbeyan/FIR along with PW-3. In FIR, PW-3 being informant of the case, nowhere mentioned that he was coming on motorcycle along with his deceased father, rather he stated that he was returning to his home from his Rice-Mill and as he came to Sarenja main road, he saw a gathering of 8-9 persons equipped with fire-arm and appellant including two accused persons namely, Jitendra Yadav and Ashok Yadav fired on his father. It is also stated thereof that Baliram Yadav ordered to fire upon the informant (PW-3). Threat was also advanced by co-accused Sukhraj Devi, who won the panchayat election, where family member of the informant namely, Shail Kumari Devi was defeated. It is also stated that litigation is pending between the parties prior to the occurrence, which was asked to withdraw by the appellant/accused and his family members.

42. In the background of this statement of FIR, PW-1 stated that he was taking tea at the Tea Stall and the informant



was coming along with his father on motorcycle. Without saying anything, first firing was made by this appellant/accused in air. He straightway stated that the appellant/accused fired upon Ranjeet Rai which hit on the backside of his skull, whereafter he fell to the ground immediately, whereafter Ashok Yadav and Jitendra Yadav fired one by one each on Ranjeet Rai. He also stated that Ashok Yadav and Jitendra Yadav bolted their rifles to fire upon PW-3 contrary to the statement made in FIR. This fact appears completely improved over the statement in FIR. He could not denied the statement of fardbeyan of PW-3 as he identified his signature over there. He also affirmed his statement given to police that he heard about 5-6 round of firing, when he was at the distance of about 100 yards from the place of occurrence. From the case of prosecution, it appears that it is a case where maximum of four firing was alleged to made. One firing by this appellant which was made in air, missed the target, second firing was made by this appellant only when the deceased came near to him, which hit to the back of his head and the third and fourth firing was made by the co-accused Ashok Yadav and Jitendra Yadav, one firing by each, which hit on the chest of the deceased. Thus, by taking note of his improved version contrary to the FIR and also that he was in



inimical terms with accused/appellant, his presence as chance witness appears doubtful at the place of occurrence.

43. PW-3/informant for the first time, testified before the court that he was coming alongwith his father on the motorcycle. He stated that the appellant Langa Yadav bolted rifle to fire upon him, whereafter he fled away from the place of occurrence. This statement of PW-3 is an improved version as no such statement was made in the FIR. It also appears that immediately after the occurrence, he fled away from the place of occurrence and went to his home. An Attention was also drawn to him regarding his statement which is the basis of FIR, but he said that it was Ashok Yadav and Jitendra Yadav who pulled his father from the motorcycle. He was remained seated there and first firing could not hit his father and he was pulled from motorcycle before second firing, whereafter he had fled away.

44. All such aforesaid contradictions were put to PW-8 by defence, who is the Investigating Officer of this case, as to whether any such statements were made by PW-3, during investigation, which was denied and said that no such statement was made by him during investigation, which makes his credibility doubtful.

45. It was vehemently argued by learned counsel



appearing for the informant that medical evidence appears in full corroboration with ocular evidence as one gunshot injury was found in the back of the head of the deceased and two gunshot injuries were found on the chest. PW-4 who is a doctor and conducted post-mortem upon deceased categorically stated that injury no. 2 is not the entry wound of bullet.

46. In terms of clear cut deposition of PW-4, specific case of prosecution becomes doubtful as almost all prosecution witnesses including informant (PW-3) testified that co-accused Ashok Yadav and Jitendra Yadav each fired one bullet on the chest of his father when he fell to the ground after receiving first bullet injury in the back of his skull fired by appellant/accused. Obviously, this testimony also support that the firing was made from the very close range while the father of informant was lying on the ground. In such circumstances, the missing of bullet injury does not arise. Having all probability to hit the chest of the deceased, finding of only one gunshot injury makes a serious doubt qua prosecution case to the extent that the informant (PW-3) was the eye witness of the occurrence.

47. PW-6 and PW-7 also testified their presence near to the place of occurrence as a matter of chance. Both of them claimed eye witness to the occurrence. He stated that at the time



of occurrence he was standing at the Betel shop near to the place of occurrence. He stated that this appellant along with Jitendra Yadav and Ashok Yadav stopped the motorcycle and dragged Ranjeet Rai from motorcycle. Sukhraj Devi said to kill Ramesh Rai (PW-3). Whereafter, everyone started to fire indiscriminately upon PW-3 but he fled away. He is the witness of the inquest report also.

48. In the aforesaid context, it would be apposite to reproduce **para 13** of **Punimati's case (supra)**, which reads as under:

“**13.** It is a well-settled law that merely because the witness is an interested or related witness, his/her deposition cannot be discarded. Further, deposition of such witnesses is required to be scrutinized closely. As such, we have closely scrutinized the deposition given by PW-4, who is the mother of the deceased. As observed hereinabove, there are material contradictions in her deposition regarding the manner in which the incident took place and with regard to which the information about the incident was given by her granddaughter.”

49. It would further be apposite to reproduce **para 58** of **Kannaiya's case (supra)**, which reads as under:

“**58.** In this regard, reference may be made to the decision of this Court in Pankaj v. State of Rajasthan [(2016) 16 SCC 192], wherein it was emphasised that when the genesis and manner of the incident itself are doubtful, conviction cannot be sustained. The Court held as under: -



“25. It is a well-settled principle of law that when the genesis and the manner of the incident is doubtful, the accused cannot be convicted. Inasmuch as the prosecution has failed to establish the circumstances in which the appellant was alleged to have fired at the deceased, the entire story deserves to be rejected. When the evidence produced by the prosecution has neither quality nor credibility, it would be unsafe to rest conviction upon such evidence. After having considered the matter thoughtfully, we find that the evidence on record in the case is not sufficient to bring home the guilt of the appellant. In such circumstances, the appellant is entitled to the benefit of doubt.”

(Emphasis Supplied)

50. Admittedly, the occurrence took place on first day of Chhath Puja in a busy market place where witnesses claimed their presence as a matter of chance on Betel shop or Tea Stall, but they could not disclose the name of peoples present over their and as such appears failed to explain adequately their presence at place of occurrence.

51. In this context, it would be apposite to reproduce **para 26 of Rajendra Singh’s case (supra)**, which reads as under

26. This Court, in several decisions, while considering the evidentiary value of a chance witness, has held that the deposition of a chance witness whose presence at the place of incident is doubtful should be discarded, or at least be treated with great caution and close scrutiny. Such a chance witness must adequately



explain his presence at the place of incident, which has not been satisfactorily done in the instant case.

52. In the present case, all the prosecution witnesses are either immediate family members or are in admitted inimical terms with the informant. The occurrence admittedly took place in the backdrop of Mukhiya Panchayat election. Therefore, possibility of false implication of accused cannot be ruled out outrightly. Further, the inconsistency regarding exact manner of occurrence, positioning of witnesses and the participation of accused *qua* crime in question was also overlooked by the learned trial court. In this context, it would be apposite to mention that allegation of firing appears to be general as per fardbeyan of the informant, but while deposing before the court, the informant raised specific allegation of firing against the accused/appellant. It also appears from the FIR that he arrived at the place of occurrence alone but to set a new theory while deposing before the court he added that he was coming towards the place of occurrence with his father, where the accused persons were assembled including the appellant, on motorcycle, where his deceased father was a pillion rider. These two major important improvements *qua* occurrence and involvement of appellant makes their testimony doubtful as much not “**wholly reliable**” being “**interested witness**”.



53. In this context, it would be apposite to reproduce **para 32 & 33** of legal report of Hon'ble Supreme Court as available through **Nand Lal v. State of Chhattisgarh** reported in **(2023) 10 SCC 470**, which reads as under:

32. Undisputedly, the present case rests on the evidence of interested witnesses. No doubt that two of them are injured witnesses. This Court, in *Vadivelu Thevar v. State of Madras* [*Vadivelu Thevar v. State of Madras*, 1957 SCC OnLine SC 13 : 1957 SCR 981 : AIR 1957 SC 614] , has observed thus : (AIR p. 619, paras 11-12)

“11. ... Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

(1) Wholly reliable.

(2) Wholly unreliable.

(3) Neither wholly reliable nor wholly unreliable.

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.”

33. It could thus be seen that in the category of “wholly reliable” witness, there is no difficulty for the prosecution to press for conviction on the basis of the testimony of such a witness. In case of “wholly unreliable” witness, again, there is no difficulty, inasmuch as no conviction could be made on the basis of oral testimony provided by a “wholly unreliable” witness. The real difficulty comes in case of the third category of evidence which is partly reliable and partly unreliable. In such cases, the court is required to be circumspect and separate the chaff from the grain, and seek



further corroboration from reliable testimony, direct or circumstantial.

54. It would further be apposite to reproduce para 22 of the legal report of Hon'ble Apex Court as available through **Khema alias Khem Chandra and Others Vs. State of Uttar Pradesh** reported in **(2023) 10 SCC 451**, which reads as under:

“22. We are conscious that on the ground of minor inconsistencies, the evidence of Inder (PW 2) cannot be brushed aside. However, it is to be noted that there are material improvements in his evidence. His evidence therefore is required to be scrutinised with greater caution and circumspection. It is further to be noted that even according to the prosecution, there is previous enmity between the accused and the deceased. As held by this Court in *Ramashish Rai v. Jagdish Singh* [*Ramashish Rai v. Jagdish Singh*, (2005) 10 SCC 498 : 2005 SCC (Cri) 1611] , previous enmity is a double-edged sword. On one hand, it provides motive to the crime and on the other, there is a possibility of false implication.”

55. This Court is conscious that the occurrence resulted in loss of human life and that criminal law must respond sensitively to such grave offences. Yet, the solemn duty of a constitutional court is to ensure that conviction rests on legal proof i.e. proof of guilt/charge beyond reasonable doubt and, therefore, the trajectory of charge as raised against appellant/accused starting from “may be true” must be rest on “must be true” as to secure the conviction and if any doubt surfaced during the trial, the benefit of doubt must be extended to the accused/appellant.



56. In the present case, despite occurrence took place at busy market place, non-examination of independent witnesses, rather of interested witness, non-explanation *qua* presence of these witnesses at the place of occurrence being chance witnesses, previous enmity arising out of local panchayat election collectively creates a doubt *qua* conviction of accused/appellant by the learned trial court as same appears not appreciated in view of settled legal propositions of Hon'ble Supreme Court, as discussed aforesaid.

57. In view of the facts and circumstances, as discussed above, we arrived upon conclusion that conviction and sentence of the appellant-accused cannot be said to be sustainable in the eye of law.

58. Accordingly, extending the benefit of doubt as the prosecution has failed to answer several important aspects during trial as to connect the appellant-accused with crime in question beyond reasonable doubts, hence, impugned judgment of conviction dated 29.08.2018 and order of sentence dated 31.08.2018 passed by learned Additional District and Sessions Judge, VI, Buxar in connection with Sessions Trial No. 114 of 2016 arising out of Rajpur P.S. Case No. 121 of 2011 is hereby set-aside.



59. The appellant, namely, Ram Suresh Yadav @ Langa Yadav is acquitted of the charges levelled against him by the learned trial court. He is directed to be released forthwith, if his presence is not required in any other case.

60. The appeal stands allowed.

61. Let a copy of this judgment alongwith the Trial Court Records be sent to the learned Trial Court forthwith.

(Chandra Shekhar Jha, J.)

Bibek Chaudhuri, J.:- I agree.

Rajeev/-

(Bibek Chaudhuri, J.)

AFR/NAFR	AFR
CAV DATE	07.05.2026
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