

Present :- Kanaiya Jee Choudhary
Sessions Judge,Purnea.
Sessions Trial No. 240 of 2023/CIS No.240 of 2023
(arising out of K.Hat (Maranga) P.S. Case No.720 of 2022)
State Versus Ganga Muni Soren and 2 others
Date of Judgment : 5.05.2026

FORM-A

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE,PURNEA.

SESSION TRIAL NO.- 240 OF 2023

C.I.S. No.- 240 OF 2023

(Details of F.I.R./Crime and Police Station)

(Arising out of K.Hat (Maranga) P.S. Case No.720 of 2022.)

Complainant	State of Bihar through Manoj Kumar Sah, Informant
Represented By	Sri A.K.Tiwary, P.P.
Accused	1. Md. Ansur Rahman, S/o Late Sabir Ali, aged about 48 years, R/o Raibala Maheshwan, P.S. Rautara,District Katihar. 2.Ganga Muni Soren S/o Lakhi Ram Soren, aged about 35 years, R/o Bishanpur, P.S. Rautara,District Katihar and 3.Md.Azmal S/o Md.Yakub, aged about 29 years, R/o Balughat Manjheli, P.S. Mufassil,District Purnea.
Represent By	Shri Sohail Akhtar, Advocate

FORM B

Date of Offence	19.7.2022
Date of FIR	19.7.2022
Date of Charge-sheet	27.10.2022
Date of Cognizance	17.11.2022
Date of Commitment	10.5.2023
Date of Framing of Charges	31.5.2023
Date of commencement of evidence	17.6.2023
Date on which judgment is reserved	22.04.2026
Date of the Judgment	5.05.2026
Date of the Sentencing Order, if any	N/A

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Rail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C.
1	Md.Ansur Rahman	31.7.2022	14.8.2023	302/ 34 & 201/34 IPC	Acquitted	N/A	N/A
2	Ganga Muni Soren	31.7.2022	N/A	Do	Acquitted	N/A	N/A
3.	Md.Ajmal	31.7.2022	N/A	Do	Acquitted	N/A	N/A

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FORM C

List of Prosecution/Defence/Court Witnesses

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Ravi Kumar	Seizure list witness.
PW2	Dinesh Sah	Seizure list witness.
PW3	Dr. Pankaj Kumar	Medical Expert.
PW4	Sunil Sah	Brother of the deceased.
PW5	Manoj Kumar Sah	Informant and brother of the deceased.
PW6	Ranjeet Kumar	Witness of Inquest Report.
PW7	Manish Chandra Yadav	I.O.of the case.

B. Defence Witnesses, if any:

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

C. Court Witnesses, if any:

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

LIST OF PROSECUTION/DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No	Exhibit Number	Description
1	Exhibit -P1/P.W.1	Signature of P.W.1 on seizure list.
2	Exhibit-P2/P.W.2	Signature of P.W.2 on seizure list.
3.	Exhibit-P2/1/P.W.7	Seizure list of tempo bearing Registration No.BR-39PA/1395 prepared in the handwriting and signature of P.W.7.
4	Exhibit-P-3/P.W.3	Entire P.M.Report being signature of P.W.3
5	Exhibit-P-4/P.W.4	Signature over Inquest Report of P.W.4
6	Exhibit P-4/1/P.W.6	Signature over Inquest Report.
7	Exhibit P-4/2 P.W.7	Writting and signature over Inquest report of P.W.7 being witness.
8	Exhibit-P-5/P.W.5	Signature over fardbeyan.
9	Exhibit P-5/1-P.W.7	Writting and signature of Mithilesh Kumar over fardbeyan and Informant Manoj Kumar Sah

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10	Ext. P-5/1/P.W.7	Forwarding of the then SHO Mithlesh Kumar of Maranga.
11	Ext.P-5/2/P.W.7	Endorsement by SHO Anil Kumar Singh over fardbeyan.
12.	Ext. 5/3/P.W.7	Endorsement of SHO Anil Kumar Sah over fardbeyan.
13	Exhibit 6/P.W.7	Seizure list of Mobile of Munni Soren prepared and signed by witness P.W.7
14	Exhibit-P-7/P.W.7	Possession of Mobile by Ansur Rahman and Azmal and Seizure
15	Ext. P-8/P.W.7	List prepared and signed by P.W.7
16	Ext. P-9/P.W.7	Seizure list of used instrument (Hathiyar) iron Dabia recovered from Ramma Bahiyar prepared and signed by P.W.7
17	Ext.P-10/P.W.7	Report of Tempo BR-39PA/1395 from DTO,Purnea received by I.O.
18	Ext.P-11/P.W.7	Report of Technical Cell u/s 60 Cr.P.C. CDR and Caff. Page Nos. 58 to 144 total 87 Page prepared and signed by Incharge Technical Cell Pankaj Anand.
19	Ext.P-12/P.W.7	Certificate of evidence Act u/s 65 dated 28.7.2022 Memo No.187 T.C. issued by S.I. Pankaj Anand.
20	Ext. P-13/P.W.7	Writting and signature of SHO Anil Kumar Singh over formal FIR

B. Defence:

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

C. Court Exhibits

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

J U D G M E N T

1. All the accused persons,namely, 1. Md.Ansur Rahman 2.2.Ganga Muni Soren and 3.Md.Azmal stand charged for the offence punishable under sections 302/34 and 201/34 of the IPC with allegation that on 18.7.2022 at 8.30 P.M. at village Tharha, P.S. K.Hat (Maranga), District Purnea in furtherance of their common intention of all committed murder intentionally or knowingly to Anil Kumar Kumar Sah and on 19.7.2022 at 2 P.M. at village Tharha Nahar,Ramna Bahiyar, P.S. K.Hat (Maranga),District Purnea concealed the dead body of deceased Anil Kumar Sah in furtherance of their common intention to disappear the evidence.

2. Charges:-

Vide order dated 31.5.2023 charges settled **u/s** 302/34 and 201/34 of the IPC against trial

facing accused. Charges read over and explained to them in Hindi language to which they pleaded not guilty and claimed to be tried.

3. As per written complaint of the Informant,namely, Manoj Kumar Sah, FIR lodged against unknown miscreants for the offence under sections 302/201 of the IPC regarding commission of murder of the brother of the Informant,namely, Anil Kumar Sah. As per allegation that on 16.7.2022, the deceased, who was a tempo driver went out with his tempo bearing Registration No.BR-39PA/1395 to deliver Makhana at Harda Bazar to Md.Ishque. but he did not return. Informant found that his mobile was switched off. Later-on, i.e. on 19.7.2022 his dead body was found at Darha canal,Ramna Bahiyar, P.S.K.Hat (Maranga),District Purnea. His head was severed with his body and his left hand and leg were also amputated.

4. On the basis of aforesaid fardbeyan of the Informant, K.Hat (Maranga) P.S. Case No.720 of 2022 (GR Case No.3516 of 2022) was registered for the offence under sections 302 and 201/34 of the IPC against unknown miscreants. The Police took up investigation and accomplishing the case, submitted chargesheet No.313 of 2022 dated 26.10.2022 against the trial facing accused persons for the offence under sections 302/34 and 201/34 of the IPC. Accordingly, the learned C.J.M.,Purnea took cognizance of the offence under sections 302/34 and 201/34 of the IPC against the trial facing accused vide order dated 17.11.2022. Consequently, the case of trial facing accused was committed to the Court of Sessions vide order dated 10.5.2023 numbered as S.Trial No.240 of 2023.

5. Statements under section 313 of the Cr.P.C. of the accused persons were recorded on 19.11.2025, whereunder they claimed to be innocent and have not committed the offence as alleged.

6. Now, the point for determination is whether the prosecution has been able to substantiate the charges levelled against the accused beyond all reasonable doubts or not ?

FINDINGS

7. To substantiate the charges levelled against the accused, the prosecution has been able to examined altogether 07 witnesses, which are as follows :-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Ravi Kumar	Seizure list witness.
PW2	Dinesh Sah	Seizure list witness.
PW3	Dr. Pankaj Kumar	Medical Expert.
PW4	Sunil Sah	Brother of the deceased.
PW5	Manoj Kumar Sah	Informant and brother of the deceased.
PW6	Ranjeet Kumar	Witness of Inquest Report.
PW7	Manish Chandra Yadav	I.O.of the case.

Prosecution in support of its case has exhibited the documents, which are as follows :-

Sr. No	Exhibit Number	Description
1	Exhibit -P1/P.W.1	Signature of P.W.1 on seizure list.
2	Exhibit-P2/P.W.2	Signature of P.W.2 on seizure list.
3.	Exhibit-P2/1/P.W.7	Seizure list of tempo bearing Registration No.BR-39PA/1395 prepared in the handwriting and signature of P.W.7.
4	Exhibit-P-3/P.W.3	Entire P.M.Report being signature of P.W.3
5	Exhibit-P-4/P.W.4	Signature over Inquest Report of P.W.4
6	Exhibit P-4/1/P.W.6	Signature over Inquest Report.
7	Exhibit P-4/2 P.W.7	Writting and signature over Inquest report of P.W.7 being witness.
8	Exhibit-P-5/P.W.5	Signature over fardbeyan.
9	Exhibit P-5/1-P.W.7	Writting and signature of Mithilesh Kumar over fardbeyan and Informant Manoj Kumar Sah
10	Ext. P-5/1/P.W.7	Forwarding of the then SHO Mithlesh Kumar of Maranga.
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15	Ext. P-8/P.W.7	List prepared and signed by P.W.7
16	Ext. P-9/P.W.7	Seizure list of used instrument (Hathiyar) iron Dabia recovered from Ramma Bahiyar prepared and signed by P.W.7
17	Ext.P-10/P.W.7	Report of Tempo BR-39PA/1395 from DTO,Purnea received by I.O.
18	Ext.P-11/P.W.7	Report of Technical Cell u/s 60 Cr.P.C. CDR and Caff. Page Nos. 58 to 144 total 87 Page prepared and signed by Incharge

		Technical Cell Pankaj Anand.
19	Ext.P-12/P.W.7	Certificate of evidence Act u/s 65 dated 28.7.2022 Memo No.187 T.C. issued by S.I. Pankaj Anand.
20	Ext. P-13/P.W.7	Writing and signature of SHO Anil Kumar Singh over formal FIR

8. P.W.1 Ravi Kumar, who has deposed that a decomposed dead body in Thahra canal at Ramna Bahiyar was recovered by the police and seizure list was prepared. He had put his signature over the seizure list. He proved his signature over the seizure list, which is marked as an Ext.1/P.W.1.

In cross-examination, he has deposed that police recovered auto tempo and slipper etc. of the deceased at the place of occurrence but he does not know about the occurrence.

9. P.W.2 Dinesh Sah has deposed that on 19.7.2022 seizure list was prepared. He put his signature over it. He proved his signature over the same, which is marked as an Ext. 2/P.W.2.

In his cross-examination, he has deposed that he does not know about the occurrence.

10. P.W.-03 Dr. Pankaj Kumar deposed that- On 19.7.2022, he was posted as Assistant Professor, Department of FMT, GMCH, Purnea. On that day at 4.00 P.M., a dead body was received and at about 4.30 P.M., he did post mortem examination on the dead body of Anil Sah, aged about 29, Sex Male S/o Late Shiv Narayan Sah, village Kursi Narayanpur, Ward No.15, Post Bhatwara, P.S. Korha, District Katihar. The dead body was brought and identified by Chowkidar 3/7 Naresh Paswan and Sunil Sah (Brother).

On External Examination :

I. Dead body was covered with plastic. After removal of plastic, different findings seen – Head, left hand, left leg not present. This case of decapitation of dead body is completely decomposed with foul smelling. Maggots present over body. Soil also present over body. Head, left hand and left leg had been cut by several sharp incisions around neck, left knee joint and left elbow joint. Margins of wound of neck are sharp, clean cut and swelling. Oesophageous, trachea and all major blood vessels of neck seen after washing of wounds. Clean cut present with swelling of wounds. Diameter of neck wound is 22 CM. Left knee joint and left elbow lacerated. Fracture of lower part of femur present. Left elbow joint clean cut sharp margins. No fracture of bone seen in elbow joints. Peeling of skin present

over anterior and posterior surface of body present. Multiple penetrating wounds present over abdomen around umbilical region. External genitalia normal and decomposed.

On internal Examination :-

(I) Heart – both chambers are empty, colour of heart was dark red, Lungs, liver, spleen and kidney become black and in decomposed state. Stomach also black and torn due to decomposition. Foul smelling gas present. Intestine decomposed. matter.

Time since death – More than 72 hours.

Cause of death – Multiple organ failure due to decapitation of head associated with hemorrhagic shock caused by heavy sharp incised weapon. Viscera preserved in saturated salt solution for further investigation.

The entire post mortem report was prepared by him and bears signature, which is marked as Ext. P-3/PW -3.

In cross-examination made on behalf of accused Anshur Rahman and Azmal, he has deposed that the cause of death was due to decapitation of head which caused multiple organ failure. Rigor mortis differ from time to time depending upon environmental condition. He had admitted that the dead body was partially decomposed at the time of examination and Head of deceased was not brought before him. The dead body was identified by brother of deceased Sunil Sah. He further admitted that body was partially decomposed due to which no mark of identification was seen over the body. After chopping of head, the person will die immediately. He has also admitted that the death of deceased was 72 hours prior to conduction time of post mortem, which means the death was caused on 16.7.2022. He denied the suggestions put forward on behalf of the defence.

11. P.W.4 Sunil Sah in his examination-in-chief deposed that occurrence occurred in the year 2022 at about 12-1 hours in the month of Sawan. Deceased Anil Sah is his brother. On the alleged date, his brother had gone to ply his tempo but he did not return back in the night then he started searching him. In the meantime, Korha Police Station received information from Maranga Police Station that a dead body is lying at Harda. This witness resides within Korha P.S. He gave an information regarding trace less of his brother to Korha P.S. He received information regarding dead body from Maranga P.S. then he went to Maranga P.S. and saw that tempo of his brother was lying there and saw the dead body, which was lying near Harda canal. Dead body of his brother was lying in the field near the canal and said dead body was of his brother. From the date of recovery of dead body of his brother, his brother was trace less since two days ago. The dead body was of his brother but head was not present rather only DHAR was present and head was not present. Till today head of his brother could not trace-out by the Police. His brother plied tempo on rent. He also deposed he could not say reason behind the occurrence. Darogaji came near

the canal and prepared seizure list. He put his signature over the same as a witness. He proved his signature on the carbon copy of Inquest Report, which is marked as Ext. P-4/P.W.4. He failed to identify the accused persons i.e. Ganga Muni Soren, Ansur and Azmal present in the dock.

In his cross-examination, he has deposed that his deceased brother Anil Sah plied tempo and Manoj is his elder brother. He further deposed that he has not knowledge, where his deceased brother was plying tempo. The dead body of his brother was decomposed. He did not see any one, who committed the murder of his brother. He has no knowledge, who committed the murder of his brother.

12. P.W. 5 Manoj Kumar Sah is Informant and brother of the deceased Anil. His deceased brother plied tempo. Occurrence occurred in the year 2022 but he did not remember the date. On the alleged date of occurrence, his brother had gone at Rautara on Reserve and Reserve made by a woman but he does not know her name. On that date his brother did not return in the night. They searched him for two days then he informed to Korha P.S. After two days, he received from the P.S. regarding one dead body lying at Harda. On this, they went Maranga P.S., where tempo of his brother was lying and saw that dead body of his brother was lying near Harda canal. Head, left hand and one leg of his brother were not present with dead body and some portion of body was within soil and due to irrigation, the dead body of his brother came out from the soil. Dead body was his brother as there was mark of his hand and there were several marks over his body for identification and on the basis of which he identified the dead body of his brother. His brother had gone with Tempo on Reserve but he has not knowledge, where his brother had gone with Tempo on Reserve. Tempo of his brother reserved on mobile but he has not remembered the mobile number. He can not say reason behind the occurrence. After recovery of dead body, police recorded his fardbeyan and Police read over the same and he put his signature over the same. He proved his signature over the same, which is marked as Ext.P-5/P.W.5. He identified a woman standing in the dock but he cannot say her name. His brother had gone with the said woman on reserve. Accused Ganga Muni Soren was present. He has not identified the other accused persons (Ansur and Azmal), who were present in the dock.

In para 17 of his cross-examination, he has deposed that on the alleged date of occurrence, he had not seen any one, who was accompanying with his brother in his tempo.

13. P.W.6 Ranjeet Kumar is cousin brother of the deceased. He has deposed that he knew deceased Anil. Deceased was son of his elder uncle and plied tempo. Occurrence occurred in the year 2022 but he could not say the date. On the alleged date of occurrence, he was present in his house. On the date, deceased had gone to Mansahi on reserve by his tempo. He came to know on mobile from the wife of the deceased that at about 2 P.M., Anil returned from Mansahi and in the evening, he came to know that deceased had gone to

Harda loaded with Makhana but he did not return back. When Anil did not return till night then they started searching him and informed to Police. In Tuesday, he received information from Korha that tempo of deceased was parked at Maranga Police Station and a dead body was recovered near canal. After that they went there and saw that one dead body was lying in paddy field without head, one hand and leg. He identified the dead boy on the basis of sleeper. Except Ganji and Jhaghiya, there was no cloth. Darogaji came near canal and prepared document of the dead body. He put his signature on the Inquest Report. He proved his signature over the carbon copy of the Inquest Report, which is marked as Ext.P-4/1/P.W.6. He could not say the reason behind the occurrence. He failed to identify the accused persons standing in the dock.

In para 14 of his cross-examination, this witness has deposed that he could not say, where the deceased had gone with whom.

14. P.W.7 Manish Chandra Yadav is the I.O. of this case and he has deposed in his examination-in-chief that on 19.7.2022, he was posted as SI at Maranga P.S. On that day, the then SHO of K.Hat P.S. handed over the investigation of Maranga P.S. Case No.720 of 2022 to him. The then SHO Mithilesh Kumar recorded the fardbeyan of Manoj Kumar Sah. He identified the writing and signature of the then SHO Mithilesh Kumar and on the identification of this witness, writing and signature of the then SHO K.Hat was marked as Ext. P-5/1/P.W.7. On the identification of this witness, carbon copy of Inquest Report of the deceased has been marked as Ext. P-4/2/P.W.7. In Inquest Report at serial No.9, he has mentioned that the death of deceased Anil was decapitation. He prepared seizure list of seized tempo bearing Registration No.BR-39PA/1395. He proved the seizure list of said tempo, which is marked as Ext. P-1/P.W.7. Thereafter, he recorded the re-statement of the Informant and also recorded the statement of witnesses, namely, Ranjeet Kumar, Sunil Sah as well as statement of seizure list witness, namely, Dinesh Sah and Ravi Kumar. Thereafter, he inspected the place of occurrence. He described the place of occurrence. On 20.7.2022, he obtained the CDR of Mobile No.9939201177 of the deceased as well as suspected Mobile No.9102866826. On the alleged date of occurrence, the tower location of mobile of deceased was coming in Purnea. On the basis of CDR of suspected Mobile No.9102866826, he came to know that Anil was in contact with the holder of said mobile. The SIM Holder of Mobile No.9102866826 and 9102866826 is Munni Soren. He obtained the CDR of suspected mobile numbers with IMEI No.911596602355100 and same has been received on 28.7.2022. On the basis of CDR report of the aforesaid Mobiles numbers, Informant came to know that on the alleged date of occurrence at about 19:53:43 and 20:08 Munni Soren contacted the deceased on his Mobile. The tower lower of Mobile of Munni Soren was Chandwa Khudna, Rupaspur and other places also As per report of C.A.F., Ansur Rahman was SIM Holder of 80202410619 and Md.Azmal was SIM Holder of 6299361796. On 30.7.2022, he seized the suspected Mobile Number of Munni Soren and

prepared seizure list. He arrested Munni Soren and recorded her confessional statement. He proved her writing and signature over the seizure list, which is marked as Ext. P-6/P.W.7. On the basis confessional statement of Munni Soren, he arrested accused Ansur Rahman and Md.Azmal. He recovered Mobile with SIM from accused Ansur Rahman and Azmal and prepared seizure list separately. He proved his writing and signature on the seizure list, which was marked as P-7/P.W.7 and P-8/P.W.7. He also deposed that on the basis of confessional statement of all the aforesaid three arrested accused, he recovered Iron Dabia, which was used in the occurrence from the field of Jagdish Mehta. He prepared seizure list. He proved his writing and signature over the same, which is marked as P-9/P.W.7. On 19.9.2022, he obtained Post Mortem Report. On 7.10.2022, he obtained report of the DTO regarding seizure tempo and on the basis of said report, the owner of the tempo was Anil Sah. He proved the Report of the DTO, which is marked as Ext. P-10/P.W.7. He proved the signature of Incharge of Technical Cell from Page 58 to 144 (Total page 87), namely, Incharge PSI Pankaj Anand, which is marked as Ext.11/P.W.7. He also proved the signature of Pankaj Anand on certificate vide Memo No.187/TC dated 28.7.2022, which is marked as P-12/P.W.12 under section 65B of the Evidence Act. After completing investigation, he submitted chargesheet against the accused persons, namely, Ganga Muni Soren, Md.Azmal and Md.Ansur Rahman for the offence under section 302/201 of the IPC vide Chargesheet No.313 of 2022a before the court. Alias name of Ganga Muni Soren is Lakkhi Soren. He proved the writing and signature of the then SHO Mithilesh Kumar for handing over investigation of the case to him after registration of case on the basis of fardbeyan of the Informant, which is marked as Ext.502/P.W.7. He also proved the endorsement in the handwriting and signature of the then SHO Mithilesh Kumar, which is marked as Ext.P-5/3/P.W.7. He also proved the writing and signature of the then SHO Anil Kumar Singh of K.Hat P.S. on formal FIR. The formal FIR is marked as Ext. P-13/P.W.7. He identified the accused, namely, Ganga Muni Soren, Ansur Rahman and Md.Azmal standing in the dock.

In his cross-examination, he has admitted that after receiving the CDR report from the Technical Cell, he sent the same to the Service Provider but the same has not been received as yet. Voice Recording between two persons on Mobile do not make. Nothing has come in the cross-examination of this witness. He denied the suggestions put forward on behalf of the defence.

ARGUMENT ON BEHALF OF LD. PUBLIC PROSECUTOR-

15. The learned P.P. submitted that in this case charges were settled against trial facing accused persons for offence u/s 302/34 and 201 of the I.P.C. In order to prove this case prosecution has examined Seven witnesses, out of that P.Ws. 1 and 2 are seizure list

witnesses, P.W.-03 is doctor, who conducted post mortem of decapitation of dead body of the deceased, P.W. 4 brother of the deceased, who proved his signature on Inquest Report of the dead body of the deceased and he is hear-say witness, P.W.5 is Informant of this case, P.W.6 is hear-say witness and he proved his signature over Inquest Report as Ext.4-1/P.W.6 and P.W.7 is I.O. of this case. P.Ws. 4,5 and 6 though are hearsay witness but they have supported the prosecution version on the point of place of occurrence, time of occurrence and identification of recovery of dead body of deceased near canal at Harda. I.O. (P.W.7) on the basis of CDR of mobile of the deceased and trial facing accused persons arrested them and recovered Mobile with SIMs from their respective possession and I.O. on the basis of confessional statement of the trial accused persons, I.O. recovered the Dabia and other articles, which were used in the occurrence and the same is admissible u/s 27B of the Indian Evidence Act. The recovery of weapon, which was used in the occurrence on the basis of confessional statement of the trial facing accused persons is sufficient to prove the prosecution case. Ext.P-3/P.W.3 (mortem report of the deceased) established that murdered of the deceased committed by the accused persons by sharp cut weapon and death of the deceased is unnatural and accused persons after committing the murder of the deceased concealed his dead body beneath the soil with a view to screen themselves from the legal punishment. The evidences of prosecution witnesses as well as doctor (P.W.3) and I.O. (P.W.7), prosecution has fully established the prosecution case beyond all reasonable doubts. There is also chain of circumstance to establish the prosecution case in which trial facing accused persons committed murder of the deceased. Hence, all accused persons should be convicted under section 302/34 and 201 of the IPC.

ARGUMENT ON BEHALF OF LD. DEFENCE COUNSEL :-

16. The learned defence counsel submitted that whole case of prosecution is based on false, concoction and fictitious story created by prosecution. Learned defence counsel submitted that there is no eye witness of the occurrence and all the prosecution witnesses are hear-say witnesses. There is no identification of dead body and there is no motive behind the occurrence. There is no chain of circumstances. Prosecution evidence is only on conjuncture and surmises. Prosecution has failed to prove identification of dead body. No seizure list witness was examined in this case and no alleged recovered weapon has been produced before the court. No finger print on weapon was examined. Involvement of accused persons in this case have come on the basis of CDR except that there is nothing against the trial facing accused persons. The confessional statement of the trial facing accused has no legal value in the eyes of law. There is no extra-judicial confession of the trial facing accused persons to establish the prosecution story. There are major contradictions in between the statements of non-official prosecution witnesses. P.Ws. 1 and

2 are witnesses of the Inquest Report and seizure list witnesses. P.W.1 has deposed in cross-examination-in-chief that he doesnot know about the occurrence. P.W.2 has also deposed that he also doesnot know about the occurrence, only he has put his signature on seizure list. P.Ws. 4 to 6 are brothers and cousin brother of the Informant and they are also hear-say witnesses and he only raised suspicion regarding involvement of the trial facing accused persons and there are contradictory statement in between each other. There is no proper identification of the dead body of the deceased without head. So far recovery of used weapon on the basis of confessional statement of the trial facing accused persons have got no evidentiary value as the same has not been recorded in presence of Magistrate. Prosecution has failed to established that accused persons were last seen with the deceased and prosecution has also failed to examine the Technical Cell Incharge. The evidences of non-official witnesses are not trust worthy. Ld. defence counsel in this regard relied upon case law of **Betal Singh and another Vs. State of U.P. 1991 Eastern Criminal cases 8(SC)**, in this case Hon'ble Supreme Court observed that "When eye-witnesses don't give any role to a certain accused in their statements under section 161 of Cr.P.C. but in their deposition before court, they assigned to particular role to that accused, such facts create doubt about the presence of accused and he becomes entitled to benefit of doubt." Neither any legal evidence available on the record nor circumstance evidence to hold the trial facing accused guilty for the charges levelled against them. Hence, all accused persons should be honorably acquitted from all charges.

17. Having heard the arguments advanced on behalf of the the learned P.P. appearing on behalf of the State (Prosecution) as well as the learned defence counsel and the evidences discussed above. Before delving into the case of prosecution and defence, this court will like to discuss main point on which prosecution as well as defence emphasized.

Prosecution mainly relied on following point:-

(i) P.W.3 (Doctor) Ext.P-3/P.W.3, Post mortem report of the deceased and from perusal of the same, I find that on 19.7.2022 at about 4.30 P.M. on the identification of Chaukidar 3/7 Naresh Paswan and Sunil Sah (brother of the deceased) post mortem of a dead body of Anil Sah,aged about 29 years S/o Late Shiv Narayan Sah was conducted by the doctor, which Dead body was covered with plastic. After removal of plastic,different finding seen- Head,left hand,left leg not present and found that the case of decapitation of dead body is completely decomposed with foul smelling. Soil also present over body. Head,left hand and left leg had seen cut by several sharp incisions around neck, left knee joint and left elbow joint. Margins of wound of neck is sharp clean cut and swelling, Oesophageious,

trachea and all major blood vessels of neck seen after washing of wounds. Clean cut present with swelling of wounds. Diameter of neck wound is 22 Cm. Left knee joint and left elbow lacerated. Fracture of lower part of femur present. Left elbow joint clean cut sharp margins. No fracture of bone seen in elbow joints. Peeling of skin present over anterior and posterior surface of body present. Multiple penetrating wounds present over abdomen around umbilical region. External genitalia normal and decomposed. Time elapsed since death More than 72 hours. Cause of death Multiple organ failure due to decapitation of head associated with hemorrhagic shock caused by heavy sharp incised weapon. P.W.4 at para 12 of his cross-examination has deposed that he did not see, who committed murder of his brother. P.W.5 being informant of this case has deposed that he identified the dead body of brother Anil Sah on the basis of name of totto was tattooed on the hand but he could not say reason behind the occurrence. P.W.6 being cousin brother of the deceased has simply deposed about the recovery of dead body of the deceased without head in the field near Harda canal and he put his signature on the Inquest Report but he could not say reason behind the occurrence. All the aforesaid circumstances, I come to the conclusion that the recovered dead body of the deceased without head, left hand and one leg was of Anil Sah and miscreants committed the murder of Anil Sah by sharp cut weapon brutally and concealed the dead body of the deceased in the field near Harda canal with a view to screen themselves from legal punishment.

(ii) Manner of recovery of alleged weapon on the basis of confessional statement of trial accused as disclosed by P.W.7 – From the evidences discussed above, I find that non-official witnesses have not stated in their respective examination-in-chief that police has recovered the used Iron Dabia in the occurrence on the basis of confessional statement of arrested accused persons. No independent witnesses have come forward to support the fact that police recovered the used weapon on the basis of confessional statement of apprehended accused persons in this case. The confessional statement of the accused persons were not recorded in presence of independent witnesses or any competent Magistrate to establish that police recovered the used weapon in the occurrence on the basis of confessional statement of trial facing accused. Seizure list witnesses (P.W.1) has simply stated that police recovered decomposed dead body and he put his signature over the seizure list. In his cross-examination, he has deposed that he does not know about the occurrence. P.W.2 has simply proved his signature over the seizure list, which is marked as Ext.2

except that P.W.2 has not stated anything regarding manner of recovery of articles by the police. There is no report of seized iron Dabia in the case to establish that the seized Dabia was used in the occurrence and said Dabia has not been produced by the Police during the course of trial, police has not produced the recovered weapon, which was alleged to be used in the occurrence. The aforesaid facts create reasonable doubt regarding the same that police has recovered the used weapon (Iron Dabia), which was used in the occurrence on the basis of confessional statement of the trial facing accused persons. Therefore, prosecution has failed to establish that the recovered Iron Dabia on the basis of confessional statement of accused persons was used in the occurrence in absence of scientific report as well as contradictory statement in between the prosecution witnesses.

(iii) Whether CDR of Mobiles of trial facing accused and deceased obtained by the police during the course of investigation from Technical Cell is admissible u/s 65 of the Evidence Act – In this regard, from the evidences as discussed above, I find that I.O. has obtained the CDR of Mobile bearing No.993920117 of deceased Anil Kumar Sah and seized Mobile Nos.9102866826 of SIM Holder Munni Soren and Mobile No.6299361796 and 8002410619 and on the basis of CDR obtained by the I.O. from Technical Cell, deceased Anil Kumar Sah was in contact with SIM holders of the other mobile but prosecution has failed to examine the Incharge of Technical Cell. Prosecution has also failed to establish that prior to occurrence, accused persons of different places have any motive the occurrence and they in pre-planned way committed murder of the deceased.

(iv) Motive behind the occurrence to the trial facing accused :-

None of the non-official witnesses have stated anything regarding any motive of the trial facing accused behind the occurrence. Non-official witnesses (P.Ws. 4, 5 and 6) being full brother and cousin brother of the deceased has simply deposed regarding plying of tempo by the deceased on rent and recovery of dead body of deceased without head from the field near Harda canal and they have not deposed anything regarding involvement of the trial facing accused even raised suspicion against them regarding commission of murder of their brother and concealed his dead body. None of the prosecution witnesses have come forward to depose that the trial facing accused was last seen with the deceased. There are major contradiction in the respective statements of aforesaid witnesses regarding time of occurrence, last seen of the deceased with the trial facing accused persons as well as on the point of recovery of used Dabia in the occurrence.

18. Interested Witnesses and non examination of independent witness :-

Ld. defence counsel submitted that informant/P.W.-05 is full brother of the deceased, P.Ws.4 and 6 are full brother and cousin brother of the deceased and they are interested witnesses and their respective evidences are contradictory to each other and they have stated that trial facing accused persons were last seen with the deceased and they reserved the tempo of his brother on rent to transportation of Makhana on the alleged date and time of occurrence. In this regard following judgments of Hon'ble Supreme Court are relevant, ***In the case of State of U.P. v. Ballabh Das and Others 33 , this Court held that evidence of interested witnesses may be relied upon if such evidence is otherwise trustworthy. This Court said :***

"3.....What the law requires is that where the witnesses are interested, the court should approach their evidence with care and caution in order to exclude the possibility of false implication. We might also mention that the evidence of interested witnesses is not like that of an approver which is presumed to be tainted and requires corroboration but the said evidence is as good as any other evidence. It may also be mentioned that in a faction-ridden village, as in the instant case as mentioned by us earlier, it will really be impossible to find independent persons to come forward and give evidence and in a large number of such cases only partisan witnesses would be natural and probable witnesses.

This Court in Badri v. State of U.P. (AIR 1975 SC 1985) made the following observations: [AIR Head note] (SCC p. 616, para 6) In case where a murder takes place in a village where there are two factions bitterly opposed to each other, it would be idle to expect independent persons to come forward to give evidence and only partisan witnesses would be natural and probable witnesses to the incident. In such a case, it would not be right to reject their testimony out of hand merely on the ground that they (1985) 3 SCC 703 belonged to one faction or another. Their evidence has to be assessed on its own merits 4. 5. The dominant question to be considered in the instant case is whether the witnesses, despite being interested, have spoken the truth and are credit worthy. Once it is found by the court, on an analysis of the evidence of an interested witness that there is no reason to disbelieve him then the mere fact that the witness is interested cannot persuade the court to reject the prosecution case on that ground alone."

A similar view has been echoed by this Court in State of U.P. v. Ram Swarup and Others wherein this Court held : ".....There is no rule of law to the effect that

the evidence of partisan witnesses cannot be accepted. The fact that the witnesses are associated with the faction opposed to that of the accused by itself does not render their evidence false. Partisanship by itself is no ground for discarding sworn testimony. Interested evidence is not necessarily false evidence. In a small village like the one under consideration where people are divided on caste basis, the prosecution may not be able to get any neutral witness. Even if there is any such neutral witness, he will be reluctant to come forward to give testimony to support one or the other side. Therefore, merely because the eyewitnesses are associated with one faction or the other, their evidence should not be discarded. It should, no doubt, be subjected to careful scrutiny and accepted with caution."

In Appa Bhai and another Vrs. State of Gujrat, reported in A.I.R. 1988 Supreme Court 696, Hon'ble Supreme Court reiterated that:

"Para-10 - In the light of this principle, we may now consider the contention urged by the Ld. Counsel for the appellants. The contention relates to failure of the prosecution to examine independent witnesses. It is no doubt that prosecution has not been able to produce any independent witness to the incident that took place at the Bus Stand. There must have been several of such witnesses. But the prosecution case can not be thrown out or doubted on that ground alone. Experience remind as that civilized people are generally insensitive, when a crime is committed even in their presence. They would draw both from the victim and the vigilante. They keep themselves away from the Court unless it is inevitable. They think that crime like civil dispute is between two individual or parties and they should not involved themselves. This kind of apathy of the general public is unneed unfortunate, but it is there everywhere in village life, towns or cities. One can not ignore this handicap with which the Investigating agency has to discharge its duties. The Court, therefore, in order of doubting the prosecution case for want of independent witness must consider the broad spectrum of the prosecution version and then search for nugget of truth with due regard to probability if any, suggest by the accused."

19. Considering the law discussed above regarding evidentiary value of interested witnesses and consequence of non-examination of independent witness, it is clear that failure of the prosecution to examine independent witness can not created doubt on the prosecution evidence and thrown out but court should be cautious in relying on interested/related witnesses of deceased. It is also matter of common

knowledge that whether it is village, town or city general public not inclined to depose before court against any known or unknown persons in criminal cases. In this case P.W.-01, P.W.-02, P.W.-04, P.W.05 and P.W.6 are not eye witnesses of the occurrence and there are inconsistency regarding time of occurrence, last seen and who saw first as well as strong motive and intention behind the occurrence. Prosecution has also failed to establish the recovered Iron Dabia on the basis of confessional statement of the trial facing accused persons was used in the occurrence. P.W. 4 at para 12 of his cross-examination that he doesnot see, who committed the murder of deceased. P.W.5 (Informant) at para 3 has deposed that tempo of his brother reserved by one female and he doesnot know her name and at para 8 of his cross-examination, he has admitted that he doesnot say region behind the occurrence. P.W.6 is hear-say witness and witness of Inquest Report and he has also admitted at para 8 that he can't say the region behind the occurrence. No independent witness has come forward to support the prosecution case regarding motive behind the occurrence and strong suspicion behind the occurrence of the trial facing accused persons. There is no evidence to establish that deceased had been last seen with the trial facing accused persons or they had reserved the tempo of the deceased for transportation of Makhana. Therefore, it is unsafe to rely the testimony of P.Ws.1,2,4 to 6 regarding involvement of the trial facing accused persons behind the occurrence in absence motive or intention. There is no event of chain of circumstances to hold the trial facing accused persons guilty.

20. To establish any criminal act, the mens rea and Acts-rea in both is to be established. In this case, None of the prosecution witnesses have stated regarding motive behind the occurrence nor are stated anything to establish intention of the accused persons to commit the offence. The fact that tempo was reserved by one female and who was she has not been stated by the independent witness. As per CDR it has been established that the accused Ganga Muni Soren has called him but it is not sufficient to establish that she has committed the offence with help of other trial facing accused, until her intention to kill the deceased is established. It is also to be proved the motive behind the murder of deceased, why any one will kill any one without any motive. The prosecution has miserably failed to established the intention and motive of the accused persons to commit the offence. The deceased used to ply tempo and any one without any motive, why will commit murder of driver. What will be gain from poor driver. These question is unanswered and mere

on phone call, no one can be held responsible for such heinous and serious offence.

21. In this case prosecution has not successfully established place of occurrence, time of occurrence, manner in which offence has been committed etc. as the evidences of Prosecution witnesses P.W.-01,02,04,5 and 6 have materially supported the prosecution case have only supported the manner of recovery of dead body of deceased Anil Kumar Sah in a field near Harda canal after two days from the date of disappearance of Anil Kumar Sah and they are not eye witnesses of the occurrence. The evidences of material witnesses i.e. P.Ws. 4,5 and 6 are hear-say witness and interest witnesses and they failed to disclose reason behind the occurrence and there are major contradiction regarding manner of occurrence committed by the accused persons and there is no motive behind the occurrence and in absence of strong motive and intention behind the occurrence by the accused, Prosecution does suffer from lots of firmity, inconsistency or contradiction and are inconsistent and uncorroborative.

In Rang Bahadur Singh Vs. State of U.P. reported in AIR 2000 SC 1209 it has been held as follows: "The time-tested rule is that acquittal of a guilty person should be preferred to conviction of an innocent person. Unless the prosecution establishes the guilt of the accused beyond reasonable doubt a conviction cannot be passed on the accused. A criminal court cannot afford to deprive liberty of the appellants, lifelong liberty, without having at least a reasonable level of certainty that the appellants were the real culprits." It is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.

22. This being the background I hereby hold that the prosecution has not been able to prove and established the charges against that trial facing accused persons, namely, 1. Md. Ansur Rahman 2. Ganga Muni Soren and Md. Azmal that they committed the murder of the deceased Anil Kumar Sah and concealed his dead body to screen themselves from legal punishment.

Therefore, I hold the accused persons are not found guilty of section 302/34 and 201 of I.P.C. Considering the evidences and law discussed above **benefit of doubt** is given to accused persons, namely, 1. Md. Ansur Rahman 2. Ganga Muni Soren and 3. Md. Azmal and they are acquitted from all charges for the offence under

sections 302/34 and 201 of the IPC after giving benefit of doubt. Two trial facing accused persons,namely, Ganga Muni Soren and Md.Azmal are in judicial custody. Hence, the Jail Superintendent,Central Jail,Purnea is directed to release the trial facing accused persons,namely,1. Ganga Muni Soren and Md.Azmal forthwith from judicial custody, if they are not wanted in any other case. Remaining one accused,namely, Md. Ansur Rahman is on bail. Hence, he and his sureties are discharged from the liabilities of his bail bond.

23. During the course of trial, it has come that deceased Anil Kumar Sah was married (P.W.6 Para 3) but it has not come during the course of trial that mother and father of the deceased are dependable upon the deceased. Therefore, wife of the deceased and children are victim of this case. Hence, wife of the deceased and children are entitled of compensation and on their application, DLSA will conduct an inquiry and establish the victim before grant the victim compensation as per section 357-A of the Cr.P.C.

Copy of judgment be sent to the District Magistrate,Purnea for information and needful. Judgment is pronounced in open court. Office is directed to consign the record in Record Room.

(Dictated & corrected by me)

Sd/-

Sessions Judge,Purnea.

5.05.2026

Sd/-

Sessions Judge,

Purnea.

05.05.2026

Date of Order	5.05.2026
Date of Reserving Judgment/ order	22.4.2026
Uploading Date	8.05.2026
Uploaded by	Kumar Sanjay,Steno