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Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 210/2022
CIS/Registration No. 210/2022
[Arising out of Sadar P.S. Case No. 312/2020]
The state of Bihar versus Md. Taukir Alam and others.
Date of Judgement : 10.07.2026

IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-II DARBHANGA Santosh Kumar Pandey, District & Additional Sessions Judge-II Date of Judgment:- 10.07.2026 <u>ST No.- 210/2022</u> <u>[CIS/Registration No. 210/2022]</u> Arising out of Sadar PS Case No.- 312/2020	
REPRESENTED BY	Smt. Champa Mukherjee, Learned Additional Public Prosecutor.
ACCUSED	1. Md. Taukir Alam s/o Late Anwarul Hauqe, 2. Modassir Tauquier @ Md. Naiyan s/o Md.Taukir Alam, 3. Mobassin Tauquier @ Md. Faisal s/o Md. Tauquier, 4. Samse Alam s/o Md. Badre Alam, 5. Md. Nafis s/o Nasruzzma, 6. Md. Jameel @ Md. Zaki s/o Md. Salauddin @ Md. Sanaullah, all are resident of Village - Gairpur Lowam, Police Station - Sadar, District - Darbhanga.
REPRESENTED BY	Sri Shahnawaz Anwar, Learned Advocate.

Date of Offence	14.07.2020
Date of FIR	14.07.2020
Date of Charge-sheet	CS No.-56/2021, Dated-31.03.2021
Date of Framing of Charges	20.01.2024
Date of Commencement of evidence	18.05.2024
Date on which judgment is reserved	29.06.2026
Date of the Judgment	10.07.2026
Date of the Sentencing Order, if any	NIL

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Accused Details:

Rank of the accused	Name of the accused	Date of Arrest	Date of Released on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of Section 428 CrPC
A1	Md. Taukir Alam	07.01.21	30.05.22	Section 302/149, 120(B), 504/149 IPC and Section 27(3) of the Arms Act	Acquitted	NIL	one year four months and 23 days
A2	Modassir Tauquier @ Md. Naiyan	15.03.22	07.04.22	Section 302/149, 120(B), 504/149 IPC and Section 27(3) of the Arms Act	Acquitted	NIL	22 days
A3	Mobassin Tauquier @ Md. Faisal	12.04.22	30.04.22	Section 302/149, 120(B), 504/149 IPC and Section 27(3) of the Arms Act	Acquitted	NIL	18 days
A4	Samse Alam	22.03.22	22.03.22	Section 302/149, 120(B), 504/149 IPC and Section 27(3) of the Arms Act	Acquitted	NIL	NIL
A5	Md. Nafis	22.03.22	22.03.22	Section 302/149, 120(B), 504/149 IPC and Section 27(3) of the Arms Act	Acquitted	NIL	NIL
A6	Md. Jameel @ Md. Zaki	30.05.22	01.02.23	Section 302/149, 120(B), 504/149 IPC and Section 27(3) of the Arms Act	Acquitted	NIL	NIL

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LIST OF PROSECUTION/DEFENCE/COURT WITNESSES :-

A. Prosecution

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
PW 1	Shashi Kumar Choudhary	Other witness
PW 2	Dilip Sahni	Other witness
PW 3	Israrul Haque	Other witness
PW 4	Abdul Quadir	Other witness
PW 5	Md. Julfikar	Other witness
PW 6	Tahseen Gilani	The Informant
PW 7	Md. Rizwan	Other witness
PW 8	Abdul Quddus	Other Witness
PW 9	Afasana Khatun	Other witness
PW 10	Md. Nafis Hasan	Other witness
PW 11	Neyaz Ahmad	Other witness
PW 12	Md. Azhar Rizwan	Other witness

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B. Defense Witnesses, if any :-

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
Nil	Nil	Nil

C. Court Witnesses, if any :-

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
NIL	NIL	NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
1.	P-1	Signature of the Informant on the fard beyan so forming the basis of the FIR.	PW-6
2.	P-2	The signature of the Informant on the inquest report	PW-6

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B. Defense :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
-	Nil	Nil	NIL

C. Court :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
-	NIL	NIL	NIL

Present :-

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JUDGMENT

1. At the very outset, it is considered appropriate to place on record that **Sessions Trial No. 155 of 2023** was amalgamated with the present Sessions Trial by virtue of order dated **20.01.2024**, both cases having arisen out of the same police station case, involving the same occurrence, common questions of fact and law, and being at an identical stage of trial. Consequently, the evidence recorded and the proceedings conducted have been treated as part of the present trial.
2. It is further necessary to clarify that while preparing the charge report, the learned predecessor of this Court inadvertently mentioned **Section 504/34 of the Indian Penal Code** instead of **Section 504 read with Section 149 of the Indian Penal Code** owing to a typographical error. Since the charges were intended to be framed on the basis of the prosecution allegation that the accused persons constituted an unlawful assembly sharing a common object, the said inadvertent error is hereby clarified, and wherever **Section 504/34 IPC** appears in the charge report, the same shall be read as **Section 504/149 IPC**.
3. The accused persons, namely (i) **Md. Taukir Alam (A-1)**, (ii) **Modassir Tauquier @ Md. Naiyan (A-2)**, (iii) **Mobassin Tauquier @ Md. Faisal (A-3)**, (iv) **Samse Alam (A-4)**, (v) **Md. Nafis (A-5)**, and (vi) **Md. Jameel @ Md. Zaki (A-6)**, have been sent up for trial for the offences punishable under **Sections 302, 120-B and 504 read with Section 149 of the Indian Penal Code, 1860**, as well as **Section 27(3) of the Arms Act, 1959**. The gravamen of the prosecution case is that the accused persons, having formed an unlawful assembly and acting in furtherance of their common object and criminal conspiracy, intentionally opened fire upon the informant's father, causing firearm injuries which ultimately resulted in his death.
4. The prosecution case originates from the **fard-beyan** of the informant recorded on **14.07.2020 at about 6:45 P.M.** by a police officer of Benta Police Station in the waiting hall of the Emergency Ward of Darbhanga Medical College and Hospital (DMCH), Darbhanga, which subsequently formed the basis of the First Information Report. According to the informant, on the same day at about 2:00 P.M., his father, Md. Kaisar (since deceased), along with his maternal uncle, Abdul Kadir, was present at Madarsa Chowk. At that time, accused Md. Taukir allegedly caught hold of the collar of Abdul Kadir and proclaimed that they

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intended to establish their supremacy in the locality before leaving the place. It is further alleged that at about 4:00 P.M. on the same day, when the informant, his father and Abdul Kadir were again present at Madarsa Chowk, the accused persons, namely Md. Taukir, Md. Naiyan, Md. Faisal, Md. Nafis, Samse Alam and Md. Jameel @ Md. Zaki, arrived there armed with pistols. The prosecution alleges that accused Md. Taukir started abusing them and thereafter fired a shot at the informant's father, which struck him below the chest near the abdomen, causing him to collapse instantaneously. On hearing the gunshot, local villagers assembled at the place of occurrence and the injured was immediately taken to DMCH, Darbhanga, where the attending doctor declared him brought dead. On the basis of the aforesaid allegations, the present First Information Report came to be instituted.

5. On the basis of the aforesaid **fard-beyan, Sadar Police Station Case No. 312 of 2020**, dated **14.07.2020**, was registered for offences punishable under the relevant provisions of the Indian Penal Code. Investigation of the case was entrusted to the Station House Officer, who proceeded with the investigation in accordance with law. During the course of investigation, the Investigating Officer inspected the place of occurrence, prepared the necessary documents, recorded the statements of witnesses under Section 161 of the Code of Criminal Procedure, collected the post-mortem report and other documentary evidence, and undertook all such investigative steps as were considered necessary. Upon completion of the investigation and finding sufficient prima facie materials against the accused persons, charge-sheet was submitted before the competent court.
6. Upon receipt of the police report under Section 173 of the Code of Criminal Procedure, the learned jurisdictional Magistrate, after perusing the materials collected during investigation and being satisfied that a prima facie case was disclosed, took cognizance of the offences in accordance with law. Since the offences alleged were exclusively triable by the Court of Session, the case was committed to the Court of Session after compliance with the statutory requirements.
7. After the appearance of the accused persons before this Court, copies of the police report and all documents relied upon by the prosecution were furnished to them in compliance with the mandatory provisions of Section 207 of the Code of Criminal Procedure. Upon hearing the learned Public Prosecutor and the learned defence

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counsel and upon consideration of the materials available on record, this Court found sufficient grounds for presuming that the accused persons, in prosecution of the common object of an unlawful assembly and pursuant to a criminal conspiracy, intentionally caused the death of the informant's father by opening firearm shots upon him. Accordingly, charges were framed against all the accused persons for the offences punishable under **Sections 302, 120-B and 504 read with Section 149 of the Indian Penal Code and Section 27(3) of the Arms Act**. The charges were read over and explained to the accused persons in the language understood by them, to which they pleaded not guilty and claimed to be tried. The matter thereafter proceeded for recording of prosecution evidence.

8. The defence of the accused persons, as discernible from the tenor of the cross-examination of the prosecution witnesses and their statements recorded under **Section 313 of the Code of Criminal Procedure**, is one of complete denial. The accused persons have asserted that they are innocent and have been falsely implicated on account of pre-existing hostility arising out of disputes relating to local dominance and supremacy. It has been suggested that the alleged occurrence did not take place in the manner projected by the prosecution and that the prosecution witnesses have either not supported the prosecution version or have falsely implicated the accused persons. The defence has, therefore, assailed the credibility, impartiality and reliability of the prosecution evidence and has prayed for their acquittal.
9. In the backdrop of the rival submissions advanced by the parties and upon consideration of the pleadings and materials available on the record, the following point arises for determination by this Court:

"Whether the prosecution has been able to prove beyond all reasonable doubt that on 14.07.2020 the accused persons, in prosecution of the common object of an unlawful assembly and pursuant to a criminal conspiracy, intentionally fired upon Md. Kaisar, causing firearm injuries which resulted in his death, and thereby committed offences punishable under Sections 302, 120-B and 504 read with Section 149 of the Indian Penal Code and Section 27(3) of the Arms Act?"

10. The determination of the point for consideration necessarily requires a careful appreciation of the oral and documentary evidence adduced by the prosecution. It is a cardinal principle of criminal jurisprudence that the burden of proving the

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guilt of the accused lies entirely upon the prosecution, and such burden never shifts. The prosecution is required to establish its case beyond all reasonable doubt by leading reliable, cogent and convincing evidence. The accused persons enjoy the presumption of innocence throughout the trial, and every reasonable doubt arising from the evidence must necessarily enure to their benefit. It is equally well settled that suspicion, however strong, cannot take the place of legal proof. The evidence on record must therefore be examined as a whole to ascertain whether it inspires confidence and is sufficient to sustain the conviction of the accused persons.

11. In order to establish the charges levelled against the accused persons, the prosecution examined altogether twelve witnesses. Their status is as follows:
- (i) PW-1 Shashi Kumar Choudhary – Independent Witness;
 - (ii) PW-2 Dilip Sahni – Independent Witness;
 - (iii) PW-3 Israrul Haque – Independent Witness;
 - (iv) PW-4 Abdul Quadir – Independent Witness;
 - (v) PW-5 Md. Julfikar – Independent Witness;
 - (vi) PW-6 Tahseen Gilani – Informant;
 - (vii) PW-7 Md. Rizwan – Independent Witness;
 - (viii) PW-8 Abdul Quddus – Independent Witness;
 - (ix) PW-9 Afasana Khatun – Independent Witness;
 - (x) PW-10 Md. Nafis Hasan – Independent Witness;
 - (xi) PW-11 Neyaz Ahmad – Independent Witness; and
 - (xii) PW-12 Md. Azhar Rizwan – Independent Witness.
12. Besides the oral evidence, the prosecution has relied upon the following documentary evidence:

Exhibit No.	Description
Exhibit-1	Signature of the Informant (PW-6) on the fard-beyan.
Exhibit-2	Signature of the Informant (PW-6) on the inquest report .

13. The aforesaid documentary exhibits have been proved only to establish the signatures of the informant on the respective documents. However, the mere proof of signatures on a document does not amount to proof of the truth of its contents. The evidentiary value of these exhibits has therefore to be tested in the light of the substantive oral evidence adduced before the Court.

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14. PW-4 Abdul Quadir deposed that the occurrence had taken place about two to two and a half years prior to his deposition. According to him, he was running his grill shop situated about one to one and a half kilometres from the place of occurrence when he came to know that firing had taken place. On reaching the place, he found that his brother-in-law, Md. Kaisar, had sustained firearm injuries and a large number of villagers had assembled there. He accompanied the injured to DMCH where the doctor declared him brought dead. He also identified the accused persons as they belonged to his village.

During cross-examination, however, PW-4 categorically admitted that he had not witnessed the occurrence. He specifically stated that he neither saw who fired the shot nor had any personal knowledge regarding the manner of occurrence. He further stated that his statement had not even been recorded by the police during investigation. Thus, his evidence is purely hearsay in nature and is confined only to the events subsequent to the occurrence. It does not, in any manner, connect the accused persons with the commission of the alleged offence.

15. PW-1 Shashi Kumar Choudhary, PW-2 Dilip Sahni, PW-3 Israrul Haque, PW-5 Md. Julfikar, PW-6 Tahseen Gilani (the informant), PW-7 Md. Rizwan, PW-8 Abdul Quddus, PW-9 Afasana Khatun, PW-10 Md. Nafis Hasan, PW-11 Neyaz Ahmad and PW-12 Md. Azhar Rizwan were declared hostile as they did not support the prosecution case on any material aspect. Even after obtaining permission under Section 154 of the Indian Evidence Act to cross-examine its own witnesses, the prosecution failed to elicit any material capable of lending support to its case. Their testimonies, therefore, do not advance the prosecution case in any manner.

FINDINGS AND REASONS

16. Upon a careful scrutiny of the evidence available on record, this Court finds that the prosecution has examined twelve witnesses in all. Significantly, eleven out of the twelve witnesses, including the informant himself, have completely resiled from their previous statements and have not supported the prosecution version before the Court.
17. Although PW-6 Tahseen Gilani, the informant and son of the deceased, was declared hostile, his testimony nevertheless deserves careful consideration, as it is well settled that the evidence of a hostile witness is not to be discarded in toto and

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the Court may rely upon such part of his testimony as is found to be credible and trustworthy. PW-6 deposed that on the date of occurrence he was present at Chatwan village and only came to know later that his father had sustained firearm injuries. On receiving such information, he reached his village and thereafter proceeded to DMCH where his father had already been declared dead. He proved his signature on the fard-beyan (Exhibit-1) and on the inquest report (Exhibit-2). However, he categorically stated that the police had not recorded his statement. More importantly, during his cross-examination by the defence, he admitted that he had signed the fard-beyan at the instance of the villagers without reading its contents and that he had no knowledge regarding the contents of the inquest report. He also did not support the allegation that the accused persons had fired upon his father.

The prosecution, despite cross-examining him at length, failed to bring on record any material admission supporting the prosecution story. Consequently, the testimony of the informant completely demolishes the substratum of the prosecution case rather than supporting it.

18. It is evident from the record that there is no direct evidence implicating any of the accused persons in the commission of the alleged offence. The sole witness who could have thrown light upon the occurrence, namely the informant himself, has completely disowned the prosecution version. The remaining witnesses have either turned hostile or have admittedly not witnessed the occurrence. Thus, there is not even an iota of legally admissible evidence connecting the accused persons with the alleged crime.
19. Another significant circumstance which materially affects the prosecution case is the non-examination of the Investigating Officer and the doctor who conducted the post-mortem examination. The Investigating Officer was a material witness to prove the investigation, the place of occurrence, the seizure, the contradictions and omissions in the statements of witnesses recorded under Section 161 Cr.P.C., and the overall fairness of the investigation. Likewise, the medical officer who conducted the post-mortem examination was the best witness to prove the nature of injuries, the cause of death and the medical evidence. In the peculiar facts of the present case, where every material witness has turned hostile, the non-examination of these material witnesses has caused serious prejudice to the prosecution and has further weakened an already fragile case.

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20. The prosecution case rests upon the allegation that the accused persons, acting pursuant to a common object and criminal conspiracy, committed the murder of the deceased by means of firearms. However, none of these foundational facts have been established during trial. No witness has supported the allegation regarding the participation of any of the accused persons. The prosecution has thus failed to prove the existence of an unlawful assembly, the common object attributed to the accused persons, the alleged criminal conspiracy or the overt act of firing attributed to any of them. In the absence of reliable ocular evidence or any corroborative material, the prosecution story remains wholly unsubstantiated.
21. Criminal conviction can be recorded only when the evidence inspires complete confidence and establishes the guilt of the accused beyond all reasonable doubt. In the present case, the evidence led by the prosecution falls far short of the standard required in law. The cumulative effect of the hostile testimonies of almost all prosecution witnesses, the complete failure of the informant to support the prosecution version, the hearsay nature of the evidence of PW-4, and the non-examination of the Investigating Officer and the medical officer creates serious and substantial doubt regarding the prosecution case. Such doubt cannot be ignored and must necessarily operate in favour of the accused persons.
22. Accordingly, this Court is of the considered opinion that the prosecution has miserably failed to establish the charges under Sections 302, 120-B and 504 read with Section 149 of the Indian Penal Code and Section 27(3) of the Arms Act against the accused persons beyond all reasonable doubt.

ORDER

23. In view of the foregoing discussion, appreciation of evidence and the findings recorded hereinabove, this Court holds that the prosecution has failed to prove beyond all reasonable doubt that accused persons, namely: **Md. Taukir Alam (A-1); Modassir Tauquier @ Md. Naiyan (A-2); Mobassin Tauquier @ Md. Faisal (A-3); Samse Alam (A-4); Md. Nafis (A-5); and Md. Jameel @ Md. Zaki (A-6)**, committed the offences punishable under Sections 302, 120-B and 504 read with Section 149 of the Indian Penal Code and Section 27(3) of the Arms Act.
24. Consequently, all the aforesaid accused persons are acquitted of all the charges framed against them. They are entitled to the benefit of doubt, which is a

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substantive right flowing from the fundamental principle that every accused is presumed innocent unless his guilt is proved beyond reasonable doubt.

25. Since all the accused persons are already on bail, their respective bail bonds stand cancelled. Their sureties are discharged from the liabilities undertaken by them.
26. Any warrant, proclamation, attachment or other coercive process, if pending against any of the accused persons in connection with the present case, shall stand cancelled forthwith.
27. Let a copy of this judgment be supplied to the accused persons free of cost. After due compliance, the record be consigned to the Record Room.

Judgment pronounced in the open Court.

Dictated and corrected by me.

(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
10.07.2026

(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
10.07.2026

Date of Judgement/order	10.07.2026
Date of reserving judgement/Order	29.06.2026
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