

State of Bihar Vs. Nand Kishore Singh

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Court : Patna

Decided On : Jan-11-2008

Judge : Shiva Kirti Singh and Shailesh Kumar Sinha, JJ.

Acts : Code of Criminal Procedure (CrPC) - Sections 313; Indian Penal Code (IPC) - Sections 396 and 412

Appeal No. : Death Reference Nos. 7 and 622 of 2007

Appellant : State of Biarnand Kishore Singh

Respondent : Nand Kishore Singhstate of Bihar

Advocate for Def. : Ashwini Kumar Sinha, A.P.P.

Advocate for Pet/Ap. : Rana Pratap Singh, Sr. Adv., Sumant Singh and Anil Kumar Sinha, Adv. in Cr. Appeal No. 622 of 2005, Suresh Prasad Singh and Uday Prata Singh, Adv. in Cr. Appeals 643 and 763 of 2005 and Kanhaiya Pd.

Prior history : Shiva Kirti Singh and Shailesh Kumar Sinha, JJ. 1. By the judgment and order under appeal dated 31st, August, 2005 passed by learned 7th Additional Sesssions Judge, Muzaffarpur in Sessions Trial No. 456 of 2000 arising out of Meenapur P.S. Case No. 73 of 1999, appellant Nand Kishore Singh (Death Reference No. 7 of 2005 and Cr.Appeal No. 622 of 2005), appellant Maheshwar Singh (Cr.Appeal No. 643 of 2005) and appellant Mintu Kumar @ Mintu Singh (Cr.Appeal No. 763 of 2005) have been convicted for

Judgement :

Shiva Kirti Singh and Shailesh Kumar Sinha, JJ.

1. By the judgment and order under appeal dated 31st, August, 2005 passed by learned 7th Additional Sessions Judge, Muzaffarpur in Sessions Trial No. 456 of 2000 arising out of Meenapur P.S. Case No. 73 of 1999, appellant Nand Kishore Singh (Death Reference No. 7 of 2005 and Cr.Appeal No. 622 of 2005), appellant Maheshwar Singh (Cr.Appeal No. 643 of 2005) and appellant Mintu Kumar @ Mintu Singh (Cr.Appeal No. 763 of 2005) have been convicted for the offence under Section 396 of the Indian Penal Code. Appellant Maheshwar Singh has been further convicted under Section 412 I.P.C. but for that no separate sentence has been awarded to him. Co-accused Ramesh Singh has been acquitted of the charges under Sections 396 and 412 of the I.P.C. By order dated 3-9-2005 appellant Nand Kishore Singh has been awarded death sentence on account of allegation that in course of dacoity he shot and caused death of deceased Madhukant Jha. The other two appellants have been awarded life imprisonment.

2. The prosecution case as disclosed in the fardbeyan of P.W.9, Amar Nath Jha is that in the night between 21-22nd April 1999 at about 12 i.e. mid night 30-40 unknown persons committed dacoity in the house of the informant and also in the adjacent house of his uncle Madhukant Jha (deceased). The dacoits looted away gold chain, gold ring, a bicycle and some other house hold articles and cash from the two houses. In course of dacoity on account of firing from a gun by one of the dacoits Madhukant Jha aged about 75 years died. After committing dacoity for about 15-20 minutes, the dacoits who were young and of different complexions managed to escape away. After the dacoity was over, the informant came out of his house and came to know about the dacoity in the house of his uncle Madhukant Jha and that he had died due to shots fired at him. Informant saw his uncle lying dead. The Dacoits had also caused injury to Ishwar Nath Jha (P.W.8) and Gena Ram (P.W.7) with stick and bombbow respectively. The informant further came to know about the number of dacoits being 30-40. All the dacoits were speaking Hindi language. One of the dacoits was armed with gun and others had lathi pieces, stick, country made pistol and bamboos in their hands. They had

while fleeing exploded bombs as a result of which Gena Ram (P.W.7) was injured. The details of articles looted from the house of deceased Madhukant Jha was to be provided later by his family members. The informant claimed that besides him the family members of late Madhukant Jha naming, Ishwar Nath Jha (P.W.8), Rajeev Kumar Jha (P.W.3), Dharmendra Jha and some other villagers who had come, had witnessed the occurrence. After the occurrence the dacoits went towards north and thereafter towards west. The informant claimed that the family members of his uncle and he could identify the dacoits and looted articles again on seeing the same. The fardbeyan was recorded on 22-4-1999 at 3.15 A.M. at the village of occurrence i.e. Bhau Chapra, P.S. Meenapur under district Muzaffarpur.

3. It appears that in course of investigation by the then Officer-in-charge, Meenapur Police Station, Subodh Kumar (P.W.16) some family members of deceased Madhukant Jha disclosed the names of appellant Nand Kishore Singh and Maheshwar Singh as dacoits. The name of appellant Mintu Kumar @ Mintu Singh and some others appeared as accused on account of secret information from other source. The house of all the three appellants appear to have been subjected to search and some articles were seized by the I.O. as per seizurelists (Exts. 10, 10/a and 11). Since the witnesses claimed to know appellant Nand Kishore Singh and Maheshwar Singh from before hence they were not put on T.I. Parade but appellant Mintu Kumar @ Mintu Singh was put on T.I. Parade which was conducted in presence of a Judicial Magistrate, Mr. Mohan Choubey (P.W.14). The T.I. Chart has been marked as Ext.5. Allegedly Mintu Kumar was identified in the T.I. Parade by P.W.2, Sanjeev Kumar Jha and P.W.3, Rajeev Kumar Jha both sons of P.W.4, Uday Nath Jha. It further appears that articles seized from the houses of different accused persons were subjected to an identification parade conducted by Radha Kant Rai, Block Development Officer (P.W.13). The chart showing result of such T.I. Parade has been proved as Ext.4. Allegedly a Dhoti alleged to have been recovered from the house of appellant Maheshwar Singh has been identified by Geeta Devi (P.W.10). According to P.W.13 another lady witness Indu Devi (P.W.12) identified a blouse piece of red pink colour and Uday Nath Jha (P.W.4) identified a gold Khotila (nose pin). After inspecting the place of occurrence preparing the inquest report and sending the dead body for postmortem examination, the I.O. recorded the statement of

witnesses and finally submitted chargesheet. The first chargesheet was against accused Nand Kishore Singh and Mintu Kumar and thereafter supplementary chargesheet was submitted against accused Ramesh Singh and Maheshwar Singh. On the basis of the same cognizance was taken and the 4 accused persons were committed to the court of sessions. Charges were framed against the accused persons under Sections 396 and 412 of the I.P.C. The accused appellants pleaded not guilty to the charges and therefore they were put on trial. They have been subsequently convicted and sentenced by the judgment and order under appeal.

4. The prosecution in order to substantiate its case has examined altogether 17 witnesses. The defence has also examined one witness and the defence of the accused persons is of false implication on account of suspicion and enmity.

5. P.W.1, Amit Kumar Jha, P.W.2, Sanjeev Kumar Jha and P.W.3, Rajeev Kumar Jha are sons of P.W.4, Uday Nath Jha and grand-sons of deceased Madhukant Jha. P.W.5, Chandra Kant Jha is a co-villager and has deposed only as a formal witness of seizure. P.W.6, Dr. B.K. Mehta conducted autopsy on the dead body of the deceased and has proved the postmortem report as Ext.2. P.W.7, Gena Ram is a co-villager who received injuries on account of bomb thrown by the dacoits while they were fleeing away from the village. He has not claimed to have identified any of the dacoits and significantly, when he came to the place of occurrence after the dacoits had run away he was not disclosed names of any of the dacoits. P.W.8, Ishwar Nath Jha is another son of deceased whose name along with that of P.Ws.3 and 4 is mentioned in the F.I.R. as a witness. P.W.9, Amar Math Jha is the informant of this case. He has neither identified nor named any of the dacoits. P.W.10, Geeta Devi is wife of P.W.8 and P.W.12, Indu Devi is wife of P.W.4. These two female members of the family of the deceased were in their respective rooms with their husbands at the time of the alleged occurrence. They have neither identified nor named any of the dacoits. P.W.11, Naresh Singh is a formal witness who has produced certain articles from police Malkhana. P.W.13, Radha Kant Rai was Block Development Officer at the relevant time and conducted test identification parade of articles under his supervision. He has proved T.I. Chart of articles as Ext.4. P.W.14, Mohan Choubey is a Judicial

Magistrate in whose presence test identification parade of appellant Mintu Kumar @ Mintu Singh was conducted in jail. He has proved the T.I. Chart as Ext.5. P.W.15, Murlidhar Yadav is a formal witness of search and seizure of articles. P.W.16, Subodh Kumar is the Investigating Officer. P.W.17, Dr. Subhash Chandra Choudhary examined the injuries of Ishwar Nath Jha (P.W.8) and has proved the injury report as Ext.13.

6. The sole defence witness Hari Lal Rai is a Head-clerk of judicial records room of Civil Court, Muzaffarpur. He has proved a petition of complaint of case No. 829 of 1999 as Ext.B. The defence has attempted to show that this complaint was filed by P.W.8, Ishwar Nath Jha on 27-5-99 i.e. about one month after the present case, against several persons relating to the same occurrence. The defence has also brought on record formally some bail orders passed in relation to some of the accused in this very case as exhibits. A, A/1 and A/2. All the three appellants in their statements under Section 313 Cr.P.C. have denied the allegations against them. Appellant Nand Kishore Singh and Maheshwar Singh have been found to be aged 50 and 55 years respectively on 22nd December, 2003 whereas appellant Mintu Kumar, on that very date has been found aged about 20 years. On account of aforesaid fact, in this Court a plea was taken on behalf of appellant Mintu Singh that he is a juvenile because on the date of occurrence i.e. 22-4-1999 he was less than 18 years of age. In view of such plea raised before this Court, appellant Mintu Singh was directed to be examined by a Medical Board for ascertaining his age as per order dated 27-2-2006 passed in Criminal Appeal No. 763 of 2005. The report of the Medical Board was received in this Court and it shows that the Medical Board examined him on 8-4-2006 and on the basis of radiological findings, by report dated 22-4-2006 he was found to be aged between 20-22 years. Since the report of the Medical Board went in favour of plea of the appellant Mintu Singh @ Mintu Kumar that on the date of the alleged occurrence he was a juvenile, on that basis he was granted bail in this case on 1-5-2006.

7. At the hearing stage also we have considered the report of the Medical Board which examined appellant Mintu Kumar @ Mintu Singh on 8-4-2006 and 22-4-2006. In the facts of the case we find no material to take a different view than what has been expressed by the Board consisting of three doctors including Civil

Surgeon-Cum-Chief Medical Officer, Muzaffarpur. Accordingly, we also hold that appellant Mintu Kumar @ Mintu Singh was a juvenile on the date of the occurrence i.e. on 22-4-1999. In that view of the matter an appropriate order shall be passed in respect of Mintu Kumar @ Mintu Singh after we have considered the case of all the appellants on merits.

8. P.Ws. 1, 2, 3, 4, 8, 10 and 12 belong to the family of the deceased and reside in the same house. P.W.9, Amar Nath Jha the informant is also closely related to the family of the deceased being his own nephew and his house is admittedly adjacent to the house of the deceased. In court P.Ws.1, 4 and 8 have claimed to identify appellants Nand Kishore Singh and Maheshwar Singh as one of the miscreants who participated in the dacoity. According to these witnesses P.W.1 had actually seen appellant Nand Kishore Singh firing at the deceased near the main entrance to the house and according to P.Ws.4 and 8 they learnt this fact from P.W.1. P.Ws.4 and 8 have also claimed to identify these two appellants in course of dacoity in their respective rooms. Death sentence appears to have been awarded to appellant Nand Kishore Singh mainly on account of evidence of P.W.1 that he saw and identified Nand Kishore Singh as the person who fired upon the deceased and caused his death. Hence the evidence of P.W.1 needs to be scrutinized carefully.

9. It may be noticed at the out-set that the name of P.W.1 does not figure in the F.I.R. among the name of witnesses from the family of the deceased who has allegedly witnessed the occurrence. P.W.1 has claimed that at about 12 O'clock in the night of 22-4-99 he was sleeping in his Dalan along with his grand-father late Madhukant Jha, the deceased. His grand-father woke him up after hearing noise from inside the house, as he wanted to find out the reason of such noise and also wanted P.W.1 to accompany him. At that very time a dacoit armed with gun surrounded his grand father and 2-4 more dacoits came there. Allegedly, the deceased identified one of the dacoits as Nand Kishore Singh and enquired as to what they were doing. On this Nand Kishore Singh told the deceased that now he had to die and fired his gun causing injury on the right side below the chest of the deceased who fell down there. Thereafter all the dacoits exhorted others to hurry up and began fleeing away with looted articles. When the dacoits went away from

that place then this witness allegedly dragged his grand-father to a room used for keeping husk. The witness also claimed to identify Maheshwar Singh who was having a strip of bamboo in his hand. When the dacoits went away and the inmates of the house started crying then this witness came out of the said room and with the help of his father (P.W.4) and uncle Ishwar Nath Jha (P.W.8) brought out the body of his grand-father from the room (Bhusaghar). He also narrated the happening to both of them. The witness has further deposed that in course of the same dacoity dacoits committed dacoity in the house of his uncle Amar Nath Jha (P.W.9). He identified appellants Nand Kishore Singh and Maheshwar Singh in the dock. In cross-examination P.W.1 claimed that appellants Nand Kishore Singh and Maheshwar Singh were on vising terms with his family and he knew them from before. He also admitted that he had talks with Amar Nath Jha (P.W.9, the informant) and he disclosed to him about his having identified Nand Kishore Singh. He has clarified that after coming out of Dalan his grand-father and he had gone up to the entrance of the house situated at a distance of two Lagas. According to him they remained at the entrance of the Darwaja for 10-5 minutes. None of the dacoits had covered their faces. He denied knowledge of any complaint case being filed by Ishwar Nath Jha. He claimed that 5 to 10 persons of the village came later on and he had narrated to them the occurrence. He denied any enmity with Nand Kishore Singh from before. He named P.W.5, Chandra Kant Jha and four others to be amongst the persons who had gathered after the occurrence. He claimed that dacoits had flashed 4 to 5 torches on the face of his grand-father and at that time he was one Lagi (pole) behind his grand-father. He claimed that he stood under the cover of a screen made of strip bamboo and witnessed the entire events from that very place. He has also clearly stated in paragraph-18 of his deposition that before the arrival of police he had already disclosed to his father (P.W.4) and P.W.8 about his identification of dacoits. According to him he could see the dacoits but the dacoits could not see him. He reached near his grand-father only after one or two minutes of the gun shot. Although he claimed that before police he had stated that he recognized Maheshwar Singh and that his uncle and father had also recognized Maheshwar Singh but such claims have been denied by the Investigating Officer, P.W.16. The I.O. has claimed to have noticed blood in front of the entrance of the house but he did not even visit the

room for keeping husk and has not seen or recovered any blood from there although according to P.W.1 blood had fallen there.

10. P.W.4, Uday Nath Jha has also claimed to have identified appellants Nand Kishore Singh and Maheshwar Singh when the dacoits entered into his room after breaking the door. According to him, face of Nand Kishore Singh was covered. He has claimed that P.W.1 told him about the murder of the deceased by Nand Kishore Singh and he saw his father lying dead in the Bhusa room. He lifted his father from that room with the help of several persons including P.W.8 and brought him at Darwaja. Regarding Maheshwar Singh he has clearly contradicted P.W.1 and P.W.4 stating that Maheshwar Singh was not on visiting terms with his family from before and he had also never visited Maheshwar's house. The attention of this witness was drawn to the fact that he had not claimed before the police that Maheshwar Singh was moving in and out of the room or that Maheshwar Singh after coming from out-side asked all the persons (dacoits) to leave the place quickly. P.W.16, the Investigating Officer has stated that no such statement was made by P.W.4 before him. The I.O. has further clarified that P.W.4 had not stated that his son had told him about recognizing Maheshwar Singh.

11. P.W.8, Ishwar Nath Jha is another son of the deceased who like P.W.4 claims to have recognized Maheshwar Singh and Nand Kishore Singh when the dacoits entered into his room where he was sleeping with his wife. He has deposed that after the dacoits fled away, he went to the door and saw his father lying dead there on a wooden cot. There he was told by P.W.1 regarding shooting of the deceased by Nand Kishore Singh. He has stated that his brother Uday Nath Jha (P.W.4) informed him that he has identified Maheshwar Singh. He identified Maheshwar Singh and Nand Kishore Singh in the dock. In cross-examination he has stated that after receiving fire arm shot the dead body had fallen on the ground and he with the help of P.W.4 and nephew P.W.1 had lifted the dead body and kept on a cot. He has not corroborated the claim of P.Ws.1 and 4 that the dead body was in the Bhusa room and he had helped in carrying the dead body from that room to the entrance of the house. Contrary to P.W.4 he has claimed that Maheshwar Singh was on visiting terms to his house from before the occurrence but he did not disclose to anyone about recognizing him. He has denied the suggestion that he

had filed a complaint case bearing No. 829 of 1999 in the court of Chief Judicial Magistrate on 27-5-99. He has denied having put his signature on any complaint petition or vakalatnama. He has also claimed that Nand Kishore Singh was known to him and was on visiting terms to his house.

12. As already noticed earlier P.Ws. 2 and 3 are relevant only in respect of appellant Mintu Kumar @ Mintu Singh whom they claimed to have identified in T.I. Parade and also in court. They have not claimed to identify appellant Nand Kishore Singh or Maheshwar Singh although they claimed to be present in the house when the dacoity was committed. Out of them only P.W.3 as a witness is mentioned in the fardbeyan. As noticed earlier P.Ws.10 and 12 are wives of P.Ws.8 and 4 respectively. They were present with their husbands in their respective rooms but have made no claim of identifying any of the accused persons. They have not claimed that name of any of the appellants was disclosed to them after the occurrence.

13. Initially P.W.1 stated that after coming out of the Dalan he and his grand-father reached at the entrance of the house and they remained there for 10 to 5 minutes (paragraph-8) but in another breath he has claimed that he was one Laggi behind his grand father at the time when torches were being flashed and he stood under cover of a screen made of strip of bamboo and he witnessed the entire events from that very place because the dacoits could not see him (paragraph-16). Considering that the name of P.W.1 a grandson of the deceased, is not mentioned as witness in the fardbeyan and there is no other evidence to corroborate his claim regarding the occurrence at the entrance of the house in which he allegedly identified appellant Nand Kishore Singh (who, as per P.W.4, had covered his face) as the person who shot at the deceased, it is not found safe to rely upon this witness.

14. So far as P.Ws.4 and 8 are concerned, from the entire facts and circumstances as well as from the earliest version of the occurrence as given in the fardbeyan it is clear that the informant had gathered all the necessary facts available with the witnesses belonging to the family of the deceased before the fardbeyan was recorded by the I.O. after coming back from the chase given to the

dacoits. It has come in the evidence of the informant as well as the I.O. and other witnesses that many persons of the village had gathered at the place of occurrence after the dacoits had fled away. It is also apparent that the informant had opportunity of discussions with the persons belonging to the family of the deceased and therefore, names of some of them were given as witnesses. The names of the appellants Nand Kishore Singh and Maheshwar Singh would have definitely been mentioned in the fardbeyan if they had been identified in the occurrence as claimed by P.Ws.1, 4 and 8. Since their names were not mentioned in the fardbeyan and there is no explanation for that a serious doubt arises that their names may have been implicated later on second thoughts.

15. We are conscious that at times a fardbeyan may be lodged by one person in haste without consulting other witnesses but that does not appear to be the position in the case at hand. Further, even in those types of cases, in an occurrence like dacoity in a village if the witnesses had actually identified the appellants Nand Kishore Singh and Maheshwar Singh, this fact in normal course of human conduct should have been disclosed to the villagers who had arrived at the place of occurrence after the dacoits had fled away. The names of such five persons have been disclosed by P.W.1 but four of them have not been examined and only Chandra Kant Jha (P.W.5) has been examined only as a formal witness. He has not claimed that names of any of the miscreants was disclosed by any of the witnesses soon after the occurrence. Another independent witness P.W.7, Gena Ram is also a co-villager who received bomb injuries caused by the dacoits while they were fleeing away. He has stated that he went to the place of occurrence after about two hours of receiving injuries. He found the deceased lying on the ground. His family members were present there who told him that dacoity had been committed in their house and in the house of the informant. He has not stated that names of any of the appellants was disclosed by the family members of the deceased. He has improved his statement before the police by adding that P.W.4 and other persons were saying that they had recognized some dacoits but none of them reveal any names. However, in cross-examination he has admitted that he has not stated before the police that P.W.4 and P.W.8 told that they had recognized some of the dacoits. Hence, there appears sufficient merit in the submission advanced on behalf of the appellants Nand Kishore Singh

and Maheshwar Singh that their names have been subsequently introduced on account of suspicion or enmity. Although the witnesses have denied any suggestion of enmity with these appellants but in the corss-examination of P.W.3 it has come out that on the previous day of the occurrence he had seen Nand kishore Singh sitting at the Darwaja of Jainath Jha. It has been suggested that his family did not have normal relationship with Jainath Jha as there was family dispute with him and Nand Kishore Singh used to help Jainath Jha. No doubt the suggestions have been denied by P.W.4 but the contradiction in the evidence of P.Ws.4 and 8 regarding face of the appellant Nand kishore Singh being covered and not covered creates doubt regarding their claim that Nand Kishore Singh was present and identified as one of the dacoits. In respect of Maheshwar Singh it appears that the name of Maheshwar Singh was not disclosed by P.W.4 in his statement before the I.O. and in fact he has not stated before the police even the fact that his son has disclosed to him regarding recognition of Maheshwar Singh. Hence the claim of the witnesses regarding identification of Maheshwar Singh is also doubtful and not fit to be accepted.

16. So far as charge under Section 412 of the Indian Penal Code in respect of appellant Maheshwar Singh is concerned, it has been shown from the seizurelist that a plain dhoty without any special marks of identification were recovered from the house of Maheshwar Singh as well as acquitted accused Ramesh Singh. This is evident from Exts.10 and 10/a. Geeta Devi (P.W.10) identified one dhoti but from the evidence it is not clear that such dhoti had any marks and that it was the dhoti seized from the house of appellant Maheshwar Singh and not from the house of acquitted accused Ramesh Singh. Further in absence of any special marks on dhoti which is easily available in the market, it is not safe to rely upon claim of identification by P.W.10. It is interesting to note here that although according to P.W.13 Indu Devi (P.W.12) identified a blouse piece but in court P.W.12 has also claimed to identify one dhoti.

17. In the facts and circumstances of the case it must be held that charge under Section 412 of the I.P.C. has not been proved against appellant Maheshwar Singh beyond reasonable doubt. In view of discussions made above that the claim of identification of Nand Kishore Singh and Maheshwar Singh is doubtful, the charge

against them under Section 396 I.P.C. is also not found proved beyond reasonable doubt.

18. So far as appellant Mintu Kumar @ Mintu Singh is concerned, he was arrested on suspicion and put on T.I. Parade which was conducted in the presence of P.W.14, Mohan Choubey, a Judicial Magistrate. Ext.5 supports the claim of P.Ws.2 and 3 and they have identified this accused in T.I. Parade held in jail. They have identified Mintu Kumar in court also describing his specific role. There is some delay in holding the T.I. Parade but no suggestion has been given either to the identifying witnesses or to the I.O. that the delay was deliberate or it was used for showing the suspect to the witnesses in absence of any suggestion or cross-examination on such aspect, it is difficult to dis-believe the claim of P.Ws.2 and 3 that they identified appellant Mintu Kumar as one of the dacoits in the T.I. Parade. However, regardless of the conviction of Pintu Kumar for the offence under Section 396 I.P.C., since he has been found to be a juvenile on the date of the alleged occurrence he has to be given benefit of Section 7A of the Juvenile Justice Act (Care and Protection of Children) Act, 2000 as amended in 2006. Recently a Division Bench of this Court to which one of us (Shiva Kirti Singh, J) was a party, had the occasion to consider Section 7A of the said Act in the case of Akhilesh Ojah v. State of Bihar reported in 2008 (1) BBCJ 86. After noticing the legislative provision it was held that the effect of the amendment is retrospective so as to cover even those juveniles who have seized to be so on or before the date of commencement of the Amendment Act and a claim of juvenility shall be recognised at any stage, even after final disposal of the case. In view of Sub-section (2) of Section 7A we are required to forward the juvenile delinquent Mintu Kumar @ Mintu Singh to the Board for passing appropriate order, and the sentence if any passed by a court shall be deemed to have no effect. Hence, notwithstanding his conviction the sentence passed against him by the trial court has to be set aside because in law it can have no effect. Accordingly, the sentence passed against appellant Mintu Kumar @ Mintu Singh (Cr.Appeal No. 763/05) is set aside. His case is remitted and forwarded to the Board constituted to deal with juveniles under the Juvenile Justice (Care & Protection of Children) Act, 2000 for the district of Muzaffarpur so that the Board may pass an appropriate order in respect of this appellant Mintu Kumar @ Mintu Singh in accordance with law.

19. In view of aforesaid discussions and findings the death reference in respect of appellant Nand Kishore Singh is answered in negative. The appeal of Nand Kishore Singh and Maheshwar Singh is allowed in full. Their conviction and sentences are set aside. They are directed to be released forthwith if not required in any other case.

20. The appeal of Mintu Kumar @ Mintu Singh is allowed to the extent indicated above and his case is remitted back to the Board for consideration of appropriate sentence in accordance with law.

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