

Sessions Trial No. 239/2023

STATE OF BIHAR VS. BASUDEO SAH & OTHERS

FORM A**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS****JUDGE-III, KATIHAR**

Present: Sunil Kumar Singh-III,
District & Additional Sessions Judge-III
Civil Court, Katihar

[Date of the Judgment- 04.07.2026][Sessions Trial No. 239/2023]CIS NO. 239/2023

(Arising out of Falka P.S. Case No. 15/17)

U/S 302/34, 201/34 of IPC

PROSECUTION	State of Bihar Through: Sudha Shankar Gupta – Informant
REPRESENTED BY	Ld. A.P.P. Shri P.N. Singh
ACCUSED	1. Basudeo Sah , aged about 88 years, S/O- Late Futchi Sah ...(A-1) 2. Fekan Sah , aged about 60 years, S/O- Late Anandi Sah...(A-2) All R/O Vill–Chhapanna, P.S.–Falka, Dist–Katihar, Bihar.
REPRESENTED BY	Ld. Adv. Shri Sunita Kumar

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FORM B

Date of Offence	29.01.2017
Date of FIR	30.01.2017
Date of Charge-sheet	31.03.2018
Date of Cognizance	29.03.2019
Date of Framing of Charges	12.07.2023
Date of commencement of prosecution evidence	18.08.2023
Prosecution evidence closed	25.05.2026
Date of recording Statement U/Sec 313 of Cr.P.C.	03.06.2026
Date of commencement of defense evidence	N.A.
Defense evidence closed	03.06.2026
Date on which judgment is reserved	22.06.2026
Date on which Judgment is Pronounced	04.07.2026
Date of the Sentencing Order, if any	N.A.

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Accused Details:

S. No.	Name of Accused	Date of Arrest/ Surrender	Date of Release on Bail	Offences Charged U/S	Whether Acquitted or convicted	Sentence Imposed	Period of De-tention Under-gone during Trial for purpose of section 428 Cr.P.C.
1.	Basudeo Sah	14.06.17	16.08.17	302/34, 201/34 of IPC	Acquitted	N.A.	N.A.
2.	Fekan Sah	26.07.17	26.07.17	302/34, 201/34 of IPC	Acquitted	N.A.	N.A.

JUDGMENT

1. The above named accused persons namely (1) Basudeo Sah and (2) Fekan Sah are charged for the commission of the offences punishable under Sections 302/34, 201/34 of IPC and they are facing trial for the said offences.

FACTUAL BACKGROUND

2. The case of the prosecution as per written report in brief is that the informant Sudha Shankar Gupta, on the night of 29.01.2017, he received a phone call from his niece informing him that her father had not returned home and his phone was unreachable. Thereafter, he was informed that his elder brother, Durga Shankar Gupta had been murdered and that his dead body along with his motorcycle, had been thrown near NH-77 to make the incident appear as a road accident. On receiving information, the informant rushed from Araria to the place of occurrence, where he found his brother's dead body lying near the motorcycle. During investigation, the police allegedly discovered bloodstains and drag marks in a maize field belonging to the accused, indicating that the murder had been committed there before the body was shifted to the roadside. The informant alleged that there had been a long-standing land dispute between the deceased and the accused, Basudeo Sah, who had previously damaged the deceased's crops and against whom several complaints and cases had already been lodged. On account of this previous enmity, the informant strongly suspected that Basudeo Sah along with other unknown associates, had committed the brutal murder of his brother. Hence, the present case.

3. On the basis of the fardbayan of the informant, Falka P.S. Case No. 15/17 dated 30.01.2017 was instituted against the above named accused persons for the offences punishable U/S 302, 201/34 of IPC and upon completion of investigation, the charge-sheet bearing No. 58/18 dated 31.03.2018 was submitted on 27.11.2018. Subsequently, cognizance of the offences punishable U/S 302, 201/34 of IPC was taken on 29.03.2019 by the court of Ld. A.C.J.M.-V, Katihar against the above named accused persons.

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4. After completion of the appearance of the above named accused persons, the complete sets of police papers were supplied to the accused and the then Ld. A.C.J.M.-V, Katihar, committed the case record to the Court of Sessions, Katihar on 09.02.2023 and accordingly, Sessions Trial Case No. 239/2023 was instituted and in due course of time, the case record was received to this court by the order of the Ld. Sessions Judge, Katihar for trial & disposal in accordance with law.

TRIAL PROCEEDINGS

5. Hearing rival arguments of both the sides, charges were framed for the offences punishable U/S 302, 201/34 of IPC against the above named accused persons and the same were read over and explained to them in Hindi on 12.07.2023 to which they pleaded not guilty and claimed trial. Accordingly, the case was fixed for prosecution evidence.

6. To substantiate its case, the prosecution has examined altogether four (04) witnesses. The brief description, serial number, name of witnesses etc. are being produced here for easy reference. The prosecution has produced following evidence:-

A) ORAL EVIDENCE

Sl. No.	Name	Type	Date of examination
PW-1	Parmanand Sah	Hostile Witness	18.08.2023
PW-2	Murli Hansda	Hostile Witness	18.08.2023
PW-3	Pawan Gupta	Hostile Witness	20.09.2023
PW-4	Hari Tudu	Hostile Witness	20.09.2023

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B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
P1/PW-3	Signature of Pawan Gupta on Post-mortem Report	20.09.23	Without Objection

7. Thereafter, no other witnesses were examined by the prosecution and prosecution evidence was closed on 25.05.2026. The statements of the above named accused persons were recorded on 03.06.2026, U/S 313 Cr.P.C and all the incriminating evidences had been put to them in their vernacular language to which they stated that they have been falsely implicated in the present case and are innocent and on 03.06.2026, the defence evidence was closed on the prayer of the Ld. defence counsel. Accused persons have not produced any oral or documentary evidence in support of their defense.

POINT FOR DETERMINATION

8. The point for determination before this court is that whether the prosecution has been able to prove its case beyond the shadow of reasonable doubts against the accused persons or not?

APPRECIATION OF EVIDENCE

9. Now, this court shall discuss all the evidence available on the records in the light of charges levelled against the accused persons.

10. A brief scrutiny of the evidence recorded in the matter is as under: -

(i) **PW-1 Parmanand Sah** has stated in his examination-in-chief that he do not know the deceased. He has no knowledge whether he is alive or dead. The police did not record his statement. At the request of prosecution, the witness has been declared hostile.

(ii) **PW-2 Murli Hansda** has stated in his examination-in-chief that he do not know the deceased. He has no knowledge whether he is alive or dead. The police did not record his statement. At the request of prosecution, the witness has been declared hostile.

(iii) **PW-3 Pawan Gupta** stated in his examination-in-chief that the deceased, Durga Prasad Gupta, was his cousin maternal uncle. He do not know when or how he died. His signature appears on the Death Review Report in this case as a witness. He identify his signature thereon, which is marked as Exhibit P-1/PW-3. The police did not examine or interrogate him. At the request of prosecution, the witness has been declared hostile.

(iv) **PW-4 Hari Tudu** has stated in his examination-in-chief that he knew the deceased, Durga Shankar Prasad Gupta. He died about 6-7 years ago. He do not know how he died. The police did not examine or interrogate him. At the request of prosecution, the witness has been declared hostile.

ARGUMENT OF RIVAL CONTENDERS

11. BY PROSECUTION: -

Placing the case before the court, the Ld. Addl. P.P. for the State during the course of his argument has submitted that the prosecution by way of his arguments, has been able to duly prove the case and therefore, the accused persons be convicted and sentenced accordingly.

12. BY DEFENCE: -

The learned counsel arguing for the accused person, submitted that the whole prosecution story to be false & concocted one. The Ld. Counsel submitted that all the witnesses examined by the prosecution have not supported the prosecution story and have turned hostile. It is argued further that basically this is a case of no evidence, accordingly, it is prayed by the Ld. Counsel that the accused persons deserve kind consideration of acquittal from the charges leveled against them.

DECISION AND REASON FOR THE DECISION

13. Having heard the arguments advanced by Ld. Addl. P.P. for State as well as the Ld. Counsel for accused persons and have meticulously perused the materials available on the case record.

14. Before going through the case and appreciating the evidence on record, I would like to state that, it is settled proposition of criminal law that the prosecution is supposed to prove its case on judicial file beyond the shadow of all reasonable doubt by leading reliable, cogent and convincing evidences and any such doubt in the prosecution story entitle the accused persons to acquittal.

15. Further to prove its case on judicial files prosecution is supposed to stand on its own leg and it can't drive any benefit whatsoever from the weakness, if any, in the defence of the accused persons.

16. In a criminal trial, the burden of proving everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject to some statutory exceptions.

17. Now, the case in hand, altogether four (04) prosecution witnesses have been examined in this case. Although, the informant Sudha Shankar Gupta, on the night of 29.01.2017, he received a phone call from his niece informing him that her father had not returned home and his phone was unreachable. Thereafter, he was informed that his elder brother, Durga Shankar Gupta had been murdered and that his dead body along with his motorcycle, had been thrown near NH-77 to make the incident appear as a road accident. On receiving information, the informant rushed from Araria to the place of occurrence, where he found his brother's dead body lying near the motorcycle. During investigation, the police allegedly discovered bloodstains and drag marks in a maize field belonging to the accused, indicating that the murder had been committed there before the body was shifted to the roadside. The informant alleged that there had been a long-standing land dispute between the deceased and the accused, Basudeo Sah, who had previously damaged the deceased's crops and against whom several complaints and cases had already been lodged. On account of this previous enmity, the informant strongly suspected that Basudeo Sah along with other unknown associates, had committed the brutal murder of his brother. However, the informant is admittedly not an eyewitness to the occurrence, and his accusation against the accused is based only on suspicion arising out of previous enmity over a land dispute. The evidence of the prosecution witnesses examined during trial does not support the prosecution case in any manner. PW-1 Parmanand Sah categorically stated that he did not know the deceased, had no knowledge whether he was alive or dead, and that the police had never recorded

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his statement. He was declared hostile by the prosecution. Similarly, PW-2 Murlu Hansda also deposed that he did not know the deceased, had no knowledge about the occurrence, and that the police had not recorded his statement. He too was declared hostile. PW-3 Pawan Gupta, who is the cousin maternal uncle of the deceased, merely identified his signature on the Death Inquest Report marked as Exhibit P-1/PW-3. He specifically stated that he did not know when or how the deceased died and that the police had never examined or interrogated him. He was also declared hostile. Likewise, PW-4 Hari Tudu stated only that he knew the deceased and that he had died about six to seven years earlier, but he expressly denied having any knowledge regarding the manner of his death and further stated that the police had never examined him. He too was declared hostile. Thus, all the witnesses examined by the prosecution have failed to support its case on any material aspect. The prosecution has also alleged that bloodstains and drag marks were found in the maize field belonging to the accused during investigation, suggesting that the murder had been committed there before the body was shifted near the highway. However, no convincing evidence has been adduced through competent witnesses to prove these alleged recoveries or to establish any scientific or forensic link between the alleged bloodstains and the deceased. The alleged motive arising out of the land dispute, even if accepted, cannot by itself be treated as proof of guilt. In the present case, the material witnesses have turned hostile, the prosecution has failed to establish the circumstances relied upon, and the entire case rests only upon suspicion. Accordingly, the accused is entitled to the benefit of doubt and deserves to be acquitted of the charges levelled against him.

18. It is a settled principle of criminal law that the prosecution is supposed to prove its case on judicial file and the burden of proof in the criminal trial lies throughout upon the prosecution which never shifts.

CONCLUSION

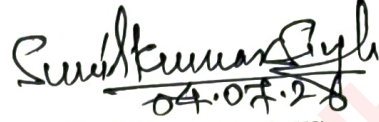
19. On the basis of discussions made above and keeping in mind the entire prosecution evidence, I find and hold that the prosecution has not been able to prove the charges levelled 302/34, 201/34 of IPC against the accused persons namely (1) **Basudeo Sah** and (2) **Fekan Sah** beyond the shadow of reasonable doubts. Hereinafter, order is passed.

ORDERED

20. Therefore, the accused persons namely (1) **Basudeo Sah** and (2) **Fekan Sah** are hereby acquitted from the charges of the offences punishable 302/34, 201/34 of IPC. Accused persons are on bail, as such, they and their sureties are discharged from the liabilities of their respective bail bonds.

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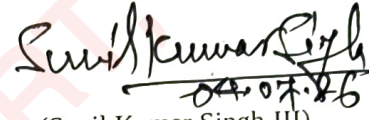
21. File be consigned to Record Room after due recall of process; issued if any; and return of original Documents; if any; to the parties and seized article if any; be disposed off as per rule.


04.07.26

Dated: The 04th day of July, 2026

(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

This judgment has been written, corrected, signed, sealed, dated and pronounced by me in open court today i.e., on 04.07.2026.


04.07.26

Dated: The 04th day of July, 2026

(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

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FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

EVIDENCE ON BEHALF OF PROSECUTION

A) ORAL EVIDENCE

Sl. No.	Name	Type	Date of examination
PW-1	Parmanand Sah	Hostile Witness	18.08.2023
PW-2	Murli Hansda	Hostile Witness	18.08.2023
PW-3	Pawan Gupta	Hostile Witness	20.09.2023
PW-4	Hari Tudu	Hostile Witness	20.09.2023

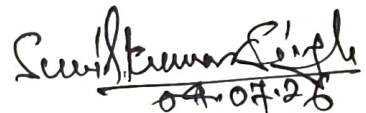
B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
P1/PW-3	Signature of Pawan Gupta on Post-mortem Report	20.09.23	Without Objection

EVIDENCE ON BEHALF OF DEFENCE

Accused persons have not adduced either any oral or documentary evidence in support of their defence.

Dated: The 04th day of July, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

Date of Judgment/ Order	04.07.2026
Date of Reserving Judgment/ Order	22.06.2026
Uploading Date	
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