

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.492 of 2023**

Arising Out of PS. Case No.-260 Year-2019 Thana- MEHSI District- East Champaran

Prمود Bhagat, Son of Raghubansh Bhagat, Resident of village - Tajpur Bara, P.S.- Mehsi, District - East Champaran, Motihari.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajesh Kumar, Advocate

For the Respondent/s : Mr. Abhimanyu Sharma, APP

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

Date : 10-12-2025

Heard learned counsel for the appellant and learned Additional Public Prosecutor for the State as also perused the learned trial court records.

2. This appeal has been preferred for setting aside the judgment of conviction dated 18.03.2023 (hereinafter referred to as the 'impugned judgment') and the order of sentence dated 21.03.2023 (hereinafter referred to as the 'impugned order') passed by learned 21st Additional District and Sessions Judge, Motihari, East Champaran (hereinafter referred to as the 'learned trial court') in Session Trial No.727 of 2019 arising out of Mehsi P.S. Case No.260 of 2019.



3. By the impugned judgment, the appellant has been convicted for the offence under Section 302 of the Indian Penal Code (in short 'IPC'). By the order of sentence, he has been ordered to undergo imprisonment for life with a fine of Rs.10,000/- under Section 302 IPC and in default of payment of fine, he shall further undergo rigorous imprisonment for one year.

4. The prosecution case is based on the written information of one Pooja Devi (PW-4) who is the daughter-in-law of the deceased and sister-in-law of the appellant. In her written information, addressed to the officer in-charge of Mehsi police station, she has alleged that on 02.09.2019 at about 8.30, her *Bhaisur* Pramod Bhagat (the appellant) was quarreling with her father-in-law Raghubansh Bhagat (the deceased). She has alleged that while the quarreling was going on, her *Bhaisur* Pramod Bhagat picked up a 'Dab' which was kept in the house and attacked on the leg and neck of her father-in-law as a result whereof her father-in-law got injured and fell down. He died later on. She has alleged that on her raising *hulla*, the local people assembled and on seeing them, the accused Pramod Bhagat fled away.

5. On the basis of the said written information, a formal FIR giving rise to Mehsi P.S. Case No.260 of 2019 dated 02.09.2019 was registered under Section 302 IPC by Awaneesh Kumar, SHO, Mehsi Police Station. The endorsement made by the SHO on the written



information has been proved and marked as exhibit-1. After investigation, Police submitted chargesheet bearing Chargesheet No. 233 of 2019 dated 17.10.2019 against Pramod Bhagat under Section 302 IPC.

6. On the basis of this chargesheet, learned A.C.J.M.-VI, Motihari vide order dated 08.11.2019 took cognizance under Section 302 IPC against this appellant. Charges were read over and explained to the appellant in Hindi to which he pleaded not guilty and claimed to be tried. Accordingly, vide order dated 10.01.2020 charges were framed under Section 302 IPC.

7. In course of trial, the prosecution examined as many as six witnesses and exhibited several documents to prove it's case. The list of the prosecution witnesses and the list of exhibits are being shown hereunder in tabular form:-

List of Prosecution witnesses

| | |
|------|-----------------------|
| PW-1 | Shiv Prasad |
| PW-2 | Ramdhir Prasad |
| PW-3 | Manish Devi |
| PW-4 | Pooja Devi |
| PW-5 | Mohammad Anas |
| PW-6 | Dr. Sachidanand Singh |

List of Exhibits on behalf of the Prosecution

| | |
|---------------|-----------------------------------|
| Exhibit '1' | Signature of the Informant on FIR |
| Exhibit '1/1' | Signature of the SHO on FIR |
| Exhibit '2' | Chargesheet |
| Exhibit '3' | Inquest Report |



8. Thereafter, the statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure (in short 'CrPC'). He took a plea that he was not present at the place of occurrence. He also took a plea that he was innocent and had falsely been implicated because of the Case No. 53 of 2016. The defence has not adduced any oral or documentary evidence to prove it's case.

Findings of the Learned Trial Court

9. Learned trial court, after analysing the evidences on the record, found that the accused person by means of 'Dab' assaulted the father of the informant causing injury on his leg and neck as a result of which he died on the spot. Learned trial court found that PW-2 and PW-4 have wholly supported the prosecution case.

10. Learned trial court further found that the allegation made by the informant in her written application as well as in her evidence has been supported by the Inquest Report and post-mortem report.

11. Learned trial court after considering all the facts and circumstances of the case found that the prosecution has been able to prove it's case against the sole accused, namely, Pramod Bhagat beyond all reasonable doubts. Accordingly, learned trial court held the appellant guilty of the offence punishable under Section 302 IPC.



Submissions on behalf of the Appellant

12. Learned counsel for the appellant has assailed the impugned judgment and order and submitted that the learned trial court has committed grave error in convicting the appellant. Learned counsel submits that there is no independent witness to the occurrence. Learned counsel submits that there is no motive for committing murder of the deceased. Learned counsel further submits that PW-1, PW-2 and PW-3 have not supported the prosecution case. Learned counsel submits that only the Informant (PW-4) has supported the case and on the sole testimony of her evidence the appellant has been convicted.

13. Learned counsel further submits that the I.O. (PW-5) has not investigated the case properly. The I.O. has neither collected the blood from the place of occurrence nor sent it to Forensic Science Laboratory which proves that the deceased was not murdered at the place of occurrence as alleged by the prosecution.

14. Learned counsel, therefore, submits that there is no cogent, tangible and admissible evidence on the record to prove the guilt of the appellant and the prosecution has miserably failed to prove its case beyond all shadows of reasonable doubt.

Submission of the State

15. On the other hand, learned Additional Public Prosecutor for the State has opposed the appeal. Learned Additional



Public Prosecution submits that the learned trial court after rightly appreciating all the evidences available on the record convicted the appellant by providing well reasoned judgment.

Analysis of the Evidences and Consideration

16. On behalf of the prosecution altogether six witnesses were examined. Shiv Prasad (PW-1) and Ramdhir Prasad (PW-2) are the independent witnesses of the village. PW-1 has stated in his examination-in-chief that he was sleeping in his house. His wife told him that someone has died in the village whereafter he had gone to see and found that one person whose neck had been cut, had died. His statement was recorded by police. The prosecution declared PW-1 as a hostile witness whereafter he was cross-examined and his attention was drawn towards the previous statement made before police in which he had stated that on 02.09.2019 at about 8.30, the informant and her *gotani* were soughting and calling the people saying that their father-in-law has been killed by Pramod Bhagat. The defence also examined this witness. PW-1 has stated in his cross-examination by the defence that he had not seen any person cutting the deceased, however, this witness has stated that he had gone to the place of occurrence and found that the dead person was lying there.

17. Ramdhir Prasad (PW-2) has also stated in his examination-in-chief that he had gone to the place of occurrence on *hulla* where he had found the dead body of Raghubansh Bhagat. This



witness has, however, stated that he was not aware as to who had killed Raghubansh Bhagat. In his cross-examination, this witness has stated that when he went to the place of occurrence, he had seen the deceased person.

18. From the evidence adduced by PW-1 and PW-2, this much is evident that they had gone to the place of occurrence, they had seen the dead body at the place of occurrence. It has come in the evidence of the I.O. (PW-5) that he had inspected the place of occurrence and had prepared the inquest report (Exhibit-3) in course of investigation. He has given the description of the place of occurrence in his examination-in-chief and according to him, the place of occurrence is the front side of the *Pucca* house which is *Sahan* land and *Darwaza* of the deceased. At this place, Pramod Bhagat had killed his father Raghubansh Bhagat by a sharp cutting weapon. The I.O. (PW-5) had also collected the criminal antecedent of the accused and found that he had one criminal antecedent which he had recorded in the case diary. On perusal of Exhibit-3, it is found that the inquest report was prepared on 02.09.2019 at 10 O' clock and the place is that of the house of the deceased. The inquest report (Exhibit-3) contains the observations of the I.O., according to which, the death had taken place because of the injuries on the leg and neck of the deceased by a sharp cutting weapon.



19. In this case, Manisha Devi (PW-3) is the wife of the appellant. On perusal of the written information, it would appear that the said written information was prepared by Katib Kameshwar Prasad and it bears signature of Manisha Devi also as a witness, however, the signature of Manisha Devi on the written information was not shown to PW-3 when she was examined in course of trial. She was declared hostile on the prayer of the prosecution when she took a stand that she did not know how Raghubansh Bhagat was murdered. She also made a statement that her statement was not recorded by police but the prosecution cross-examined her by drawing her attention towards her previous statement made before police in which she had supported the prosecution case. The defence cross-examined PW-3. PW-3 has admitted that the accused happened to be her husband, therefore, she identified him but in paragraph '6' of her deposition in course of cross-examination by the defence, this witness has made a statement that she did not know anything about the occurrence. Apparently, she has been trying to save her husband during trial.

20. Pooja Devi (PW-4) is the informant of this case and she is the star witness on whom the whole prosecution case would rest. In her examination-in-chief, she has stated that the occurrence is of 02.09.2019. Her *Bhaisur* Pramod Bhagat and father-in-law Raghubansh Bhagat were quarreling. In the meantime, her *Bhaisur*



Pramod Bhagat picked up a 'Dab' and assaulted her father-in-law on his leg and neck as a result whereof her father-in-law became injured, fell down and died. She had submitted the written application at the police station. She has identified her thumb impression on the written application. In course of cross-examination, she has stated that at the time of occurrence, she was inside her house and 15 minutes after the occurrence she reached the place of occurrence and saw that her father-in-law was being assaulted. In paragraph '4' of her cross-examination, she has stated that Pramod Bhagat is her *Bhaisur*, he had gone to earn outside and on the date of occurrence also he was earning outside but then this witness has stated that she had seen him assaulting her father-in-law. She has stated that her husband was earning his livelihood in Delhi and she had no quarrel with Pramod Bhagat on any earlier occasion. She has stated that Pramod Bhagat used to have the quarrel with his father intermittently. She has also stated that sometimes quarrel used to take place between Pramod Bhagat and his wife. This witness has reiterated that on the date of occurrence when she went to the place of occurrence, she had seen the accused Pramod Bhagat assaulting her father-in-law on his neck by 'Dab'. Her statement was recorded by police after the occurrence. This witness was suggested by the defence that there used to be a quarrel between Pramod Bhagat and her husband and for that reason Pramod Bhagat has been falsely implicated but P.W. 4 denied this



suggestion. On perusal of the evidence of PW-4, it appears that she has supported the prosecution case, there is no material contradiction in the evidence of PW-4 so as to disbelieve her or take away the credit worthiness of this witness. She has fully withstood the test of cross-examination. The defence has suggested to this witness that there used to be a quarrel between her husband and the appellant and for that reason he has been falsely implicated but this witness has stated that her husband was living in Delhi to earn his livelihood. No prior case between her husband and the appellant has been mentioned by the defence. The defence did not suggest this witness that on the date and time of occurrence, Pramod Bhagat was not at the place of occurrence.

21. The I.O. Mohammad Anas has been examined as PW-5. He has proved the handwriting and signature of the S.H.O. Awaneesh Kumar on the written information as Exhibit-1. He has also proved the handwriting and signature of the S.H.O. on the formal FIR, the same has been marked Exhibit-1/1. PW-5 has proved his signature and handwriting on the charge-sheet which has been marked Exhibit-2. This witness has stated that the officer in-charge had given the charge of investigation to him whereafter he had prepared the inquest report (Exhibit-3) and had recorded the re-statement of the informant. He had also recorded the statement of the witnesses Manisha Devi, Rajnarayan Chaurasia, Ranvijay Prasad and Shiv Prasad. He had



inspected the place of occurrence. In his cross-examination, PW-5 has stated that he reached the place of occurrence on 02.09.2019 itself, he had found there the blood marks and the dead body where blood had fallen but he had not sent the blood for forensic test. This witness has stated that the place of occurrence was informed to him in the village by the informant. He was suggested that the accused had assaulted his wife and he had gone to jail. PW-5 has shown his unawareness with regard to the date on which the appellant had assaulted his wife and when he had gone to jail.

22. We have noticed that even though in this case, no independent witness is an eye witness of the occurrence but P.W. 1 and P.W. 2 have stated about the immediate circumstance present at the place of occurrence. Considering that the place of occurrence is the house of the deceased no independent witness may be present in the house at the time of occurrence. PW-4 has no reason to be inimical with her *Bhaisur*, we find no reason to disbelieve PW-4.

23. We have further found that Dr. Sachidanand Singh (PW-6) who was posted at Sadar Hospital, Motihari as Medical Officer on 02.09.2019 had conducted autopsy on the dead body. He had found the following injuries on the body of the deceased:-

“(i) Clothes were smeared with blood. All structures in neck on back right side and front of neck were sharply cut including spinal cord, spin, neuro



vascular bundle, muscles, wind pipe except tag of skin of left side.

(ii) Incised wound over left knee 5"x3"x bone deep.

(iii) Incised wound over the upper part of front of chest right side 3"x 1"x 1 ½ with cutting of right clavicle.

(iv) Brain and meninges were pale. Lungs were pale. Heart chambers were empty. Abdominal viscera were intact but pale. Stomach contained semi digested food.

In my opinion the death was caused by sharp edged substance.

Cause of death:- Hemorrhage and shock caused within 24 hours."

PW-6 has proved the postmortem report which was prepared by him, in his handwriting and on his identification, the postmortem report has been marked Exhibit-4. This witness has stated that he had found three injuries on the body of the deceased and according to him, the injuries found on the body of the deceased may be caused by *Garasi*.

24. On perusal of the evidence of the doctor (PW-6) and the postmortem report (Exhibit-4), we find that the medical evidence fully corroborates the prosecution case. The ocular evidence of the informant (PW-4) finds full support from the medical evidence.

25. We have noticed that in his statement under Section 313 Cr.P.C., the appellant took a plea of alibi saying that he was not present at the place of occurrence at the time of occurrence but it is



evident from his statement under Section 313 Cr.P.C. that the plea of alibi taken by him is only a vague plea. He has not disclosed the place where he was present at the time of occurrence whereas the prosecution witnesses are consistent that after the occurrence, the informant and her *gotani* had raised *hulla* whereafter the local people started assembling and on seeing them the appellant fled away. Further in his statement under Section 313 Cr.P.C. this witness has referred to Case No.53 of 2016 and has stated that because of the said case, he has been falsely implicated. We have found that the Case No.53 of 2016 was registered against the appellant for alleged demand of dowry. It is for this reason, the I.O. has stated that the appellant has got one criminal antecedent which is recorded in the case diary. The appellant has, therefore, failed to explain the incriminating circumstances which were brought to his notice by the prosecution.

26. In the kind of materials present on the record, we find that the learned trial court has rightly appreciated the prosecution case and the evidences available on the record. The reasoning and rationale provided by the learned trial court in paragraph '16' of the impugned judgment are based on the evidences available on the record which we have duly discussed hereinabove.



27. In our considered opinion, the impugned judgment and the order of the learned trial court are not suffering from any infirmity. No interference is required.

28. This appeal has no merit. It is dismissed accordingly.

29. Let a copy of this judgment together with the trial court records be sent down to the learned trial court.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

arvind/-

| | |
|-------------------|------------|
| AFR/NAFR | |
| CAV DATE | |
| Uploading Date | 12.12.2025 |
| Transmission Date | 12.12.2025 |

