



2026 INSC 735

**REPORTABLE**

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

**CRIMINAL APPEAL NO. 3316 OF 2026  
Arising out of SLP (Crl.) No. 4268 of 2026  
(Diary No. 6004 of 2026)**

**SANJAY KUMAR**

**...APPELLANT (S)**

**VERSUS**

**THE STATE OF BIHAR & ANR.**

**...RESPONDENT (S)**

**J U D G M E N T**

**NONGMEIKAPAM KOTISWAR SINGH, J.**

Leave granted.

**2.** The present appeal assails the judgment dated 11.09.2025 passed by the High Court of Judicature at Patna in Criminal Appeal (DB) No. 224 of 2025, whereby the High Court

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Deepak Gupta  
Date: 2026.07.22  
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Reason:

dismissed the appeal preferred by the present petitioner and

affirmed the judgment of acquittal dated 24.12.2024 passed by the learned Additional Sessions Judge-III, Hilsa, District Nalanda, in Sessions Trial No. 596 of 2003 / Reg. No. 8423 of 2014, arising out of Hilsa P.S. Case No. 373 of 1998. By the judgment of the learned Trial Court, the Respondent No. 2, namely Nakul Prasad @ Nakul Yadav, was acquitted of the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 and Section 27 of the Arms Act, 1959. The High Court, while affirming the acquittal, held that the prosecution case was not free from doubt. The High Court principally noticed the mismatch between the ocular version and the medical evidence, the non-examination of material independent witnesses, the hostility of the two independent witnesses examined at the trial, and the fact that the remaining material witnesses were related/interested witnesses whose evidence required closer scrutiny.

**3.** The limited question before us is, whether the concurrent acquittal recorded by the learned Trial Court and affirmed by the High Court suffers from such perversity, manifest illegality, or

gross misappreciation of evidence as would warrant interference by this Court under Article 136 of the Constitution of India.

#### **FACTUAL BACKGROUND**

4. The prosecution case, shorn of unnecessary details, is that on 11.10.1998, the informant Raju Kumar, along with his elder brother Vinod Prasad, (hereinafter referred to as the “deceased”), the present petitioner Sanjay Kumar (son of the deceased), and other villagers had gone to Yogipur market for purchasing household articles. While they were returning, at about 4:00 p.m., near the paddy field of one Jairam Singh at Soharpur Village, the Respondent No. 2, along with other accused persons, allegedly intercepted and surrounded them. The Respondent No. 2, armed with a country-made rifle, is alleged to have fired at the deceased, the shot striking him on the right side of his chin/beard. As observed by the High Court in para 2,

*“2. ...One of the accused named Anugrah Prasad, then instigated others, that their enemy and main opponent Binod Prasad (deceased) somehow came into clutch, shoot him to death. After that, the accused Anugrah Prasad, armed with a rifle fired a bullet which struck*

*the deceased on the forehead, then the accused Bablu Prasad who was armed with rifle fired a shot that hit on the kanpati of the deceased, after that accused Rajdev Prasad who was armed with rifle fired a bullet which hit at the back of head and Nakul Prasad (accused in the present case) who was also armed with rifle fired a bullet which hit the deceased on the right side of the chin. Consequently, the informant's brother Binod Prasad sustained severe injuries and died on spot...”*

**5.** The deceased succumbed to the firearm injuries at the spot. The fardbeyan was recorded on the same day at about 21:45 hours, and the FIR came to be registered the next day on 12.10.1998 at about 09:30 hours as Hilsa P.S. Case No. 373 of 1998, under Sections 302/34 IPC and Section 27 of the Arms Act. The Respondent No. 2 was named as one of the accused.

**6.** The case of the Respondent No. 2 was subsequently split up and was tried separately in Sessions Trial No. 596 of 2003. Cognizance was taken on 08.09.2003, and charges were framed against the Respondent No. 2 on 13.06.2012.

**7.** During the trial, the prosecution examined, among others, Sanjay Kumar (PW-1), Sudhanshu Kumar Vibhav (PW-2), Raj Kumar (PW-4), Dr. Awadesh Kumar Singh (PW-6), and Manmohan Prasad (PW-7), the Investigating Officer. Tunni

Prasad (PW-3) and Vinni Bhagat @ Vindi Bhagat (PW-5) were declared hostile. The defence examined several witnesses in support of the plea of *alibi, inter alia*.

8. The learned Trial Court acquitted the Respondent No. 2. The Appellant, being the son of the deceased and the informant, preferred an appeal before the High Court. The High Court dismissed the appeal and affirmed the acquittal. Hence, the present appeal.

### **OBSERVATIONS OF THE HIGH COURT**

9. The High Court noted that the principal question before it was whether the acquittal recorded by the Trial Court required interference. In paragraph 10 of the impugned judgment, the High Court observed that the FIR alleged four gunshot injuries to the deceased, whereas the post-mortem report showed only three entry wounds. The High Court treated this as a “clear mismatch” between the medical evidence and the FIR, weakening the prosecution case.

*“10. On scrutiny of the evidence available on records, this Court finds that the prosecution case is not free from doubt. the F.I.R. alleges that four gunshot Injuries*

*were caused to the deceased by the accused persons, but the postmortem report shows only three entry wounds. This clear mismatch between the medical evidence and the version in the F.I.R. weakens the prosecution case.”*

**10.** In paragraph 11, the High Court further observed that though the chargesheet named five independent witnesses, only two were examined, and both PW-3 and PW-5 did not support the prosecution case and were declared hostile. The High Court also relied upon the non-examination of other independent witnesses.

**11.** The High Court also observed that the witnesses relied upon by the prosecution were related to the deceased and, therefore, their evidence required closer scrutiny. Though the High Court referred to the principle in ***Dalip Singh v. State of Punjab*<sup>1</sup>**, that evidence of related witnesses cannot be discarded merely on the ground of relationship, it proceeded to hold that in the present case, the testimony of such witnesses was unreliable as, according to the High Court, the same stood contradicted by the medical evidence. The High Court finally

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<sup>1</sup> AIR 1953 SC 364

held that no perversity or illegality existed in the Trial Court judgment warranting interference.

## **SUBMISSION BY PARTIES**

### **Submissions on behalf of the Appellant:**

**12.** Learned counsel appearing for the Appellant submitted that the High Court committed a serious error in affirming the acquittal by mechanically invoking the limited scope of interference with an order of acquittal, without independently examining whether the appreciation of evidence by the Trial Court was manifestly erroneous or perverse.

**13.** It was submitted that PW-1, PW-2 and PW-4 are eyewitnesses who consistently attributed the fatal shot to Respondent No. 2. Sanjay Kumar (PW-1), the son of the deceased, categorically stated that Respondent No. 2, fired the shot which struck the deceased on the right side of his chin/beard, causing his death. PW-2, Sudhanshu Kumar Vibhav corroborated PW-1 and identified the Respondent No. 2 in the court. PW-4, Raj Kumar also categorically deposed that

Respondent No. 2 fired the fatal shot and further affirmed the presence of PW-1, PW-2 and PW-3 as eyewitnesses.

**14.** It was further submitted that the medical evidence does not contradict the ocular version. PW-6, Dr. Awadesh Kumar Singh noted, inter alia, a lacerated wound on the right side of the chin with inverted margin and blackening of surrounding skin, which was a firearm entry wound. He further opined that death occurred due to shock and haemorrhage caused by firearm injuries. In cross-examination, the doctor also accepted the possibility of such a wound being caused from a short distance, depending upon the weapon and angle of firing.

**15.** It was submitted that the High Court's reasoning that the FIR mentioned four gunshot injuries while the post-mortem mentioned three entry wounds is wholly unsustainable. The post-mortem injuries, properly read, correspond to the prosecution version. The injury attributed to Anugrah corresponds to injury no. 1; the injury attributed to Bablu corresponds to injury no. 2; the injuries attributed to Rajdev correspond to injuries no. 3 and 4, including the rib fracture/back shot; and the injuries attributed to Nakul, i.e.,



Respondent No. 2, correspond to injuries no. 5 and 6 relating to the gunshot injury on the chin/right side of the beard. The alleged discrepancy is, therefore, neither material nor fundamental.

**16.** It was further submitted that the High Court failed to give due weight to the post-mortem evidence of PW-6, which conclusively established a firearm entry wound on the right side of the chin with blackening, perfectly matching the ocular account regarding the manner, distance, and nature of assault by the Respondent No. 2, Nakul Prasad, thereby providing complete medical corroboration to the prosecution story so far as the Respondent No. 2 Nakul Prasad is concerned.

**17.** Learned counsel submitted that the High Court failed to appreciate that related witnesses are not necessarily untruthful witnesses. If they are natural witnesses and their presence at the place of occurrence is established, their testimony cannot be discarded merely because of their relationship with the deceased. It was further submitted that no motive has been attributed to PW-1, PW-2 and PW-4 to falsely implicate the Respondent No. 2 while allowing the real assailant to escape.

**18.** It was further submitted that the High Court overlooked that while exercising appellate jurisdiction against a judgment of acquittal, interference is not barred where the findings are manifestly erroneous, unreasonable, or result in miscarriage of justice. The impugned judgment mechanically affirmed the Trial Court judgment.

**19.** The Respondent No. 1, State in its counter has highlighted the criminal antecedents of the Respondent No. 2 and submitted that the impugned judgment suffers from non-consideration of material evidence and erroneous application of settled principles governing appreciation of ocular testimony and has resulted in grave miscarriage of justice. Notably, PWs 1, 2 and 4 all gave consistent eyewitness accounts of the incident including the role played by the Respondent No. 2 in firing at the deceased. PW-6 in his examination in chief, corroborated the ocular accounts with his medical examination that mentioned a firearm entry wound on the right side of the chin of the deceased with blackening of the surrounding skin. Though PWs 3 and 5 turned hostile, PW-3 admitted to the occurrence and that there had been a commotion at the place of the incident. The IO, PW-

7 further supported the case of the prosecution and clearly stated that no contemporaneous defence evidence had been given at the time of investigation regarding the alleged alibi plea of the Respondent No. 2. Under these circumstances, the non-examination of independent witnesses could not be said to be fatal to the case of the prosecution.

#### Submissions on behalf of the Respondents

**20.** Per contra, learned counsel appearing for the Respondent No. 2 supported the judgments of the Trial Court and the High Court. It was submitted that this Court, while exercising jurisdiction under Article 136 of the Constitution, ought not to interfere with concurrent findings of acquittal unless the findings are manifestly perverse or result in gross miscarriage of justice.

**21.** It was submitted that the Trial Court, upon a comprehensive examination of the documents, witness testimonies, and submissions, found that the prosecution case stood cumulatively discredited. The Trial Court noted that the medical evidence did not support the prosecution version; story

itself appeared improbable; presence of interested eye-witnesses was doubtful; there was unexplained delay in lodging the FIR; conduct of the informant and family members was unnatural; several witnesses were inimical; and the prosecution failed to secure corroboration from independent witnesses. These infirmities, coupled with serious lapses in investigation, led to the irresistible conclusion that the prosecution had failed to prove the charges against the Respondent No. 2 beyond reasonable doubt, resulting in his acquittal.

**22.** It was submitted that the High Court found itself in agreement with the above view founded on that the principle that the prosecution must prove its case beyond reasonable doubt. The High Court while affirming the acquittal and upholding the order of the Trial Court further reiterated the well-settled principle:

*“19. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case if the order is clearly unreasonable, it is a compelling reason for interference. But, where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the Trial Court has the privilege of seeing the demeanour of witnesses and therefore, its decision*

*must not be upset in absence of strong and compelling grounds. 20. In view of the above, we do not find any illegality and perversity in the findings recorded by the Trial Court.”*

**23.** It was submitted that the Trial Court had the benefit of observing the demeanour of witnesses, and the High Court rightly refused to interfere with the acquittal. Learned counsel also submitted that the prosecution failed to examine independent witnesses, that the related witnesses were interested, and that the medical evidence did not support the ocular version. Reliance was placed on the general principle that where two views are possible, the view favouring the accused must prevail.

**24.** It was further submitted that as recorded in Para 26 of the Trial Court judgment, it is evident that statements of more than twenty (20) witnesses were recorded. However, out of the twenty witnesses, only ten (10) best witnesses were named as charge-sheet witnesses. Out of the ten charge-sheet witnesses, three (3) were held up by the prosecution and were not produced before the Trial Court for reasons best known to the prosecution. That out of the remaining seven (7) witnesses who were

examined in the present case, PW-3 and PW-5 were independent witnesses who turned hostile. The independent witnesses who were witnesses of the inquest report and seizure list were also neither recorded before the investigating officer nor examined before the Trial Court. PW-6, was the medical officer and PW-7 was the Investigating Officer in the present case. Thus, the entire prosecution case rests only on the three (3) related and highly interested witnesses.

**25.** It was also submitted by the Respondent 2 that the deceased person had a criminal antecedent, being known to have killed Respondent No. 2's father and had been pursuing Respondent No. 2 due to past animosity and jealousy arising from Respondent No. 2's good social standing and respect in society. The chargesheet dated 12.01.1999 bearing No. 02/99 was filed against two co-accused, who were subsequently convicted (Para 19 of the counter).

## ANALYSIS

### Scope of interference with an acquittal:

**26.** At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under Article 136 is even greater.

**27.** In ***Kali Ram v. State of Himachal Pradesh***<sup>2</sup>, this Court explained the golden thread running through criminal jurisprudence in the following words:

*“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court*

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<sup>2</sup> (1973) 2 SCC 808

*should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of State of Punjab V. Jagir Singh a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures."*

**28.** The decision in **Kali Ram** (*supra*) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not a



technical rule; it is a substantive safeguard flowing from the presumption of innocence.

**29.** In ***Ghurey Lal v. State of Uttar Pradesh***<sup>3</sup>, this Court reiterated the limited scope of interference with acquittals. This Court observed:

“75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable.”

**30.** The decision in ***Ghurey Lal*** (*supra*) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court’s

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<sup>3</sup> (2008) 10 SCC 450

findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

**31.** In ***Chandrappa v. State of Karnataka***<sup>4</sup>, this Court held that though the appellate court has full power to review and reappreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.

**32.** The same principle was restated in ***Mrinal Das v. State of Tripura***<sup>5</sup>, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.

**33.** Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is

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<sup>4</sup> (2007) 4 SCC 415

<sup>5</sup> (2011) 9 SCC 479

impossible, perverse, wholly unsustainable, or manifestly illegal.

Having examined the record, we are unable to hold so.

Related witnesses and need for close scrutiny:

**34.** There can be no quarrel with the proposition that evidence of a related witness cannot be rejected merely on the ground of relationship. **Dalip Singh** (*supra*) and the long line of decisions following it make it clear that a close relative is often a natural witness and may not ordinarily allow the real offender to go scot-free by falsely implicating an innocent person.

**35.** However, the said principle does not mean that the evidence of related witnesses must be accepted as a matter of course. The correct rule is one of careful scrutiny. If the related witnesses are otherwise reliable, their testimony can sustain conviction. But where their evidence suffers from material infirmities, where their presence is doubtful, where independent witnesses do not support the prosecution, and where the medical evidence does not fully fit the ocular version, the court must necessarily proceed with caution.

**36.** In the present case, the prosecution case ultimately rests upon PW-1, PW-2 and PW-4. PW-1 is the son of the deceased. PW-2 and PW-4 are also not wholly independent of the complainant side. The independent witnesses, PW-3 and PW-5 did not support the prosecution case and were declared hostile. The remaining independent witnesses named in the chargesheet were not examined.

**37.** In these circumstances, it cannot be said that the High Court was not justified in holding that the evidence of PW-1, PW-2 and PW-4 required close scrutiny. The High Court did not reject their evidence merely because they were related or interested. It found that their version, when tested against the medical evidence and the overall circumstances, was not free from doubt.

Ocular evidence vis-à-vis FIR and post-mortem report:

**38.** The central plank of the appellant's argument is that PW-1, PW-2 and PW-4 consistently attributed a specific role to the Respondent No. 2, namely that he fired a shot which hit the deceased on the right side of the chin/beard. It is also urged that

this allegation corresponds to injury no. (v) in the post-mortem report, namely the firearm entry wound on the right side of the chin with blackening.

**39.** We have considered this submission carefully. At first blush, the injury on the right side of the chin does appear to correspond with the role attributed to the Respondent No. 2. However, criminal conviction cannot be based on an isolated matching circumstance by separating it from the remaining prosecution case. The court has to consider whether the prosecution version as a whole inspires confidence and whether the ocular account, read with the medical evidence, proves the charge beyond reasonable doubt.

**40.** The FIR version, as noticed by the High Court, alleged that four shots were fired by four accused persons causing four gunshot injuries: one on the forehead, one on the temple, one on the back/head region, and one on the right side of the chin. The post-mortem report, however, showed three firearm entry wounds with corresponding exit wounds. The High Court treated this as a clear mismatch between the medical evidence and the FIR. We do not find such reasoning to be perverse.

**41.** The prosecution seeks to explain this discrepancy by saying that one gunshot may have entry and exit wounds and that lay witnesses may not be expected to medically classify injuries. That proposition, in the abstract, is correct. However, in the present case, the difficulty is not merely numerical. The difficulty lies in the manner in which individual overt acts are assigned to different accused and the corresponding medical injuries do not neatly support the entire ocular account.

**42.** The correlation between the ocular account and the post-mortem injuries may be stated thus:

| <b>Post-mortem injury / medical description</b>                                                                                                                                                  | <b>Witness statement / ocular corroboration</b>                                                                                                                                                                                                                                                                   | <b>Observations</b>                                                                                                                                                                                                                                               |
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| <b>Injury No. (i):</b><br>Lacerated wound of 1' x '3/4' x cavity Deep circular with inverted margin and blackening of surrounding area in the fore head just above the nose i.e. wound of entry. | Attributed to <b>Anugrah Prasad (Accused 1)</b> corresponds with this first firearm injury. <ul style="list-style-type: none"> <li>• PW-1 states Anugrah Prasad fired a shot from his rifle which hit Vinod Prasad right in the middle of his forehead.</li> <li>• PW-2 states that all accused except</li> </ul> | <b>This portion broadly corresponds with one firearm track. However, the medical evidence treats the temporal injury as the exit wound of the forehead entry wound, whereas the ocular version separately attributes a temple shot to Babloo (Accused No. 2).</b> |

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|                                                                                                                                                                                                                                                    | <p>Ramanand were carrying rifles.</p> <ul style="list-style-type: none"> <li>• PW-4 states that Anugrah Prasad fired a shot from his rifle which stuck my brother in the forehead, directly above the nose.</li> </ul>                                                                                                                   |                                                                                                                                                                                                                                                                                               |
| <p><b>Injury No. (ii):</b><br/>Lacerated wound of left temporal region with everted margin 4"x2"x cavity deep brain and brain matter protruded temporal bone left side fractured i.e. exit wound.</p>                                              | <p>The injury attributed to <b>Babloo (Accused No. 2)</b> corresponds with this firearm injury.</p> <ul style="list-style-type: none"> <li>• PW-1 states that Babloo fired a shot that hit Vinod on the left temple.</li> <li>• PW-4 states that Bablu Prasad fired the gun and the bullet hit my brother in the left temple.</li> </ul> | <p><b>This creates a difficulty. If the left temporal injury was an exit wound corresponding to the forehead entry wound, the ocular version attributing a separate temple shot to Babloo does not fully accord with the medical evidence.</b></p>                                            |
| <p><b>Injury No. (iii):</b><br/>Lacerated wound on the left side of the chest at third in temporal space with inverted and black margin charring around the skin 2"x 1/2" x' cavity deep i.e. wound of entry. 2nd, 3rd and 4th ribs fractured.</p> | <p>Attributed to <b>Rajdev (Accused No. 3)</b></p> <ul style="list-style-type: none"> <li>• <b>PW-1 states that Rajdev fired a shot that hit him in the back (राजदेव गोली चलाए जो पीठ के पीछे लगा। @Pg 51).</b></li> <li>• <b>PW-4 states that Rajdev fired the gun and the bullet hit his brother in</b></li> </ul>                     | <p><b>This is a material area of concern. The medical injury is an entry wound on the left chest with exit on the back, whereas the ocular version does not consistently or clearly correspond to this chest-entry firearm track, rather speaks of being shot in the back, thus there</b></p> |

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| <p><b>Injury No. (iv):</b><br/>Lacerated wound on the back of the left side on bars Area- 2 1/2" x 2" x cavity deep with everted margin i.e. exit wound,</p>                                                                                                                                                                                                                                          | <p><b>the back of the head on the left side (राजदेव ने गोली चलाया जो भाई के सिर के पीछे बाएँ तरफ लगा। @Pg. 101).</b></p> <p>Injuries (iii) and (iv) are connected with each other as per PW-6 Doctor's deposition</p>                                                                                                                                                                                                                                                                                                                               | <p>would be entry wound in the back.</p>                                                                                                                                                                                                                                                                                                                    |
| <p><b>Injury No. (v):</b><br/>Lacerated wound measuring about 1 1/2" x 1" x bone deep on the right side of the chin, with inverted margin and blackening of surrounding skin — wound of entry.</p> <p><b>Injury No. (vi):</b><br/>Lacerated wound in the occipital region of the scalp with everted margin, fracture of occipital bone and protrusion of brain matter - corresponding exit wound.</p> | <p>Attributed to <b>Nakul Yadav (Accused No. 4/Respondent No. 2)</b><br/>This is the most crucial injury for the present appeal.</p> <ul style="list-style-type: none"> <li>• PW-1 Sanjay Kumar specifically stated that <b>Respondent No. 2 Nakul Prasad @ Nakul Yadav fired the shot which hit the deceased on the right side of the chin/beard.</b></li> <li>• PW-2 corroborated PW-1 in material particulars and identified Respondent No. 2.</li> <li>• PW-4 also categorically deposed that Respondent No. 2 <b>fired the shot</b></li> </ul> | <p><b>This portion does lend some support to the prosecution case against the Respondent No. 2. However, the court cannot isolate this one circumstance from the broader inconsistencies in the prosecution version, particularly when the case rests on related/interested witnesses and independent witnesses have not supported the prosecution.</b></p> |



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|  | <p><b>which hit the deceased on the right side of the chin/beard.</b></p> <ul style="list-style-type: none"> <li>• The post-mortem injury no. (v) is therefore a direct medical corroboration of the role assigned to Respondent No. 2.</li> </ul> |  |
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**43.** The above comparison shows that although one part of the ocular version appears to correspond with injury no. (v), the overall prosecution version is not free from doubt. The FIR and eyewitnesses attribute distinct shots to distinct accused in a particular manner. The medical evidence, however, shows three firearm tracks. The left temporal injury, which the ocular witnesses attribute to a separate shot by Babloo, is medically recorded as an exit wound corresponding to another entry wound. The chest/back injury also does not fully correspond with the ocular description of a shot at the back/head region.

**44.** This assumes significance because the present case is not one where there is a single eyewitness speaking to a single injury. The prosecution has built its case on a detailed

attribution of separate shots by separate assailants. Where such detailed attribution is not fully supported by medical evidence, and where independent witnesses do not support the prosecution, the court must be slow in overturning an acquittal.

**45.** The High Court, therefore, cannot be said to have acted perversely in treating the mismatch between the FIR/ocular version and the post-mortem report as a relevant circumstance. It is not necessary for the accused to demonstrate that the prosecution case is false in every respect. It is sufficient if the evidence creates a reasonable doubt as to whether the prosecution has proved the charge beyond reasonable doubt.

**46.** We are also unable to accept the appellant's submission that since injury no. (v) corresponds to the role attributed to the Respondent No. 2, conviction must necessarily follow. The criminal court cannot pick one apparently corroborated portion while ignoring other material inconsistencies, especially in an appeal against acquittal. The question is whether the evidence as a whole crosses the threshold of proof beyond reasonable doubt. In our view, the Trial Court and High Court were justified in holding that it does not.

Independent witnesses and hostile witnesses:

**47.** The prosecution case is further weakened by the fact that though five independent witnesses were named in the chargesheet, only two were examined at trial, and both did not support the prosecution case. PW-3 and PW-5 were declared hostile. The remaining independent witnesses were not examined.

**48.** It is true that non-examination of independent witnesses is not always fatal. If the evidence of examined witnesses is otherwise cogent, reliable and trustworthy, non-examination of other witnesses may not affect the prosecution case. However, this principle cannot be applied mechanically in every case.

**49.** In the present matter, the independent witnesses were not peripheral witnesses. The prosecution itself considered them material enough to cite them in the chargesheet. When the two independent witnesses examined did not support the prosecution, and the remaining independent witnesses were withheld without satisfactory explanation, the courts below were

entitled to treat this as a circumstance creating doubt on the prosecution case.

**50.** The argument that hostile witnesses do not completely efface the prosecution case is again correct as a proposition of law. But where the prosecution case is otherwise attended by contradictions between ocular and medical evidence, doubtful presence of interested witnesses, and lack of independent corroboration, the hostility of independent witnesses assumes greater significance.

**51.** Therefore, we find no perversity in the High Court's reliance on this circumstance.

Delay, conduct and investigation lapses:

**52.** The Courts below also noticed other circumstances which, cumulatively, affected the prosecution case. The Respondent No. 2 has pointed out that there was a delay of more than five hours in recording the fardbeyan and of more than seventeen hours in registration of the FIR. The information was allegedly received from an unidentified person, but the name and time of such information were not properly recorded.

**53.** It was also argued on behalf of the Respondent No. 2 that the allegation was of indiscriminate firing for several minutes, yet no person other than the deceased received even a scratch injury. Only two empty shells were recovered from the place of occurrence. The investigation was also stated to be silent regarding the identification of three unknown persons mentioned in the chargesheet.

**54.** Each of these circumstances, viewed in isolation, may perhaps not be sufficient to discard the prosecution case. But criminal trials are not decided by isolating circumstances favourable to one side. The Court must assess the cumulative effect of all infirmities. In the present case, the Trial Court and the High Court found that these circumstances, taken together, created a reasonable doubt on the prosecution case. We cannot hold such a view to be perverse.

#### PLEA OF ALIBI

**55.** Considerable argument was addressed before us on the plea of alibi. The appellant submitted that the plea of alibi set up

by the Respondent No. 2 was weak and belated, and that the defence witnesses did not establish the plea with certainty.

**56.** It is true that a plea of alibi must be proved with a high degree of certainty so as to completely exclude the possibility of the accused being present at the place of occurrence. However, in the present case, the order of acquittal does not rest solely on the plea of alibi. The Respondent No. 2 is correct in contending that both the Trial Court and the High Court found broader infirmities in the prosecution case. The Trial Court, as submitted, did not base the acquittal only on the alibi plea, but on the cumulative failure of the prosecution to prove its case beyond reasonable doubt.

**57.** Thus, even if the alibi is kept aside, the prosecution is still required to stand on its own legs. The weakness of the defence or falsehood of the plea of defence does not relieve the prosecution of its burden. Where the prosecution evidence itself creates reasonable doubt, the accused is entitled to acquittal, even if his defence plea is not found credible.

Criminal antecedents and subsequent cases:

**58.** The Appellant and the State have referred to criminal antecedents of the Respondent No. 2. The Respondent No. 2, on the other hand, has submitted that he had no criminal antecedents at the time of the occurrence and that subsequent unrelated cases cannot be used to prejudice the judicial assessment of the present case.

**59.** We find merit in the caution suggested by the Respondent No. 2. The guilt or innocence of an accused in a criminal trial must be determined on the basis of evidence adduced in that trial. Subsequent or unrelated allegations cannot be used to fill gaps in the prosecution case or to reverse a concurrent acquittal. Unless such material is legally relevant and properly proved, it cannot substitute proof beyond reasonable doubt.

**60.** In the present case, the concurrent acquittal must be tested on the evidence relating to the occurrence dated 11.10.1998. We are not inclined to allow extraneous subsequent material to displace the findings recorded by the Courts below.

Whether the concurrent acquittal warrants interference:

**61.** Applying the principles in **Kali Ram, Chandrappa, Ghurey Lal**, and **Mrinal Das** (supra), we find that the present case does not meet the threshold for interference with the concurrent acquittal.

**62.** The view taken by the Courts below may not be the only possible view. The Appellant has attempted to demonstrate that the injury on the chin corresponds to the role attributed to the Respondent No. 2. However, the question is not whether another view is possible. The question is whether the view taken by the Courts below is so unreasonable that no court could have taken it.

**63.** We are unable to say so. The Courts below noticed material circumstances: the mismatch between ocular and medical evidence; the fact that independent witnesses did not support the prosecution; non-examination of remaining independent witnesses; reliance on interested/related witnesses; delay and investigative lapses; and the broader



improbabilities in the prosecution story. These are relevant considerations in a criminal trial.

**64.** The High Court did not acquit the Respondent No. 2 on fanciful grounds. It affirmed an acquittal after noticing that the prosecution case was not free from doubt. The Trial Court, which had the advantage of observing the witnesses, had also found the prosecution case insufficient to prove guilt beyond reasonable doubt. Such concurrent findings cannot be lightly interfered with under Article 136 of the Constitution.

**65.** The benefit of doubt doctrine is not an empty formality. Where the evidence leaves room for reasonable doubt, the court must lean in favour of the accused. This is particularly so where the accused has already secured acquittal from the Trial Court and the acquittal has been affirmed by the High Court, strengthening his case of innocence.

## CONCLUSION

**66.** On an overall consideration of the evidence, we are also of the view that the prosecution has not been able to establish guilt of the Respondent No. 2 with such a clear, cogent and

unimpeachable case as would justify reversal of his concurrent acquittal.

**67.** Though the prosecution witnesses have attributed a role to the Respondent No. 2, the ocular version, when read with the FIR, the post-mortem report, the testimony of the doctor, the hostility of independent witnesses, non-examination of other independent witnesses, and other surrounding circumstances, does not exclude reasonable doubt about his role.

**68.** The High Court's view that the mismatch between the medical and ocular evidence weakens the prosecution case cannot be said to be perverse. Nor can it be said that the High Court ignored material evidence or adopted a view which is wholly unsustainable in law.

**69.** In an appeal against acquittal, and more particularly in a case of concurrent acquittal, this Court would not substitute its own view merely because another view is possible. The findings recorded by the Trial Court and affirmed by the High Court are based on appreciation of evidence and do not call for interference.

**70.** Accordingly, the appeal is dismissed. The judgment dated 11.09.2025 passed by the High Court of Judicature at Patna in **Criminal Appeal (DB) No. 224 of 2025**, affirming the judgment of acquittal dated 24.12.2024 passed by the learned Additional Sessions Judge-III, Hilsa, District Nalanda in **Sessions Trial No. 596 of 2003 / Reg. No. 8423 of 2014**, is affirmed.

**71.** The Respondent No. 2, **Nakul Prasad @ Nakul Yadav** on being acquitted, shall stand discharged of his bail bonds, if any, subject to compliance with Section 437-A of the Code of Criminal Procedure, 1973, if applicable.

**72.** Pending application(s), if any, stand disposed of.

.....**J.**  
**(SANJAY KAROL)**

.....**J.**  
**(NONGMEIKAPAM KOTISWAR SINGH)**

**NEW DELHI;**  
**JULY 21, 2026**