



2026 INSC 317

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. _____ OF 2026
[Arising out of SLP (Crl.) No. 2536 of 2026]**

JAY PRAKASH YADAV

...APPELLANT

VS.

THE STATE OF JHARKHAND

...RESPONDENT

J U D G M E N T

DIPANKAR DATTA, J

1. Dismissal¹ of the appellant's criminal appeal² by the High Court of Jharkhand³ is under assail in the present appeal, by special leave. Conviction⁴ of the appellant by the Trial Court⁵ under Section 302 of the Indian Penal Code, 1860 and Section 27 of the Arms Act, 1959 led to imposition of sentences of life imprisonment and 7 years, respectively. As a consequence of dismissal of the criminal appeal, such conviction and sentence stood affirmed.

Signature Not Verified

Digitally signed by
rashmi.dhyani.1997
Date: 2024.09.23
16:11:06 IST
Reason: I did the judgment and order dated 23rd September, 2024
Criminal Appeal (D.B.) No. 1351 of 2016

³ High Court

⁴ *vide* judgment and order dated 27th September, 2016 in S.T. No .235 of 2014

⁵ II ASJ, Chatra

2. According to the prosecution, the appellant (a constable in the Indian Reserve Battalion) had allegedly gunned down his superior, one S.I. Sunil Soren⁶. The incident happened at around 7:30 PM on 18th May, 2014. The motive for the crime was that the deceased had not approved the appellant's request for grant of leave.
3. The informant (a hawaldar), examined as PW-3, testified that he was on duty with four other constables at the time of the incident. Appellant was on sentry duty from 6:00 PM to 8:00 PM. At about 7:30 PM, upon hearing gunfire, PW-3 came out of the guard room, went to the spot, and found the appellant coming from the side of the room of the deceased and holding an INSAS rifle (later confirmed to be the weapon of offence). Appellant then confessed to killing the deceased. Relevant excerpts from the chief examination of PW-3 are reproduced below:

1. I am the informant in the case. The incident is of 18.5.14 at 16.00 hrs to 19.5.14 at 16.00 hrs. I was present on duty along with four other Constables 549 Kundan Chaudhary, 499 Jaiprakash Yadav, 365 Suryanand Prakash. 323 Vikas Kumar, at the IRBP PiparwarCamp premises, Post No. 3 on the backside of the armoury. Duty of the CT 499 Jaiprakash Yadav was from 6.00 to 8.00 hrs. Large number of police men came. I was in the guard room. Then at 7.30 hrs. I heard the firing sound. Hearing the sound of firing, we came out of the guard room and went to the spot. The CT 499 Jay Prakash Yadav was not found present on the post nor was found nearby. Then I had gone towards the canteen and look towards the barrack and saw the police guard Jay Prakash Yadav was coming from the side of the S.I. Sunil Soren's room. He was holding Insas weapon. On my question, he said, as his leave was not granted, he has killed Sunil Soren. Telling this much, he went towards the barrack. Then I went towards the canteen and looked into Sunil Soren's

⁶ deceased

room and saw he was laying on the floor in a pool of blood. Some empties were scattered on the floor. One magazine was kept on Saurav Ji's table. From there, I went to the police station and gave the information.

(emphasis ours)

4. From the above, it is clear that PW-3, at best, is a post occurrence witness. Despite having testified about seeing the appellant clearly, we have found the following version of PW-3 in his cross examination:

7. After hearing the indiscriminate bullet sound, when I came out, by that time it was already darkness. It was not clearly visible on account of the darkness.

8. There was the sound of some people coming from the canteen side but due to the darkness, their faces were not clearly visible. From the voice of Jay Prakash, it seems that it was Jay Prakash. I could not see where Jay Prakash had gone.

(emphasis ours)

5. Thus, PW-3 admitted that he identified the appellant only from his voice and not by clear visual recognition due to the prevailing darkness at the time. This admission materially undermines the reliability of his testimony, particularly in light of his earlier assertion that he had seen the appellant holding the weapon. We, thus, find it difficult to rely upon his testimony.
6. There is no eyewitness in the present case; the prosecution case rests entirely on circumstantial evidence. The other witnesses (PW-4 to PW-9) are either hearsay witnesses or have been declared hostile. Conviction of the appellant by the Trial Court, as affirmed by the High Court, apart from the testimony of PW-3, is based on the testimonies

of PW-2, CW-2, the evidence of the ballistic expert (CW-1), and the duty registers dated 13th and 14th May 2014.

- a. PW-2 (Constable) testified that, upon hearing gunshots, he came out of his barrack and saw people running in different directions. PW-3 then informed him (PW-2) that the appellant had shot the deceased. Both the Trial Court and the High Court have treated the testimony of PW-2 as corroborative of the testimony of PW-3.
- b. It is an admitted position that the appellant had been issued a rifle bearing butt no. 329. CW-3, a jawan, testified that the seized rifle (the alleged weapon of offence) bearing butt no. 351 belonged to him. He further stated that, about ten days prior to the incident, while performing guard duty, his rifle had been inadvertently exchanged with another rifle bearing butt no. 329. By the time he realized this, he had already left for training. Although he informed his superior, he was directed to continue with the rifle in his possession, as it was not feasible to return. On this basis, the courts below have also treated this circumstance as established.
- c. CW-1, the ballistic expert, testified that the bullets recovered from the body of the deceased had been fired from the seized rifle bearing butt no. 351.
- d. Exhibit X/5, being the duty register for 12th and 13th May 2014, shows that the appellant was using the rifle bearing butt no. 351.

7. Now, let us examine how far the testimony of the witnesses is reliable to support the conviction.
8. Appellant allegedly did not confess before PW-2. PW-2 came to know of the same through PW-3. PW2, thus, is only a hearsay witness.
9. The testimony of CW-3 read with Exhibit X/5 may raise a possibility of the appellant using the rifle on the date of offence. However, the version of CW-3 that his rifle had been inadvertently exchanged with another rifle bearing butt no. 329 about ten days prior to the incident, while performing guard duty, has to be accepted with a pinch of salt. It is difficult to accept that in a disciplined force, exchange of rifles allotted to two jawans would remain unnoticed for long ten days. Significantly, the duty register for 18th May, 2014 was not led in evidence. In the absence of other cogent evidence to support this circumstance, in our opinion, it would not be safe to sustain the conviction on mere suspicion.
10. It is trite law that every link in the chain of circumstantial evidence must be conclusively established. Even a single missing or weak link may prove fatal to the prosecution's case. The chain must be so complete as to point unerringly to the guilt of the accused, and to no one else. Where, on the same set of evidence, two views are reasonably possible, the benefit of doubt must necessarily be extended to the accused (see: ***Sharad Birdhichand Sarda v. State of Maharashtra***⁷).

⁷ (1984) 4 SCC 116

- 11.** In the present case, the evidence on record falls short of the standard of proof required in criminal law and does not exclude every reasonable hypothesis consistent with the innocence of the appellant. Consequently, in our considered opinion, it (the evidence) is wholly insufficient to warrant his conviction.
- 12.** We have noted from the judgment under challenge that according to the High Court, the version of PW-3 in chief could not be demolished by the appellant in course of cross-examination. The testimony of PW-3 in course of his cross-examination has been noted in paragraph 5 (supra). We wonder, what more was required of the appellant; indeed, we regret to note that the High Court missed the woods for the tree.
- 13.** The aforesaid analysis leads us to the irresistible conclusion of there being no convincing evidence on record to suggest that it is the appellant, and none else, who gunned down the deceased. As a sequitur, the order of conviction rendered by the High Court has to be set aside and the appellant acquitted. It is ordered accordingly.
- 14.** Appellant has been in custody for nearly 12 years. He shall be released from custody forthwith, if not wanted in any other case.
- 15.** Based on the conviction recorded by the Trial Court, the appellant must have been dismissed from service. He is granted liberty to seek reinstatement before his appointing authority with such other consequential benefits, as he may be advised, provided he is still mentally and physically capable of discharging his duties. If any

prayer in this behalf is received, the appellant's appointing authority shall take an expeditious decision thereon in accordance with law. Should the appellant be not found so capable, he may be financially compensated adequately.

- 16.** The appeal is, thus, allowed on the above terms.
- 17.** Pending application(s), if any, shall stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[SATISH CHANDRA SHARMA]

**New Delhi;
April 06, 2026.**