

Pappu Yadav and Anr Vs. State

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Court : Jharkhand

Decided On : Feb-03-2015

Appellant : Pappu Yadav and Anr

Respondent : State

Judgement :

Criminal Appeal (D.B.) No. 300 of 1998 (P) With Criminal Appeal (D.B.) No. 167 of 1998 (P) ----- Against the judgment of conviction and order of sentence dated 27.03.1998 and 01.04.1998 respectively passed by Sri Swaroop Lal, 1st Additional District and Sessions Judge, Godda in Sessions Case No. 15 of 1995 / 89 of 1996.

----- 1. Pappu Yadav, son of Surya Narayan Yadav 2. Sanjay Yadav, son of Shashipal Yadav, Both are residents of village Darmodih, Police Station- Mahagama, District- Godda ... Appellants [in Cr.Appeal (D.B.) no. 300 of 1998 (P)]

1. Manoj Yadav @ Manohar Yadav @ Manoj Kumar Yadav, Son of Late Jaydeo Prasad Yadav, 2. Naresh Yadav Son of Late Ankeshwar Prasad Yadav 3. Pramod Yadav, Son of late Surya Narayan Yadav, All residents of village Darmodih, Police Station Mahagama, District-Godda ... Appellants [in Cr.Appeal (D.B.) no. 167 of 1998 (P)] --Versus-- The State of Bihar now Jharkhand . . Respondent(In both cases) For the Appellants : M/s. A.K.Kashyap, Sr. Advocate, Amit Kr. Verma and Manoj Kr. Sinha, Advocates Mr. Mahesh Kumar Sinha, Advocate For the State : Mr. Abhishek Kumar, A.P.P. PRESENT The Honble Mr. Justice R.R. Prasad The Honble Mr. Justice R.N.Verma C.A.V. ON:

06. 01/2015 Delivered on 03.02.2015 R.N. Verma, J.

The two appeals have been heard together and are being disposed of by this common judgment. Challenge in these appeals is to the judgment of conviction and order of sentence passed by Sri Swaroop Lal, 1st Additional Sessions Judge, Godda in Sessions Case no. 15 of 1995/ 89 of 1996 holding the six appellants guilty of offence punishable under Section 302 read with Section 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life.

2. The prosecution version as unfolded during trial is that the informant Permanand Yadav (P.W.

5) reported to the police at 2 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) 7:30 A.M. on 21.11.1994 that in the evening of 20.11.1994, his niece complained him of pain in her abdomen, whereafter he went to the office of his brother Upendra Prasad Yadav (deceased) at Urja Nagar, C.M.P.D.I. to inform about the pain in abdomen of his daughter. Thereafter, he along with Upendra Yadav came back to his house and after taking motorcycle of one Chatish Sah of his village, which was parked near the door of Anil Yadav, proceeded to call Dr. Jaikant Bhagat and when they reached at a distance of about 100 yards from his village, they met Anil Yadav (P.W.2), Nandeshwar Yadav (P.W.7), Prakash Yadav (P.W.4) and his own brother Siyanand Yadav (P.W.3), who were returning from Chandsar side. They informed him that they have seen Sanjay Yadav, Pramod Yadav, Manoj Yadav, Surya Narayan Yadav, Naresh Yadav and Pappu Yadav, all co-villagers, sitting near west of the school. To avoid any dispute with those persons, they warned him not to go that side but as his niece had acute pain in her abdomen, he along with his brother proceeded to call the doctor and when they reached almost 100 yards from the High School at about 8:15 p.m., they saw Pappu Yadav armed with Gupti, Sanjay Yadav and Pramod Yadav with fire arms, Manoj @ Manohar Yadav and Surya Narayan Yadav armed with lathi and Naresh Yadav armed with stones, in the flash of light of motorcycle. After seeing them, Pappu Yadav and Sanjay Yadav asked them to stop the motorcycle otherwise they would be killed. The moment, his brother stopped the motorcycle, he, who was sitting as pillion rider, got down and fled away towards east. It is also alleged that while fleeing he looked back and found that the accused persons were assaulting his brother. He ran towards his village raising

alarm and at some distance, he met Anil Yadav, Prakash Yadav, Nandeshwar Yadav and Siyanand Yadav and informed them about the occurrence whereafter they rushed towards the place of occurrence to save his brother but when they reached almost 30-40 yards away from the place of occurrence, Sanjay Yadav and Prakash Yadav, who were holding fire arms, threatened them not to proceed ahead otherwise 3 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) they would also be killed like one, who has already been killed. The accused persons after giving threatening to them fled away towards west. The informant and other persons found mouth and neck of Upendra Yadav wrapped with muffler and Upendra Yadav was motionless. In the torch light, they found injury and blood was coming out from the shoulder of the deceased and also found injury on both temples. Upendra Yadav was found dead. The matter was reported to the members of the family through Siyanand Yadav, whereafter, his mother, Bhabhi (wife of the deceased), his niece and other family members came there. All the persons stayed near the dead body and as it was night, apprehending further assault, they did not inform the police station and in the next morning i.e. 21.11.1994, the information was given to the Police Station, whereafter, the F.I.R. (Ext.-3) was lodged. The motive behind the occurrence was the old land dispute with the accused persons.

3. The I.O. of this case Om Prakash Singh (P.W.10) after investigation, submitted the charge sheet against six accused persons. Thereafter, the case was committed to the court of sessions where the charges were framed against all the six accused persons under Section 302/34 of the Indian Penal Code and the charges were read over and explained to them to which they denied and claimed themselves as innocent. The accused persons took the defence that the said Upendra Yadav died in a vehicular accident and they have been falsely implicated in this case due to previous enmity.

4. In course of trial, the prosecution examined altogether ten witnesses. Of them, the informant Parmanand Yadav was examined as P.W. 5 whereas, Dr. Kalanand Choudhary, who held the postmortem of the dead body was examined as P.W.1 and rest of the witnesses were examined as P.W.2- Anil Kumar Yadav, P.W.3- Siyanand Yadav, P.W.4- Prakash Yadav, P.W.6- Ravindra Yadav, P.W.7-

Nandeshwar Yadav, P.W.8- Anita Devi, P.W.9- Birendra Kumar Yadav. The I.O. of the case Om Prakash Singh was examined as P.W.

10. 4 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) 5. The trial court having found all the six accused persons guilty for the aforesaid charges recorded the order of conviction and sentences as aforesaid.

6. Being aggrieved with the said judgment, the two above appeals were filed by all the six appellants but during pendency of the above appeals, one of the appellant Surya Narayan Yadav died whereafter the appeal has abated so far appellant no. 3 Surya Narayan Yadav was concerned. It would not be out of place to mention here that while the trial was pending in the Sessions Court, an information petition was filed by the informant P.W. 5 on 29.07.1995 praying to the Court to record his evidence at the earliest because on 24.07.1995, the accused persons had threatened him of dire consequence while he was returning from court, whereafter the evidence of the informant was recorded in Court. It appears from the impugned judgment (para

14) that immediately after the evidence of the informant Parmanand Yadav was recorded, he was murdered. Charge sheet was submitted against present appellants and others, which was marked as Ext.-9/1. Another witness Shivnandan Yadav was also murdered and the charge sheet was submitted against the appellants and other persons, which was marked as Ext.-9. During pendency of the above appeals, Superintendent of Loknayak Jai Prakash Narayan Central Jail, Hazaribagh, through his letter no. 2401/Mukti/ 4285 informed this Court that the life convict Pappu Yadav has further been convicted for life in three other Sessions Trial bearing nos. 15 of 1995 arising out of Mahagama P.S. Case no. 108 of 1994 under Section 302/34 of the Indian Penal Code, Sessions Case no. 46 of 1998 arising out of Mahagama P.S. Case no. 89 of 1997 under Section 302/149 of the Indian Penal Code and S.T. No. 47 of 1998 under Section 302/149 and also under Section 307/149 of the Indian Penal Code.

7. Assailing the impugned judgment, it was submitted that right from the beginning , the defence which has been taken is that the appellants have falsely been implicated due to enmity and no 5 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr.

Appeal (D.B.) No.167 of 1998(P) occurrence as alleged by the prosecution did ever take place and that the deceased lost his life not because of any homicidal attack, on the contrary, he died as a result of vehicular accident, therefore, the appellants cannot be convicted under Section 302 read with Section 34 of the Indian Penal Code. Even no specific overt act has been alleged against any of the appellant. It was further submitted that there was absolutely no light or any other source of light at the scene of occurrence and the only means of identification, which is a torch, upon which the prosecution has relied, has not been seized by the Investigating Officer nor the same was produced before the I.O. No blood was found at the place of occurrence. Hence, the conviction with the aid of Section 34 of Indian Penal Code is bad in law. In support of his contention, learned counsel has relied on judgments reported in (2010) 8 S.C.C.407 (2010) 2 S.C.C. 91 and (2013) 4 S.C.C.

517. Lastly it was contended that there has been a delay of more than ten hours in lodging the F.I.R. The prosecution case is highly improbable. On these grounds, amongst others, it has been seriously canvassed that the judgment of conviction of the court below be set aside and the appellants be acquitted. As against the above, learned Additional Public Prosecutor submitted that the witnesses i.e. P.Ws. 2, 3, 4 and 7 appear natural persons, who could not be said to be chance witnesses and they appear corroborating each other at the most vital aspect of the prosecution case while proving the charges.

8. In the light of submission of the learned counsel for the appellants, now, we would like to examine the evidence of the prosecution witnesses on the point of complicity of the appellants in the alleged offence and on the point of assault.

9. A brief resume of the narrations made by the prosecution witnesses is necessary to appreciate the contentions raised. Reiterating his earlier version, the informant, P.W. 5 by giving description from the stage when he along with his brother Upendra Yadav after taking motorcycle of one Chatish Sah from the 6 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) door of Anil Kumar Yadav proceeded to call the doctor and on way met with Anil Yadav (P.W.2), Nandeshwar Yadav (P.W.7), Prakash Yadav (P.W.

4) and Siyanand Yadav (P.W.3), who asked the witnesses not to go that side as the accused persons i.e. the appellants are sitting near the school but as his niece had acute pain in her abdomen, he along with his brother proceeded and when reached ahead of the high school at about 8:15 P.M., he saw appellants Pappu Yadav and Sanjay Yadav standing there in the light of motorcycle having fire arms in their hand and those two asked to stop the motorcycle otherwise they would be killed and in the meantime, other accused persons also came there. The witness has further stated that the moment his brother stopped the motorcycle, he got down and fled towards east and while fleeing when he looked back, saw that all the six appellants were assaulting his brother. He ran towards his village raising alarm and on the way, he met Anil Yadav, Nandeshwar Yadav, Prakash Yadav, Siyanand Yadav to whom the witness informed about the assault. He along with above persons when reached almost 10-15 cubits away from the place of occurrence, saw all the accused persons assaulting his brother with lathi, stones, butt of fire arm and gupti. Sanjay Yadav and Prakash Yadav by pointing fire arms threatened them not to proceed ahead otherwise they would also be killed and after giving such threatening, they fled away from there towards west. The witness has further stated that he along with other persons came near Upendra Yadav whose mouth was wrapped with muffler and after untying the muffler, he found swelling near the earpit and blood was coming out from the shoulder. The witness also found deep injury near the neck and from there also blood was coming out. This witness was subjected to extensive cross-examination but nothing much less any incriminating material could be elicited from his cross-examination so as to discredit his veracity and we do not find any serious discrepancy or contradiction or improvement in his evidence. 7 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) The statement of P.W. 5 stands corroborated from the testimony of P.W.2, P.W.3, P.W. 4 and P.W. 7, who testified that on the date of occurrence, they were all returning from Chandsar side at 7:30 P.M. where they had gone on call of nature and while returning, they saw the appellants sitting near the high school. They warned the informant and the deceased not to go ahead as the appellants were sitting near the high school. Firstly the witness confirmed the warning given by them and thereafter adverting to the complicity of all the appellants in the occurrence, the witnesses testified that on the information

of assault being given by the informant, they alongwith the informant came near the place of occurrence but they were threatened by Sanjay Yadav and Prakash Yadav not to proceed ahead otherwise they would also be killed like one, who has already been killed. The above witness claimed to have seen the appellants at a distance of 20-30 cubits but they could not explain the role of each appellant.

10. P.W. 2 Anil Kumar Yadav in his evidence has stated that he had seen Pappu Yadav armed with Gupti, Sanjay Yadav and Pramod Yadav armed with fire arms, Manoj Yadav and Surya Narayan Yadav armed with lathi and Naresh Yadav armed with stones as it was not a dark night. Witness has further claimed in paragraph 16 that though he had a torch in his hand but everything was visible even without torch light.

11. As regard to the identification, the learned counsel for the appellants submitted that the alleged occurrence took place on 20.11.1994 and there was a complete lack of source of identification. Normally, in the month of November, the sun sets at 5:30 p.m.

12. In course of hearing of the above appeals, a photo copy of relevant part of the Panchang of the year 1994 was placed before the Court by the learned counsel for the State and from perusal of the Panchang, it appears that 19th November, 1994 was the first date of Krishna Paksha and the alleged date of occurrence i.e 20.11.1994 was the second day of Krishna Paksha. It means, from the moon lit night 8 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) (Anjoria), it was moving towards the end of full Krishna Paksha, so the evening was not very dark.

13. In a case Nathuni Yadav and others Vs. State of Bihar and another, 1991 (1) East Cr. C. 145 (SC) :

1998. (9) SCC238 a similar contention was raised before the Supreme Court as regards non- availability of light at the scene of occurrence so as to facilitating the murder of Sona Devi wife of Bhagelu Singh Yadav. The plea was replied by the Supreme Court in paragraph 9 of the judgment and we are tempted to extract the whole of the paragraph 9, which reads as under: We have considered the said

contention from all its angles. Even assuming that there was no moonlight then, we have to gauge the situation carefully. The proximity at which the assailants would have confronted with the injured, the possibility of some light reaching there from the glow of stars, and the fact that the murder was committed on a roofless terrace are germane factors to be borne in mind while judging whether the victims could have had enough visibility to correctly identify the assailants. Over and above those factors, we must bear in mind the further fact that the assailants were no strangers to the inmates of the tragedy-bound house, the eye-witnesses being well acquainted with the physiognomy of each one of the killers. We are, therefore, not persuaded to assume that it could not have been possible for the victims to see the assailants or that there was possibility for making a wrong identification of them. We are keeping in mind the fact that even the assailants had enough light to identify the victims whom they targeted without any mistake from among those who were sleeping on the terrace. If the light then available, though meager, was enough for the assailants why should we think that the same light was not enough for the injured who would certainly have pointedly focused their eyes on the faces of the intruders standings in front of them. What is sauce for the goose is sauce for the gander. As was found by the Supreme Court, the identification was believed even in absence of actual light or the light which could be emanating from the stars in the sky. The reason given by the Supreme Court that if it could be possible for the assailants to 9 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) identify the victims so as to be assaulted, it may be not be difficult for the victims to identify them.

14. Undoubtedly, the Krishna Paksha had started on 19.11.1994 and date of occurrence is just the next day of start of Krishna Paksha. We find that the informant, the witnesses and the assailants i.e. the appellants coming from the same village were known to each other and as such the appellants were not the strangers to the prosecution witnesses. Moreover, the question of identity is answered fully by P.W. 5 when he claimed that he had seen the appellants in the flash light of the motorcycle. P.W. 2 has only stated that though he had a torch in his hands, but everything was visible at that time. The witness has nowhere stated that in the light of torch, they had identified the appellants and as such, non-production of a torch, which was in the hands of P.W.2, in no way affects the

identification. We find the evidence of P.Ws. 2 and 5 to be trustworthy and their claim of identification to be reliable and as such, non-production of torch shall itself not create any doubt to the case of the prosecution.

15. So far the submission of learned counsel for the appellant that the deceased lost his life not because of any homicidal attack rather he died as a result of vehicular accident, we would like to examine the autopsy report and the evidence of Dr. Kalanand Chaudhary (P.W.1), who had conducted the autopsy on the body of the deceased. P.W.1 Kalanand Chaudhary, who held the autopsy on 21.11.1994 found the following ante-mortem injuries:- (i) One penetrating injury with clean and sharp margins (exterior of the wound triangular) over left supra clavicular area traversing vertically downwards internally deep about 11.5 c.m.- major blood vessels and upper part of left lung punctured in the route of the said wound. 10 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) (ii) One bruise over the right parotid area 8 c.m.x 5 c.m. A similar bruise on left parotid area 6 c.m.x 4 c.m.- both bluish in colour. (iii) One bruise over the upper part of the neck- one on each side, each about 5 c.m.x 5 c.m. (iv) One bruise over left chest on and around left nipple about 8 c.m. x 4 c.m. underlying which fracture of 3rd and 4th ribs in mid clavicular line. (v) Fracture of left clavical in the mid length. On dissection, the witness found the following injuries:- Left lung upper part punctured by injury no.1 leading to accumulation of about 500 ml. of blood in the vicinity. Regarding nature of injury, the witness has stated that injury nos. 1, 4 and 5 were grievous in nature but other injuries were simple. The witness has further stated that injury no.1 was caused by sharp substance while other injuries by hard and blunt substance. Cause of death has been shown due to shock and haemorrhage as a result of the above mentioned injuries. Witness has further stated that injury no.1 may be caused by Gupti and other injuries by brick-bat, stone and such matter. During cross-examination, the witness has ruled out the possibility of getting such injuries after falling from motorcycle on strong rough surface. The witness has further stated that he has seen and has been dealing with wounds of accident. So, this witness has clearly ruled out the possibility of death of the victim in a vehicular accident.

16. The defence in support of his submission regarding death of victim in vehicular accident has relied on the evidence of the Investigating Officer, who during investigation had found the seized motorcycle lying in a paddy field, adjacent to the place of occurrence, which is a road. Besides the above, there is no other evidence in support of the contention of the learned counsel for the appellants. 11 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) The autopsy report completely falsifies the defence story of death in a vehicular accident.

17. As regards to the motives in a criminal case, it is by now a well known principle of law that in a case where the Court has direct evidence available to it in support of the charges, motive loses its importance. The motive, which has been alleged by the informant in his fardbeyan was the old enmity due to land dispute. The informant has confirmed the pendency of 107 Cr.P.C. proceeding between the parties in paragraph 13 of his evidence. The witness has further stated that almost 10-12 years back, one of his person was murdered and in that case, Surya Narayan Yadav, who is one of the accused in the present case, was also an accused. The other prosecution witnesses have further shown the enmity due to demand of Rangdari by the appellants. P.W. 2, P.W. 4 and P.W. 7 have stated that the accused persons were demanding ransom from the contractor, who was constructing road in the area, to which the deceased had raised objection on the ground that work was of public interest. Motive and conduct are inter-related issues and the court below in paragraph 14 of the judgment has discussed the conduct of the appellants holding that when the appellants gave threatening to the informant of dire consequence, the informant filed a petition in Court for recording his evidence at the earliest and the deposition of the informant was recorded. Immediately thereafter the informant of this case was also murdered. One of the appellant Pappu Yadav has been convicted in the subsequent case of murder of the informant. Another brother Siyanand Yadav (P.W.3) after his evidence in court, has also been murdered and in that case also, Pappu Yadav has been convicted.

18. As regards the contention that no specific overt act has been alleged against any of the appellant, the conviction of all the appellants with the aid of Section 34 of I.P.C. is bad in law, it has become imperative to deal with Section 34 of I.P.C.,

which reads as under:- 12 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P)

34. Acts done by several persons in furtherance of common intention- When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone. Section 34 of I.P.C. is not a substantive offence rather by introducing Section 34, the principle of joint liability in doing a criminal act has been laid down. Therefore, in order to find whether a person is guilty of common intention, it is necessary to examine the entire evidence on record very carefully and critically. In a case of *Amrik Singh Vs State of Panjan* reported in (1972) 4 S.C.C. 42, the Supreme Court has clearly laid down that the common intention may develop in course of the fight but there must be a clear and unimpeachable evidence to justify that inference. The common intention to bring about a particular result may well develop on the spot as between a number of persons, with reference to the facts of the case and circumstances of the situation. In *Surendra Chauhan Vs. State of M.P.* [(2000) 4 S.C.C. 110], the Honble Supreme Court has held : Under Section 34 a person must be physically present at the actual commission of the crime for the purpose of facilitating or promoting the offence, the commission of which is the aim of the joint criminal venture. Such presence of those who in one way or the other facilitate the execution of the common design is itself tantamount to actual participation in the criminal act. The essence of Section 34 is simultaneous consensus of the minds of persons participating in the criminal action to bring about a particular result. Such consensus can be developed at the spot and thereby intended by all of them. The existence of a common intention can be inferred from the attending circumstances of the case and the conduct of the parties. No direct evidence of common intention is necessary. For the purpose of common intention even the participation in the commission of the offence need not be proved in all cases. The common intention can develop even during the course of an occurrence. To apply Section 34 IPC apart from the fact that there should be two or more accused, two factors must be established: (i) common intention, and (ii) participation of the accused in the commission of 13 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) an offence. If a common intention is proved but no overt act is attributed to the individual accused, Section

34 will be attracted as essentially it involves vicarious liability but if participation of the accused in the crime is proved and a common intention is absent, Section 34 cannot be invoked. In every case, it is not possible to have direct evidence of a common intention. It has to be inferred from the facts and circumstances of each case.

19. Referring to the facts of this case, on the question of applicability of Section 34 of I.P.C., the witnesses like P.Ws. 2, 3 , 4, 7 and P.W. 5, the informant, have all stated that when the informant and the above witnesses reached almost 30-40 yards away from the place of occurrence, Sanjay Yadav and Prakash Yadav, who were holding fire arms, threatened them not to proceed ahead otherwise they would also be killed like one, who has already been killed. This evidence clearly speaks of the participation of the accused persons and the common intention. P.W. 5 in paragraph 17 of his evidence has stated that he saw that the accused persons were assaulting his brother with lathi, stones and the back side of fire arm and Gupti. It is true that evidence is not very specific as regards the role played by each appellant but inference can be drawn from the evidence of the P.W.

5. It is not necessary that the acts of several persons charged with commission of an offence jointly must be the same or identically similar. The acts may be different in character but must have not been actuated by one and the same common intention in order to attract the provision and for applying Section 34 IPC, it is not necessary to show some overt act on the part of each accused.

20. As regards the contention that blood was not seized and the other seized articles were not sent for chemical examination to Forensic Science Laboratory, the I.O. P.W. 10 has stated in his evidence that there was mark of assault below each of the ear and on chest and he saw a bleeding injury on the shoulder. The I.O. has also stated that thereafter he prepared a seizure list of motorcycle, a pair of slipper and blood soaked muffler and all the seized articles were 14 Cr. Appeal (D.B.) No.300 of 1998(P) With Cr. Appeal (D.B.) No.167 of 1998(P) marked as Ext.-8. The witness has further stated that he also found blood on earth but he did not seize any blood soaked earth. Almost all the witnesses have stated that the neck and mouth of the deceased was wrapped with a muffler and as the blood

was coming out from the shoulder, the muffler soaked the blood. It is true that neither the blood soaked muffler was sent for chemical examination to Forensic Science Laboratory nor the I.O. collected the blood soaked earth. Because of the fault of the investigating authority, the prosecution case, which is consistent on the manner and complicity of the appellants, cannot be thrown out or doubted. The benefit of faulty investigation in the circumstances stated above, cannot go to the appellants. We do not find any defect in the prosecution case on that account.

21. In this manner, on further reappraisal of the evidences brought on record, we are firm in opinion that the trial court was justified in placing reliance on the testimonies of P.W. 2- Anil Kumar Yadav, P.W. 3- Siyanand Yadav, P.W. 4- Prakash Yadav, P.W.7 Nandeshwar Yadav and the informant P.W.5-Parmanand Yadav. Therefore, the judgment of conviction and order of sentence recorded by the trial court against the appellants do not call for interference, which is upheld and affirmed. The above two Criminal Appeals are dismissed.

22. From the record, it appears that except the appellant no.1 Pappu Yadav, all other appellants are on bail and hence, their bail bonds are, hereby, cancelled and they are directed to surrender in the court concerned. The trial court is directed to take all coercive steps for their arrest so that they may serve the sentence awarded by the trial court. (Ravi Nath Verma, J) I agree. R.R.Prasad, J., (R.R.Prasad, J) Jharkhand High Court, Ranchi Dated the 3rd February, 2015
NAFR/Ritesh/

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