

IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS JUDGE III, JHANJHARPUR		
Present Anil Kumar Ram Bihar Superior Judicial Service		
<u>Sessions Trial No. 225 of 2024</u> <u>CIS- 225/2024</u> GR No. – 960/2023 Arising out of Phulparas P.S. Case No. 299 of 2023		
Date of Judgment – The 27 th day of May, 2026		
Informant/ Prosecution	State of Bihar through the Informant Priyanka Devi, Wife of Late Krishnadev Singh, Resident of Village- Belha, P.S.- Phulparas, District- Madhubani	
Represented By	Sri Deo Shankar Jha, Learned APP	
Accused Persons	(A1)	Saurabh Singh, aged about 26 years, Son of Pradeep Singh, Resident of Village- Belha, P.S.- Phulparas, District- Madhubani
	(A2)	Suman Kumar Singh, aged about 25 years, Son of Gajendra Singh, Resident of Village- Belha, P.S.- Phulparas, District- Madhubani
Represented By	Sri Laxmishwar Singh and Sri Jitendra Kumar Jha Ld. Advocate	
<u>Abridged Chronology of the Case</u>		
District	Madhubani	
Police station	Phulparas	
Date of occurrence		29.05.2023
FIR	299/2023	30.05.2023
Charge sheet	379/2023	06.12.2023
Cognizance	U/s-302, 120(B)/34 of IPC and U/s-27 of Arms Act	08.12.2023
Commitment		15.05.2024
Charge	U/s-302/34, 120(B) of IPC and U/s 27 of Arms Act	06.08.2024
Commencement of Evidence		27.08.2024
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Prosecution evidence closed		23.02.2026
Statement u/s 313 of Criminal Procedure Code		27.02.2026
Defence evidence closed		18.03.2026
Argument concluded		13-05-2026
Date of Judgment		27-05-2026
Date of Sentencing order		-
<u>Appendix of Evidence</u>		
LIST OF WITNESSES		
1) Prosecution		
S. N.	Name	Type
P.W.-1	Anil Kumar Singh	Hostile Witness
P.W.-2	Dr. Kunal Shankar	Doctor
P.W.-3	Tapeshwar Prasad Singh @ Tapeshwar Singh	Hostile Witness
P.W.-4	Chandrakala Devi	Hearsay Witness
P.W.-5	Tripta Kumari	First I.O.
P.W.-6	Anil Singh @ Bhuwan Singh	Hearsay Witness
P.W.-7	Priyanka Devi	Informant/Hearsay witness
P.W.-8	Pradeep Kumar Singh	Second I.O.
P.W.-9	Shashibhushan Chakarwarti @ Shashibhushan Kamat	Hostile witness
2) Defence has not adduced any oral evidence.		
* LIST OF EXHIBITS-		
1) Prosecution		
Exhibit-P-1	Signature of Dr. Kunal Shankar on postmortem report of Kishun Dev Singh.	
Exhibit-P-2	Signature of Priyanka Devi on Written report.	
Exhibit-P-3	Signature of I.O. Pradeep Kumar Singh on Charge sheet no.-379/2023 dated 06.12.2023 of Phulparas P.S. Case No. 299 of 2023	
Exhibit-P-4	Signature as Incharge S.H.O. of Pradeep Kumar Singh on Charge sheet no.-379/2023 dated 06.12.2023 of Phulparas P.S. Case No. 299 of 2023	
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2) Defence has not adduced any documentary evidence.

Rank of Accused	Name of Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of section 428 Cr.P.C.
(A1)	Saurabh Singh	Surrendered on 04.09.2023	In custody	U/s-302/34 of IPC and U/s 27 of Arms Act	Acquitted	---	---
(A2)	Suman Kumar Singh	Surrendered on 11.09.2023	Have been on bail since 28.02.2024	U/s-302/34, 120(B) of IPC and U/s 27 of Arms Act	Acquitted	---	---

JUDGMENT

1. Both accused persons namely **(A1) Saurabh Singh and (A2) Suman Kumar Singh** are facing trial for offence under sections U/s-302/34 and 120(B) of IPC and U/s 27 of Arms Act.

Factual background

2. The prosecution case according to the FIR in brief is that on 29.05.2023 marriage ceremony of daughter of informant's neighbour was performed in which, FIR named accused were wedding procession guests. They were intoxicated and started firing, causing turbulence. When villagers objected, they became furious and started using filthy language. Threat was also being given to kill. When husband of informant, namely, Krishnadeo Singh tried to pacify the matter, Saurabh Singh slapped him and took him away towards east direction from the wedding place. As soon as, elder brother of Krishnadeo reached there, he found Krishnadeo Singh drenched in blood due to gun shot injury. He was brought to sub-Divisional Hospital, Phulparas where Doctor declared him dead.

3. On the basis of written report of Informant Priyanka Devi, an F.I.R. was instituted by the police. After completion of the investigation, the police submitted charge sheet against the accused persons U/s-302/120(B)/34 of IPC and U/s 27 of Arms Act. After cognizance and furnishing relevant copies of the Police papers to the accused persons under section 207 of Cr.P.C., the case was committed to the Court of Sessions u/s 209 of Cr.P.C. on 15.05.2024.

Trial proceedings

4. After hearing both sides and on the basis of the materials available on record, charge against all accused persons for offence under sections 302/34 and 120(B) of IPC and U/s 27 of Arms Act were read over and explained to them in Hindi language to which they refused to plead guilty and claimed to be tried.

5. The prosecution has produced as many as nine witnesses namely P.W.-1 Anil Kumar Singh, P.W.-2 Dr. Kunal Shankar, P.W.-3 Tapeswar Prasad Singh @ Tapeswar Singh, P.W.-4 Chandrakala Devi, P.W.-5 Tripta Kumari, P.W.-6 Anil Singh @ Bhuwan Singh, P.W.-7 Priyanka Devi, P.W.-8 Pradeep Kumar Singh and P.W.-9 Shashibhushan Chakrawarti @ Shashibhushan Kamat in support of its case. The prosecution has also got exhibited following documents in support of their case:-Exhibit-P-1 is Signature of Dr. Kunal Shankar on postmortem report of Kishun Dev Singh. Exhibit-P-2 is Signature of Priyanka Devi on Written report. Exhibit-P-3 is Signature of I.O. Pradeep Kumar Singh on Charge sheet no.-379/2023, dated 06.12.2023 of Phulparas P.S. Case No. 299 of 2023. Exhibit-P-4 is Signature as Incharge S.H.O. of Pradeep Kumar Singh on Charge sheet no.-379/2023, dated 06.12.2023 of Phulparas P.S. Case No. 299 of 2023.

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6. After completion of prosecution evidence, statement of accused persons were recorded U/s. 313 of Cr.P.C by putting all incriminating evidence available against them, to which they denied and pleaded that they are innocent.

7. The defence has not produced documentary and oral evidence.

Brief statements of the prosecution witnesses

8. **Prosecution Witness No. 1 is Anil Kumar Singh.** In examination in chief he has stated that on August 11, 2023, Bada Babu from the Phulparas Police Station visited my home in Jhanjharpur and inquired whether my daughter was married. He informed him that my daughter's wedding had taken place on May 29, 2023. He then asked if I knew Pradeep Singh, a resident of Village Belha, under the jurisdiction of Phulparas Police Station, in the district of Madhubani. I replied that I did know him, noting that he had attended my daughter's wedding and offered to show them the video footage as proof. I asked the Junior Chhota Babu why they were making these inquiries. In response, he stated that on May 29, 2023, one person had died from a gunshot wound during a wedding ceremony in Village Belha, leading to the registration of Case No. 299/2023 at the Phulparas Police Station. He stated that the current questioning was being conducted in connection with that specific case. He also showed the video footage to the police. He has further stated that upon their request for the footage, he handed over a copy of the video to the Junior Officer. Subsequently, the police departed after taking a copy of the video with them. He has further stated that he has no further information regarding Phulparas Police Station Case No. 299/2023. He has not identified the accused.

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In cross examination in para-3 he has stated that he has no knowledge about the alleged incident. Thus PW1 is a hostile witness.

9. Prosecution Witness No. 2 is Dr. Kunal Shankar. In his examination in chief he has stated that On 30.05.2023 I was posted as M. O. at Sadar Hospital, Madhubani. On that date at 7.30 A.M. I was conducted PM of a dead body of a Hindu Male aged about 40 years named as Kishun Dev Singh S/O Gorakh Prasad Singh of Village Balha Mahua Bairiya, P.S. Phulparas, District-Madhubani identified by Chaukidar 4/4 Md. Ashauddin of Phulparas P.S.

2. Clothes and articles sent with the corpse, etc:-Handed over to Chaukidar as per challan

3. Condition of subject Including physique and nutrition, on genital/acquired peculiarity, P.M., lividity, Rigor mortise, degree, of decomposition, obstruction of natural orifices, if any and in case of new born infant, mention. Condition of umbilical cord :- Eye-1/2 closed, Mouth-1/2 Closed, Fist 1/2 Closed Rigor mortis-Present.

found following antemortem injury:-

(1) Blood coming from both nostril.

(2) Entry wound- a wound is present on left side of back of chest. Size of wound was 0.5 cm X 0.7 cm. Shape of the wound is oval and margin is inverted, tissue inside wound is Blackish and charring present. The wound is continued in a track which is entering in right side of chest cavity.

(3) Exit wound-Exit wound is present at right side, on anterior chest 2" below right nipple. Size of the exit wound is 2.5cm X 2cm, irregular in shape everted, tissue inside is reddish brown in colour

On dissection:-

Dissection of chest - Right chest cavity is full of blood. Right lung is found massively lacerated. There is tract present in right diaphragm, through which chest cavity communicated with abdominal cavity. Left lung is intact and pale. Both chamber of heart found empty.

Abdominal cavity-filled with blood. Liver found lacerated. Other abdominal viscera, namely spleen and both kidney found pale.

Stomach contain semi digested food material with alcoholic smell.

Intestine containing fecal matter and gases.

Urinary bladder empty.

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Time since death within 24 hours.

Blood sample collected for alcohol base test forensic lab test, handed over to Chaukidar 4/4- Md. Ashauddin, P.S Phulparas.

Death in my opinion was due to hemorrhage and shock as ruptured of lungs and liver caused by gunshot injury. He has further stated that this P.M report bears my signature and he identified, which has been marked as exhibit P-1.

In cross examination in para 10 he has stated that there is no external injury on the body of deceased.

10. Prosecution Witness No. 3 is Tapeswar Prasad Singh @ Tapeswar Singh. In his examination in chief he has stated that I have no information regarding the incident. He has further stated that statement was recorded with the police and in my statement to the police, I stated that Pradeep Singh of Belha (son of Bindeshwar Singh) had been invited to the wedding of my niece, the daughter of Anil Singh and he had attended the ceremony. I informed the police that he remained present at my niece's wedding throughout the entire night on the day of the marriage. The Sub-Inspector collected the videography footage of the wedding from the videographer. He has further stated that I do not identify the accused persons, nor would I be able to identify them even if I see them. Thus he has no information regarding alleged incident and he is a hostile witness.

11. Prosecution Witness No. 4 is Chandrakala Devi. In examination in chief she has stated that the incident occurred approximately two years ago, between 11:00 and 11:30 PM. She has further stated that it was the occasion of Vinod Singh's daughter's wedding, where we along with Krishna Dev Singh @ 'Kari' Singh had gone to welcome the wedding procession (Baraat). She has further stated that the procession arrived at the entrance between 10:00 and 11:00 PM. She has further stated that among others,

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Krishna Dev Singh was actively participating in welcoming the guests. She has further stated that suddenly, Saurabh Singh, Suman Singh, Vikas Singh, Bhavesh Singh, Pradeep Singh, and three or four unidentified individuals arrived, creating a ruckus within the Baraat and began slapping people and opening fire and when Krishna Dev Singh (alias Kari Singh) attempted to intervene and protest against this behavior, the aforementioned accused individuals forcibly dragged him away in an easternly direction. She has further stated that upon witnessing this, his wife began screaming, "Save my husband! Save him" and we rushed toward the east direction from which the commotion was emanating and heard the sound of gunfire coming from that very area. She has further stated that as we approached the immediate vicinity where the incident was unfolding, we observed Saurabh Singh firing a shot and the bullet struck Krishna Dev Singh (alias Kari Singh), causing him to collapse to the ground, whereupon the accused persons fled away from the scene. She has further stated that we immediately taken the injured Krishna Dev Singh (alias Kari Singh) to the Sub-Divisional Hospital in Phulparas and during the course of treatment, the doctors declared Krishna Dev Singh (alias Kari Singh) dead. She has further stated that the police from the Sub-Divisional Hospital arrived, took custody of the body and sent it for a post-mortem examination. She has further stated that prior to this incident, Krishna Dev Singh had gone to demand payment from Pradeep Singh for some earth-filling work he had performed and this demand led to a dispute between the two. It was a direct consequence of this dispute that the accused Pradeep Singh acting in collusion with the aforementioned co-accused persons murdered Krishna Dev Singh (alias Kari Singh). She identified Saurabh Singh, who is present in court and claims to identify others.

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In cross examination in para 6 she has stated that after the marriage she had gone at her home. In para 8 she has stated that she did not meet Kari Singh in night of marriage ceremony. She has further stated that she had last time seen Kari Singh when he was dancing in marriage ceremony and after then she did not see Kari Singh. In para 13 she has stated that on the shouting of wife of Kari Singh, Usha Devi, Geera Singh and Bhola Singh have gone in eastern direction along with the family members of Kari Singh. In para 17 she has stated that she cannot tell the boundary of place of occurrence and there was light in night. In para 20 she has stated that hearing the sound of gun shot we went running and before me 50 to 100 people had reached there and deceased Krishnadeo Singh was fallen with the side of face and blood was oozing and falling on earth. In para 28 she has stated that Krishnadeo Singh did not drink Tadi and liquor. In para 38 she has stated that on hearing noise she and the wife of Krishnadeo went at the place of occurrence where Krishnadeo have been shot and found that Krishnadeo was unconscious due to gun shot.

12. Prosecution Witness No. 5 Tripta Kumari is first I.O. of this case. In examination in chief she has stated that I was posted as a Sub-Inspector (S.I.) at Phulparas Police Station in the year 2023 and on May 30, 2023, she assumed charge of the investigation regarding Phulparas Police Station Case No. 299/2023. She has further stated that in the course of the investigation, she first recorded the details of the written application submitted by the Informant, Priyanka Devi, in Paragraph 1 of the case diary and recorded the details of the death inquest report concerning the deceased, Krishnadev Singh, in Paragraph 2 of the case diary. She has further stated that during the investigation, she visited the village Belha, inspected the place of occurrence and recorded the details of the first P.O. in paragraph 4 and the

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details of the second P.O. in Paragraph 5 of the case diary. She has further stated that in connection with this case, the Informant submitted a subsequent application to Phulparas Police Station and the details of this application were recorded in paragraph 6 of the case diary and during the investigation, she recorded a supplementary statement of the Informant and the details of which were noted in paragraph 7 of the case diary and subsequently, when the Superintendent of Police, Madhubani, assigned the charge of the investigation to Sub-Inspector Pradeep Kumar Singh, she handed over the charge of the investigation to Pradeep Kumar in compliance with the orders of the Superintendent of Police.

In cross examination in para 8 she has stated that no sign of gun shot was found at both place of occurrence and also did not find any live cartridge or empty cartridge at both place of occurrence and also did not find any sign of blood.

13. Prosecution Witness No. 6 is Anil Singh @ Bhuwan Singh. In examination in chief he has stated that the incident occurred two years ago, between 11:00 PM and 11:30 PM. He has further stated that a religious ceremony was being held at my home and the entire family had gathered for the occasion. Meanwhile, a wedding ceremony for the daughter of Binod Singh, my neighbour was taking place next door. He has further stated that my entire family, including myself, attended this wedding and amidst the festivities, a commotion erupted from the rear of the premises, plunging the area into chaos and when my younger brother, Krishnadev Singh (alias 'Kari'), went to intervene and quell the disturbance regarding a dance performance, Saurabh Singh delivered a forceful slap across his face and Saurabh was accompanied by Suman Kumar Singh and Vikas Singh, as well as three or four other unidentified individuals whom I would be able to recognize if I saw them again. He has further

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stated that Bhavesh Singh and Pradeep Singh were standing nearby and Pradeep Singh instructed Saurabh Singh to catch Krishna Kumar Singh and drag him away. He has further stated that Saurabh Singh and the others then forcibly dragged my younger brother outside and Saurabh Singh fired a shot into the air and the three unidentified men accompanying him also fired their weapons into the sky and the accused continued to drag my brother in the direction of Belha High School. He has further stated that after reaching a distance of approximately 100 meters, Saurabh Kumar Singh shot my brother, Krishn Kumar Singh (alias 'Kari') and the bullet entered through his back and exited through his chest. He has further stated that he personally witnessed with his own eyes Saurabh Singh firing the shot that killed my brother and we rushed my younger brother to the Phulparas Hospital, where, after examining him, the doctors pronounced Krishn Kumar Singh (alias 'Kari') dead. He has identified Suman Kumar and Saurabh Singh, who are present in the court today and claims to identify other accused.

In cross examiantion in para 8 he has denied that at the time of alleged occurrence Pradeep Singh was present in marriage ceremony of Tapeswar Singh at Jhanjharpur and Bhawesh Singh was present at marriage ceremony of Kamat Ji at Village Batnaha and videography of both marriage ceremony are there. In para 13 he has stated that place of marriage ceremony was one thousand feet away from the place of gun shot. He has further stated that when he went at place of occurrence first time and saw his brother he found that he was shot and was fallen on earth. He has further stated in para 13 that there was darkness and his brother was fallen from stomacily. In para 15 he has stated that wife of deceased Krishnadeo, his son Ladu, cousin Vikki, his son Vikash and his cousin Sudhir had come at the place of occurrence after him. In para 34 he has stated

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that no firing was done at dance place. In para 36 he has stated that huge amount of blood was oozing from the body of deceased and was fallen on earth scattered neared about one feet. In para 37 he has stated that FIR was written by advocate Laxmishwar Babu .

14. Prosecution Witness No. 7 Priyanka Devi is informant. In examination in chief she has stated that I am the informant regarding this incident and this case has been registered based on my written application. She has further stated that the incident occurred on May 29, 2023, at approximately 11:00 PM. and a wedding ceremony for a girl was being held at the residence of my neighbour, Binod Singh and my husband Krishna Singh (alias Kari Singh) along with myself and other family members, attended the wedding. She has further stated that while my husband, Krishnadev, was engaged in welcoming the wedding procession (Baraat) along with other people, Saurabh Singh, Vikas Singh, Suman Singh, and three or four other persons all in a state of intoxication entered in the midst of the guests brandishing revolvers and began creating ruckus, which resulted in chaos and panic. She has further stated that my husband and other villagers raised objections to this behavior, whereupon Saurabh Singh slapped my husband and when my husband protested further, Saurabh Singh opened fire. Saurabh Singh then instructed his accomplices to "grab the bastard and drag him outside." She has further stated that after dragging him a short distance away, Saurabh Singh shot my husband and the bullet struck him in the back and exited through his chest. She has further stated that my husband succumbed to his injuries caused by the gunshot. She has further stated that we took my husband to the Sub-Divisional Hospital in Phulparas for medical treatment and upon examination, the doctor declared my husband Krishnadev Singh (alias Kari Singh) dead. She has further stated that I

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submitted a written application to this effect at the Phulparas Police Station having read and understood its contents and affixed my signature on it which I identify as my own and this document is marked as Exhibit P-2. She identified Suman Singh, who is present in the Court and claims to identify other accused.

In cross examination in para 20 she has stated that she did not identify who has written the application (FIR) of this case. In para 22 she has stated that Bhawesh Singh and Pradeep Singh standing near by and spoken to Saurabh Singh that he demands money of soil filling. In para 33 she has stated that people made noise on the day of occurrence that Saurabh Singh has shot and Suman Singh, Vikash Singh and other three to four people were accompanying him. In para 34 she has stated that she firstly reached at the place of occurrence where his husband was shot and after then her Jeth, Akhilesh Master, Virendra Singh, Heera Singh, her Dewar Bhola, Jaout Vikash reached at the place of occurrence. In para 38 she has stated that her Jeth had given application by going at police station.

15. Prosecution Witness No. 8 Pradeep Kumar Singh is second IO of this case. In his examination in chief he has stated that in the year 2023, I was posted as the Additional Station House Officer at Phulparas Police Station. He has further stated that on June 28, 2023, I assumed charge of the investigation of Phulparas Police Station Case No. 299/2023 from Sub-Inspector Tripta Kumari and during the course of the investigation, I obtained the Post-mortem report of the deceased, Krishnadev Singh alias Kari Singh, the details of which were recorded in Paragraph 17 of the case diary. He has further stated that I received the seizure list previously prepared by the former Investigating Officer along with the seized blood samples and this receipt was recorded in Paragraph 19

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of the Case Diary. He has further stated that I recorded the statement of witnesses Anil Singh alias Bhuvan Singh, Mithilesh Kunwar, Manoj Singh, and Chandrakala Devi, the details of which were recorded in paragraphs 26, 27, 34, and 35, respectively, of the Case Diary and during the investigation, I received the supervisory notes from the Sub-Divisional Police Officer (SDPO), Phulparas, the details of which were recorded in Paragraph 38 of the Case Diary and recorded the statements of independent witnesses Manoj Kamat and Shashi Bhushan Kamat, the details of which were recorded in Paragraphs 49 and 50 of the Case Diary.

He has further stated that I obtained permission from the Hon'ble Court to have the seized blood samples examined and this was recorded in Paragraph 52 of the case diary and recorded the statements of independent witnesses Anil Kumar Singh and Tapeswar Singh, the details of which were recorded in Paragraphs 55 and 56 of the Case Diary. He has further stated that I received a Pen drive from Anil Kumar Singh, a resident of Rajputana Tola, Police Station Jhanjharpur, District Madhubani and a seizure list was prepared for this item, and its details were recorded in Paragraph 56 of the case diary. He has further stated that acting in accordance with the orders of the Hon'ble Court, I sent the seized blood samples to the FSL (Forensic Science Laboratory) at Muzaffarpur and this action was recorded in paragraph 62 of the Case Diary. He has further stated that a pen drive was received from Manoj Kumar Kamat, son of the late Mahendra Kamat, resident of Bathnaha, Police Station-Phulparas, District Madhubani and this fact has been recorded in Paragraph 64 of the Case Diary. The two pen drives obtained during the course of the investigation have been annexed to the Case Diary. These are marked as Exhibits 'M' and 'M-1', respectively.

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He has further stated that the arrested accused persons, Saurabh Singh and Suman Singh, were taken into police remand, and their confessional statements were recorded and this fact has been noted in Paragraph 84 of the Case Diary. He has further stated that Special Report-02 was received from the Office of the Superintendent of Police, Madhubani and this fact has been recorded in Paragraph 90 of the Case Diary and acting upon the directives contained in Report-02, the Tower locations of the accused persons Saurabh Singh, Suman Singh, and Vikas Singh were obtained and this fact has been recorded in Paragraph 91 of the Case Diary. He has further stated that special Report-03 was received from the Office of the Superintendent of Police, Madhubani and this fact has been recorded in Paragraph 94 of the Case Diary and upon the completion of the investigation, Charge Sheet No. 379/2023, dated 06.12.2023, was submitted against the accused Saurabh Singh son of Pradeep Singh and Suman Singh son of Gajendra Singh both residents of Belha, Police Station-Phulparas, District Madhubani under Sections 302, 120B/34 of the Indian Penal Code (IPC) and under Section 27 of the Arms Act and supplementary investigation against the remaining accused persons has been kept ongoing, as recorded in Paragraph 102 of the case diary. He has further stated that the charge sheet bears my initials and my full signature and furthermore, in my capacity as the Station House Officer (SHO) In Charge, I forwarded which also bears my initials and full signature. He identified his signature on chargesheet which has been marked as Exhibits P-3 and P-4 respectively. He identified Suman Singh, who is present in the Court and claims to identify other accused.

In cross examination in para 9 he has stated that he has not recorded the statement of any independent witness. In para 29 he has stated that the alleged occurrence happened at the door of Vinod Singh in his daughter's marriage but no statement was

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recorded either of Vinod Singh or his family members. In para 31 he has stated that accused Suman Singh has no criminal history.

16. Prosecution Witness No. 9 is Shashibhushan Chakarwarti @ Shashibhushan Kamat. He has been declared hostile.

Argument advanced by the sides

17. Shri D.S.Jha Ld. A.P.P. argued that the prosecution has proved its case beyond the shadow of all reasonable doubts with the help of prosecution witnesses and documentary evidences. Ld. A.P.P. further argued that the prosecution has been able to prove the reason behind the occurrence, manner of occurrence and place of occurrence. Ld. A.P.P. further submitted that there is no any contradiction amongst the prosecution witnesses and if any, is of very minor nature. Hence, he prayed to hold the accused persons guilty.

18. Per contra, Learned counsel for defence submitted that the testimony of the witnesses are contradictory. He has further submitted that accused has been falsely implicated in this case due to previous enmity. There is no eye witness of alleged occurrence and rest witnesses have been declared hostile. There is vital contradictions among the evidence of both IO. The prosecution has not proved electronic evidence as required under section 65B of Indian Evidence Act. The Prosecution has not produced any FSL report. The alleged arms have not been recovered by Police. The FIR has been drafted by a lawyer which appears a concocted document prepared after due thought. Informant PW7 has not stated about the details of PO . The prosecution has not proved conspiracy. It has been further argued that there is no nexus between the charges leveled against the accused persons and the evidence produced. It has also been submitted that

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there is nothing on record which could prove the proximity of the accused persons even remotely in the alleged offence. It has also been argued that the prosecution has miserably failed to prove the charges leveled against the accused persons beyond all reasonable doubts and hence the accused persons deserve to be given benefit of doubt and are entitled for acquittal in this case.

Point for determination

19. Now the main point for determination before the court is whether the prosecution has been able to prove the charges under section U/s-302/34/120(B) of IPC and U/s 27 of Arms Act levelled against the accused persons beyond all reasonable doubts or not?

Findings

20. It is settled proposition of criminal law that prosecution has to prove its case on the judicial file beyond all reasonable doubts and any such doubt in the prosecution story entitles the accused to acquittal. It is cardinal principle of jurisprudence that the criminal law can never work on mere conjecture and surmises or suspicion. This is a principle of jurisprudence that the prosecution has to establish its case on its own legs and it doesn't gain any strength from the weakness of the defence. The prosecution has to prove each and every ingredient of the offence against the accused persons and this general burden never shifts, unless provided by the statute as such. The prosecution case may be true but the criminal jurisprudence says that the prosecution must be true and there is long mental gap between 'may be true' and 'must be true'. The prosecution has to prove the guilt of the accused beyond all reasonable doubts by adducing positive cogent evidence and not by mere raising suspicion on his conduct as such. It is a settled principle of criminal

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jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond all reasonable doubts. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system. The prosecution has to prove its case by leading evidence in conjunction with the chain of events as are stated to have occurred and these evidence must point irresistibly to the conclusion that the accused is guilty. The seriousness of the offence also requires much stricter proof.

21. From careful perusal of record, it appears that P.W. 4, P.W.6 and P.W.7 have supported the prosecution case in their respective examination in chief but from perusal of their entire evidence it transpires that above said all three witnesses are hearsay witness and have not seen the alleged occurrence. PW4 Chandrakala Devi has supported the factum of alleged occurrence in her examination in chief but in cross examination in para 6 she has stated that after the marriage she had gone at her home. In para 8 she has stated that she did not meet Kari Singh in night of marriage ceremony. She has further stated that she had last time seen Kari Singh when he was dancing in marriage ceremony and after then she did not see Kari Singh. In para 13 she has stated that on the shouting of wife of Kari Singh, Usha Devi, Geera Singh and Bhola Singh have gone in eastern direction along with the family members of Kari Singh. In para 17 she has stated that she cannot tell the boundary of place of occurrence and there was light in night. In para 20 she has stated that hearing the sound of gun shot we went running and before me 50 to 100 people had reached there and deceased Krishnadeo Singh was fallen with the side of face and blood was oozing and falling on earth. This statement of P.W4 shows that she reached at the place of occurrence after the alleged incident and thus she is a hearsay witness. In para 28

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she has stated that Krishnadev Singh did not drink Tadi and liquor but P.W2 Dr. Kunal Shankar has found alcoholic smell in stomach and thus this witness is speaking lie and cannot be relied. In para 38 she has stated that on hearing noise she and the wife of Krishnadeo went at the place of occurrence where Krishnadeo have been shot and found that Krishnadeo was unconscious due to gun shot. This statement of P.W4 also shows that she is a hearsay witness and had not seen the allged occurrence. In para 1 of examiantion in chief she has stated that prior to this incident, Krishna Dev Singh had gone to demand payment from Pradeep Singh for some earth-filling work, he had performed and this demand led to a dispute between the two and it was a direct consequence of this dispute that the accused Pradeep Singh acting in collusion with the aforementioned co-accused persons murdered Krishna Dev Singh (alias Kari Singh). This is totally exaggerated and new fact altogether different from the FIR and prosecution has failed to prove conspiracy. Thus PW4 Chandrakala Devi is a hearsay witness and cannot be relied on her testimony.

PW6 Anil Singh @ Bhuwan Singh

has also supported the factum of alleged occurrence in his examination in chief but in his cross examination in para 8 he has denied that at the time of alleged occurrence Pradeep Singh was present in marriage ceremony of Tapeswar Singh at Jhanjharpur and Bhawesh Singh was present at marriage ceremony of Kamat Ji at Village Batnaha and videography of both marriage ceremony are there. It is pertinent to mention here that PW1 Anil Kumar Singh has diposed in para 1 of his examiantion and has also stated in para 4 that Pradeep Singh was present in marriage ceremony of his daughter and videography of that marriage ceremony was given to police. The same fact has been stated by PW3 Tapeswar Prasad Singh that Pradeep

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Singh was present in marriage ceremony of my niece and videography regarding presence of Pradeep Singh was given to Police. Now the question arises that as per evidence of PW1 and PW 3, when Pradeep Singh was present in marriage ceremony of daughter of PW1 Anil Singh, how he ordered Saurabh Singh to catch Krishnadeo Singh and drag him away. The statement of PW6 Anil Singh appears totally false and concocted story. In para 13 he has stated that place of marriage ceremony was one thousand feet away from the place of gun shot. He has further stated that when he went at place of occurrence first time and saw his brother he found that he was shot and was fallen on earth. Thus from his statement it appears that he had not seen the alleged occurrence and reached at the place of occurrence after the alleged incident. He has further stated in para 13 that there was darkness and his brother was fallen from stomachily but PW4 has stated in para 17 of her examination that there was light at the place of occurrence. The above said factum of light by PW4 and darkness by PW6 at the place of occurrence is a major contradictory statement and shows that they are speaking lie and hence cannot be relied on evidence of PW4 and PW6 both. In para 15 he has stated that wife of deceased Krishnadeo, his son Ladu, cousin Vikki, his son Vikash and his cousin Sudhir had come at the place of occurrence after him but PW7 Priyanka Devi wife of deceased has stated that in para 34 of her examination that her Jeth had come after her at the place of occurrence which is also a contradictory statement. It is pertinent to mention here that Anil Singh PW6 is Jeth of PW7 Priyanka Singh. In para 34 he has stated that no firing was done at dance place but PW4 in para 1, PW7 in para 2 and PW6 (this witness) has stated that firing was done at the dance place. In para 36 he has stated that huge amount of blood was oozing from the body of deceased and was fallen on earth scattered near about one foot but PW5 who is first IO of this case has stated

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in para 8 of her evidence that no sign of blood was found at the place of occurrence .Thus this statement of PW6 also appears false. In para 37 he has stated that FIR was written by advocate Laxmishwar Babu which shows that FIR is a after thought document.

PW7 Priyanka Devi has also supported the factum of alleged occurrence in her examination in chief but in her cross examination in para 20, she has stated that she did not identify who has writeen the application (FIR) of this case. In para 22 she has stated that Bhawesh Singh and Pradeep Singh standing near by and spoken to Saurabh Singh that he demands money of soil filling but from perusal of evidence of PW1 and PW3 it transpires that Pradeep Singh was not present at the place of occurrence and he was present in the marriage ceremony of Tapeswar Prasad Singh and thus PW7 is speaking lie. From perusal of FIR it trainspires that her Jeth (Anil Singh @ Bhuawan Singh) and others when reached at the place of occurrence, deceased was struggling in pool of blood and as per statement of PW6 Anil Singh, wife of deceased Priyanka Devi reached the palce of occurrence after him and thus all have reached after the alleged occurrence and no one has seen the alleged incident of killing of gun shot injury of deceased Krishnadev Singh. In para 33 she has stated that people made noise on the day of occurrence that Saurabh Singh has shot and Suman Singh, Vikash Singh and other three to four people were accompanying him. This statement shows that PW7 knew about the alleged incident from villagers on noise and has not seen the alleged occurrence and thus she is a hearsay witness.

PW5 Tripta Kumari is first I.O. and PW8 Pradeep Kumar Singh is second I.O. PW5 has stated that on May 30, 2023, she assumed charge of the investigation regarding Phulparas Police Station Case No. 299/2023 and when the

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Superintendent of Police, Madhubani, assigned the charge of the investigation to Sub-Inspector Pradeep Kumar Singh, she handed over the charge of the investigation to Pradeep Kumar in compliance with the orders of the Superintendent of Police. In cross examination in para 8 she has stated that no sign of gun shot was found at both place of occurrence and also did not find any live cartridge or empty cartridge at both place of occurrence and also did not find any sign of blood.

PW8 Pradeep Kumar Singh is second IO who took charge from first IO PW5 and has obtained two pen drives during the course of the investigation which have been marked as Exhibits 'M' and 'M-1' respectively. Further upon the completion of the investigation, Charge Sheet No. 379/2023, dated 06.12.2023, was submitted by him against the accused Saurabh Singh and Suman Singh both residents of Belha, Police Station-Phulparas, District Madhubani under Sections 302, 120B/34 of the Indian Penal Code (IPC) and under Section 27 of the Arms Act. He has further identified his initials and full signature on chargesheet which has been marked as Exhibits P-3 and P-4, respectively.

In cross examination in para 9 he has stated that he has not recorded the statement of any independent witness. In para 29 he has stated that the alleged occurrence happened at the door of Vinod Singh in his daughter's marriage but no statement was recorded either of Vinod Singh or his family members. In para 31 he has stated that accused Suman Singh has no criminal history. Exhibit M and M1 shows that Pradeep Singh and Bhawesh Singh were present at the marriage ceremony of Tapeswar Singh and Manoj Kumar Kamat and they were not present at the place of occurrence but the prosecution has falsely implicated them in FIR and in evidence of witnesses. PW8 in para 2 has stated that he has sent seized blood

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samples to FSL Muzaffarpur but report of FSL has not been presented before the Court by the prosecution. Moreover the first IO Tripta Kumari examined as PW5 has stated in para 8 of her cross examination that no sign of blood was found at the place of occurrence. In para 3 PW8 has stated about the Tower location of Saurabh Singh, Suman Singh and Vikash Singh but the CDR and CAF has not been proved in accordance with the provisions of Indian evidence Act and there is no certificate from the issuing authority and has not proved as required under section 65(B) of Indian evidence Act and as decided by Hon'ble Apex court in Arjun Pandit Rao Khotkar Vs Kailash Kushanrao Gorantyal (2020).

PW2 Dr. Kunal Shankar is Doctor who conducted postmortem of deceased Krishndeo Singh and has proved postmortem report which has been marked as Ext. P-1. In cross examination in para 10 he has stated that there is no external injury in the body of deceased. There is allegation in FIR and evidence of witnesses that Saurabh Singh was assaulted before taking away from the Barat but as per statement of this witness there is no external injury on the body of the deceased Krishnadev Singh and statement regarding anti-mortem injury in FIR and in the evidence of P.W6 & P.W7 regarding forceful slap on the face of deceased appears false.

PW1 Anil Kumar Singh has stated that Pradeep Singh attended marriage ceremony of his daughter in the night of alleged incident and in his cross examination, in para-3 he has stated that he has no knowledge about the alleged incident. Thus PW1 is a hostile witness. PW3 Tapeswar Prasad Singh @ Tapeswar Sigh has also stated in his examination in chief and cross examination that he has no knowledge about the alleged incident and thus he is also a hostile witness and has not supported the prosecution case. PW9 Shashibhushan Chakarwari @ Shashibhusan Kamat has also not supported the prosecution case and has stated

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that he does not know about the alleged incident and has been declared hostile by Prosecution. Thus PW1, PW3 and PW9 are hostile witnesses.

Further there is nothing physical/digital/documentary/forensic evidence on record which would show or prove proximity between deceased Krishnadev Singh and accused of this case. The prosecution has not proved the involvement of accused Saurabh Singh and Suman Singh in alleged offence of murder and Arms Act by any digital/electronics /documentary evidence.

22. Thus from perusal of above discussed evidence and other material available on record, I find that the witnesses PW4, PW6 and P.W7 are hearsay witnesses and there are material contradiction among the evidence of all three witnesses which indicate that they were not present at place of occurrence. P.W1, PW3 have not supported the Prosecution case and PW9 has been declared hostile. The alleged arms used in the alleged incident has not been recovered . The Forensic report of seized blood sample has not been presented and proved in court. The exhibit M and M1 are of no help to prosecution. There is material contradiction between the evidence of first and second IO. The Doctor has not found external injury on the body of deceased as alleged. The Informant PW7 has no knowledge about the alleged PO. The prosecution has not proved conspiracy theory. Thus from the perusal of evidence of witnesses I find that Prosecution witnesses have supported the case of prosecution in their examination on the basis of hearsay facts, but no any important thing has come out from their cross examination against the accused to commit murder or other offences under Arms Act. The prosecution has cross examined several witnesses, but no such fact has come to light which may give support to the prosecution story beyond reasonable doubt. There is no digital or electronic evidence against the accused. The Prosecution has also failed to prove motive of accused for committing this crime. Testimonies of doctor is rendered meaningless as he is only expert witness. Hence, a strong benefit of

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doubt arises in favour of accused. In view of the submissions made by both the sides and after perusal of record, it appears that prosecution is trying to prove the guilt of the accused only on the basis of insufficient evidence. It is settled principle of law that no person can be convicted only on the basis of suspicion without any connecting material or sufficient evidence. There is well saying maxim "It is better to acquit hundred guilty than to convict one innocent".

23. In the result, both accused person namely **(A1) Saurabh Singh and (A2) Suman Kumar Singh** are found and held not guilty of the charges levelled against them U/s-302/34/120(B) of IPC and U/s 27 of Arms Act and accordingly, they are acquitted of same giving them benefit of doubt. They are set at liberty. Bailors are also discharged from their liabilities of bail bonds.

24. Before parting of the order, this court is of the opinion that Priyanka Devi, wife of deceased Krishnadev Singh is real victim of this case and entitled for compensation under section 357 A (3) of Cr.P.C as for the guidelines of the judgments viz., **Ankush Shivje Gaikward versus State of Maharashtra, (2013) 6 SSC 770 and Suresh Versus State of Haryana (2015) 2 SSC 227 and according to the Bihar Victim compensation scheme 2014**, but convicts are not able to pay the sufficient compensation as they are not from a very sound financial background. Hence the copy of judgment be sent to the learned Secretary, D.L.S.A, Madhubani for consideration of awarding appropriate compensation to the wife of the deceased namely Priyanka Devi in accordance with the law and rules framed thereunder.

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25. Office is directed to send a copy of this judgment to the D.M, Madhubani for information U/s. 365 of Cr.P.C.

26. The file of this Sessions trial be deposited to D.R.R. Madhubani after necessary compliance, if any.

Judgment pronounced by me and explained in Hindi in open court Anil Kumar Ram Addl. Sessions Judge III, Jhanjharpur Date :27.05.2026	Dictated and corrected by me Anil Kumar Ram Addl. Sessions Judge III, Jhanjharpur Date :27.05.2026
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