

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.176 of 2016**

Arising Out of PS. Case No.-113 Year-1996 Thana- BIBHUTIPUR District- Samastipur

1. Uma Kant Singh, son of Late Jaggu Singh
2. Laljee Singh, son of Uma Kant Singh
3. Kailash Singh, son of Jageshwar Singh

All are residents of village – Singhia Bujurg, Tole – Shivnathpur, P.S. -
Bibhutipur, District – Samastipur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Uma Shankar Prasad Singh, Advocate
For the Respondent/s : Ms. Abha Singh (APP)

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 06-04-2026

Earlier, vide order dated 23.03.2026, this appeal already stood abated in respect of appellant no. 1 namely Uma Kant Singh and appellant no. 2 namely Laljee Singh.

2. Heard learned counsel for the sole appellant (i.e. appellant no. 3 namely Kailash Singh) and learned A.P.P. for the State.

3. This appeal has been filed challenging the judgment of conviction dated 29.02.2016 and order of sentence dated 05.03.2016 passed by learned Additional District and Sessions Judge, Rosera (Samstipur) in Sessions Trial No. 126 of 2004, arising out of Bibhutipur P.S. Case No. 113 of 1996, corresponding



to G.R. No. 536 of 1996, whereby and whereunder this appellant along with other two co-convicts have been convicted under Sections 147, 323 and 436 of the Indian Penal Code (hereinafter referred as the I.P.C.) and sentenced to undergo 2 years of simple imprisonment for offence punishable under Section 147 of I.P.C., further they have been directed to undergo 6 months of simple imprisonment for the offence punishable under Section 323 of I.P.C. and lastly, they been sentenced to undergo 5 years of rigorous imprisonment and to pay a fine of Rs. 5,000/- for the offence punishable under Section 436 of the I.P.C. and in case of default of payment of fine, to further undergo simple imprisonment for 3 months. All sentences were directed to run concurrently.

4. The prosecution case is based on the complaint petition and complainant/informant Domi Singh has alleged in the said petition that he used the land pertaining to Khesra No. 2563, as his "Baithka" i.e. hut and "Bathan" i.e. cow-shed and on 30.7.1996 at about 12 noon co-convict Laljee Singh (since died) and sole appellant Kailash Singh, armed with pistol, alongwith other three accused persons, as named in the complaint petition, variously armed, came and told him to vacate the land and on protest by complainant and his son Dhanu Singh, co-accused



Parmeshwar Singh abused and ordered to set the hut on fire, on which, co-accused Jageshwar Singh and co-convict Uma Kant Singh (since died) took out match box and ignited fire in “*Baithaka*”, which was made by straw (*fush*). The complainant further alleged that co-accused Jageshwar Singh and co-convict Uma Kant Singh (since died) assaulted his son Dhanu Singh by fists & slaps and *Lathi*. The complainant lastly alleged that in the said fire, stored wheat & maize and a bed (chowki) etc. were burnt to ashes, causing loss of about Rs. 15,000/- to the complainant / opposite party no. 2.

5. The complaint, lodged by the complainant, vide C.R. Case No. 372 of 1996 in the Court of learned A.C.J.M., Rosera, was referred to police under Section 156(3) of the Cr.P.C. and thereafter, the F.I.R. was registered, vide Bibhutipur P.S. Case No. 113 of 1996. Police, after investigation, submitted chargesheet under Sections 149, 323, 435 of the I.P.C. in the Court of learned A.C.J.M., Rosera and the learned Magistrate took cognizance against five accused persons. Thereafter, charges were framed against them, however, in course of trial, two co-accused namely Jageshwar Singh and Parmeshwar Singh died and as such, the trial proceeded against three persons namely Uma Kant Singh, Laljee Singh and Kailash Singh (appellant) and lastly, learned Trial Court



found the case true against these three persons and thereafter, convicted and sentenced them, vide judgment of conviction dated 29.02.2016 and order of sentence dated 05.03.2016, which was under-challenge before this Court. Thereafter, a co-ordinate Bench of this Court, vide order dated 06.04.2016, admitted the appeal for hearing and called for lower court records and also granted bail to all the three convicted persons, out of them, two persons namely Uma Kant Singh, Laljee Singh have already passed away and now, this appeal is alive only in respect of appellant no. 3, namely, Kailash Singh.

6. Learned counsel for the appellant assails the order of conviction and sentence on various grounds. He contends that the learned trial court has committed illegality in facts and law both. He submits that in this case, neither investigation officer nor doctor has been examined and only on the basis of evidences, adduced by prosecution witnesses, the judgment of conviction and order of sentence has been passed, which are fit to be quashed and set aside on the basis of facts and circumstances of the case. Therefore, this appellant is fit to be acquitted.

7. On the other hand, learned Additional Public Prosecutor for the State opposes the appeal and submits that there is no need of any interference in this appeal, since the prosecution



witnesses have supported and corroborated the prosecution story and there is no reason to differ with the findings of the learned trial court and the judgment of conviction and order of sentence are justified and legal.

8. In this case, the prosecution has examined altogether seven witnesses. P.W. 1, namely Ram Sharan Singh, who claimed to be eye-witness, has supported the case. P.W. 2, namey Shyam Kishore Singh, who also claimed to be an eye-witness, corroborated the presence of accused and the act of arson. P.W. 3, namely Sita Ram Singh, who claimed to have seen the occurrence and stated about altercation and subsequent burning of the hut. P.W. 4, namely Ram Chandra Singh supported the occurrence but admitted prior dispute between the parties. P.W. -5 namely Dhanu Singh, who is son of informant and injured witness, fully supported the prosecution case and stated that he was assaulted when he resisted. P.W. 6, namely Domi Singh, who is informant of the case, has supported the case in his examination-in-chief. However, in his cross-examination, he stated that he does not know, who committed this occurrence. He further stated that land dispute is going on between the parties and this case is filed on suspicion. He further stated that now the case is compromised. He also deposed that he had not seen the occurrence with his own



eyes. P.W. 7 is a formal witness, who proved the formal F.I.R., which is marked as Exhibit – 1.

9. From perusal of all the evidences, adduced by the witnesses, it is an admitted fact that appellant/Kailash Singh was present at the place of occurrence, armed with pistol, but none of the witnesses have claimed that this appellant participated either in the assault or in the arson.

10. In this case, injury report has not been formally proved and injured was privately examined. The I.O. (investigating officer) has also not been examined on behalf of prosecution, which caused great prejudice to the accused. Non-examination of the I.O. deprives the accused persons of their valuable right to cross-examine and establish the case.

11. From going through the rival submissions made on behalf of learned counsel for the parties, evidences and upon perusal of the records, this Court finds that false implication of the appellant cannot be ruled out, since there was admitted land dispute between the parties and none of the witnesses have claimed that this appellant participated either in the assault or in the arson.



12. Under such circumstance, the appellant, namely Kailash Singh is given benefit of doubt and acquitted of all the charges, as levelled by the learned Trial Court

13. Accordingly, judgment of conviction dated 29.02.2016 and order of sentence dated 05.03.2016 passed by learned Additional District and Sessions Judge, Rosera, District - Samastipur in Sessions Trial No. 126 of 2004, arising out of Bibhutipur P.S. Case No. 113 of 1996, corresponding to G.R. No. 536 of 1996, are, hereby, set aside.

14. The appellant/Kailash Singh is also discharged from the liability of his bail bond in connection with this case.

15. Accordingly, the appeal stands allowed.

(Prabhat Kumar Singh, J)

Anay

AFR/NAFR	NAFR
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