# IN THE HIGH COURT OF JUDICATURE AT PATNA
## CRIMINAL APPEAL (DB) No.1264 of 2024

Arising Out of PS. Case No.-90 Year-2020 Thana- BHELDI District- Saran

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Seema Kumari, D/o Pramod Ram, R/o vill - Chainpur, P.S.- Bheldi, District-Saran.

... ... Appellant

Versus

1. The State of Bihar
2. Deepak Ram, S/o Rambabu Ram, R/o vill - Chainpur, P.S.- Bheldi, Distt.-Saran.

... ... Respondents

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**Appearance :**

| | | |
|---|---|---|
| For the Appellant | : | Mr. Dharam Deepak Vishwash, Advocate<br>Mr. Adil Abbas, Advocate<br>Mr. Saurav Suman, Advocate<br>Ms. Suruchi Suman, Advocate<br>Ms. Shubha Nandani, Advocate |
| For the State | : | Mr. Ajay Mishra, Addl.PP |
| For the Resp No. 2 | : | Ms. Rajani Kumari, Advocate<br>Mr. Vijay Kumar, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**
**and**
**HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA**

**ORAL JUDGMENT**
**(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

**Date : 17-08-2026**

Heard learned counsel for the appellant, learned Additional Public Prosecutor for the State and learned counsel for the Respondent No. 2.

**2.** The present criminal appeal under Section 372 of the Criminal Procedure Code, 1973 (in short 'CrPC') arises out of the judgment of acquittal dated 08.02.2024 (hereinafter referred to as the 'impugned judgment') passed by learned Additional District and Sessions Judge-IX, Saran, Chapra (hereinafter referred to as

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the 'learned trial court') in Sessions Trial No. 247 of 2020 arising out of Bheldi P.S. Case No. 90 of 2020 whereby and whereunder Respondent No. 2 has been acquitted of the charge punishable under Section 302 of the Indian Penal Code (in short 'IPC').

**Prosecution Case**

**3.** The prosecution story is based on the *fardbeyan* of one Seema Kumari (PW-2) recorded on 22.05.2020 at 09:40 PM in presence of her mother Shobha Devi. In her *fardbeyan,* she has stated that on the same day at 07:00 PM, she along with her Aunt (deceased), namely, Rekha Devi and Savita Kumari had went towards *nahar* for nature's call and one Priti Kumari joined them on the way. When they were returning home, at about 20-25 feet west from *nahar*, one co-villager Deepak Ram (respondent no. 2) came from village side and started hurling abuses. He caught her Aunt (deceased) and slapped her on her face due to which she fell. Deepak Ram assaulted the deceased with a 1.5 feet long sharp '*gupti'* on her face and stomach. Deepak Ram threatened the other women that if they won't go they will also be killed, then the informant and others left the deceased at the place of occurrence and went home to inform the family members. When the informant along with other family members and co-villagers went at the place of occurrence, they found that Rekha Devi had died and

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Deepak Ram had fled away. With the help of the villagers, the deceased was sent to PHC, Garkha by ambulance where the doctors declared the deceased dead. At the time of occurrence, the deceased was talking on her phone.

**4.** On the basis of the *fardbeyan* of the informant (PW-2), Bheldi P.S. Case No. 90 of 2020 dated 23.05.2020 was registered under Section 302 IPC against respondent no. 2. After investigation, the police submitted a chargesheet bearing Chargesheet No. 110 of 2020 dated 17.08.2020 under Section 302 IPC against respondent no. 2. Learned ACJM-XII, Saran vide order dated 21.08.2020 took cognizance of the offence punishable under Section 302 IPC against respondent no. 2. Learned Magistrate vide order dated 28.08.2020 committed the records to the court of sessions.

**5.** Charges were read over in Hindi and explained to respondent no. 2 to which he pleaded innocence and claimed to be tried. Accordingly, vide order dated 23.02.2021, charges were framed against him under Section 302 IPC.

**6.** In course of trial, the prosecution examined as many as six witnesses and got exhibited various documentary evidence. The description of the prosecution witnesses and the list of

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documents exhibited on behalf of prosecution are provided here under for ready reference in a tabular form:-

**List of Prosecution Witnesses**

| **Prosecution Witness Nos.** | **Name of Witness** | **Description** |
|---|---|---|
| PW-1 | Shivji Ram | Independent witness |
| PW-2 | Seema Kumari | Informant |
| PW-3 | Priti Kumari | Hostile witness |
| PW-4 | Vikash Kumar | Investigating Officer |
| PW-5 | Dr. Shailendra Kumar | Medical officer |
| PW-6 | Savita Kumari | Sister-in-law of deceased (hostile) |

**List of Exhibits**

| **Exhibit Nos.** | **Description of the Exhibit** | **Proved by/Attested by** |
|---|---|---|
| ‘P-1’ | Signature of PW-1 Shivji Ram on seizure list | PW-1 |
| ‘P-2’ | Signature of informant on fardbyan | PW-2 |
| ‘P-3’ & ‘P-4’ | Signature of informant on seizure list | PW-2 |
| ‘P-5’ | Identification of fardbyan | PW-2 |
| ‘P-6’ | Pagination of fardbyan by Vikash Kumar | PW-4 |
| ‘P-7’ | Handwriting and signature of Ayub Khan on the formal FIR | PW-4 |
| ‘P-8’ | Handwriting and signature of seizure list | PW-4 |
| ‘P-9’ | Handwriting and signature of confessional statement | PW-4 |
| ‘P-10’ & ‘P-11’ | Handwriting and signature of seizure list by Vikash Kumar | PW-4 |
| ‘P-12’ | Identification of charge sheet | PW-4 |
| ‘P-13’ | Signature of Medical Officer on postmortem report | PW-5 |

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**7.** Thereafter, the statement of the respondent No. 2 was recorded under Section 313 of the CrPC in which he pleaded innocence and stated that he has falsely been implicated in this case.

**8.** The defence has not produced any oral or documentary evidence to prove it's case.

**Findings of the learned Trial Court**

**9.** Learned trial court, after examining all oral as well as documentary evidences, found that there are contradictions in the evidences of the prosecution witnesses. Learned trial court found that according to the informant, there were total three eye witnesses i.e. PW-3, PW-6 and the informant herself to the occurrence but in course of trial, PW-3 and PW-6 have deposed that they do not know anything about the occurrence. Learned trial court also found from the deposition of the informant (PW-2) that there was prior enmity between Rekha Devi (deceased) and Deepak Ram (respondent no. 2) with regard to Rs. 2 lakh/- which Rekha Devi had borrowed from Deepak Ram.

**10.** Learned trial court found that the informant in her *fardbeyan* stated about two injuries but the Doctor found five injuries on the body of the deceased. Learned trial court observed

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that there is contradiction between *fardbeyan* of the informant and the medical evidence.

**11.** Learned trial court, after considering all the facts and circumstance of the case, came to the conclusion that the prosecution has not been able to prove it's case beyond all reasonable doubts against respondent no. 2. Accordingly, learned trial court acquitted respondent no. 2 of the charge punishable under Section 302 IPC.

**Submissions on behalf of the Appellant**

**12.** Mr. Dharam Deepak Vishwash, learned counsel for the appellant has assailed the impugned judgment. It is submitted that the learned trial court has grossly erred in appreciation of the evidences available on the record. In this case, the informant (PW-2) is an eye witness. She is the niece of the deceased and at the time of occurrence, she was present with her. She has narrated about the date, time, place and manner of occurrence. In her cross-examination, she has sustained the test of cross-examination and no material contradiction could be taken during her deposition.

**13.** It is submitted that the testimony of the informant (PW-2) is fully corroborated by the medical evidence (Exhibit 'P-13/ P-5'). Dr. Shailendra Kumar (PW-5) had found wound over right side of the nose and stab injury on the left breast, right thigh

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lateral aspect and injuries on the right knee, right breast, left forearm, right sided breast (three in numbers) - 2cm x 1cm x muscle deep. The Doctor has opined that the cause of death was the cardio respiratory failure due to hemorrhage and shock. The Doctor has also stated in his cross-examination that dimension of the injuries as mentioned by him were of the same dimension.

**14.** It is further submitted that the I.O. (PW-4) had visited the place of occurrence within two and half hours of the occurrence, during his visit, he had found the slipper of the deceased, broken glass of red coloured bangles (‘*chudi’*) and blood soaked plants and blood soaked grass and earth at the place of occurrence. He had prepared seizure list-1. The seizure list was prepared in presence of Seema Kumari (PW-2) and Shobha Devi (not examined). The I.O. (PW-4) has further stated that he had arrested the accused on the same day and the accused had given his confessional statement (Exhibit ‘P-9’) in which he disclosed the place where the weapon used in crime was concealed. At his instance, the I.O. had seized one white coloured T-shirt and the ‘*gupti*’ which was used in commission of crime. The signature of the I.O. on this seizure list has been marked as Exhibit ‘P-10’.

**15.** Learned counsel submits that Priti Kumari (PW-3) had though turned hostile but on going through the deposition of

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Shivji Ram (PW-1), it would appear that even as he is a hearsay witness, he has described the circumstances immediately noticed by him after the occurrence when he came to know about the present occurrence and had gone to the place of occurrence.

**16.** It is submitted that in such circumstance, the judgment of the learned trial court acquitting the accused-respondent no. 2 is not inspiring. The findings are perversed and on going through the records, this Court can irresistibly come to the conclusion that the accused-respondent no. 2 has committed the offence and the charge under Section 302 IPC is duly proved against him.

**Submissions on behalf of Respondent No. 2**

**17.** On the other hand, Ms. Ranjani Kumari, learned counsel for the respondent no. 2 has opposed the appeal. It is submitted that the informant (PW-2) claimed that Priti Kumari (PW-3) was also present with her at the time of occurrence but said Priti Kumari has not supported the prosecution case as she has turned hostile. It is submitted that the deposition of the informant (PW-2) is not consistent. Learned counsel submits that from the pattern of cross-examination done by the defence, it would appear that the defence has suggested the informant (PW-2) that Deepak Ram (the respondent no. 2) had given a sum of Rs.2

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lakhs/- to the deceased and he was demanding the said money, therefore, in order to usurp the said amount of Rs.2 lakhs/-, his name has been falsely given in this case. The defence suggested that the deceased had been quarreling with many people and for that reason, she has been murdered.

**18.** Learned counsel for the accused-respondent no. 2 submits that a confessional statement (Exhibit ‘P-9’) has been recorded by police but it is not in accordance with law, thus, could not be admissible in evidence. So far as the recovery of the weapon used in crime at the instance of the accused is concerned, it is submitted that the seizure list is on the record, however, signature of PW-1 and the I.O. (PW-4) have been proved as Exhibits ‘P-1’ and ‘P-10’ respectively, the said weapon was not produced in the court.

19. Learned counsel, therefore, submits that in such circumstance, no perversity may be found in the judgment of the learned trial court. The acquittal of the accused-respondent no. 2 need not be interfered with.

Submission on behalf of the State

20. Mr. Ajay Mishra, learned Additional Public Prosecutor for the State submits that on going through the deposition of the informant (PW-2), the I.O. (PW-4) and the

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Doctor (PW-5), he does not find any contradiction and according to him, these witnesses have remained consistent throughout the trial.

**Consideration**

**21.** We have heard learned counsel for the appellant, learned counsel for the accused-respondent no. 2 and learned Additional Public Prosecutor for the State as also perused the trial court's records.

**22.** At first instance, this Court finds that in the present case, the first information report has been lodged on 23.05.2020 at 00:30 AM. The occurrence is said to have taken place on 22.05.2020 at 07:00 PM, *fardbeyan* of the informant (PW-2) has been recorded by the SI-cum-SHO Vikash Kumar, Bheldi Police Station at 09:40 PM. In her *fardbeyan,* the informant (PW-2) has given the narration of the manner of occurrence. According to her, the informant had gone with her aunt Rekha Devi (deceased) to relieve and on way towards the canal, they had met Priti Kumari (PW-3). She has stated in her *fardbeyan* that about 25-30 feet towards western side of the village, Deepak Ram (respondent no. 2) came, he was abusing aunt Rekha Devi and he was trying to catch hold of her. The informant has stated that her aunt (deceased) tried to flee away as she came behind the informant

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and Priti Kumari but Deepak Ram caught hold of her and gave her a fist blow on her face as a result whereof she became injured and fell down on the earth, thereafter, the accused-respondent no. 2 took out a weapon which was in the nature of a '*gupti*', he stabbed on the stomach of the aunt of the informant and injured her whereafter she started bleeding. He threatened the informant to flee away, otherwise she would also be killed whereafter she, Savita and Priti left her aunt there and ran towards their house and informed the members of the family in the house whereafter they along with villagers reached the place of occurrence and found that her aunt was lying there and the accused had fled away. Her aunt was taken to Primary Health Centre, Garkha through an ambulance but the Doctor declared her brought dead. This *fardbeyan* of the informant (PW-2) has been proved in course of trial and the same has been marked (Exhibit 'P-5'). On the basis of this *fardbeyan,* Bheldi P.S. Case No. 90 of 2020 was registered. The endorsement made in the margin portion of the *fardbeyan* by the SHO has been marked as Exhibit 'P-6'. In this case, the chargesheet was filed against the accused-respondent no. 2 for the offence under Section 302 IPC. Cognizance was taken and thereafter finding that this is a case triable by the court of sessions, the records were committed to the court of sessions where charges

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were explained to the respondent no. 2. He denied the charge and claimed to be tried.

**23.** In course of trial, the prosecution examined as many as six witnesses. On perusal of the deposition of Shivji Ram (PW-1), it would appear that at the time of occurrence, he was at his *darwaja*. After hearing *hulla*, he had gone to the place of occurrence and found that Seema Kumari was weeping. She had told him about the occurrence. This witness is a witness to the seizure list prepared by the SHO. He has proved his signature on the seizure list and his signature has been marked Exhibit 'P-1'. This witness was suggested by the defence that Deepak Ram had given Rs.2 Lakhs/- to the deceased which he was demanding and as the money was not returned, Deepak has been falsely implicated in this case. This witness has also been suggested by the defence that Rekha Devi had relationship with many people who used to come to her house and one amongst them having enmity may have murdered her. This witness denied both the suggestions. He denied any enmity with the family of the respondent no. 2.

**24.** The star witness of this case is Seema Kumari (PW-2) who is the informant of this case. She has proved her signature on the *fardbeyan* which has been marked Exhibit 'P-2'. In her examination-in-chief, she has reiterated that she had gone with her aunt to relieve herself and then when they were returning, then

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Deepak Ram came and started abusing Rekha Devi. Thereafter, he assaulted Rekha Devi on her nose whereafter she fell down, then the accused took out a *gupti* from his waist and stabbed Rekha Devi on her nose and on the waist. She had been a witness to the seizure list prepared by *Darogaji*. Her signature has been marked Exhibit 'P-4' on the seizure list. This witness has been cross-examined at length. In paragraph '13' of her deposition, she has given the complete description of the place of occurrence which matches with the description of the place of occurrence given by the I.O. (PW-4). This witness has withstood the test of cross-examination. She has stated in paragraph '17' that Deepak Ram happened to be her neighbour and he was always indulged in quarreling with them. She denied the suggestion that Deepak Ram had given Rs.2 Lakhs/- to Rekha Devi. In paragraph '19', she has stated that prior to this occurrence, there was a quarrel between Rekha Devi and Deepak Ram for which a case was lodged but she could not tell the case number. This Court finds that the defence has not questioned this witness on this and has not suggested that there was no prior case and that Deepak Ram had a quarrel with Rekha Devi earlier. Even in her cross-examination, this witness has reiterated the manner in which the respondent no. 2 had assaulted Rekha Devi by *gupti*. On going through the testimony of the informant (PW-2), this Court finds that she is a wholly reliable witness and no part of her deposition may be doubted by this Court.

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**25.** We find that while appreciating the deposition of the informant (PW-2), the learned trial court has grossly erred in recording that there are material contradictions in the evidence of the informant. The learned trial court has recorded that the informant has stated about only two assaults causing injury to the deceased but the medical opinion shows five injuries on the body of the deceased. This has been taken as a material contradiction in the evidence of the informant (PW-2) which we do not approve. The kind of injuries present and found by the Doctor have been caused by the respondent no. 2 using a *gupti* which is a penetrating weapon and that is why the Doctor has found stab injuries. The injuries found on the knee and other parts of the body would be caused because of the deceased falling on the ground after receiving the hand and fist blow. We find no reason to record it a material contradiction. The finding of the learned trial court is, therefore, perversed.

**26.** The Doctor (PW-5) has found the following injuries on the body of the deceased which we reproduce hereunder:-

> "On Ext. Exam - RM(+), Incised wound Rt. Sided nose 1 ½ "x ½ "x MS deep, over Lt cheek- ½ " x ¼" x MS deep. Stab injury Lt. breast, Rt. thigh Lateral aspect. Rt. Knee, Rt breast, Lt. forearm, Rt sided Breast (3 in number ) – 2cm x 1cm x MS deep.
>
> On dissection – Stab injury bilateral lungs, chest cavity-full of blood punctured wound Rt. Ventricle of heart.

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> All viscera- Pale, stomach and bladder –empty, uterus –Normal, vaginal swab taken- spermatozoa not found (Dr. Deepak, pathologist)
> Time since death- About 16 to 18 hrs.
> Cause of death- in my opinion, Cardio respiratory failure due to Hemorrhage and shock."

**27.** In his cross-examination, the Doctor has clearly stated that the stab injuries found on the person of the deceased are of same dimension so he had not specifically mentioned that the dimension of the stab injuries is different. He has stated that the pattern of the dimension of the injury is length x breadth x depth. He had mentioned the description of the injuries and the weapons used in occurrence as found in his examination.

**28.** The evidence of the I.O. (PW-4) further corroborates the evidence of the informant (PW-2) and that of the Doctor (PW-5). The I.O. has given the description of the place of occurrence stating that the occurrence took place at a distance of about 30 feet west from the canal and it is at a distance of 400 meters from the house of the deceased. The occurrence took place on the *parti* land of the co-villager Sagar Sah. In north, there is *parti* land of Vijay Singh, in south it is land of Gorakh Sah, in East there is Dumaria-Chainpur-Madarpur canal and in west, there is *parti* land of Ramchandra Singh and then *Brahmasthan*. During his visit to the place of occurrence, he had found in the artificial light that there was a slipper, broken glass of red colour bangles (*chudi)*, blood-stained plants, blood-

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stained dried grass as also blood-stained earth. He had prepared the seizure list on which signature of the I.O. has been proved as Exhibit ‘P-8’. The I.O. (PW-4) has further stated about the recording of the confessional statement (Exhibit ‘P-9’) and the disclosure made therein about the place where the weapon used in the crime was kept. He has stated that at the instance of this respondent no. 2, the *gupti* used in the commission of crime was seized from straw house made of bamboos of the villager Isha Sai. He had seized one white colour t-shirt and had prepared seizure list, the signature of which has been marked Exhibit ‘P-10’. He has stated that the seizure list was written in his handwriting and under his signature which has been marked Exhibit ‘P-10’. On perusal of the evidence of the I.O. (PW-4), it appears that he had not sent the crime weapon to the Forensic Science Laboratory (in short ‘FSL’) and there are some laches on his part in not sending the seized *gupti* and the white t-shirt to FSL for examination. There is also laches on his part in not producing the material exhibit *gupti* in the trial court but on going through the entire evidences available on the record, we find that the evidence of the informant (PW-2) together with the evidence of the I.O. (PW-4) and that of the Doctor (PW-5) are so strong that this Court would come to an irresistible conclusion that the prosecution has proved its case as regards the date, time, place and manner of occurrence beyond all reasonable doubt. The defence plea does not

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inspire confidence and there is no independent witness on the point that the respondent no. 2 had given Rs.2 Lakhs/- to the deceased and because he was demanding it so, instead of implicating those who were involved in the murder of the deceased, this respondent no. 2 would be falsely implicated. Normally, it is found that in a case of murder, over implication of accused may take place but this is a case in which the respondent no. 2 is the sole accused who is the assailant of the deceased.

**29.** In our considered opinion, the judgment of the learned trial court acquitting the respondent no. 2 is required to be reversed. We, therefore, hold the respondent no. 2 guilty of commission of offence under Section 302 IPC. He is, therefore, convicted of the charge under Section 302 IPC and is taken into custody.

**(Rajeev Ranjan Prasad, J)**

**(Ramesh Chand Malviya, J)**

**<u>Later On,</u>**

**30.** We have heard learned counsel for the appellant, learned counsel for the respondent no. 2 and learned Additional Public Prosecutor for the State on the point of sentence.

**31.** It is stated that the respondent no. 2 is about 38 years old and he is married and having children. It is submitted

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that the prosecution has not brought on record any evidence to show that the respondent no. 2 cannot be reformed, therefore, a lenient view may be taken in the matter of sentencing. It is further submitted that this case would not fall in the category of rarest of the rare cases.

**32.** Having regard to the submissions noted hereinabove, we are of the considered opinion that the accused-respondent no. 2 shall undergo rigorous life imprisonment for the offence committed under Section 302 IPC and shall pay a fine of Rs.25,000/- (Rupees Twenty Five Thousand) which would be payable to the deceased family. In case of non-payment of fine, the respondent no. 2 shall undergo a further simple imprisonment for six months.

**33.** We further direct that under the Victim's Compensation Scheme under Section 396 of the Bharatiya Nagarik Suraksha Sanhita (in short 'BNSS'), the family of the deceased shall be paid a compensation of Rs.5,00,000/- (Rupees Five Lakhs) or as may be fixed by the District Legal Services Authority, Saran at Chapra whichever is higher, in terms of the scheme within a period of six weeks from the date of receipt of a copy of the judgment.

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**34.** The accused-respondent no. 2 shall be produced before the learned trial court and from there, he would be sent to the jurisdictional jail for undergoing the sentence.

**35.** In terms of Section 404 of the BNSS, a copy of this judgment be supplied to the accused-respondent no. 2 free of cost.

**36.** This appeal is allowed.

**(Rajeev Ranjan Prasad, J)**

**(Ramesh Chand Malviya, J)**

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