IN THE HIGH COURT OF JHARKH AND AT RANCHI

Cr. Appeal (S.J.) No. 1498 of 2005

[Against judgment and order of conviction and sentence dated 30.11.2005/02.12.2005 passed by learned 1st Additional Sessions Judge, Jamshedpur in S.C. No.30 of 2004]

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1. Anil Singh @ Anil Kumar Singh
2. Ajay Kumar Singh @ Pappu Singh

Both are sons of Prabhakar Singh, Resident of Panchawati Road, Baridih, Police Station-Sidhgora, Town-Jamshedpur, District-Singhbhum(East)

…… Appellants

Versus

The State of Jharkhand …. Respondent

For the Appellants : Mr. A.K. Chaturvedi, Advocate
For the Resp.-State : Mr. Shailesh Kr. Sinha, A.P.P.
For the Informant : Mr. Indrajit Sinha, Advocate
Mr. Akhouri Awinash Kumar, Advocate
Mr. Souma Ranjan Mukherjee, Advocate
Mr. Kaushik Chakraborty, Advocate

PRESENT
CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

CAV On 18/09/2026 **Pronounced On 06/11/2026**

1. Heard Mr. A.K. Chaturvedi, learned counsel for the appellants and learned A.P.P. assisted with Mr. Indrajit Sinha, learned counsel for the informant.

2. Instant criminal appeal is directed against the judgment and order of conviction and sentence dated 30.11.2005/02.12.2005 passed by learned 1st Additional Sessions Judge, Jamshedpur in S.C. No.30 of 2004, whereby and whereunder, the appellants have been held guilty for the offence under sections 326 and 307 of IPC and Section 27 of Arms Act

and have been sentenced to undergo R.I. 5 years for the offence under each section 307 and 326 of IPC and R.I. for 3 years for the offence under section 27 of Arms Act. All the sentences were directed to run concurrently. However, the appellants have been acquitted from the charge under sections 387/120B of IPC.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that on 18.03.2000 at about 7:45 am, the informant-cum-injured proceeded on his scooter to auction yard but before going to auction yard, he reached at Mahavir temple situated near railway station over bridge, Jamshedpur for offering *puja* and just after offering *puja*, he moved towards his scooter, the accused Anil Singh and his brother, Ajay Singh reached there on a motorcycle bearing Reg. No.BET-8061 and opened six rounds fire on the informant, Raj Kumar Singh and he sustained three bullet injuries on his wrist and left shoulder. It is further alleged that other two persons having in possession of revolver were present there. Thereafter, all the miscreants managed to escape on their motorcycle. All the people present there and passerby have witnessed the incident. He was taken to T.M.H for treatment. The *fardebayan* was recorded by S.I. Arvind Kumar in T.M.H. on 18.03.2000 at 10.30 am in presence of Gopal Singh, Ramchandra Singh, Pappu Singh and Ravi Singh. It is alleged that Anil Singh and others were demanding *rangadari* tax and in presence of the aforesaid, they have committed the said crime.

4. On the basis of the above *fardbeyan* of the informant, Jugasalai (Bagbera) P.S. Case No.33 of 2000 was registered against the accused persons for the offence under sections 326, 307, 387/34 of IPC and under section 27 of Arms Act.
5. The charge of investigated was given to S.I. Arvind Kumar to investigate this case and after completion of investigation, charge-sheet was submitted against the accused persons and after taking cognizance, the case was committed to the court of Sessions where S.T. No.30 of 2004 was registered.
6. The accused persons have denied the charges leveled against them and claimed to be tried.
7. In course of trial, altogether 8 witnesses were examined by the prosecution, namely:-

   P.W.1-Pappu Singh

   P.W.2-Raju Singh

   P.W.3-Dr. S Rawat

   P.W.4-Gopal Singh

   P.W.5-Raj Kumar Singh (injured)

   P.W.6-Dhananjay Kr. Tiwari

   P.W.7-Ram Babu Tiwari

   P.W.8-S.I. Arvind Kumar (I.O.)

8. Apart from oral testimony of the witnesses, the following documentary evidences have been adduced by the prosecution.

Ext.1-Signature of Pappu Singh on *fardbeyan*

Ext.1/1-Signature of Raju Singh on *fardbeyan*

Ext.1/2-Signature of Gopal Singh on *fardbeyan*

Ext.1/3-Signature of Raj Kumar Singh (victim) on *fardbeyan*

Ext.2-Injury Report

Ext.3-Signature of Ram Babu Tiwari on seizure list

Ext.4-Fardbeyan

Ext.1/4-Signature of Officer-in-charge on FIR

Ext.5 to 5/1-Seizure lists of blood stained shirt and Rajdoot motorcycle bearing No.BET-8061

9. On the other hand, one defence witness, namely, **Bijay Kumar Singh** has been examined as **D.W.1** by the defence.

10. Apart from oral testimony of defence witness, three documentary evidences have been adduced by the defence i.e.

Ext.A-Certified copy of order-sheet of G.R. Case No.495 of 2000 dated 23.03.2000

Ext.A/1-Certified copy of order sheet of G.R. Case No.495 of 2000 dated 01.04.2000

Ext.B-Certified copy of confession of Sanjay Singh in G.R. Case No.495 of 2000.

11. Learned trial court, after scrutinizing the evidence available on record, held the appellants guilty for the aforesaid offences and sentenced them as stated above, which has been assailed in this appeal.

Submission on behalf of appellants:-

12. Learned counsel for the appellants has strenuously argued that the motive behind the occurrence is of *rangdari*, which was demanded by the accused persons from the informant, but nothing has been brought on record to substantiate the allegation as alleged by the informant. Learned counsel for the appellants has further submitted that there are many contradictions and discrepancies in the evidence of the informant and other witnesses. It is further submitted that P.W.6 and P.W.7 are hearsay witness and they turned hostile during trial while other witnesses P.W.1, P.W.2 and P.W.4 are also interested and hearsay witnesses of this case and came to know about the incident from the informant-cum-injured during recording of his *fardbeyan* at Hospital. It is further submitted that two constables, who were on duty near the place of occurrence, have also not been examined in this case**,** which caused prejudiced to the defence. Learned counsel for the appellants has further submitted that the blood-stained articles, which were recovered from the place of occurrence, have not been sent for chemical examination nor produced before the court. Even, no empty bullets and pellets were recovered from the place of occurrence as has been admitted by the Investigating Officer of this case in his cross-examination. Learned trial court has miserably failed to properly appreciate the evidence available on record and wrongly held guilty the appellant for the aforesaid offence. Therefore, the impugned judgment

and order of conviction and sentence of the appellants is liable to be set aside, allowing this appeal.

Submission on behalf of the State:-

13. Learned A.P.P. has opposed the aforesaid contentions raised on behalf of the appellants and has submitted that learned trial court has very wisely and aptly considered the oral as well as documentary evidence available on record and arrived at right conclusion. Therefore, there is no illegality or infirmity in the impugned judgment and order of conviction and sentence of the appellants calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

Analysis, Reasons and Decision:-

14. I have gone through the record of the case along with the impugned judgment and order in the light of the contentions raised on behalf of both side.

15. The only point for determination in this appeal is "**as to whether the impugned judgment and order of conviction and sentence of the appellants passed by learned trial court suffers from any error of law calling for any interference in this appeal?**"

16. Before adjudicating the above point, it is necessary to take brief resume of oral as well as documentary evidence adduced by the prosecution to substantiate the charges leveled against the appellants.

The most important witness of this case is the informant-cum-injured **Raj Kumar Singh**, who has been examined as **P.W.5**.

According to his evidence, the occurrence is of 18.03.2000 at about 8:05 am, when he moved towards his scooter after offering puja near Mahavir Mandir, then Anil Singh, Ajay Singh and other unknown person came there on two motorcycles and opened fire at him six rounds as a result of which he sustained three bullets injuries on his wrist and right shoulder. He further states that other accused persons fled away from there firing in the air. Thereafter, he was taken to T.M.H. for treatment. He further states that the accused Anil Singh was demanding Rs.1 lakh from him as *rangadari*.

In his cross-examination, he admits that he came to know about Sanjay Singh from the police officer after the incident. However, he was known to Anil Singh and Ajay Singh for 15 days before the incident when they came to his house and threatened for not doing work in TISCO, if he would not pay one lakh rupee as *rangadari* to them and also threatened for dire consequences. In between 15 days, they again demanded the money on phone calls twice but he did not inform the said incident to anyone. He further admits that on the date of occurrence, he was near Hanuman temple and there was no shop in the east and west side but he again said that there was a shop beside the temple and shown his ignorance about the directions. He further admits that there were 20-25 shops near the place of occurrence and he stopped his scooter in front of the Mahavir Mandir and he prayed to Hanuman Ji and as he was about to start the scooter, the assailants came from his

behind and stopped their motorcycles in front of him and at a distance of 6 ft they opened fire at him three rounds, which hit his left shoulder and wrist. He further admits that only Anil Singh has opened fire at him. He further admits that during treatment, S.P., Jamshedpur was present at T.M.H. and his *fardbeyan* was recorded by Inspector and in *fardbeyan*, he has disclosed the name of two persons and he did not know about other two persons. He further admits that after 5-6 days, he was discharged from the hospital. During inquiry, he has disclosed the name of accused persons before S.P., Jamshedpur. He has denied the suggestion of defence that Anil Singh was not in Jamshedpur. It is not true that due to business rivalry, he has falsely implicated the accused persons in this case.

P.W.1-Pappu Singh is a hearsay witness from his brother, who is the informant of this case. He has received the information about the incident of firing at his brother, Raj Kumar Singh on phone. Thereafter, he went to T.M. Hospital and saw his brother sustaining firearm injury and the police was recording his *fardbeyan*. He further states that Anil Singh and Ajay Singh always came to his house and demanded *rangadari* from his brother and also used to threaten for dire consequence. He has put his signature on *fardbeyan* marked Ext.1.

There is nothing in his cross-examination to rebut the above testimony.

P.W.2.Raju Singh is also a hearsay witness and he has also reiterated the same as alleged in the FIR and there is nothing in his cross-examination.

P.W.3-Dr. S. Rawat has examined the informant-cum-injured, Raj Kumar Singh (P.W.5) and found following injuries:-

There were two wounds of bullets over exterior aspect of upper fore left arm. There was cutting wound of enter over the ulnar border of left hand distal to the wrist. Patient was fully conscious and clinically. There was neurovascular deficit. Patient had also a lacerated wound 3" x 2" over the scalp with occipital region. X-ray showed two radiopaque shadows in the region of left shoulder and upper third left arm with comminuted fracture of left shoulder. There was another radiopaque shadow in the region left wrist. After surgical exploration, three radiopaque shadows were found to be that of bullets.

He has opined injuries to be grievous in nature and proved the injury report as Ext.2.

P.W.4-Gopal Singh is the hearsay witness from his brother, who is the informant of this case. He has reiterated the same prosecution story as alleged in the FIR.

P.W.6-Dhananjay Kr. Tiwari and P.W.7-Ram Babu Tiwari are hearsay witnesses and they have been declared hostile by the prosecution.

P.W.8-S.I. Arvind Kumar is the Investigating Officer of this case and he was posted as Officer-in-Charge of Bagbera Police Station on the date of occurrence. He received information about firing upon someone through telephonic call. Thereafter, entering into general diary, he visited the place of occurrence for verifying the incident, which is near the railway bridge. He knew that the injured was already sent to T.M.H, Jamshedpur for treatment thereafter, he went to T.M.H. and recorded the *fardbeyan* of the injured, Raj Kumar Singh(P.W.5) which is in his writing and signature marked as Ext.4. He sent *fardbeyan* for registration of formal FIR and he identified the signature of Officer-in-Charge, Bishundeo Singh marked as Ext.1/4. He has seized the shirt of the injured and prepared the seizure list and proved his signature marked Ext.5 and other two independent witnesses have also put their signature on the seizure list. He has visited the place of occurrence and inspected, which is a *kaccha* road located in front of the Bajrangbali temple near the railway over-bridge under the jurisdiction of the Bagbera police station. He further states that the vegetable market and *paani tanki* is to the north side of the place of occurrence, in south, there was a temple of Bajarangbali, in east at the distance of 15 gaj, the railway bridge is situated and in west at a distance of 150 gaj, there was a patrol pump. He has found the scooter and some blood stained at the place of occurrence and the scooter was seized. He recorded the re-statement of the witnesses Gopal Singh, Pappu Singh, Ramchandra

Singh, Raju Singh, Rambabu Tiwari, Dhananjay Tiwari, Kulwant Singh. He has seized the motorcycle and prepared the seizure list and proved his signature marked Ext.5/1. After finding sufficient evidence against the accused persons, he submitted charge-sheet against them. He has also arrested Prabhakr Singh and Ajay Singh.

In his cross-examination, he admits that he came to know about the motive behind the occurrence is *rangadari* but he has not investigated on this point. He further admits that he has not recovered pellets and bullets from the place of occurrence. He has received the injury report. He has not recorded the statement of Amandeep Singh, who brought the injured to the hospital. He further admits that he has not sent the blood-stained shirt for chemical examination. He further admits that accused Prabhakar Singh is the owner of the motorcycle but he has not found any evidence against the said Prabhakar Singh. He has denied the suggestion of defence that an ante-dated FIR was lodged by the informant to falsely implicate the accused persons.

17. On the other hand, the defence witness **Bijay Kumar Singh**, who has been examined as **D.W.1**, has stated that Sanjay Singh is his elder brother, who was arrested from his house on 28.03.2000. He further states that his elder brother was firstly taken to Sidhgora police Station and thereafter MGM police Station and then Bagbera police station. On 29.03.2000, he went to Sidhgora police station but he came to know that his brother has been taken to Bagbeda police station. Thereafter, he

went to Bagbeda hospital where the police threatened him to initiate legal action regarding the motorcycle, if he refused to give the statement as per their instructions and kept the key of motorcycle. He has denied the suggestion of prosecution that the said motorcycle was used in the said incident.

18. In the case of ***Balu Sudam Khalde and Anr. vs State of Maharashtra*** reported in ***(2023) 13 SCC 365***, the Hon'ble Apex Court has held at para 26 as under:

> *"26.When the evidence of an injured eyewitness is to be appreciated, the undernoted legal principles enunciated by the courts are required to be kept in mind:*
>
> *26.1. The presence of an injured eyewitness at the time and place of the occurrence can not be doubted unless there are material contradictions in his depiction.*
>
> *26.2. Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.*
>
> *26.3. The evidence of injured witness had greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.*
>
> *26.4.The evidence of inured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.*
>
> *26.5. If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.*

26.6. The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded."

19. Now, I have to proceed with evaluation of evidence in relation to the charges leveled against the appellants keeping in mind the aforesaid principle of law propounded by the Hon'ble Apex Court. It is admitted fact that the informant-cum-injured has specifically taken the name of the present appellants showing their involvement in the alleged offence of firing at him and stated that on the date of the occurrence, while he was about to start his scooter after offering puja at Mahabir Mandir, the present appellants along with others came from his behind on two motorcycles and opened fire six rounds at him with intention to kill him but while defending himself, he sustained three gunshots wounds to his wrist and shoulder. Thereafter, he was brought to hospital where he has specifically taken the name of appellants while recording his *fardbayan.* It further appears that the injuries sustained by the informant-cum-injured are opined by the doctor (P.W.3) to be grievous in nature caused by bullets. It further appears that there is positive, clear, cogent and reliable evidence against the appellants and their direct involvement in the alleged offence and the same fact has been corroborated by the other witnesses, including the injured-cum-informant, who is consistent on his statement. Therefore, non-investigation by the Investigating Officer on the point of motive behind the occurrence i.e. *rangadari* does not affect

the prosecution case because the testimony of the injured witness (P.W. 5) is entirely clear and cogent.

20. In view of the aforesaid discussion and reasons, I do not find any illegality or infirmity in the impugned judgment and order for taking a different view. It appears that learned trial court has very wisely and aptly considered the overall aspects of the case and arrived at right conclusion about guilt of the appellants. Hence, I concur with the findings recorded by the learned trial court and do not find any merits in this appeal. Therefore, this appeal is **dismissed**.

21. The appellants are on bail, thus their bail bonds are cancelled and the appellants are directed to surrender before the concerned trial court within two months from the date of the judgment to suffer the sentence awarded to them, failing which, learned trial court shall take all coercive steps for taking into custody and sending them to jail for sustaining the sentence awarded to them.

22. Pending I.A(s), if any, is also disposed of accordingly.

23. Let a copy of this judgment along with Trial Court Records be sent back to the concerned trial court for information and needful.

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi

Dated:-06 /11 /2026

***Pappu*/-N.A.F.R.**

Uploaded on 06 /11/2026