



2026 INSC 935

Non-Reportable**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****Criminal Appeal Nos.1434-1438 of 2017****Dhrub Singh Etc.****.... Appellants****Versus****The State of Bihar****.... Respondent****J U D G M E N T****K. VINOD CHANDRAN, J.**

A murder in broad day light presumably on an election day had led to the conviction of the six accused, five of whom are before us in these appeals. The 1st accused has served his term and was released on remission. The prosecution case was that the deceased along with four others, a son, an employee, a nephew and a villager was proceeding to his fields, when the accused ambushed the party, started indiscriminate firing with exhortation made to kill all and the deceased was shot in the back. The victim succumbed to the gun shot injury and the persons who accompanied him started running away when a patrol car came

with a Magistrate, presumably roaming around on the election day, when the accused too ran away. The victim was taken to the hospital where he was declared dead. The prosecution went to trial with nine witnesses. The accused were convicted under Sections 302 and 307 read with Section 149 of the *Indian Penal Code, 1860 (IPC)*. A1, A4 and A6 were also convicted under Section 148 of the IPC and Section 27 of the *Arms Act*, while A2, A3 and A5 were convicted under Section 147 of the IPC. The prosecution also had a motive, which we will deal with a little later.

2. PW1, the employee of the deceased; PW2, a relative and PW7, son of the deceased left home for their fields with a villager, the last of whom, an independent witness, was not examined before Court. The eyewitnesses spoke in one voice of an ambush by the accused, but their testimonies were slightly different. PW1 and PW2 spoke of A5 having ordered the firing and A7 having fired at the deceased from the back. According to them, A6 fired at PW7 but missed. Then A2 exhorted that each one of them should be killed, upon which there was firing by others, scattering the party. Then the patrolling party in a car arrived at the spot, when the accused ran away. PW7 however, spoke of A6

having fired at him in which he did not suffer any injury. According to him, then A4 shot the deceased and A2 exhorted to kill all of them. PW5 another son of the deceased arrived on the spot who testified that PW7 told him that A7 shot at the deceased, which was also spoken of by PW8, a relative of the witness, which was not disclosed from his statement under Section 161 of the *Code of Criminal Procedure, 1973 (CrPC)*.

3. The inconsistency is not so stark as to disbelieve the testimonies on that ground alone, since on an ambush, when indiscriminate firing is made and persons scattered, they may not later recite the events in the same chronology nor could they be expected to speak in graphic detail about the incident. However, the fact remains that there were no cartridges recovered from the spot and none from the patrol party was examined.

4. Learned Government Advocate alertly pointed out that PW1 and PW2 spoke of the victims having proceeded on a ridge, which was uneven. The nearby fields had grass with spikes, and the crops had not been fully harvested. Hence, there was no possibility of recovery of cartridges is the submission. It is also stated that the scene of occurrence was graphically described in the *mahazar* prepared by the Investigating Officer (I.O).

However, the I.O does not speak of any search having been made for cartridges and when it was alleged that there was indiscriminate firing definitely there would have been more than one cartridge in the scene of occurrence. The one bullet, which killed the deceased had exited his body, as is seen from the postmortem report and that too was not recovered nor was any attempt made to recover the weapons used by the accused.

5. What is more relevant is that though there was blood stained earth collected from the scene of occurrence it was not send for chemical analysis. The prosecution story thus is incomplete and there is suspicion as to the scene of occurrence. But for the testimonies there is no tell-tale evidence collected from the scene to establish the ambush, firing and the murder itself. The eyewitnesses were all close to the deceased, who, as we will presently see had an axe to grind against the accused. Though related witnesses cannot be always categorised as interested witnesses, here coupled with the fact that the I.O, PW9 admits that the inquest was carried out first and then the First Information Statement (FIS) obtained, the entire narration becomes suspect. This creates a doubt about the scene of occurrence, which the eyewitnesses had not identified clearly in their prior statements.

PW1 in his statement under Section 161 of the CrPC said that before the first shot was fired, he did not hear any noise or sound, and they were all panic stricken and screaming while running helter skelter; reducing the possibility of identifying the accused. In his statement before the police, he did not state the names of the accused nor was there any statement that the accused had ambushed by surrounding them. The witness had also not stated about all the accused carrying weapons.

6. PW1 was an employee and PW7 was the son and PW2 was a relative of the deceased, whose presence at the time of the murder is suspect. Especially since, though there is allegation of indiscriminate firing, there is no injury caused on any of the eyewitnesses. Now we come to the motive alleged, which is also specious. The prosecution alleges that a girl from the village of the accused was kidnapped by a boy from the village of the deceased. The girl is said to be the sister of A3. The past Mukhiya of the village from where the girl was kidnapped, the father of A1, along with the other accused had approached the deceased to help them to trace out the girl and boy. The ex-Mukhiya was angered by the refusal of the deceased to help him. One other motive alleged is of the nephew of the deceased having stood

against the ex-Mukhiya in the elections. There was nothing to prove either the kidnapping of the girl as the witnesses alleged nor is there anything to indicate a political rivalry between the deceased and A1's father. More importantly though the motive is alleged on A1's father, he has not been arrayed as an accused in the case. The motive also does not inspire confidence so as to convict the accused for murder.

7. That the father of PW7 was murdered cannot at all be doubted, going by the expert evidence of the postmortem examination. PW4 was the Doctor who indicated two lacerated wounds. One of which was the entry wound and the other an exit wound, indicating the bullet having gone through the body of the deceased. There were also four abrasions, which would have been caused by the body falling to the ground since all of them were on the face. The Doctor spoke of the oval bullet injury and its trajectory indicating that the victim was in a sitting position while he was shot from the back, and that the shot had been fired from a distance of three to four feet, which was the indication coming out from the blackening and tattooing found on the dead body; which expert opinion, in fact goes against the eyewitness version of how the incident occurred.

8. The I.Os testimony goes contrary to what the Government Advocate argued, of the victims having gone on a ridge. PW9 specifically speaks of the place of occurrence being a lane which led from Madanpur Distributary Canal towards Arara on the east; a clear pathway made for pedestrians. It is also stated by the I.O that on both sides of the pathway there were fields, which were ploughed recently. Though a sketch of the place of occurrence was prepared, the blood stained earth seized from the place was not sent for testing in a laboratory. He spoke of a tension in the area due to the kidnapping of a girl and also spoke of naxalite movement in the area. The I.O also did not seize the clothes of the deceased or the clothes worn by the witnesses, who, allegedly carried the body to the hospital, in the petrol car. The High Court noticed that though the I.Os attention was drawn to the previous statement of the witnesses, the cross examination was long, winding and utterly undecipherable.

9. The High Court having narrated the prosecution case and the testimonies of the witnesses, looked into the records of the case and found a complaint against the I.O accusing him of having made a collusive investigation. We cannot but notice that no such complaint was elicited from any of the eyewitnesses and in any

event this does not explain the shoddy investigation carried out by the I.O. However, the High Court relying on the complaint made against the I.O found that this is the reason for not recording the statements of the independent witnesses, the blood stained earth being not sent for chemical examination and the failure to seize the blood stained clothes of the deceased and the witnesses. Observing that the investigation was collusive, reliance was placed on the testimony of the witnesses, terming it as '*consistent evidence*' to accept their version, to convict the accused. The expert evidence on the possibility of the deceased being shot in a sitting position was brushed aside with the conjecture that a shooting hand would shake and when the target is moving, the shape of the injuries are not relevant. The High Court peremptorily came to the finding that the accused armed with a variety of weapons, ambushed the victim and fired indiscriminately causing the death of one person thus proving the common intention/object to commit murder of the deceased, based only on the eye-witness testimony.

10. We cannot but observe that the motive projected is sticky to say the least. The expert medical opinion was against the eye-witness testimony on how the incident occurred. There was no

recovery of weapons nor were any cartridges seized from the scene of occurrence; especially when the eye-witnesses spoke of indiscriminate shooting. The eyewitnesses also spoke of five of them walking in a straight line with the deceased leading from the front. The clear case was that the accused came from the back and shot at the deceased on the back. Very unlikely, when the party led by the deceased was walking in a straight line and the ambush as also the firing came from the back. The expert evidence that there was an indication from the nature of the wound, that victim was sitting and that the firing was made from close quarters persuades us to disbelieve the eye-witness testimony. The eyewitnesses were all close to the deceased and admittedly there was a tension in the locality between the group led by the father of A1 in the adjacent village and that led by the deceased; which could have prompted the eyewitnesses to frame the accused. The motive projected of the sister of A3 having been kidnapped by a villager of the deceased cannot be believed since there is no connection established between the boy, who is said to have kidnapped the girl and the deceased. The eyewitnesses were all related witnesses and their presence could have been established by their clothes, which would have been blood-

stained if they carried the victim in the patrol car to the hospital. Their presence is doubtful and they had a running dispute with the accused, coupled with the non-examination of independent witnesses puts the prosecution case under a cloud and makes it highly doubtful.

11. We are unable to find the prosecution having established the culpability of the accused beyond reasonable doubt. As we noticed, the eye-witness testimony does not inspire confidence and there are no recoveries made or seizures effected as would have been done in a proper investigation. The case is not of a faulty investigation but of no investigation having been carried out. Even the inquest was carried out before the FIS was recorded; making it pre-meditated. The High Court egregiously erred in looking at a complaint against the I.O not produced in the trial, to find the evidence led to be clinching insofar as the culpability of the accused. A faulty investigation cannot inure to the benefit of the accused, but when there is no reliable evidence, merely because the I.O was recalcitrant or a complaint of collusion was raised against him, the Court cannot presume the guilt of the accused. There is complete lack of evidence in the

present case and the testimonies, as we observed, do not inspire confidence.

12. We, hence, acquit the accused and direct that they be released forthwith if any of the appellants are in custody, if not required in any other case, and if they were released on bail, their bail bonds shall stand cancelled.

13. The Appeals stand allowed.

14. Pending application(s), if any shall stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
SEPTEMBER 01, 2026.**

ITEM NO.1501

COURT NO.6

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal Nos. 1434-1438/2017

DHRUB SINGH ETC

Appellant(s)

VERSUS

THE STATE OF BIHAR

Respondent(s)

[HEARD BY : HON. J.B. PARDIWALA AND HON. K. VINOD CHANDRAN, JJ.]

Date : 01-09-2026 These appeals were called on for pronouncement of judgment today.

For Appellant(s) : Mr. Pankaj Kumar Mishra, AOR

Mr. Adarsh Kumar Tiwari, AOR
Ms. Vartika Maurya, Adv.
Ms. Akanksha Raj Mishra, Adv.
Mr. Amritesh Anand, Adv.
Mr. Vinit Pathak, Adv.
Mr. Sagar Khaushik, Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Anand Mishra, Adv.

Mr. Rajiv Nanda, Sr. Adv.
Mr. Manish Kumar Vikkey, AOR
Mr. Loveleen Kaithwas, Adv.
Mr. Kanchan Kumar Jha, Adv.

For Respondent(s) :

Mr. Manish Kumar, AOR
Mr. Divyansh Mishra, Adv.
Mr. Kumar Saurav, Adv.

1. HON'BLE MR. JUSTICE K. VINOD CHANDRAN pronounced the judgment of the Bench comprising HON'BLE MR. JUSTICE J.B. PARDIWALA and His Lordship.
2. The appeals are allowed in terms of the signed non reportable judgment.
3. The relevant part of the signed non reportable judgment is as under:-

"11. We are unable to find the prosecution having established the culpability of the accused beyond reasonable doubt. As we noticed, the eye-witness testimony does not inspire confidence and there are no recoveries made or seizures effected as would have been done in a proper investigation. The case is not of a faulty investigation but of no investigation having been carried out. Even the inquest was carried out before the FIS was recorded; making it pre-meditated. The High Court egregiously erred in looking at a complaint against the I.O not produced in the trial, to find the evidence led to be clinching insofar as the culpability of the accused. A faulty investigation cannot inure to the benefit of the accused, but when there is no reliable evidence, merely because the I.O was recalcitrant or a complaint of collusion was raised against him, the Court cannot presume the guilt of the accused. There is complete lack of evidence in the present case and the testimonies, as we observed, do not inspire confidence.

12. We, hence, acquit the accused and direct that they be released forthwith if

any of the appellants are in custody, if not required in any other case, and if they were released on bail, their bail bonds shall stand cancelled.

13.The Appeals stand allowed."

4. Pending application(s), if any, stands disposed of.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)

(Original signed non reportable judgment is placed on the file)