

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (DB) No.184 of 2021**

Arising Out of PS. Case No.-701 Year-2016 Thana- FORBESGANJ District- Araria

RAM AKBAL YADAV @ RAM IKBAL YADAV S/o- Prem Lal Yadav  
Resident of Village - Jogbani Ward No. 14, P.S. - Jogbani, District - Araria.  
... .. Appellant

Versus

1. The State of Bihar
2. Abdhesh Sah S/O- Rameshwar Sah Resident of Village Jogbani, Ward No. 13, P.S. Jogbani, District - Araria.
3. Parshuram Sah S/O- Tilak Sah Resident of Village Jogbani, Ward No. 13, P.S. Jogbani, District - Araria.
4. Upendra Sah S/O- Tilak Sah Resident of Village Jogbani, Ward No. 13, P.S. Jogbani, District - Araria.
5. Ravi Kumar Sah S/O- Rambilash Sah Resident of Village Jogbani, Ward No. 13, P.S. Jogbani, District - Araria.

... .. Respondents

**Appearance :**

For the Appellant : Mr. Jitendra Kumar, Advocate  
For the Respondent-State: Km. Shashil Bala Verma, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD  
and  
HONOURABLE MR. JUSTICE PRAVEEN KUMAR  
ORAL JUDGMENT  
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

**Date : 22-01-2026**

Heard learned counsel for the appellant and learned  
Additional Public Prosecutor for the State.

2. The appellant in this case has challenged the judgment dated 02.01.2021 (hereinafter referred to as 'the impugned judgment) passed by the learned Additional District and Sessions Judge-V, Araria (in short 'the learned trial court') in



Sessions Trial No. 175 of 2017 (CIS No.175/2017) arising out of Forbesganj (Simraha) P.S. Case No. 701 of 2016.

3. By the impugned judgment, the learned trial court has been pleased to acquit the respondents No. 2 to 5 of the charges under Section 302 and 201/34 of the Indian Penal Code (IPC).

4. The prosecution case is based on the *fard-beyan* of Ram Ekbal Yadav (the informant) recorded by S.I. Om Prakash, S.H.O., Simraha P.S. on 30.12.2016 at 14:15 hours at Pothia Nahar Pool. In his *fard-beyan* the informant has alleged that in the night of 29.12.2016 after taking meal his son, namely Ajay Kumar Yadav, aged about 18 years, went to sleep with his grandfather and the family members also went to sleep. In the morning, when the informant got up at about 05:00 am, he did not find his son with his grandfather. Thereafter, the informant along with his family members made a search for him in the neighbourhood, when his son did not come back home till 10-11 AM, they started enquiry from the village people, in course thereof when they reached to the market, they came to know from people there that head of a person has been found near Pothia Nahar, upon which the informant along with his family members went to Pothia Nahar Pool, where he and the persons accompanying him identified from the photograph of the head in a mobile phone, the clothes and the *chappal* to be that



of his son. The informant has further stated in his *fard-beyan* that prior to the occurrence his son was being threatened on mobile of being killed by Ramvilash Sah and his family members as they were suspected about the character of the son of the informant who was studying in the same school with daughter of accused Ramvilash Sah. It is further stated in *fard-beyan* that the son of the informant was having love affair with the daughter of accused Ramvilash Sah, he has been killed by accused Ramvilash Sah, Avadhesh Sah, Ravi Kumar Sah, Kunal Kumar Sah, Sheela Devi, Parsuram Sah and Upendra Sah by decapitating his head with sharp cutting weapon. The accused persons were taking the head of his son to conceal it, however, as the vehicle in which the head was being carried met with an accident, they all fled leaving the vehicle, the head of the son of the informant, mobile fitted with SIM, *chappal*, Clothes and the knife, which were recovered from the place of occurrence.

5. After investigation, the police submitted a charge-sheet bearing charge-sheet no. 43/17 dated 16.03.2017 for the offences under Section 302/201/34 IPC against respondents No. 2 to 5. In the charge-sheet altogether eight witnesses have been named in support of the prosecution. On submission of the charge-



sheet, learned Magistrate took cognizance of the offences vide order dated 29.03.2017 and summoned the accused persons.

6. On finding that the charges against respondents No. 2 to 5 are triable by the court of Sessions, the records were committed to the court of Sessions, where it was assigned to the court of learned Additional District and Sessions Judge-IV, Araria, and the same was registered as Sessions Trial No. 175 of 2017. Charges were framed against the respondents No. 2 to 5 for the offences punishable under Section 302/34 and 201/34 IPC. The charges were read over and explained to the accused persons in Hindi to which they pleaded not guilty and claimed to be tried.

7. It appears on perusal of the impugned judgment that in course of trial only two prosecution witnesses, namely, Amul Yadav (PW 1) and Ram Kumar Yadav (PW 2) appeared to support the prosecution case. Both of them are hearsay witnesses.

8. In its judgment, the learned trial court has recorded that in the present case after framing of the charges on 03.06.2017 several opportunities were granted to the prosecution to produce the witnesses. In this regard, it is stated that the learned court has issuedailable warrants on 14.03.2019, non-ailable warrants on 20.05.2019 and then issued *dasti* summons on 19.07.2019, but despite of the efforts taken by the learned court, the prosecution



did not produce any witness. So far as PW 1 and PW 2 are concerned, the learned trial court has found that they have not supported the prosecution case against the accused persons. They had not stated that who had killed Ajay Kumar Yadav and on whose information these witnesses came to know about this murder. In absence of sufficient evidence on the record against the accusation of the respondents No. 2 to 5, the learned trial court acquitted them of the charges.

9. It appears that the informant of this case did not appear to support the prosecution case in the learned trial court. In the memorandum of appeal presented before this Court, the informant-appellant has not made any statement that he was not served with the summons/bailable warrants/non-bailable warrants. There is no averment that he was not aware of the ongoing trial. In the grounds raised before this Court, again there is no ground taken that the learned trial court had not taken steps to serve the informant and other prosecution witnesses. Only a vague ground has been taken that non-examination of the informant, Doctor and the IO of the case by the prosecution itself indicates that the fact that the impugned judgment was passed without application of judicial mind.



**10.** Learned counsel for the appellant has only reiterated the grounds taken in the appeal.

**11.** On the other hand learned Additional Public Prosecutor for the State has submitted that on bare perusal of the trial court records it would appear that the learned trial court had taken all possible steps in accordance with law to procure the presence of the witnesses. The orders passed by the learned trial court on various dates stated hereinabove would show that the court had issuedailable warrants, non-ailable warrants and then it also gave *dasti* summon to the witnesses. Learned APP has submitted that it is a case of no evidence, hence, no illegality or infirmity may be found in the impugned judgment.

**12.** We have heard learned counsel for the appellant and learned Additional Public Prosecutor for the State and carefully perused the trial court records. It is evident that in this case, the learned trial court framed the charges on 03.06.2017. Thereafter, when the prosecution witnesses were not turning up on the summons issued by the court, the learned court issuedailable warrants vide order dated 14.03.2019. Even on theailable warrants when the witnesses did not turn up then learned trial court issued non-ailable warrants vide order dated 20.05.2019. In the margin portion of the order-sheet of the trial court, the date on



which the NBWs were issued to the witnesses and the *dasti* summons were issued have been duly recorded. The appellant has not challenged the endorsements made in the order-sheets showing the issuance of summons, bailable warrants and non-bailable warrants. The appellant has not pleaded before this Court that there was no service of summons, bailable warrants and non-bailable warrants. What is disturbing is that before this Court, the informant-appellant has suppressed the fact that in the trial court the informant had sworn an affidavit to support the defence. The affidavit of the informant is available in the trial court records. Perusal of the affidavit shows that he had gone in collusion with the defence and made a statement that he had lodged the case against the accused persons under some misconception. He declared his intention not to proceed with the case. Having filed this affidavit on the record, the informant, as it appears, did not participate in the trial.

**13.** Be that as it may, we are satisfied on perusal of the record that the learned trial court closed the prosecution evidence only after exhausting all possible steps in accordance with law.

**14.** There being no ground in the memorandum of appeal that the summons were not served upon the appellant and that the trial proceeded without service of summons, we are of the



considered opinion that the learned trial court has not committed any error in taking a view that the prosecution has failed to prove the charges against the accused persons-respondents No. 2 to 5. We find no illegality or infirmity in the impugned judgment of the trial court.

**15.** This appeal has no merit. It is dismissed accordingly.

**16.** As we have found that the appellant himself went on record by filing an affidavit to support the defence and then did not appear in the case in course of trial and even before this Court he did not take any ground that he was not duly served, to this Court it appears that it is a completely frivolous kind of appeal which has only wasted the time of the Court. We, therefore, impose a cost of Rs.10,000.00 (Ten Thousand) upon the appellant which he would deposit with the Patna High Court Legal Services Committee within a period of one month from today.

**(Rajeev Ranjan Prasad, J)**

**(Praveen Kumar, J)**

Pawan/-

<b>AFR/NAFR</b>	NAFR
<b>CAV DATE</b>	N/A
<b>Uploading Date</b>	27.01.2026.
<b>Transmission Date</b>	27.01.2026.

