

Present:- Dhananjay Kumar Mishra.
Additional Sessions Judge-II, Patna
Patna the 10th day of June 2026.

Case No:- S.T. No.714 of 2017.

C. I. S. No:-

(Arising out of Bihar Sharif Rail P.S. case No. 05 of 2009 Dated 26.03.2009)

State (Through Constable No.179 Ravindra Tiwari) ----- Prosecution.

Versus.

1. Dhanju Paswan aged about 36 years, S/o Late Prasiddh Paswan, R/o Mudhari, P.S. – Harnaut, District- Nalanda,

2. Vipin Yadav aged about 40 years, S/o Late Ram Pravesh Yadav, R/o Mudhari, P.S. – Harnaut, District- Nalanda ----- Accused persons.

For the prosecution: - Sri Shyam Kishore Rai (A.P.P.)

For the defence: - Sri Vinod Singh, (Advocate)

Charge: - U/S 307, 353/34 I. P.C. and 27 Arms Act.

Present:- Dhananjay Kumar Mishra.

Additional Sessions Judge-II,

Patna, 10th day of June 2026.

	Name of the 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.
1.	Dhanju Paswan,S/o Late Prasiddh Paswan and	22.09. 2009	17.11. 2009.	307, 353/34 I.P.C. and 27 Arms Act	Acquitted	-	-

Present:- Dhananjay Kumar Mishra.
Additional Sessions Judge-II, Patna
Patna the 10th day of June 2026.

	Vipin Yadav, S/o Late Ram Pravesh Yadav	18.05.2009	31.07.2009	307, 353/34 I.P.C. and 27 Arms Act			
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LIST OF PROSECUTION/DEFENCE/COURT WITNESSES:-

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1.	Radheshyam Prasad	
2	Hari Narayan Ram	

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-	-	-
-	-	-

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW-01	-	-

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Present:- Dhananjay Kumar Mishra.
Additional Sessions Judge-II, Patna
Patna the 10th day of June 2026.

Sr. No.	Exhibit Number	Description
1	Ext. P1	Written Report of the informant
2	Ext. P2	Formal F.I.R.
3.	Ext. P3	Main Charge-sheet No.12/2009 dated 21.07.2009
4.	Ext. P3/1	Supplementary Charge-sheet No.20/2009 dated 30.11.2009.

B. Defence.

Sr. No.	Exhibit Number	Description

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	-	-

D. Material Objects :

Sr. No.	Exhibit Number	Description
1	-	-

J U D G M E N T

1. Both the accused persons namely Dhanju Paswan and Vipin Yadav stand charge for committing attempt to murder by indiscriminately doing firing upon the informant and his colleague and for deterring them from their lawful duties and also for using illegal fire arms to commit the said offences in contravention of Section 5 of the Arms Act punishable U/S 307/34 and 353/34 of the I.P.C. and U/S 27 of the Arms Act and accordingly they have been tried for the same offences.

2. The prosecution case according to written application of the informant namely Ravindra Tiwari, Contable No.179, in brief, is

Present:- Dhananjay Kumar Mishra.
Additional Sessions Judge-II, Patna
Patna the 10th day of June 2026.

that on 26.03.2009 in the night when the train No.546 stopped at Bena station at about 8.50 p.m. the Escort party consisting with the informant along with other Police personnel boarded in bogie No.91413 for protection of passengers and keeping attention on activity of the criminals then passengers started saying that in the said bogie criminal elements were boarding. Thereafter, they started checking in the bogie then panic spread among the criminals who started getting down rashly from western gate of the train where Constable 517 Umesh Singh and the informant reached. The criminals using vitriolic words started indiscriminate firing upon them then informant opened two rounds firing and Umesh Singh opened three rounds firing from their respective Rifles upon the criminals. The criminals were 7-8 in numbers who opened eight rounds firing upon the Escort party. After that the train started running from Bena station. The informant has claimed to identify some of them. All the passengers travelling in the said bogie and train reached at their destination safely in the protection of Escort party.

3. On the basis of aforesaid written application of the informant Constable No.179 Ravindra Tiwari, Bihar Sharif P.S. Case No.05/2009 dated 26.03.2009 U/S 307, 353/34 I.P.C. and 27 of the Arms Act was registered against 07-08 unknown criminals. Thereafter, investigation was initiated and after completion of investigation supplementary charge-sheet No.20/2009 dated 30.11.2009 has been submitted U/S 307, 353/34 I.P.C. and 27 of the Arms Act against both the aforesaid accused persons showing the other accused persons namely Satyendra @ Ghamandi Prasad and Kamlesh Prasad absconders. Accordingly, cognizance was taken by the Railway J.M. Patna U/S 307, 353/34 I.P.C. on

09.12.2009 and in due course the case of the accused persons named above was committed to the court of Sessions on 25.09.2017 from where the case record was ultimately transferred to this court for trial and disposal.

4. Case of defence is that the alleged occurrence was not taken place on the alleged date and time at alleged place of occurrence. They have been dragged in this case due to highhandedness of Police. They have been falsely implicated in this case merely on suspicion without any legal or cogent evidence. Both the accused persons are quite innocent.

5. Charges were framed for the offence punishable U/S 353, 307/34 of the I.P.C. and 27 of the Arms Act against both the aforesaid accused persons and charges were read over and explained in Hindi to them to which they pleaded not guilty and claimed to be tried.

6. After closure of prosecution evidence statements of the above named both the accused persons were recorded under the provision of section 313 Cr.P.C. in which both have denied all the allegations brought against them by the prosecution witnesses in their evidences and they have further stated that they are quite innocent.

7. Now, the only point arises for determination is as to whether the prosecution has been able to bring home the charges levelled against the accused persons on trial beyond shadow of all reasonable doubts ?

FINDINGS

8. Heard arguments analogously and perused the case record, case record reveals that in order to substantiate the charges, the prosecution has examined altogether only two witnesses who are P.W.1 Radheshyam Prasad (Investigating Officer) and P.W.2 Hari Narayan Ram (member of Escort Party), out of five prosecution witnesses cited in the Charge-sheet. During examination-in-chief P.W.1 has proved the written report of the informant Constable No.179 Ravindra Tiwari

and same was marked as Ext. P-1. He has also proved the Formal F.I.R. filled up by literate Munshi Umesh Singh upon which there is his short signature and same was marked as Ext. P-2. He has also proved the main charge-sheet No.12/2009 dated 21.07.2009 and supplementary charge-sheet No.20/2009 dated 30.11.2009 which are in his writing upon which there are his short signatures and the same were marked as Ext. P3 and Ext.P3/1 respectively. No any other evidence except above noted either oral or documentary has been produced by the prosecution despite best efforts taken and sufficient opportunity given by the then court while all the witnesses are Police officials. Accused persons have also not produced any evidence either oral or documentary in their defence.

9. Now the evidences produced on behalf of the prosecution will be discussed for arriving on conclusion that whether prosecution has succeeded to prove the charges levelled against the accused persons. To prove the charges prosecution has got examined altogether only two witnesses out of whom P.W.2 Hari Narayan Ram is one of the members of Escort Party. He has corroborated the prosecution case and claimed to identify the accused persons on seeing them, but during cross-examination he has stated that no TIP was held in this case with regard to alleged occurrence. P.W.1 Radheshyam Prasad is the Investigating Officer of this case. He has investigated the case and submitted supplementary charge-sheet against both the accused persons facing trial.

10. P.W.2 Hari Narayan Ram, one of the members of the Escort party has stated in his examination in-Chief that alleged occurrence to be of 26.03.2009 at 8.30 p.m. He has stated that on the date of occurrence he was on Escort duty in the train from Bakhtiarpur Railway station to Rajgir with two other Home guards. On hearing noise in the train they reached in the said bogie then criminals present in the said bogie started scuffling

Present:- Dhananjay Kumar Mishra.
Additional Sessions Judge-II, Patna
Patna the 10th day of June 2026.

with them in which firing was made upon them, in response to which the Constables also opened fire. No one has sustained fire arm injury from both sides. Thereafter, criminals fled away. This witness has further stated that his statement was recorded by the Police. He has claimed to identify the accused persons on seeing them. This witness has been cross-examined by the defence in which he has stated that no one was arrested at the time of occurrence. No TIP was conducted in connectin with this case. He has further stated that he has no knowledge as to from which case the accused persons were remaneded in this case. He has denied the suggestion that it is not true that he has deposed falsely and such type of occurrence did not take place.

Thus from the evidence of such witness, it transpires that during the examination the such witness has not taken the name of the accused persons who are facing trial. He is eye witness of the occurrence, but he has not disclosed that who did firing upon whom and by which types of fire arms were used in committing the alleged offence.

11. P.W.1 Radheshyam Prasad, Investigating Officer has stated in his Examination in-Chief that occurrence to be of 26.03.2009 and at that time he was posted as S.H.O. Rail P.S. Bihar Sharif. He has recorded the statements of the witnesses including the informant who all were Police officials posted in Rail P.P. Rajgir and also the statements of other witnesses boarded in the said bogie. On 30.03.2009 S.H.O. Bena informed that on 28.03.2009 in the night two accused persons namely Dhanju Paswan and Vipin Yadav with a country made Rifle and two live cartridges were arrested who confessed their involvement in the occurrence alleged occurred on 26.03.2009 at Bena station. On this

information he reached at Bena station and discussed with him about arresting of other accused persons and proceeded to Chadaura with Police force. Both the accused persons namely Dhanju Paswan and Vipin Yadav were remanded in this case and non F.I.R. accused Avinash Kumar was arrested from Emali Bigha cricket field. He confessing his guilt named the co-accused persons as Dhanju Paswan, Vipin Yadav, Kamlesh Kumar and Satyendra @ Ghamandi Prasad involved in the alleged occurrence. He obtained criminal history of all the accused persons from concerned P.S. He obtained test report of Rail Sergeant Major with regard to firing made by Service Rifle. Accused Dhanju Paswan and Vipin Yadav (accused persons facing trial) were remanded in this case from Bena P.S. Case No.79/2009 dated 29.03.2009 U/S 25(1B-A), 26 Arms Act. Non F.I.R. accused Avinash Kumar was arrested on 23.04.2009 against whom Charge-sheet No.12/2009 dated 21.07.2009 has been submitted. After investigation non F.I.R. accused persons namely Satyendra @ Ghamandi Prasad and Kamlesh Kumar were declared absconders. Thereafter, supplementary charge-sheet No.20/2009 dated 30.11.2009 has been submitted against the accused persons namely Dhanju Paswan and Vipin Yadav facing trial. This witness has proved written report which is in the writing and signature of Constable No.179 Ravindra Tiwari and the same has been marked as Ext.-P1. He has proved formal F.I.R. upon which there is his short signature and filled up by literate Munshi Umesh Singh which has been marked as Ext. P2. He has proved main Charge-sheet No.12/2009 dated 21.07.2009 upon which there is his short signature which is in his writing and the same has been marked as Ext.P3. He has proved

supplementary charge-sheet No.20/2009 dated 30.11.2009 upon which there is his short signature which is in his writing and the same has been marked as Ext.P3/01.

Thus, from the evidence of the said witness it appears that during the examination in-Chief he has not disclosed the place of occurrence nor he clarified in his evidence on what ground he has submitted charge-sheet. Thus the such witness has not properly investigated the case.

This witness has been cross-examined by defence in which he has stated that the case in which the accused Vipin Yadav and Dhanju Paswan were wanted, they were not arrested in the said case. The case in which both were arrested from which they were remanded in this case. This witness has stated that he was not the Investigating Officer of both the cases. No TIP was conducted in the case registered in Rail P.S. in which no evidence was found against the accused persons.

This witness has denied the suggestion that it is not true that his investigation is imperfect.

12. Despite best efforts taken and sufficient opportunity given by the then court, the remaining witnesses including the informant of this case did not turn up to depose in this case. Altogether five witnesses are cited in the charge-sheet, out of whom only two witnesses namely Radheshyam Prasad who is the Investigating Officer of this case and other Home Guard No.150617 Hari Narayan Ram were produced by the prosecution. For securing attendance of remaining witnesses summons, bailable warrant of arrest, non bailable warrant of arrest, D.O. Letter to the SRP Patna have already been issued, but no witness has turned up to depose in court. Last chance was given to the

prosecution on 14.05.2025 to produce the evidence, but of no avail while all the witnesses are Police personnel. Hence under the above facts and circumstances, the prosecution evidence was closed on 28.01.2026 by the then court.

13. During course of argument the learned Counsel appearing on behalf of the defence has submitted that in this case only two witnesses including the Investigating Officer have been examined by the prosecution, out of whom one Hari Narayan Ram (P.W.2) who was one of the members of the Escort party. This witness has said nothing about the accused persons facing trial. He has stated that no TIP was conducted in this case. P.W.1 Radheshyam Prasad (I.O.) has got exhibited some documents which have been marked as Exts. in this case. Remaining witnesses did not turn up to depose in court despite sufficient opportunity given to the prosecution. Virtually, this is a case of no evidence. Hence prayer has been made to acquit the accused persons facing trial.

On the other hand learned Addl. Public Prosecutor fairly conceded to the above submissions.

14. Thus, from the facts and circumstances of the case and the materials available on record, I find that there is no cogent evidence on case record against the accused persons which proves the charges levelled against the accused persons and the prosecution has miserably failed in bringing home the guilt of the accused persons beyond the shadow of all reasonable doubts. This is a very old case of the year, 2009.

ORDER

15. In the result, I find and hold that the accused persons namely Dhanju Paswan and Vipin Yadav are found not guilty of the charges. Hence they are acquitted of the charges Under Section 353/34, 307/34 of the I.P.C. and 27 of the Arms Act levelled against them. They are on

**Present:- Dhananjay Kumar Mishra,
Additional Sessions Judge-II, Patna
Patna the 10th day of June 2026.**

bail and are present in the court. They are set at liberty and discharged from the liabilities of their respective bail bonds.

Dictated and corrected by me,

Sd/=

**(Dhananjay Kumar Mishra),
Addl. Sessions Judge-II,**

Patna.

10.06.2026.

Sd/=

**(Dhananjay Kumar Mishra),
Addl. Sessions Judge-II,**

Patna.

10.06.2026.

Date of Judgment/order	10.06.2026
Date of Reserving Judgment/order	09.06.2026
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