

IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH(PATNA)

Present:- VIVEK BHARADWAJ

Date of Judgment:- 22/05/2026

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Details of FIR No.- 256/2022 and Police Station- Salimpur

Through the State of Bihar

(Informant)

Rambriksh Rai, s/o Ram Sagar Rai

R/o- Sat Gharwa, Kala Diyara

P.S.- Salimpur, Distt.- PATNA

Represented by	Sri Jagat Narayan Singh, Learned A.P.P.
Accused	1. Chandra Deo Rai 2. Jawahar Rai
Represented by	Sri Ran Vijay Singh, Learned Advocate

Date of offence	22/11/2022
Date of FIR	22/11/2022
Date of Charge-sheet	46/23-24/02/2023
Date of framing of Charge	10/08/2023
Date of commencement of evidence	12/09/2023
Date on which Judgment is reserved	13/05/2026
Date of the Judgment	22/05/2026
Date of the Sentencing order, if any.	04/06/2026



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Accused Details:-

Rank of the Accused	A-1
Name of Accused	Chandradeo Rai, Age-62 Years, S/o- Late Lakhan Rai R/o- Sat Gharwa, Kala Diyara P.S.- Salimpur, Distt.- PATNA
Date of Arrest	28-11-2022
Date of Release on Bail	17-05-2023
Offence Charged with	U/s- 302/149, 147, 148, 143/149, 324/149, 504/149, 506/149 of IPC & 27 of the Arms Act
Whether Acquitted or Convicted	Convicted, U/S- 302/149, 148 of IPC
Sentence Imposed	Rigorous imprisonment for life for offence punishable u/s 302/149 IPC, Rigorous imprisonment for two (02) year for offence punishable u/s 148 of IPC & to pay a fine of Rs. 20,000/- and in default of payment of fine, he will further under go R.I. for Six (06) month. All sentences shall run concurrently.
Period of Detention under gone during Trial for purpose of Section 428 of Cr.P.C.	05 Month 19 Days

Rank of the Accused	A-2
Name of Accused	Jawahar Rai, Age-60 Yrs S/o- Ramagya Rai R/o- Sat Gharwa, Kala Diyara P.S.- Salimpur, Distt.- PATNA
Date of Arrest	12-12-2022
Date of Release on Bail	02-05-2023
Offence Charged with	U/s- 302/149, 147, 148, 143/149, 324/149, 504/149, 506/149 of IPC & 27 of the Arms Act
Whether Acquitted or Convicted	Convicted, U/S- 302/149, 148 of IPC
Sentence Imposed	Rigorous imprisonment for life for offence punishable u/s 302/149 IPC, Rigorous imprisonment for two (02) year for offence punishable u/s 148 of IPC & to pay a fine of Rs. 20,000/- and in default of payment of fine, he will further under go R.I. for Six (06) month. All sentences shall run concurrently.
Period of Detention under gone during	04 month 20 Days

IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Trial for purpose of Section 428 of
Cr.P.C.

Attached:

APPENDIX OF EVIDENCE INDEX
LIST OF PROSECUTION DEFENCE / COURT WITNESSES
PROSECUTION

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS,
P.W. 1.	Ramanad Rai	Other Witness
P.W. 2.	Hareram Rai	Other Witness
P.W. 3.	Bishundeo Rai	Informant
P.W. 4.	Bhuklu Prasad	Other Witness
P.W. 5.	Rambriksha Rai	Informant
P.W. 6.	Dr. Ajay Kumar Singh	Medical Witness
P.W. 7.	Ravi Ranjan Singh	Police Witness

Defence Witness, if any:

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

Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
CW	N.A.	N.A.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:-



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Sr. No.	Exhibit No.	Description
1.	Exhibit 1.	Signature of Rambriksha Rai on the Fardbyan.
2.	Exhibit 1/1	Signature of Ramanand Rai on the Fardbyan.
3.	Exhibit-2	Entire Fardbyan
4.	Exhibit-3	Certified copy of death enquest report
5.	Exhibit-4	Post Mortem Report

B. Defence:

Sr. No.	Exhibit Number	Description
1.	N.A.	N.A.

C. Court Exhibit:

Sr. No.	Exhibit Number	Description
1.	N.A.	N.A.

D. Material Object:

Sr. No.	Exhibit Number	Description
1.	N.A.	N.A.

JUDGMENT

1. All the above named two accused persons including the accused Saheb Rai stands charged u/s 302/149, 147, 148, 143/149, 324/149, 504/149, 506/149 of IPC and 27 of Arms Act. It is to be noted that during the course of trial, the accused Saheb Rai was dead as per the death certificate produced by Ld. defence and his trial was proceeding drop vide ordersheet dated 23-08-2026.

2. As per the fardbeyan of informant Rambriksha Rai, the, prosecution story is in nutshell is that on 27-11-2022 his son Sonu Kumar aged about 17 years was ready for going to his school and standing at the corner of the field of Pavitra Rai, situated to the north side next to his house and informant was standing at his door, he saw that Sipahi Rai, Jawahar Rai, Saheb Rai, Chandradeo Rai, Mukesh Rai, Mithun Rai, Jatan Rai, Ratan Rai, Ranjeet Rai, Umesh Rai and Kundan Rai were

IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

surrounded his son Sonu Kumar (deceased). Sipahi Rai and Jawahar Rai were armed with rifle, then he said to his son to run at the very moment Sipahi Rai fired a shot from his rifle which striking near the left armpit of his son due to which he fell down, therefore being shot he died. All the accused persons were armed with pistol and farsha. Jawahar Rai and Saheb Rai walked away with making firing to their weapons. The reason behind this incident is previous enmity between the accused person and the family members of the informant. In the morning Sipahi Rai has said that informant has only one son and finish that bastard off. They all were shot dead his son with common intention and fled away from the place of occurrence by making fire with their weapons to spread terror. They also given threat warning that if any one spoke up, every one would have to face the same consequences.

3. On the basis of aforesaid fardbeyan Salimpur PS Case No 256/2022 dated 22-11-2022 was instituted. After completion of investigation, the I.O. submitted charge sheet against Chandradeo Rai, Jawahar Rai & Saheb Rai, u/s 147, 148, 149, 342, 324, 302, 504 and 506 of IPC and 27 of the Arms Act vide chargesheet no 46/2023 dated 24-02-2023. The case was committed to the Court of Session on 19-05-2023 and the record of Chandradeo Rai, Jawahar Rai & Saheb Rai was received by this Court on 26-06-2023.

4. Charges have been framed against altogether three accused persons namely Chandradeo Rai, Jawahar Rai & Saheb Rai, u/s 302/149, 147, 148, 143/149, 324/149, 504/149, 506/149 of IPC and 27 of Arms Act. The contents of the charges, so framed, were read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.

5. The statement of accused persons have been recorded u/s 313 of Cr.P.C. on 01-12-2025 in which they reitreated their innocence and false implication.

6. Now the question for determination is as to whether the prosecution has been able to prove the charges levelled against the accused persons beyond all the reasonable doubts or not?

PROSECUTION EVIDENCE



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

7. The prosecution in order to substantiate its case has examined altogether seven witnesses as:

PW-01 Ramanand Rai

PW-02 Hare Ram Rai

PW-03 Bishun Deo Rai

PW-04 Bhuklu Rai

PW-05 Ram Briksha Rai (informant)

PW-06 Dr. Ajay Kumar Singh

PW-07 Ravi Ranjan Singh (I.O.)

The prosecution has also proved and exhibited following documents in support of his case :-

Exhibit-1 :- Signature of witness Ram Briksha Rai on Fardbyan.

Exhibit-1/1 :- Signature of witness Ramanad Rai Rai on Fardbyan.

Exhibit 2 :- Entire Fardbyan

Exhibit 3 – Certified copy of Death Enquest Report.

Exhibit 4 – PM Report.

8. Pw- 1 is Ramanand Rai, who has stated in his examination in chief that the date of occurrence is 22-11-2022 at about 07:45 in the morning. Sonu Kumar was going for his study at Bakhtiyarpur, all the accused persons were armed with weapons. On instigation of the other co-accused persons Sipahi Rai, shoot Sonu Kumar by his rifle.

Death inqueste report was prepared by the police officer of Salimput Police Station on which Bishundeo Rai and he put their signatures which is marked as exhibit X for identification. Police has recorded the statement of Rambriksha and send the body for postmortem at SDH Hospital Barh.

In his cross examination he has said that Kala Diara is a larged village. Accused has fired a single shot and after hearing the gun shot he along with his brother Rambriksh arrived at the place of occurrence. On hearing the sound of gun shot Bhuklu Prasad, Bishundeo Rai and Hareram Rai also arrived their. Sonu had fallen to the ground from the gun shot and dead on the spot. He was laying



IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

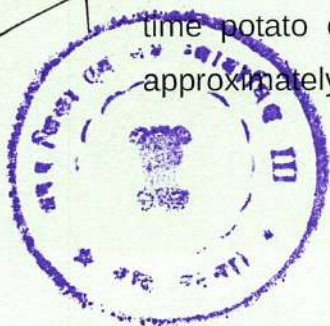
C.I.S. No.- 1955/2023

flat on the spot, they saw a bullet injury on the left armpit of Sonu. His brother inform about the occurrence to the police at bout 09:30 O' Clock through the mobile phone and police arrived at the spot on 10 O' Clock. He was present at the time when Rambriksha was lodging this case and he also put his signature over it. Kala Diara village is 10 steps north from the place of occurrence.

In para 8 he has said that no work was being done in the field of Pavitar Rai. He has said that the boundary of the potato field is as in the north potato field of Pavitar Rai, in the South fallow land, in the east land of Darshan Rai and in the west the land of Birbal Rai. The deceased was wearing Jeans and T-Shirt, which was covered with blood and the blood also spilled on the ground, the police has made seizure of the cloths and soil and he along with the Rambriksha has put their signature over the seizure list. Further he has stated in his cross examination that there was previous land dispute between him and Pavitar Rai and Darshan Rai. There was no dispute over the potato field. On the day of the incident, there was no dispute between him and Pavitar Rai, Darshan Rai, Ranjit Rai, Umesh Rai and Kundan Rai. Altogether 11 persons were present at the place of occurrence apart from the Sipahi Rai. They were also making fire and they went away after threatening, only one bullet hit the deceased. He does not know the empty cartridge was found at the place of occurrence or not. He has no seen any empty cartridge there.

9. **Pw- 2 is Hare Ram Rai**, who has stated in his examination in chief that the incident occurred on 22-11-2022 at 07:45 AM. Sonu Kumar was going to Bakhtiyarpur for study, as soon as he reached at the corner of the field of Pavitar Rai, he saw that the Sipahi Rai, Chandradeo Rai, Saheb Rai, Jawahar Rai, Mukesh Rai, Mithun Rai, Umesh Rai, Kundan Rai, Ranjit Rai and Jatan Rai, all 11 persons surrounded Sonu and everyone together said to shoot him, then Sipahi Rai shoot Sonu Kumar with his rifle, bullet hitted his below the armpit, to which he fell on the ground, he was covered in blood and he died on the spot.

In his cross examination he has said that Pavitar Rai is his father. At that time potato crop was grown on that land. The disputes area of the land is approximately 7-8 Katha. His father was having a dispute with Umesh Rai,



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Kundan Rai and others regarding the way and land, this dispute was occurred before this incident. This dispute took place on the day of the incident on the east side of the place of occurrence. The firing was done during the dispute and his father was present there at the time of dispute again he said that his father had gone away. No one family member were present with his father at the time of occurrence.

The firing was done within 4 to 5 minutes of the occurrence. The police arrived there after the occurrence. He does not remember whether the people from the neighbour had come there or not. He can not the name of any one who arrived there after the occurrence but he can not say the name of the persons who were present there at the time of occurrence.

In para 5, he said that the accused persons were surrounded the Sonu from the distance of 15-20 feet. Sonu has tried to escape but he could not escape because he was surrounded by the accused persons. When Sonu tried to fled away in the west direction, Sipahi Rai shoot him. One fire was made on Sonu Kumar to which he died and there after all accused were fled away after making firing. The second round of firing was not aimed at Sonu. He was stayed at the place of occurrence approximately 2 hour till arrived of the police. Bishun Rai, Ramanand Rai, Rambriksha Rai and Bhukalu Prasad were also stayed there with him. The house of Rambriksha Rai and Ramanand Rai, is adjacent to the place of occurrence. The police arrived there at about 09:45 O'Clock. Police has recorded his statement at the place of occurrence, he read and made his signature. The police officers were stayed there at about ½ an hour. From there the police brought the body at Ganga Ghat in a private vehicle. The police took the boy in vehicle for the postmortem. He did not go for the postmortem. Whether Ramanand and Rambriksha were went for the postmortem, he did not know. He did not signed on the paper related to death. Sonu was wearing a T-Shirt and Jeans. The color of T-Shirt was red and Jeans was blue. His cloth was completely soaked in blood. There was also blood on the ground but it was small area and barely visible due to the movement of the villagers. Police has prepared a review report at the place of occurrence and also recorded the statements there. He did



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

not meet to his father during this period.

He has seen the gun shot injury on the body of Sonu but there was no other injury on his body. He turned him over and saw that he was dead. Sonu was his nephew.

10. **Pw- 3 is Bishundeo Rai**, who has said in his examination in chief that the incident was occurred on 22-11-2022 at 07:45 AM. He was at the place of occurrence, eleven persons including Sipahi Rai, Jamahi Rai, Saheb Rai, Chandra Deo Rai, Mithun Rai, Mukesh Rai, Umesh Rai, Kundan Rai and Ranjeet Rai had surrounded Sonu Kumar and were shouting at each other to shoot him. Sipahi Rai then shoot Sonu Kumar with his rifle which hit him on the left side below his armpit to which he died on the spot. After this all the persons fled with firing and threatening. The police came at the place of occurrence and prepared death inquest report of deceased but he does not remember whether he signed on it or not.

In his cross examination, he said that Pavitar Rai is his uncle. He has three sons and Sagar Rai has four sons. Dharam Raj has three sons. The family of Dharam Rai and Pavitar Rai lives in the ancestral house and the house of Sagar Rai is one and ½ ropes south of the ancestral house. All the eleven accused persons were present at the place of occurrence. They surrounded Sonu at a distance of 15-20 feet. The face of Sonu was facing towards south east and accused persons faces were facing in east north and south from the face of Sonu. Apart from Sipahi Rai no other accused had fired at Sonu. After being shot Sonu fell into the potato field of Pavitar Rai.

In para 5 he said the boundry of the field of Pavitar Rai is as in east land of Late Darshan Rai in the west. Land of Birla Naresh in the north and South the land of Pavitar Rai. The incident was taken place in the east side of the corner.

The police arrived at the place of occurrence after crossing the river Ganga and they took the body of Sonu with them. They called a private vehicle and took the body. He does not know that Pavitar Rai was present at the place of occurrence at the time of the incident. No one other than the police arrived at that place after the occurrence. Five of them were already present there.



IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Pappu Rai and Ramprit Rai were not came at the place of occurrence. His statement was recorded by the police at the police station after lodging the case. The cloth of deceased was soaked with the blood he was wearing red colored T-Shirt and blue colored Jeans. There was dispute of land and road between Darshan Rai and Pavitar Rai. He is named accused in the murder case of Darshan Rai and after the murder of Darshan Rai, there is no any further dispute arise between them. All the accused persons belongs to the same family but they have separate house. Jamahi Rai and Sipahi Rai were carrying rifles while other carrying pistols. Kundan was holding an axe. He did not discuss regarding the incident after occurred.

11. **Pw-4 is Bhukalu Prasad**, who said in his examination in chief that the incident occurred on 22-11-2022 at 07:45 AM. He was at the house of Rambriksha at that time he saw Sipahi Rai, Jamahi Rai, Saheb Rai, Chandra Deo Rai, Mithun Rai, Ratan Rai, Mukesh Rai, Ranjeet Rai, Umesh Rai and Kundan Rai armed with weapons arrived at the house of Darshan Rai. Sipahii Rai and Jamahi Rai were armed with pistol, while the other were armed with small guns. Kundan Rai and Ranjit Rai were armed with axe. The son of Rambriksh Rai, Sonu was going for his study then Sipahi Rai, Suddenly shot him in the left armpit with his rifle causing he collapse and after that all the persons began firing indiscriminately, threatening to kill any one who came in their way. Sonu was died on the spot after that the police came and took him for postmortem.

In his cross examination he said that the house of Darshan Rai is about 20-25 meters away from his house. He heard the commotion and gun fire from a distance of 10 meters. He was standing there and saw the shots being fired around 10-12 bullets were fired at the time of occurrence but he can not give exact count. An empty cartridge was found there, same asymmetrical firing also occurred.

Rambriksh is his cousin. Next to his house are the house of Pavitar Rai, Zamindar Rai, Lala Rai and Dayal Rai. There are the people whose houses are near the house of Rambriksha Rai. At the time of occurrence Lala Rai, Bishnu Rai, Yogendra Rai, Hare Ram Rai and Ranjit Rai were came. Jamindar Rai and

IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Pavitar Rai were old persons, hence they did not come at the place of occurrence. The name of the sons of Pavitar Rai are Hare Ram Rai, Pappu Rai and Tutu Rai. Tutu Rai and Pappu Rai were not came at the place of occurrence. They worked out side. He has not informed the police about the incident by his mobile. Police has recorded his statement at about 10 AM on the date of occurrence and he put his signature over it. Police stayed there 30-40 minutes they came at the place of occurrence after crossing the Ganga river. The police brought the body to Barh for post mortem. The police recorded the statement of Bishnu Rai, Rana Rai and Rambriksha Rai after the recording his statement.

In the case of murder of Darshan Rai, Rambriksha Rai, Bishun Deo Rai, Hare Ram Rai and others are made accused and trial of this case is pending before the Court.

The cloth of Sonu was seized by the police. He came his village before the occurrence and he stayed at his village one month after the occurrence he has proof for staying there and he may file it.

In para 19 he said that he has said to police that on 22-11-2022 at about 07:00 AM he was at the house of Rambriksha. He also said that all persons came at the house of Darshan Rai in which Sipahi Rai and Jawahar Rai were armed with rifle and other were armed with small weapon and Kundan and Ranjit were armed with axe. Sonu was going for study and suddenly Sipahi shot him. He was shot in the left side of his armpit.

In para 21 he stated the boundry of the house of Darshan Rai is as in north the house of Sagar Rai and Jamindar Rai, in the south river, in the east house of Jawahar Rai and Sipahi Rai and in the west the house of Rambriksha and Permanand Rai. He was with Rambriksha whole day of 22th after 07:00 AM. He also went with him at police station the next day around 10 O' Clock. Bishun Rai was also with him. The Police has not recorded statements of any persons. Rambriksha has given application to the police. He saw him submitting the application. He did not pay attention to whose signature was on the application.

The case was filed on the application of Rambriksha Rai only.

12- Pw- 5 is Rambriksha Rai, who is informant of this case and father of



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

deceased Sonu Kumar. He has stated in his examination in chief that the occurrence took place on 22-11-2022 at about 07:45 AM. He was at his door. Sonu Kumar was going to Bakhtiyarpur for study. Then Sipahi Rai, jawahar Rai, Saheb Rai, Chandradeo Rai, Mithun Rai, Ratan Rai, Jatan Rai, Mukesh Rai, Umesh Rai, Ranjeet Rai and Kundan Rai, who were present at the corner of the land of Pavitar Rai and said that Rambriksha has only one son shoot him then Sipahi Rai shoot Sonu with his rifle. His son fell down and died due to the gun shot, later on police came at the place of occurrence and the report was written.

This witness has identified his signature over the fardbeyan which is marked as exhibit-1 and also identified the signature of Ramanand Rai as a witness on the written fardbeyan which is marked as exhibit-1/1. He has identified the accused person before the Court.

In his cross examination he said that he has given information to the police from his mobile phone, he did not remember the mobile number of police on which he made a call. He can not say the exact time when police came on information. No one went to the place of occurrence when police arrived there. The police did not even call anyone. In para 5 he said that at the time of incident potato crop was growing in the field of Pavitar Rai but Pavitar Rai was not present there rather Hare Ram was there and he getting work from labourer in the potato field.

He was at his door at the time of occurrence and countless firing were done there. He can not say how long the firing lasted. After the firing Vishundeo Rai, Ramanand Rai and Hare Ram Rai went to the place of occurrence. He also went there. He saw Sonu was laying face down, he turn Sonu and seen an injury over his body. He has said in his statement given before the police that Sonu has a wound under his armpit. He does not remember that how many empty cartridge were found there and the police has recovered the cartridges or not.

The police had to cross the river Ganges to reach at the place of occurrence. They arrived there on foot. He does not remember that how the body of Sonu was taken from the place of occurrence to the National Highway. Other persons were also with the police but he can not say their name. After the post



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

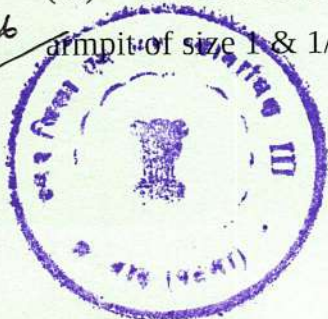
mortem he return with police and thereafter police obtained signature on the fardbeyan from him and Ramanand. He has not remember that the police has obtained his signature on a plain paper or not. What police has written in the fardbeyan he does not remember. Firing was made 10-15 feet away from the place of occurrence and he was sitting at his door at that time. Bullets were also fired at his door as well, but he can not say how many bullet were fired. No any one except Sonu was hit by the bullets.

He has stated the boundry of his door is as in the North- house after the field of Pavitar Rai. In the South- Ganga river in the east- House of the accused persons and in the West- house of the Jagdeo Rai. There was dispute between Pavitar Rai and accused persons regarding road and land. At the time of incident he has no any dispute with the accused Persons. He has given statement before the police twice. He has not said the police that accused persons were armed with pistol and Farsha in his statement rather he has said that all the accused were armed with rifle and he has also said in his statement before the police that the accused had said that Rambriksha has only one son, shoot him. It was said by them in the morning of the date of occurrence. He denied that he has given false evidence due to the previous enmity of the accused persons.

13. P.W- 6 is Dr. Ajay Kumar Singh, who has condcuted the post mortem of the deceased. He has stated in his examination in chief that on 22-11-2022, he was posted at SDH Barh as Medical Officer. On that very day he has conducted postmortem of deceased Sonu Kumar, aged about 17 years male, s/o Rambriksh Rai, r/o Kaladiyara Satgharwa, P.S. Salimpur, Dist Patna at 02:30 PM and found following details:

External Finding:

- (i) Eyes closed, Mouth closed, rigors mortis present over whole body.
- (ii) A bullet entry wound was present one in number 2" below the left armpit of size 1/2" in diameter.
- (iii) A bullet exit wound was found one in number 2 & 1/2" below the right armpit of size 1 & 1/4" in diameter.



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Internal Finding -After Dessection : No bullet found inside the bodies.

(a) Brain pale

(b) Neck-NAD

(c) Thorex – Both lungs pierced by wound tragectory caused by bullet.

(d) Heart – Both atria pears by bullet tragictory. All chamber of heart empty. Thoracic cavity fooled of blood clot.

(e) Abdomen- Stomach, instentines an urinary blooder empty. All vescera are pale. Time since death – Within 12 hours.

Cause of death – Cardio respiratory arrest, caused by hypo volenic shock caused by severe haemorrhage caused by gunshot injury mentioned above. These injures are sufficient to caused of death of the victim.

Further it is submitted that this PM report is prepared by him and bears his signature. On identification it is marked as exhibit X1.

In his cross examination, he has stated that time since death may be within 12 hours. It may be minimum 4 hours. Time was calculated by the clinical status of body. Type of the weapon can not be determind on the basis of injury. The wound is caused by gun (fire arm). These injury may be caused by rifle or any kind of fire arms. Rigor mortis is starting just after few minutes of death. There is no changes within 12 hours. This postmortem report is written by him and bearing his signature dated 20-11-2022 and submitted to his office.

14. **Pw- 7 Ravi Ranjan Singh**, who is I.O. of this case, he has stated in his examination in chief that on 22-11-2022 he was posted at Salimpur Police Station and that day he got an information that a person has shot dead to a boy. On that information he went at the place of occurrence and recorded the statement of Rambriksh Rai, which bears the signature of Rambriksha and Ramanand on the identification of this witness entire fardbeyan is marked as exhibit-2. The inquest report is in the writing and signature of Sujit Kumar. He inspected the place of occurrence which was the potato filed of Pavitar Rai located in village Kala Diara Saigharwa under Salimpur Police Station informant and other were stated that



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

Sonu Kumar was shot and killed there. Blood was found at the place of occurrence which was dried in the soil and can not picked up due to frequent movement of the public. He has stated about the boundry of place of occurrence is as in North- Potato field of Pavitar Rai in the South- Field of Pavitar Rai and thereafter the door of the informant in the East- village road and after that the field of Late Darshan rai and in the West- the field of Birla Naresh.

In para 7 of the case diary he has recorded the statement of Rambriksha and in para 8 recorded the statement of Bhuklu Rai, in para 9 and 11 of the case diary he has recorded the statement of Vishundeo Rai, Hare Ram Rai and Ramanand Rai respectively. He obtained the postmortem report of deceased Sonu Kumar in which gun shot injury was found by the Doctor which he mentioned in para 61 of the case diary, he found the allegation against Chandradeo Rai, Jawahar Rai and Saheb Rai to be true, after the statement of the witnesses and charge sheet no 46/2023 dated 24-02-2023 was submitted u/s 147, 148, 149, 342, 324, 302, 504, 506 of IPC and 27 of Arms Act. Supplementary investigation was going against other FIR named accused persons and charge sheet no 467/2023 dated 22-12-2023 against Sipahi Rai, Mukesh Rai, Mithun and Jitan Rai has been submitted by him after finding the allegation to be true against them.

In his cross examination he said that the FIR does not contain any fabrication regarding the time. The information was received at the police station. It has been mentioned in the FIR that information was given verbally. In para 11 of case diary Ramanand Rai has not said that his nephew Sonu Kumar taking pen, book and bag after bathing in river Ganga and was on his way to Bakhtiyarpur to study, when he reached the North side of the Pavitar Rai's potato field he saw Sipahi Rai, Jawahar Rai, Saheb Rai, Chandradeo Rai, Mukesh Rai, Mithun Rai, Lakhan Rai, Jatan Rai, Umesh Rai, Ranjeet Rai and Kundan Rai all armed with rifles surrounded him and they said to killed Sonu Kumar and Sipahi Rai shot Sonu below the armpit. It has not written that he shot him in the armpit.

In para 4 of his evidence he said that in para 9 and 10 Vishundeo Rai and Hare Ram Rai during the course of investigation has not said that Sonu was



IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

going to Bakhtiyarpur for study and when he reached at the corner of the field of Pavitar Rai, all eleven 11 accused persons surrounded him and given order to shot him. It is written that Sipahi Rai shot Sonu with his rifle. It is not written that he shot him in the armpit. In para 8 of the case diary Bhukalu Prasad has not stated the time of occurrence as 07:45 PM. He has said in his statement that he was at the house of Rambriksh and heard Halla and saw that Sipahi Rai, Jawahar, Mithun, Mukesh, Ranjeet etc come to the house of Darshan Rai. They all armed with weapon and others had small guns and Kundan and Ranjeet had Farsha in their hand. However he said that Sipahi Rai had a rifle in his hand to which he fired the shot. He did not said about armpit. Rambriksh Rai informant has not said in his re statement that Sonu Kumar was at the door and he was ready to go for his school but he said that the Sipahi Rai shot Sonu Kumar in the left side of armpit with his rifle and that he fell down and died.

In para 7 of his evidence he has said that he was the investigator of this case from the very beginning and the enquest report was prepared by his subordinate ASI Sujeet Kumar. He personally accompanied Sujeet Kumar in his capacity as station House Officer after making entry in the station diary and enquest report was prepared by him on his verbal order. He has not given written order at the place of occurrence. Death enquest report was prepared before the registration of this case, it was prepared at about 09:30 in the morning. He has inspected the place of occurrence but he did not find the potato field was in disarray. The potato leaves had not yet sprouted at the time of occurrence, so he did not mentioned regarding blood on the leave. Due to the blood drying at the place of occurrence and frequent movement of the public it could not be seized because soil stained with blood had been eroded by the movement of the people. No blood stains were found at the boundry of the place of occurrence. He has searched the house of accused but the family member of the accused were not present there. He is not written whether any black mark or burn was found around the armpit or not. He has denied that his investigation is faulty and due to order of senior officers he has submitted chargesheet against innocent persons.

STATEMENT OF THE ACCUSED AND DEFENCE

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IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

15. The accused persons were examined u/s 313 of Cr.P.C. on 01-12-2025, wherein they denied the prosecution evidence and pleaded their innocence. The specific defence of the accused person is that the prosecution party has falsely implicated them in connivance of the police after concealing the real fact. Though sufficient times were granted to the defence to adduce its defence witnesses but no D.W. was produced on behalf of the defence and lastly, the defence case was closed on 12-01-2026 as the time for disposal of the same was fixed by Hon'ble Court. No any documentry evidence has been adduced by the defence in this case.

ARUGUMENTS

16. The Learned Addl. P.P while arguing for the prosecution submitted that it is a case of murder in broad day light wherein accused persons went over the corner of the field of Pavitar Rai. They all were armed with weapons they surrounded Sonu Kumar, who was the son of informant. He was going to Bakhtiyarpur for study. On the instigation of the accused persons, Sipahi Rai fired on the deceased Sonu Kumar, who dropped down and died on the spot. Other accused persons also making fire. According to the learned Addl. P.P. the witnesses examined during the course of trial, who happen to be the eye witnesses have fully supported the prosecution case given by the informant namely Rambriksha Rai in his initiation version and only because they happen to be the relations of the informant, there testimony can not be ruled out and discredited out right. The prosecution relied upon the settled prinicipal of law that near relatives will never spare the real culprits, argued before the Court that mere relationship of the witnesses with the deceased and the informant is no ground to doubt their testimony. Similarly it was pointed out that all the witnesses except official witnesses are on enmical terms with the accused and on this score alone. It can not be said or presumed that they are telling lie before the Court. The Ld. Addl. P.P. further argued that the defence may submit before the Court with respect to some laches on the part of the investigating agency, but it is well settled that those laches, unless goes to the very root of the prosecution case resulting any serious prejudice to the accused can not given undue weight.

IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

As for the motive is concerned it was submitted by the Ld. Addl. P.P. that in view of the categorical statement of the eye witnesses the importance of motive loses all its significance and only because of these appears to be no motive of the occurrence, the prosecution case can not be thrown out. He further submits that the medical evidence prove the cause of death of the deceased and the injury was caused by gun shot. Therefore their evidences has to be believed to fasten the liability on the accused persons and due to mere some minor variation in the statement of witnesses is no ground to discarded the prosecution case. According to the Ld. Addl. P.P. the prosecution has proved its case beyond all reasonable doubts. Therefore the accused persons should be held guilty under the offence for which they have been charged and an order of conviction should be recorded.

Other hand the Learned defence counsel in his lengthy argument tried to impress me that it is a case wherein prosecution has miserably failed to prove the charges against the accused persons. According to him, the witnesses, who have been examined in this case on behalf of the prosecution are all interested or enmical witnesses, therefore their evidences carries little weight and should be discarded and it has also been submitted that on same point there is contradictions in the evidence of prosecution witnesses. Ld. Defence Counsel argued that PW-02 of this case is Hare Ram Rai who is the son of Pavitar Rai and occurrence said to be happened in his field, there was a dispute for a way between Pavitar Rai and Umesh Rai, Kundan Rai. The occurrence was took place in the village Kala Diara not in the field of Pavitar Rai. PW-3 has not said the name of Jatan Rai and Ratan Rai in his evidence. In this case enquest report was prepared by Sujeet Kumar but he has not recorded the fardbeyan of the informant, while he reached at the place of occurrence before the recording fardbeyan, it shows that the fardbeyan of the informant was recorded later on after thought, the prosecution has not examined Sujeet Kumar as a prosecution witnesses, which creates a doubt over the prosecution story. Further the Ld. Defence Counsel argued that the witnesses examined on behalf of the prosecution have said different place of occurrence and the time of occurrence,



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

no consistency in their evidences regarding place of occurrence time of occurrence and manner of the occurrence.

The Ld. Defence Counsel also argued that no any witnesses have said in their statement recorded by the I.O. u/s 161 of Cr.P.C. that the Sipahi Rai shot Sonu Kumar with his rifle which hit in his armpit which shows that the story of gun shot by Sipahi Rai was later on cooked up by the prosecution party after thought. It has further been contended by the Ld. Defence that the murder of deceased was committed by same unknown persons at same where else and prosecution party finding an opportunity to brought the dead body at the said place of occurrence for the false implication of there accused persons due to enmical terms of the accused persons. According to the Learned Defence Counsel non finding of bullet at the alleged P.O., non siezure of blood stained earth from the P.O. and the discrepancy in the evidence of the witnesses regarding the P.O. creats doubt with regard to the veracity of the prosecution case. The Ld. Defence Counsel has relied upon the Judgement reported in 2011 Cr.L.J 2640 and 2011(3) East Criminal Case 55 (S.C.) to show that where the witnesses have given two different description of place of occurrence. The prosecution case becomes doubtful. It was also pointed out by the Learned Defence Counsel that there was no recovery of any empty cartride from the place of the occurrence nor any blood stained soil and cloth of the deceased were taken or sent to forensic science laboratory, which creats a serious doubts on the prosecution version. The Ld. Defence Counsel also relied upon a judgement reported in B.B.CJ 2011(2) 489, contended that a faulty investigation conducted by the I.O. should be taken as a serious laches on the part of the prosecution and benefit of this must go to the defence. It was also argued that the Doctor has not mentioned in the postmortem report that what type of injury he has found on the body of deceased and from which weapon it has been caused, which creats doubt. It has also been submitted by the Ld Defence Counsel that there are several infirmities, omissions and contradictions in the earlier version of the informant and the witnesses recorded u/s 161 of Cr.P.C. , the Ld. Defence relied upon the judgment of Mohan Lal & others Vs. State of Rajasthan 2000 (1) PCCR 21. Summing of his argument



IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

the Learned Defence Counsel has pointed out that the prosecution has miserably failed to prove its case beyond all reasonable doubt and accused persons are entitled to be acquitted.

DISCUSSION AND ANALYSIS OF EVIDENCE

17. Having appreciated the contentions of the learned counsel of both the sides of the case. The instant case was instituted on the basis of the fardbeyan of the informant. Ramkishore Rai the father of deceased who has given vivid account of the occurrence and he has categorically stated that it was the accused Sipahi Rai, who shot at his son Sonu Kumar who dropped down on the spot. This accused has shot his son on the instigation of other co-accused persons. Further case of the prosecution is that all the accused persons were armed with weapon and they also made firing to create havoc and threaten for dire consequences.

In order to substantiate the charges the prosecution has examined altogether seven (7) witnesses as stated above out of these seven witnesses two witnesses are official witnesses being the Doctor and I.O. of this case (i.e. PW-06, Dr. Ajay Kumar Singh and PW-07 Ravi Ranjan Singh). The entire prosecution case rests upon the evidence of five witnesses who claim themselves to be the eye witnesses PW-05 Rambriksha is the father of the deceased, while PW-01 Ramanand Rai is own brother of informant, PW-02 Hare Ram Rai, PW-03 Vishundeo Rai and PW-04 Bhukalu Rai are the neighbourer and gotia, the informant. According to the defence, the prosecution witnesses namely Hare Ram Rai (PW-3), who is the son of Pavitar Rai enmical relation with the accused persons there are land dispute between them. It is well settled that mere relationship of the witnesses with the informant or the deceased is no ground to discard their testimony. The rule of prudence requires their testimony should be closely scrutinised. In the present case for the related eye witnesses are concerned PW-01 in para 1, PW-02 in para 1, PW-03 in para 1 and PW-04 in para 1 of their evidence have categorically supported the prosecution version given by the informant i.e. PW-05 in his fardbeyan. All these witnesses are said in their examination in chief that on 22-11-2022 at about 07:45 AM. When deceased Sonu Kumar was going to Bakhtiyarpur for study all the accused person



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

surrounded him the corner of the field of Pavitar Rai and after instigation of other co-accused, Sipahi Rai shot him with his rifle which striking his near the left armpit to which he dropped down and died. The defence subjected them to detail cross examination, but from their cross examination it appears that witnesses have passed the acid test of the cross examination and their testimony with regard to the occurrence remain in tact as a whole.

It has strongly argued on behalf of the defence that the witnesses are interest witnesses and on same point there is contradiction in the evidence of prosecution witnesses related of place of occurrence, time of occurrence.

In this regard, I would like to refer the judgment of Hon'ble Apex Court " In Jodhan Vs State of M.P. reported in (2015) 11 Scc Page 52, in which held that evidence of interested witnesses trustworthy and there is no rule of evidence that testimony of interest witnesses is to be rejected solely because other independent witnesses who have been cited by the prosecution have turned hostile.

In this regard judgment of Hon'ble Apex Court in the State of Karnataka Vs. Pananaika, reported in (2004) 13 Scc Page No 180 is also note worthy, in which Hon'ble Apex Court has held that inapplicability of merely because testimony of witnesses are partly not trustworthy their entire testimony should not be rejected-testimony which receives sufficient corroboration should be accepted-criminal trial-appreciation of evidence-contradiction, in consistencies, exaggerations or embelishment-effect of on the testimony of the witnesses. It is common experience that same times witnesses are prone to lapse of memory and same times they overstate the fact and simply because of the fact statement of the witnesses are partly not trust worthy that does not mean that the whole of the testimony of the witnesses should be discarded. Criminal Court while appriciating testimony of the witnesses should not take easy approach. Same exaggeration or embelishment can appear is the testimony because lapse of time or a poor memory. Therefore, whatever Courts find sufficient corroboration then testimony of such witnesses should be accepted. In this case the Court after scrutinizing the evidences of the witnesses closely found the evidence against the accused persons to be consistent and sufficient and fully corroborated by



IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

other evidence.

So far as the case of the prosecution regarding the fatal assault made by accused Sipahi Rai on instigation of other co-accused is concerned. The evidence of PW's are consistent and their testimony has been corroborated by Dr. Ajay Kumar Singh PW-06, who has found a bullet injury wound was present one in number 2" below the left armpit of size ½" diameter and one bullet exit wound 2*1/2" below the right armpit of size ½" in diameter. On dissection he found no bullet inside the body, brain pale. Both lungs pierced by wound caused by bullet and both atria pierced by bullet trajectory, all chamber of heart empty, thoraces cavity filled of blood clot. Stomach, intestine and urinary bladder empty. All viscera pale. Time of death of the aforesaid injury within 12 hours of the PM examination cause of death is due to cardio respiratory arrest, caused by hypovolemic shock caused by severe haemorrhage caused by gunshot injury and the injuries are sufficient to caused of death.

It was strongly contended by the Learned Defence Counsel that there is serious latches on the part of I.O. which creates doubts on the prosecution story. In this regard the defence has relied upon certain observation made by the Hon'ble Court in support of their contention, but law is quite clear that defect in investigation is not beneficial to the accused unless the I.O. has been examined and afforded an opportunity to explain the defect. In the present case whatever defects pointed out by the defence was never put to the I.O. when he was cross examined by the defence therefore such so called defect is no ground to give any benefit to the defence. Moreover it is well settled law that lapses in investigation should not prevent the Court from accepting the evidence of eye witnesses. It is otherwise truthful. A gain reference in this regard may be made to a judgment reported in 1998(2) PLJR 1298 (S.C.). So on the point of alleged defective investigation. I find that so called defects were of very minor nature not going to the root of the prosecution case and on this case the testimony of the eye witnesses can not be brushed aside and the advantage to the accused should not be given.

Now one has to decide what offence, these accused persons have

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24/5/26



IN THE COURT OF ADDL. SESSIONS JUDGE III, BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

committed. From going through the entire evidence which is available on the record it is evident that occurrence took place due to previous land dispute between the accused persons and gotia of the informant and they have enmity of the accused persons with family member of the prosecution party. The accused persons were gathered at the place of occurrence at village Satgharwa Kala Diara in the corner of the field of Pavitar Rai armed with rifle, Farsha etc and on the exhortation given by the other co-accused the accused Sipahi Rai shot at the deceased Sonu Kumar in furtherance of common intention. Therefore the accused Jawahar Rai & Chandra Deo Rai are liable to be convicted u/s 302/149 of IPC.

Moreover as unfolded by the prosecution witnesses both the accused persons Chandra Deo Rai and Jawahar Rai were carrying weapons and were member of unlawful assembly, therefore they are liable to be convicted u/s 148 of IPC.

The accused have also been charged u/s 143/149 for wrongfully restrained the informant Rambriksha Rai but the evidence in this regard is not convincing. Therefore they acquitted from the aforesaid charge.

So far the charges u/s 324/149, 504/149 and u/s 506/149 of IPC and other sections are concerned the evidence in this regard is not consistent and convincing. Therefore they are acquitted from the aforesaid charges.

Put up on 04-06-2026 for hearing on the point of sentence.

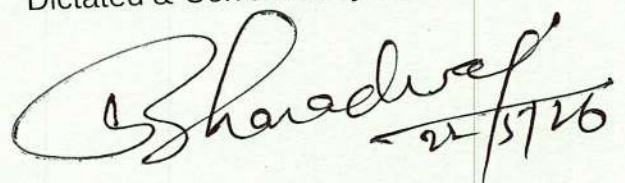
Judgment pronounced in open Court.

Dictated & Corrected by me


(Vivek Bharadwaj)

District & Addl. Sessions Judge
22/05/2026




22/5/26

(Vivek Bharadwaj)
District & Addl. Sessions Judge
22/05/2026



IN THE COURT OF ADDL. SESSIONS JUDGE III ,BARH (PATNA)

Present:- Vivek Bharadwaj

Session Trial No.- 722/2023

C.I.S. No.- 1955/2023

ON THE POINT OF SENTENCE

04/06/2026

Both the convicts produced from the custody.

Heard the Sri Ran Vijay Singh & others, Learned Counsel for the convicts and Learned P.P. for the State on the point of sentence.

It was contended on behalf of the Learned Counsel for the convicts that there is no previous conviction proved against any of these convicts and the occurrence took place in spur of moment, therefore lenient view should be adopted in awarding sentence.

The Ld. Addl. P.P. on the other hand argued before me that the convicts Chandra Deo Rai and Jawahar Rai found guilty u/s 302/149 of IPC, which provides minimum imprisonment for life, but the Learned Addl. P.P. has fairly submitted that the case does not belongs to the category of the rarest of the rare case, so quantum of death punishment does not arise.

Having appreciated the rival contentions, I, find that the sentence prescribed for the offence of murder under Indian Penal Code is either sentence for life or death sentence. I am in full agreement with the Learned Additional Public Prosecutor that case does not fall in the category of the rarest of the rare case requiring capital punishment.

Considering all the facts in the mind, and also in the interest of justice convicts Chandra Deo Rai and Jawahar Rai have been held guilty u/s 302/149 of IPC are awarded rigorous imprisonment (R.I) for life.

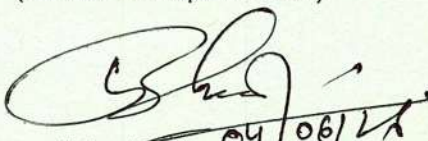
Both the convicts have been held guilty for the offence u/s 148 of IPC, therefore they are hereby awarded as sentence of R.I. for two year for the offence u/s 148 of IPC.

All the convicts are further directed to pay a fine of Rs. 20,000/- (twenty Thousand) each and in default of payment of fine, they will further undergo R.I. for 06 Months.

The sentences are directed to run concurrently. Both the convicts are remanded to custody to serve out the sentence.

Office Clerk to prepare conviction warrant accordingly.

(Dictated in open Court)


(Vivek Bharadwaj)

District & Addl. Sessions Judge

04-06-2026

