

BRKH010054692022



Presented on : 11-08-2022
 Registered on : 11-08-2022
 Decided on : 29-05-2026
 Duration : 3 years, 9 months, 18 days

IN THE COURT OF SESSIONS JUDGE
At Khagaria, (Bihar)
(Presided Over by Shri Rajesh Kumar Bachchan)

Session Trial No. 241/2022

WITH

Session Trial No. 242/2022

IN

Beldaur P.S. Case No. 178/2021

u/Ss.- 147, 148, 149, 342, 120B, 307, 302, 504 of I.P.C. and Section 27(3) of
 the Arms Act

FORM A

Informant	STATE (Through Rajiv Ranjan S/o Dhananjay Singh) R/o vill.- Sakrohar, P.S. Beldaur, District- Khagaria.
Represented by	Shri Bhola Pd. Singh, Ld. P.P. for State.
Accused	1. Anant Singh, aged about 55 years S/o Late Shivdhari Singh 2. Sita Devi, aged about 45 years W/o Anant Singh 3. Amal Kishor Singh, aged about 47 years S/o Late Babua Singh 4. Nawal Kishor Singh, aged about 50 years S/o Late Babua Singh 5. Abhishek Kumar alias Pampam Singh, aged about 23 years S/o Anant Singh All R/o vill.- Sakrohar, P.S. Beldaur, District- Khagaria. 6. Dilchan Singh, aged about 57 years S/o Late Amirchand Singh



	R/o vill. Nawada, P.S. Chautham, Dist. Khagaria
Represented by	Shri Arvind Kumar, Ld. Advocate for defence.

FORM B

Date of offence	12.08.2021
Date of FIR	13.08.2021
Date of charge-sheet	30.10.2021 & 26.05.2022
Date of framing of charge	03.09.2022
Date of commencement of evidence	15.09.2022
Date on which judgment is reserved	28.04.2026
Date of judgment	29.05.2026

Accused Details

Rank of the accused	Name of accused	Date of arrest/surrender	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of Section 428 Cr.P.C.
1.	Anant Singh	14.08.2021	U.T.P.	u/Ss. 147; 148; 342/149; 120B/149; 307/149; 302/149 & 504/149 of I.P.C. and Section 27 of the Arms Act	All Convicted u/S. 302/149; 120B/149; 307/149; 342/149 & 148 of I.P.C. they are also convicted u/S. 27 of the Arms Act except accused Sita Devi		04 years 09 months 15 days
2.	Sita Devi	14.08.2021	26.08.2022				1 year 12 days
3.	Amal Kishor Singh	14.08.2021	22.02.2023				1 year 06 months
4.	Nawal Kishor Singh	25.10.2021	22.02.2023				1 year 03 months and 28 days
5.	Dilchand Singh	15.09.2021	07.09.2022				11 months 23 days
6.	Abhishek Kumar alias Pampam Singh	03.03.2022	U.T.P.				4 years 2 months 26 days

Arvind Kumar



J U D G M E N T

1. The aforesaid accused persons stand charged for the offence punishable under Sections 147; 148; 342/149; 120B/149; 307/149; 302/149 & 504/149 of I.P.C. and Section 27 of the Arms Act.

PROSECUTION CASE

2. Case of the prosecution in brief unveiled from the FIR is that the informant viz. Rajeev Ranjan made a written complaint to the S.H.O. P.S. Beldaur are that on 13.08.2021 stating that on 12.08.2021 at about 1:00 a.m. he was sleeping inside his house and suddenly he heard a faint noise of movement of some people and when he put on lights of his room and door he saw 20-25 people inside his courtyard in police uniform. Informant asked them from which place they have come from, then they started abusing him. Amongst them 1. Manoj Yadav S/o late Dunmun Yadav aged 40 years R/o Sheikhpura Chaman Gasoi Tola P.S. Udakishunganj, Dist. Madhepura shot at his father Dhananjay Singh and exhorted others to shoot 2. Abhishek Kumar alias Pampam Singh S/o Anant Singh aged about 22 years R/o Vill. Sakrohar Dist. Khagaria also fired bullet which had hit chest of the father of the informant. 3. Ranvir Singh alias Pheny Singh S/o Babua Singh also pumped bullet which had hit father of the informant. 4. Indal Mandal S/o Manoj Mandal aged about 24 years also fired bullet which had hit stomach of his father. Both were R/o vill. Sakrohar, P.S. Beldaur, Dist. Khagaria. 5. Vishundeo Yadav alias Visho Yadav S/o late Ram Kripal Yadav aged 45 years had also fired bullet which had hit hand of his father. 6. Bullet of Sakal Yadav S/o Kamleshwari Yadav aged about 38 years had hit leg of his father. Both were R/o vill. Vishwari ward No. 3, P.S. Gwal para, Dist. Madhepura. 7. Sonu Mandal S/o Manoj Mandal aged about 22

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years also fired bullet which had hit chest of the father of the informant.

8. Rana Mandal S/o Balmiki Mandal aged about 40 years had also fired bullet which had hit head of his father. Both were R/o vill. Sakrohar, P.S. Beldaur, Dist. Khagaria. 9. Sushil Yadav S/o Late Ganesh Yadav aged about 45 years, 10. Subhash Yadav S/o Rajendra Mishtri aged about 40 years both R/o Sheikhpura Chaman, P.S. Udakishunganj, Dist. Madhepura both caught hold of his uncle Vijay Singh. 11. Anant Singh S/o Shivdhari Singh aged about 45 years pumped bullet in the chest of his uncle Vijay Singh. 12. Dilchan Singh S/o Amirchan Singh aged about 50 years, 13. Raushan Singh S/o Dilchan Singh aged about 25 years. Both R/o vill. Nawada, P.S. Chautham, Dist. Khagaria fired bullets upon his father Dhananjai Singh and the uncle Vijay Singh and both died on the spot. When younger uncle was noticed by the aforesaid persons and tried to escape on that 14. Sita Devi W/o Ananat Singh aged about 40 years exhorted them saying Papua is running away, shoot him also. On this 15. Amal Kishor Singh S/o Babua Singh aged about 38 years 16. Nawal Kishor Singh S/o Babua Singh aged about 40 years both R/o vill. Sakrohar, P.S. Beldaur, Dist. Khagaria fired bullet upon his uncle Pappu Kumar which had hit his chest. 17. Manoj Mandal S/o Ram Bahadur Mandal aged about 40 years R/o vill. Sakrohar, P.S. Beldaur, Dist. Khagaria had also fired bullet. 18. Prashant Singh alias Chhotu Singh S/o Krishnadeo Singh aged about 25 years R/o vill. Basanbara, P.S. Alamnagar, Dist. Madhepura had also fired bullet. 19. Shivam Kumar S/o Anant Singh aged about 18 years R/o vill. Sakrohar, P.S. Beldaur, Dist. Khagaria and 20. Laxmi Thakur S/o Jagdish Thakur R/o vill. Sheikhpura Chaman, Gasoitola, P.S. Udakishunganj, Dist. Madhepura all ran away towards northern



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direction while firing.

CHARGE SHEET, COGNIZANCE AND COMMITTAL

3. After investigation charge sheet was submitted in S.T. No. 241/2022 on 03.11.2021 for the offence punishable u/Ss. 147, 148, 149, 342, 120B, 307 & 504 of I.P.C. and Section 27(3) of the Arms Act and in S.T. No. 242/2022 on 27.05.2022 for the offence punishable u/S. 147, 148, 149, 342, 120B, 307, 302 and 504 of I.P.C. & Section 27 of the Arms Act. Cognizance was taken for the same offence on 05.01.2022. Case was committed to this Court by the Ld. Court of J.M.-I Class Khagaria, vide order dated 30.07.2022.

CHARGE

4. Sessions Case No. 242/2022 was amalgamated with Sessions Case No. 241/2022 vide order dated 02.09.2022. Thereafter, charge was framed on 03.09.2022 against all accused as aforesaid. The same was read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.

PROSECUTION EVIDENCE, STATEMENT OF ACCUSED AND DEFENCE EVIDENCE

5. Prosecution has examined total eight witnesses to prove its case. Statements of all accused were recorded under Section 313 Cr.P.C. on 02.08.2025 in which accused persons denied all questions put to them. Defence has also led its evidence and has examined two witnesses who are also accused of this case. In documentary evidence defence has got exhibited certified copy of Judgment of S.T. No.435/2022.

FORM C

LIST OF PROSECUTION WITNESSES

RANK	NAME	NATURE OF EVIDENCE
P.W.-1	Santosh Kumar Singh	Eye witness

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P.W.-2	Nitish Kumar	Eye witness
P.W.-3	Rajiv Ranjan	Informant/ Eye witness
P.W.04	Pappu Kumar	Injured/ Eye witness
P.W.-5	Santosh Kumar	Second IO
P.W.-6	Shiv Kumar Yadav	First IO
P.W.-7	Dr. Ashok Kumar Sharma	Medical witness
P.W.-8	Dr. Vidyanand Singh	Medical witness

DEFENCE WITNESSES

RANK	NAME	NATURE OF EVIDENCE
DW-1	Sita Devi	Other witness
DW-2	Dilchan Singh	Other witness

EXHIBITS OF PROSECUTION

SL.No.	EXHIBITS	DESCRIPTION
1.	Ext. 1	Signature of P.W. 2 on written application
2.	Ext. 1/A	Signature of P.W. 3 on written application
3.	Ext. 1/B	Signature of Ashutosh Kumar on written application
4.	Ext. 1/C	Endorsement on written application of P.W. 6
5.	Ext. 2	Signature of P.W. 3 on inquest report of Dhananjay Singh
6.	Ext. 2/A	Signature of P.W. 3 on inquest report of Vijendra Singh alias Vijay Singh
7.	Ext. 3	Formal F.I.R.
8.	Ext. 4	Injury report
9.	Ext. 5	P.M. Report of Vijendra Singh alias Vijay Singh
10.	Ext. 5/1	P.M. Report of Dhananjay Singh

EXHIBITS OF DEFENCE

Sl. No.	No. of exhibits	Description
1.	Ext. A	Certified copy of Judgment of S.T. No.435/2022

ARGUMENTS

6. The Ld. P.P. presented the case of the prosecution and has submitted that

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the prosecution has proved its case beyond reasonable doubt. He has submitted that prosecution has examined total eight witnesses in which P.W. 1 to 4 are eye witnesses. He has submitted that the ocular evidence is supported by the medical evidence.

7. Ld. Counsel for defence offered the plea of the accused persons as complete denial of their involvement in alleged occurrence and foistation of false case by the informant. Ld. Counsel has submitted that story of prosecution is full of contradiction and improvement in the statements of prosecution witnesses. Ld. Counsel has submitted that incident had occurred in the night and there was no source of identification. He has further submitted that there is delay in registration of the F.I.R. as the alleged incident had occurred on 12.08.2021 at 1:00 a.m. and F.I.R. was lodged at 2:30 p.m. of 13.08.2021. Ld. Counsel has submitted that there is no evidence regarding kind of firearms allegedly used. Ld. Counsel has submitted that S.I. Pankaj Prakash who had written the inquest report has not been examined. He has further submitted that genesis, manner and place of occurrence have changed in the statement of the witnesses. Ld. Counsel has submitted that prosecution has failed to prove motive behind the incident. He has submitted that informant is not eye witness of this case and all witnesses of the prosecution are related witnesses.

POINTS FOR DETERMINATION

8. From the evidence on record and submissions of the Ld. Counsel for both sides, the following points emerged for determination:

1. Whether the prosecution has proved beyond reasonable doubt that on 12.08.2021 at about 1:00 a.m. at the house of informant Rajiv Ranjan at village Sakrohar, P.S. Beldaur, Dist. Khagaria in

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prosecution of common object of the unlawful assembly accused persons viz. Anant Singh, Sita Devi, Amal Kishor Singh, Nawal Kishor Singh, Dilchan Singh and Abhishek Kumar alias Pampam Singh have committed murder of the deceased Dhananjay Singh and Vijendra Singh alias Vijay Singh intentionally and knowingly?

2. Whether the prosecution has proved beyond reasonable doubt that prior to above occurrence and on the date of occurrence at village Sakrohar, P.S. Beldaur, Dist. Khagaria the aforesaid accused persons being the part of the criminal conspiracy agreed upon each other to do an illegal act i.e. to commit murder of aforesaid two deceased?
3. Whether the prosecution has proved beyond reasonable doubt that on the above noted date, time and place, the accused persons committed attempt to murder of Pappu Singh?
4. Whether the prosecution has proved beyond reasonable doubt that on the above noted date time and place the accused persons committed riot with deadly weapon?
5. Whether the prosecution has proved beyond reasonable doubt that on the above noted date, time and place the accused persons wrongfully confined Dhananjay Singh, Vijendra Singh alias Vijay Singh and Pappu Singh?
6. Whether the prosecution has proved beyond reasonable doubt that on the above noted date, time and place the accused persons intentionally insulted the informant, Dhananjay Singh, Vijendra Singh alias Vijay Singh and Pappu Singh?
7. Whether the prosecution has proved beyond reasonable doubt that on the above noted date, time and place, the said accused

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persons were in possession of the arms and used them without any license and in contravention of Section 5 of the Arms Act?

DISCUSSION, DECISION AND REASONS THEREOF

9. In order to ascertain the complicity of the accused persons in the commission of the alleged offence, the evidence of the witnesses are scrutinized. We first navigate through the evidence of the prosecution witnesses.

(i) P.W. 3 is Rajiv Ranjan who is a student and informant of this case. He has stated in his examination in chief that incident is dated 12.08.2021 and had occurred at 1:00 a.m. He has further stated that he was in his house at the time of incident. Some persons knocked at his main gate and his father woke up. His father asked who are they then they replied that they are from administration and they started breaking open the gate. When his father opened the same his mother also got up. He has further stated that there was no electricity but the bulb was lit with inverter. P.W. 3 went to the gate where the said persons started scuffle with his father. They were 20-25 in numbers and some were in Army uniform. 10-15 persons entered in the courtyard and some persons remained at the gate. P.W. 3 has further stated that when he asked them about where they have come from, they started hurling abuses. Pampam Kumar alias Abhishek Kumar, Shivam Kumar, Sita Devi, Anant Singh, Amal Kishor Singh, Nawal Kishor Singh, Dilchan Singh, Raushan Singh came in the courtyard and took his father along with them to the gate. They misbehaved with his father and uncle and also shot at them. P.W. 3 has further stated that they shot at his father, uncle Vijay Singh and Pappu Singh. His father and uncle viz. Vijay Singh died on the spot. Pappu Singh is seriously injured. All accused



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had fired bullets. He has stated that Vijay Singh had received bullet in his head and chest. His uncle had received bullet in chest. Thereafter, accused persons ran away towards north while firing. P.W. 3 has further stated that his father and uncle were declared dead in Sadar Hospital Khagaria. His uncle Pappu Singh was referred to Begusarai for better treatment. He has stated that he had filed a written complaint to the P.S. Beldaur in his writing and under signature. He identified his writing and signature on the written complaint as Ext. 1/A. P.W. 3 also identified signature of Ashutosh Kumar on the written complaint as Ext. 1/B. He has further identified his signature on the inquest report of Dhananjay Singh as Ext. 2. He also identified his signature over inquest report of Vijendra Singh alias Vijay Singh as Ext. 2/A. He has identified accused present in the Court.

On cross examination on behalf of accused Nawal Kishor Singh and Amal Kishor Singh P.W. 3 has stated that he had first informed his brother Nitish about the incident. He has further stated that he had not given information to the police station but his uncle had given.

On further cross examination P.W. 3 has stated that his statement was recorded by the police on 13.08.2021. His uncle Ashutosh Singh had informed Beldaur police-administration about the incident. At about 1:20-1:30 in the night police had come at the place of incident. He has stated that blood had collected below the body of the both deceased and their body was also soaked with blood. He has stated that when he had woken up and arrived at the gate he saw blood coming out from their body was clotting and they were lying dead. When he tried to wake them up but they were dead. Finding them dead he and his family members started hue and cry. 15-20 people had gathered after

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hue and cry. Police officer and villagers were also there. P.W. 3 has stated that written complaint was submitted on the next day of incident at his door itself to the police which was prepared after deliberation with the family members. He has stated that DSP, SP and Darogaji had also come for inquiry. P.W. 3 has further stated that there is a title suit pending with the Ld. Sub Judge Munger as Title Suit No. 82/71 and as per partition decision both sides are in possession of their respective lands. After the aforesaid decision a panchayat was also convened in which Anant Singh was given 8 bighas of land. He has stated that all accused of this case are relative of Anant Singh.

(ii) P.W. 4 is Pappu Kumar and he is injured of this case. He has stated in his examination in chief that incident is dated 12.08.2021 and had occurred at 1:00 of the night. He was in his house. Anant Singh, Pampam Singh, Shivam Singh, Sita Devi, Dilchan Singh, Amal Kishor Singh, Nawal Singh, Pheny Singh alias Ranvijay Singh and one person more whose name he cannot recall came in police uniform and him, his brother Dhananjay Prasad Singh, Vijay Prasad Singh took out from the house and poured bullets upon them. Dhananjay Singh and Vijay Singh died on the spot whereas he received two bullets in his left chest. This witness showed his injuries to this Court. He has further stated that he saved his life after running away. He cannot tell the name of arms. He has stated that he identifies the persons who had fired bullets. He identified accused Dilchan Singh, Amal Kishor Singh, Anant Singh and Pampam Singh present in the Court and also claimed to identify the accused who were absent.

On cross examination P.W. 4 has stated that his statement was recorded by the police at his gate when he had returned from the hospital after six

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months. He has stated that his clothes had blood stains and cannot tell what happened with the clothes. He remained senseless for 3 and ½ month. He was referred to Delhi from Begusarai. He has stated that he, Santosh Kumar, Dhananjay and Vijay are brothers and all were sleeping in their rooms on the day of incident. Their gates were got opened by the accused persons and they were pulled out towards the gate. He had run away to save his life towards west after receiving bullets and jumping over the wall. He was shot at before his jumping over the wall. His both brothers were shot dead in front of him. He had seen his brothers squirming and dying. He has stated that 8 bighas of land were given to Anant Singh which was share of his father and they have sold 1 bigha of his share. They had promised to give land on exchange of land but in between they caused this incident. He has stated that his injuries were attended first time in Begusarai.

(iii) P.W. 1 is Santosh Kumar Singh. He is a farmer and younger brother of deceased Dhananjay Singh. He has stated in his examination in chief that incident is dated 12.08.2021 and had occurred at 1:00 a.m. Some accused persons came in police uniform and asked to open the gate. When his brother Dhananjay Singh did so, his step brother Pampam Singh alias Abhishek, Anant Singh were there and on instigation of his step bhabhi Sita Devi, Shivam Kumar fired bullet which had hit the chest of Dhananjay Singh who died on the spot. Dilchan Singh, Raushan Kumar, Phany Singh, Amal Kishor Singh, Sita Devi, Anant Kumar Singh were with accused persons. There were some other persons also to whom he could not recognize. P.W. 1 has further stated that all these accused had fired bullet upon his brother Birendra Singh alias Vijay Singh. His both brothers were killed on spot. Pappu Singh

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had also received bullets and got medical treatment. P.W. 1 has stated that he could recognize all accused in the light of inverter and torch. P.W. 1 identified Kamal Kishor Singh, Nawal Kishor Singh, Anant Singh, Pampam Singh present in the Court and claimed that he can identify absent accused also.

On cross examination on behalf of Abhishek alias Pampam Singh, Sita Devi, Anant Singh, Dilchan Singh P.W. 1 has stated that his father was Dashrath Singh who has one brother Anant Singh. P.W. 1 has further stated that he has four brothers viz. Dhananjay Singh Vijay Singh, Pappu Singh and he himself. He has stated that son of Dhananjay Singh viz. Rajiv Ranjan Singh is informant of this case. Sita Devi is wife of Anant Singh who has three sons viz. Shivam, Abhishek and third one whose name he does not know. P.W. 1 has stated that a title suit was going on between his father and Anant Singh. He has further stated that incident had occurred at 1:00 a.m. in the night where Darogaji had come at 2:00 a.m. on the spot. Darogaji had stayed in the night after seeing two deceased. He had given his statement to Darogaji. Darogaji had read over his statement. He has stated that accused have come in 20-25 numbers wearing uniform but they did not have the mask. He has stated that he had shouted after seeing the deceased.

Aforesaid cross examination was also adopted by accused Amal Kishor Singh and Nawal Kishor Singh.

(iv) P.W. 2 is Nitish Kumar. He has stated in his examination in chief that incident had occurred on 12.08.2021 at about 1:00 a.m. He was sleeping on the roof and the distance of the place of incident was 20-25 meters from there. He got up after hearing firing and saw Dilchan Singh, Pampam Kumar alias Abhishek, Raushan Kumar, Amal Kishor

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Singh, Nawal Kishor Singh, Pheny Singh alias Ranvir Singh, Sita Devi, Shivam Kumar and Anant Singh and some people he could not recognize. They were standing at the gate of Dhananjay Singh with arms and were firing bullets. Thereafter, accused persons ran away. When he had gone there he found Dhananjay Singh and Vijay Singh were lying dead. They had received bullets. Pappu Kumar had received bullets in his chest. His statement was recorded by the police. He has stated to the police that Manoj Yadav had shot at Dhananjay Singh. Abhishek alias Pampam had also shot at Dhananjay Singh in his chest. Ranvir Singh had shot at Dhananjay Singh in his head. P.W. 2 has further stated that Subhash Yadav alias Subhash Mistri had caught hold of Vijay Singh and Anant Singh had fired bullet on Vijay Singh which had hit his head. The bullets fired by Amal Kishor and Nawal Kishor had hit chest of Pappu. P.W. 2 identified his signature on the written complaint as Ext. 1. He identified accused Dilchan Singh, Anant Singh, Amal Kishor Singh, Nawal Kishor Singh, Pampam Kumar and Abhishek Kumar present in the Court.

On cross examination P.W. 2 has stated that police had made enquiry from him on 12.08.2021 at 2:00 a.m. at the door of Dhananjay Singh. He has stated that incident had occurred at 1:00 a.m. and he was sleeping on the roof. He had arrived at the spot after hearing the noise and arrived there when accused persons had run away after firing bullets from there. He has stated that Rajiv Ranjan Singh and Santosh Singh were present on the spot with him. Rajiv Ranjan Singh had also given statement to the police. He had signed over his statement. Blood had dropped on the surface where dead body of Dhananjay Singh and Vijay Singh were lying. Their clothes were soaked in the blood.

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Dhananjay Singh and Anant Singh are brothers. He has denied the suggestion that whatever stated by him in his examination in chief is false.

(v) P.W. 7 is Dr. Ashok Kumar Sharma. He has stated in his examination in chief that on 13-08-2021 he was in the Kalpana Nursing Home Begusarai and at 06:30 A.M. he had examined injured namely Pappu Kumar Singh, S/o- Late Dashrath Prasad Singh, village Sakrohar, P.S. Beldaur, District Khagaria. Patient was treated at Beldaur PHC Khagaria No. 900 dated 13-08-2021. A case of firearm injury of grievous in nature was operated at Kalpana Nursing home. Under G.A. wound was explored, Bleeding was lighted. Drainage tube was placed in the left side of chest. Debarment of chest was done. Bleeding was secured. Wound was closed. X-ray chest shows bullet in left side of chest near axilla, 2nd bullet was in front of abdomen on left side of chest. Under General Anesthesia both bullet were removed and sent to police as exhibit. Police was informed vide O.D. slip immediately. Police requisition came to him on 22-08-2022. So operative procedure was copied from injury register. The treatment report is in his pen and signature and marked as Ext. 4. On cross-examination PW-7 has stated that he had treated the injured. He has further stated that the bullets removed from the body of injured Pappu Kumar Singh was handed over to the police but he has not mentioned the same in the injury report. He has stated that he has mentioned the nature of injury in his injury report. He has examined the injured on 13.08.2021 and had informed the police.

(vi) P.W. 8 is Dr. Vidyanand Singh. He has stated in his examination in chief that on 13.08.2021 he was posted at Sadar Hospital Khagaria as a

Dr. Vidyanand Singh



Medical Officer. Post-mortem of deceased Vijendra Singh alias Vijay Singh and Dhanajay Singh was not performed before him. However, he is acquainted with writing and the signature of the Dr. Dharmendra Kumar as he has seen him writing and putting signature many times. The document i.e. post-mortem report before him is also in writing and bears signature of Dr. Dharmendra Kumar which are marked as Ext. 5 and 5/1 respectively. Ld. Counsel for defence objects the exhibition of writing and signature of the Dr. Dharmendra Kumar. As the witness has appeared only to identify the writing and signature of the Dr. Dharmendra Kumar as the said doctor has already expired and the witness has stated that he is acquainted with the writing and signature of the aforesaid doctor, objection of Ld. Counsel for defence is rejected. On cross examination P.W. 8 has stated that he does not know the date of death of Dr. Dharmendra Kumar. He has appeared before this Court after receiving the summons. Dr. Dharmendra Kumar was junior to him. He identified his writing and signature as Ext. 5 and 5/1 respectively. When a fire arm is shot at a distance of 1 feet, it will cause charring only. It is wrong to suggest that he has wrongly identified signature of Dr. Dharmendra Kumar.

(vii) P.W. 6 SI Shivkumar Yadav who is the first IO of this case. He has stated in examination in chief that on 13.08.2021 he was posted as SHO P.S. Beldaur and took charge of investigation of Beldaur P.S. Case No. 178/2021. He inspected the place of incident which is the house of informant located in village Sakrohar P.S. Beldaur where the deceased were told to be killed by the accused persons in front of the gate of the house of the informant. The boundaries of the place of incident is temple and PCC metalled road and two storey house of Sudhir Sah are

Neel Kumar



in North; tat and sheet house of Umesh Mukhiya and one storey building of Anant Singh in South; brick-titles house of Anant Singh and PCC metalled road in East and PCC rural road and two storey building of Lakhan Singh and one storey building of Pappu Singh are in West. He had recorded re-statement of informant and statement of Nitish Kumar. He had handed over the charge of investigation on 21.08.2021 due to his transfer to SHO Santosh Chaudhary. He identified his signature on the formal F.I.R. as Ext. 3. He also identified endorsement of F.I.R. as Ext. 1/C. S.I. Pankaj Prakash had prepared inquest report of deceased Vijendra Singh alias Vijay Singh and Dhananjay Singh in his presence and two independent witnesses.

On cross examination P.W. 6 has stated that the incident had occurred at 1:00 a.m. on 12.08.2021 and information of incident was received about 13 hours delay. F.I.R. was registered on 13.08.2021 at 14:30 hours and it was sent to the Court on 14.08.2021. He has further stated that it can be noticed after reading the whole F.I.R. that none of the witnesses has been mentioned as eye witness to the incident. He has further stated that on 13.08.2021 at about 1:20 a.m. an information was received that two persons had died and one is injured due to firing by unknown persons. He has stated that Rajiv Ranjan who is informant of this case did not meet him despite his effort. He has stated that he had arrived at 9:00 a.m. of 13.08.2021 near deceased. He had prepared the inquest report of deceased Dhananjay Singh and Vijendra Singh. Rajiv Ranjan and Gulshan Kumar were witnesses to the inquest report. That time also Rajiv Ranjan or Gulshan Kumar did not tell him who had killed his father. Gulshan Kumar is son of Pappu Singh who was injured in the incident. P.W. 6 has further stated that Nitish Kumar is not a family

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member. He has further stated that empty shell was not found at the place of occurrence. He did not seize the clothes worn by the deceased. He has stated that after hearing the statements of witnesses it did not appear that there was any land dispute. He had denied the suggestion his investigation is faulty and he has written everything on the police station.

(viii) PW-5 is SI Santosh Kumar who is the second IO of this case. He has stated in his examination in-chief that he had taken charge of investigation on 23.08.2021 from S.I. Shiv Kumar Yadav. He had recorded the statement of Nitish Kumar, Santosh Kumar Singh and Pappu Singh. He had obtained PMR of deceased Dhananjay Singh and Vijendra Singh alias Vijay Singh. He had submitted the charge sheet. On cross examination P.W. 5 has stated that he had submitted the charge sheet on the instruction of senior officials and on the basis of statements of witnesses recorded by previous investigating officer.

10. Defence has also led evidence and has examined two witnesses

- (i) D.W. 1 Sita Devi. She is an accused of this case. She has stated in her examination in chief that she had received 8 bighas of land given by the society. She does not know where murder was committed. She and her maternal relatives have been falsely implicated in this case due to the aforesaid land. On cross examination by Ld. P.P. for state D.W. 1 has stated that she had known the incident of murder of Vijay Singh and Dhananjay Singh when she was in prison. She does not know how Vijay Singh and Dhananjay Singh had died. She has stated that at the time of lodging of the case Rajiv Ranjan was in her sasural. She has stated that she does not have any knowledge that Vijay

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Singh and Dhananjay Singh had died due to bullet injuries.

- (ii) DW-2 Dilchan is also an accused of this case. He has stated in his examination in chief that accused Sita Devi is his sister. Dhananjay Singh and Vijo Singh had a dispute and they were criminal minded persons. His sister, brother in-law and nephew have been falsely implicated in this case. He is also innocent. He has further stated that his nephew Pampam was in Patna at the time of incident. On the cross examination on behalf of prosecution D.W. 2 has stated that this is only case against him. He has further stated that he had not seen whether two persons were killed in this case. Police had not inquired from him.

POINT No. 1

LEGAL POSITION

[Section 299 of the IPC]

11. Section 299 of the IPC defines the expression 'culpable homicide'. Homicide means killing of a human being by a human being. 'Culpable homicide' means causing of death (i) by an act with the intention of causing death ; (ii) an act with the intention of causing such bodily injury as is likely to cause death ; or (iii) an act with the knowledge that it was likely to cause death. In short, there are three species of mens rea in culpable homicide, that are (a) an intention to cause death, (b) an intention to cause a dangerous injury and (c) knowledge that death is likely to happen.

WHETHER CULPABLE HOMICIDE:

12. There is no dispute that the deceased Dhananjay Singh and Vijay Singh met with a culpable homicide. It is the consistent case of the prosecution that Dharmendra Singh and Vijay Singh has died due to the

not clear



gun shot injuries. PW-8 Dr. Vidyanand Singh has proved writing and signature of late Dr. Dharmendra Kumar who had conducted post-mortem of Vijay Singh alias Vijendra Singh and Dhanjay Singh, on the post-mortem report as Ext.5 and 5/A respectively. These PMRs mention cause of death as cardio-respiratory failure due to injuries caused by the fire-arms. This Court finds no difficulty to hold that the death of Dhananjay Singh and Vijay Singh was undoubtedly an act of 'culpable homicide' defined in Section 299 of the IPC.

WHETHER MURDER

LEGAL POSITION

[Section 302/149 of the IPC]

13. The basic difference between the 'culpable homicide' defined in Section 299 and 'murder' defined in Section 300 of the IPC, lies in the degree of gravity of the offence. In order to bring home the offence within the parameter of Section 300 of the IPC, the prosecution has to establish that the assailant had the definite intention to cause death of the deceased or the offender had the knowledge that the wound he is inflicting would be sufficient to cause death or that those will be dangerous to human life. Section 300 of the IPC is qualified with five statutory Exceptions. If any of the five Exceptions is attracted, the offence would be termed as 'culpable homicide not amounting to murder'. Therefore, the essential ingredients of the offence of murder have to be deduced and inferred from a series of facts, like weapon used in the crime, number of the wounds, situs of the wounds and other attending circumstances.
14. On the other hand, Section 149 of the IPC postulates an assembly of five or more persons having a common object i.e., one of those named

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in Section 141, I.P.C. and then doing of the act as by the members of it in prosecution of that object. The basis of constructive guilt under Section 149 is mere membership of an unlawful assembly. Under Section 149, if the accused is a member of an unlawful assembly, the common object of which is to commit a certain crime, and such a crime is committed by one or more of the members of that assembly, every person who happens to be a member of that assembly would be liable for the commission of the crime being a member of it irrespective of the fact whether he has actually committed the criminal act or not. There need not be prior meeting of the mind. It would be enough that the members of the assembly which constitutes five or more persons, have common object and that they acted as an assembly to achieve that object.

ANALYSIS OF EVIDENCE

[Date, time, place, manner and genesis of occurrence]

Section 302/149 of IPC

15. Out of twenty named accused of FIR, six accused viz. Anant Singh, Sita Devi w/o Anant Singh, Abhishek Kumar alias Pampam Singh s/o Anant Singh, Amal Kishor Singh s/o late Babua Singh, Nawal Kishor Singh s/o late Babua Singh and Dilchan Singh s/o late Amirchand Singh are facing trial in the present case.
16. FIR mentions date of incident as 12.8.2021 and time as 1:00 am. It mentions role of the accused of this Sessions case that Anant Singh shot at in the chest of Vijay Singh. It further mentions that Sita Devi exhorted the accused persons to shoot Pappu Singh when she saw him running away then Amal Kishor Singh and Nawal Kishor Singh fired bullets which had hit on his chest. Abhishek Kumar alias Pamapm

Abhishek Kumar



Singh fired bullet which had hit chest of Dhananjay Singh. FIR further mentions that Dilchan Singh had also fired bullet upon Dhananjay Singh.

17. Informant/PW-3 has stated that on 12.08.2021 at 1:00 am 20-25 persons had knocked at his main gate and when his father opened the gate they started scuffle with his father. PW-3 identified them in the light of bulb as Pampam Kumar alias Abhishek Kumar, Shivam Kumar, Sita Devi, Anant Singh, Amal Kishor Singh, Nawal Kishor Singh, Dilchan Singh, Raushan Singh. They took his father towards main gate and shot dead his father and uncle Vijay Singh. They also seriously injured his uncle Pappu Singh. Vijay Singh received bullet in his head and chest whereas Pappu Singh received bullet in his chest. All miscreants left the place while firing. This witness has stated that when he reached at the gate he saw both persons lying dead. Ld. Counsel for the defence has given much emphasis on this statement that PW-3 is not an eye witness. In this context it is worth to consider that different people act differently. It might be the reason that due to fear he might had not gone near the spot where the deceased were killed. There is no suggestion to this witness by the defence that he was not present on the spot.

18. PW-4 is injured of this case and brother of the both deceased. He has stated that incident is dated 12.08.2021 and had occurred at 1:00 am of the night. He was in his house. He has further stated that Anant Singh, Pampam Singh, Shivam Singh, Sita Devi, Dilchan Singh, Amal Kishor Singh, Nawal Singh, Pheny Singh alias Ranvijay Singh and one person whose name his was missing, came in police uniform. They fired bullets upon Dhananjay Singh, Vijay Singh and him. Dhanjay Singh and Vijay Singh had died on spot. He had received two bullets in his left chest. He

Dilchan



showed his injury to the Court. He has also stated that the accused persons got opened and took him (we) pulling towards gate. PW-4 has stated his both brothers were shot dead in front of him. His brothers died writhing in pain. He was also shot at and then he ran for life by jumping over the wall.

19. Hon'ble Supreme Court in Abdul Sayeed vs. State of Madhya Pradesh (2010) 10 SCC 259 discussed the evidentiary value of the testimony of an injured witness in the following words:

26. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. Convincing evidence is required to discredit an injured witness.

20. PW-1 is also brother of the both deceased and injured Pappu Singh. He is also an eye-witness to the incident and has stated that the incident had occurred on 12.08.2021 at 1:00 of the night. He has stated that the accused persons came in police uniform and asked to open the gate. Dhanajy Singh had opened the gate. Pampam Singh alias Abhishek, Anant Singh, Sita Devi were there. At the instance of Sita Devi Shivam Kumar had fired bullet which had hit the chest of Dhananjay Singh who died on spot. PW-1 has stated that Dilchan Singh, Raushan Kumar, Pheny Singh, Amal Kishor Singh were also with the accused. All accused also shot dead his brother Vijay Singh. Pappu Singh was also injured. PW-1 has stated that in the light of inverter and torch he had recognized the accused persons. No suggestion came to this witness also from the side of the defence about his witnessing the crime.

21. PW-2 Nitish Kumar is an independent witness. PW-6/ First IO has

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stated that he had recorded the statement of Nitish Kumar who is not a member of the family of the deceased. P.W. 2 has also stated that the incident is dated 12.08.2021 and had occurred at 1:00 am of the night. P.W. 2 has further stated that he was sleeping on the roof at a distance of 20-25 meters from the place of incident and woke up on hearing the sound of firing. He saw that Dilchan Singh, Pampam Kumar alias Abhishek, Raushan Kumar, Amal Kishor Singh, Nawal Kishor Singh, Pheny Singh alias Ranveer Singh, Sita Devi, Shivam Kumar and Ananat Singh one other person whom he could not recognize were standing at the gate of Dhananjay Singh with weapons and they were firing bullets. When the assailants ran away then he arrived on the spot and saw that Dhananjay Singh and Vijay Singh were lying dead. Pappu Kumar had also received bullets. He has stated that he had told the police that Manoj Singh had fired bullet upon Dhananjay Singh. Abhishek alias Pamapam had also fired bullets which had hit the chest of Dhananjay Singh. Ranveer Singh had fired bullet which had hit the head of Dhananjay Singh. Subhash Yadav alias Subhash Mistri had caught hold of Vijay Singh and Anant Singh had shot at Vijay Singh in his head. PW-2 has further stated that Amal Kishor and Nawal Kishor had fired bullet which had hit chest of Pappu. Defence has not given any suggestion to this witness about his being an eye-witness to the incident.

22. PW-6 is first IO of this case and he has stated that inquest reports of both deceased (Ext. 2 and Ext. 2/A) were prepared in his presence by SI Pankaj Prakash and also two independent witnesses whom he identifies. In Ext. 2/Inquest report of deceased Dhananjay Singh mentions bullet was hit on the right portion of the chest causing two injuries, injuries on

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right portion of stomach, injury on left portion of chest and left wrist. PW-6 has stated that he took charge of investigation on 13.08.2021 and inspected the place of occurrence which was gate of the house of the informant at village Sakrohar, P.S. Beldaur. He had visited the house of the informant in the night of the incident itself. He has further stated that the deceased were lying dead at the vacant place near place of occurrence and a guava tree. He has stated that in the south of the place of the incident there is house of Anant Singh. He had found blood scattered at the place of occurrence. He has stated that written application bears signatures of Ashutosh and Nitish Kumar.

23. Ld. Counsel for defence has given much emphasis that at 9:00 am the informant appeared before him and that time also he did not tell the name of the assailant and PW-3/informant has also stated that after deliberation with the family members he had submitted written application to the SHO for registration of FIR. In this regard it is trite to consider the fact that where father and uncle were killed before him and one uncle was seriously injured by the assailants in that situation a person takes time to come out of shock and fear. It is human tendency that emotions run very high when the deceased and assailants are close relatives.

24. PW-5 is the second IO of this case. He has stated regarding the genesis of the case that in the supervision note of the senior officials it is mentioned that there was a land dispute between the parties and the incident was result of the same. PW-4 who is the injured and the brother of the deceased has stated that he had given eight bighas of land of share of his father to the accused persons and they have sold one bigha of land. They had assured that they would give land on the exchange of



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the land but in between they did this incident. PW-3/Informant has also stated that a title Suit No. 82/71 was filed between his father and Anant Singh.

25. It is the duty of the accused to furnish explanation in his statement under Section 313 of Cr.P.C. When the prosecution has discharged its burden to prove then the accused has to prove any fact within his special knowledge, to establish that he/she is not guilty of the aforesaid alleged offence. In *Sucha Singh v. State of Punjab*, reported in AIR 2001 SC 1436, Hon'ble Supreme Court has held that

"We pointed out that Section 106 of the Evidence Act is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but the section would apply to cases where prosecution has succeeded in proving facts for which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of special knowledge regarding such facts failed to suffer any explanation which might drive the court to draw different inference."

26. In the judgment in the case of *Raj Kumar vs. State of M.P.*, 2014 Cri. LJ 1943, the Hon'ble Apex Court reiterated the view that where the accused fails to give any explanation in his statement recorded under Section 313 Cr.P.C. regarding any incriminating material that has been produced against him, the Court will be entitled to draw such adverse inference against the accused as maybe permissible in law.

"The accused has a duty to furnish an explanation in his statement Under Section 313 Code of Criminal Procedure regarding any incriminating material that has been produced against him. If the accused has been given the freedom to remain silent during the investigation as well as before the Court, then the accused may choose to maintain silence or even remain in complete denial when his statement Under Section 313 Code of Criminal Procedure is being recorded. However, in such an event, the Court would be entitled to draw an inference, including such adverse inference against the accused as may be permissible in accordance with law."

27. In *Prithpal Singh vs. State of Punjab & Ors.* reported in (2012) 1 SCC 10, the Hon'ble Supreme Court has held that

"... if fact is especially in the knowledge of any person, then burden of proving that fact is upon him. It is impossible for the prosecution to prove certain facts particularly within the knowledge of the accused. Section 106 is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt. But the section would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the

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existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the Court to draw a different inference. Section 106 of the Evidence Act is designed to meet certain exceptional cases, in which, it would be impossible for the prosecution to establish certain facts which are particularly within the knowledge of the accused."

28. Ocular evidence has found support from the medical evidence. Hon'ble Supreme Court in Prithviraj Jayantibhai Vanol vs Dinesh Dayabhai Vala and Ors. 2021 SCC OnLine SC 493 has held that ocular evidence is considered the best evidence unless there are reasons to doubt it. It is only a case where there is a gross contradiction between medical evidence and oral evidence, and the medical evidence makes the ocular testimony improbable and rules out all possibility of ocular evidence being true, the ocular evidence may be disbelieved.
29. From the above discussion, it is proved on record that the testimonies of the prosecution witnesses are corroborating and the alleged contradictions, if any are minor discrepancies, which do not affect the core of the prosecution case, and therefore, cannot be made a crucial ground to reject the evidence in its entirety.
30. Situated, thus, in opinion of this Court, the very nature and situs of the wound and fatal injury sustained by the both deceased and further, in the detail backdrop of the incident, as delineated through the evidence of the PWs, as discussed above, vis-à-vis, in absence of evidence of any of the circumstances falling within Exceptions to Section 300 IPC, unmistakably prove the definite intention on the part of the accused to cause fatal injury to Dhananjay Singh and Vijay Singh alias Vijendra Singh. Thus, the prosecution has proved the charge of Section 302/149 of I.P.C. against all accused of this case. Point No. 1 is decided accordingly and in favour of the prosecution.

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POINT NO.2**[Section 149/120B of IPC]**

31. Criminal conspiracy is an independent offence. It is punishable separately. The most important ingredient of a criminal conspiracy is an agreement for an illegal act. Conspiracy continues to subsist till it is executed or rescinded or frustrated by choice or necessity.
32. Conspiracy punishable under Section 120B of the IPC has been defined in Section 120A of I.P.C. Where there is an agreement between two or more persons who are alleged to conspire to do an illegal act or an act which may not itself be illegal but be done by illegal means. The word 'illegal' is defined in Section 43 of the Code as 'applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action'; and a person is said to be 'legally bound to do whatever it is illegal in him to omit'. Reading Sections 43 and 120A of IPC together it would appear that two or more persons would be guilty of a criminal conspiracy whenever they agree to do or cause to be done acts, which are an offence punishable under the IPC or any special or local law, or which are prohibited by law, or which furnish ground for civil action.
33. P.W. 5/Second I.O. of this case has stated that there is land dispute between the parties and incident is result of the same. P.W. 4 has also stated that he had given eight bighas of land of his father's share to the accused and they have sold one bigha from the same. P.W. 4/injured has further stated that they had assured to give land on the exchange of land but in between the accused persons have caused the incident.
34. P.W. 1 has stated that his father viz. Dashrath Singh and accused Anant Singh are brothers. P.W. 1 has further stated that he has four brothers

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and other three are Dhananjay Singh, Vijay Singh and Pappu Singh. He has further stated that a title suit was contested between his father and Anant Singh in Munger.

35. P.W. 3/Informant has also stated that Title Suit No.82/71 was contested between his father and accused Anant Singh before the Court of Sub Judge Munger. A suggestion was given on behalf of defence to P.W. 3 that Anant Singh was not happy with the judgment of title suit.
36. From the evidence of aforesaid witnesses i.e. P.W. 1, P.W. 3, P.W. 4 and P.W. 5 it is clear that the reason for incident was land dispute. P.W. 4 has stated that accused had assured to give land on the exchange but did not do so and cause the incident. F.I.R. bears names of twenty accused and the accused facing trial in this case are related to each other. From the evidence of these witnesses more particularly of P.W. 4 tension was brewing due to land dispute and incident was caused by the accused persons. The incident is ultimate result of the accused who were nurturing grudge arising out of land dispute. Thus, charge of Section 120B/149 of I.P.C. is proved against the accused persons of this case. Point No. 2 is decided accordingly and in favour of prosecution.

POINT NO.3

CHARGE U/S 307/149 OF THE IPC:

37. Section 307 of I.P.C. deals with the offence i.e. attempt to murder. For ready reference this section is reproduced below:

307. Attempt to murder.- Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment or either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to (imprisonment for life), or to such punishment as is hereinbefore mentioned.

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38. Under Section 307 IPC, it is necessary to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. The intention or knowledge must be such as is necessary to constitute the offence of murder. Therefore, in order to prove this charge, it requires the same very factors to be proved as are needed to prove an offence under Section 302 of the IPC except that in such a case, the act failed short of the death, which is necessary under Section 302 of IPC.

39. The Hon'ble Supreme Court in Surinder Singh vs State (Union Territory of Chandigarh) 2021 SCC OnLine SC 1135 has held that

"20. It is by now a lucid dictum that for the purpose of constituting an offence under Section 307 IPC, there are two ingredients that a Court must consider, first, whether there was any intention or knowledge on the part of accused to cause death of the victim, and, second, such intent or knowledge was followed by some overt actus rea in execution thereof, irrespective of the consequential result as to whether or not any injury is inflicted upon the victim. The Courts may deduce such intent from the conduct of the accused and surrounding circumstances of the offence, including the nature of weapon used or the nature of injury, if any. The manner in which occurrence took place may enlighten more than the prudential escape of a victim. It is thus not necessary that a victim shall have to suffer an injury dangerous to his life, for attracting Section 307 IPC.

21. It would also be fruitful at this stage, to appraise whether the requirement of 'motive' is indispensable for proving the charge of attempt to murder under Section 307 IPC.

22. It is significant to note that 'motive' is distinct from 'object and means' which innervates or provokes an action. Unlike 'intention', 'motive' is not the yardstick of a crime. A lawful act with an ill motive would not constitute an offence but it may not be true when an unlawful act is committed with best of the motive. Unearthing 'motive' is akin to an exercise of manual brain-mapping. At times, it becomes herculean task to ascertain the traces of a 'motive'.

23. This Court has time and again ruled: "that in case the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eyewitness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eyewitnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the court in its ultimate conclusion. But that does not mean that if motive is not established, the evidence of an eyewitness is rendered untrustworthy."

24. We are thus of the considered opinion that whilst motive is infallibly a crucial factor, and is a substantial aid for evincing the commission of an offence but the absence thereof is, however, not such a quintessential component which can be construed as fatal to the case of the prosecution, especially when all other factors point towards the guilt of the accused and testaments of eye-witnesses to the occurrence of a malfeasance are on record.

40. Pappu Kumar is injured in this case. F.I.R. mentions when accused

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persons saw him he tried to run away on this Sita Devi exhorted accused persons saying 'Papua is running away, shoot him also.' F.I.R. further mentions that on the aforesaid exhortation Amal Kishor Singh and Nawal Kishor Singh fired bullets which had hit the chest of Pappu Kumar.

41. Pappu Kumar/P.W. 4 has stated that that he had received two bullets in his left chest. He also showed injuries to this Court. P.W. 3/Informant, P.W. 1, P.W. 2 have also stated that injured Pappu Kumar had received bullets.
42. P.W. 7 Dr. Ashok Kumar Sharma who had examined the injured Pappu Kumar has stated that it was a case of firearm injury of grievous in nature. He has further stated that from x-ray of chest it was seen first bullet was in left side of chest and second was in front of abdomen and also the left side of the chest. He has stated that bullets were removed and given to the police as exhibit. P.W. 7 identified the injury report of Pappu Kumar Singh S/o late Dashrath Prasad Singh as Ext. 4.
43. It is proved that the injured Pappu Kumar Singh had received fire arm injuries. Two bullets were removed from left side of his chest and was handed over to the police. Use of fire arm and bullets hitting the chest of the injured proves the definite intention of the accused persons to kill the injured. Thus, charge of Section 307/149 of I.P.C. is proved beyond reasonable doubt against the accused persons. Point No. 3 is decided accordingly and in favour of the prosecution.

POINT NO.4

[Section 147/148 of IPC]

44. Accused persons have also been charged with Section 147 and 148 of I.P.C. Section 147 deals with punishment for rioting which is defined in

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Section 146 of the Code. It says whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. Section 148 of I.P.C. prescribes punishment for rioting armed with deadly weapon.

45. In this case it is proved that two persons died due to gun shot injuries and one person was injured due to the same. Thus, charge of Section 148 of I.P.C. is proved against the accused persons. Point No. 4 is decided accordingly and in favour of the prosecution.

POINT NO.5

[Section 342/149 of IPC

46. Section 342 of I.P.C. prescribes punishment for wrongful confinement. Wrongful confinement has been defined in Section 340 of the code. It says whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limit is said "wrongfully to confine" that person.
47. P.W. 3 has stated that accused Pampam Kumar alias Abhishek Kumar, Shivam Kumar, Sita Devi, Anant Singh, Amal Kishor Singh, Nawal Kishor Singh, Dilchan Singh, Raushan Singh these all took his father towards the gate. P.W. 4 has stated that Anant Singh, Pampam Singh, Shivam Singh, Sita Devi, Dilchan Singh, Amal Kishor Singh, Nawal Singh, Pheny Singh alias Ranvijay Singh and one more person took out him, his brothers Dhananjay Prasad Singh and Vijay Prasad Singh from the house.
48. From the evidence of P.W. 3 and P.W. 4 it is proved that accused persons had confined the deceased and injured so that they could not escape.

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After confinement the accused persons shot dead Dhananjay Singh and Vijay Singh alias Vijendra Singh and shot at Pappu Singh. Thus, charge of Section 342/149 of I.P.C. is proved against all accused persons. Point No. 5 is decided accordingly and in favour of the prosecution.

POINT NO.6

[Section 504 of IPC]

49. Section 504 of I.P.C. says that whoever intentionally, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace or to commit any other offence shall be said to have committed the offence of intentional insult with intent to provoke the breach of the peace.

50. In Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 Hon'ble Supreme Court has discussed the essential ingredients of Section 504 IPC:

13. Section 504 IPC comprises of the following ingredients viz. (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC.

51. In the present case F.I.R. mentions that accused persons had entered into the courtyard of the informant and started hurling abuses. Informant in his evidence has not stated that whether they had used any insulting words. P.W. 5 have not stated that whether they had abused anyone. Thus, the prosecution has failed to prove charge of Section 504 of I.P.C. Point No. 6 is decided accordingly and against the prosecution.

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POINT NO. 7

[Section 27 of the Arms Act]

52. It may be noted that Section 27(1) of the Arms Act mandates that whoever, inter alia, uses any arms or ammunition in contravention of Section 5 shall be punished with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine. Further it may also be noted that Section 5(1) of Arms Act states that no person shall use, manufacture, sell, transfer, convert, repair, test or prove, or expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any firearm or any other arms of such class or description as may be prescribed or any ammunition, unless he holds in this behalf a license issued in accordance with the provisions of this Act and the rules made thereunder.
53. Eye witnesses P.W. 1 to P.W. 4 have proved use of fire arms by the accused persons except accused Sita Devi. Evidence of eye witnesses proves that both deceased died due to gun shot injuries and injured had also received fire arm injury. Evidence of doctors P.W. 7 and P.W. 8 also proves the injuries to the deceased and the injured were caused by fire arm. P.W. 7 had extracted two bullets from the chest of injured Pappu Kumar Singh. Thus, the prosecution has proved charge of Section 27 of the Arms Act against accused persons except Sita Devi, beyond reasonable doubt.
54. It follows from the aforesaid discussion based on appreciation of ocular, medical and documentary evidence that prosecution has successfully proved the guilt of the aforesaid accused beyond reasonable doubt for

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the offence punishable u/Ss. 302/149; 120B/149; 307/149; 342/149 & 148 of I.P.C. against all accused namely Anant Singh, Sita Devi, Abhishek Kumar alias Pampam Singh, Amal Kishor Singh, Nawal Kishor Singh and Dilchan Singh. All accused except Sita Devi are also convicted for the offence punishable u/S. 27 of the Arms Act. Offence u/S. 147 and 504 of I.P.C. is not proved against all accused. Point No. 7 is decided accordingly.

CONCLUSION

55. In view of the findings recorded herein above accused namely Anant Singh, Abhishek Kuamr alias Pampam Singh, Sita Devi, Amal Kishor Singh, Nawal Kishor Singh and Dilchan Singh are convicted for the offence punishable u/Ss. 302/149; 120B/149; 307/149; 342/149 & 148 of I.P.C.
56. All accused except Sita Devi are also convicted for the offence punishable u/S. 27 of the Arms Act.
57. Accused Anant Singh and Abhishek Kumar alias Pampam Singh are already in judicial custody. Bail bonds of other accused Sita Devi, Amal Kishor Singh, Nawal Kishor Singh and Dilchan Singh are forfeited and they are taken into custody. Convicted persons are sent to Khagaria Jail with direction to produce them on 04.06.2026 for order on sentence.
58. Judgment pronounced in open court today on this 29th day of May, 2026 in presence of accused persons.

(Dictated and corrected by me)

(Dictated)

Rajesh Kumar Bachchan

(Rajesh Kumar Bachchan)
Sessions Judge,
Khagaria,
29.05.2026

Rajesh Kumar Bachchan

(Rajesh Kumar Bachchan)
Sessions Judge,
Khagaria,
29.05.2026



**IN THE COURT OF SESSIONS JUDGE
At Khagaria (Bihar)
(Presided over by Shri Rajesh Kumar Bachchan)**

Sessions Case No. 241/2022

WITH

Sessions Case No. 242/2022

State of Bihar Vs. Anant Singh and Ors.

Beldaur P.S. Case No. 178/2021

u/Ss. 147, 148, 149, 342, 120B, 307, 302, 504 of I.P.C. and Section
27(3) of the Arms Act.

ORDER ON SENTENCE

Dated : 04.06.2026

Present: Ld. PP for State

Ld. Defence Counsel for the accused persons.

Convicts 1. Anant Singh 2. Sita Devi 3. Amal Kishor Singh
4. Nawal Kishor Singh 5. Abhishek Kumar alias Pampam Singh
and 6. Dilchan Singh are produced from J.C.

1. Aforesaid convicts have been brought from J.C. for hearing on sentence. They have been convicted vide judgment dated 29.05.2026 for the offence punishable under Sections 302/149, 120B/149, 307/149, 342/149, 148 of IPC. All accused except Sita Devi have also been convicted for the offence punishable u/S. 27 of the Arms Act.
2. Ld. PP for state has submitted that convicts must be punished for maximum sentence for the offence punishable so that a strong message could go to the society to deter the people from doing such kind of heinous offence.

R. Bachchan



3. Ld. Counsel for convicts has submitted that convicts prays that lenient view may be adopted by this Court while awarding sentence.
4. Heard. Perused the record.
5. In case of offence punishable under Section 302 of I.P.C. a convict can be awarded either life imprisonment or death sentence. This Court has to consider which sentence is proper in the facts and circumstances of the present case. Death sentence is awarded in the cases which are "rarest of the rare case". In Machi Singh vs. State of Punjab (1983) 3 SCC 470, the Hon'ble Apex Court has held that when death sentence may be awarded :

"1. When the murder is committed in an extremely brutal, grotesque diabolical, revolting, or dastardly manner so as to arouse intense and extreme indignation of the community. For instance, (i) when the house of the victim is set aflame with the end in view to roast him alive in the house, (ii) when the victim is subjected to inhuman acts of torture or cruelty in order to bring about his or her death, (iii) when the body of the victim is cut into pieces or his body is dismembered in a fiendish manner.

2. When the murder is committed for a motive which evince total depravity and meanness. For instance when (a) a hired assassin commits murder for the sake of money or reward (b) a cold blooded murder is committed with a deliberate design in order to inherit property or to gain control over property of a ward or a person under the control of the murderer or vis-à-vis whom the murderer is in a dominating position or in a position of trust. (c) a murder is committed in the course for betrayal of the motherland.

3. When murder of a Scheduled Caste or minority community etc., is committed not for personal reasons but in circumstances which arouse social wrath. For instance when such a crime is committed in order to terrorize such persons and frighten them into fleeing from a place or in order to deprive them or, make them with a view to reverse past injustices and in order to restore the social balance.

4. In cases of "bride burning" and what are known as "dowry-deaths" or when murder is committed in order to remarry for the sake of extracting dowry once again or to marry another woman on account of infatuation.

5. When the crime is enormous in proportion. For instance when multiple murders say of all or almost all the members of a family or a large number of persons of a particular caste, community, or locality, are committed.

6. When the victim of murder is (a) an innocent child who could not have or has not provided even an excuse, much less a provocation, for murder, (b) a helpless woman or a person rendered helpless by old age or infirmity, (c) a person vis-à-vis whom the murderer is in a position of domination or trust, (d) a public figure generally loved and respected by the community for the services rendered by him and the murder is committed for political or similarly reasons other than personal reasons."

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6. In *Ravji vs. State of Rajasthan* : (1996) 2 SCC 175, where the Hon'ble Apex Court held that it is only characteristics relating to crime, and not to criminal, which are relevant for sentencing:

"The crimes had been committed with utmost cruelty and brutality without any provocation, in a calculated manner. It is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry to justice against the criminal".

7. In *Sachin Kumar Singhraha v State of MP* : (2019) 8 SCC 371, where the accused was sentenced capital punishment for the offence of rape and murder of 5 year girl, the Hon'ble Apex Court converted the sentence into life imprisonment for 25 years without remission and has observed:

"Life imprisonment is the rule to which the death penalty is the exception. The death sentence must be imposed only when life imprisonment appears to be an altogether inappropriate punishment, having regard to the relevant facts and circumstances of the crime."

8. It is appropriate to mention here that Oscar Wilde has said - "The only difference between the saint and the sinner is that every saint has a past and every sinner has a future." Convicted accused must think over the act done by him.
9. On due consideration I am of the view that extreme sentence of death penalty is not warranted in the facts and circumstances of the case. This is not the 'rarest of rare case'. Imprisonment for life would be completely adequate and would meet the ends of justice. Accordingly, all accused are sentenced to under go imprisonment

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for life with fine of Rs. 50,000/- for the commission of offence punishable u/S. 302/149 of the I.P.C. and in case of default of deposit of fine they shall undergo further S.I. for twelve months. They are further sentenced to undergo imprisonment for life with fine of Rs. 50,000/- for commission of offence punishable u/S. 120B/149 and in case of default of deposit of fine they shall go further S.I. for twelve months They are further sentenced to undergo imprisonment for twenty years with fine of Rs. 25,000/- for the offence punishable u/S. 307/149 of I.P.C., in case of default of deposit of fine they shall go further S.I. for six months. They are further sentenced to undergo imprisonment for one year with fine of Rs. 1000/- for the offence punishable u/S. 342/149 of I.P.C., in case of default of deposit of fine he shall undergo S.I. for one month. All accused except Sita Devi are further sentenced to undergo R.I. for seven years with fine of Rs. 5000/- for the commission of offence punishable u/S. 27 of the Arms Act and in case of default of deposit of fine they shall go further S.I. for two months. All the sentences are directed to run concurrently and the period of detention undergone by the convicts shall be set off u/S. 428 of Cr.P.C.

10. DLSA, Khagaria is directed to pay compensation to the legal heirs of each deceased namely Dhananjay Singh and Vijay Singh alias Vijendra Singh Rs. 3 lacs under victim compensation scheme. Victim Pappu Kumar alias Pappu Singh alias Pappu Kumar Singh shall also be paid Rs. 1 lac.

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11. The Office Clerk is directed to give a duly attested copy of judgment and order on sentence to the convicts free of cost. A copy be also sent to the DM Khagaria and a duly attested copy to the concerned Superintendent of Jail. A copy be also sent to the Secretary, DLSA Khagaria.
 12. Convicts are apprised of his right to prefer an appeal before the Hon'ble Patna High Court.
- File be consigned to the record room.

Dictated

(Rajesh Kumar Bachchan)
Sessions Judge,
Khagaria.
04.06.2026

