

COURT OF SESSIONS JUDGE, SULTANPUR Present: Sunil Kumar-IV (Higher Judicial Service) Judicial Officer Code No.: UP 1885  UPST010058532019 SESSIONS TRIAL No.: 360 of 2019 State of U.P. Versus Rinku @ Ranvijay Shukla & 3 others	
Case Crime Number	328/2019
Under Section	147, 148, 149, 302, 120B IPC
Police Station	Jaisinghpur
District	Sultanpur
 UPST010058552019 SESSIONS TRIAL No.: 361 of 2019 State of U.P. Versus Rinku @ Ranvijay Shukla	
Case Crime Number	330/2019
Under Section	3/25 Arms Act
Police Station	Jaisinghpur
District	Sultanpur
 UPST010058552019 SESSIONS TRIAL No.: 362 of 2019 State of U.P. Versus Raju Shukla	
Case Crime Number	329/2019
Under Section	3/25 Arms Act
Police Station	Jaisinghpur
District	Sultanpur
Informant/Complainant	Shiv Shankar Shukla, son of Ram Milan Shukla, resident of Village Sisauda, Police

	Station Jaisinghpur, District Sultanpur.
Counsel on behalf of State of U.P.	1. Sri. Ram Achal Mishra, D.G.C. 2. Sri. Arvind Singh, advocate
Counsel on behalf of Defence	1. Sri Surendra Upadhyay, Advocate 2. Sri Prateek Dubey, Advocate
Name of deceased	Deependra Shukla @ Deepu, son of Shiv Shankar Shukla, resident of Village Sisauda, Police Station Jaisinghpur, District Sultanpur.
Date and time of incident	On 16.06.2019, at about 05:30 A.M.
Date of institution of case/Date and time of lodging of FIR	On 16.06.2019, at 08:50 A.M.
Details of the accused persons	1. Rinku Shukla @ Ranvijay Shukla, son of Ram Chandra Shukla. 2. Raju Shukla, son of Ram Chandra Shukla. 3. Ram Chandra Shukla, son of Ram Milan Shukla. 4. Ajay Shukla @ Sadhu Shukla, son of Krishna Kumar Shukla. All residents of Village Sisauda, Police Station Jaisinghpur, District Sultanpur.
Date of Charge framed	15.10.2021
Date of Prosecution Evidence starts	19.01.2023
Date of Recording of accused's statement	11.12.2025/07.04.2026
Date of Defence Evidence	09.01.2026
Date of Court's Evidence	-
Date of Arguments	10.06.2026
Date of Judgment	19.06.2026

List of Prosecution/Defence/Court Witnesses

1-Prosecution Witnesses: -

Prosecution Witness No.	Name	Nature of witness (Eye-witness, Police witness, Expert witness, Medical witness, Inquest witness & other witness)
P.W.-1	Shiv Shankar Shukla	Informant/Eye witness
P.W.-2	Jagannath Shukla	Eye witness
P.W.-3	Dr. Aditya Narayan Tiwari	Medical witness (who conducted autopsy)
P.W.-4	Sub-Inspector Ram Raj	Police witness (who conducted inquest)
P.W.-5	Sub-Inspector Jalpan Singh	Police Witness/Chick Writer

P.W.-6	Inspector Beni Madhav Tripathi	Police Witness/First Investigating Officer
P.W.-7	Inspector Shyam Sundar Pandey	Police Witness/Second Investigating Officer
P.W.-8	Inspector Bhupendra Kumar Singh	Police Witness/Third & last Investigating Officer
P.W.-9	Sub-Inspector Ashish Kumar Patel	Police Witness/last Investigating Officer of C.C. No. 329/2019 & 330/2019
P.W.-10	Sub-Inspector Praveen Mishra	Police Witness/First Investigating Officer of C.C. No. 329/2019 & 330/2019
P.W.-11	Neeraj Srivastava	Witness relating to the prosecution sanction in Case Crime No. 329/2019.
P.W.-12	Anoop Kumar Gupta	Witness relating to the prosecution sanction in Case Crime No. 330/2019.

2- Defence Witness:-

Defence Witness No.	Name	Nature of witness (Eye-witness, Police witness, Expert witness, Medical witness, Inquest witness & other witness)
D.W. 1	Ram Akbal Shukla	Witness

3- Court Witness, if any:-

Court Witness No.	Name	Nature of witness (Eye-witness, Police witness, Expert witness, Medical witness, Inquest witness & other witness)
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List of Exhibits of Prosecution/Defence/Court

1- Prosecution Exhibits: -

Paper No.	Exhibit No.	Description
5Ka/3	Exhibit Ka-1	Written Application
8Ka/8	Exhibit Ka-2	Postmortem Report
8Ka/6	Exhibit Ka-3	Specimen Stamp
8Ka/7	Exhibit Ka-4	Police Form No. 13/Challan Lash
8Ka/5	Exhibit Ka-5	Photonash
8Ka/3	Exhibit Ka-6	Inquest report
5Ka/1	Exhibit Ka-7	Chik FIR

6Ka/1	Exhibit Ka-8	Kayami G.D. No. 13 at 08.50 Hrs. dated 16.06.2019 P.S. Jaisinghpur, Sultanpur
6Ka/4	Exhibit Ka-9	Kayami G.D. No. 09 at 08.28 Hrs. dated 20.06.2019 P.S. Jaisinghpur, Sultanpur (C.C. No. 329/2019 & 330/2019)
6Ka/1	Exhibit Ka-10	Chik FIR (Case Crime No. 329/2019)
6Ka/1	Exhibit Ka-11	Chik FIR (Case Crime No. 330/2019)
6Ka/4	Exhibit Ka-12	Kayami G.D. No. 09 at 08.28 Hrs. dated 20.06.2019 P.S. Jaisinghpur, Sultanpur (C.C. No. 329/2019 & 330/2019)
7Ka/1	Exhibit Ka-13	Sitemap
5Ka/3	Exhibit Ka-14	Recovery memo of the country-made pistol and cartridges and arrest of accused persons Raju Shukla and Rinku Shukla @ Ranvijay Shukla.
4Ka/1	Exhibit Ka-15	Charge-sheet (Case Crime No. 328/2019)
7Ka/1	Exhibit Ka-16	Site plan of the place of arrest of the accused persons
4Ka/1	Exhibit Ka-17	Charge-sheet (Case Crime No. 329/2019)
4Ka/1	Exhibit Ka-18	Charge-sheet (Case Crime No. 330/2019)
9Ka/1	Exhibit Ka-19	Prosecution sanction in Case Crime No. 329/2019.
8Ka/1	Exhibit Ka-20	Prosecution sanction in Case Crime No. 330/2019.

2- Defence Exhibits:-

Sr. No.	Exhibit No.	Description
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3-Court Exhibits:-

Sr. No.	Exhibit No.	Description
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4-Material Exhibits: -

Sr. No.	Exhibit No.	Description
1	Material Exhibit-01	One country-made pistol of .315 bore and two live cartridges which were recovered

		from the possession of accused Raju Shukla.
2	Material Exhibit-02	One country-made pistol of .312 bore and one live cartridge of .312 bore which were recovered from the possession of accused Rinku Shukla @ Ranvijay Shukla.

JUDGMENT

The police of Jaisinghpur Police Station, District Sultanpur, submitted three separate charge-sheets (i) in Case Crime No. 328 of 2019, under Sections 147, 148, 149, 120-B and 302 of the Indian Penal Code, against accused persons Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla; (ii) in Case Crime No. 329 of 2019, under Section 3/25 of the Arms Act, against accused Raju Shukla; and (iii) in Case Crime No. 330 of 2019, under Section 3/25 of the Arms Act, against accused Rinku Shukla @ Ranvijay Shukla. The aforesaid cases were committed to the Court of Sessions for trial on 13.09.2019. Thereafter, the same were registered and tried by this Court as Sessions Trial No. 360 of 2019, Sessions Trial No. 362 of 2019 and Sessions Trial No. 361 of 2019 respectively. Since all the aforesaid Sessions Trials arise out of the same incident, they have been tried together and are being decided by this common judgment.

DETAILS OF THE CASE

The brief facts of Sessions Trial No. 360 of 2019 arising out of Case Crime No. 328 of 2019, under Sections 147, 148, 149, 120-B and 302 of the Indian Penal Code, against accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla, are as follows:-

The informant Shiv Shankar Shukla, son of Ram Milan Shukla, resident of Village Sisauda, Police Station Jaisinghpur, District Sultanpur, submitted a written report (Exhibit Ka-1) at Police Station Jaisinghpur on 16.06.2019 alleging therein that on 16.06.2019 at about 05:30 A.M., his son Deependra @ Deepu Shukla had gone to the pond situated towards the north of the village for defecation. At that place, Rinku @ Ranvijay Shukla, Raju Shukla, Ajay Shukla @ Sadhu Shukla and Shivanshu Shukla arrived. Out of them, Sadhu Shukla and Shivanshu Shukla caught hold of his son. Thereafter, Raju Shukla fired a shot at the chest of his son and Rinku Shukla fired at his hand, as a result of which his son died on the spot. The main conspiracy for the murder of his son was hatched by Ram Chandra Shukla son of Ram Milan Shukla. It is,

therefore, requested that a First Information Report be lodged and appropriate legal action be taken against the accused persons.

On the basis of the above written report (Exhibit Ka-1) submitted by the informant Shiv Shankar Shukla, First Information Report (Exhibit Ka-7) was lodged on 16.06.2019 at 08:50 A.M. at Police Station Jaisinghpur, District Sultanpur against accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla. On the basis of First Information Report, Case Crime No. 328 of 2019 under Sections 147, 148, 149, 120-B and 302 of the Indian Penal Code was registered, the substance whereof was entered in G.D. No. 13 at 08:50 Hrs. on 16.06.2019 at Police Station Jaisinghpur, District Sultanpur (Exhibit Ka-8).

After registration of the First Information Report, investigation of the case was taken up by P.W.-6 Sub-Inspector Beni Madhav Tripathi of Police Station Jaisinghpur, District Sultanpur. During the course of investigation, on the direction of the Investigating Officer, Sub-Inspector Ramraj prepared the inquest report (Exhibit Ka-6) of deceased Deependra @ Deepu Shukla in his own handwriting and signature after appointing panch witnesses and thereafter the dead body was sent for post-mortem along with relevant papers. During investigation, the Investigating Officer recorded the statements of the informant and other witnesses and on the pointing out of the informant, inspected the place of occurrence and prepared the site plan (Exhibit Ka-13). During investigation, one country-made pistol of .315 bore and two live cartridges recovered from accused Raju Shukla and one country-made pistol of .312 bore and one live cartridge of .312 bore recovered from accused Rinku Shukla @ Ranvijay Shukla, were taken into police custody and recovery memo (Exhibit Ka-14) was prepared. Thereafter, the second Investigating Officer, P.W.-7 Sub-Inspector Shyam Sundar Pandey, took over the investigation. He took steps to send the bullet recovered from the body of deceased Deependra @ Deepu during post-mortem examination and the country-made pistol recovered from accused Raju Shukla, allegedly used in the incident, to the Forensic Science Laboratory for comparison and examination. Subsequently, the last Investigating Officer, P.W.-8 Inspector Bhupendra Kumar Singh, took over the investigation and after examining the papers prepared by the previous Investigating Officers and completing the investigation, found prima facie sufficient evidence against accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla

and Ajay Shukla @ Sadhu Shukla and accordingly submitted charge-sheet (Exhibit Ka-15) against them.

Cognizance upon the charge-sheet was taken by the Court of Chief Judicial Magistrate, Court No. 16, Sultanpur on 12.09.2019 and after considering the case to be triable by Sessions Court, the case was committed to the Court of Sessions for trial vide order dated 13.09.2019.

The brief facts of Sessions Trial No. 361 of 2019 arising out of Case Crime No. 330 of 2019 under Section 3/25 of the Arms Act against accused Rinku Shukla @ Ranvijay Shukla and Sessions Trial No. 362 of 2019 arising out of Case Crime No. 329 of 2019 under Section 3/25 of the Arms Act against accused Raju Shukla are as follows:-

During the course of investigation of Case Crime No. 328 of 2019 under Sections 147, 148, 149, 120-B and 302 of the Indian Penal Code, P.W.-6 Sub-Inspector Beni Madhav Tripathi, the Investigating Officer, recovered the weapons allegedly used in the incident and prepared the recovery memo (Exhibit Ka-14) mentioning therein that on 20.06.2019, while the Station House Officer along with Sub-Inspector Dharmendra Sonkar, Head Constable Virendra Chaudhary, Constable Ajay Yadav, Constable Sitaram and government driver Sunil Dutt Tiwari were engaged in search of wanted accused persons, checking duty, patrolling and maintenance of law and order within the jurisdiction of Police Station Jaisinghpur, upon reaching Birsinghpur Tri-junction, an informer informed the police that the accused persons involved in the murder of Deependra @ Deepu Shukla and absconding since the incident, namely Raju Shukla and Rinku Shukla were standing near Durga Mandir at Durga Nagar Chauraha on the road leading from Birsinghpur to Semari and were waiting for someone. The informer further disclosed that both the accused were carrying illegal firearms. Believing the information to be reliable, the police party, after associating the informer and contacting Sub-Inspector Surendra Tiwari already present in the area, proceeded towards Durga Nagar Chauraha. Before reaching the crossing, the police party concealed its presence and moved ahead strategically. The informer pointed towards two persons standing near the gate of Durga Mandir and identified them as accused Raju Shukla and Rinku Shukla @ Ranvijay Shukla. Thereafter, the informer departed. When the police party attempted to apprehend them, both persons tried to flee towards the road leading to village Ahibaranpur but were apprehended at about 05:40 A.M., approximately 50 metres from Durga Nagar Chauraha. Upon inquiry, one of

them disclosed his name as Raju Shukla, son of Ram Chandra Shukla and the other disclosed his name as Rinku Shukla @ Ranvijay Shukla, son of Ram Chandra Shukla, both residents of Village Sisauda, Police Station Jaisinghpur, District Sultanpur. On their personal search, one country-made pistol of .315 bore was recovered from the right pocket of the jeans worn by accused Raju Shukla and two live cartridges of .315 bore were recovered from his left pocket. From accused Rinku Shukla @ Ranvijay Shukla, one country-made pistol of .312 bore was recovered from the right pocket of the lower garment worn by him, with one live cartridge of .312 bore loaded in its barrel. The said firearms and cartridges were taken into police custody. The description of the firearm and cartridges recovered from accused Raju Shukla was recorded as follows:- One country-made pistol of .315 bore, having a barrel approximately 7 inches in length made of iron and a body approximately 4 inches in length made of brass, fitted with a trigger and trigger guard. The pistol was provided with a hammer and firing pin. The butt was approximately 3 inches in length and fitted with wooden grips on both sides fastened with screws. The firearm was found in working condition. Two live cartridges of .315 bore were also recovered, bearing the marking "BMM KF" on their base. The description of the firearm and cartridge recovered from accused Rinku Shukla @ Ranvijay Shukla was recorded as follows:- One country-made pistol of .312 bore, having an iron body approximately 4 inches in length and a barrel approximately 7 inches in length. A target point was affixed on the upper portion of the barrel for aiming purposes. The pistol was fitted with a trigger, trigger guard, hammer and firing pin. The butt was approximately 3 inches in length and fitted with black-coloured wooden grips on both sides. Upon opening the barrel of the pistol, one live cartridge of .312 bore was found loaded therein. After removing the cartridge, it was found to bear the marking "KFR" on its base. The cartridge was yellow in colour and the word "SPACIAL" was inscribed thereon in English. The aforesaid firearms and cartridges recovered from accused Raju Shukla and accused Rinku Shukla @ Ranvijay Shukla were separately wrapped in white cloth, sealed and marked, and specimen seals were prepared accordingly. It is also mentioned therein that some passers-by had gathered at the spot during the arrest and recovery proceedings, but none agreed to become witness due to fear of the accused persons. The accused persons failed to produce any licence authorising possession of the recovered firearms and cartridges. Upon interrogation, the accused persons disclosed that there had been long-standing animosity between

their family and deceased Deependra @ Deepu Shukla on account of a land dispute and the deceased had repeatedly insulted and assaulted them. They further stated that on the night preceding the incident, Deependra @ Deepu had assaulted Rinku Shukla @ Ranvijay Shukla. Thereafter, according to them, they, along with their cousin Sadhu Shukla, conspired to eliminate Deependra @ Deepu and in pursuance of the said plan, on 16.06.2019 at about 05:30 A.M., when Deependra @ Deepu was proceeding outside the village for defecation, Raju Shukla and Rinku Shukla fired at him. Accused Rinku Shukla also stated that the country-made pistol recovered from his possession was the same weapon with which he had fired at Deependra @ Deepu. Accused Raju Shukla also corroborated the said statement and stated that he too had fired from the country-made pistol recovered from his possession, which hit Deependra @ Deepu, causing him to fall on the ground. Thereafter, they fled from the spot carrying their respective firearms. Since then, they had been concealing themselves at different places. On that day, they were standing there to seek assistance from their relatives when they were apprehended by the police party. They further stated that they were intending to flee after concealing their firearms and cartridges elsewhere. Thereafter, when the informant repeatedly inquired from the accused persons regarding the names and particulars of their associates, they remained silent. After apprising the accused persons of the grounds of their arrest and complying with the directions and guidelines issued by the Hon'ble Human Rights Commission and the Hon'ble Supreme Court, arrest memos were prepared at the spot. The recovery memo pertaining to the recovery of the weapons in connection with Case Crime No. 328 of 2019 was dictated by the informant and was scribed at the spot by Sub-Inspector Shri Dharmendra Sonkar. It was read over and explained to the accompanying police personnel and officers, and their signatures were obtained thereon.

On the basis of the aforesaid recovery memo (Exhibit Ka-14), First Information Report (Exhibit Ka-10) was lodged on 20.06.2019 at 08:28 Hrs. at Police Station Jaisinghpur, District Sultanpur against accused Raju Shukla as Case Crime No. 329 of 2019 under Section 3/25 of the Arms Act. Likewise, First Information Report (Exhibit Ka-11) was lodged against accused Rinku Shukla @ Ranvijay Shukla as Case Crime No. 330 of 2019 under Section 3/25 of the Arms Act. The substance of both cases was entered in G.D. No. 09 at 08:28 Hrs. on 20.06.2019 at Police Station Jaisinghpur, District Sultanpur (Exhibit Ka-12).

After registration of the First Information Reports, investigation of both the aforesaid cases was taken up by P.W.-10 Sub-Inspector Praveen Mishra of Police Station Jaisinghpur, District Sultanpur. Upon his transfer, investigation was taken over by the second Investigating Officer, Sub-Inspector Dayashankar Mishra. Thereafter, upon his transfer, investigation was conducted by the third Investigating Officer, Sub-Inspector Ashish Kumar Patel. During the course of investigation, the statements of the informant and other witnesses were recorded. The Investigating Officer also inspected the place of occurrence on the pointing out of the informant and prepared the site plan (Exhibit Ka-16). Upon completion of investigation and on the basis of the evidence collected, finding prima facie sufficient evidence, the Investigating Officer submitted charge-sheet (Exhibit Ka-17) against accused Raju Shukla in Case Crime No. 329 of 2019 under Section 3/25 of the Arms Act and charge-sheet (Exhibit Ka-18) against accused Rinku Shukla @ Ranvijay Shukla in Case Crime No. 330 of 2019 under Section 3/25 of the Arms Act.

Cognizance upon both the charge-sheets was taken by the Court of Chief Judicial Magistrate, Court No. 16, Sultanpur on 17.08.2019 and thereafter committed the records relating to both accused persons to the Court of Sessions for trial on 16.09.2019.

Sessions Trial No. 360 of 2019 was registered in respect of Case Crime No. 328 of 2019 under Sections 147, 148, 149, 302 and 120-B of the Indian Penal Code against accused persons Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla; Sessions Trial No. 361 of 2019 was registered in respect of Case Crime No. 330 of 2019 under Section 3/25 of the Arms Act against accused Rinku Shukla @ Ranvijay Shukla; and Sessions Trial No. 362 of 2019 was registered in respect of Case Crime No. 329 of 2019 under Section 3/25 of the Arms Act against accused Raju Shukla.

Thereafter, vide order dated 05.10.2021, charges under Sections 147, 148, 149, 302 and 120-B of the Indian Penal Code were framed against accused persons Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla. On the same date, charges under Section 3/25 of the Arms Act were also framed against accused Rinku Shukla @ Ranvijay Shukla and Raju Shukla. The accused persons denied the charges and demanded trial.

EVIDENCE ADDUCES BY PROSECUTION

In order to prove the charges levelled against the accused persons, the prosecution examined the following 12 witnesses:

1. **P.W.-1 Shiv Shankar Shukla** - Informant of the case, who had submitted the written report (Exhibit Ka-1) at the police station.
2. **P.W.-2 Jagannath Shukla** - Elder brother of the informant and an eye-witness of the incident.
3. **P.W.-3 Dr. Aditya Narayan Tiwari** - This witness conducted the autopsy of deceased Deependra Shukla @ Deepu and proved the post-mortem report (Exhibit Ka-2).
4. **P.W.-4 - Sub-Inspector Ram Raj :-** This witness conducted the inquest of the deceased. This witness proved the specimen seal (Exhibit Ka-3), Police Form No. 13 (Exhibit Ka-4), Photonash (Exhibit Ka-5) and inquest report (Exhibit Ka-6).
5. **P.W.-5 - Sub-Inspector Jalpan Singh :-** This witness proved the Chik FIR of Case Crime No. 328 of 2019 (Exhibit Ka-7), G.D. entry (Exhibit Ka-8), Chik FIR of Case Crime No. 329 of 2019 (Exhibit Ka-9), G.D. entry (Exhibit Ka-10), and Chik FIR of Case Crime No. 330 of 2019 (Exhibit Ka-11) along with G.D. entry (Exhibit Ka-12).
6. **P.W.-6 - Inspector Beni Madhav Tripathi:-** This witness is the first Investigating Officer of Case Crime No. 328 of 2019.
7. **P.W.-7 - Inspector Shyam Sundar Pandey :-** This witness is the second Investigating Officer of Case Crime No. 328 of 2019.
8. **P.W.-8 - Inspector Bhupendra Kumar Singh :-** This witness is the third and last Investigating Officer of Case Crime No. 328 of 2019.
9. **P.W.-9 - Sub-Inspector Ashish Kumar Patel:-** This witness is the third and final Investigating Officer of Case Crime No. 329 of 2019 and Case Crime No. 330 of 2019.
10. **P.W.-10 - Sub-Inspector Praveen Mishra :-** This witness conducted the initial investigation of Case Crime No. 329 of 2019 and Case Crime No. 330 of 2019.

11. **P.W.-11 - Neeraj Srivastava (Judicial Assistant, attached to the Office of the District Magistrate) :-** This witness is a witness relating to the prosecution sanction in Case Crime No. 329 of 2019.
12. **P.W.-12 - Anoop Kumar Gupta (Judicial Assistant, attached to the Office of the District Magistrate) :-** This witness is a witness relating to the prosecution sanction in Case Crime No. 330 of 2019.

In addition to oral evidences, the prosecution presented the following documentary evidences:

1. **Exhibit Ka-1 :-** Written report :- It was proved by P.W.-1 informant Shiv Shankar Shukla.
2. **Exhibit Ka-2 :-** Post-mortem report :- It was proved by P.W.-3 Dr. Aditya Narayan Tiwari.
3. **Exhibit Ka-3 :-** Specimen seal :- It was proved by P.W.-4 Sub-Inspector Ram Raj.
4. **Exhibit Ka-4 :-** Police Form No. 13 :- It was proved by P.W.-4 Sub-Inspector Ram Raj.
5. **Exhibit Ka-5 :-** Photonash :- It was proved by P.W.-4 Sub-Inspector Ram Raj.
6. **Exhibit Ka-6 :-** Inquest report :- It was proved by P.W.-4 Sub-Inspector Ram Raj.
7. **Exhibit Ka-7 :-** Chik FIR of Case Crime No. 328 of 2019 :- It was proved by P.W.-5 Sub-Inspector Jalpan Singh.
8. **Exhibit Ka-8 :-** G.D. Entry No. 13 at 08:50 A.M. dated 16.06.2019, Police Station Jaisinghpur, District Sultanpur :- It was proved by P.W.-5 Sub-Inspector Jalpan Singh.
9. **Exhibit Ka-9 :-** G.D. Entry No. 09 at 08:28 A.M. dated 20.06.2019, Police Station Jaisinghpur, District Sultanpur :- It was proved by P.W.-5 Sub-Inspector Jalpan Singh.
10. **Exhibit Ka-10 :-** Chik FIR of Case Crime No. 329 of 2019 :- It was proved by P.W.-5 Sub-Inspector Jalpan Singh.
11. **Exhibit Ka-11 :-** Chik FIR of Case Crime No. 330 of 2019 :- It was proved by P.W.-5 Sub-Inspector Jalpan Singh.

12. **Exhibit Ka-12 :-** G.D. Entry No. 09 at 08:28 A.M. dated 20.06.2019, Police Station Jaisinghpur, District Sultanpur :- It was proved by P.W.-5 Sub-Inspector Jalpan Singh.
13. **Exhibit Ka-13 :-** Site plan relating to Case Crime No. 328 of 2019 :- It was proved by P.W.-6 Inspector Beni Madhav Tripathi.
14. **Exhibit Ka-14 :-** Recovery memo relating to Case Crime No. 328 of 2019 :- It was proved by P.W.-6 Inspector Beni Madhav Tripathi.
15. **Exhibit Ka-15 :-** Charge-sheet in Case Crime No. 328 of 2019 :- It was proved by P.W.-8 Inspector Bhupendra Kumar Singh.
16. **Exhibit Ka-16 :-** Site plan relating to Case Crime No. 329 of 2019 and Case Crime No. 330 of 2019 :- It was proved by P.W.-9 Sub-Inspector Ashish Kumar Patel.
17. **Exhibit Ka-17 :-** Charge-sheet in Case Crime No. 329 of 2019 :- It was proved by P.W.-9 Sub-Inspector Ashish Kumar Patel.
18. **Exhibit Ka-18 :-** Charge-sheet in Case Crime No. 330 of 2019 :- It was proved by P.W.-9 Sub-Inspector Ashish Kumar Patel.
19. **Exhibit Ka-19 :-** Prosecution sanction relating to Case Crime No. 329 of 2019 :- It was proved by P.W.-11 Neeraj Srivastava, Attached Judicial Assistant, Office of the District Magistrate.
20. **Exhibit Ka-20 :-** Prosecution sanction relating to Case Crime No. 330 of 2019 :- It was proved by P.W.-12 Anoop Kumar Gupta, Attached Judicial Assistant, Office of the District Magistrate.

In addition to oral and documentary evidences, the prosecution proved the following material exhibits:-

1. **Material Exhibit-1 :-** One country-made pistol of .315 bore and two live cartridges of .315 bore recovered from the possession of accused Raju Shukla. It was proved by P.W.-6 Inspector Beni Madhav Tripathi.
2. **Material Exhibit-2 :-** One country-made pistol of .312 bore and one live cartridge of .312 bore recovered from the possession of accused Rinku Shukla @ Ranvijay Shukla. It was proved by P.W.-6 Inspector Beni Madhav Tripathi.

STATEMENT OF ACCUSED U/S 313 Cr.PC

After completion of the prosecution evidence, statements of accused persons Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla under Section 313 Cr.P.C. were recorded on 11.12.2025 and 07.04.2026. In their statements under Section 313 Cr.P.C., the accused persons stated that the prosecution story is false. They further stated that P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla (eye-witness) have given false evidence against them. The accused persons denied the prosecution evidence and stated that they had no knowledge regarding the evidence adduced by P.W.-4 Sub-Inspector Ram Raj, P.W.-5 Sub-Inspector Jalpan Singh, P.W.-8 Inspector Bhupendra Kumar Singh and P.W.-9 Sub-Inspector Ashish Kumar Patel. They further stated that P.W.-6 Inspector Beni Madhav Tripathi had made a false statement and that P.W.-7 Inspector Shyam Sundar Pandey had conducted one-sided and unfair investigation. The accused persons also stated that the present case has been instituted against them on account of enmity. In their special plea, the accused persons stated that they have been falsely implicated due to enmity. The accused persons further stated that they would adduce defence evidence.

The defence examined following witnesses in form of oral evidence:-

1. **D.W.-1 Ram Akbal Shukla :-** This witness is a resident of the village of the accused persons.

In form of documentary evidence, following documents were filed on behalf of the defence through list 123B:-

1. One certified copy of the First Information Report of Case Crime No. 214 of 2018 under Sections 323, 504, 506 and 308 of the Indian Penal Code, paper Nos. 123-Kha/3 to 123-Kha/4.
2. One certified copy of the complete order-sheet, paper Nos. 123-Kha/6 to 123-Kha/14.

No material exhibit was produced on behalf of the defence.

ARGUMENTS PRESENTED BY THE PARTIES

This Court heard the arguments of the learned counsels for both the parties.

(A) Arguments on behalf of Prosecution: - The learned District Government Counsel (Criminal) and learned counsel appearing for the informant drew the attention of the Court towards the oral, documentary and material evidences available on record and submitted that the prosecution has successfully proved its case beyond reasonable doubt. It was argued that P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla are natural eye-witnesses of the incident. Both these witnesses have proved every aspect of the occurrence beyond doubt. The aforesaid witnesses have clearly established the presence of the accused persons at the place of occurrence and have also proved the specific role assigned to each of them in the commission of the offence. It was further contended that from the testimony of the aforesaid witnesses, it stands proved that during the incident accused Ajay Shukla @ Sadhu Shukla and Shivanshu Shukla (juvenile in conflict with law) caught hold of deceased Deependra @ Deepu, accused Ram Chandra Shukla exhorted the assailants and accused Rinku Shukla @ Ranvijay Shukla and Raju Shukla fired at the deceased. Out of the shots fired, the shot fired by accused Rinku Shukla @ Ranvijay Shukla hit the right wrist of the deceased, whereas the shot fired by accused Raju Shukla struck the chest of the deceased, resulting in his death on the spot. It was also argued that the motive for the occurrence has been duly established inasmuch as there existed an old land dispute between the parties and the two immediate incidents preceding the occurrence culminated in the commission of the principal offence. It was further submitted that after the incident accused Rinku Shukla @ Ranvijay Shukla and accused Raju Shukla were arrested and the firearms/weapons used in the incident were recovered from their possession. The said recovery of firearms was proved beyond doubt by P.W.-6 Inspector Beni Madhav Tripathi. It was also argued that the testimony of the eye-witnesses finds corroboration from the evidence of the formal witnesses. The oral evidence is fully supported by the medical evidence. The testimony of the eye-witnesses regarding the injuries sustained by the deceased is fully corroborated by the testimony of P.W.-3 Dr. Aditya Narayan Tiwari and the post-mortem report. It was further contended that there is consistency in the statements of the witnesses and there is no material contradiction in their testimonies which may render the prosecution case unreliable. Lastly, the learned counsel submitted that the entire prosecution case stands proved beyond reasonable doubt and therefore, the accused persons be convicted and awarded the severest punishment for the brutal murder of deceased Deependra @ Deepu.

(B) Arguments on behalf of Defence:- The learned counsel for the defence drew the Court's attention towards the oral, documentary and material evidences available on record and submitted that the prosecution has miserably failed to prove its case beyond reasonable doubt. It was argued that P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla are not eye-witnesses of the incident. In fact, there is no eye-witness to the incident. The death of deceased Deependra @ Deepu had occurred elsewhere and in some other manner, but due to old family and land-related enmity, an unsuccessful attempt has been made to connect the accused persons with the incident. It was further submitted that both the informant side and the accused persons belong to the same family. The informant side did not receive any share in the ancestral property and the father of the informant had executed a sale deed of his entire property in favour of the accused side. Owing to this animosity, the accused persons have been falsely implicated in the murder of deceased Deependra @ Deepu. It was further argued that there is no mention in the written report regarding the presence of accused Ram Chandra Shukla at the place of occurrence. However, subsequently, a false role of exhortation at the place of occurrence during the incident was assigned to accused Ram Chandra Shukla. The learned counsel further contended that since there was no eye-witness to the occurrence and the incident had actually been committed by unknown persons in some other manner, P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, after about 45 days of the occurrence, submitted affidavits on 01.08.2019 and gave an altogether new version of the prosecution case, by claiming themselves to be eye-witnesses and by incorporating two immediate incidents preceding the occurrence, they attempted to fabricate a false story so as to support the prosecution version that the accused persons had committed the offence. However, a scrutiny of the statements of the aforesaid two witnesses, who are real brothers and therefore, related and interested witnesses, clearly demonstrates that they have completely failed to establish the story set up through their affidavits. It was further argued that there are serious and material contradictions in the statements of both the witnesses regarding every aspect of the occurrence, which render the entire prosecution story wholly unreliable. The learned counsel also argued that the place of occurrence has not been proved in the present case. No article was recovered from the alleged place of occurrence which could establish that the incident had actually taken place there. Neither blood-stained soil nor plain soil was collected from the alleged place of

occurrence. Further, neither the slippers of the deceased nor the utensils allegedly carried by him while going for defecation were recovered. Likewise, the motorcycle allegedly used by accused Rinku @ Ranvijay Shukla and Raju Shukla was also not recovered. It was further contended that the investigation in the present case was wholly tainted and was conducted with the object of favouring the informant side. The learned counsel further submitted that the alleged recovery of firearms from accused Rinku @ Ranvijay Shukla and Raju Shukla after the incident is entirely false and fabricated. No independent witness was associated with the alleged recovery proceedings. The departure General Diary entry was not produced and proved before the Court. It was also argued that the firearm of .315 bore and two cartridges of .315 bore allegedly recovered from accused Raju Shukla, along with the .315 bore bullet recovered from the body of deceased Deependra @ Deepu during post-mortem examination, were sent for forensic examination. The report of the Forensic Science Laboratory clearly establishes that the bullet which caused the death of the deceased had not been fired from the country-made pistol allegedly recovered from accused Raju Shukla. It was further submitted that, in these circumstances, the alleged recovery of firearm and cartridges from accused Raju Shukla stands proved to be false and fabricated. In fact, neither any firearm was recovered from accused Rinku @ Ranvijay Shukla nor from accused Raju Shukla. The police arbitrarily connected the alleged firearms with them. Lastly, the learned counsel submitted that in a serious offence like murder, an innocent person ought not to be convicted, as the punishment prescribed is extremely severe. It was argued that an analysis of the evidence available on record clearly demonstrates that the accused persons are wholly innocent and since the prosecution has failed to prove its case beyond reasonable doubt therefore, they are liable to be acquitted of all the charges levelled against them.

This Court thoroughly examined the evidences available on record in light of the arguments presented by the learned counsels for both parties.

The point for determination in this Sessions trial is:

"Whether the prosecution has succeeded in proving its case beyond reasonable doubt or not."

FINDINGS

In the present case, charges were framed against accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla

@ Sadhu Shukla under Sections 147, 148, 149, 302 and 120-B of the Indian Penal Code and under Section 3/25 of the Arms Act. Therefore, the prosecution is required to prove beyond reasonable doubt that:

- i. On 16.06.2019 at about 05:30 A.M., at the pond situated towards the north of Village Sisauda, Police Station Jaisinghpur, District Sultanpur, accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla, in furtherance of their common object, used force and violence and committed rioting.
- ii. On the aforesaid date, time and place, accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla, being armed with deadly weapons, namely a .315 bore country-made pistol and a .312 bore country-made pistol, and in furtherance of their common object, used force and violence and committed rioting.
- iii. On the aforesaid date, time and place, accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla, in furtherance of their common object, caused the death of Deependra Shukla @ Deepu, son of the informant, by firing from firearms and thereby committed his murder.
- iv. Accused persons Rinku @ Ranvijay Shukla, Raju Shukla, Ram Chandra Shukla and Ajay Shukla @ Sadhu Shukla entered into a criminal conspiracy to commit the murder of Deependra Shukla @ Deepu, son of the informant and in pursuance of the said criminal conspiracy, carried out the incident and committed his murder.
- v. On 20.06.2019 at about 05:40 A.M., at Durga Nagar Chauraha-Ahibaranpur Road, Police Station Jaisinghpur, District Sultanpur, one illegal .315 bore country-made pistol and two live cartridges of .315 bore were recovered from the possession of accused Raju Shukla by Inspector Beni Prasad Tripathi and the accompanying police personnel.

- vi. On 20.06.2019 at about 05:40 A.M., at Durga Nagar Chauraha-Ahibaranpur Road, Police Station Jaisinghpur, District Sultanpur, one illegal .312 bore country-made pistol and one live cartridge of .312 bore were recovered from the possession of accused Rinku Shukla @ Ranvijay Shukla by Inspector Beni Prasad Tripathi and the accompanying police personnel.

To prove the aforementioned charges, the prosecution examined a total of 12 witnesses, out of which P.W. 1 Shiv Shankar Shukla (Informant) and P.W. 2 Jagannath Shukla are eye witnesses and witness of facts. The remaining witnesses, namely P.W. 3 Dr. Aditya Narayan Tiwari, P.W. 4 Sub-Inspector Ram Raj, P.W. 5 Sub-Inspector Jalpan Singh, P.W. 6 Inspector Beni Madhav Tripathi, P.W. 7 Inspector Shyam Sundar Pandey, P.W. 8 Inspector Bhupendra Kumar Singh, P.W. 9 Sub-Inspector Ashish Kumar Patel, P.W. 10 Sub-Inspector Praveen Mishra, P.W. 11 Neeraj Srivastava and P.W. 12 Anoop Kumar Gupta were examined as formal witnesses.

To substantiate the charges, the prosecution also came up with documentary evidences in form of Exhibit Ka-01 to Exhibit Ka-20. The prosecution has also proved two material exhibits, which have been marked as Material Exhibit-1 and Material Exhibit-2.

In a criminal case, the burden of proving the prosecution case lies upon the prosecution.

As far as proving the charges against the accused is concerned, the term ***“Proved”*** is defined under Section 3 of the Evidence Act as follows:

“Proved” - A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

In **Dhanpal v. State, 2009 (69) A.C.C. 697**, the Hon’ble Supreme Court held that in a criminal trial, the prosecution bears the burden of proving its case and it is the duty of the court to ensure that the case is proved as alleged, without allowing any embellishments.

In the case of **State of Odisha vs. Banbihari Mahapatra and another, 2022 (1) JIC Reports 274 (SC) (Bilingual)**, the Hon’ble Supreme Court has held

that “an accused is presumed to be innocent unless he is proved guilty beyond reasonable doubt.”

In the case of **Nasir Sikander Sheikh v. State of Maharashtra, 2005 S.A.R. (Criminal) 489**, it was held that the fundamental principle of criminal law is that the prosecution must prove its case beyond reasonable doubt, while the defence need only to establish a probable case, supported by some facts on record, which may include suggestions made to prosecution witnesses.

In **Daulat Ram v. State of Punjab, 1997 (34) A.C.C. 839**, the Hon’ble Supreme Court held that the prosecution must prove its case beyond reasonable doubt based on its own evidence and cannot rely on the weaknesses of the defence.

The Hon’ble Supreme Court, in **Krishnamochi & Ors. v. State of Bihar, 2002 Supreme Court (Cri.) 1220** and **Ambika Prasad & Ors. v. State of Delhi Administration, 2000 S.C.C. (Cri.) 522**, held that while it is the court’s duty to ensure that no innocent person is punished, it is equally its duty to ensure that no guilty person escapes punishment.

The present case must be considered in light of the above legal precedents.

The present case is based on direct ocular evidence. The prosecution has produced P.W. 1 informant Shiv Shankar Shukla and P.W. 2 Jagannath Shukla, elder brother of the informant, as eye-witnesses of the occurrence.

Perusal of the Chik First Information Report (Exhibit Ka-7) reveals that the occurrence took place on 16.06.2019 at about 05:30 A.M. and the report thereof was lodged by Shiv Shankar Shukla on 16.06.2019 at 08:50 A.M. at Police Station Jaisinghpur, situated at a distance of about 13 kilometres from the place of occurrence, i.e., after about three hours and twenty minutes of the incident. The place of occurrence was mentioned as the pond situated towards the north of village Sisauda. A perusal of G.D. No. 13 at 08:50 Hrs. dated 16.06.2019, Police Station Jaisinghpur, District Sultanpur (Exhibit Ka-8), shows that the informant Shiv Shankar Shukla came at the police station and submitted a written report, stating it to be signed by him, alleging that the opposite party, acting in concert and pursuant to a conspiracy, had shot dead his son Deependra @ Deepu Shukla. On the basis of the said written report, Case Crime No. 328 of 2019 under Sections 147, 148, 149, 120-B and 302 IPC was registered against

accused persons Rinku @ Ranvijay, Raju Shukla, Ajay Shukla @ Sadhu, Shivanshu Shukla and Ram Chandra Shukla. After registration of the case, the papers related to inquest were handed over to Home Guard Harilal Gupta and he went to the place of occurrence.

P.W. 5 Sub-Inspector Jalpaan Singh stated in his examination-in-chief that on 16.06.2019 he was posted as Head Moharrir at Police Station Jaisinghpur. On that day, on the basis of the written report submitted by Shiv Shankar Shukla, he registered Case Crime No. 328 of 2019 under Sections 147, 148, 149, 120-B and 302 IPC on 16.06.2019 at 08:50 A.M. against accused persons Rinku @ Ranvijay, Raju Shukla sons of Ram Chandra Shukla, Ajay Shukla @ Sadhu Shukla son of Krishna Kumar Shukla, Shivanshu Shukla son of Pintu Shukla and Ram Chandra Shukla son of Ram Milan Shukla, all residents of village Sisauda, Police Station Jaisinghpur, District Sultanpur. While proving the Chik FIR as Exhibit Ka-7, he further stated that he made the corresponding entry in G.D. No. 13 on 16.06.2019 at 08:50 Hrs. He also proved the General Diary relating to registration of the case as Exhibit Ka-8.

P.W. 1 informant Shiv Shankar Shukla stated in his examination-in-chief that he went to the police station and got the report scribed through one of his relatives, outside the police station, read it over and after signing it, submitted the same at the police station. In his cross-examination, he stated that his report (Exhibit Ka-1) was written by one of his relatives, though he did not remember who had written the same. He further stated that he had not written the report himself.

P.W. 2 Jagannath Shukla stated in his examination-in-chief that they took the dead body to the police station and the FIR was lodged there. In his cross-examination, he stated that he had not gone to the police station for lodging the report. He could not tell who had gone for lodging the report. He further stated that the report of the incident was written at the police station and the dead body was sent for post-mortem examination from there itself.

From the aforesaid evidence available on record, it is evident that the First Information Report of the incident was lodged promptly. Where information relating to an occurrence in which the son of the informant had died is lodged at a police station situated 13 kilometres away from the place of occurrence within three hours and twenty minutes of the incident, such First Information Report is liable to be treated as a prompt FIR. In a promptly lodged

FIR, the possibility of embellishment or fabrication of facts is substantially reduced and the credibility of the substance mentioned therein is enhanced.

In *Nanhe Vs. State of Uttar Pradesh* 1973 (3) SCC 317 the Hon'ble Supreme Court has held that, "A prompt FIR eliminates the chances of cooking up of a false story."

Similarly, in *Thulia Kali v. The State of Tamil Nadu* AIR 1973 SC 501; *State of Punjab v. Surja Ram*, AIR 1995 SC 2413; *Girish Yadav & Ors. v. State of M.P.*, (1996) 8 SCC 186 and *Takdir Samsuddin Sheikh v. State of Gujarat & Anr.* AIR 2012 SC 37, the Hon'ble Supreme Court has reiterated the same principle in the following terms:-

"The FIR in criminal case is a vital and valuable piece of evidence though may not be substantive piece of evidence. The object of insisting upon prompt lodging of the FIR in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of actual culprits and the part played by them as well as the names of eye-witnesses present at the scene of occurrence. If there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large number of consultations/deliberations. Undoubtedly, the promptness in lodging the FIR is an assurance regarding truth of the informant's version. A promptly lodged FIR reflects the firsthand account of what has actually happened, and who was responsible for the offence in question."

From the perusal of the inquest report Exhibit Ka-6, it is evident that the inquest of deceased Deependra Shukla @ Deepu, aged about 22 years, was conducted by P.W. 4 Sub-Inspector Ramraj on 16.06.2019 between 09:40 A.M. and 11:30 A.M. at village Sisauda, Police Station Jaisinghpur, District Sultanpur. At the time of inquest proceedings, the dead body of the deceased was lying on a cot placed outside his house. Prior to commencement of the inquest proceedings, five persons namely Krishna Kumar Shukla, Rajesh Shukla, Jagannath, Jagdamba Singh and Anil Singh were appointed as panch witnesses.

P.W. 4 Sub-Inspector Ramraj, while proving the inquest report of deceased Deependra Shukla @ Deepu as Exhibit Ka-6, stated in his examination-in-chief that on 16.06.2019, he was posted as Sub-Inspector at Police Station Jaisinghpur. On the said date, he conducted the inquest of deceased Deependra Shukla @ Deepu Shukla, aged about 22 years, resident of village Sisauda, Police Station Jaisinghpur, District Sultanpur, between 09:40 A.M. and 11:30 A.M. The deceased was related to Case Crime No. 328 of 2019, under Sections 147, 148, 149, 120-B and 302 IPC, Police Station Jaisinghpur. Upon reaching the spot, he found the dead body lying on a cot outside the house and family members of the deceased were weeping. Firstly, he appointed Krishna Kumar Shukla, Rajesh Shukla, Jagannath, Jagdamba Singh and Anil Singh as panch witnesses. The head of the deceased was towards the north direction; the right hand was lying by the side, the left hand was bent towards the head and both legs were parallel. The complexion of the deceased was wheatish, body structure was sturdy, eyes, ears, nose and height were average and the height was approximately six feet. Hair of the head were black, there was light beard and the eyes and mouth were closed. The deceased was wearing a grey striped sando baniyan stained with blood, a brown coloured Macho underwear and a light blue coloured half knicker having sky-blue stripes. A red sacred thread was tied on the right wrist. The left hand was blood stained. There was a fresh blood-stained firearm injury with a slight hole on the left side of the chest. There was a blood-stained incised injury on the left wrist and the right foot was also blood stained. In the opinion of the panch witnesses, the death of deceased Deependra @ Deepu had occurred due to firearm injury. He further stated that his opinion was also in consonance with the opinion of the panch witnesses. This witness also proved the sample seal as Exhibit Ka-3, challan lash as Exhibit Ka-4 and photonash as Exhibit Ka-5. In his cross-examination, P.W. 4 Sub-Inspector Ramraj stated that Jagannath Shukla was also one of the panch witnesses. The panch witnesses, including Jagannath Shukla, did not disclose any fact regarding the incident or the identity of the assailants during the inquest proceedings.

P.W. 3 Dr. Aditya Narayan Tiwari, while proving the post-mortem report of deceased Deependra Shukla @ Deepu as Exhibit Ka-2, stated in his examination-in-chief that on 16.06.2019, he was posted as ENT Specialist in the District Hospital and was assigned for post-mortem duty on that date. The dead body of deceased Deependra Shukla @ Deepu, son of Shiv Shankar Shukla, resident of village Sisauda, Police Station Jaisinghpur, which was brought by

Constable Arun Kumar and Constable Pradeep Kumar of Police Station Jaisinghpur, was subjected to post-mortem examination by him. The following ante-mortem injuries were found on the body of the deceased:-

1. Lacerated wound measuring 1 cm × 1 cm, present on the left side of the chest, situated 2 cm above the left nipple. The margins of the wound were inverted. Blackening measuring 3 cm × 2 cm was present around the wound and tattooing was also found surrounding the wound. No exit wound was present.
2. Lacerated wound measuring 3 cm × 1 cm was present on the left wrist.

Gun powder was present around both Injury Nos. 1 and 2. The route of entry was found extending from the left side of the chest to the heart and from the heart through the pericardial sac up to the peritoneal cavity. The heart was found lacerated. Blood was present in the peritoneal cavity. The stomach was empty. The immediate cause of death was shock and haemorrhage as a result of firearm injury.

P.W. 3 Dr. Aditya Narayan Tiwari stated in his cross-examination that gas and faecal matter were present in the large intestine of the deceased. From this, it may be inferred that the deceased had not defecated prior to the occurrence. Both Injury Nos. 1 and 2 were lacerated wounds. The first injury was on the chest, on the left side, whereas the second injury was on the left wrist. He further stated that if the left hand was placed on the chest, then there was a greater possibility that both lacerated wounds could have been caused by a single shot, particularly because only one bullet was recovered from the body of the deceased during the post-mortem examination.

From the aforesaid evidence available on record, it is clear that the inquest proceeding was not conducted at the place of occurrence but it was carried out outside the house of the deceased when the dead body was lying on a cot placed there. The inquest report Exhibit Ka-6 and the post-mortem report Exhibit Ka-2 clearly establish that the death of the deceased was caused by firearm injuries. The post-mortem report and the testimony of P.W. 3 Dr. Aditya Narayan Tiwari further establish that the bullet which struck the deceased remained inside his body and was recovered by P.W. 3 Dr. Aditya Narayan Tiwari during the post-mortem examination. The deceased had total two injuries on his body and both were lacerated wounds. The first injury was a wound

measuring 1 cm × 1 cm on the left side of the chest, situated 2 cm above the left nipple. The margins of this wound were inverted, which clearly indicates that the bullet had entered the body through this wound. Blackening measuring 3 cm × 2 cm and tattooing were found around this entry wound, indicating that the shot had been fired from a close range. Injury No. 2 was present on the left wrist measuring 3 cm × 1 cm. Although gunpowder was found around this second wound, neither blackening nor tattooing was present around it, which indicates that this injury was not caused by a close-range shot. Since no blackening or tattooing was present around the wound on the left wrist, the statement made by P.W. 3 Dr. Aditya Narayan Tiwari in his cross-examination that both lacerated wounds could have been caused by a single shot if the left hand was placed on the chest cannot be accepted. If the left hand had been placed on the chest when the shot was fired, the same blackening and tattooing which were present around the chest wound would naturally have been found around the wound on the left wrist as well. Since blackening and tattooing were not found around the lacerated wound on the left wrist, it is clear that the injury on the left wrist was not caused by the same bullet which struck the chest of the deceased. Further since gunpowder was found around the lacerated wound on the left wrist, it is crystal clear that the injury on the left wrist was also caused by a firearm. In these circumstances, it is evident that two shots were fired at the deceased. One shot, which was fired from a close range, struck the chest of the deceased, entered his body and remained lodged therein, and was subsequently recovered during the post-mortem examination. The second shot, which was fired from a far distance, caused the lacerated wound on the left wrist of the deceased.

Now, when it stands established that the death of the deceased was caused by firearm injuries and that two shots were fired at him from two different distances, it becomes necessary to examine as to who had fired the aforesaid shots at the deceased.

In the written report Exhibit Ka-1, informant Shiv Shankar Shukla stated that on 16.06.2019 at about 05:30 A.M., his son Deependra @ Deepu Shukla had gone to the pond situated towards the north of the village for defecation, where Rinku @ Ranvijay, Raju Shukla, Ajay Shukla @ Sadhu and Shivanshu Shukla arrived. Ajay Shukla @ Sadhu and Shivanshu Shukla caught hold of his son, thereafter Raju Shukla fired at the chest of his son and Rinku Shukla fired at his hand, causing his death at the spot. It was further stated that

the conspiracy behind the murder of the informant's son had been hatched by Ram Chandra Shukla.

P.W. 1 informant Shiv Shankar Shukla stated in his examination-in-chief that on 16.06.2019 at about 05:30 A.M., he and his two sons Deependra @ Deepu and Raja @ Bhupendra were standing near the handpump. He was brushing his teeth while his wife and Raja @ Bhupendra were tying the cattle. Deepu took water from the handpump and proceeded towards the pond for defecation. He stopped him in view of the incident which had taken place a day earlier and advised him not to go towards the pond but to go towards the fodder field in front of the house. However, Deepu replied that women used that side and proceeded towards the pond. At that time, he saw Rinku @ Ranvijay and Raju proceeding on a motorcycle in the same direction in which his son had gone. Then he, his son Bhupendra and his wife ran towards that side and saw that Ajay @ Sadhu and Shivanshu caught hold his son's hands. Rinku @ Ranvijay fired at his son, which hit the left wrist of his son, the shot did not hit the chest. Thereafter, Ram Chandra Shukla exhorted the assailants to kill him, whereupon Raju Shukla fired at the chest of his son. As a result of which Deependra fell down at the spot and blood started oozing from his hand and chest. He further stated that he, his elder brother Jagannath Shukla and his son Raja @ Bhupendra had witnessed the occurrence. The house of Jagannath is situated at a distance of about 100 metres from the place of occurrence. Upon hearing the alarm, his wife and other villagers also reached the spot. Deependra died at the place of occurrence and the accused persons left the spot extending threats. He further stated that all the accused persons, namely Rinku @ Ranvijay, Raju, Ajay @ Sadhu, Shivanshu @ Akash and Ram Chandra, were present at the spot.

P.W. 1 informant Shiv Shankar Shukla stated in his cross-examination that he had mentioned in his written report Exhibit Ka-1 that Rinku @ Ranvijay and Raju had proceeded towards the place of occurrence on a motorcycle and he had also disclosed this fact in his statement before the Investigating Officer. He further stated that if the said fact does not find place either in his written report or in his statement under Section 161 Cr.P.C., he could not assign any reason therefor. He further stated that in Exhibit Ka-1 he had shown himself to be an eye-witness of the occurrence and that he had informed the Investigating Officer regarding this. If the said fact was not recorded in his report or in his police statement, he could not explain the reason therefor. This witness further stated that women of the village generally go outside the

village in the morning and evening at late hours for defecation for maintaining privacy. On the date of occurrence, he had prevented Deependra from going for defecation towards that side where women used to go. He first stated that it was dark at that time but thereafter stated that by the time Deependra went for defecation, it was daylight. He further stated that when his son went for defecation, he was carrying water in a container. The occurrence took place when his son was proceeding for defecation. He further stated that his son was wearing slippers, a sandho baniyan and underwear. When he reached the place of occurrence after the incident, he did not find the water container, slippers or any such article belonging to the deceased lying there. He had seen the blood lying at the place of occurrence. Deependra was brought from the place of occurrence to the house and his dead body was kept on a cot. He did not remember whether blood had fallen on the cot or at the place where the cot was placed. He further stated that when the Investigating Officer arrived, he showed him both the place of occurrence and the place where the dead body had been kept. The Investigating Officer arrived within about 15 to 20 minutes of the occurrence. The Investigating Officer inspected the dead body, completed the necessary proceedings and inspected the place of occurrence. He also took samples from the place of occurrence and prepared the site plan. Thereafter, the dead body was taken to the police station. He, several villagers and family members accompanied the dead body. The report was lodged when he reached the police station along with the dead body. He remained with the dead body until the post-mortem examination was conducted and the body was handed over to him for the last rites. He had disclosed the name of his younger son Raja @ Bhupendra as an eye-witness of the occurrence and had also disclosed the name of his wife. If the name of his son was not mentioned in the report, he could not assign any reason therefor. He further stated that he had mentioned in his report that accused Ram Chandra Shukla was present at the place of occurrence and had exhorted the assailants and that he had also disclosed this fact to the Investigating Officer. If the said fact did not find place either in the report or in his statement under Section 161 Cr.P.C., he could not explain the reason therefor. He had mentioned in his report that two of the accused had proceeded towards the place of occurrence and that he had disclosed this fact to the Investigating Officer as well. If the said fact was not mentioned either in his statement under Section 161 Cr.P.C. or in his report, he could not assign any reason therefor. Ajay @ Sadhu and Shivanshu @ Akash had caught hold Deependra and the first shot was fired

by Rinku @ Ranvijay, while the second shot was fired by Raju Shukla. Both the shots caused injuries to his son. The two persons who had caught hold of Deependra had held him from both sides. When they had caught hold of him, both the assailants who fired the shots came in front of Deependra. Rinku @ Ranvijay fired at his son from a distance of about 3-4 feet, whereas Raju fired from a distance of about one foot. After firing these two shots, the accused persons fled from the place of occurrence. No third shot was fired. By the time they reached the place of occurrence, Deependra had already died at the spot. He did not remember whether the clothes of the deceased or the vessel allegedly carried by him for defecation were taken into possession by the Investigating Officer or not.

P.W. 2 Jagannath Shukla stated in his examination-in-chief that on 16.06.2019 at about 05:30 A.M., he was defecating at a place approximately ten metres away from his house. Upon hearing noise, he ran towards the spot and saw that Ranvijay and Raju encircled deceased Deepu @ Deependra, who was defecating. Thereafter, Ajay and Shivanshu caught hold of him from behind. Ram Chandra exhorted the assailants by saying, “Do not let him escape today, kill him.” When he ran towards the spot, Ranvijay and Raju brandished their firearms and threatened that if he came any closer, he too would be killed. Thereafter, Ranvijay fired at Deepu, causing an injury on his left hand. Raju then fired at the left side of the chest of Deepu @ Deependra from a distance of one step. Thereafter, both the accused fled away brandishing their firearms. Deepu fell down after sustaining firearm injuries. His brother Shiv Shankar, Ram Kishore, Ram Jatan, Shiv Nath Gupta and many other persons reached the spot. On the information given by Mahant Shukla, the police arrived at the spot, and called for to arrange a cot and laid the deceased thereupon. The police thereafter brought Deepu @ Deependra to the house. Subsequently, the inquest proceeding was conducted by the police. Thereafter, the dead body was taken to the police station where the FIR was lodged and from there the dead body was sent to the District Hospital for post-mortem.

In his cross-examination, P.W. 2 Jagannath Shukla further stated that neither he nor his brother Shiv Shankar had received any injury in the incident. He admitted that the Investigating Officer had correctly recorded in his statement under Section 161 Cr.P.C. that, “On 16.06.2019 at about 05:30 A.M., upon hearing noise, I came out of my house and proceeded towards the pond.” He further stated that the slippers of the deceased were lying at the place of

occurrence and he had seen them with his own eyes. He could not remember whether he had shown the slippers to the Investigating Officer or whether any recovery memo thereof had been prepared. After the occurrence, the deceased was transported by a pickup vehicle to the hospital and the police station. By that time, the police had already arrived. He denied the suggestion that he had not witnessed any occurrence or that he had not gone to the place of occurrence so that he was changing his version from time to time. He also denied the suggestion that he was falsely deposing because he was the real brother of the informant and had litigation and land disputes with the accused persons. He further denied the suggestion that the occurrence had taken place in some other manner. It is wrong that neither he nor Shiv Shankar were present at the place of occurrence and they had not seen the incident so, neither of them had sustained any injury. He could not remember whether he had submitted any application to the police during investigation. As far as he could remember, he, his brother Shiv Shankar and his nephew Bhupendra @ Raja had submitted affidavits during the course of investigation. When this witness was confronted with the affidavit dated 01.08.2019 available on record, he stated that he had submitted the said affidavit to the Investigating Officer during the course of investigation. He had submitted the affidavit because till that time the police had not made him a witness and he wanted to become a witness in the case. After the occurrence and before submission of the affidavit, the police had repeatedly met him and frequently remained present in the village and he had discussions with the police regarding the incident. When he reached the place of occurrence, Deependra had already sustained injuries and fallen down and no shot was fired thereafter. One shot had been fired by Rinku and the other by Raju. After firing, the accused persons fled towards the north while brandishing their firearms and threatening the witnesses. He had informed the Investigating Officer regarding the chasing of accused and extending threats. He had also informed the Investigating Officer that the accused had fired at Deependra while he was sitting for defecation. If those facts were not recorded in his statement, he could not assign any reason therefor. He denied the suggestion that Deependra had been murdered by unknown persons during the darkness of the night. He also denied the suggestion that he had not witnessed the occurrence or that he was not present at the place of occurrence. He further denied that he is giving false evidence on account of enmity.

P.W. 6 Inspector Beni Madhav Tripathi stated in his cross-examination that during inspection of the place of occurrence he did not find

blood, slippers of the deceased or any vessel allegedly carried by him for answering the nature call, because thousands of people had gathered at the place of occurrence so that such evidence could not be found. The dead body of the deceased was not found by him at the place of occurrence rather it was found lying at the informant's doorstep. The statement of witness Jagannath had not been recorded by him. Witness Shiv Shankar had not informed him in his statement under Section 161 Cr.P.C. that any quarrel or exchange of abuses between the deceased and the accused persons took place two days prior to the occurrence. Witness Shiv Shankar had not informed him that Rinku @ Ranvijay and Raju had come to the place of occurrence on a motorcycle. The statement of Shiv Shankar under Section 161 Cr.P.C. contained no mention of the presence of accused Ram Chandra at the place of occurrence.

P.W. 7 Inspector Shyam Sundar Pandey stated in his examination-in-chief that he prepared Parcha No. 16 dated 06.08.2019, wherein affidavits regarding the occurrence had been submitted by witnesses Jagannath Shukla, Bhupendra Shukla @ Raja, son of Shiv Shankar Shukla and Shiv Shankar Shukla. Copies thereof were entered into case diary and statements of Jagannath Shukla, Bhupendra Shukla @ Raja and Shiv Shankar Shukla were recorded, wherein they affirmed the contents of the affidavits and gave a detailed description of the occurrence as eye-witnesses, which was duly incorporated in the case diary. In his cross-examination, P.W. 7 stated that he recorded the statements of Shiv Shankar Shukla and Jagannath Shukla, who are real brothers, only after receiving their affidavits on 06.08.2019. He further stated that the witness had stated in his statement under Section 161 Cr.P.C. that “we ran to save him, but by that time the accused persons had fled away.” The witness had not stated that the accused persons had abused anyone. Nor had the witness stated that any accused had arrived at the place of occurrence on a motorcycle. He further stated that Shiv Shankar had informed him in his statement under Section 161 Cr.P.C. that on 15.06.2019, while he was brushing his teeth near the handpump, Deepu @ Deependra came there to take water for answering the nature call and he had advised him not to go towards the pond but towards the fodder field because of the incident that had occurred in the night. He further stated that there is no provision in law authorising the Investigating Officer to record statements on affidavit during investigation. He denied the suggestion that he had conducted a partisan investigation under the influence of the informant.

From the aforesaid evidence available on record, it is clear that nowhere in the written report (Exhibit Ka-1) the informant specifically stated that he was an eye-witness of the occurrence. The informant Shiv Shankar Shukla did not mention in the written report that P.W. 2 Jagannath Shukla or any other person was an eye-witness. In these circumstances, the statement of P.W. 1 Shiv Shankar Shukla in his cross-examination that he had shown himself to be an eye-witness in his report (Exhibit Ka-1) is incorrect. Likewise, P.W. 1 Shiv Shankar Shukla had not projected himself as an eye-witness in his statement under Section 161 Cr.P.C. Therefore, his statement in cross-examination that he had informed the Investigating Officer that he was an eye-witness and that if the said fact was not recorded in the police statement, he could not explain the reason, is also incorrect.

It is clear from the examination-in-chief of P.W. 1 Shiv Shankar Shukla that not only the informant himself but also his younger son Raja @ Bhupendra and his wife were eye-witnesses of the occurrence. This is evident from the statement of P.W. 1 Shiv Shankar Shukla that on 16.06.2019, in the morning at about 05:30 A.M., he and his two sons, namely Deependra @ Deepu and Raja @ Bhupendra, were standing near the handpump. He was brushing his teeth, while his wife and Raja @ Bhupendra were attending to the cattle. At that very time, when Deependra took water from the handpump and proceeded towards the pond to answer the nature call, he advised him not to go there. Despite that Deependra went towards the pond stating that women used to go towards fodder field. P.W. 1 informant Shiv Shankar Shukla specifically stated in his examination-in-chief that he, his wife and Raja @ Bhupendra saw Rinku @ Ranvijay and Raju proceeding on a motorcycle in the same direction. They then ran towards that side and witnessed that Ajay @ Sadhu and Shivanshu were holding Deependra's hand while Rinku @ Ranvijay fired at him and thereafter, on the exhortation of Ram Chandra, Raju fired at the chest of Deependra. Thus, it is clear that the informant claimed not only himself but also his younger son Raja @ Bhupendra and his wife to be eye-witnesses of the occurrence. However, nowhere in his examination-in-chief P.W. 1 Shiv Shankar Shukla stated that at about 05:30 A.M. on 16.06.2019, when he was standing near the handpump with his sons and wife, his elder brother Jagannath Shukla was also present there. P.W. 1 Shiv Shankar Shukla stated in his cross-examination that the house of his brother Jagannath Shukla was situated about 100 metres to the west of his house. He also stated that the house of Jagannath was about 100 metres from the place

of occurrence. P.W. 2 Jagannath Shukla similarly stated that the house of Shiv Shankar Shukla was situated in the middle of the village and was about 100 metres away from his house. He also stated that his house was about 100 metres away from the place of occurrence. The site plan Exhibit Ka-13 does not indicate either the distance of the informant's house from the place of occurrence or the distance of the house of Jagannath Shukla from the place of occurrence. Even if it is assumed that both houses were situated about 100 metres away from the place of occurrence, the question naturally arises as to under what circumstances P.W. 2 Jagannath Shukla was present either at the informant's house or at the place of occurrence at about 05:30 A.M. on 16.06.2019. P.W. 1 informant Shiv Shankar Shukla stated in his examination-in-chief that he, his elder brother Jagannath Shukla and his son Raja @ Bhupendra had witnessed the occurrence. His statement in his examination-in-chief that he, his wife and his younger son Raja @ Bhupendra ran towards the place of occurrence would ordinarily mean that the informant, his wife and his younger son were the eye-witnesses. However, later in the same examination-in-chief, he projected his elder brother Jagannath Shukla as an eye-witness and stated that his wife reached the place of occurrence along with other persons only after hearing the alarm. Thus, at one place in his examination-in-chief he projected his wife as an eye-witness, whereas at another place he did not describe her as an eye-witness but instead projected Jagannath Shukla as an eye-witness and stated that his wife and other persons reached the spot only after hearing the alarm.

P.W. 2 Jagannath Shukla, in his examination-in-chief, stated that on 16.06.2019 at about 05:30 A.M., he was sitting for defecation at a place about 10 meters away from his house. Upon hearing the alarm, he rushed towards the place of occurrence. In his cross-examination, P.W. 2 Jagannath Shukla stated that he had been residing in a house constructed by him at Mahuariya Bazar for about 10 years. A latrine had been constructed in the said house at Mahuariya where he resided and that his house was situated at a distance of about 100 meters from the place of occurrence. From the aforesaid statement of P.W. 2 Jagannath Shukla, it is clear that P.W. 2 Jagannath Shukla neither had any necessity to go outside for defecation at a place 10 meters away from his house nor was he present at the house of the informant or at the place of occurrence. In such circumstances, the statement made either by P.W. 2 Jagannath Shukla or by P.W. 1 informant Shiv Shankar Shukla that P.W. 2 Jagannath Shukla was an eye-witness of the occurrence naturally gives rise to reasonable doubt.

According to P.W. 1 informant Shiv Shankar Shukla, the occurrence took place swiftly. In such circumstances, if the case of P.W. 2 Jagannath Shukla is that he was sitting outside at a distance of about 10 meters from his house for defecation and rushed towards the place of occurrence upon hearing the alarm, it would mean that after completing the formalities of answering the nature call, he covered a distance of 90 meters and reached the place of occurrence. Similarly, if the case of P.W. 1 informant Shiv Shankar Shukla is that his wife reached at the place of occurrence upon hearing the alarm along with other persons, it would mean that she too reached at the place of occurrence after the occurrence. In these circumstances, neither the wife of P.W. 1 informant Shiv Shankar Shukla nor P.W. 2 Jagannath Shukla could be eye-witnesses of the occurrence, nor could the aforesaid two persons be in a position to state as to which accused had caught hold the deceased and who had fired the shot.

In the written report Exhibit Ka-1, no person has been stated to be an eye-witness of the occurrence. P.W. 1 informant Shiv Shankar Shukla, in his statement under Section 161 Cr.P.C., also did not state any person to be an eye-witness of the occurrence. In such circumstances, if during the course of investigation, the Investigating Officer had come to know that informant Shiv Shankar Shukla, the younger son of the informant Raja @ Bhupendra, the elder brother of the informant P.W. 2 Jagannath Shukla, the wife of the informant or any other person of the village was an eye-witness of the occurrence, it was natural that the Investigating Officer would have recorded the statements of such eye-witnesses immediately after the occurrence. P.W. 2 Jagannath Shukla, in his cross-examination, stated that he remembered that he, his brother Shiv Shankar Shukla and his nephew Bhupendra @ Raja had submitted affidavits during the course of investigation in relation to the present occurrence. Upon being confronted with his affidavit dated 01.08.2019 available on record, this witness admitted that he had submitted the said affidavit to the Investigating Officer during the course of investigation. This witness further stated that the affidavit was submitted because till that time the police had not made him a witness. He wanted to become a witness. He further stated that after the occurrence and before submitting the affidavit, the police personnel kept meeting him regularly and mostly stayed in the village and during that period he used to discuss the occurrence with the police personnel. Similarly, P.W. 7 Inspector Shyam Sundar Pandey, in his examination-in-chief, also stated that witnesses Jagannath Shukla, Bhupendra Shukla @ Raja and Shiv Shankar Shukla had submitted affidavits in

relation to the occurrence. Copies thereof were recorded in case diary and the statements of witnesses Jagannath Shukla, Bhupendra Shukla @ Raja and Shiv Shankar Shukla were recorded, wherein they affirmed the contents of the affidavits and gave a detailed description of the occurrence as eye-witnesses, which was duly incorporated in the case diary. This witness further stated that he recorded the statements of witnesses Shiv Shankar Shukla and Jagannath Shukla, who are real brothers, on 06.08.2019 after receipt of their affidavits.

From the aforesaid evidence, it is amply clear that about 45 days after the occurrence, which had taken place at about 05:30 A.M. on 16.06.2019, P.W. 1 informant Shiv Shankar Shukla, P.W. 2 Jagannath Shukla and the younger son of the informant Bhupendra Shukla @ Raja, for the first time, submitted affidavits before the Investigating Officer claiming themselves to be eye-witnesses of the occurrence and five days thereafter, i.e., about 50 days after the occurrence, when the statements of the informant and his brother Jagannath Shukla under Section 161 Cr.P.C. were recorded by the Investigating Officer, both the aforesaid witnesses narrated the occurrence as eye-witnesses. At this stage, a natural question arises that if P.W. 1 informant Shiv Shankar Shukla and P.W. 2 Jagannath Shukla were eye-witnesses of the occurrence and had actually seen the occurrence, then why, while submitting the written report at the police station after the occurrence or in their first statements given to the Investigating Officer after the occurrence, they did not declare themselves to be eye-witnesses and what was the compulsion that after 45 days of the occurrence they had to project themselves as eye-witnesses through affidavits and that five days after submission of the affidavits, i.e., about 50 days after the occurrence, the Investigating Officer had to record their statements as eye-witnesses. This indicates that in fact neither P.W. 1 informant Shiv Shankar Shukla nor P.W. 2 Jagannath Shukla were eye-witnesses of the occurrence. This is the reason why the Investigating Officer did not record the statement of any eye-witness till 45 days after the occurrence and only after P.W. 1 informant Shiv Shankar Shukla and P.W. 2 Jagannath Shukla submitted affidavits after 45 days of the occurrence the version of the occurrence emerged in the shape of statements of eye-witnesses.

In the written report (Exhibit Ka-1), it is nowhere mentioned that on 16.06.2019 at about 05:30 A.M., the informant, his two sons Deependra @ Deepu (deceased) and Raja @ Bhupendra, were standing near the handpump and the informant was brushing his teeth while his wife and Raja @ Bhupendra

were attending the cattle. Even in the statement of P.W. 1 informant Shiv Shankar Shukla recorded by the police on the next day of the occurrence, i.e., on 17.06.2019, he did not state anywhere that he was standing near the handpump at about 05:30 A.M. on the day of occurrence along with his two sons and his wife. P.W. 1 informant Shiv Shankar Shukla, for the first time, mentioned his presence along with two sons near the handpump at about 05:30 A.M. on 16.06.2019 in his statement dated 06.08.2019 recorded by the police after submission of his affidavit dated 01.08.2019. P.W. 1 informant Shiv Shankar Shukla for the first time in his examination-in-chief mentioned the presence of his wife along with his two sons near hand pump at about 05.30 AM on 16.06.2019. Likewise, neither in his written report nor in the statement given to the police on the day following the occurrence P.W. 1 informant Shiv Shankar Shukla stated that when Deependra @ Deepu took water from the handpump and started proceeding towards the pond for answering the nature call, he cautioned him and told him not to go towards the pond but to go towards the fodder field in front of the house, then Deependra replied that women used to go there and proceeded towards the pond. The aforesaid statement was also made by P.W. 1 informant Shiv Shankar Shukla only in his statement dated 06.08.2019 recorded by the police after submission of his affidavit. Further, P.W. 1 informant Shiv Shankar Shukla stated in his examination-in-chief that when Deependra took water from the handpump and started proceeding towards the pond, he cautioned him not to go towards the pond but to go towards the fodder field in front of the house, whereupon Deependra replied that women used to go there and proceeded towards the pond, whereas in his cross-examination P.W. 1 informant Shiv Shankar Shukla stated that on the date of occurrence he had restrained Deependra from going towards the side where women used to go for answering the nature call. Neither in the written report Exhibit Ka-1, nor in the statement given to the police on the next day of the occurrence, nor in his statement dated 06.08.2019 recorded by the police after submission of affidavit dated 01.08.2019, the informant had stated anywhere that at the time when he was present near the handpump at about 05:30 A.M. on the date of occurrence along with his two sons and his wife, his elder brother Jagannath Shukla (P.W. 2) was also present there.

In the written report Exhibit Ka-1, P.W. 1 informant Shiv Shankar Shukla nowhere stated that on 16.06.2019 at about 05:30 A.M., when he was present near the handpump along with his wife and two sons and his son

Deependra took water from the handpump and proceeded towards the pond, he saw that Rinku @ Ranvijay and Raju were also proceeding on a motorcycle towards the same direction in which his son had gone. The written report Exhibit Ka-1 mentions that when Deependra @ Deepu had gone towards the pond situated to the north of the village for defecation, Rinku @ Ranvijay Shukla, Raju Shukla, Ajay @ Sadhu Shukla and Shivanshu Shukla came there. There is no mention anywhere in the written report that any of the accused reached at the place of occurrence on a motorcycle. Even in the statement given before the police on the next day of the occurrence, the informant did not state that he had seen Rinku @ Ranvijay and Raju proceeding on a motorcycle towards the direction in which his son had gone. P.W. 6 Inspector Beni Madhav Tripathi stated in his cross-examination that witness Shiv Shankar had not told him in his statement under Section 161 Cr.P.C. that Rinku @ Ranvijay and Raju had come to the place of occurrence on a motorcycle. It was for the first time in the affidavit submitted 45 days after the occurrence and thereafter in the statement given before the police on 06.08.2019 that the informant stated not only that on 16.06.2019 at about 05:30 A.M. he was present near the handpump along with his wife and two sons, but also that when his son proceeded towards the place of occurrence after taking water from the handpump, he saw Rinku @ Ranvijay and Raju proceeding on a motorcycle towards the same direction in which his son had gone. P.W. 2 Jagannath Shukla nowhere stated either in his examination-in-chief or in his cross-examination that he had seen Rinku @ Ranvijay and Raju proceeding towards the place of occurrence on a motorcycle. Even if, for the sake of discussion, the statement of P.W. 1 informant Shiv Shankar Shukla that Rinku @ Ranvijay and Raju had reached the place of occurrence on a motorcycle is accepted, he nowhere stated that after the occurrence Rinku @ Ranvijay and Raju had fled away on the motorcycle. The route by which the accused fled from the place of occurrence, which is shown in the site plan Exhibit Ka-13 clearly shows that the accused had fled through the sugarcane field. In such circumstances, the question of the accused fleeing on a motorcycle does not arise. If Rinku @ Ranvijay and Raju had reached the place of occurrence on a motorcycle and after committing the occurrence they fled on foot, the motorcycle ought to have been found at the place of occurrence but there is no evidence on record showing that any motorcycle was found lying at the place of occurrence. No recovery memo of any motorcycle was prepared by the Investigating Officer, nor was any evidence collected to establish that any

motorcycle was present at the place of occurrence. This clearly shows that the statement given by P.W. 1 informant Shiv Shankar Shukla about 50 days after the occurrence that he had seen Rinku @ Ranvijay and Raju proceeding on a motorcycle towards the direction in which his son had gone was made much later with a view to portray the occurrence in the manner perceived by him.

P.W. 1 informant Shiv Shankar Shukla stated in his cross-examination that the occurrence took place when his son was proceeding for defecation. This means that the occurrence had taken place while the informant's son was on his way towards the pond for defecation. P.W. 2 Jagannath Shukla, in his examination-in-chief, stated that he saw that Ranvijay, Raju and others had surrounded deceased Deepu @ Deependra while he was sitting for defecation and thereafter Ajay and Shivanshu caught hold of him from behind. The statement of P.W. 2 Jagannath Shukla does not tally with the statement of P.W. 1 informant Shiv Shankar Shukla. According to P.W. 1, the occurrence took place while Deependra was proceeding for defecation, whereas according to P.W. 2 Jagannath Shukla, the occurrence commenced after deceased Deependra @ Deepu had already sat down for defecation. If P.W. 2 Jagannath Shukla and P.W. 1 informant Shiv Shankar Shukla had actually witnessed the occurrence, there would have been no occasion for any discrepancy as to whether the occurrence took place while the deceased was on his way to answer the nature call or after he had sat down for the same. As per the written report Exhibit Ka-1, the place of occurrence is the pond situated to the north of the village. According to the examination-in-chief of P.W. 1 informant Shiv Shankar Shukla, the place of occurrence is a place on the way towards the pond, where Ajay @ Sadhu and Shivanshu first caught hold of deceased Deependra. According to P.W. 2 Jagannath Shukla, the place of occurrence is the place where Deependra had sat for defecation.

P.W. 1 informant Shiv Shankar Shukla stated in his cross-examination that when his son had gone for defecation, he had taken water in a container. This witness also stated that his son was wearing slippers. It has been alleged that two gunshots were fired at Deependra @ Deepu. One gunshot hit his chest and the other hit his left wrist. Deependra @ Deepu died at the place of occurrence. In such circumstances, it was natural that the container taken for defecation, the slippers of the deceased and blood would have been found at the place of occurrence. P.W. 1 informant Shiv Shankar Shukla stated in his cross-examination that blood was lying at the place of occurrence and that he had seen

the same. He further stated that when the Investigating Officer arrived, he showed him the place of occurrence and the place where the dead body had been kept. The Investigating Officer arrived within fifteen to twenty minutes to half an hour of the occurrence. He inspected the dead body, made enquiries, inspected the place of occurrence, took samples from the place of occurrence and prepared the site plan. P.W. 2 Jagannath Shukla stated that the slippers of the deceased were lying at the place of occurrence and he had seen them with his own eyes. Now, if slippers and blood were lying at the place of occurrence and the same had been shown to the Investigating Officer, there could have been no reason for not preparing a recovery memo of the blood-stained soil, plain soil and the slippers. P.W. 6 Inspector Beni Madhav Tripathi clearly stated in his cross-examination that at the time of inspection of the place of occurrence he did not find any blood of the deceased, slippers of the deceased or any container taken for defecation. Even from the site plan Exhibit Ka-13, it is clear that no place has been shown where blood was lying or where any slippers or container for defecation was found. P.W. 6 Inspector Beni Madhav Tripathi explained the non-availability of blood, slippers and container at the place of occurrence by stating that a crowd of thousands had gathered there, due to which no such evidence could be found. The aforesaid explanation of P.W. 6 Inspector Beni Madhav Tripathi cannot be accepted because P.W. 1 informant Shiv Shankar Shukla clearly stated that the Investigating Officer had arrived within fifteen to twenty minutes to half an hour of the occurrence. P.W. 6 Inspector Beni Madhav Tripathi further stated that the dead body of the deceased was not found by him at the place of occurrence; rather, it was found at the doorstep of the informant's house. This means that the dead body had already been brought from the place of occurrence to the doorstep before the arrival of the police. In such circumstances, there could be no reason for a crowd to have gathered at the place of occurrence when P.W. 6 Inspector Beni Madhav Tripathi reached there, nor could there be any reason for disappearance of evidence from the place of occurrence. In such circumstances, the explanation given by P.W. 6 Beni Madhav Tripathi that blood, slippers and the container taken for defecation were not found because thousands of people had gathered at the place of occurrence, cannot be accepted. The non-recovery of blood of the deceased, the slippers of the deceased and the container taken for defecation casts doubt upon the place of occurrence itself. Further, both P.W. 1 informant Shiv Shankar Shukla and P.W. 2 Jagannath Shukla had reached the place of occurrence. In such

circumstances, if any article belonging to the deceased had been found at the place of occurrence, the same would certainly have been mentioned by these eye-witnesses. P.W. 1 informant Shiv Shankar Shukla stated in his cross-examination that when he reached the place of occurrence, he did not see any water container, slippers of the deceased or any such article lying there. Contrary to this, P.W. 2 Jagannath Shukla stated that the slippers of the deceased were lying at the place of occurrence and that he had seen them with his own eyes. Thus, there is a contradiction between the statements of P.W. 1 informant Shiv Shankar Shukla and P.W. 2 Jagannath Shukla regarding the presence of the slippers of the deceased at the place of occurrence. Further, if P.W. 2 Jagannath Shukla had actually seen the slippers of the deceased at the place of occurrence, there is no reason why he would have not shown them to the Investigating Officer or why the Investigating Officer himself would have not seen them. P.W. 1 informant Shiv Shankar Shukla also stated in his cross-examination that the Investigating Officer had taken samples from the place of occurrence. However, there is no evidence on record showing that any article belonging to the deceased or any blood of the deceased was recovered from the place of occurrence or the Investigating Officer had taken any sample of blood-stained soil or plain soil therefrom. In these circumstances, where no recovery connected with the deceased has been made from the place of occurrence and where there are contradictions in the statements of P.W. 1 informant Shiv Shankar Shukla and P.W. 2 Jagannath Shukla regarding the place where the occurrence took place, even the fact that the occurrence took place at the place of occurrence projected by the prosecution comes under a cloud of doubt.

P.W.-1 informant Shiv Shankar Shukla, in his cross-examination, stated that the relations between accused Rinku @ Ranvijay and Ajay @ Sadhu were not cordial. There was neither social interaction nor visiting terms between the two families. There existed animosity between them. P.W.-2 Jagannath Shukla, in his cross-examination, stated that accused Rinku @ Ranvijay and Ajay @ Sadhu used to maintain social interaction and visiting terms with each other. He further stated that it is wrong to say that there was no social interaction or visiting terms between Rinku @ Ranvijay and Ajay @ Sadhu. Thus, it is clear that there is a contradiction in the statements of P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla regarding the fact that whether accused Rinku @ Ranvijay and Ajay @ Sadhu shared inimical relations or cordial relations with each other. If the statement of P.W.-1 informant Shiv Shankar Shukla is

believed and it is accepted that accused Ajay @ Sadhu had inimical relations with accused Rinku @ Ranvijay and that there was no interaction between the two families, then there appears to be no reason why accused Ajay @ Sadhu would support accused Rinku @ Ranvijay in the present incident. Further, it has already been clarified that accused Rinku @ Ranvijay and Ajay @ Sadhu belonged to the branch of the family which had benefited from the transfer of land by their grandfather Ram Milan Shukla in their favour. Therefore, they had no reason to cause any harm to P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, who had not received any share in the property of the said Ram Milan Shukla.

Nowhere in the written report Exhibit Ka-1, it has been mentioned that accused Ramchandra Shukla was present at the place of occurrence. The only statement made in the written report Exhibit Ka-1 is that the conspiracy of the murder of the informant's son had been hatched by Ramchandra Shukla. There is no allegation in the written report Exhibit Ka-1 that accused Ramchandra Shukla had exhorted the assailants. Even in the statement given before the police on the next day of the incident, P.W.-1 informant Shiv Shankar Shukla did not mention the presence of accused Ramchandra Shukla at the place of occurrence. P.W.-6 Inspector Beni Madhav Tripathi also confirmed this fact in his cross-examination and stated that the statement of Shiv Shankar recorded under Section 161 Cr.P.C. did not contain any reference to the presence of accused Ramchandra at the place of occurrence. It was only in the affidavit dated 01.08.2019 submitted before the police about 45 days after the incident and in the statement dated 06.08.2019 given before the police that P.W.-1 informant Shiv Shankar Shukla stated for the first time that accused Ramchandra Shukla was present at the place of occurrence and had exhorted by saying that kill him, then, Raju Shukla fired at his chest, as a result of which Deependra fell down at the spot. Likewise, P.W.-2 Jagannath Shukla also stated for the first time in his affidavit dated 01.08.2019 and in the statement given before the police on 06.08.2019 after submission of the affidavit that Ramchandra had exhorted by saying, "Do not let him escape today, kill the bastard." It is also noteworthy that there is a contradiction between the statements of P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla even regarding the exact words allegedly uttered by accused Ramchandra Shukla at the place of occurrence. P.W.-1 informant Shiv Shankar Shukla stated that accused Ramchandra Shukla had said, "Kill him," whereas P.W.-2 Jagannath Shukla stated that accused

Ramchandra Shukla had exhorted, “Do not let him escape today, kill the bastard.” In view of the absence of any mention of accused Ramchandra Shukla's presence at the place of occurrence in the written report Exhibit Ka-1 as well as in the statement of P.W.-1 informant Shiv Shankar Shukla recorded under Section 161 Cr.P.C. on the day following the incident; the fact that the allegation regarding his presence and exhortation at the place of occurrence surfaced for the first time only in the affidavit submitted about 45 days after the incident and in the statement given before the police about 50 days after the incident; and the contradiction between the statements of P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla regarding the manner of such alleged exhortation, the statement made by P.W.-1 informant Shiv Shankar Shukla in his cross-examination that he had mentioned these facts in his report and had also got them recorded before the Investigating Officer stands completely falsified. The presence of accused Ramchandra Shukla at the place of occurrence thus comes under a cloud of suspicion and it appears that after considerable deliberation and after a substantial lapse of time from the date of incident, an attempt was made to introduce accused Ramchandra Shukla as an eye-witness to the occurrence.

Neither in the written report Exhibit Ka-1, nor in the statement of P.W.-1 informant Shiv Shankar Shukla given before the police on the next day of the incident, nor in the statement given by him before the police 50 days after the incident, nor even in the statement given by him before the Court, is there any mention that when accused Ramchandra Shukla exhorted the assailants, any person stepped forward to save the deceased and was threatened by any of the accused that if he came near, he too would be killed. P.W.-2 Jagannath Shukla, for the first time in his examination-in-chief, stated that Ramchandra exhorted by saying, “Do not let him escape today, kill the bastard.” He further stated that when he ran towards the spot, Ranvijay and Raju, while brandishing firearms, said that if he came near, they would kill him as well. If the aforesaid statement of P.W.-2 Jagannath Shukla is accepted as correct, it would mean that accused Ranvijay and Raju threatened P.W.-2 Jagannath Shukla in the presence of P.W.-1 informant Shiv Shankar Shukla, who, according to P.W.-2 Jagannath Shukla, was accompanying him at that very time. Despite this, P.W.-1 informant Shiv Shankar Shukla made no attempt whatsoever to save his son at the place of occurrence. This conduct of P.W. 1 Shiv Shankar Shukla appears wholly unnatural. In any circumstance, a father would risk even his own life to save his child. If P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla

were actually present at the spot, they would certainly have made every possible effort to save the deceased, particularly P.W.-1 informant Shiv Shankar Shukla would have made every effort to save his son, deceased Deependra @ Deepu. In such an attempt, it would be natural for them to sustain injuries. However, in the present case, there is no evidence to show that either P.W.-1 informant Shiv Shankar Shukla or P.W.-2 Jagannath Shukla sustained any injury at the place of occurrence. Apart from this, the aforesaid statement of P.W.-2 Jagannath Shukla that Ranvijay and Raju threatened him while brandishing firearms is not corroborated by any other evidence, which indicates that the said statement was made by P.W.-2 Jagannath Shukla only with the object of projecting himself as an eye-witness of the occurrence at the stage of evidence.

The written report Exhibit Ka-1 does not disclose the name of any independent person who had witnessed the occurrence. P.W.-1 informant Shiv Shankar Shukla stated in his examination-in-chief that, upon hearing the alarm, his wife and several other persons also reached the spot but P.W.-1 informant Shiv Shankar Shukla did not disclose the name of any of those other persons. P.W.-2 Jagannath Shukla, in his examination-in-chief, stated that his brothers Shiv Shankar, Ram Kumar, Ram Jatan, Shivnath Gupta and many other persons had reached the spot along with him. If P.W.-2 Jagannath Shukla was an eye-witness of the occurrence, it is natural that Ram Kumar, Ram Jatan and Shivnath Gupta, who reached the spot along with him, were also the eye-witnesses of the occurrence. No such independent witness has been examined by the prosecution in the present case. When several material contradictions emerge from the testimonies of P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, it was incumbent upon the prosecution to produce independent eye-witness of the occurrence before the Court. P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla are real brothers. Further, owing to their not having received any share in the ancestral property, they also bore animosity towards the accused persons. In such circumstances, both these witnesses are liable to be treated as related and interested witnesses. Where the testimonies of such related and interested witnesses suffer from material contradictions regarding various aspects of the occurrence, the failure of the prosecution to examine any independent eye-witness despite the availability of such witnesses certainly affects the prosecution case adversely.

P.W.-2 Jagannath Shukla stated in his cross-examination that by the time he reached the place of occurrence, Deependra had already sustained

injuries and had fallen down. No shot was fired thereafter. The aforesaid statement of P.W.-2 Jagannath Shukla makes it clear that when he reached the place of occurrence, he saw Deependra after he had already sustained injuries and fallen down. In such circumstances, P.W.-2 Jagannath Shukla could not be in a position to state that he had seen accused Rinku @ Ranvijay or Raju firing shots. Since P.W.-2 Jagannath Shukla reached the place of occurrence only after Deependra had sustained injuries and fallen down and no firing took place in such situation, neither he could have seen any person firing at the deceased, nor he could have attempted to intervene and save the deceased before the firing took place, nor could he have been threatened by the accused persons in that regard.

P.W.-1 informant Shiv Shankar Shukla stated in his cross-examination that when the Investigating Officer arrived, he was shown the place of occurrence as well as the place where the dead body had been kept. The Investigating Officer arrived within fifteen to twenty minutes, or at the most within half an hour, of the occurrence. He further stated that after inspecting the dead body, the Investigating Officer carried out the necessary writing work. The aforesaid statement of P.W.-1 informant Shiv Shankar Shukla makes it clear that by the time the Investigating Officer arrived, the dead body had already been brought from the place of occurrence and placed on a cot and the police arrived only thereafter. Contrary to this, P.W.-2 Jagannath Shukla stated in his examination-in-chief that the police arrived at the spot upon receiving information from Mahesh Shukla of the village, thereafter, the police arranged a cot and laid the deceased upon it. According to him, Deepu @ Deependra was brought to the doorstep along with the police. It is thus evident that there is a contradiction between the statements of P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla on the question whether the police were present when the dead body was brought from the place of occurrence to the house of the deceased. According to P.W.-1 informant Shiv Shankar Shukla, the dead body had already been brought from the place of occurrence to the doorstep of the deceased's house before the arrival of the police whereas according to P.W.-2 Jagannath Shukla, the dead body of deceased Deependra @ Deepu was brought from the place of occurrence to the doorstep on a cot after the arrival of the police. The inquest report Exhibit Ka-6 clearly shows that at the time of inquest, the dead body was lying on a cot near the doorstep of the house.

P.W.-2 Jagannath Shukla stated in his cross-examination that he had no son and had only two daughters, namely Suman and Kusum. Since he had no son, both his daughters, Suman and Kusum, resides with him at his house. However, at another place in his cross-examination, P.W.-2 Jagannath Shukla stated that Dheeraj Pandey is the son of his daughter Khushboo Pandey. Dheeraj Pandey and Khushboo Pandey did not reside with him but lived in their own house situated at Village Chandapur, Police Station Bhati, District Ambedkar Nagar. His another daughter is Suman, who also resides in her own house and visited him from time to time. He further stated that it is wrong to say that both his daughters, Khushboo and Suman, resides with him and he was therefore unable to disclose his daughter's address correctly. The aforesaid contradictory statements made by P.W.-2 Jagannath Shukla in his cross-examination clearly show that although he admitted having two daughters but he disclosed the name of one of his daughters differently at two different places. While at one place he stated her name to be Kusum, at another place he referred to the same daughter as Khushboo Pandey. Again, at one place he stated that both his daughters resided with him because he had no son while at another place, he stated that it is wrong to say that both his daughters, Khushboo and Suman, resides with him. He went on to clarify that Dheeraj Pandey is the son of his daughter Khushboo Pandey and both Dheeraj Pandey and Khushboo Pandey lived separately in their own house, and his other daughter Suman also lived in her own house. Such contradictory statements concerning members of his own family weaken the credibility of the testimony of P.W.-2 Jagannath Shukla.

P.W.-1 informant Shiv Shankar Shukla stated in his examination-in-chief that he is one of four brothers. Jagannath Shukla is the eldest, followed by Krishna Kumar Shukla, Ram Chandra Shukla and he himself is the youngest. He had a land dispute with the families of Krishna Kumar and Ram Chandra, in respect whereof a civil suit is pending. Due to the said land dispute, he had disputes with Rinku @ Ranvijay and Ajay @ Sadhu. He had two sons, the elder one is Deependra @ Deepu and the younger is Bhupendra @ Raja. His elder son Deependra @ Deepu was employed in a private factory at Gurgaon and was maintaining the family. His marriage was solemnized on 29.05.2019. He came home on 25.05.2019 in connection with the marriage and remained in the village thereafter. On 14.06.2019, Deependra had gone to meet his sister Komal Pandey and on the same evening had gone to the house of his elder uncle

Jagannath Shukla. When Deependra was returning home after meeting Jagannath Shukla at night, Shivanshu Shukla was standing on the road and when Deependra @ Deepu asked Shivanshu to move aside, Shivanshu Shukla started abusing him in filthy language. When Deependra objected to the abuses, his elder brother Jagannath Shukla also arrived there. His elder brother telephoned him and informed him that Shivanshu Shukla was abusing Deependra and threatening to assault him. Thereupon, he reached the spot along with his son Raja @ Bhupendra, intervened in the matter and brought Deependra back home. P.W.-1 informant Shiv Shankar Shukla further stated that in the night of 15.06.2019, after dinner, he and his son Deependra @ Deepu had gone to the field where a paddy nursery had been sown. Raju Shukla was standing near the field. After noticing the informant and his son, Raju Shukla questioned Deependra as to how he had dared to quarrel with Shivanshu then his son Deependra replied that he had merely asked Shivanshu Shukla to move aside from the middle of the road and Shivanshu had started abusing him in filthy language. Upon this, Raju Shukla began abusing and assaulting Deependra. He intervened and separated them. Raju then threatened that you would not remain alive. In the meantime, someone informed Dial 100 and the police arrived. The police pacified both sides and directed them to come to the police outpost on the next day. In his cross-examination, P.W.-1 informant Shiv Shankar Shukla stated that all his brothers lived separately. They are four real brothers, all of them are alive. The eldest was Jagannath, followed by Krishna Kumar, accused Ram Chandra and lastly, he himself. The houses, agricultural holdings and establishments of all four brothers were separate and had been so for about 28-30 years. His father, Sri Ram Milan, had died about one and a half years earlier. During the lifetime of his father, his father used to reside with all his sons. However, for most of the time, he used to reside with accused Ram Chandra and Ajay @ Sadhu son of Krishna Kumar. During his lifetime, his father had executed sale deeds in favour of accused Ajay @ Sadhu and Rinku @ Ranvijay in respect of certain valuable ancestral lands. He then clarified that it was not merely some land; rather, his father had transferred his entire landholding in their favour by way of sale deeds. Neither he nor his elder brother Jagannath received any share in the ancestral property. Jagannath is a witness in the present case and is deposing in his favour. After his father had executed sale deeds in favour of the accused persons, he had instituted a civil suit in order to protect the remaining land. However, when his father again executed sale deeds in respect of that

remaining land in favour of those persons, he stopped pursuing the said civil suit. He further stated that his father and others had never appeared before the Court in the said civil suit, nor had either of them filed any written statement. His brother accused Ram Chandra is about three years older than him. The house of accused Ram Chandra is situated about 100 to 125 meters away from his house towards the south-west. The house of Krishna Kumar is adjoining to his house on the southern side. The house of his brother Jagannath is situated about 100 meters to the west of his house. Ajay @ Sadhu and his father resided in separate houses. Both lived separately. The relations between accused Rinku @ Ranvijay and Ajay @ Sadhu are not cordial. There is no exchange of visits or meals between the two families and there is animosity between them. The house of accused Sadhu is situated about 150 meters to the north of his house in Village Hariharpur. One day prior to the occurrence and then correcting himself by saying two days prior to the occurrence, there had been an altercation and exchange of abuses took place between Deependra @ Deepu and Shivanshu Shukla. He mentioned this fact in his report Exhibit Ka-1. He had also disclosed this fact to the Investigating Officer in his statement. If the same was not recorded either in Exhibit Ka-1 or in the statement recorded by the Investigating Officer, he could not assign any reason therefor.

P.W.-1 informant Shiv Shankar Shukla also stated in his cross-examination that about one year prior to the present occurrence, accused Rinku @ Ranvijay had lodged a case under Section 308 IPC against Deependra and Deependra died during the course of investigation of that case.

P.W.-2 Jagannath Shukla stated in his examination-in-chief that he is one of four brothers. He is the eldest, Krishna Kumar is younger to him, Ram Chandra is younger than Krishna Kumar and Shiv Shankar is the youngest. Deceased Deependra was the son of his youngest brother Shiv Shankar. Accused Rinku @ Ranvijay is son of Ram Chandra. One day prior to the occurrence, i.e., on 15.06.2019 at about 5:00 p.m., Deepu @ Deependra @ Bhupendra and Shivanshu, grandson of Ram Chandra, had a verbal altercation regarding a land dispute at a pan kiosk situated on the road in front of his house. In the altercation Shivanshu threatened that he would shoot him dead. P.W.-2 Jagannath Shukla stated in his cross-examination that he is one of the four real brothers and is the eldest among them. All four brothers had separate houses and all lived separately. There exists a land dispute amongst all four brothers. Ajay @ Sadhu had built his house by the roadside at a distance of about 500 Meters from the

village. There is no speaking terms with one another amongst the four brothers. All four had separate houses. There were no hamlets in Village Sisauda. His village is known by the name of Village Sisauda. His father had died about two years ago. During his lifetime, his father had executed sale deeds in favour of accused Rinku @ Ranvijay and Ajay. His father used to live with those persons. Against those sale deeds, he and his brothers Shiv Shankar and Krishna Kumar had jointly instituted a civil suit. The said suit was being pursued by Shiv Shankar and Krishna Kumar. They could not obtain any information regarding the mutation proceedings based on the sale deeds thus they did not file any objection thereto. All the brothers felt aggrieved that the accused persons alone had obtained their father's land. Owing to this land dispute, they bore animosity towards the accused persons. He is one of the four real brothers, namely Jagannath, Krishna Kumar, Ram Chandra and Shiv Shankar. His father's name was Ram Milan and his mother's name was Urmila Devi. His mother had died prior to the death of his father. He had no son and only two daughters, Kusum and Suman. Since he had no son, both his daughters Kusum and Suman used to reside with him. It is true that his father Ram Milan had executed sale deeds in respect of all his land in favour of Ajay son of Krishna Kumar and accused Rinku @ Ranvijay son of Ram Chandra. No litigation concerning the land is pending between him or Shiv Shankar on one side and Ajay Kumar or accused Rinku @ Ranvijay on the other. Since neither he nor Shiv Shankar had received any share in the ancestral property, his enmity with Ajay Kumar son of Krishna Kumar and accused Rinku @ Ranvijay and others had existed prior to the occurrence. The four brothers had been living separately for about 25 years prior to the occurrence. When his father had first executed a sale deed in favour of the accused persons, he and his brother Shiv Shankar instituted a suit to save the remaining land. Even thereafter, his father again executed sale deeds in favour of the accused persons. Thereupon, he and Shiv Shankar stopped pursuing the suit. The said suit was a civil case. Neither he nor his brother appeared therein or took any steps in the proceedings. He further stated that the house of accused Ram Chandra is situated 20-25 meters towards south of his house. The houses of Krishna Kumar and Shiv Shankar are situated in the middle of the village at a distance of about 100 meters from his house. There was exchange of visits and meals between accused Rinku @ Ranvijay and Ajay @ Sadhu. There was also exchange of visits and meals between him and Shiv Shankar. It is wrong to say that there is no exchange of visits and meals between Rinku @ Ranvijay and Ajay

@ Sadhu. It is also wrong to say that there is exchange of visits and meals between him and informant Shiv Shankar so that he had come to depose falsely on his behalf. He had been residing for about ten years in a house constructed by him at Mahuaria Bazaar. There is a rice mill where he resides and he carried on his occupation from that place. There is a latrine in his house situated in Mahuaria. The place of occurrence is about 10 meters from the place where he resided at Mahuaria. It is true that the Investigating Officer had not shown his house in the site plan near the alleged place of occurrence. His house is situated about 100 meters from the place of occurrence. It is wrong to say that his house is not 100 meters away but rather about 3 kilometers away from the place of occurrence. He gave his statement to the Investigating Officer that on 14.06.2019, his nephew Deependra @ Deepu son of Shiv Shankar Shukla had been stopped and abused by Shivanshu Shukla son of Pintu Shukla. He also reached at the spot and telephonically called his brother Shiv Shankar Shukla, who came there along with his son Raja @ Bhupendra and intervened. He admitted that neither he nor his brother Shiv Shankar had lodged any report at the police station or informed any senior police officer regarding the incident dated 14.06.2019. He denied the suggestion that no such incident had occurred prior to the present occurrence so he is telling different dates of the alleged previous incident in his statements. He also denied the suggestion that no such prior incident had taken place so neither he nor his brother Shiv Shankar had lodged any report or submitted any application to the police in that regard.

The aforesaid evidence available on record clearly establishes that Ram Milan Shukla had four sons in all, namely, Jagannath Shukla (P.W.-2), who was the eldest, followed by Krishna Kumar Shukla, then Ram Chandra Shukla (accused) and the youngest Shiv Shankar Shukla (informant/P.W.-1). Accused Rinku @ Ranvijay Shukla and Raju Shukla are the sons of accused Ram Chandra Shukla, while Shivanshu Shukla is the grandson of accused Ram Chandra Shukla. Accused Ajay @ Sadhu Shukla is the son of Krishna Kumar Shukla. Ram Milan Shukla initially transferred a part of his property in favour of Ajay @ Sadhu Shukla (accused) son of his second son Krishna Kumar Shukla and Rinku @ Ranvijay Shukla (accused) son of his third son accused Ram Chandra Shukla. Ram Milan Shukla used to reside with his second son Krishna Kumar Shukla and third son Ram Chandra Shukla. Ram Chandra Shukla did not transfer any part of his property in favour of his other two sons, namely, Jagannath Shukla (P.W.-2) and Shiv Shankar Shukla (informant/P.W.-1). When Ram Milan

Shukla transferred a part of his property in favour of Ajay @ Sadhu Shukla (accused) and Rinku @ Ranvijay Shukla (accused), Jagannath Shukla (P.W.-2) and informant Shiv Shankar Shukla (P.W.-1) instituted a civil suit with intent to restrain their father from alienating the remaining property. During the pendency of the said civil suit, Ram Milan Shukla transferred his remaining property in favour of Ajay @ Sadhu Shukla (accused) and Rinku @ Ranvijay Shukla (accused). Thereafter, when Ram Milan Shukla transferred his entire property in favour of accused Ajay @ Sadhu Shukla and Rinku @ Ranvijay Shukla, Jagannath Shukla (P.W.-2) and informant/P.W.-1 Shiv Shankar Shukla stopped pursuing the said civil suit. Due to this reason Jagannath Shukla (P.W.-2) and informant/P.W.-1 Shiv Shankar Shukla developed animosity towards their remaining two brothers, namely Krishna Kumar Shukla and accused Ram Chandra Shukla and their respective families. P.W.-2 Jagannath Shukla admitted in his cross-examination that it is true that his father Ram Milan had executed sale deeds in respect of the entire land in favour of Ajay son of his brother Krishna Kumar and Rinku @ Ranvijay son of his brother Ram Chandra. Neither he nor his brother Shiv Shankar had any litigation pending against Ajay Kumar and accused Rinku @ Ranvijay in relation to the land dispute. Since neither he nor his brother Shiv Shankar received any share in the ancestral property, his enmity towards Ajay Kumar son of Krishna Kumar and the accused persons including Rinku @ Ranvijay exists prior to the occurrence. It is pertinent to note that the animosity of informant/P.W.-1 Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, arising out of the land dispute, was directed against the families of their remaining two brothers, namely Krishna Kumar Shukla and Ram Chandra Shukla (accused) and more particularly against Ajay @ Sadhu Shukla (accused) son of Krishna Kumar Shukla and Rinku @ Ranvijay Shukla (accused) son of Ram Chandra Shukla (accused). Krishna Kumar Shukla and Ram Chandra Shukla (accused) constituted the beneficiary branch of the family therefore, there could be no reason for such beneficiary branch to murder Deependra @ Deepu son of informant Shiv Shankar Shukla. If any member of the family of Krishna Kumar Shukla or Ram Chandra Shukla (accused) had suffered any harm by the hands of informant/P.W.-1 Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, a plausible explanation could have been that having been deprived of share in the ancestral property, informant/P.W.-1 Shiv Shankar Shukla and P.W.-2 Jagannath Shukla were adversely affected and out of jealousy, ill-will or animosity towards the beneficiary branch of the family, caused such

harm. The position in the present case, however, is exactly the opposite. In the present case, the allegation is that the beneficiary branch committed the murder of a member of the family which had been deprived of the property, a circumstance which is not consistent with ordinary human conduct. The existence of enmity is visible in the present case as two brothers were deprived of their share in the ancestral property at the cost of rest two brothers. But enmity is always considered as double-edged sword. It can also cause false implication of the persons belonging to the other side. In the present case, where the death of a person belonging to the family branch, who was adversely affected in the division of the paternal property can give an occasion to the adversely affected party to falsely implicate the member of the beneficiary branch of the family.

P.W.-1 Shiv Shankar Shukla, in his examination-in-chief, referred two incidents alleged to have occurred prior to the occurrence in question. The first incident, as narrated by P.W.-1 Shiv Shankar Shukla, is that on 14.06.2019, when the deceased Deependra @ Deepu was returning home at night after meeting his sister Komal Pandey and thereafter his elder uncle Jagannath Shukla, he encountered Shivanshu Shukla (juvenile in conflict with law), grandson of accused Ram Chandra Shukla, standing in the middle of the road. When Deependra asked him to move aside, Shivanshu started hurling filthy abuses relating to his mother and sister at him, to which Deependra objected. Thereafter, P.W.-2 Jagannath Shukla arrived at the spot and informed informant Shiv Shankar Shukla that Shivanshu Shukla is abusing Deependra and threatening to kill him. Thereafter informant Shiv Shankar Shukla reached the spot along with his younger son Raja @ Bhupendra, intervened in the matter and brought Deependra back home. However, no mention of the aforesaid incident finds place either in the First Information Report or in the statement of the informant recorded by the Investigating Officer under Section 161 Cr.P.C. after the occurrence. Investigating Officer P.W.-6 Beni Madhav Tripathi categorically stated in his cross-examination that witness Shiv Shankar Shukla had not stated in his statement under Section 161 Cr.P.C. that two days prior to the occurrence there had been an altercation and exchange of abuses between the accused persons and the deceased took place. P.W.-2 Jagannath Shukla, in his examination-in-chief, did not state that the incident involving an exchange of abuses between the deceased and Shivanshu Shukla had occurred two days prior to the occurrence, rather he stated that it had occurred one day prior to the occurrence. He specifically stated in his examination-in-chief that on 15.06.2019,

at about 5:00 p.m., the deceased Deepu @ Deependra and Shivanshu grandson of Ram Chandra Shukla had a verbal altercation at a paan kiosk situated on the road in front of his house in connection with the land dispute and Shivanshu had threatened that he would shoot him. Therefore, it is clear that P.W.-2 Jagannath Shukla did not state anything about any dispute between the deceased and Shivanshu Shukla having taken place on 14.06.2019. Furthermore, P.W.-2 Jagannath Shukla stated that the verbal altercation between the deceased and Shivanshu took place at about 5:00 p.m. in the evening, whereas P.W.-1 Shiv Shankar Shukla stated that the dispute between them took place at night. Further, P.W.-2 Jagannath Shukla stated that the altercation arose on account of the land dispute, whereas P.W.-1 Shiv Shankar Shukla stated that the dispute arose because Shivanshu Shukla was standing in the middle of the road and the deceased Deependra @ Deepu asked him to move aside. P.W.-2 Jagannath Shukla nowhere stated that upon witnessing the dispute between Shivanshu Shukla and Deependra, he called Shiv Shankar Shukla, after which Shiv Shankar Shukla arrived at the spot along with his younger son Raja @ Bhupendra and took Deependra home after intervening. Contrary to this, P.W.-1 Shiv Shankar Shukla specifically stated that P.W.-2 Jagannath Shukla had called him and thereafter he reached the spot along with his younger son Raja @ Bhupendra. It is thus clear that there are serious and material contradictions in the statements of P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla regarding the date on which the dispute between the deceased and Shivanshu Shukla took place and the cause thereof. P.W.-2 Jagannath Shukla also made no mention whatsoever of the arrival of Shiv Shankar Shukla and his younger son Raja @ Bhupendra at the spot during the said dispute. P.W.-1 informant Shiv Shankar Shukla, in his examination-in-chief, not only referred to an incident involving a dispute between the deceased and Shivanshu Shukla on 14.06.2019, i.e., two days before the occurrence, but also referred to another incident alleged to have taken place on 15.06.2019, one day prior to the occurrence narrating that in the night of 15.06.2019, after dinner he had gone along with his son Deependra @ Deepu to the paddy nursery. There they found accused Raju Shukla standing. Upon noticing the informant and his son Deependra (Deceased), Raju Shukla said that, "How dared you quarrel with Shivanshu?" When the deceased Deependra replied that he had merely asked Shivanshu Shukla to move away from the middle of the road and Shivanshu had abused him over that issue. On this Raju Shukla allegedly started abusing and assaulting

Deependra. When the informant intervened, Raju Shukla allegedly threatened that he would not be alive. Thereafter, someone informed Dial-100 and the police arrived. The police pacified both sides and directed them to come at the police outpost on the following day. No mention of this incident dated 15.06.2019 is found either in the First Information Report or in the statement of Shiv Shankar Shukla recorded under Section 161 Cr.P.C. P.W.-2 Jagannath Shukla also made no statement whatsoever regarding the incident dated 15.06.2019 in which the deceased allegedly had a scuffle with accused Raju Shukla. The incident dated 15.06.2019, as narrated by P.W.-1 Shiv Shankar Shukla, also involved the intervention of the police, since according to him the police had pacified both sides on that very day and had called them to the police outpost on the next day, i.e., on 16.06.2019. In such circumstances, it is natural to infer that the local police would also have had knowledge of the said incident. Despite this, apart from the oral testimony of the informant, there is no other evidence on record lending support to the alleged incident dated 15.06.2019. Both the incidents dated 14.06.2019 and 15.06.2019 were material incidents, since either of them could have constituted the immediate cause of the main occurrence dated 16.06.2019. Nevertheless, neither of these incidents was mentioned in the First Information Report nor in the first statement of the informant recorded under Section 161 Cr.P.C.. In such circumstances, a reasonable doubt arises as to whether the incidents allegedly said to have been occurred on 14.06.2019 and 15.06.2019 had in fact taken place at all or not. It also compels consideration of the possibility that P.W.-1 Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, who admittedly bore animosity towards the accused persons on account of the land dispute, deliberately introduced these two prior incidents during their evidence with a view to create a background for the occurrence dated 16.06.2019. This doubt becomes even more pronounced because, if the two incidents preceding the occurrence actually taken place on 14.06.2019 and 15.06.2019 respectively, P.W.-2 Jagannath Shukla would have referred both of them in his testimony. Instead, P.W.-2 Jagannath Shukla referred only one such incident and even stated a different date of the same. If, according to P.W.-2 Jagannath Shukla, the dispute between the deceased and Shivanshu Shukla took place on 15.06.2019, then the statement of P.W.-1 Shiv Shankar Shukla that the dispute with Shivanshu Shukla occurred on 14.06.2019 and on the following day, i.e., 15.06.2019, the deceased was assaulted and abused by accused Raju Shukla, becomes incorrect. Since P.W.-1 Shiv Shankar Shukla

and P.W.-2 Jagannath Shukla are real brothers and both admittedly bore animosity towards the accused persons, consistency between their versions would have been natural. Despite this, their statements regarding the two incidents preceding the occurrence are not merely inconsistent but suffers by serious contradictions. This clearly indicates that the two prior incidents were deliberately introduced during the evidence with a view to aggravate the gravity of the occurrence and to connect the accused persons directly with the murder of the deceased.

P.W.-6 Inspector Beni Madhav Tripathi stated in his examination-in-chief that on 20.06.2019 he prepared Parcha No. 4 of the Case Diary, wherein the statements of accused Raju Shukla and Rinku Shukla @ Ranvijay Shukla were recorded and prior to the recording of their statements, both accused had been arrested on the same day and recoveries of the weapons of offence had been effected from their possession. From accused Raju Shukla, one country-made pistol of .315 bore was recovered from the right pocket of the jeans worn by him along with two live cartridges of .315 bore recovered from the left pocket of his pant. Simultaneously, from the right pocket of the lower worn by accused Rinku @ Ranvijay, one country-made pistol of .312 bore, having one live .312 bore cartridge loaded in its barrel, was recovered.

The aforesaid testimony clearly shows that one country-made pistol of .312 bore along with one live cartridge of .312 bore was recovered from accused Rinku @ Ranvijay Shukla, whereas one country-made pistol of .315 bore along with two live cartridges of .315 bore was recovered from accused Raju Shukla on 20.06.2019, i.e., four days after the occurrence.

According to P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, the shot fired by accused Raju Shukla struck the chest of the deceased, whereas the shot allegedly fired by accused Rinku @ Ranvijay Shukla struck the left wrist of the deceased. According to P.W.-3 Dr. Aditya Narayan Tiwari, only one bullet was recovered from the body of the deceased during the post-mortem. Since the shot allegedly fired by the pistol of accused Raju Shukla struck the chest of the deceased and the bullet recovered during the post-mortem was the same bullet, it is therefore, clear that the bullet recovered from the body of the deceased during the post-mortem had been fired from the .315 bore country-made pistol recovered from the possession of accused Raju Shukla.

P.W.-7 Inspector Shyam Sundar Pandey stated in his examination-in-chief that Parcha No. 19 of the case diary was prepared on 17.08.2019, wherein necessary steps were taken for sending the bullet recovered from the body of deceased Deependra @ Deepu during the post-mortem, together with the pistol allegedly recovered from accused Raju Shukla, to the Forensic Science Laboratory for comparison. P.W.-8 Inspector Bhupendra Kumar Singh stated in his examination-in-chief that Parcha No. 22 of the Case Diary was prepared on 08.09.2019, pursuant to which the bullet recovered from the body of the deceased and the recovered weapon of offence were sent to the Forensic Science Laboratory through Constable Rishikesh after preparation of the requisite docket.

A perusal of the report of the Forensic Science Laboratory, Lucknow dated 04.03.2023 reveals that the bullet recovered from the body of deceased Deependra @ Deepu during the post-mortem examination was a bullet fired from a .315 bore firearm. The said bullet was marked as E.B.-1 in the F.S.L. report. Two live .315 bore cartridges received with the country-made pistol were marked as L.C.-1 and L.C.-2, while the country-made pistol itself was marked as 01/2023. Upon examination, firing residue consisting of nitrite, lead, copper and nickel were detected in the barrel of the country-made pistol marked as 01/2023. Two .315 bore cartridges were test-fired through the said pistol in the laboratory and were marked as T.C.-1 and T.C.-2 respectively. The bullets recovered from the said test cartridges were marked as T.B.-1 and T.B.-2. Upon comparative examination of the disputed bullet and the test bullets under a comparison microscope/hand magnifier, it was found that the striation marks present on the disputed bullet marked E.B.-1 did not contain sufficient individual characteristics for comparison with the striation marks present on the test bullets marked T.B.-1 and T.B.-2.

Thus, the Forensic Science Laboratory report makes it clear that there is no conclusive evidence to establish that the bullet recovered from the body of the deceased during the post-mortem had been fired from the .315 bore pistol allegedly recovered from accused Raju Shukla. Consequently, on the basis of the Forensic Science Laboratory report, it cannot be held established that the fatal shot which caused the death of Deependra @ Deepu was fired from the pistol allegedly recovered from accused Raju Shukla.

The foregoing discussion of the oral, documentary and material evidence available on record clearly demonstrates that in the present case, there

exist material contradictions not only within the testimonies of the eye-witnesses themselves, namely P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, but also inter se with respect to various facets of the occurrence.

In **Sunil Kumar Sambhudayal Gupta (Dr.) and Others v. State of Maharashtra (2010) 13 SCC 749**, the Hon'ble Supreme Court has held that:-

“30. While appreciating the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The trial court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate court in normal course would not be justified in reviewing the same again without justifiable reasons. (Vide State v. Saravanan)

31. Where the omission(s) amount to a contradiction, creating a serious doubt about the truthfulness of a witness and the other witness also makes material improvements before the court in order to make the evidence acceptable, it cannot be safe to rely upon such evidence. (Vide State of Rajasthan v. Rajendra Singh [21].)

32. The discrepancies in the evidence of eyewitnesses, if found to be not minor in nature, may be a ground for disbelieving and discrediting their evidence. In such circumstances, witnesses may not inspire confidence and if their evidence is found to be in conflict and contradiction with other evidence or with the statement already recorded, in such a case it cannot be held that the prosecution proved its case beyond reasonable doubt.” (Vide Mahendra Pratap Singh v. State of U.P.)” And again:

“35. The courts have to label the category to which a discrepancy belongs. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies

do so.” (See Syed Ibrahim v. State of A.P. [22] and Arumugam v. State)

In the light of the legal position enunciated in the aforesaid case laws when the present case is taken up, it is evident that the contradictions, inconsistencies, embellishments and improvements appearing in the testimonies of the witnesses examined by the prosecution as eye-witnesses, namely P.W.-1 informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, are of such a nature, which materially affect the merits of the case. The contradictions emerging in their testimonies give rise to a reasonable doubt regarding their credibility. In the present case, neither the testimony of one eye-witness lend support to that of the other, nor it is corroborated by the evidence of the formal witnesses. Owing to the material contradictions relating to various facets of the occurrence, the prosecution story lacks the consistency and certainty, which is necessary to establish the prosecution case beyond reasonable doubt.

In the present case, accused Rinku @ Ranvijay Shukla and accused Raju Shukla were arrested on 20.06.2019, i.e., four days after the occurrence and illegal firearms were allegedly recovered from their possession to which they had no license. One country-made pistol of .312 bore and one live cartridge were recovered from accused Rinku @ Ranvijay Shukla, whereas one country-made pistol of .315 bore along with two live cartridges were recovered from accused Raju Shukla. In relation to the said recoveries of illegal firearms and cartridges, P.W.-6 Inspector Beni Madhav Tripathi lodged separate cases under Section 3/25 of the Arms Act at Police Station Jaisinghpur. On that basis, Case Crime No. 329 of 2019 under Section 3/25 Arms Act was registered against accused Raju Shukla and Case Crime No. 330 of 2019 under Section 3/25 Arms Act was registered against accused Rinku Shukla @ Ranvijay Shukla. P.W.-6 Inspector Beni Madhav Tripathi proved the recovery memo relating to the recoveries from accused Raju Shukla and accused Rinku @ Ranvijay Shukla as Exhibit Ka-14. He further proved the pistol and cartridges recovered from accused Raju Shukla as Material Exhibit-1 and the pistol and cartridges recovered from accused Rinku @ Ranvijay Shukla as Material Exhibit-2.

P.W.-5 Sub-Inspector Jalpaan Singh, who was then posted as Head Moharrir at Police Station Jaisinghpur, stated in his examination-in-chief that on 20.06.2019, on the basis of the recovery memo prepared by Station House Officer Beni Madhav Tripathi, he got typed the Case Crime No. 329 of 2019 under Section 3/25 of the Arms Act against Raju Shukla through the computer

operator and in the same process an entry was made in General Diary No. 09 at 08:28 hours dated 20.06.2019. He proved the chik F.I.R. and the corresponding G.D. entry relating to the case of accused Raju Shukla as Exhibit Ka-9 and Exhibit Ka-10 respectively. He further stated that on the basis of the recovery memo dated 20.06.2019 prepared by Beni Madhav Tripathi, he also got typed the chik F.I.R. in Case Crime No. 330 of 2019 under Section 3/25 of the Arms Act against Rinku Shukla @ Ranvijay Shukla through computer operator Ranjeet Yadav and in the same process an entry was made in General Diary No. 09 at 08:28 hours dated 20.06.2019. He proved the concerned chik F.I.R. and G.D. entry as Exhibit Ka-11 and Exhibit Ka-12, respectively.

It is evident from the perusal of Recovery Memo and Arrest Memo (Exhibit Ka-14) that on 20.06.2019, P.W.-6 Inspector Beni Madhav Tripathi (then Station House Officer), accompanied by Sub-Inspector Dharmendra Sonkar, Head Constable Virendra Chaudhary, Constable Ajay Yadav, Constable Sitaram and government vehicle driver Sunil Dutt Tiwari, was on patrol duty in connection with search for wanted persons, checking & picket duty and maintenance of law and order. When they reached Virsinghpur Tiraha, they received information from an informer that the accused persons wanted in the Deependra @ Deepu murder case are present near Durga Mandir at Durganagar Chauraha on the road leading from Virsinghpur to Semari and they are waiting for someone. Acting upon the information furnished by the confidential informer and finding it credible, the police personnel, along with the informer, contacted Sub-Inspector Surendra Tiwari, who was already present in the area, and proceeded towards Durganagar in anticipation of apprehending the accused persons. As they approached the crossing, the informer pointed towards two persons standing near the gate of the temple, identified one as Raju Shukla and the other as Rinku Shukla and informed the police that both are carrying illegal firearms. Thereafter, the informer left the spot. The police party surrounded both of them and apprehended them at about 05:40 a.m., approximately 50 meters from the crossing on the road leading towards village Ahibaranpur while they were attempting to flee. One of them disclosed his name as Raju Shukla and the other as Rinku Shukla @ Ranvijay Shukla. Upon their personal search, one country-made pistol of .315 bore was recovered from the right pocket of the jeans worn by Raju Shukla and two live cartridges of .315 bore from the left pocket thereof. From the personal search of accused Rinku Shukla @ Ranvijay Shukla, one country-made pistol of .312 bore loaded with one live cartridge of .312 bore

was allegedly recovered from the right pocket of his lower. The recovered .312 bore and .315 bore pistols were separately sealed in white cloth and specimen seals were prepared. Several persons had gathered at the spot during the arrest and recovery proceedings and when requested to become witnesses, they left the place without disclosing their names and addresses due to fear of the accused persons and apprehension of inconvenience. The accused persons failed to produce any license in respect of the recovered firearms and cartridges. Both the accused admitted before the police that the recovered firearms had been used in the commission of the incident.

A perusal of Recovery Memo Exhibit Ka-14 reveals that on 20.06.2019, Inspector Beni Madhav Tripathi (P.W.-6) along with Sub-Inspector Dharmendra Sonkar, Head Constable Virendra Chaudhary, Constable Ajay Yadav, Constable Sitaram and government vehicle driver Sunil Dutt Tiwari had allegedly reached Virsinghpur Tiraha while on patrol duty in connection with search for wanted persons, checking duty, picket duty and maintenance of law and order. However, the said recovery memo neither discloses the time at which the police party departed from the police station, nor the time at which they reached Virsinghpur Tiraha. Neither any departure General Diary showing the departure of the police party from the Police Station has been produced before the Court nor any such departure General Diary has been proved in accordance with law. Even in his testimony before the Court, Inspector Beni Madhav Tripathi (P.W.-6) did not specify the time at which he left the police station with the police party on 20.06.2019, the time at which they reached Virsinghpur Tiraha or the time taken in travelling from the police station to the said place. No other witness/police witness to the recovery memo was examined by the prosecution to prove these facts. It was necessary for the prosecution to prove the departure General Diary so as to lend credibility to the alleged departure of the police personnel from the police station and their presence at Virsinghpur Tiraha. Despite that, no such General Diary relating to their departure from the police station has been proved by the prosecution.

In **Mathura Prasad Mishra v. State of U.P. 2005 (1) JIC 970 (All)**, it has been held that the departure General Diary showing the departure of the police party from the police station must be proved in accordance with law.

The recovery memo Exhibit Ka-14 does not mention that before proceeding towards Durganagar Chauraha on the basis of the information supplied by the informer for effecting the arrest and recovery or before making

actual recovery from the accused Rinku Shukla @ Ranvijay Shukla and Raju Shukla, the police personnel had conducted mutual personal searches amongst themselves to ensure that none of them was carrying any objectionable article. No such assertion is found anywhere in the testimony of P.W.-6 Inspector Beni Madhav Tripathi, nor any other police witness has been examined by the prosecution to establish that the police personnel had first offered their own search to each other.

Perusal of Recovery Memo Exhibit Ka-14 clearly indicates that public were present at the place of arrest and recovery, since it is specifically recorded that public persons were requested to witness the proceedings but they declined the request and left the spot without disclosing their names and addresses out of fear of the accused persons and apprehension of inconvenience. It is relevant to note that the accused persons were allegedly apprehended at about 05:40 a.m. at a place situated merely 50 meters away from Durganagar Chauraha, which is a busy public place. In such circumstances, in order to lend credibility to the alleged arrest and recovery, an independent person ought to have been examined as a witness to the arrest and recovery proceedings. The recovery memo does not even indicate any serious effort on the part of the police to secure an independent witness, nor does it disclose the names of the persons who were allegedly requested to become the witness. In the facts of the present case, it appears unusual that despite the availability of independent witnesses, no independent witness was secured to witness the arrest and recovery proceedings. These circumstances strengthen the possibility that the accused persons were not arrested and the recoveries were not effected at the place shown by the prosecution; rather, they were apprehended elsewhere and their signatures were subsequently obtained on the recovery and arrest memo.

In Govind Bajpai and Others v. State of U.P. and Another 2005 (2) ACR 1246, the Hon'ble Supreme Court held that in the absence of any independent public witness to the recovery proceedings, the prosecution story becomes doubtful.

In Makarand Singh and Others v. State of Uttar Pradesh, Criminal Appeal No. 4255 of 2006, decided on 07 January 2022, the Hon'ble Allahabad High Court held as follows:-

"Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more

independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do."

The Hon'ble Courts, in **Daulat Ram v. State of Haryana Criminal Appeal No. 583 of 1988 decided on 14 February 1995** and **Narsi v. State of Haryana, 1999 (1) JIC 175 (SC)**, led down the following guiding principle:-

"As far as possible, efforts must be made to examine independent witnesses. If no genuine effort is made in this regard, the prosecution case becomes doubtful and the conviction recorded thereon cannot be regarded as legally sustainable."

Perusal of Recovery and arrest memo Exhibit Ka-14 reveals that the country-made pistol allegedly recovered from the accused, namely Rinku @ Ranvijay Shukla, was of .312 bore, having a body approximately 4 inches long made of iron and a barrel approximately 7 inches long. A target point for aiming was provided on its upper side. The pistol was fitted with a trigger, trigger guard, hammer and firing pin. The butt was approximately 3 inches long and fitted with black-coloured wooden grips on both sides. Upon opening the pistol, one live cartridge of .312 bore was found inside the barrel, which was separated and examined the marking "KFR" was found inscribed on its base. The cartridge was yellow in colour and bore the word "SPACIAL" inscribed in English.

A perusal of the entire testimony of P.W.-6 Inspector Beni Madhav Tripathi shows that he nowhere stated that the opinion of any ballistic expert had been obtained to establish that the country-made pistol which was recovered from the accused Rinku @ Ranvijay Shukla was in working condition and the recovered cartridge was live. P.W.-9 Sub-Inspector Ashish Kumar Patel, who was the Investigating Officer, stated in his cross-examination that during investigation he had personally taken the recovered firearms to the Armourer, Police Lines, Sultanpur for examination. However, no report of the Armourer or of any ballistic expert is available on record, nor was the said Armourer examined before the Court. Although prosecution sanctions for starting proceedings under the Arms Act against accused Rinku @ Ranvijay Shukla is

available on record and have been proved by the prosecution and although the sanction order mentions that according to the Armourer's report, the recovered country-made pistol was in working condition. Even if, for the sake of argument, it is assumed that the said prosecution sanctions was prepared on the basis of the armourer's report, it is pertinent to note that there is a distinction between an armourer and a ballistic expert. An armourer, by virtue of his designation alone, cannot be treated as a ballistic expert. An armourer may qualify as a ballistic expert only if he has received specialised training in that field or possesses adequate technical knowledge and experience relating thereto. It cannot be presumed that every Armourer is a ballistic expert. In such circumstances, it was necessary for the prosecution to examine the Armourer before the Court so that it could be ascertained whether in fact, he possessed the requisite technical knowledge, skill or experience to be regarded as a ballistic expert. In the absence of such evidence, no reliable evidence has been adduced by the prosecution to establish that the recovered pistol was in working condition or that the recovered cartridge was live. Consequently, prosecution has failed to establish beyond reasonable doubt that the weapon/firearm recovered from accused Rinku @ Ranvijay Shukla was in working condition and that the recovered cartridge was live.

The Hon'ble Punjab and Haryana High Court, in **Kuldeep Singh v. State of Punjab, 2011 Cri.L.J. 488**, found a conviction under the Arms Act unsustainable where no test examination of the recovered pistol had been conducted and there was no evidence to establish that the recovered pistol was in working condition.

The Hon'ble Supreme Court, in **Boota Singh v. State of Punjab, 1997 SCC (Cri) 1217**, held that where there is no evidence on record to show that the pistol and cartridges allegedly recovered from the accused satisfy the requirements of "arms" and "ammunition" within the meaning of the Arms Act, the accused cannot be convicted under Section 25 of the Arms Act.

The Hon'ble Andhra Pradesh High Court, in **Mayank Bohra v. State of Andhra Pradesh, 2010 Cri.L.J. 152**, has categorically held that where the weapon is not sent to a ballistic expert and there is no evidence on record in the form of an expert opinion to establish that the recovered pistol was in working condition and fell within the definition of a firearm, a conviction under Section 25 of the Arms Act cannot be sustained.

The Hon'ble Supreme Court, in **Yashpal Singh v. State of Punjab, 1999 Cri.LJ. 600**, has held that, in the absence of evidence from the Investigating Officer regarding the recovered firearm being in working condition and in the absence of evidence from any other expert to that effect, a conviction would not be justified.

The Hon'ble Supreme Court, in **State of Punjab v. Jagga Singh, 1998 Cri.LJ. 455**, found the conviction of the accused unsustainable where there was no evidence that the recovered firearm and cartridges had been sent to the Forensic Science Laboratory and no expert report from the Forensic Science Laboratory was available to establish that the recovered firearm was in working condition.

The Hon'ble Punjab and Haryana High Court, in **Kuldeep Singh v. State of Punjab, 2011 Cri.LJ. 488**, found a conviction under the Arms Act unsustainable in the absence of any test examination of the recovered pistol and in the absence of evidence showing that the recovered pistol was in working condition.

Further, the country-made pistol of .315 bore and 2 live cartridges recovered from accused Raju Shukla were sent for examination to Forensic Science Laboratory, Lucknow, where it was found in working condition. At the time of recovery, the accused Raju Shukla confessed that same pistol was used in the alleged crime, but from the report of Forensic Science Laboratory, Lucknow, it is very much clear that two .315 bore cartridges were test-fired from the said pistol in the laboratory and were marked as T.C.-1 and T.C.-2 respectively. The bullets recovered from the said test cartridges were marked as T.B.-1 and T.B.-2. Upon comparative examination of the disputed bullet (the bullet which was recovered from the body of the deceased at the time of postmortem) and the test bullets under a comparison microscope/hand magnifier, it was found that the striation marks present on the disputed bullet marked E.B.-1 did not contain sufficient individual characteristics for comparison with the striation marks present on the test bullets marked T.B.-1 and T.B.-2. Now if the accused Raju Shukla is to say that from the same pistol the deceased was shot dead, then it also put a question mark that whether the same pistol which was recovered from accused Raju Shukla was sent to Forensic Science Laboratory, Lucknow for examination or not? This further puts a question mark about the safe custody of the country-made pistol, which was recovered from accused Raju Shukla.

In such circumstances, the alleged recovery of firearm and cartridges from accused Rinku Shukla @ Ranvijay Shukla becomes doubtful.

Before concluding the discussion this Court proceeds to discuss the case laws relied upon by the prosecution.

The first legal proposition relied upon by the prosecution is **Bipin Kumar Mondal v. State of West Bengal AIR 2010 Supreme Court 3638**, wherein it has been held in paragraph no. 21 that where the occurrence is based on direct ocular evidence, the significance of motive becomes insignificant. Relying on the aforesaid legal proposition, it has been argued on behalf of the prosecution that in the present case P.W.-1, the informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla are eyewitnesses of the occurrence and they had adduced clear and reliable evidence to the effect that the occurrence was committed by the accused persons. In such circumstances, motive loses its significance in the present case. This Court agrees with the aforesaid argument of the learned counsel that in a case, which is based on ocular evidence, the significance of motive is diminished. However, in the present case, the eyewitnesses who have been produced and examined by the prosecution are not, in fact, eyewitnesses of the occurrence. Therefore, the aforesaid legal proposition is not applicable to the present case.

The second legal proposition relied upon by the prosecution is **Ramji Singh & Others v. State of U.P. 2020 (1) JIC 409 (SC)**, wherein it has been held that where the ocular evidence is clear, direct and reliable and is also corroborated by medical evidence, lapses or deficiencies on the part of the Investigating Agency do not enure to the benefit of the defence. The aforesaid proposition of law is not applicable to the facts of the present case, as the testimony of the alleged eyewitnesses itself has not been found to be clear and reliable.

The prosecution has also relied upon the case laws of **Dalbir Singh v. State of U.P. 2016 (97) ACC 142 (Allahabad High Court)** and **Nand Kumar v. State of Chhattisgarh Criminal Appeal No. 906 of 2012, decided on 31.10.2014**, on the basis of which it has been argued that merely because no independent witness has been examined by the prosecution and the witnesses examined by it are related and interested witnesses, the prosecution case cannot be discarded. If the evidence adduced by related and interested witnesses is clear and reliable, the prosecution case must be accepted as trustworthy and the

accused must be convicted on its basis. This Court agrees with the aforesaid argument of the learned counsel. However, from the analysis of the evidence available on record, it has already become clear that P.W.-1, the informant Shiv Shankar Shukla and P.W.-2 Jagannath Shukla, who are related and interested witnesses, had not in fact witnessed the occurrence and the evidence adduced by them regarding the incident suffers from serious/material contradictions. In such circumstances, their testimony cannot be regarded as reliable and trustworthy.

On the basis of the aforesaid appreciation of the oral, documentary and material evidence available on record, this Court arrives at the conclusion that the prosecution has failed to prove its case beyond reasonable doubt. In such circumstances, it would be just and proper to extend the benefit of doubt to accused Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ramchandra Shukla and Ajay Shukla @ Sadhu Shukla and acquit them of the charges under Sections 147, 148, 149, 302 and 120-B of the Indian Penal Code. Accused Rinku Shukla @ Ranvijay Shukla and Raju Shukla are also entitled to acquittal of the charges under Section 3/25 of the Arms Act by extending to them the benefit of doubt.

ORDER

In Sessions Trial No. 360 of 2019 arising out of Case Crime No. 328 of 2019, accused Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ramchandra Shukla and Ajay Shukla @ Sadhu Shukla are acquitted of the charges under Sections 147, 148, 149, 302 and 120-B IPC.

In Sessions Trial No. 361 of 2019 arising out of Case Crime No. 330 of 2019 accused Rinku Shukla @ Ranvijay Shukla is acquitted of the charge under Section 3/25 of the Arms Act.

In Sessions Trial No. 362 of 2019 arising out of Case Crime No. 329 of 2019, accused Raju Shukla is acquitted of the charge under Section 3/25 of the Arms Act.

Accused are on bail. Their personal bonds and bail bonds are hereby cancelled and their sureties are discharged from their liabilities.

Accused Rinku Shukla @ Ranvijay Shukla, Raju Shukla, Ramchandra Shukla and Ajay Shukla @ Sadhu Shukla are directed to furnish personal bonds of Rs. 50,000/- (Rupees Fifty Thousand) and two sureties of the same amount, by each of them, within one week in compliance with the provisions of Section 437A CrPC, to ensure their appearance before Hon'ble High Court if summoned in case an appeal is filed against this order in the

Hon'ble High Court. This bond shall remain effective for a period of six months from the date of this judgment.

The case property, if any, shall be disposed of in accordance with law after expiry of the period prescribed for filing an appeal. If an appeal will be filed, the case property shall be disposed of as per the directions of the Hon'ble Appellate Court.

Let a copy of this judgment be sent to the District Magistrate, Sultanpur.

Dated: 19.06.2026

(Sunil Kumar-IV)
Sessions Judge,
Sultanpur
(J.O. Code UP 1885)

Judgment Dated, signed and pronounced by me in the open Court today.

Dated: 19.06.2026
Prakhar Kumar Srivastava/-

(Sunil Kumar-IV)
Sessions Judge,
Sultanpur
(J.O. Code UP 1885)