

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.1709 of 2003

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Rajendra Oraon son of Chaitu Oran, resident of village
 Chatamdag, Police Station-Ghaghra, District-Gumla,

.....**Appellant**

Versus

The State of Jharkhand

.....**Respondent**

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. A.K. Chaturvedi, Advocate

For the State : Mrs. Priya Srestha, Spl.P.P

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Reserved on 21.01.2026

Pronounced on 22.01.2026

1. This Criminal Appeal has been filed on behalf of the appellant by challenging the judgment of conviction dated 07.11.2003 and sentence dated 10.11.2003 passed by Sri A.K. Dubey, learned Additional Sessions Judge-cum-Fast Track Court No.1 Gumla in S.T. Case No.237/98 arising out of Ghaghra P.S. Case No.25/98 by which the appellant along with co-accused Ravi Oraon and Budheshwar Oraon had been convicted for the offences under Section 402 of the Indian Penal Code and Section 25(1-b)a/35 of the Arms Act and sentenced to undergo R.I. for three (03) years and R.I. for three (03) years respectively.

However, both the sentences have been directed to run concurrently.

2. The prosecution case, in brief, as per the written report submitted on 04.05.1998 by Baidnath Prasad Singh Sub-inspector, of Police P.W.-4 is that on 04.05.1998 at about 01 A.M., he received information that in village Chatamdag, P.S.-Ghaghra, District-Gumla SJMM (Sangarsh Jan Mukti Morcha) extremists are assembling for committing some offence. On this information and as per order of Officer-in-charge he along with Sanjay Suman,

Daya Shankar Sharma, Ashok Kr. Singh, Fabianus Panna, Manki Kalondia, Gobardhan Oraon and police party proceeded at 01.30 AM for the place of occurrence. When at about 3.30 AM, they arrived at Chatamdag and in south-west portion of the village near Jungle then some of the miscreants fled after seeing the police. On search no extremist was found. They reached to village Chatamdag and had seen inmates of a house and came to know that it was the house of one Ravi Oraon. They searched the house in presence of Fagua Oraon and Ropa Oraon, both sons of Bandhna Oraon and found three (03) persons in a room in said house in hiding position. On enquiry they disclosed their names as Ravi Oraon. Rajendra Oraon (i.e. appellant) and Budheshwar Oraon. Further on search they recovered seven (07) single barrel country made guns, one double barrel country made gun along with articles used in making bomb in a towel and the recovered guns and articles of making bomb were taken into possession by the police. On enquiry the three arrested miscreants disclosed name of other miscreants who fled away as Vinod Mahli, Maryanaus Kuzur, Budhwa Bhagat, Rohan Mahto, Nanhku Mahto and three unknown persons. They failed to produce the required papers of the guns. The seized articles were produced by the informant to the police station and then the case was registered as Ghaghra P.S. Case No.25/98.

3. Heard learned counsel for the appellant and learned counsel for the State.

4. Learned counsel for the appellant submitted that the impugned judgment and sentence passed by the learned Court below is illegal and not sustainable in eye of law.

It is submitted that the appellant along with others accused persons have been found guilty and convicted for the offence under Section 402 of the IPC, whereas there is no evidence on record to

establish the fact that any case under Section 402 of IPC is made out against the appellant.

It is submitted the learned Trial court has not considered that the alleged gun, which were allegedly recovered from the house of the Ravi Oraon, was the fire arm rather the case of the prosecution is that muzzle loaded guns had been recovered.

It is submitted that the learned trial Court failed to consider the fact the muzzle loaded gun does not come within the purview of arms act because the muzzle guns are kept by the villagers for watching the crops and for which license is not required.

It is submitted that there is no material on record to establish the fact that the said arms were recovered from the house of Ravi Oraon and at that time the appellant was also present there.

It is submitted that PW-1 Fagua Oraon and PW-2 Ropa Oraon are the seizure witnesses and in whose presence the alleged arms were recovered but during trial they had not supported the factum of the recovery from the house of Ravi Oraon.

It is further submitted that from the seizure witnesses all the other witnesses are the official witnesses as well as the raiding party but there is no any other independent witness of the village who have supported the case of the prosecution.

It is further submitted that the appellant had faced long protracted trial for more than 27 years and the appellant had remained in custody in during trial from 05.05.1998 to 23.02.2001 and after conviction remained in custody from 07.11.2003 to 12.11.2003 and i.e. total custody around two (02) years nine (09) months and 23 days. It is submitted that the appellant is an old aged person and hence, lenient view may be taken in favour of the appellant as he has faced long protracted trial for around 27 years

and hence this criminal appeal may be allowed.

5. On the other hand, learned Spl.PP for the State has fairly submitted that the appellant had remained in custody during trial from 05.05.1998 to 23.02.2001 and after conviction from 07.11.2003 to 12.11.2003 i.e. total custody around two (02) years nine (09) months and 23 days and hence necessary order may be passed.

6. Perused the Trial Court records and considered the submissions of learned counsel for both the parties.

7. It reveals that the F.I.R. giving rise to Ghagra P.S. Case No.25/98 was lodged on 04.05.1998 against the appellant and eight (08) persons including three (03) other unknown persons.

8. It transpires that the police, after investigation had submitted the chargesheet against the appellant namely Rajendra Oraon along with co-accused namely Ravi Oraon and Budheshwar Oraon and on 31.07.1998 under Section 399/402 of IPC and Section 25(1-B)A/35/34 of the Arms Act before the learned C.J.M, Gumla. Thereafter, the learned C.J.M. Gumla had taken cognizance on 06.08.1998 against the appellant namely Rajendra Oraon along with co-accused namely Ravi Oraon and Budheshwar Oraon under Sections 399/402 of IPC and 25(1-B)A/34/35 of the Arms Act and Section 3/4 of Explosive Substance Act.

After supplying the police papers to the accused persons, the case was committed to the Court of Sessions.

9. Thereafter, the charges had been framed on 24.02.1999 against the appellant Rajendra Oraon under Sections 402 of I.P.C, 25(1)B/35 of the Arms Act and Section 4-A of Explosive Substance Act by Sri. S.N. Singh then learned Addl. District Judge, Gumla and to which the appellant pleaded not guilty and claimed to be tried.

The learned Trial Court had also framed charges against the co-accused namely Ravi Oraon and Budheshwar Oraon on 24.02.1999 for the offences under Sections 402 of I.P.C and 25(1)B/35 of the Arms Act and Section 4-A of Explosive Substance Act.

10. During Trial of the prosecution got examined fourteen (14) witness, who are as follows:-

- (i). P.W.-1 is Fagua Oraon,
- (ii). P.W.-2 is Ropa Oraon,
- (iii). P.W.-3 is Prabhu Prajapati,
- (iv). P.W.-4 is Baidnath Prasad Singh (i.e. the Informant)
- (v). P.W.-5 is Ashok Kumar Singh,
- (vi). P.W.-6 is Sanjay Suman,
- (vii). P.W.-7 is Chaturdhan Pradhan,
- (viii). P.W.-8 is Manki Kalondia,
- (ix). P.W.-9 is Fabianus Panna,
- (x). P.W.-10 is Gobardhan Oraon,
- (xi). P.W.-11 is Daya Shankar Sahu,
- (xii). P.W.-12 is Praful Kumar Singh (i.e. the I.O.),
- (xiii). P.W.-13 is Krishna Kumar Singh (Asst. in legal Section) and
- (xiv). P.W.-14 is Pramod Kumar.

11. The prosecution case in support of its case had got marked the Exhibits which are as follows:-

- (i). Ext.1 is Formal F.I.R,
- (ii). Ext.2 is Signature of Prabhu Prajapati on seizure list,
- (iii). Ext.3 is Signature of Baijnath Prasad Singh on seizure list and warrant,
- (iv). Ext.4 is test report of fire arms,
- (v). Ext.5 is receiving receipt given by FSL Ranchi and
- (vi). Ext.6 is Sanction order.

12. The prosecution case in support of its case had marked Material Exhibits which are as follows:-

(i). Ext.A is the one D.B.M.L. Gun,

(ii). Ext.A/1 to A/7 are the 7 S.B.M.L. with material

13. Thereafter, the appellant namely Rajendra Oraon along with co-accused namely Ravi Oraon and Budheshwar Oraon were examined under Section 313 of Cr.P.C. on 28.07.2003 and 29.09.2003 before the learned Trial Court and to which the appellant and two others co-accused had denied the circumstances put forth before them.

14. Neither any Defence witness was examined nor any document was marked as Exhibits.

15. Thereafter, the learned Trial Court, after considering the case of both the sides, has convicted the appellant namely Rajendra Oraon along with co-accused namely Ravi Oraon and Budheshwar Oraon as mentioned above and sentenced them on different counts as mentioned above.

16. So far as the prosecution witnesses are concerned, PW-1, namely, Fagua Oraon, is a labour and who stated during his evidence that he does not know about this case.

This PW-1, namely, Fagua Oraon has been declared hostile by the prosecution.

During cross-examination, he stated that Daroga Harish Chandra (not examined) took him to Ghaghra P.S. and took thumb impressions from both the brothers. He also stated that neither house of accused persons were searched in their presence nor any fire arms were recovered from them.

17. Thus, from scrutinizing the evidence of PW-1, namely, Fagua Oraon, it is evident that he does not know about this case. He was declared hostile by the prosecution and even during

cross-examination he had not supported the prosecution case and stated that nothing was seized and no fire arms were recovered during his presence and he had put his thumb impression in the police station on the instruction of Daroga Harish Chandra.

Thus, the evidence of PW-1, namely, Fagua Oraon, is not reliable.

18. PW-2, is Ropa Oraon, who also stated during evidence that he does not know about this occurrence and he had not put his signature on the seizure list.

Even during cross-examination, he stated that Daroga Harish Chandra had taken him and his brother to the police station and took their thumb impressions. He also stated no search was made by Ghaghra Police Officials during their presence and no fire arms was recovered.

19. Thus, from scrutinizing the evidence of PW-2, namely Ropa Oraon, it is evident that he does not know about this case. The PW-2, namely, Ropa Oraon, was declared hostile by the prosecution and even during cross-examination also he had not supported the prosecution case and stated that nothing was seized and no fire arms were recovered during their presence and he had put his thumb impression in the police station on the instruction of Daroga Harish Chandra.

Hence, the evidence of PW-2, namely Ropa Oraon is also not reliable.

20. PW-3, namely, Prabhu Prajapati, has also stated that no seizure list was prepared during his presence but he had put his signature on the seizure list marked as Exhibit-1 (with objection).

Even, during cross-examination, he stated that house of the accused persons was neither searched nor any fire arm was recovered during his presence. His statement was not recorded by

the police.

21. Thus, from scrutinizing the evidence of PW-3, namely, Prabhu Prajapati, it is evident that he has also not supported the prosecution case and house of the accused persons was neither searched during his presence nor any fire armed was seized.

Hence the evidence of PW-3, namely, Prabhu Prajapati is not reliable.

22. PW-4, namely, Baidnath Prasad Singh, is the informant in this case, hence his evidence will be considered later on after examination of other witnesses.

23. PW-5, namely, Ashok Kumar Singh, is Hawaldar at Ghaghra Police Station and stated during his evidence that on 04.05.1998, he received the information at about 01.00 AM that some miscreants have assembled at village Chatamdag, then he alongwith other armed force including the informant, namely Baidnath Prasad Singh and Suman Babu had gone there and they had conducted raid in the house of one accused namely Ravi Oraon where they had found eight persons sitting there but five (05) persons fled away and rest three (03) persons were apprehended.

He also stated during search eight (08) desi bandooks (guns) and bombs were recovered. Thereafter, they alongwith the accused persons arrived at the police station. However, he also stated that several days have passed and he did not identify any accused persons.

24. During cross-examination, he stated that he left for village-Chatamdag at around 07.00 PM in the evening and arrived at Chatamdag at around 01.00 AM and conducted raid in the morning. They had stayed in the village but he does not remember the place and he had also met with the villagers prior to the raid but prior to arriving at village he met none.

However, he had not talked with any other persons. He was posted in Ghagra P.S. two years prior to the occurrence and he also stated that Baidnath Prasad Singh (i.e. the Informant) and Suman Babu had not recorded his statement. However, they had brought the articles in their jeep and no villager had arrived in the jeep. He also stated that there were 2-3 persons of the family persons of accused Ravi Oraon. He denied the suggestion for not having recovered any article and for not conducting any raid.

25. Thus, from securitizing the evidence, of PW-5, namely, Ashok Kumar Singh, it is evident that though he has tried to support the prosecution case regarding conducting the raid in the house of one co-accused Ravi Oraon and recovery of articles. However, he had not identified the appellant during the trial. He also admitted to have not met any villagers prior to occurrence.

Thus, the evidence of PW-5, namely, Ashok Kumar Singh is not reliable so far as the appellant, namely Rajendra Oraon is concerned as he has not identified the appellant during trial.

26. PW-6, namely, Sanjay Suman, is J.S.I. of Simdega P.S. and who stated during his evidence that on 04.05.1998, while he was posted as J.S.I. in Ghaghra P.S. and Officer in-charge was Praful Kumar Singh. Then there was an information at police station that some extremists have hidden themselves in the village Chatamdag and then on the order of Officer in-charge, he alongwith Baidnath Prasad Singh i.e. PW-4 proceeded towards the place of occurrence and he arrived there at around 03.30 A.M. in the morning and then criminal started fleeing away towards jungle (forest) and some persons had assembled near one house. In the morning hour, one house was searched which belonged to co-accused Ravi Oraon. Thereafter, during search in one room seven one single barrel gun and one double barrel gun were

recovered below straw (puwal). He also stated that three persons were hiding themselves, who disclosed their names one Ravi Oraon (co-accused), Rajendra Oraon (i.e. the appellant) and Budheshwar Oraon (co-accused) and other had fled away who were namely Binod Mahli, Maniyar Kujur, Rohan Mahto and Nanku Mahto etc.

Then, he alongwith the accused persons arrived at police station and handed over the same to the Officer in-Charge and he claimed to have identified the appellant.

27. During cross-examination, he stated that prior to occurrence, he was not acquainted with the accused persons and prior to their arrival no police officers had were arrived in the village. Thereafter, he also stated that some people had started fleeing away towards jungle (forest) and there were around 20 to 25 persons present near the house and even 8 to 10 persons had moved to other houses. There was no boundary wall near the alleged house and the door of the house was closed from earlier. He does not remember as to who had got the door opened. Nothing was burning inside the house. He does not remember the name of any independent person and he was not acquainted with them prior to the occurrence.

He, further, stated at para-9 that when he went inside the house then both witnesses were found present and at the time when Baidnath Prasad Singh i.e. the Informant and other police personnel were present. He does not remember the period of time of search. He also admitted that the witnesses had not put signatures during his presence.

28. Thus, from scrutinizing the evidence of PW-6, namely Sanjay Suman, it is evident that he was J.S.I. at the time of occurrence, although he claimed to arrive to have accompanied the

informant at the time of search in the house of co-convict Ravi Oraon but it is a fact that all the persons were sitting inside the house.

He claimed that seven single barrel guns and one double barrel gun were recovered but he admitted that none of the witnesses put their signatures in his presence. It is also improbable that the witnesses would remain present inside the house at the time of search.

Even PW-6, namely Sanjay Suman has not stated as to whether the arms were seized before him at the place of occurrence in presence of prosecution witnesses and he has also not stated that armed were sent to FSL.

Even, the evidence of PW-6, namely Sanjay Suman is contradicted from the evidence of PW-1 namely Fagua Oraon, PW-2 namely Ropa Oraon and PW-3 namely Prabhu Prajapati who had stated that nothing was seized and no fire armed were seized during his presence.

However, the evidence of PW-6, namely Sanjay Suman supported the prosecution case on the point of recovery of fire arms from the appellant and others.

29. PW-7, namely, Chaturdhan Pradhan, who is an Advocate Clerk and has proved the formal FIR, which was in writing of Praful Kumar Singh, then Officer In-Charge, which is marked as Exhibit-1.

During cross-examination, he admitted that the FIR was not written during his presence and he is not aware of this case and he has never worked with said Officer in-Charge.

30. Thus, the evidence of PW-7, namely Chaturdhan Pradhan is a formal and he is not competent to prove the FIR and hence the evidence of PW-7, namely, Chaturdhan Pradhan is not reliable.

31. PW-8, namely Manki Kalondia, is constable No.285, and who stated during evidence that he was posted at Ghaghra Police station on 04.05.1998. On the instruction of Officer in-charge to conduct raid in village- Chatamdag, he alongwith other police officials as well as Officer In-Charge Baidnath Prasad Singh i.e. PW-4 (who is informant) and Sanjay Suman (i.e.PW-6), he proceeded towards the place of occurrence and he arrived at the place of occurrence 5-6 AM in the morning. Thereafter, he conducted raid in the house of Ravi Oraon and had recovered eight desi Bandoos (guns) and articles for preparing bombs. Thereafter the police had arrested three persons and remaining persons had fled away. He also stated that the accused Ravi Oraon and two others were arrested but he does not remember the name of two other persons.

32. During cross-examination, he stated that he was posted four month prior to the occurrence, he had no friendship with the accused Ravi Oraon and he had also not seen the accused Ravi Oraon prior to occurrence and none of the police officials had talked with Ravi Oraon during his presence. The Police has not recorded his statement and they had brought the recovered articles in the police station and which were brought by Daya Shankar Sahu i.e. PW-11 and Daroga Ji.

They had arrived at the place of occurrence on around 4-5 A.M in the morning but they had no talked with any villager.

33. Thus, from scrutinizing the evidence of PW-8, Manki Kalondia, it would appear that he has been setup by the prosecution and although he had taken the name of co-convict Ravi Oraon where he was arrested and he also taken the name of two other accused persons but he had not taken their names but vaguely claimed to identify the person in the learned Trial Court and which

has not been recorded by the learned Trial Court as to which accused was identified by PW-8, namely Manki Kalondia. He has not also not supported the seizure list prepared at the place of occurrence and sealing of article at the place of occurrence.

Thus, the evidence of PW-8, namely Manki Kalondia is not reliable so far as the appellant Rajender Oraon is concerned as he has not identified him during trial.

34. PW-9, namely, Fabianus Panna, is also Hawaldar, who stated during evidence that on 04.05.1998 he was posted in Ghaghra P.S. and on that day he alongwith Officer in-charge Baidnath Prasad Singh, i.e. PW-4, (Informant) and Sanjay Suman JSI i.e. PW-5 and with other constables proceeded towards the village Chatamdag and he arrived at the place of occurrence at around 06.00 AM in the morning. Thereafter, a raid was conducted in the house of Ravi Oraon and during the raid eight (08) desi Bandoos (guns) and other articles for manufacturing bombs were recovered. The police had arrested three persons and thereafter he alongwith other accused persons arrived at the police station.

35. During cross-examination, he stated that he had not seen the accused persons prior to the occurrence and he had also not seen the houses of the accused persons. He had not disclosed to the Daroga Ji that eight (08) bombs were recovered.

He further stated that Chowkidars had brought the recovered bombs but he cannot tell the name of any Chowkidar and recovered articles were produced in the police station firstly.

36. Thus, from scrutinizing the evidence of PW-9, namely Fabianus Panna, it is evident that although he tried to support the prosecution case but during cross-examination he clearly stated that the Chowkidar etc. had brought the recovered

articles to the police officials but he cannot tell the name of any chowkidar.

Even, the evidence of PW-9, namely Fabianus Panna, is contradicted with the evidence of PW-5, namely, Ashok Kumar Singh, PW-6 namely Sanjay Suman and PW-8 namely Manki Kalondia.

Hence, the evidence of PW-9, namely Fabianus Panna is not reliable.

37. PW-10 namely, Gobardhan Oraon, who is Constable No.265. He also stated that on 04.05.1998 while he was posted in Ghagra P.S., he alongwith Prabhu Prasad Singh i.e. PW-3, Sanjay Suman i.e. PW-6 arrived at Chatamdag at 04.00 AM in the morning, had recovered eight desi bandook (guns) from the house of the accused Ravi Oraon and Prabhu Prasad Singh had seized the articles. He claimed to identify the accused Ravi Oraon only who was present at that day.

38. However, during cross-examination, he stated that he was not acquainted with the accused Ravi Oraon prior to the occurrence and he had seen the accused Ravi Oraon on the day of occurrence. He does not remember the direction of house of accused Ravi Oraon.

39. Thus, from scrutinizing the evidence of PW-10, namely Gobardhan Oraon, it is evident that though he claimed to be identified all eyewitnesses but he was not contradicted with evidence PW-5, namely Ashok Kumar Singh, PW-6 namely Sanjay Suman and PW-8 namely Manki Kalondia on the point of recovery of eight bandook (guns) from the house of accused Ravi Oraon by Sanjay Suman (PW-6).

He only claimed to identify the accused Ravi Oraon but not the appellant. Hence the evidence of PW-10, namely

Gobardhan Oraon is not reliable. So far the present appellant is concerned.

40. PW-11, namely Daya Shankar Sahu, is constable no.1175 and who stated that while he was posted at Ghaghra P.S. on 04.05.1998 and on that day he alongwith Officer In-charge went to conduct a raid. Even Sanjay Suman i.e. PW-6 and Chaturdhan Pradhan i.e. PW-7 and Gobardhan Oraon i.e. PW-10 had accompanied him in the raid, which was conducted at village Chatamdag and articles of bombs were recovered. He claimed to identify the accused namely Ravi Oraon.

However, during cross-examination he stated that he does not know as to who is Ravi Oraon.

41. Thus, from scrutinizing the evidence of PW-11 namely Daya Shankar Sahu, it is evident that he was not present at the place of occurrence and he also wrongly identified the appellant during trial and also stated that even the articles of bombs were recovered but he is silent about recovery of eight desi bandook (guns).

Thus, the evidence of PW-11, namely, Daya Shankar Sahu suffers from several contradictions and cannot be relied upon.

42. PW-12, is Praful Kumar Singh, who was the Officer in-charge in Ghaghra P.S, on 04.05.1998 at the time of FIR, has stated that on receiving secret information he had sent S.I. Baidnath Prasad Singh (i.e. PW-4), S.I. Sanjay Suman (i.e. PW-6) alongwith other police force at village Chatamdag and arrived from the place of occurrence and submitted the written application which is in the handwriting of Baidnath Prasad Singh i.e. the PW-4. They had recovered several Bandook (guns), bullets and articles of manufacturing bombs and prepared the

seizures list.

Even the written report, was instituted giving rise to Ghagra P.S. Case No.25/98 for the offences under Section 399/402 of IPC and Section 25(1)B/35/34 of the Arms Act and Section 3/4 of Explosive Substances Act and three other accused persons were arrested and thereafter he had taken over the investigation of this case himself.

43. During cross-examination he stated that he went to the place of occurrence and inspected the place of occurrence which was situated at village Chatamdag in the house of accused Ravi Oraon. He further mentioned the direction. He further stated that eight (08) fire arms and articles for manufacturing of bomb were recovered which was concealed under the straw (puwal).

Thereafter, he recorded the statement of witnesses and again recorded the statement of informant. Thus, he sent the seized articles for FSL even the test report of fire arms was received from the Sergeant Major. He proved the test report marked as Exhibit-4 which is in the handwriting of then Dy.S.P. Thereafter, he had submitted the charge sheet against the F.I.R named accused persons. He also tried to apprehend the accused persons who had fled away but they could not be traced the three other accused persons.

44. During cross-examination, he stated that he had mentioned the receiving of secret information in the Sanha of Police Station then he had inspected the place of occurrence in presence of Officer in-charge. He had also mentioned the boundary of place of occurrence which is mentioned at para-12 of the case diary.

He had recorded the statement of six (06) witnesses at the place of occurrence and remaining other police persons were

examined and their statements were recorded in the police station. He also admitted that though he had sent the articles for manufacturing of bomb in the F.S.L but no report was received from F.S.L and F.S.L report was not produced.

He stated that the Sergeant Major had not tested the recovered bandook (guns) during his presence.

He denied for making perfunctory investigation.

45. Thus, from scrutinizing the evidence of PW-12, namely Praful Kumar Singh, i.e. Investigating Officer, it is evident that he was the first Investigating Officer of this case and he had inspected the place of occurrence and had sent the recovered bandooks (guns) for testing before the Sergeant Major and the report of Sergeant Major was examined and marked as Exhibit-4. However, he could not receive the F.S.L report of bomb making articles.

He had not clearly stated as to the statements of which prosecution witnesses was recorded by him in the police station.

Hence, the evidence of PW-12, namely Praful Kumar Singh, is cryptic. However, he has supported the prosecution case with regard to the arrest of three accused persons including the appellant and no suggestion was taken by the defence also on the point of identification of the appellant.

46. PW-13, is Krishna Kumar Singh, was an Assistant in Deputy Commissioner Legal Section, Gumla has stated during evidence that the sanction was accorded in Arms Act and Explosive Substance Act against the accused persons namely Ravi Oraon, Rajendra Oraon (i.e. appellant), Budheshwar Oraon, Binod Mahli @ Binod Munda and which was accorded by then Deputy Commissioner, Sri K.K. Khandelwal, and the sanction report was marked as Exhibit-1.

47. During cross-examination, he stated that Sanction Order was not typed or signed before him even the letter number was not written before him. Even the Deputy Commissioner had not put his signature before his presence and on that date he was posted in Legal Section rather one Alexius Kerketta and Krisenta Ekka were posted there. He stated on the instruction of P.P. (i.e. Public Prosecutor) he had come to give the evidence.

Thus, the PW-13, namely Krishna Kumar Singh is a formal witness.

48. PW-14 is Pramod Kumar, who was the S.I. and posted at Ghagra P.S. and stated that the seized articles of Ghagra P.S. No. 25/98 i.e. seven (07) S.B.M.L and one (01) D.B.M.L guns were recovered and kept in the police station which were produced by him before the learned Trial Court.

He stated that the explosive substance, which were recovered from the accused persons, were sent to FSL, Ranchi but till date no report had been received.

49. He has proved the receiving letter of FSL in which two sealed plastic box were received by the FSL and which was marked as Exhibit-6.

He has, further, proved one DBML gun as Material Exhibit-A and he further proved seven (07) SBML country made guns which were marked as Material Exhibits A-1 to A-7 respectively.

50. During cross-examination, he stated that he was not posted in Ghagra P.S. when the FIR was lodged. Presently, he is posted as Malkhana in-charge Ghagra police Station but when he went to take the charge of Malkhana at that time, these eight (08) guns were not handed over in sealed condition. Even, he had not sealed these guns, while taking it from Malkhana to the Court, he

admitted that the papers is pasted but it does not contain the signatures of any witnesses or any accused persons. He also admitted that he is not Investigating Officer of this case and as per his information he is not aware as to whether any article was sent to FSL. He also could not identify his signature of papers pasted on the guns.

51. Thus, from scrutinizing the evidence of PW-14 namely, Pramod Kumar, it would appear that although he was Malkhana in-charge but he had brought the several SBML and DBML guns which were in open condition without having any seal, which were marked as Exhibit-A-1 to Exhibit-A-7 respectively.

During trial, he admitted that though some papers with signatures is pasted on the gun but he does not identify the same and not aware the name of the person who had put his signature on the same.

Thus, the evidence of PW-14, namely, Pramod Kumar, does not support the prosecution case.

52. PW-4, namely Baidnath Prasad Singh, (i.e. Informant) has stated during his evidence that when he was posted on 04.05.1998 at Ghagra P.S. then the Officer in-charge received the secret information regarding hiding of some extremists. Thereafter, Officer in-Charge sent two Sub-inspectors and armed party for village Chatamdag, which is situated in western pahadi. Thereafter, he alongwith Sanjay Suman i.e. PW-6 and armed party having Hawaldar Ashok Kumar Singh i.e. PW-5, Daya Shankar Sahu i.e. PW-11, Manki Kalondia i.e. PW-8, and Gobardhan Oraon i.e. PW-10 had accompanied with him.

They had gone to certain distance by Truck and then they went by foot near village Chatamdag and arrived near Pahad at around 03.30 A.M. in the morning and after their arrival some

persons started fleeing away towards the jungle and due to darkness they could not proceed towards the Jungle and they were searching in village Chatamdag. Then they found that some ladies were perplexed near one house and they suspected and tried to search. In the meantime, the local witnesses namely Ropa Oraon, i.e. PW-2, Fagua Oraon i.e. PW-1 and Prabhu Prajapati i.e. PW-3 also arrived there and thereafter, they had searched the house of one Ravi Oraon.

During search, they found Ravi Oraon, Rajendra Oraon (i.e. the appellant) and Budheswar Oraon were concealing themselves in one room in the house and they have apprehended three accused persons including the appellant and they also recovered eight Bharwa Bandoon from the room of accused Ravi Oraon and in which the seven (07) SBML were recovered. He, further, found the articles of making bomb from another room and also recovered on the iron articles and he had prepared the seizure list and he had put his signature.

He has proved the seizure list marked as Exhibit-2. The accused persons had failed to prove any paper for keeping such articles.

53. He i.e. PW-4 further stated that during course of interrogation that the accused Rajendra Oraon (i.e. the appellant) had disclosed them that Binod Mahli and Matiyanus Kujur, Buddhu Bhagat, Rohan Mahto and Nanak Mahto had fled away, who could not be arrested.

Thereafter, he alongwith arrested persons with seized articles arrived at the police station and then he submitted the written report to the Officer in-charge and he identified his signature on FIR which is marked as Exhibit-3, he had identified all the three accused persons including the appellant, who are in

custody.

54. During cross-examination, he stated that he was posted in Ghaghra P.S. since October 1996 prior to this raid and he was not acquainted to accused person prior to the occurrence and his subsequently statement was recorded by Officer in-charge-cum-I.O. Praful Kumar Singh.

He had stated before the Investigating Officer, that he had made search in presence of local witnesses namely, PW-2 Ropa Oraon and PW-1 Fagua Oraon and he was not aware of Fagua Oraon and Ropa Oraon prior to the occurrence, who were present in the crowd. He also stated that they were having torches and all raiding members were having torch. However, the Investigating Officer had not taken that torch from him. He had also chased the persons fleeing away for 1.00 to 1.30 hours. He had not talked with any other person at village Chatamdag, he had handed over main original copy of search and seizure list to the Officer In-charge. He admitted to have not sealed any seized articles because there were no resources.

He also admitted to have not pasted the signature of witnesses on the seized articles. He had prepared the written report outside the house at the place of occurrence and he has also prepared the seizure list there.

55. Thereafter, they brought the Material Exhibit to the police station after sunrise and he arrived to the police station by the same truck (boxide carrying truck) to the police station.

He, further stated in para-10 that he had handed over the seized articles to the Officer in-charge but he does not remember the distance of place of occurrence from the police station. No person of village Chatamdag had accompanied them to the police

station. He further stated at para-11 that there were 10-15 persons present who were in hurry after seeing the police he had not gone the same house again. He is aware of village Chatamdag but he is not aware of about Daroga Harish Chandra.

He had denied the suggestion that he had implicated the accused persons in collusion with Harish Chanda i.e. Daroga Ji. He further denied the suggestion for not obtaining the signature of seizure list witnesses i.e. Ropa Oraon i.e. PW-2 and Fagua Oraon i.e. PW-1. He denied the suggestions that there is no signature of seizure list rather it containing their thumb impressions.

56. Thus, from scrutinizing the evidence of PW-4 namely Baidnath Prasad Singh, it would appear that he is the Informant in this case, who conducted the raid along other persons examined as PW-5 namely Ashok Kumar Singh, PW-6 namely Sanjay Suman, PW-9 namely Fabianus Panna and PW-10 namely Gobardhan Oraon and arrested three persons including the appellant.

However, he admitted during his cross-examination at paragraph-9 that he had not sealed the articles at the place of occurrence.

He had not taken the signature on the papers which was pasted on the seized fire arms.

Thus, the evidence of PW-4, namely, Baidnath Prasad Singh supported the prosecution case.

57. It further transpires from the evidence of several prosecution witnesses that there is inconsistencies on the part of arrival of place of occurrence.

58. It further transpires that learned Trial Court acquitted the appellant for the offence under Section 25(1B)A/34/35 of the Arms

Act and Section 3/4 of Explosive Substance Act.

However, learned Trial Court has convicted the appellant for the offence under Section 402 of IPC only.

59. The presence of the appellant is not denied at the place of occurrence and he had not taken any specific defence. Although, the accused persons were acquitted for the offence under Section 25(1B)A/34/35 of the Arms Act and Section 3/4 of Explosive Substance Act on technical grounds, however, their presence is not doubted.

60. Therefore, in view of the discussion made the conviction of appellant for the offence under Section 402 of IPC imposed is hereby affirmed.

61. However, so far as the sentence is concerned, it appears that the occurrence took place on 1998 and more than twenty seven (27) years have passed and the appellant has suffered the mental agony of long protracted trial.

62. It further appears that the appellant had remained in custody in during trial from 05.05.1998 to 23.02.2001 and after conviction from 07.11.2003 to 12.11.2003 i.e. total custody around two (02) years nine (09) months and 23 days.

63. Under the circumstances and in view of the fact and circumstances of this case and also considering the fact that the appellant has faced long protracted trial for more than 27 years, the sentence of the appellant can be modified.

64. So far as the sentence is concerned, it transpires that the appellant has remained in custody for around two (02) years nine (09) months and 23 days out of R.I. for three (03) years and R.I. for three (03) years respectively and as such the period undergone by the appellant in jail shall be the period of sentence.

65. Accordingly, the impugned judgment of conviction dated 07.11.2003 passed by Sri A.K. Dubey, learned Additional Sessions Judge-cum-Fast Track Court No.1 Gumla in S.T. Case No.237/98 arising out of Ghaghra P.S. Case No.25/98, is, hereby, affirmed but the sentence dated 10.11.2003 is modified to the extended indicated above.

66. Thus, this Criminal Appeal (SJ) No.1709 of 2003 is dismissed with modification in sentence as mentioned above.

67. Let a copy of this order and the Original lower Court records be sent to the learned Trial Court by once.

(Sanjay Prasad, J.)

Dated 22.01.2026

Nishant/-