

Present:-Raj Narayan Nigam
Dist. & Addl. Sessions Judge-1 cum Spl. Judge of NDPS Act & P.O of Children Court cum present
Assignment, Begusarai
ST. No. 247 of 2024 CIS No-247/2024
State of Bihar Vrs. Gulshan Kumar
Date of Judgment:-13.03.2026

Criminal Matter

**In the Exclusive Court of Dist. & Addl. Sessions Judge-1 cum Spl. Judge of
NDPS Act & P.O of Children Court cum present Assignment, Begusarai**

**Present- Shri Raj Narayan Nigam
Bihar Superior Judicial Service**

S.T. No. 247 of 2024

C.I.S. No.-247/2024

Arising out of Matihani P.S. Case No.-151 of 2021
u/s-307, 302/34 of the I.P.C & 27 of Arms Act.

State of Bihar (through the informant Vijay Kumar Singh)Prosecution

Versus

Gulshan Kumar aged about 27 years s/o-Ram Vinod Singh

R/o-Ramdiri Tola, P.S-Matihani, Dist.-Begusarai

.....Accused

Ld. Counsel for the Prosecution: Mr. Bahor Das, Learned Special P. P

Ld. Counsel for the Defence : Mr. Niraj Kumar, Adv.

Committed to the court of session by Smt. Ruby Kumari
Learned J.M-1st Class, Begusarai on 22.02.2024.

D.O.J.- 10.03.2026

JUDGMENT

1. The sole accused stands charged for the offences punishable u/s-302, 307/34 of IPC and 27 of Arms Act.

2. This case has been registered on the basis of written application given by the informant Vijay Kumar Singh before the Matihani police station, Begusarai alleging therein that on 29.11.2021 at about 01:00 p.m, the informant along with his deceased son Kunal Kumar @ Dillu, Son Ankit Kumar and Murari Kumar were riding on two motorcycles and going from Akashpur to Bhawanandpur to give marriage invitation of his elder son Aman Kumar. On reaching Bhawanandpur Bichli Dira, 1. Gulshan Kumar, 2. Vivek Kumar @ Batohi, 3. Ajit Kumar Singh, 4. Mukesh Kumar @ Bhullu and two unknown criminals who took out their weapons and pointed them at informant and his sons. Kunal Kumar's motorcycle on which Murari Kumar was sitting was 8-10 yards ahead of informant's motorcycle. Before they could understand anything, Ajit Singh abused the informant and said the enemy has come, kill him and Ajit fired a shot from the country-made pistol. At the same time , Gulshan Singh and Mukesh Kumar @ Bhullu also fired at the informant's son. All the bullets hit the informant's son Kunal Kumar @ Dillu and he fell down, injured and died immediately. Murari Singh tried to escape but Vivek Kumar @ Batohi fired at him with intention to kill him and Murari Kumar got injured and again tried to escape again then Ajit Singh fired upon him again. The accused persons also fired at the informant but they

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escape away after jumping into the ditch beside the road and saved their lives. The informant tried to take away the dead body of his son but upon hearing the sound of bullet, many people of Diyara started shouting, then they escaped. The reason behind this incident is that during the current panchayat elections, informant's son Kunal Kumar @ Dillu had a dispute with Ajit Kumar and Mukesh Kumar @ Bhullu in which they had threatened that they would take him away. Thereafter, the present case was registered.

3. The present case was registered on the basis of written application of informant before the Matihani police station, Begusarai has registered the case u/s-307/302/34 of IPC & 27 of Arms Act against the FIR-named accused persons. After investigation, the investigating officer has submitted charge-sheet u/s-307/302/34 of the I.P.C & 27 of Arms Act as absconder against the sole accused Gulshan Kumar. Accordingly, the cognizance has been taken on 21.04.2022 u/s-307/302/34 of IPC & 27 of Arms Act and committed the case to the court of Session on 22.02.2024 and transferred the case to this Court on 23.03.2024. The charges have been framed u/s-302, 307/34 of IPC and 27 of Arms Act against the abovenamed sole accused on 01.06.2024 for trial and disposal and explained in Hindi against him to which he denied and pleaded not guilty and claimed to trial.

4. The prosecution has produced altogether five witnesses namely, Gauri Singh, Hareram Singh, Ankit Kumar Singh, Vivek Bharti and Murari Kumar respectively.

5. Defence has neither adduced any oral evidence nor any documentary evidence.

6. The statement of abovenamed sole accused has been taken u/s-313 of Cr.P.C. and he has been total denial of prosecution case and claimed to trial.

7. Now the main question has arose before the court for determination to this case as to whether the prosecution has been able to bring home the charges levelled against him beyond the all reasonable doubts or not?

FINDINGS

8. The prosecution has produced altogether five witnesses namely; P.W. 1 Gauri Singh, P.W. 2 Hareram Singh, P.W. 3 Ankit Kumar Singh, 4. Vivek Bharti(Investigating Officer) and P.W. 5 Murari Kumar respectively.

9. P.W. 1 Gauri Singh (Mama of deceased) has stated in his examination in chief that the deceased is his Bhagina and the occurrence has took place about 2 year and 6 months ago at about 01:30 O'Clock at the same time he was in village and deceased Kunal was going to distribute invitation card at Ramdiri then he heard that Kunal was killed by Bhullu Singh, Ajit Sing and Batohi Singh and he do not identify the accused persons.

In cross-examination he deposed that he does not know about Gulshan Kumar and

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he was not involved in the alleged occurrence. Further deposed that he was seen the dead body of deceased and also seen fire arm injury in his body.

10. P.W 2 Hareram Singh does not know about the occurrence and he has been declared hostile by the prosecution.

11. P.W. 3 Ankit Kumar Singh (brother of deceased) has stated in his examination in chief that the occurrence has taken place on 29.11.2021 at about 1 O'Clock on that day he along with his father, brother Kunal (deceased) and Murari Kumar was going to distribute invitation card at Bhawanandpur. When they reached at Diyara then on two motorcycles rider four persons Ajit Singh, Mukesh @ Bhulla, Vivek @ Batohi and one unknown encircled them and removed the weapon and started shot firing upon them. Further deposed that during shot firing Kunal fell down and died and he along with his father escaped and jump into the pit and saved themselves.

In cross-examination he deposed that deceased Kunal Kumar is his brother and he along with him was going then the alleged occurrence has occurred and at the time of occurrence he was present there. Further deposed that accused Gulshan Kumar was not involved in the murder of his brother. His father was the informant in this case who has been died earlier.

12. P.W. 4 Vivek Bharti (I.O of this case) has stated in his examination in chief that who is the investigating officer of this case. Further stated that he was deputed as SHO at Matihani police station, Begusarai on 12.03.2022 and taken the charge of investigation of this case an investigated the case. Further stated that he has submitted the charge-sheet no. 37/22 against the accused persons namely, Ranjit Kumar, Mukesh Kumar @ Bhullu and also supplementary charge-sheet no.63/22 against Gulshan Kumar and Vivek Kumar @ Batohi as showing absconder.

In cross-examination he deposed that during the supplementary investigation he has not found any evidence

13. P.W. 5 Murari Kumar has stated in his examination in chief that the occurrence has took place on 29.11.2021 at about 12-2 O'Clock at that time he was going to distribute the invitation card of marriage of Aman then accused persons encircled them and removed the weapon and started shot firing upon them. Further deposed that during shot firing Kunal fell down and died and he ran away in the field and saved himself.

In cross-examination he deposed that Gulshan Kumar was not involved in this occurrence.

14. Learned lawyer of defence has submitted in his argument is that the sole accused has been falsely implicated in this case and this case is concocted and he has innocent and he

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has not committed the alleged occurrence. He further submitted that neither the informant nor any other prosecution witnesses has stated anything against the accused with respect to allegation against him. He further submitted that there is no any sufficient and cogent material against the accused on record. Further submitted that the witnesses P.W. 1 Gauri Singh, P.W. 3 Ankit Kumar Singh and P.W. 5 Murari Kumar have not supported the case of prosecution and they have clearly stated that the accused Gulshan Kumar was not involved in this occurrence. Further stated that P.W 2 Hareram Singh has also not supported the case of prosecution and he has been declared hostile by the prosecution. Hence the accused is likely to be acquittal and prosecution has not successfully able to prove his charges.

15. In other hand, the learned Spl. P.P and counsel of prosecution has opposed the submission of the learned counsel for the defence and submitted that the accused is the culprit of this case and he has committed murder the son of informant. Investigating Officer who has investigated the matter and and found the case true and submitted charge-sheet. So these facts and circumstances of the case he stated that there is sufficient material that the sole accused does not deserve acquittal, since there is sufficient material against accused on record. Thus, this case is fully proved, assault & murder has been committed by the accused with the son of informant of this case. Thus, the sole accused is likely to be convicted.

16. Heard the argument of both the parties and perusal of the entire evidence available on record. On perusal of evidence, it transpires that the prosecution has produced altogether nine (05) witnesses during the argument out of which P.W. 2 Hareram Singh has been declared hostile by the prosecution. Further P.W. 1 Gauri Singh (who is the Mama of deceased) has supported the case by saying that he heard that the accused Bhullu Singh, Ajit Singh and Batohi Singh has committed murdered the son of informant/his bhagina. So this witness is hearsay witness. Further during his cross-examination he has also not supported the case by clearly saying that the accused Gulshan Kumar was not involved in the alleged occurrence. Further P.W. 3 namely, Ankit Kumar Singh, who is the brother of deceased, has fully supported the case during examination in chief but in his cross-examination he has given contradictory statement and said that at the time of occurrence he was along with brother Kunal (deceased) and the accused Gulshan Kuamar was not involved in the alleged crime/ murder of his brother. Further deposed that his father was informant of this case who has died earlier. P.W. 5 Murari Kumar has also not supported the case and he has also given his statement that Gulshan Kumar was not committed the alleged occurrence. Further P.W. 4 Vivek Bharti (I.O of this case) who has investigated the case and found the case true and submitted charge-sheet as showing absconder. Further in his cross-examination he deposed that he did not find any material or evidence against this accused in this case. Furthermore, the informant of this case has already been died before giving his evidence. So, no any

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witness has supported the case during their evidence against this accused for committing the murder of informant's son and also they have clearly stated that this sole accused Gulshan Kumar was not involved in the alleged crime. Except this, there is no any witness or M.O has been produced and examined by the prosecution. Thus, I found and hold that the prosecution has failed to prove his case against the sole accused beyond all reasonable doubts. This such type of evidence the court cannot taken hard step against this accused who is facing the trial.

17. Thus, the above facts and circumstances as discussed above; this court has come to this conclusion that the prosecution has become doubtful and there is no any direct or circumstantial evidence brought by the prosecution to prove the case and all the witnesses either hostile or hearsay. Accordingly, the involvement of this sole accused has become suspicion. Accordingly, Order is passed.

ORDER

18. The sole accused namely, Gulshan Kumar has been acquitted of the charges punishable u/s-302, 307/34 of IPC and 27 of Arms Act on the basis of benefit of doubts and the accused is in jail. O/c is directed to issue release order at once to the Jail Authority, Begusarai.

Pronounced in open court.

(Dictated & Corrected by me)

Sd/-
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Date of Judgment / Order	10.03.2026
Date of Reseving Judgment / Order	N.A
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