

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE-III,
AURANGABAD (BIHAR). 824101.**

**Present: Pranaw Shankar,
Additional Sessions Judge-III,
Aurangabad (Bihar).**

The Judgment dated 16th of October, 2023.

Sessions Trial No. 519 of 2007/ 572 of 2023.

C.I.S. No.- 4432 of 2013.

Daudnagar P.S. Case No. 212 of 2004.

Informant	State through Satyendra Rajbanshi, S/o- Bifan Ram, R/o: Arae Tola, Devi Bigha, P.S.-Daudnagar Dist-Aurangabad	
Represented by	Shri Anil Kumar-II, Learned A.P.P.	
Accused Person	1. Krishna Paswan	A1
Represented by	Sri Anup Kumar Singh, Learned Advocate.	

Date of Occurrence	08.11.2004
Date of First Information Report (F.I.R.)	08.11.2004
Date of Charge-sheet	22.04.2007
Date of framing of Charge	31.03.2015
Date of Closure of Evidence	05.10.2023
Date on which Judgment is reserved	10.10.2023
Date of the Judgment	10.10.2023
Date of the Sentencing Order, if any	-NA-

Accused Details:

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
A1	Krishna Paswan	29.08.2005	15.09.2005	U/s- 448, 341, 324 and 307/34 of the IPC	Acquitted	-NA-	-NA-

J U D G M E N T

- 1) The court is deeply concerned about the recurring issue of slackness displayed by both witnesses and the prosecution, a trend

that all too often forces the judicial process to rest on technicalities rather than the merits of a case. This tendency has presented itself once more in the current matter before this court. A full two decades ago, the accused were charged with a slew of offences, including the heinous accusation of attempted murder. Regrettably, no witness has appeared to either substantiate or deny the prosecution's case. The noticeable lack of witnesses despite numerable efforts on the part of the court and also the age of the case forced this court to close the proceeding and decide the case on the material available on record. Earlier, the prosecution has charged all the accused persons for committing offences U/s- 448, 341, 324, 307/34 of the IPC and Section-27 of the Arms Act.

FACTS OF THE CASE:

- 2) Satyendra Rajbanshi, the informant was at home when his co-villagers, Naresh Rajbanshi, Guddu Rajbanshi, and Krishna Paswan, arrived and began threatening him. Satyendra Rajbanshi attempted to flee the scene after witnessing their hostility. Half an hour later, the accused people returned to the informant's house. The informant and his family were enjoying the bonfire there. When the accused saw the informant, he opened fire on him, injuring him. Hearing the gunshots, the informant and his family raised alarm, causing the accused to flee. The informant and his brother were afterwards treated at a hospital.

PROCEDURAL HISTORY OF THE CASE:

- 3) Based on the statement of the informant, Daudnagar PS Case No. 212/2004 was instituted. Upon investigation, the police submitted charge-sheet for the offences punishable U/s 448, 341, 324, 307/34 of the IPC and Section-27 of the Arms Act. On 01.05.2007, the learned CJM, Aurangabad took cognizance of the offences. Subsequently, the case was committed to the court of Sessions on 10.12.2007. On 31.03.2015 the court framed charges against the accused persons to which the accused denied the charges and claimed to be innocent.

- 4) The present case is concerned as against the sole accused, Krishna Paswan

POINTS FOR DETERMINATION

- 5) Whether the prosecution has been able to prove charges against the accused persons? The prosecution had to prove that the accused persons committed offence of house trespass, wrongful restrain, hurt using a sharp object and attempt to murder.

EVIDENCE ADDUCED IN THE CASE:

- 6) During trial, the prosecution has failed to examine even a single witness.

DISCUSSION & ANALYSIS

- 7) The perusal of the record reveals that despite the best efforts of the court, the prosecution has failed to bring any witness on the record. There is complete absence, both on oral as well as documentary evidence but before the court would conclude it will not be out of place to mention the steps taken by this court to ensure the production of witnesses.
- 8) Though it is the primary duty to prosecution to adduce evidence but the court has not relied only on the prosecution to bring evidence. The court took the following steps to ensure that evidence appears in this case.
- The court issued summons against the witnesses on 04.04.2015 but the witnesses didn't appear.
 - When the witnesses failed to appear then the court issued BW against the witnesses on 26.05.2016.
 - When the BW too failed to secure the presence of the witnesses then finally the court issued NBW against the witnesses on 25.11.2019.
 - Furthermore, by order dated 23.09.2023 the court granted "last chance" to the prosecution to adduce evidence but the prosecution failed to either bring the evidence or even pray for time to produce evidence.

CONCLUSION

9) In conclusion, this court is acutely aware of the delicate balance that must be maintained between affording the state ample opportunities to present its evidence and ensuring the right to a speedy trial for all parties involved. In the context of aging cases, which have become an unfortunate burden on the judicial system, the prosecution's failure to bring forth any evidence looms large. In the case at hand, the prosecution has faltered in its duty to produce any witness who could attest to its case. The stark absence of any witnesses testifying before this court leaves a significant void. Consequently, the prosecution's inability to furnish any supporting witnesses or evidence is insufficient to impose criminal liability upon any of the accused.

10) Since the prosecution has failed to adduce any evidence to nail the guilt of the accused, so the following orders are passed:

ORDERS

11) The accused, (1) **Krishna Paswan** is **acquitted** of all the charges leveled against him.

12) The accused person and his bailors/sureties are discharged from his respective liabilities as to his bail bonds.

The court pronounced the judgment in open court, & read over to the parties.

Typed and Corrected by Me.

{Pranaw Shankar}
Addl. Sessions Judge-III,
Civil Court, Aurangabad.
Dated: 16-10-2023

{Pranaw Shankar}
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Civil Court, Aurangabad.
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