

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-IX
DISTRICT – PURNEA, BIHAR

BRPU010003802011



Present : Mohd. Inam Khan, Bihar Superior Judicial Service

Date Of Judgment : 29-07-2026

Session Trial No. 526 of 2011 (With amalgamated S.T. No. 1201 of 2011)

C.I.S. No. 3202 of 2013

(Arising out of Dhamdaha P.S. Case No. 136 of 2010, G.R. No. 2585 of 2010)

INFORMANT	State (through Babita Devi)
REPRESENTED BY	Sri Gopal Prasad, Ld. A.P.P.
ACCUSED PERSONS	A1- Dinesh Singh, aged about 59 years, S/o Late Devi Singh, R/o Hatiya Diyara, P.S.-Dhamdaha, District-Purnea. A2- Randhir Singh, aged about 61 years, S/o Late Raghunath Singh, R/o Hatiya Diyara, P.S.-Dhamdaha, District-Purnea. A3- Nilesh Singh, aged about 46 years, S/o Late Ganesh Singh, R/o Sanjha Ghat, P.S. Mirganj, District-Purnea. A4- Chandan Singh, aged about 43 years, S/o Bhagya Narayan Singh, R/o Sanjha Ghat, P.S. Mirganj, District-Purnea. A5- Ashok Singh, aged about 48 years, S/o Late Mangal Prasad Singh, R/o Hatiya Diyara, P.S.-Dhamdaha, District-Purnea.
REPRESENTED BY	Sri Bibhakar Singh and Sri P.S. Parag, Ld. Advocates
Date of Offence	18-10-2010
Date of F.I.R.	18-10-2010
Date of Chargesheet	20-02-2011 and 23-10-2011
Date of Framing of Charges	04-06-2011 and 24-01-2012
Date of Commencement of Evidence	01-08-2011 and 09-02-2012
Date on which judgment is reserved	20-07-2026
Date of the Judgment	29-07-2026
Date of the Sentencing Order, if any	12-08-2026

Accused Details:-

Rank Of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C.
A1	Dinesh Singh	24-11-2010	21-04-2011	302/34 of the IPC	Convicted	Please refer to sentencing portion	About 4 months 27 days
A2	Randhir Singh	24-11-2010	28-04-2011	302/34 of the IPC	Convicted	Please refer to sentencing portion	About 5 months 4 days
A3	Nilesh Singh	04-09-2011	23-12-2011	302/34 of the IPC	Acquitted	--	03 Moths 19 days
A4	Chandan Singh	11-10-2011	17-03-2012	302/34 of the IPC	Acquitted	--	05 Months 06 days
A5	Ashok Singh	06-09-2011	25-11-2011	302/34 of the IPC	Acquitted	--	02 Months 19 days

JUDGMENT

- The above named accused persons A1-Dinesh Singh, A2-Randhir Singh, A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh stands charged and facing trial for committing an offence of murder of deceased Mithilesh Prasad Singh in furtherance of their common intention punishable U/s 302/34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC" for short) in connection with Dhamdaha P.S. Case No. 136 of 2010 dated 18-10-2010. The occurrence has been alleged to have taken place on 18.10.2010 at about 5:00-5:30 p.m near the rain basera situated at Dhamdaha Ghat and the field of Nagendra Singh at eastern side of Dhamdaha Ghat, P.S.- Dhamdaha, District-Purnea, Bihar within the jurisdiction of this Court.
- The case of the prosecution, may in brief, be described as made out from the Fardbayan (Exhibit P-4/PW-6) of the informant Babita Devi (PW-3) is as follows :-

That on 18.10.2010, while she was at her house, her son Kishan Kumar aged about 12 years at about 5:00-5:30 p.m., came

running and informed her that while he and his father, Mithilesh Prasad Singh, were returning home after immersion of the Durga idol, as they reached near the Rain Basera situated at Dhamdaha Ghat where accused Dinesh Singh, Randhir Singh, Ashok Singh, Chandan Singh and Nilesh Singh intercepted the deceased and started assaulting him by fists and slaps. In order to save himself, the deceased ran towards the eastern side of Dhamdaha Ghat and reached the field of Nagendra Singh, where the accused persons chased him, caught hold of him and again assaulted him with fists and slaps, as a result of which he died. Thereafter, the family members reached the place of occurrence and took the injured to the Referral Hospital, Dhamdaha, where the doctor declared him dead. The informant further alleged that the occurrence had taken place on account of previous enmity arising out of an earlier incident of assault at Dhamdaha Ghat, that the accused persons had also been Exhibiting threats to the deceased. Hence this case.

3. On the basis of the fardbayan of the informant Babita Devi (PW3) on 18-10-2010, the case was registered as Dhamdaha P.S. Case No. 136 of 2010 dated 18-10-2010, U/s 302/34 of I.P.C. and formal information report was drawn against five accused persons A1-Dinesh Singh, A2-Randhir Singh, A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh. After investigation Police has submitted Charge-Sheet No. 11/2011 Dated 20-02-2011, U/s 302/34 of IPC against the accused A1-Dinesh Singh & A2-Randhir Singh and kept the supplementary investigation pending against rest three accused A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh. Thereafter, on the basis of the material available on the case record, the Ld. Court of C.J.M., Purnea took the cognizance of offence against the accused A1-Dinesh Singh & A2-Randhir Singh, U/s 302/34 of IPC on 25-02-2011 read with corrected order dated 21-04-20211 and the case record of accused A1-Dinesh Singh & A2-Randhir Singh has been committed to the Court of Sessions on 29-04-2011, which culminated into Sessions Trial No. 526 of 2011. Further, after supplementary investigation Police has submitted Charge-Sheet No. 138/2011 Dated 23-10-2011, U/s 302/34 of IPC against the accused A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh and on the basis of the material available on the case record, the Ld. Court of C.J.M., Purnea, took the cognizance of offence against the accused A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh, U/s 302/34 of IPC on 03-11-2011 and the case record of accused A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh has been committed to the Court of Sessions on 10-11-2011, which culminated into Sessions Trial No. 1201 of 2011. The charge was

framed on 04-04-2011 against the accused persons A1-Dinesh Singh & A2-Randhir Singh in Sessions Trial No. 526 of 2011, U/s 302/34 of IPC. The charge, so framed was read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried. Further, the charge was framed on 24-01-2012 against the accused persons A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh, U/s 302/34 of IPC in Sessions Trial No. 1201 of 2011. The charge, so framed was read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried. Further, vide order dated 24-01-2012, Sessions Trial No. 1201 of 2011 was amalgamated with Sessions Trial No. 526 of 2011, since both the Sessions Trials arose out of same police case no. Damdaha P.S. Case No.136/2010. After transfer through various courts, the present Session Trial was received by this Court on 29-01-2022 for trial and disposal.

4. The prosecution in order to prove its case had adduced and examined six prosecution witness, PW-1 -Saket Ranjan, PW-2 -Ranjit Kumar Singh, PW-3 -Babita Devi (Informant), PW-4 - Kishan Kumar @Prince Kumar (Son of the deceased and eye-witness), PW-5 -Dr. Parmanand Thakur (Doctor who conducted the Postmortem) and PW-6-Gangey Raghav (Investigating Officer). Apart from this the prosecution has also proved and marked as Exhibit-P-1/ PW-3 - Signature of informant Babita Devi on Fardbayan, Exhibit P-2 / PW-4- Signature of Kishan Kumar @Prince Kumar on statement U/s.164 of Cr.P.C., Exhibit-P-3 / PW-5-Postmortem report, Exhibit-P-4 / PW-6-Fardbayan, Exhibit-P-5 / PW-6 Endorsement order on Fardbayan by the then SHO Mitesh Kumar, Exhibit-P-6 / PW-6 -Signature of the then SHO Mitesh Kumar on Formal FIR, Exhibit-P-7 / PW-6 - Carbon copy of inquest report, Exhibit-P-8 / PW-6 – Carbon copy of dead body challan, Exhibit-P-9 Statement of witness Kishan Kumar @Prince Kumar recorded U/s 164 of Cr.P.C. by Ld. Judicial Magistrate, Purnea, as documentary evidence.
5. After closing of evidence of the prosecution and by taking note of the prosecution evidence, the statement of the accused A1-Dinesh Singh, A2-Randhir Singh, A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh, U/s 313 of Code of Criminal Procedure 1973 (hereinafter referred to as "Code" for short) was recorded on 10-03-2025 in which they claimed to be innocent while examined before the Court. Thus, the version of defence is the complete denial of occurrence. The defence

has adduced and examined one defence witness DW-1 Jai Prakash Mandal, however, did not laid any documentary evidence in its defence.

6. Heard both the parties on rival contentions and argument advanced by them. Learned Counsels appearing for the accused submitted that the prosecution has miserably failed to establish the charges beyond reasonable doubt. It was argued that the prosecution case suffers from material inconsistencies, omissions and investigative lapses, rendering the entire prosecution version doubtful. Learned defence Counsels contended that PW-4 -Kishan Kumar @Prince Kumar is the son of the deceased and, therefore, an interested witness whose testimony requires strict scrutiny and apart from him there is no other witness who has actually seen the occurrence. It was further argued that no independent witness has supported the prosecution case despite the occurrence allegedly taking place in a public place during idol immersion. According to the defence, such non-examination of independent witnesses creates serious doubt regarding the prosecution story. Learned defence counsel further argued that the investigation suffered from serious infirmities, material omissions were proved through the Investigating Officer, several contradictions have emerged in the prosecution evidence. It was contended that these deficiencies strike at the root of the prosecution case and entitle all the accused to benefit of doubt. On these submissions, learned defence counsel prayed for the acquittal of all the accused by extending the benefit of doubt.

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7.

On the other hand, Learned Additional Public Prosecutor (for short "APP") submitted that the prosecution has succeeded in establishing the guilt of all the accused beyond all reasonable doubt. It was argued that the prosecution case rests upon the cogent, trustworthy and reliable testimony of PW-4- Kishan Kumar @ Prince Kumar, whose presence at the place of occurrence is natural and whose evidence inspires complete confidence. It was contended that the law is well settled that conviction can safely be based upon the testimony of a solitary eyewitness if the Court finds such witness wholly reliable. Learned APP further submitted that the testimony of PW-4 receives complete assurance from the prompt FIR , the medical evidence of PW-5 and the surrounding circumstances. It was argued that the prosecution has successfully proved that all the accused jointly assaulted the deceased, chased him when he attempted to flee and continued the assault until he succumbed to the injuries. Learned APP further, submitted that laches in investigation, if any, cannot be a ground to acquit the guilty when trustworthy ocular evidence is

available. Accordingly, it was prayed that all the accused A1 to A5 be convicted U/s. 302 / 34 of IPC for committing the murder of Mithlesh Prasad Singh.

POINT FOR DETERMINATION

8. Now, in view of the rival submissions and the evidence available on record, the following point arises for determination that:
- (i) *Whether the prosecution has proved beyond the shadow of all reasonable doubts that accused A1-A5, in furtherance of their common intention, committed the murder of the deceased Mithilesh Prasad Singh on 18-10-2010 and thereby committed an offence punishable under Section 302/34 of the IPC?*

THE DECISION THEREON AND THE REASONS FOR THE DECISION

9. Before embarking upon the appreciation of evidence, it is pertinent to mention that the burden lies entirely upon the prosecution to establish, beyond all reasonable doubt, that Mithilesh Prasad Singh met a homicidal death and that such death was caused by the accused persons while acting in furtherance of their common intention. The prosecution is required to prove not only the factum of death but also the identity of the assailants, the manner in which the occurrence took place and the existence of the common intention alleged. Unless each of these essential ingredients is established through reliable, cogent and admissible evidence, no conviction can follow. To prove the same the prosecution has examined all the six chargesheeted witnesses. PW-3 Babita Devi is the informant of the case, PW-4 Kishan Kumar @Prince Kumar son of the deceased and eye witness present at the place of occurrence, PW-1 Saket Ranjan, PW-2 Ranjit Kumar Singh, PW-5 Dr. Parmanand Thakur is the Medical Officer who conducted the post-mortem examination of the deceased, while PW-6 Ganegay Raghav is the Investigating Officer. Now, for the appreciation of evidence available on record and for the sake of brevity and convenience, this Court would prefer to start with the testimony of the informant produced and examined by prosecution as PW -3 Babita Devi. Further, this Court would prefer to take up only the crux and relevant portion of the testimony of the witness as the entire testimony is part of record and will appreciate the evidence accordingly.

- 9.1 P.W.3 Babita Devi (informant of the case), has deposed in para no. 1 of examination-in-chief, that on the date of occurrence 18.10.2010, at

about 5:00 p.m., she was present at her house while her husband, Mithilesh Prasad Singh, her son, Kishan Kumar, had gone for immersion of the Durga idol. She has further deposed that her son returned home and informed her that near the Rain Basera, Dinesh Singh, Randhir Singh, Vimlesh Singh, Ashok Singh and Chandan Singh were assaulting her husband with fists and slaps. She further deposed that her husband tried to escape but fell in the field of Nagendra Singh, where the said persons killed him. PW-3, in para nos. 2 and 3 has further deposed that she found her husband lying dead in the field of Nagendra Singh. Thereafter, the dead body was taken to the Referral Hospital, Dhamdaha, where the police arrived and recorded her Fardbayan. She has further deposed that the post-mortem examination of the deceased was conducted and she identified her signature on the Fardbayan, which was marked as Exhibit-P1/PW3. PW-3, in para no. 4 she has identified accused A1-Dinesh Singh and A2-Randhir Singh in Court but did not identify other accused including A4- Chandan Singh and A5- Ashok Singh present before the Court.

9.1.1 When put to cross-examination by the defence PW-3, in para nos. 5 to 7, has deposed that she is illiterate and can only sign her name. She has further deposed that although she had named five accused persons in the FIR, the names of those persons had been disclosed to her by her son, as she herself had not gone to the place of occurrence and had no personal knowledge of the incident. She also admitted that despite knowing the houses of Ashok Singh and Chandan Singh, she did not identify them in Court. PW-3, in para no. 12, has deposed that her son informed her that the deceased was lying dead in the field, whereafter the family members took him to the hospital. She reached the hospital subsequently, by which time the police had already arrived and thereafter sent the dead body for post-mortem examination. PW-3, in para nos. 15 and 16, denied the defence suggestion that the deceased had died due to a fall during the idol immersion or that she had falsely implicated the accused persons in collusion with their enemies.

9.2 PW-4, Kishan Kumar @ Prince Kumar, in para no. 1 of examination-in-chief, has deposed that on the date of occurrence on 18-10-2010 he had accompanied his father, Mithilesh Prasad Singh, to Dhamdaha Ghat for immersion of the Durga idol. After the immersion, his father asked him to wait as he intended to return home with him because the witness had sustained an injury to his leg. Thereafter, his father went to inform the Munshi that he would return after tying the cow and then resume his night duty.. PW-4, in para no. 2 has deposed that after

returning from the Munshi, they started proceeding towards their house. When they reached near the Rain Basera, accused Randhir Singh and Dinesh Singh called his father and started assaulting him. His father somehow managed to free himself and ran towards the house of Pandit Ji. At that time, accused Dinesh Singh exhorted that Mithilesh Singh was escaping and shouted to Chandan, Nilesh and Ashok to catch him. His father also asked the witness to run away, otherwise he too would be assaulted. PW-4, in para no. 3 has deposed that his father fell in the field of Nagendra Singh situated about 200 metres away. Thereafter, Dinesh Singh and Randhir Singh caught hold of him and assaulted him by fists and kicks. The witness then returned home with difficulty and informed his mother that Randhir Singh and Dinesh Singh were assaulting his father. Thereafter, he, along with his mother, uncle and other villagers, reached the field and found his father lying motionless. The injured was taken to the Referral Hospital, Dhamdaha, by Shankar Singh and Saket Ranjan, where the doctor declared him dead. PW-4, in para nos. 4 to 6, has deposed that the police reached the hospital, recorded the Fardbayan of his mother and also recorded his statement. He further deposed that on the following day Dinesh Singh and Randhir Singh threatened him to withdraw the case, failing which they would kill him. He identified Dinesh Singh and Randhir Singh in Court but did not identify the remaining accused persons. He deposed his statement was also recorded in Court and identified his signature on the statement thereon as Exhibit P-2/PW-4. He has identified the accused A1 Dinesh Singh and A2 Randhir Singh present before the Court but failed to identify other two accused present before the Court.

9.2.1

When put to cross examination by defence, PW-4, in para nos. 10 and 11, has deposed that he had disclosed the names of all the five accused before the police. He further deposed that Dinesh Singh had exhorted that Mithilesh Singh was escaping and called upon Chandan, Nilesh and Ashok to catch him. However, he specifically deposed that he did not see whether Chandan, Nilesh and Ashok had actually caught hold of his father. He further deposed that he had informed the police that after his father fell in the field of Nagendra Singh, Dinesh Singh and Randhir Singh assaulted him by fists and kicks and that he thereafter informed his mother about the occurrence. PW-4, further in para nos. 18 to 22, has deposed that when he reached the place of occurrence along with his family members, his father was already lying dead. He further deposed that although he had named all the five accused persons in the FIR, he identified only Dinesh Singh and Randhir Singh in Court. PW-4, in para nos. 23 to 25, denied the defence suggestions

that a false case had been instituted, that the real offenders had been shielded, or that the deceased had died after falling during the idol immersion.

- 9.3 PW-1, Saket Ranjan, in para no. 1 of examination-in-chief, has deposed that the occurrence took place on 19-10-2010 between 6:30 p.m. and 7:00 p.m. While he was at his house taking tea, Babita Devi (his aunt) came and informed him that a quarrel was going on at Dhamdaha Ghat and that Randhir Singh, Dinesh Singh, Chandan Singh and another person were assaulting his uncle, Mithilesh Prasad Singh. Upon receiving the information, he, along with Ranjit Singh and other villagers, proceeded towards the place of occurrence. When they reached there, no one was found at the spot. While returning, one person informed them that Mithilesh Prasad Singh was lying in a field adjacent to the road. They reached the said place and found him lying unconscious, whereafter they took him to the hospital. PW-1, in para nos. 2 and 3, has further deposed that the doctor at the Referral Hospital declared Mithilesh Prasad Singh dead and informed them that he had died about half an hour earlier. Thereafter, the police arrived at the hospital, prepared the inquest report and sent the dead body for post-mortem examination on the following day. He further deposed that the police had also examined him during investigation. He identified accused A1-Dinesh Singh, A2-Randhir Singh and A4-Chandan Singh in Court and further deposed that he could identify the remaining accused persons present in Court though he did not know their names.

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9.3.1

When put to cross-examination by the defence PW-1, in para no. 4, has deposed that he had not talked to the deceased prior to the occurrence and had accompanied him to the hospital only after Babita Devi informed him about the incident. PW-1, in para nos. 5 to 10, has deposed that both sides belong to the same village and are related to each other. He further deposed that persons from other villages also used the same ghat for idol immersion. He admitted that the deceased was employed in a nearby plant but deposed that he did not know with whom the deceased had any previous dispute. He further deposed that he did not personally know the accused persons and had no knowledge whether quarrels generally occurred during idol immersion at the ghat. PW-1, further in para no. 11, has deposed that he was deposing regarding the occurrence on the basis of what Babita Devi had narrated to him. PW-1, in para no. 12, denied the defence suggestion that the deceased had sustained injuries due to a scuffle

during idol immersion or that innocent persons had been falsely implicated at the instance of the informant.

9.4 PW-2, Ranjit Kumar Singh, in para no. 1 of examination-in-chief, has deposed that during the Durga Puja festival, while he was at his house, he came to know that his uncle, Mithilesh Prasad Singh, had been murdered while returning after immersion of the idol. He further deposed that he had not witnessed the occurrence and had only heard that Randhir Singh and Dinesh Singh had killed his uncle. Thereafter, he proceeded towards Dhamdaha Ghat in search of the deceased however he was not found there but on his way back someone told him that uncle is lying under the tree adjacent to road. PW-2, in para nos. 2 to 5, has deposed that he found the deceased lying face down near a mango tree adjacent to the road and initially thought that he was unconscious as he did not notice any visible External injury on his body. Thereafter, he, along with Saket Ranjan and other family members, shifted the deceased to the Referral Hospital, Dhamdaha, where the doctor declared him dead. He further deposed that the police had examined him during investigation and he identified the accused persons present in Court.

9.4.1 When put to cross examination by the defence, PW-2, in para nos. 8 and 12, has deposed that the deceased was his uncle and that his aunt and a co-villager had informed him about the occurrence. He further deposed that before his arrival at the place of occurrence, his cousin Saket Ranjan and some other family members had already reached there and that they initially believed the deceased to be unconscious. PW-2, in para no. 17, has deposed that the statement made by him before the Court was the same as the statement given by him to the police during investigation. PW-2, in para nos. 22 to 24, denied the defence suggestions that the deceased had died due to injuries sustained during the idol immersion or that the accused persons had been falsely implicated.

9.5 PW-5, Dr. Parmanand Thakur, in para nos. 1 to 5 of examination-in-chief, has deposed that on 19-10-2010, while posted as Medical Officer at Sadar Hospital, Purnea, he conducted the post-mortem examination on the dead body of Mithilesh Prasad Singh. Upon External examination, he found no External injury on the body, though rigor mortis was present in all the four limbs. On dissection, he found fractures of the left 5th, 6th and 7th ribs, rupture of the spleen with blood all around it, the internal organs to be pale. He has further deposed that, in his opinion, the cause of death was shock and

haemorrhage secondary to rupture of the spleen and fractures of the left ribs, that the death had occurred within 24 to 48 hours prior to the post-mortem examination. He further deposed that he had prepared the post-mortem report in his own handwriting, identified his signature thereon, proved the same, which was marked as Exhibit P-3/PW-5.

9.5.1 When put to cross-examination by the defence PW-5, in para no. 6, has deposed that the injuries found on the body of the deceased could be possible by a fall on a hard and blunt surface. PW-5, further in para nos. 7 and 8, has deposed that he did not find any injury on the spine of the deceased and that he had not mentioned in the post-mortem report whether the fractures of the rib bones were directed upward or inward. PW-5, in para no. 9, has deposed that he does not prepare any rough draft of a post-mortem report and that no rough copy of the post-mortem report of the deceased was prepared.

9.6 PW-6, Gangey Raghav, (Investigating Officer) in para nos. 1 to 10 of examination-in-chief, has deposed that on 18-10-2010, while posted as a Sub-Inspector of Police at Dhamdaha Police Station, he took up the investigation of Dhamdaha P.S. Case No. 136 of 2010 instituted on the basis of the Fardbayan of Babita Devi. He identified the Fardbayan in his handwriting and bearing his signature, which was marked as Exhibit P-4/PW-6. He further identified the endorsement of the then SHO Mitesh Kumar entrusting him with the investigation, marked as Exhibit P-5/PW-6, Signature of the then SHO Mitesh Kumar on the formal FIR, marked as Exhibit P-6/PW-6. He has further deposed that he recorded re-statement of the informant, recorded the statements of the material witnesses, inspected the places of occurrence, prepared the inquest report and the dead body challan, which were marked as Exhibits P-7/PW-6 and P-8/PW-6 respectively, recorded the statements of other witnesses during investigation, received the post-mortem report from Sadar Hospital and, on his transfer, handed over the charge of investigation to the SHO of Dhamdaha Police Station.

9.6.1 PW-6, in his cross-examination by the defence in para nos. 11 and 12, has deposed that he did not investigate the specific place from where the deceased and his son had gone for idol immersion, nor did he ascertain the number of persons who had accompanied them. He further admitted that although the prosecution case referred to an earlier dispute as the motive for the occurrence, neither the Fardbayan nor the statements of the informant and the witnesses disclosed the particulars of such earlier dispute or any previous case relating thereto. PW-6, in para nos. 13 and 14, has deposed that at the time of

preparation of the inquest report he did not notice any mud, soil or grass on the body or clothes of the deceased. He further admitted that the inquest report did not mention any External injury or mark of violence on the body of the deceased. He has further deposed that, apart from Kishan Kumar, no witness had claimed to have witnessed the occurrence and that although he mentioned two places of occurrence in the case diary, he had neither recorded the statement of any witness at either place nor mentioned that those places had been identified by any witness. PW-6, in para nos. 15 and 17, has deposed that he had not mentioned in the case diary the date and place where the statements of witnesses were recorded. He further deposed that during the course of investigation he neither seized any material exhibit nor arrested any of the accused persons. PW-6, in para nos. 20 and 21, has deposed that the Fardbayan as well as the statements of the witnesses recorded during investigation named all the five accused persons. He further admitted that although he found certain persons present near the place of occurrence, he did not record their statements. He also deposed that he conducted the investigation up to para nos. 1 to 52 of the case diary and came to know subsequently that charge-sheet had been submitted against the remaining accused persons. PW-6, in para no. 23, has deposed that although the statement of PW-2 Ranjit Kumar Singh was recorded during investigation, PW-2 had not deposed before him that he had received information about the occurrence from Babita Devi or that he had no personal knowledge of the incident. PW-6, in para no. 24, has deposed that Kishan Kumar @ Prince Kumar had not deposed before him during investigation that his father had asked him to run away, that Dinesh Singh had exhorted Chandan Singh, Ashok Singh and Nilesh Singh to catch hold of the deceased, that his father had asked him to wait because of the injury on his leg, that his father had gone to inform the Munshi that he would return after tying the cow, or that after falling in the field of Nagendra Singh, Dinesh Singh and Randhir Singh assaulted the deceased with fists and kicks. PW-6, in para nos. 18 and 25 has denied the defence suggestion that the investigation was defective, unfair or intentionally conducted to falsely implicate the accused persons.

10. On the other hand the defence has also adduced DW-1 Jai Prakash Mandal, has deposed in para no. 1 to 8 of examination-in-chief that he knows both sides. He has further deposed that the deceased, Mithilesh Singh, was employed at Dhamdaha Bridge Plant and had been removed from service at the Bridge Plant on account of an allegation of theft. He has further deposed that the occurrence took

place on the day of Durga idol immersion. DW-1 has deposed that on the said day, a large number of villagers had assembled near the river for immersion of idols and that he had also gone there. He has further deposed that Mithilesh Singh was also present there. According to him, a quarrel took place between the group of Mithilesh Singh and persons belonging to another village. During the assault, Mithilesh Singh started running and, while running, fell down, whereafter he died at the spot. He has deposed that Mithilesh Singh was a person who consumed liquor and was very weak. DW-1 has deposed that the accused persons have no connection with the present case, that they are innocent persons and that they enjoy respect in the village and there is no complaint against them. He has deposed that two persons took the dead body of Mithilesh Singh on a motorcycle and that, due to village politics, a false case had been instituted.

- 10.1 During cross-examination by the prosecution, DW-1, in para no. 9, has deposed that Dinesh Singh had brought him to the Court for giving evidence and that Dinesh Singh belongs to his village. In para no. 10, he has deposed that he identifies the other accused person present in Court, but he does not remember his name. In para no. 11, he has deposed that the occurrence was on the day of Vijayadashami and that idol immersion was taking place at Dhamdaha Ghat. He has further deposed that on the Dhamdaha Ghat, idols of different villages were immersed. In para no. 12, he has deposed that a large number of people used to go to Dhamdaha Ghat and that, on the date of occurrence, Dinesh Singh, Randhir Singh, Ashok Singh and Nilesh Singh, as well as the deceased Mithilesh Singh, had gone there. In para no. 13, DW-1 has deposed that there was no dispute between Mithilesh Singh and Dinesh Singh, Randhir Singh, Ashok Singh and Nilesh Singh regarding the construction of the bridge and that he had no knowledge about such matter. In para no. 14, he has denied that on the date of occurrence accused Dinesh Singh, Randhir Singh, Ashok Singh and Nilesh Singh assaulted Mithilesh Singh and that at that time 200-250 villagers were present there. In para no. 15, DW-1 has deposed that Mithilesh Singh ran in order to save himself from being assaulted, fell down after proceeding some distance towards the roadside and died, whereafter people took Mithilesh Singh to Dhamdaha Hospital on a motorcycle.

11. Thus, in a nutshell, on marshalling the evidences in the backdrop of the allegations contained in the FIR and on evaluating whether the oral and documentary evidence adduced by the prosecution during trial succeeds in proving the charge under Section 302/34 of the IPC

beyond reasonable doubt against the accused. The evidence has to be appreciated as a whole to ascertain whether the substratum of the prosecution case inspires confidence. Where the core of the prosecution story remains intact and receives assurance from surrounding circumstances, minor discrepancies attributable to lapse of memory, normal errors of observation or passage of time do not justify rejection of otherwise trustworthy evidence. Conversely, where material contradictions strike at the root of the prosecution case, the accused becomes entitled to the benefit of doubt.

- 11.1 The prosecution case originates from the Fardbayan of PW-3 Babita Devi, recorded without undue delay, wherein she alleged that on the date of occurrence, namely 18.10.2010, her husband Mithilesh Prasad Singh had gone to Dhamdaha Ghat for immersion of the Durga idol accompanied by their son Kishan Kumar (PW-4). According to the prosecution, while returning from the immersion procession, the deceased was intercepted near the Rain Basera by accused A1-Dinesh Singh, A2-Randhir Singh, A3- Nilesh Singh, A4-Chandan Singh and A5- Ashok Singh. It is alleged that they began assaulting him, whereupon the deceased attempted to save himself by running towards the field of Nagendra Singh. The accused allegedly chased him and continued the assault, as a consequence whereof he collapsed and ultimately succumbed to the injuries. The prosecution further attributes the occurrence to previous hostility between the parties. The FIR was instituted promptly naming all the accused persons and narrating the sequence of events as disclosed by the eyewitness immediately after the occurrence. Though the FIR is not substantive evidence, its prompt institution lends assurance to the prosecution version by excluding the possibility of deliberation or subsequent embellishment. The prompt disclosure also assumes significance because it substantially corresponds with the version later narrated by the solitary eyewitness before the Court.

- 11.2 The prosecution has adduced Babita Devi (informant of the case) as PW-3. She admittedly did not witness the actual assault. Her evidence, therefore, cannot be treated as direct evidence regarding the assault but assumes significance for two reasons: first, to prove the prompt lodging of the FIR, and secondly, to establish the immediate conduct of the eyewitness and the continuity of events immediately following the occurrence. PW-3 deposed that while she was at her house, her son Kishan Kumar returned in a frightened condition and informed her that accused Dinesh Singh, Randhir Singh, Ashok Singh, Chandan Singh and Nilesh Singh were assaulting his father near the Rain

Basera at Dhamdaha Ghat. Immediately thereafter she rushed towards the place of occurrence and found her husband lying unconscious in the field. He was removed to the hospital where he was declared dead. She proved her signature upon the Fardbayan. During cross-examination she fairly admitted that she had not personally witnessed the assault and that the names of the assailants had been disclosed to her by her son. Far from impairing her credibility, such admission demonstrates fairness, for she did not attempt to project herself as an eyewitness. A truthful witness is expected to depose only to facts within his or her personal knowledge. Her testimony, therefore, assumes the character of corroborative evidence regarding the prompt disclosure made by PW-4 immediately after the occurrence and the spontaneity with which the criminal law was set in motion.

11.3 It is true that PW-3 did not identify A4- Chandan Singh and A5- Ashok Singh before the Court and other accused although their names appear in the FIR. However, such omission has to be appreciated in its proper perspective. PW-3 had admittedly not witnessed the occurrence. She had merely repeated before the Court what had been disclosed to her by PW-4 immediately after the occurrence. Her inability to identify every accused persons cannot diminish the evidentiary value of the testimony of the actual eyewitness. At the same time, this aspect assumes relevance while appreciating the evidence against those accused persons whose participation is not independently established by direct evidence. Thus, the testimony of PW-3 neither weakens nor strengthens the prosecution case against A3- Nilesh Singh, A4- Chandan Singh & A5- Ashok Singh but continues to lend assurance to the prosecution regarding the prompt disclosure implicating A1-Dinesh Singh and A2-Randhir Singh.

11.4 The fulcrum of the prosecution case rests upon the testimony of PW-4 Kishan Kumar @ Prince Kumar, son of the deceased and the solitary eyewitness to the occurrence. The defence has assailed his evidence on the ground that, being the son of the deceased, he is an interested witness. The contention is misconceived. Relationship with the deceased is not, by itself, a ground for rejection of testimony. The Constitution Bench in *Dalip Singh v. State of Punjab*, AIR 1953 SC 364 and subsequently in *Masalti v. State of Uttar Pradesh*, AIR 1965 SC 202, has held that the evidence of a related witness is required to be scrutinised with care, but cannot be discarded merely on account of relationship. The true test is whether the testimony is natural, consistent and trustworthy. PW-4 has given a straightforward account of the occurrence. He has stated that after immersion of the Durga

idol, he and his father were returning home when, near Rain Basera, Dinesh Singh and Randhir Singh intercepted and assaulted his father. When the deceased attempted to escape towards the field of Nagendra Singh, both accused chased him and continued the assault. On being directed by his father to run home and inform his mother, PW-4 did so and thereafter returned with family members, finding his father unconscious, who was subsequently taken to hospital and declared dead. He has further stated that Dinesh Singh and Randhir Singh threatened him on the following day if the case was not withdrawn. The presence of PW-4 is wholly natural and nothing material has emerged in cross-examination to render it doubtful. More importantly, his testimony regarding the core occurrence and the participation of Dinesh Singh and Randhir Singh has remained substantially intact despite Extensive cross-examination. The omissions relied upon by the defence, including those relating to the precise words of exhortation and the instruction given by the deceased to PW-4, do not affect the substratum of the prosecution case. As held by the Hon'ble Supreme Court in *State of U.P. v. M.K. Anthony*, (1985) 1 SCC 505, minor discrepancies or omissions which do not go to the root of the occurrence cannot be magnified to discard otherwise credible evidence. Of particular significance is the restraint displayed by PW-4. He candidly admitted that although Dinesh Singh had exhorted the other accused to catch hold of his father, he had not actually witnessed whether Ashok Singh, Chandan Singh and Nilesh Singh had caught hold of him; he also identified only A1-Dinesh Singh and A2-Randhir Singh in Court. This admission lends assurance to his testimony, for he has confined himself to what he actually witnessed rather than indiscriminately implicating every accused. His evidence, therefore, cannot be rejected wholesale merely because he is related to the deceased; equally, it cannot be Extended beyond the limits of his personal observation. Section 134 of the Evidence Act makes it clear that no particular number of witnesses is required for proof of a fact. The Hon'ble Supreme Court has recently reiterated in *Adalat Yadav ETC. v. The State of Bihar*, 2026 INSC 403, that evidence is to be weighed and not counted and that conviction may rest upon a solitary eyewitness where the testimony is cogent, credible and trustworthy. The test of a "sterling witness", explained in *Rai Sandeep @ Deepu v. State of NCT of Delhi* (2012) 8 SCC 21, requires consistency from the earliest version till the deposition before the Court, absence of material prevarication, ability to withstand cross-examination and substantial correspondence with the supporting evidence. Tested on these principles, PW-4's evidence, insofar as it concerns A1-Dinesh Singh and A2- Randhir Singh, inspires complete confidence. His

presence is natural; his account of the material occurrence is consistent; his testimony has withstood searching cross-examination; the prompt prosecution version and medical evidence furnish corroborative assurance; and his own restraint in not attributing unwitnessed acts to the remaining accused materially strengthens his credibility. The Court, therefore, finds his testimony sufficiently reliable to sustain a conviction of A1-Dinesh Singh and A2-Randhir Singh notwithstanding that he is the solitary eyewitness. At the same time, the Court consciously limits the evidentiary value of PW-4 to matters within his direct perception. His reliable testimony against A1-Dinesh Singh and A2-Randhir Singh cannot be used to bridge the evidentiary gap against A3- Nilesh Singh, A4- Chandan Singh and A5-Ashok Singh, whose specific participation he admittedly did not witness. Thus, the evidence of PW-4 is accepted to the extent it is founded upon his personal observation and it is on that carefully confined basis that his testimony is acted upon against A1-Dinesh Singh and A2-Randhir Singh.

11.5 A further circumstance lending assurance to the testimony of PW-4 is that his statement recorded under Section 164 of Cr.P.C. substantially accords with his testimony before this Court regarding the identity of the assailants, the place and manner of occurrence and the material sequence of events. Thus, his version before the Court is not a subsequent development or an improved account introduced during trial; rather, on the material particulars, it is consistent with the version attributed to him at the earlier stage of the proceedings. This continuity assumes significance while testing the credibility of a solitary eyewitness. The value of the Section 164 statement is, of course, not that it constitutes substantive evidence by itself; its relevance lies in the fact that the earlier version is consistent with and lends assurance to the testimony subsequently given before the Court. Viewed in this limited and legally permissible manner, the consistency between the two versions materially strengthens the reliability of PW-4 on the core facts personally witnessed by him.

11.6 PW1 Saket Ranjan deposed that on receiving information from the informant that Mithilesh Prasad Singh had been assaulted near Dhamdaha Ghat, he immediately rushed towards the place of occurrence. By the time he reached there, the assault had already concluded. He found Mithilesh Prasad Singh lying unconscious in the field adjacent to the road. Thereafter, with the help of others, the injured was immediately taken to the Referral Hospital where the attending doctor declared him dead. During his cross-examination,

PW-1 candidly admitted that he had not personally witnessed the assault and that his knowledge regarding the identity of the assailants was derived from the information supplied by the informant. This admission does not render his testimony unreliable. Rather, it demonstrates that he has confined his evidence to facts personally observed by him. His testimony consistently establishes the place where the deceased was found immediately after the occurrence, his unconscious condition and the fact that he was removed without delay to the hospital. These circumstances fully accord with the testimony of PW-3 and PW-4 and lend assurance to the prosecution version regarding the continuity of the occurrence.

11.7 Similarly, PW-2 Ranjit Kumar Singh deposed that upon receiving information regarding the assault, he immediately proceeded towards the place of occurrence and found the deceased lying unconscious near the field. He also accompanied the injured to the hospital where he was declared dead. During cross-examination, he unequivocally admitted that he had not witnessed the actual occurrence. Consequently, his testimony cannot be relied upon for identifying the assailants. However, his evidence substantially corroborates PW-1, PW-3 and PW-4 regarding the place where the deceased was found, his physical condition immediately after the occurrence and the fact that he succumbed to the injuries before any effective medical intervention could be undertaken. Thus, although PW-1 and PW-2 are not eyewitnesses, their evidence assumes corroborative value regarding the circumstances immediately following the assault and completely negatives the defence suggestion that the prosecution case was subsequently fabricated.

11.8 The prosecution version receives significant corroboration from the medical evidence of PW-5 Dr. Parmanand Thakur, who conducted the post-mortem examination of the dead body of Mithilesh Prasad Singh. The doctor found fracture of the left fifth, sixth and seventh ribs together with rupture of the spleen accompanied by Extensive internal haemorrhage. He opined that death occurred due to shock and haemorrhage, secondly rupture of spleen and fractures of left ribs, consequent upon the aforesaid ante-mortem injuries. The injuries were sufficient in the ordinary course of nature to cause death. The post-mortem report has been duly proved and nothing substantial has been elicited in cross-examination to discredit either the doctor's competence or the correctness of his findings.

11.9 The learned defence has emphasised that during cross-examination the Doctor conceded that such injuries could also be possible if a person fell upon a hard and blunt surface. In the opinion of this Court, the submission is misconceived. Medical jurisprudence frequently recognises more than one possible mode by which a particular injury may be caused. The opinion of the doctor that a particular injury could also result from another cause merely indicates a theoretical possibility. Such opinion cannot by itself displace otherwise reliable ocular evidence unless the medical evidence completely rules out the prosecution version. In the present case, the doctor nowhere deposed that the injuries could not have been caused by repeated assaults with fists and kicks. On the contrary, the nature of the injuries is wholly consistent with forceful blunt trauma. The prosecution case has throughout been that A1-Dinesh Singh and A2-Randhir Singh repeatedly assaulted the deceased and continued the assault even after chasing him into the adjoining field. Internal injuries like rupture of the spleen and fractured ribs are entirely compatible with such assault. The legal position on this aspect is no longer res integra. In *Solanki Chimanbhai Ukabhai v. State of Gujarat*, (1983) 2 SCC 174, the Hon'ble Supreme Court authoritatively held that where trustworthy ocular evidence is available, medical evidence serves only a corroborative purpose. Unless the medical evidence completely excludes the possibility of the prosecution version being true, the direct testimony of a reliable eyewitness cannot be discarded merely because another hypothetical possibility exists. Applying the aforesaid principle, the evidence of PW-5 substantially corroborates rather than contradicts the testimony of PW-4.

11.10 Equally important is the evidence of PW-6 Gangey Raghav, the Investigating Officer. PW-6 has proved the formal FIR, the Fardbayan, the inquest report, the dead body challan, the entrustment order, the place of occurrence and the various steps taken during investigation. His evidence establishes that the investigation commenced promptly and that the material witnesses were examined during investigation. The defence has relied upon certain omissions proved through PW-6 with a view to impeach the credibility of PW-4. It has been pointed out that certain details narrated by PW-4 during his deposition, such as the exact exhortation allegedly made by Dinesh Singh and the instruction given by the deceased asking PW-4 to run away, were not specifically mentioned in the statement recorded under Section 161 of the Code of Criminal Procedure. This contention does not impress the Court. It is a settled principle that every omission does not amount to a contradiction. Only such omission as materially affects the substratum

of the prosecution case can be treated as a contradiction within the meaning of Section 145 of the Indian Evidence Act. The omissions pointed out through PW-6 relate only to subsidiary matters and not to the core incident itself. At no stage has PW-6 suggested that PW-4 had failed to disclose during investigation that Dinesh Singh and Randhir Singh had intercepted and assaulted the deceased. The principal allegation regarding the participation of these two accused remains consistently reflected from the inception of the prosecution case until the conclusion of trial. This Court is conscious that fair investigation is an important facet of criminal justice. Nevertheless, it is equally well settled that every defect or omission in investigation does not necessarily result in acquittal if otherwise the prosecution succeeds in proving the guilt of the accused by reliable evidence. In *Dhanaj Singh @ Shera v. State of Punjab*, (2004) 3 SCC 654, the Hon'ble Supreme Court held that defective investigation by itself cannot be a ground for discarding otherwise reliable prosecution evidence. The Court is required to separate lapses in investigation from the intrinsic worth of the substantive evidence adduced before it.

- 11.11 The defence has further argued that since PW-4 Kishan Kumar @Prince Kumar is the solitary eyewitness, his testimony should not be accepted without independent corroboration. The submission deserves rejection. Section 134 of the Indian Evidence Act expressly provides that no particular number of witnesses is required to prove any fact. The emphasis of law is upon the quality of evidence and not upon the quantity of witnesses. The Hon'ble Supreme Court in *Namdeo v. State of Maharashtra*, (2007) 14 SCC 150, after considering the earlier Constitution Bench decision in *Vadivelu Thevar v. State of Madras*, AIR 1957 SC 614, reiterated that conviction can safely rest upon the testimony of a solitary witness provided such witness is wholly reliable. Corroboration is a matter of prudence and not an inflexible rule of law. Tested on the aforesaid principles, PW-4 inspires complete confidence insofar as A1-Dinesh Singh and A2-Randhir Singh are concerned. His presence at the place of occurrence is natural and probable. His evidence receives immediate assurance from the prompt FIR lodged through PW-3, subsequent corroboration from PW-1 and PW-2 regarding the place where the deceased was found, substantial corroboration from the post-mortem findings of PW-5 Doctor, consistency with the objective circumstances established during investigation by PW-6. Despite lengthy cross-examination, no material contradiction affecting the core prosecution story has been elicited. The so-called discrepancies highlighted by the defence relate to peripheral matters such as the precise sequence of

running, the exact words spoken by the accused or the deceased, other collateral details. Such variations are but natural consequences of the normal fallibility of human memory. No witness can be expected to reproduce every minute detail of a sudden and traumatic occurrence with photographic precision after the lapse of considerable time. As observed by the Hon'ble Supreme Court in *State of U.P. v. M.K. Anthony (supra)*, while appreciating evidence, the Court must separate normal discrepancies from material contradictions. Minor inconsistencies, improvements or omissions which do not affect the genesis of the occurrence or the identity of the principal assailants are incapable of discrediting otherwise truthful testimony. The Court is concerned with the overall probability of the prosecution case and the intrinsic credibility of the witnesses rather than with trivial deviations which inevitably occur in truthful testimony. Accordingly, this Court finds that the evidence of PW-1 Saket Ranjan, PW-2 Ranjit Kumar Singh, PW-5 Dr. Parmanand Thakur and PW-6 Gangey Raghav, when read conjointly with the testimony of PW-3, Babita Devi and the cogent ocular account of PW-4 Kishan Kumar @Prince Kumar, forms a consistent and harmonious chain of evidence establishing beyond reasonable doubt that the deceased sustained fatal ante-mortem injuries during the occurrence at Dhamdaha Ghat. The medical evidence fully corroborates the ocular account in all material particulars, while the omissions proved through the Investigating Officer do not strike at the root of the prosecution case.

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Further, the defence, in order to probabilise its plea, examined DW-1 Jai Prakash Mandal. Before adverting to his testimony, it is necessary to bear in mind the settled principle that the evidence of a defence witness cannot be discarded merely because he is examined by the defence. The testimony of a defence witness stands on the same footing as that of a prosecution witness and is required to be appreciated on the same parameters of credibility, probability and consistency. The Hon'ble Supreme Court in *Dudh Nath Pandey v. State of U.P.*, (1981) 2 SCC 166, held that defence evidence is entitled to equal respect and must be assessed objectively. The Court, therefore, proceeds to examine the testimony of DW-1 on its intrinsic merits. DW-1 deposed that on the date of occurrence, being the day of immersion of the Durga idol, a large number of persons had assembled at Dhamdaha Ghat. He admitted that Mithilesh Prasad Singh was present at the Ghat, that a quarrel had taken place, that thereafter Mithilesh Prasad Singh started running and ultimately fell down. He further admitted during cross-examination that Dinesh Singh, Randhir Singh, Ashok Singh and the other accused persons had also gone to

the Ghat on the relevant day. Thus, the defence itself accepts the place of occurrence, the date, the presence of the deceased, the presence of the accused and the factum of a quarrel immediately preceding the death. These are the very foundational facts constituting the substratum of the prosecution case. The only divergence between the prosecution and the defence concerns the cause of the fatal injuries. According to DW-1, the deceased sustained injuries because he fell while running, whereas the prosecution asserts that he was chased and assaulted by Dinesh Singh and Randhir Singh. This explanation offered by DW-1, however, does not inspire confidence when tested against the totality of the evidence. Firstly, DW-1 admitted that he belongs to the same village as accused Dinesh Singh and that it was Dinesh Singh who had brought him to Court for giving evidence. Though this circumstance by itself is not sufficient to discard his testimony, it undoubtedly requires the Court to scrutinise his evidence with greater care. Secondly, DW-1 has not denied the occurrence itself. He has merely attempted to substitute the cause of death. Thus, his testimony substantially supports the prosecution regarding the time, place and continuity of the incident, while differing only on the manner in which the fatal injuries were caused. Such admissions materially weaken the defence plea of complete false implication. Thirdly, the version advanced by DW-1 does not satisfactorily explain the nature of the injuries found during post-mortem examination. PW-5 found fracture of three ribs, rupture of the spleen and Extensive internal haemorrhage. Though the Doctor deposed that such injuries could also be possible by a fall on a hard surface, he never opined that they could not result from repeated blunt-force assault. Consequently, the medical evidence does not exclude the prosecution version. On the contrary, it is entirely compatible with the ocular testimony of PW-4 that A1-Dinesh Singh and A2-Randhir Singh repeatedly assaulted the deceased after chasing him into the adjoining field. This Court is mindful that where credible ocular evidence is available, medical evidence is corroborative in nature. Unless medical opinion completely rules out the ocular account, the latter cannot be discarded merely because another possibility is suggested. In *Solanki Chimanbhai Ukabhai v. State of Gujarat (supra)*, the Hon'ble Supreme Court held that trustworthy ocular evidence prevails unless it is rendered impossible by medical evidence. The present case falls squarely within the said principle.

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- 11.13 The defence has also attempted to capitalise upon certain omissions elicited from the Investigating Officer (PW-6). The omissions relate principally to the precise words of exhortation, whether the deceased

asked PW-4 to run away, other ancillary details. These omissions do not affect the central prosecution case that Dinesh Singh and Randhir Singh intercepted the deceased, chased him when he attempted to escape and assaulted him. It is now well settled that every omission is not a contradiction. Only such omissions as go to the root of the prosecution case can materially affect its credibility. Minor improvements or omissions, attributable to lapse of time or imperfect recollection, cannot eclipse otherwise trustworthy evidence. The Hon'ble Supreme Court in *State of U.P. v. M.K. Anthony (supra)*, observed that while appreciating evidence the Court should not attach undue importance to normal discrepancies. A witness cannot be expected to possess a photographic memory or narrate every minute detail with mathematical precision after the lapse of several years. The Court must examine whether the evidence, read as a whole, carries the ring of truth. Applying the aforesaid principle, this Court finds that the omissions relied upon by the defence are wholly peripheral and do not impair the intrinsic credibility of PW-4.

11.14 Another submission advanced on behalf of the defence is that PW-4 being the son of the deceased is an interested witness. This argument has already been noticed and deserves rejection. Relationship is not synonymous with false implication. On the contrary, a close relative would ordinarily be the last person to spare the actual offender and falsely implicate an innocent person. The evidence of PW-4 has been subjected to careful scrutiny and this Court finds it wholly natural, consistent and free from material infirmity so far as accused A1-Dinesh Singh and A2-Randhir Singh are concerned. His presence at the place of occurrence is natural, his conduct is probable and his version receives assurance from the prompt FIR, the testimony of PW-3 regarding immediate disclosure, the evidence of PW-1 and PW-2 regarding the immediate aftermath, the post-mortem findings of PW-5 and even the admissions made by DW-1 regarding the occurrence at Dhamdaha Ghat.

12. Lastly, the prosecution has also invoked Section 34 of the Indian Penal Code. The essence of Section 34 is the existence of a common intention and participation in furtherance thereof. Such common intention may develop on the spot and need not necessarily be the result of long prior deliberation. However, it must be established from the conduct of the accused and the surrounding circumstances. In the present matter, the consistent testimony of PW-4 establishes that A1-Dinesh Singh and A2-Randhir Singh jointly intercepted the deceased, jointly chased him when he attempted to escape and jointly assaulted

him until he collapsed. Their concerted acts clearly reveal a pre-arranged meeting of minds, or at the very least, a common intention developed at the spot to assault the deceased. Their conduct before, during and after the occurrence unmistakably attracts the operation of Section 34 IPC. The position, however, is materially different in respect of A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh. Though their names find place in the FIR, PW-4 himself admitted during cross-examination that while Dinesh Singh had called upon them to catch hold of the deceased, he did not actually witness whether they had done so. Significantly, he did not identify Ashok Singh and Chandan Singh in Court. No other prosecution witness has furnished direct ocular evidence regarding their active participation in the assault, the evidence regarding their actual participation is uncertain and incomplete. Their alleged involvement, therefore, remains unsupported by reliable substantive evidence. Suspicion, however strong, cannot substitute legal proof. In criminal jurisprudence, in the absence of convincing proof of their participation in furtherance of the common intention, they are entitled to the benefit of doubt. Accordingly, upon a cumulative and holistic appreciation of the entire evidence, this Court is satisfied that the prosecution has proved beyond reasonable doubt that A1-Dinesh Singh and A2-Randhir Singh, acting in furtherance of their common intention, assaulted Mithilesh Prasad Singh and caused the injuries which resulted in his death, thereby rendering themselves liable for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The prosecution has, however, failed to establish beyond reasonable doubt the participation of A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh, who are consequently entitled to acquittal by extending to them the benefit of reasonable doubt. This conclusion harmonises the oral, medical and documentary evidence and faithfully applies the settled principles governing appreciation of criminal evidence.

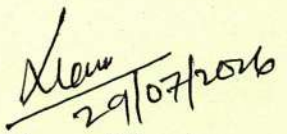
13. In the result and for the foregoing reasons, this Court finds & hold the Accused A1-Dinesh Singh and A2-Randhir Singh are guilty for the offence charged under sections 302/34 of IPC and accordingly, the accused A1-Dinesh Singh and A2-Randhir Singh are hereby convicted for the offence punishable under Section 302/34 IPC. Their bail bond stands cancelled and they are taken into custody forthwith. File is kept for hearing on question of sentence on 12-08-2026.

13.1 So, far as accused A3-Nilesh Singh, A4-Chandan Singh and A5-Ashok Singh are concerned, this Court finds & hold the accused

A3- Nilesh Singh, A4- Chandan Singh and A5- Ashok Singh are not guilty for the offence charged under section 302/34 of IPC and accordingly, the accused A3- Nilesh Singh, A4- Chandan Singh and A5- Ashok Singh stands acquitted from all the charges levelled against them. The bail bond of the accused are extended and shall remain in force for next six months as per provisions of 437A of code.

- 13.2 Smt. Babita Devi (PW-3), wife of deceased Mithilesh Prasad Singh, the children of deceased Mithilesh Prasad Singh, are hereby declared as 'the Victim'/victims in terms of Section 2(wa) of the Code for the purpose of compensation, if any.
- 13.3 Pending petitions, if any, stand disposed of in terms of the Judgment.
- 13.4 Let this case be put up on 12-08-2026 for hearing on the question of sentence.

Pronounced and signed in the open Court, under the hand and seal of this Court on this the 29th day of July, 2026.


(Mohd. Inam Khan)
Additional Sessions Judge-IX
Purnea.
29-07-2026.



12-08-2026 : On question of sentence

1. The convicts namely A1-Dinesh Singh and A2-Randhir Singh are produced before the Court. The learned counsel representing them is also present before the Court.
2. The learned Additional Public Prosecutor submitted that the offence proved against the convicts is grave and serious in nature, involving the homicidal death of Mithilesh Prasad Singh. It was submitted that the evidence on record establishes that the deceased was intercepted, chased and assaulted by the convicts and that the assault resulted in fatal internal injuries, including fracture of ribs and rupture of the spleen, ultimately causing his death. It was further submitted that the occurrence was not a mere isolated physical altercation which accidentally resulted in death, but that the convicts continued the assault even after the deceased attempted to flee, demonstrating the gravity of their conduct. It is argued that the offence has caused irreparable loss to the family of the deceased and has shaken the conscience of the society at large. The learned Public Prosecutor has therefore prayed for the maximum punishment prescribed by law, submitting that the convicts does not deserve any leniency.
3. On the other hand, learned counsel for the convicts submitted that the convicts have no previous criminal antecedents and that they have faced the rigours of a prolonged criminal trial. It was further submitted that the occurrence relates to the year 2010 and that considerable time has elapsed since the occurrence. It was accordingly prayed that while imposing sentence, the Court may take into consideration the mitigating circumstances and adopt a proportionate and reformatory approach. It was further submitted on behalf of the convicts that the convicts have remained in custody during the pendency of the proceedings, to the extent applicable, have suffered the anxiety and uncertainty of a prolonged criminal proceeding. Learned defence counsel has prayed that even if the conviction is maintained, the Court may take a lenient view on sentence, and award the minimum punishment prescribed under law, contending that the case does not fall within the category of "rarest of rare".
4. Heard both sides and carefully considered the rival submissions on the question of sentence. This Court has also taken into consideration the nature and gravity of the offence proved, the manner of commission of the offence, the circumstances in which the deceased was assaulted,

the consequences of the act, the mitigating circumstances placed on behalf of the convicts and the principle that punishment must be proportionate to the gravity of the crime. The convicts have been found guilty U/s. 302/34 of IPC for causing the death of Mithilesh Prasad Singh. The offence is undoubtedly grave, involving the loss of human life. The evidence accepted by this Court establishes that the deceased was intercepted and assaulted and, when he attempted to escape, the assault was pursued, resulting in fatal internal injuries. The conduct proved against the convicts therefore constitutes a serious aggravating circumstance. At the same time, considering the mitigating circumstances placed before it, i.e. the occurrence is of the year 2010 and a considerable period has elapsed since then. The prosecution case has also resulted in acquittal of three of the five accused persons, the conviction being confined to A1-Dinesh Singh and A2-Randhir Singh on the basis of the evidence independently found reliable against them. There is no material presently brought to the notice of this Court establishing any previous conviction or criminal antecedent of either convict. The sentencing process must therefore maintain a proper balance between the gravity of the offence and the possibility of reformation, while ensuring that the punishment remains commensurate with the proven criminal conduct. It is not out of point to mention that Section 302 IPC prescribes death or imprisonment for life and fine. The present case, however, does not warrant the extreme penalty of death. The question, therefore, is what sentence of imprisonment, together with appropriate fine, would meet the ends of justice in the facts and circumstances of the present case. Having regard to the totality of circumstances, including the manner of assault, the resultant death, the nature of injuries proved by medical evidence, the concerted conduct of the convicts, the age of the occurrence, the prolonged pendency of the proceeding and the absence of established previous criminal antecedents, this Court is of the considered opinion that the sentence should be substantial and proportionate, but not excessive. Accordingly, upon careful balancing of the aggravating and mitigating circumstances and guided by the principle of proportionality of sentence, this Court is of the considered opinion that:

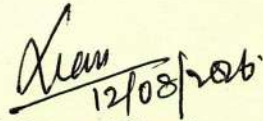
ORDER ON SENTENCE

5. (i) Convict namely A1-Dinesh Singh is sentenced to undergo life imprisonment for the offence punishable under Section 302 /34 of IPC and to pay a fine of ₹50,000/- (Rupees Fifty Thousand). In default thereof, six (06) month simple imprisonment.

- (ii) Convict namely A2. Randhir Singh is sentenced to undergo life imprisonment for the offence punishable under Section 302 /34 of IPC and to pay a fine of ₹50,000/- (Rupees Fifty Thousand). In default thereof, six (06) month simple imprisonment.
- (iii) The sentences already undergone by the convicts would be set off, if applicable, in terms of Section 428 of the Code.
- (iv) The convicts have been informed in the open Court that they have right to appeal against the Judgement before the Hon'ble Court. Further, they have been informed that for legal aid, they may get themselves in touch with Patna High Court Legal Services Committee, Patna. (The Contact Number is 0612-2504475, 2504477. E-mail id: phclsc@gmail.com).
- (v) Office Clerk is directed to supply a copy of the Judgment and Order to the convicts forthwith. He is further directed to send a copy of the Judgment to the District Magistrate, Purnea in terms of Section 365 of the CrPC, 1973. He is further directed to prepare a warrant of imprisonment which, in turn, would be sent to Jail Superintendent, Central Jail, Purnea for needful.
- (vi) Let a copy of this Judgment be sent to the Secretary, District Legal Services Authority (In short ' DLSA'), Purnea for doing needful for the purpose of awarding compensation to the victim in terms of mandate as stipulated under Cr.P.C. 1973.
- (vii) Office Clerk is further directed to keep the case record safe, secure and in ready position for onward transmission to the Hon'ble Appellate Court, in case an appeal is filed against the Judgment and Order on Sentence.

Pronounced and signed in the open Court, under the hand and seal of this Court on this the 12th day of August, 2026.




(Mohd. Inam Khan)
Additional Sessions Judge-IX
Purnea
12-08-2026

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

Prosecution

RANK	NAME	NATURE OF EVIDENCE
PW1	Saket Ranjan	Other Witness
PW2	Ranjit Kumar Singh	Other Witness
PW3	Babita Devi	Informant of the case
PW4	Kishan Kumar @ Prince Kumar	Eye Witness
PW5	Dr. Parmanand Thakur	Doctor Witness
PW6	Gangey Raghav	Investigation Officer of the case

Defence Witness

RANK	NAME	NATURE OF EVIDENCE
DW1	Jay Prakash Mandal	Defence Witness

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

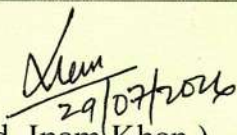
A. Prosecution

Sr. No.	Exhibit Number	Description
1.	Exhibit-P-1/PW-3	Signature of the informant Babita Devi on the fardbayan
2.	Exhibit-P-2/PW-4	Signature of the witness Kishan Kumar @Prince Kumar on the Statement recorded U/s 164 of Cr.P.C.
3.	Exhibit-P-3/PW-5	Postmortem report
4.	Exhibit-P-5/PW-6	Fardbayan
5.	Exhibit-P-5/PW-6	Entrustment order by then SHO Mitesh Kumar on the fardbayan
6.	Exhibit-P-6/PW-6	Signature of the then SHO Mitesh Kumar on the formal FIR
7.	Exhibit-P-7/PW-6	Inquest report
8.	Exhibit-P-8/PW-6	Dead body challan
9.	Exhibit-P-9	Statement of witness Kishan Kumar under section 164 of the Cr.P.C. recorded by Ld. J.M.

B. Defence Witness

Sr. No.	Exhibit Number	Description
	Nil	Nil




(Mohd. Inam Khan)
Additional Sessions Judge-IX
Purnea,
29-07-2026