

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

Present:- Vivek Bharadwaj

Session Trial No.- 863/2024

C.I.S. No.- 2542/2024

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

Present:- VIVEK BHARADWAJ

Date of Judgment:- 22/05/2026

Session Trial No.- 863/2024

C.I.S. No.- 2542/2024

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. Sipahi Rai 2. Jatan Rai
Represented by	Sri Ran Vijay Singh, Learned Advocate & others.

Date of offence	22/11/2022
Date of FIR	22/11/2022
Date of Charge-sheet	467/23-22/12/2023
Date of framing of Charge	06/12/2024
Date of commencement of evidence	05/02/2025
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

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22/05/26



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Accused Details:-

Rank of the Accused	A-1
Name of Accused	Jatan Rai, Age-30 Years, S/o- Saheb Rai R/o- Sat Gharwa, Kala Diyara P.S.- Salimpur, Distt.- PATNA
Date of Arrest	-----
Date of Release on Bail	31-10-2023
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 & 27 of Arms Act
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 and Rigorous imprisonment for One (01) year for offence punishable u/s 27 of the Arms Act & 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.	-----

Rank of the Accused	A-2
Name of Accused	Sipahi Rai, Age-63 Yrs S/o- Ramagya Rai R/o- Sat Gharwa, Kala Diyara P.S.- Salimpur, Distt.- PATNA
Date of Arrest	27-09-2023
Date of Release on Bail	-----
Offence Charged with	U/s- 302, 147, 148, 324/149, 504/149, 506/149 of IPC & 27 of the Arms Act
Whether Acquitted or Convicted	Convicted, U/S- 302, 148 of IPC & 27 Arms Act
Sentence Imposed	Rigorous imprisonment for life for offence punishable u/s 302 IPC, Rigorous imprisonment for two (02) year for offence punishable u/s 148 of IPC and Rigorous imprisonment for One



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	(01) year for offence punishable u/s 27 of the Arms Act & 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.	02 Year 08 Month 7 Days

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.	Hare Ram 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

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CW	N.A.	N.A.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:-

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.
5.	Exhibit-2	Entire Fardbyan
7.	Exhibit-3	Certified copy of death enquest report
8.	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 Mukesh Rai stands charged u/s 147, 148, 143/149, 324/149, 302/149, 504/149, 506/149 of IPC and 27 of Arms Act. It is to be noted that during the course of trial, the accused Mukesh Rai was declared Juvenile as per the certificate produced by Ld. defence and his trial was seprated vide ordersheet dated 03-01-2026 and his case record was sent to the JJ Board.

2. As per the fardbyan of informant Rambriksha Rai, the, prosecution story is



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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 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 Sipahi Rai, Mukesh Rai, Mithun Rai and Jatan Rai, u/s 147, 148, 149, 342, 324, 302, 504 and 506 of IPC and 27 of the Arms Act vide chargesheet no 467/2023 dated 22-12-2023. The case was committed to the Court of Session on 11-07-2024 and the record of Sipahi Rai, Jatan Rai and Mukesh Rai was received by this Court on 20-07-2024.

4. Charges have been framed against both the accused persons namely Sipahi Rai, Jatan Rai and Mukesh Rai, u/s 302/149, 147, 148, 143/149, 324/149, 504/149 and 506/149 of IPC and 27 of the 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.



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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

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, then Chandradeo Rai, Sipahi Rai, Umesh Rai, Ranjeet Rai, Kundan Rai all the accused persons surrounded Sonu in the field of Pavitar Rai, north of the door(duar), Sipahi Rai shot Sonu under his left armpit due to which he fell on the ground with covered by blood. They made firing indiscriminately and abusing and threatening to kill them if they cry and went

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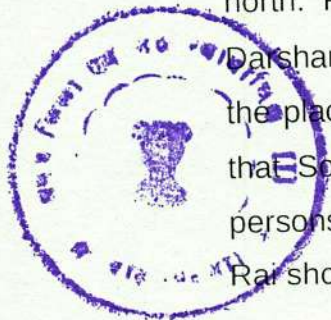
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towards the north direction. He has said in para 2 that his brother Rambriksha Rai, has lodged this case. Police personals were came at the place of occurrence and conduct the paper work there and he also signed on the written report. This witness has identified the accused persons before the Court.

In his cross examination, he has said that he has seen Sonu Kumar to taking bath at 06:30 in the morning. At that time he and his wife, child, and Rambriksha were present in his house. His nephew Sonu Kumar was going for study and he was behind him, when he came to the door, a shot was fired. Sonu Kumar died in a single shot. He was behind Sonu and Sonu walking ahead. He was two or four step away from Sonu Kumar. In para 5 he has said that he fell unconscious after being gun shot. The people gathered there. He regained consciousness. His wife, brother Rambriksha, Vishundeo Rai, Hare Ram Rai had all gathered there and every one looked at Sonu, turning him around, he was covered with blood. Rambriksha has informed to the police by his mobile phone. Police arrived at the place of occurrence around 09:30 AM and recorded his statement and he made signature on it. The police took the deceased Sonu Kumar across the river by boat to the Gyasper Ghat. The Ganga is about 20 bamboos away from the place of occurrence. His brother Rambriksha was with the police and he brought the deceased Sonu Kumar to the Ganga Ghat in his lap, he was also accompanied with the police and he and his brother both were went to postmortem house. They arrived at the police station around 10:00 AM. The police recorded statement from all of them on Gyaspur Road along with him, police has also recorded the statements of Rambriksha, Bukalu Prasad, Hare Ram Rai and Vishundeo Rai. In para 9 he has stated the boundry of his door as in the south-east the house of Darshan Rai, In the west his own house, in the north. Pavitra Rai's potato field and in the south kachhar and the house of Darshan Rai. Bishundeo Rai, Hare Ram Rai and Bukalu Prasad were came at the place of occurrence. He has stated in his statement given before the police that Sonu Kumar was going for study after taking bath then the all accused persons were surrounded Sonu Kumar in the north side of his door and Sipahi Rai shot Sonu under his armpit. It is not true that he had given a statement before



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the police that there was a land dispute between the Umesh Rai and Kundan, the son the Pavitra Rai and Darshan Rai and all the accused persons came with pistol and farsha and said to shot them. In para 13 of his cross examination he has said that the accused persons surrounded Sonu and said to shot the bastard Sipahi Rai had a rifle and other accused persons also carried rifle. They surrounded Sonu at a distance of ten feet. Sonu was hit by only one bullet while other person continued firing indiscriminately.

Police has recovered empty cartridge from the place of occurrence. He does not know whether any paper was made there or not regarding the recovery of the empty cartridge. Sonu was used to leave the home every day at 06:45. He and his brother have no previous enmity with the accused persons. He has previously given his evidence before the Court on 22-11-2022.

In para 18 of his evidence he has said that there was a land dispute between Darshan Rai and Pavitra Rai and due to this they committed such offence. They were gotia of Sonu Kumar and they were his paternal grand father. Sonu was only one son of Rambriksha Rai.

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 then Sipahi Rai, Saheb Rai, Jamahi Rai, Ratan Rai, Jatan Rai, Mithun Rai, Mukesh Rai, Chandra Deo Rai, Umesh Rai, Ranjeet Rai and Kundan Rai surrounded him. Sipahi Rai shot Sonu Kumar from his rifle which hitting him below his left armpit, Sonu fell on the ground and covered in blood. Sipahi Rai shot Sonu at the corner of th field of Pavitar Rai. After the shooting all the accused persons fled away from the place of occrence. This witness has claimed to identified all the accused persons.

In his cross examination he has said that Pavitar Rai is his father. The face of his baithka (sitting room) is toward east and men were sit there. To the west of Baithka there is a female living house. The corner of the land of pavitar Rai is 100-125 feet away in south direction from Baithka. He has stated the boundary of baithka is as in the east fallow land of Darshan rai and his land. In west his agricultural land, in North his house and in South the house of Rambriskha Rai

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and Ramanand Rai. In para 4, he said that he was there when shots were fired he did not raise an alarm he does not know the persons who came there after the incident. He has not given information to the police or other persons about the incident. He was at the place of occurrence when police arrived there and before the arrival of police he and Bishundeo Rai, bhukalu Rai, Ramanand Rai, Rambriksha Rai were present there. He does not know who arrived after the arrival of the police .

On ask, he told the every thing to the police about the incident. The police recorded his statement at the place of occurrence between 09:45 to 10:00 O'Clock. This case was registered on the basis of statement of the Rambriksha Rai. He does not remember the name of the school of Sonu. He was going to school and school bag slung over his back. He does not know what documents the police prepared regarding the death and also not say about the seizure of the bag of Sonu by the police. He can not say that the police has prepared the paper regarding recovery of empty cartridge and spilled blood. The Sonu was surrounded by the accused persons from a distance of approximately 15-20 feet. He denied that a murder case was going on between him and accused persons and he is an accused of the murder of Darshan Rai. The son of Darshan Rai are Umesh Rai, Ranjeet Rai and Kundan Rai and they are accused in this case. He has given statement to the police that all the accused persons surrounded Sonu at the corner of the field of Pavitar Rai and Sipahi Rai shot Sonu with a rifle which was hitted his left armpit. He does not remember whether he told the police that there were a dispute for pass way in the field.

In para 18 of his evidence he has said the boundry of the corner of the field of Pavitar Rai as North- House of Rambriksha Rai, Ramanand Rai and Darshan Rai, South- House of this witness, East- fallow land of this witness and Darshan Rai and in West- land of this witness. He has no knowledge that the witness Rambriksha Rai, Ramanand Rai, Vishundeo Rai and Bhukalu Rai and his grand father Malkan Rai, Jaddu Rai, Julum.Rai and Batai Rai are own brothers. All the witnesses live in a separate house. The house of villager Ganga Rai, Gaya Rai and Arjun Rai are nearby the place of occurrence. He does not remember

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whether the people from the neighbouring area were came at the place of occurrence or not . No bullet were fired at Pavitar Rai and Rambriksha Rai. This witness denied that he is giving false evidence due to previous enmity with the accused persons.

10. Pw- 3 is Bishundeo Rai, who has said in his examination in chief that the incident occurred on 22-11-2022 at 07:45 AM. He was at the place of occurrence. He saw that Sipahi Rai, Jamahi Rai, Saheb Rai, Chandradeo Rai, Mukesh Rai, Mithun Rai, Umesh Rai, Ratan Rai, Jatan Rai, Ranjeet Rai and Kundan Rai all armed with rifles surrounded Sonu Kumar and they said to each others shoot him. Sipahi Rai shot Sonu Kumar with his rifle. The bullet struck Sonu Kumar below his left armpit and he fell on the ground and died on the spot. All the accused persons then fled from the place of occurrence. On the information the police arrived there and asked about the incident to him. Police has prepared a death enquest report on which he put his signature as a witness. The police then took the body for postmortem . He also accompanied them.

In his cross examination, he said that in his statement which given before the police he told that the bullet stuck Sonu Kumar below his left armpit. He did not measure how far below the armpit, bullet stuck. All the accused persons were made firing continuously but Sipahi Rai shot Sonu. He can not say who fired how many shots. He has not seen empty cartridge at the place of occurrence. He has seen the door of Baithka (sitting area) of Rambriksha. At the time of occurrence he, Rambriksha Rai, Ramanand, Bhukalu Rai and Hare Ram Rai were sitting there. The land of Pavitar Rai is about 15 feet in the corner of East- South direction from the house of Rambriksha. He has denied that due to enmity he is giving false evidence.

11. Pw-4 is Bhukalu Prasad, who said in his examination in chief that the incident occurred at 07:45 AM at that time he was standing about 50 meters away from the place of occurrence. He saw many persons. They armed with rifle and gun. Sipahi Rai shot Sonu Kumar from his rifle, the bullet stuck his left armpit to which child fell down and after that 3-4 other persons were began firing continuously. They then picked up Sonu Kumar on a motorcycle and took him

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towards the river. Some people informed the police and as soon as they reached on the river the police arrived there within 5-7 minutes. Police recorded his statement alongwith Hare Ram and Bishnu Rai. Sonu Kumar was being taken by motorcycle for the treatment but he was already died then he was taken to Gayaspur by boat after crossing the river and from there he will be taken by tempoo to barh for postmortem. This witness has identified the accused persons before the Court.

In his cross examination he said that the boundry of place, where he was standing is as in the North- House of Lala Rai, Pavitar Rai and his house. In the South – House of Darshan Rai, Sagar Rai, Jamindar Rai and O.P. Rai, In the East – House of Dayal Rai, Jagdish Rai, Sipahi Rai and Jamahi Rai and in the West – House of Lal Bhai Rai, Vinod Rai and Kedar Rai.

In para 4 he said that he was at the place of occurrence he heard fifteen sound of gun shot, the gunfire was directed to Sonu. Firing was made from the distance of 25-30 meter. He reached at that place from where firing was made and he found two empty cartridge, he raised an alarm for 5-10 minutes but no one else responded.

He went to the house of Sonu from the place of occurrence but he did not meet any one there, after returning from there he informed the nearby persons about the incident. On his information people from his neighbourhood went to the place of occurrence. Rama Rai, B.P. Rai, Yogendra Rai, Vishnu Rai were went at the place of occurrence. He has arranged the motorcycle, Which Ranjeet Rai was driving the motorcycle Sonu Kumar sat behind him and he sat behind the Sonu. He has bandaged the injury of Sonu Kumar with a towel. He reached at the bank of river at about 08:45 AM. Police not arrived there after crossing the river. the police reached other side of the river. Bishundeo Rai had informed the police by mobile phone, he was not there at the time of giving information to the police. Sonu Kumar has taken with the motorcycle. They have given statement to the police at about 09:00-09:30 AM. Vishundeo Rai was the first to give his statement to the police. This case was lodged on the basis of the statement of Rambriksha not on the basis of the statement of Vishnu Rai. He did not go to Barh for the

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postmortem of Sonu.

The accused has no enmity with the Sonu rather they have enmity with the father of Sonu. Sonu Kumar was shot with intention. There were no any injury on the chest and back of the Sonu. In para 10, he said that he has given statement to the police. He was 50 meters away from the place occurrence at that time and Sonu Kumar had been shot in his left armpit and he was brought on the bank of river by motorcycle and he was died there. He also said that 3-4 persons were made firing continuously.

The cloth of Sonu Kumar soaked with blood. A towel was seized by the police on the ghat of Gayaspur. He has no any litigation with the accused persons, he is uncle of Sonu. This witness has denied that being uncle of Sonu he is giving false evidence and no any occurrence was taken place.

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

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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 Gangas 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 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.



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13. P.W- 6 is Dr. Ajay Kumar Singh, who has conducted 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.

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

(a) Brain pale

(b) Neck-NAD

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

(d) Heart – Both atria pierced by bullet trajectory. All chamber of heart empty. Thoracic cavity flooded of blood clot.

(e) Abdomen- Stomach, intestines and urinary bladder empty. All viscera are pale. Time since death – Within 12 hours.

Cause of death – Cardio respiratory arrest, caused by hypovolemic shock caused by severe haemorrhage caused by gunshot injury mentioned above. These injuries are sufficient to cause 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 determined on the basis of injury. The wound is caused by gun (fire arm). These injuries may be caused by rifle or



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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 field of Pavitar Rai located in village Kala Diara Satgharwa under Salimpur Police Station informant and other were stated that 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



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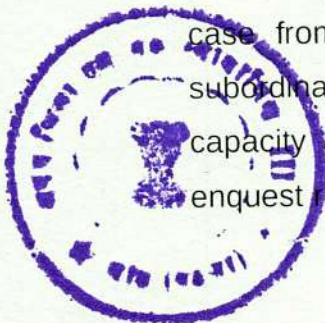
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against them.

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 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 begining 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



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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 mention 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 boundary 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

²
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 documentary evidence has been adduced by the defence in this case.

ARUGUMENTS

¹
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



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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 principal 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.

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 looses 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

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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, 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. creates 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

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no recovery of any empty cartridge 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 creates 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 creates 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 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

19. 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 creat 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

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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 there testimony. The rule of prudence requires their testimony should be closely scrutised. 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 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



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be rejected testimony which receives sufficient corroboration should be accepted criminal trial appreciation of evidence contradiction, in consistencies, exaggerations or embellishment 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 appreciating testimony of the witnesses should not take easy approach. Same exaggeration or embellishment can appear in 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 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 entry wound was present one in number 2" below the left armpit of size 1/2" diameter and one bullet exit wound 2*1/2" below the right armpit of size 1/2" 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 cause death.

It was strongly contended by the Learned Defence Counsel that there is serious lapse 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



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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 examinationed 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 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 furtherence of common intention. Therefore the accused Sipahi Rai is liable to be convicted u/s 302 of IPC and Jatan Rai is liable to be convicted u/s 302/149 of IPC.

The assilant accused Sipahi Rai has been specifically charged u/s 302 of IPC the specificallegation against this accused persons to shot the deceased Sonu Kumar with his rifle in further of common intention of all therefore be liable to be convicted u/s 302 of IPC.

Moreover as unfolded by the prosecution witnesses both the accused persons Sipahi Rai and Jatan 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

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the informant Rambriksha Rai but the evidence in this regard is not convincing. Therefore they acquitted from the aforesaid charge.

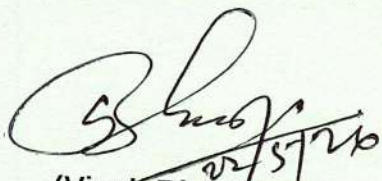
So far the charges u/s 324/149, 504/149 and u/s 506/149 of IPC and other section are concerned the evidence in this regard is not consistent and convincing. Therefore they are acquitted from the aforesaid charges.

So far the charges u/s 27 of Arms Act is concern. The materials and evidence available on the records shows that Sipahi Rai and Jatan Rai has illegally used the fire arms, So the charge u/s 27 of Arms Act stands proved against the accused Sipahi Rai.

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

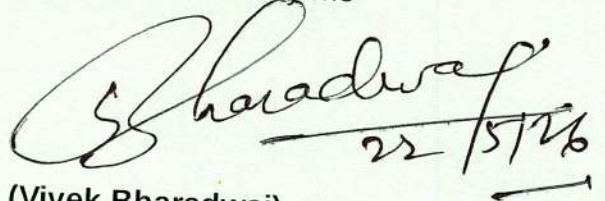
Judgment pronounced in open Court.

Dictated & Corrected by me



(Vivek Bharadwaj)

District & Addl. Sessions Judge
22/05/2026



(Vivek Bharadwaj)

District & Addl. Sessions Judge
22/05/2026



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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 convict Sipahi Rai has been found guilty u/s 302 of IPC and Jatan Rai also 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 belong to the category of the rarest of the rare case, so quantum of death punishment does not arise.

Having appreciated the rival contention, 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} ~~as~~ also in the interest of justice convict Sipahi Rai who has been held guilty u/s 302 of IPC is awarded rigorous imprisonment (R.I) for life under that Court and similarly, the convict Jatan Rai who has been held guilty u/s 302/149 of IPC is also awarded 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.

Both the convicts have been further found guilty u/s 27 of the Arms Act, therefore they are awarded a sentence of one (01) year rigorous imprisonment for the offence u/s 27 of Arms Act. 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.



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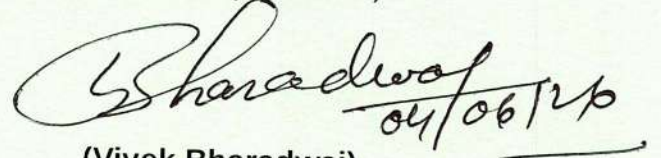
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The sentences are directed to run concurrently. Both the convicts are remanded to custody to serve out the sentence.

Office Clerk to prepare conviction warrant accordingly.

(Dictated in open Court)

04/06/24

(Vivek Bharadwaj)

District & Addl. Sessions Judge
04-06-2026

