

Session Trial No. 62/2023

STATE OF BIHAR VS. SHYAM MURMUR AND OTHERS

FORM A**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS****JUDGE-III, KATIHAR**

**Present: Sunil Kumar Singh-III,
District & Additional Sessions Judge-III
Civil Court, Katihar**

[Date of the Judgment- 06.06.2026][Session Trial No. 62/2023]

(Arising out of Azamnagar P.S. Case No. 263/2016)

U/S 364, 366(A)/34 of IPC

PROSECUTION	State of Bihar Through: Anwari Khatoon- Informant
REPRESENTED BY	Ld. A.P.P. Shri S.N. Singh
ACCUSED	1. Shyam Murmu, aged about 36 years, S/O- Late Suphal Murmu..... (A-1) 2. Bablu Murmu, aged about 60 years, S/O- Late Suphal Murmu.....(A-2) 3. Jetha Murmu, aged about 38 years, S/O- Late Suphal Murmu.....(A-3) 4. Tallu Murmu, aged about 45 years, S/O- Late Suphal Murmu.....(A-4) R/O Vill- Manoharpara, P.S.-Azamnagar, Dist-Katihar, Bihar.
REPRESENTED BY	Ld. Adv. Md. Abdul Kashim

FORM B

Date of Offence	23.09.2016
Date of FIR	28.09.2016
Date of Charge-sheet	31.01.2017
Date of Cognizance	16.05.2017
Date of Framing of Charges	03.04.2023
Date of commencement of prosecution evidence	30.05.2023
Prosecution evidence closed	18.03.2026
Date of recording Statement U/Sec 313 of Cr.P.C.	18.05.2026
Date of commencement of defense evidence	N.A.
Defense evidence closed	18.05.2026

STATE OF BIHAR VS. SHYAM MURMU AND OTHERS

Date on which judgment is reserved	23.05.2026
Date on which Judgment is Pronounced	06.06.2026
Date of the Sentencing Order, if any	N.A.

Accused Details:

S. No.	Name of Accused	Date of Arrest/ Surrender	Date of Release on Bail	Offences Charged U/S	Whether Acquitted or convicted	Sentence Imposed	Period of De-tention Under-gone during Trial for purpose of section 428 Cr.P.C.
1.	Shyam Murmu	09.01.17	09.01.17	364, 366(A)/34	Acquitted	N.A.	N.A.
2.	Bablu Murmu	09.01.17	09.01.17	-DO-	Acquitted	N.A.	N.A.
3.	Jetha Murmu	09.01.17	09.01.17	-DO-	Acquitted	N.A.	N.A.
4.	Tallu Murmu	09.01.17	09.01.17	-DO-	Acquitted	N.A.	N.A.

JUDGMENT

1. Initially, five accused persons namely (1) Shyam Murmu (2) Bablu Murmu (3) Jetha Murmu (4) Tallu Murmu and (5) Bitka Murmu were charged for the offence punishable U/S 364, 366(A)/34 of IPC and all the accused persons were facing trial but the accused Bitka Murmu has died on 13.05.2023, as such, trial of said accused Bitka Murmu was dropped vide order dated 19.08.2025 and Now, the four accused persons namely (1) Shyam Murmu (2) Bablu Murmu (3) Jetha Murmu and (4) Tallu Murmu are facing trial for the same offence.

FACTUAL BACKGROUND

2. The case of the prosecution as per written application of informant namely Anwari Kahtoon is that on 23.09.2016 at about 05:00 P.M., all the accused persons kidnapped the daughter of informant namely Nurema Khatoon aged about 15 years while she was going to her field. Hence, the present case.

3. On the basis of the written application of the informant, Azamnagar P.S. Case No. 263/2016 dated 28.09.2016 was instituted against the above named accused persons for the offences punishable U/S 364, 366(A)/34 of IPC and upon completion of investigation, the charge-sheet bearing No. 02/2017 dated 31.01.2017 was submitted on 02.03.2017. Subsequently, cognizance of the offences punishable U/S 364, 366(A)/34 of IPC was taken on 16.05.2017 by the court of Ld. A.C.J.M.-VI, Katihar against the above named accused persons.

4. After completion of the appearance of the above named accused persons, the complete sets of police papers were supplied to the accused and the then Ld. A.C.J.M.-VI, Katihar, committed the case record to the Court of Sessions, Katihar on 25.11.2022 and ac-

STATE OF BIHAR VS. SHYAM MURMUR AND OTHERS

cordingly, Sessions Trial Case No. 62/2023 was instituted and in due course of time, the case record was received to this court by the order of the Ld. Sessions Judge, Katihar for trial & disposal in accordance with law.

TRIAL PROCEEDINGS

5. Hearing rival arguments of both the sides, charges were framed for the offences punishable U/S 364, 366(A)/34 of IPC against the above named accused persons and the same were read over and explained to them in Hindi on 03.04.2023 to which they pleaded not guilty and claimed trial. Accordingly, the case was fixed for prosecution evidence.

6. To substantiate its case, the prosecution has examined altogether two (02) witnesses. The brief description, serial number, name of witnesses etc. are being produced here for easy reference. The prosecution has produced following evidence:-

A) ORAL EVIDENCE

Sl. No.	Name	Type	Date of examination
PW-1	Anwari Khatoon	Informant	30.05.2023
PW-2	Nurema Khatoon	Victim	06.06.2024

B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
	N.A.		

7. Thereafter, no other witnesses were examined by the prosecution and prosecution evidence was closed on 18.03.2026. The statements of the above named accused was recorded on 18.05.2026, U/S 313 Cr.P.C and all the incriminating evidences had been put to them in their vernacular language to which they stated that they have been falsely implicated in the present case and are innocent and on 18.05.2026, the defence evidence was closed on the prayer of the Ld. defence counsel. Accused persons have not produced any oral or documentary evidence in support of their defense.

POINT FOR DETERMINATION

8. The point for determination before this court is that whether the prosecution has been able to prove its case beyond the shadow of reasonable doubts against the accused person or not?

APPRECIATION OF EVIDENCE

9. Now, this court shall discuss all the evidence available on the records in the light of charges levelled against the accused person.

10. A brief scrutiny of the evidence recorded in the matter is as under: -

STATE OF BIHAR VS. SHYAM MURMUR AND OTHERS

(i) **PW-1 Anwari Khatoon** has stated in her examination-in-chief that, she is the informant of this case. The incident occurred seven years ago. At about 05:00 P.M. her daughter namely Nurema Khatoon went to fetch the cow, but she not returned, thereafter she searched her, but not found. Later, she came to know that Shyam Murmu had taken away her daughter with other three to four persons. These people had abducted her daughter (Para-1). After that she went to the police station. She does not remember who had wrote the application. Whatever she said was written down, it was read out to her. She put her thumbprint on the application. After five months of the incident her daughter returned home, thereafter the police came and recorded her daughter namely Nurema Khatoon statement and took away her to the court for statement. She identified Shyam Murmu (Para-2,3&4). During the course of cross-examination done on behalf of defence, this witness has stated that she does not know what was written in the application at the police station. The police asked her to put her thumb impression, so she did. Now her daughter, Nurema Khatoon is married to Shyam and she has three children from him. No one kidnapped her daughter, her daughter and son-in-law live together. Shyam is his son-in-law so identified him (Para-5,6,7&8)

28.06.26
(ii) **PW-2 Nurema Khatoon** has stated in her examination-in-chief that the occurrence occurred in 2016 at about 05:00 P.M. She went to Delhi on her own will. She got married of her own will and no one has kidnapped her. She is living happily with her husband and have three children. Her statement was recorded before the police and court. She identified Shyam Murmu as his husband and claim to identify other by sight.(Para-1 to 6). During the course of cross-examination done on behalf of defence, this witness has stated that today she has testified before the court willingly without fear or pressure. She is living with Shyam as a wife, he did not kidnap him. Shyam is his husband so identified him (Para-7 to 9)

ARGUMENT OF RIVAL CONTENDERS

11. BY PROSECUTION: -

On the other hand, the Ld. Addl. P.P. for the State argued that the prosecution, through the evidence adduced, has been able to prove the case beyond reasonable doubt and therefore, the accused person is liable to be convicted and sentenced accordingly.

12. BY DEFENCE: -

The learned counsel arguing for the accused persons, submitted that the whole prosecution story to be false & concocted one. The Ld. Counsel submitted that all the witnesses examined by the prosecution have not supported the prosecution story. It is argued further that basically this is a case of no evidence, accordingly, it is prayed by the Ld. Counsel that the accused persons deserve kind consideration of acquittal from the charges leveled against them.

STATE OF BIHAR VS. SHYAM MURMUR AND OTHERS

DECISION AND REASON FOR THE DECISION

13. Having heard the arguments advanced by Ld. Addl. P.P. for State as well as the Ld. Counsel for accused persons and have meticulously perused the materials available on the case record.

14. Before going through the case and appreciating the evidence on record, I would like to state that, it is settled proposition of criminal law that the prosecution is supposed to prove its case on judicial file beyond the shadow of all reasonable doubt by leading reliable, cogent and convincing evidences and any such doubt in the prosecution story entitle the accused persons to acquittal.

15. Further to prove its case on judicial files prosecution is supposed to stand on its own leg and it can't drive any benefit whatsoever from the weakness, if any, in the defence of the accused person.

16. In a criminal trial, the burden of proving everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject to some statutory exceptions.

17. Now, the case in hand, altogether two (02) prosecution witnesses have been examined in this case. Although, the informant namely Anwari Khatoon has stated in written application that on 23.09.2016 at about 05:00 P.M., all the accused persons kidnapped her daughter namely Nurema Khatoon aged about 15 years while she was going to her field. But, from perusal of the evidence of this witness (PW-1) has stated in her examination-in-chief that the incident occurred seven years ago. At about 05:00 P.M. her daughter namely Nurema Khatoon went to fetch the cow. Later, she came to know that Shyam Murmu had taken away her daughter with other three to four persons. These people had abducted her daughter. She put her thumbprint on the application. After five months the incident her daughter returned home, thereafter the police came and recorded Nurema Khatoon statement and took away her to the court for statement. She identified Shyam Murmu. During the course of cross-examination done on behalf of defence, this witness has stated that she does not know what was written in the application. The police asked her to put her thumb impression, so she did. Now her daughter, Nurema Khatoon married to Shyam and she has three children from him. No one kidnapped her daughter, her daughter and son-in-law live together. Shyam is his son-in-law so identified him. Thus, according to her cross-examination statement, her statement is contradictory. PW-2 Nurema Khatoon, who is the victim of this case has stated in her examination-in-chief that the occurrence occurred in 2016 at about 05:00 P.M. She went to Delhi on her own will. She got married of own will, no one has kidnapped him. She is living happily with her husband and have three children. Her statement was recorded before the police and court. She identified Shyam Murmu as his husband and claim to identify other by sight.

STATE OF BIHAR VS. SHYAM MURMUR AND OTHERS

During the course of cross-examination done on behalf of defence, this witness has stated that today she has testified before the court willingly without fear or pressure. She is living with Shyam as a wife, he did not kidnap him. Shyam is his husband so identified him. Thus, she has even not whispered about the incident as alleged by informant of this case in written application and has completely go by the same. Moreover, investigating Officer of this case has not been produced and examined by the prosecution, the reason best known to the prosecution. The non-examination of the investigating officer has become fatal for the case of the prosecution. Hence, it is obvious that the prosecution has not been able to establish the case against the above named accused persons beyond the shadow of reasonable doubts as the prosecution witnesses have not supported the case of the prosecution.

18. It is a settled principle of criminal law that the prosecution is supposed to prove its case on judicial file and the burden of proof in the criminal trial lies throughout upon the prosecution which never shifts.

CONCLUSION

06.06.26 19. On the basis of discussions made above and keeping in mind the entire prosecution evidence, I find and hold that the prosecution has not been able to prove the charges levelled U/S 364, 366(A)/34 of IPC against the accused persons namely (1) Shyam Murmu (2) Bablu Murmu (3) Jetha Murmu and (4) Tallu Murmu beyond the shadow of reasonable doubts. Hereinafter, order is passed.

ORDERED

20. Therefore, the accused persons namely (1) Shyam Murmu (2) Bablu Murmu (3) Jetha Murmu and (4) Tallu Murmu are hereby acquitted from the charges of the offences punishable under Sections 364, 366(A)/34 of IPC. Accused are on bail, as such, they and their sureties are discharged from the liabilities of their respective bail bonds.

21. File be consigned to Record Room after due recall of process; issued if any; and return of original Documents; if any; to the parties and seized article if any; be disposed off as per rule.

Dated: The 06th day of June, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

This judgment has been written, corrected, signed, sealed, dated and pronounced by me in open court today i.e., on 06.06.2026.

Dated: The 06th day of June, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

Session Trial No. 62/2023

STATE OF BIHAR VS. SHYAM MURMUR AND OTHERS

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

EVIDENCE ON BEHALF OF PROSECUTION

A) ORAL EVIDENCE

Sl. No.	Name	Type	Date of examination
PW-1	Anwari Khatoon	Informant	30.05.2023
PW-2	Nurema Khatoon	Victim	06.06.2024

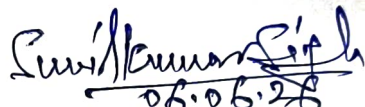
B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
	N.A.		

EVIDENCE ON BEHALF OF DEFENCE

Accused persons have not adduced either any oral or documentary evidence in support of their defence.

Dated: The 06th day of June, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

Date of Judgment/ Order	06.06.2026
Date of Reserving Judgment/ Order	23.05.2026
Uploading Date	
Uploaded by	