2026:JHHC:19184-DB

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (D.B.) No. 634 of 2024

[Against the judgment of conviction dated 06.04.2024 and order of sentence dated 10.04.2024 passed by learned Additional Judicial Commissioner-XV-cum-Special Judge for Criminal Cases involving Elected MPs / MLAs, Ranchi in S.T. No. 249/2020 & S.T. No. 389/2021].

Paulus Surin, aged about 54 years, Son of Late Joseph Surin, Resident of Village – Guruirgi, P.O. & P.S. – Bano, District – Simdega (Jharkhand).

.... …. Appellant

Versus

The State of Jharkhand .... Respondent

WITH

Cr. Appeal (D.B.) No. 1539 of 2024

Jetha Kachhap, aged about 40 years, Son of Late Johan Kachhap, Resident of Dumri Gadhi, P.O. & P.S. – Karra, District – Khunti (Jharkhand).

.... …. Appellant

Versus

The State of Jharkhand .... Respondent

For the Appellant : Mr. B.M. Tripathi, Sr. Advocate
Mr. Manoj Kumar Choubey, Adv.
For the State : Mr. Pankaj Kumar, P.P.
[**In Cr.A. (DB) No. 634/2024**]
For the Appellant : Mr. R.S. Mazumdar, Sr. Advocate
For the State : Mr. Shailesh Kumar Sinha, A.P.P.
[**In Cr.A. (DB) No. 1539/2024**]

PRESENT
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

CAV On 27/04/2026 **Pronounced On 01 / 07 /2026**

1. Heard learned counsel for the parties.

2. Above criminal appeals are arising out of common judgment and order of conviction and sentence dated 06.04.2024 and 10.04.2024

respectively passed by Additional Judicial Commissioner-XV-cum-Special Judge for Criminal Cases involving Elected MPs/MLAs, Ranchi in S.T. No. 249/2020 and S.T. No. 389/2021, whereby and whereunder, the appellant, Paulus Surin has been held guilty for the offence under Sections 302/34 & 120B of the I.P.C. and sentenced to undergo imprisonment for life along with fine of Rs. 25,000/- with default stipulation and appellant, Jetha Kachhap has been held guilty for the offence under Sections 302/34, 307/34, 379/34 & 120B of the I.P.C. and Section 27 of the Arms Act and sentenced to undergo R.I. for life for the offence under Section 302/34 read with Section 120B of the I.P.C. along with fine of Rs. 25,000/-, R.I. for 07 years along with fine of Rs. 1,000/- for the offence under Sections 307/34 of I.P.C., R.I. for 02 years for the offence under Section 379/34 of I.P.C. and R.I. for 05 years along with fine of Rs. 5,000/- for the offence under Section 27 (1) of the Arms Act, with default stipulation. All the sentences were directed to run concurrently.

Factual Matrix

3. The factual matrix giving rise to these appeals is that on 27.05.2013 at noon, the informant along with his friends was playing cards near the library in Village – Trila and his brother Bhushan Singh (since deceased) was talking to Ram Govind Singh, Devender Singh, Varun Pradhan and Sanju Singh on the platform (chabutra) adjacent to the house of Chama Oraon. It is alleged that at about 5:45 P.M., the informant suddenly heard sound of firing and people started

scattering hither and thither. The informant saw that PLFI Supremo Dinesh Gope along with his associates Tilkeshwar Gope, Jetha Kachhap, Gidan Guria and others were indiscriminately firing with their AK-47 rifles and other arms upon Bhushan Singh. It is alleged that at first Tilkeshwar Gope opened fire upon his brother Bhushan Singh, due to which, he fell down, thereafter, all other accused persons shot at different parts of body including head to Bhushan Singh, who died on the spot. It is alleged that miscreants also attempted to shot the informant while he was in panic situation, but he managed to enter into his own house and also started firing by his licensee gun in his defence. In the meantime, police also arrived at the place of occurrence, then miscreants fled away taking rifle and gun of Bhushan Singh by riding on 2-3 motorcycles. It is alleged that in the said occurrence, Bhushan Singh and Ram Govind Singh have been died on the spot. It is further alleged that a conspiracy was hatched to kill Bhushan Singh by Torpa MLA Sri Paulus Surin, Laxmi Devi, Chama Oraon, Minizin Orain, Sunita Orain and Moti Devi because Bhushan Singh was falsely implicated in a rape case lodged by Sunita Orain and they were demanding for the arrest of Bhushan Singh by the police, inspite of his innocence. It is further alleged that all the conspirators are related to PLFI extremist group. It is further alleged that the local MLA Paulus Surin used to threaten the deceased on many occasions to meet him the same consequence as Vijay Munda

had met and he would be sent to the heaven unless he abstains from doing police spy.

On the basis of written report of the informant, Karra P.S. Case No. 27 of 2013 was registered for the offence under Sections 302, 379/34 and 120(B) of the I.P.C., Section 27 of the Arms Act and Section 17 of C.L.A. Act against 10 accused persons.

After conclusion of investigation, charge-sheets were submitted against the accused persons. Accordingly, after commitment of the case to the Special Court for MPs / MLAs, five Sessions Trials i.e. Sessions Trial No. 37/2021, Sessions Trial No. 389/2021, Sessions Trial No. 249/2020, Sessions Trial No. 392 of 2021 and Sessions Trial No. 535 of 2021 were registered and all the Sessions Trial were amalgamated by the concerned trial court for joint trial.

The accused persons denied from the charges and claimed to be tried.

4. In course of trial altogether 11 witnesses were examined by the prosecution. Apart from oral testimony of the witnesses, following documentary evidence has been adduced by the prosecution:-

Exhibit-1	:	Written Application of Informant.
Exhibit-2	:	Signature o Kamayani Singh (P.W.-1) on statement u/s 164 Cr.P.C.
Exhibit-3	:	Signature of Sandhya Devi (P.W.-4) on statement u/s 164 Cr.P.C.
Exhibit-4	:	Signature of Prabhakar Singh (P.W.-6) on

		statement u/s 164 Cr.P.C.
Exhibit-5	:	Post mortem report.
Exhibit-6	:	Seizure list dated 27.05.2013.
Exhibit-7	:	Formal F.I.R.
Exhibit-P-8/ P.W.-10		Application to bring material exhibit before the court.
Exibit-P-9/ P.W.-11		The confessional statement of accused Jetha Kachhap under Section 164 Cr.P.C.

Material exhibits:

MO-I	Six empty cartridges.
MO-II/I	Four empty cartridges of .12 bore of Shaktiman Express.
MO-I/II	Eleven empty cartridges of .06 bore.

5. On the other hand, the case of the defence is denial from the occurrence and false implication only on the basis of suspicion. One witness, who happens to be one of the I.O. of this case Sri Uday Kumar Gupta has been examined as D.W.-1 on the behalf of accused Paulus Surin (appellant), who has proved the letter given to the S.P., Khunti as Exhibit-D-1/D.W.-1.

6. Learned trial court after evaluating the oral as well as documentary evidence adduced by respective parties, arrived at definite conclusion about the guilt of the appellants for the offence charged against them and awarded sentence, as stated above, which has been assailed in these appeals.

Submission on behalf of the appellant-Paulus Surin

7. Mr. B.M. Tripathi, learned senior counsel appearing for the appellant has raised following points, which vitiates the conviction of the appellant recorded by learned trial court:-

(i) As a matter of fact, deceased Bhushan Singh was prosecuted for rape by one Sunita Orain, wherein due to his influence and muscle power, the said Bhushan Singh was not being apprehended by police and the case was being manhandled, inspite of protest by prosecutrix and her family members namely, Minzin Oraon, Moti Devi and others, who were also made accused in this case. The specific allegation against the appellant was for hatching conspiracy with the PLFI extremists in causing murder of the deceased.

(ii) The villagers under the leadership of their popular MLA Paulus Surin (appellant) were organizing "Dharna and Gherao" for taking action against Bhushan Singh in the said rape case.

(iii) The learned trial court has miserably failed to appreciate that no conspiracy has been proved by the prosecution against the appellant in eliminating the deceased and the appellant has no concern or relation with PLFI organization and nothing has

been brought on record to prove any connection of the appellant with the PLFI extremist organization.

(iv) There is no direct evidence except the allegation of hatching conspiracy proving the involvement of appellant-Paulus Surin in the alleged occurrence. Admittedly, his presence and participation in the alleged crime has not been asserted by the prosecution.

(v) The learned trial court has committed serious error of law while placing reliance upon confessional statement of co-accused Jetha Kachhap (appellant) recorded under Section 164 Cr.P.C. without following the procedural safeguard provided under Section 164 Cr.P.C. Moreover, the alleged confessional statement is not of self-inculpatory, but simple assertion in respect of co-accused Paulus Surin that he was threatening to deceased to be killed. Therefore, such type of statement neither can be used as evidence against the maker of the confession nor against any other co-accused. Except the statement under Section 164 Cr.P.C. of co-accused Jetha Kachhap. The prosecution has miserably failed to prove any conspiracy and

previous threatening given by the appellant Paulus Surin.

(vi) If the trial court has acted upon the statement under Section 164 Cr.P.C. of the appellant – Jetha Kachhap as confession of his guilt, then he must have recorded a finding before framing charge that inspite of confession of the accused, he is proceeding for trial for the ends of justice. Not only this, the occurrence took place on 27.05.2013 and the alleged confessional statement of Jetha Kachhap was recorded on 20.06.2017 even without any application by the accused that he voluntarily desires to make any such statement.

(vii) The Investigating Officers of the case (P.W. -8 & P.W.-9) have recorded no findings about conspiracy entered into between the appellant and other co-accused persons for eliminating the deceased. The alleged co-conspirators Chama Oraon, Minizin Orain, Laxmi Devi, Moti Devi and Sunita Orain have been acquitted by the learned trial court.

Therefore, the impugned judgment of conviction and order of sentence of appellant-Paulus Surin is absolutely illegal and based upon conjecture and surmises beyond the evidence available on

record. The appellant deserves acquittal from the charges leveled against him, allowing this appeal.

Submission on behalf of the appellant-Jetha Kachhap

8. Mr. R.S. Mazumdar, learned senior counsel appearing for the appellant-Jetha Kachhap has raised following points objecting his conviction and sentence:-

(i) The learned trial court has failed to properly appreciate the evidence of P.W.-1, P.W.-4 & P.W.-6, who have given self-contradictory statements with material improvement and exaggerations, who are also interested witnesses.

(ii) P.W.-2, P.W.-3 & P.W.-5 have been declared hostile by prosecution and rest of the witnesses are official witnesses.

(iii) As per cross-examination of main eye-witnesses P.W.-1, P.W.-4 & P.W.-6, they are not eye-witnesses of the occurrence, rather, reached at the place of occurrence after commission of offence and have not seen any of the miscreants.

(iv) The main allegation of firing is against Dinesh Gope, Tileshwar Gope, Gidan Guria and others.

(v) The main eye-witnesses, who were talking with the deceased at the relevant time of occurrence, have not supported the prosecution case.

(vi) The learned trial court has committed serious error of law in admitting in evidence the statement under Section 164 of the Cr.P.C. of the appellant as admission of guilt by him, although there is nothing in the statement showing any inculpatory part of statement to be considered against the appellant.

(vii) There is no iota of evidence showing any motive against the appellant Jetha Kachaap for eliminating the deceased persons and he has been acquitted from the charge under Section 17 of C.L.A. Act, therefore, it could not be said that he has hatched any conspiracy with extremists PLFI organization to commit murder of the deceased.

Therefore, the impugned judgment of conviction and order of sentence of the appellant is not warranted under law and liable to be set aside allowing this appeal.

Submission on behalf of the State

9. On the other hand, learned P.P. and A.P.P. appearing for the State has controverted the aforesaid points of argument raised on behalf of the

appellants and has submitted that the learned trial court has very wisely and aptly considered all aspects of the case in the light of oral and documentary evidence of prosecution, which proves the charges leveled against the appellants for hatching conspiracy in crime of murder of two innocent persons in this case. There is no illegality or infirmity in the impugned judgment calling for any interference in these appeals, which are devoid of merit and fit to be dismissed.

10. We have gone through the record of the case along with the impugned judgment and order in the light of contentions raised on behalf of the both side.

11. The only point for determination is that "as to whether the impugned judgment of conviction and order of sentence of appellant is legally sustainable or not?".

Analysis, Reasons and Decision:-

12. Before imparting our verdict on the aforesaid points, we have to take brief resume of the evidence adduced during trial of the case.

13. It appears that altogether 11 witnesses were examined by the prosecution.

P.W.1-Kamayani Singh is the informant of this case. He has consistently proved the contents of his written report and stated that on 27.05.2013, at about 4:45 PM, he along with his friends was playing cards adjacent to the village chabutra. He has further stated that his brother Bhushan Kumar Singh (deceased) along with Ram Govind Singh @ Thibu Singh (deceased), Gajendra Singh (P.W.-2), Sanju

Singh, Varun Pradhan etc. were sitting on chabutra and talking with each other, in the meantime, this witness saw that about 4-5 miscreants headed by PLFI Supremo Dinesh Gope and Area Commander Jetha Kachhap, Sub Zonal Commander Zidan Guria, Area Commander Tilkeshwar Gope armed with rifles came from the side of house of Chama Oraon. Just arriving at Village Chabutra, above accused persons started firing from rifle indiscriminately upon Bhushan Singh, due to which, he fell down on earth. This witness raised alarm then accused persons attempted to shot fire upon him also, but he managed to escape and entered into his own house and from his roof, he counter fired upon accused persons by his licensee double barrel gun. The incident was also informed to the police, but the miscreants managed to flee away on four motorcycles towards forest area. Thereafter, this witness went to the place of occurrence and saw his brother Bhushan Singh had sustained several fire arm injuries and Ram Govind Singh @ Thibu Singh was also lying on earth sustaining fire arm injuries. Both were found dead. The licensee gun and pistol of Bhushan Singh were also stolen by the miscreants. This witness has further stated that on 09.04.2013, he along with his brother Bhushan Singh, driver Prabhakar Singh, Sanju Singh and Varun Pradhan went to Torpa for placing order to purchase cement, where Torpa MLA Paulus Surin along with his supporters abused to Bhushan Singh and threatened of dire consequences unless he refrains from communicating the activities of PLFI to the police. He further

admits that a tribal girl of his village namely Sunita, daughter of Chama Oraon had lodged a false rape case against Bhushan Singh and in institution of above case, there was conspiracy in between Laxmi Devi, Chama Oraon, Minzin Orain and Moti Devi. After high level enquiry, the case was found false. Since rape case was found to be false and no action was taken against Bhushan Singh, then prosecutrix and his family members with assistance of PLFI Supremo Dinesh Gope and Area Commander Jetha Kachhap, Sub Zonal Commander Zidan Guria, Area Commander Tilkeshwar Gope hatching conspiracy with Torpa MLA Paulus Surin have caused murder of his brother Bhushan Singh. This witness has proved his written report as Exhibit-1. This witness has also proved his statement under Section 164 of Cr.P.C. as Exhibit-2.

In his cross-examination, this witness categorically admits that a meeting was held by Laxmi Devi (co-accused) along with local villagers of 4-5 Village, 350-400 persons to conduct "Gherao" of police station in protest of Bhushan Singh, who was not being arrested in the rape case. It is also admitted that except this meeting, there is no other basis of conspiracy. This witness also admits that he has always acted against PLFI extremist group and in the year 2011 for the first time, he also encountered with the PLFI members at Nagra Forest Area. He further admits that he saw the accused persons after firing. There was indiscriminate firing targeting his brother. Therefore, he cannot say as to whether who started first firing, rather he fled away in his house for

saving himself, which is situated at a distance of 50 ft. He also admits that he along with his brother, since the year 2000, communicating to Police the activities of PLFI in his area.

P.W.2-Gajendra Singh has been declared hostile by the prosecution. He has simply stated that at the time of occurrence, he was present in his house, then heard sound of firing, after some time, he came out and interrogated with some villagers, then he came to know that Bhushan Singh and Ram Govind Singh have been murdered. He also saw the dead body of the deceased persons.

P.W.-3-Suresh Singh is son of one of the deceased – Ram Govind Singh. This witness has also been declared hostile by the prosecution. According to his evidence on the date and time of occurrence, he had gone to market and while he was returning from market and reached near the Sotia Basti, then a boy disclosed him about murder of his father.

P.W.-4 – Sandhya Devi is the wife of the deceased Bhushan Singh. According to her evidence, at the time of occurrence, she was in her house, which is situated at a distance of 50 meters from the place of occurrence. After hearing sound of firing, she came out of her house and when she reached near the Chabutra, she saw the dead body of her husband Bhushan Kumar Singh and one Ram Govind Singh. The extremists also started firing upon her, but due to fear, she along with her brother-in-law Kamayani Singh (P.W.-1) went inside the house. Her brother-in-law was firing from the roof against the extremists, but

the miscreants taking rifle and gun of her husband fled away. She has also stated that at the time of occurrence at 5:30 to 5:45 P.M. her husband was sitting along with some villagers and Ram Govind Singh on Chabutra and a tempo was also standing there wherein Varun Pradhan and Sanju Singh were boarding. Her brother-in-law were also playing cards with them. In the meantime, four extremists under the leadership of PLFI Supremo Dinesh Gope, Tilkeshwar Gope, Jetha Kachhap and Jidan Guriya came towards the house of Chama Oraon and started firing upon her husband. The motive behind the occurrence has been alleged that on 09.04.2013 in a cement shop situated in Village – Torpa, her husband was threatened by Torpa MLA Paulus Surin saying that he is police spy and indulged in arrest of several PLFI members. Paulus Surin also forbade her husband from doing police Mukhbiri, otherwise he will be killed. She has also admitted that her husband was falsely implicated in rape case by Chama Oraon through his daughter. Although this witness claimed to identify the accused persons behind dock. She further admits that no incident of threatening her husband took place in her presence, rather it was communicated to her by the husband and the photographs of accused persons were also shown on the mobile phone, which was taken away by the accused persons.

In her cross-examination, she also admits that her husband has disclosed her about previous enmity with members of PLFI organization. She has denied the suggestion of defence that her

husband was indulged in wrongful activities and developed enmity with P.L.F.I. group, therefore, social workers were abusing and protesting against him and due to that reason, she has falsely implicated the accused persons.

P.W.-5 Tapeshwar Singh has been declared hostile by the prosecution. He has admitted that on the date of occurrence, he was not present in the Village, rather had gone to his sasural. He came to know about the murder of Bhushan Singh and Ram Govind Singh later on.

P.W.-6 Prabhakar Kumar Singh @ Thiku Singh is a Deed Writer, Resident of Upper Bazar, Pyada Toli, Ranchi. According to his evidence, on 27.05.2013 in the evening, he has gone to Village – Sisai where he received telephonic information that Bhushan Singh and Ram Govind Singh have been murdered. He was also working as a driver of Maruti Van belonging to Bhushan Singh. He has further stated that on 09.04.2013, he along with Bhushan Singh, Kamayani Singh, Varun Pradhan and Sanju Singh had gone to Torpa for placing order for purchasing cement, where Torpa MLA Paulus Surin started abusing to Bhushan Singh and threatened of dire consequences if he does not abstain from police mukhbiri. He has also proved his signature on the statement under Section 164 Cr.P.C. as Exhibit-4.

P.W.-7 DR. Padam Prakash Sah has conducted autopsy on the dead body of the deceased Bhushan Kumar Singh and found following:-

Internal Injury :

(i) One oval wound on the back of right forearm, margin of wound is inverted size 0.5 inch in diameter this is entry wound of bullet no. 1. Another one lacerated wound size 3x2 inch into bond deep on front of right forearm. Both wound is communicating to each other. This wound is exist wound of bullet no. 1. There is fracture of right radius bone.

(ii) One oval wound in between both eyebrows margin of the wound is inverted size 0.5 inch in diameter, this is entry would of bullet no. 2. Another one lacerated wound size 2x1 inch into bond deep over occiput of skull. Both wound is communicating to each other. This wound is exit wound of bullet no. 2. There is fracture of skull bone and brain matter scattered over occipital area of skull.

(iii) One oval wound size 0.75 inch in diameter over right side of the neck. This is entry wound of bullet no. 3 because margin of wound is inverted. Another one lacerated wound size 2x1 inch into bond deep over right temporal reason of scalp. Both wound is communicating to each other. This is exit wound of bullet no. 3. There is fracture of right temporal wound.

(iv) One oval wound size 0.5 inch in diameter on upper and of left forearm margin wound of the inverted this is entry wound of bullet no. 4. Another one cruciate wound size 1

inch in diameter over back below left scapula. Margin of wound is everted this is exit of wound bullet no. 4. Both is communicating to each other. There is fracture of left scapula.

(v) One oval wound size 0.5 inch in diameter over back near left hip bone margin of the wound is inverted this is wound of bullet no. 5. Another one lacerated wound size 2x1 inch into bone deep over anterior side of left thigh margin of the wound everted. This is exit of wound of bullet no. 5. Both is communicating to each other and there is fracture of left femur.

(vi) One oval wound size 0.75 inch in diameter over back near right hip bone margin of the wound is inverted this is entry wound of bullet no. 6. Another one lacerated wound size 2x1inch into bone deep over right thigh near scotum, margin of the wound is enverted. This is exit of wound of bullet no. 6. Both wound is communicating each other. Insisting is coming out through the wound.

(vii) One oval wound size 0.75 inch in diameter over anterior side of the right leg margin of the wound is inverted this is entry of wound of bullet no. 7. Another one lacerated wound size 1xlinch over back of right leg. Margin of the wound is everted. This is exit wound of bullet no. 7. Both wound is communicating to each other.

(viii) One oval wound size 0.5 inch in diameter over anterior side of the left leg margin of the wound is inverted this is entry of wound of bullet no. 8. Another one lacerated wound size 3x2inch over back of left leg margin of the wound is everted. This is exit wound of bullet no. 8. Both wound is communicating to each other.

(ix) One oval wound size 0.75 inch in diameter over dorsum of foot near left big toe. Margin of the wound is in inverted. This is entry wound of bullet no. 9. Another lacerated wound size 3x2 inch over sole of the left foot with fracture of all four lateral toes. This is exit wound of bullet no.9. Both wound is communicating to each other.

Opinion

1. The above noted injures are antemortem in nature, caused by the fire arm fired from distance shot.

2. Cause of death: Head Injury and shock due to haemorrhage.

3. Times elapsed since death in between 12:00 hrs to 24:00 hrs from the time of postmortem examination.

This witness has conducted postmortem of the deceased and the report was prepared in his own hand writing and same bears his signature with seal. This witness has proved post-mortem report, which is marked as Ext.-5.

P.W.-8 S.I. Subh Chandra Jha is the first I.O. of this case. According to his evidence, after receiving the charge of investigation

of this case, he visited the place of occurrence and prepared inquest report of two dead bodies. He has also proved the seizure list (Exhibit-6) prepared by the then Officer-in-Charge, Bindeshwari Das in presence of witnesses. He has proved the formal FIR as Exhibit-7. He recorded the re-statement of the informant and inspected the place of occurrence. The first place of occurrence is situated in Village – Tirla near Village Library Pucca Chabutra. Just adjacent to the Chabutra towards south, there was PCC road where dead bodies of Bhushan Singh and Ram Govind Singh were found, who were killed by extremists using fire arm. The second place of occurrence is house of Bhushan Singh, made of brick and cement consisting of two storied. The second storied was half built. On the date of occurrence, the extremists also fired upon the house of deceased Bhushan Singh and there was mark of holes of pellet on the wall. There was hole in the main gate also. Scorpio vehicle was also damaged by firing. He interrogated with witnesses Sandhya Devi, Sanju Singh and thereafter, he was transferred and further charge of investigation was handed over to the then Officer-in-Charge Bindeshwari Das.

In his cross-examination, he has clearly admitted that the informant in his statement has stated about some scuffle and threatening ensued between the deceased Bhushan Singh and MLA Paulus Surin on 09.04.2013 at Torpa Cement Shop, but in this connection, he has conducted no investigation. He has also failed to state that any Gherao of police station was committed by Paulus Surin

and other villagers protesting the inaction in rape case against Bhushan Singh.

P.W.-9 S.I. Chandrabhan Ram is the second I.O. of this case. According to his evidence on 08.06.2013 further charge of investigation of Karra P.S. Case No. 27 of 2013 was handed over to him by the then Officer-in-Charge, Bindeswari Das. He got recorded the statement of witnesses Kamayani Singh, Sandhya Devi, Varun Pradhan, Prabhakar Singh and Sanju Singh under Section 164 Cr.P.C. and he also recorded statement of Prabhakar Singh. He has also obtained warrant of arrest and thereafter process under Sections 82/83 Cr.P.C. against the accused persons Dinesh Gope, Tilkeshwar Gope, Jetha Kachhap, Zidan Guria, whose investigation were continued and due to transfer, he handed over further charge of investigation to the then Officer-in-Charge. Admittedly, he has conducted no considerable part of investigation.

P.W.-10 ASI Sundar Hembram has produced the seized materials of this case as per the order of Officer-in-Charge. He has proved the typed letter of Officer-in-Charge Pankaj Kumar as Exhibit-P-8/P.W.-10. The seized materials were sealed in a white cloth bearing mark of Karra P.S. Case No. 27 of 2013, M.R. No. 13/2013, which was opened in presence of counsel for both parties. From the above, sealed cloth, six cartridges having mark Shaktiman Express Long Rang, 70 mm, loaded with Smokeless Powder and Imported primer of 12 bore

and 04 empty cartridges of 6 bore were produced from a plastic bag and marked exhibit as M.O.-I, M.O.-I/I & M.O. -I/II.

In his cross-examination, this witness admits that in the sealed white cloth, there is no signature of any police officer and seal of police station as well as malkhana number as well as signature of witnesses. None of the empty cartridges bears the case number and signature of police officer.

P.W.-11 Ravi Prakash Tiwari is the then Judicial Magistrate, 1st Class, Civil Court, Khunti, who has recorded the statement of accused Jetha Kachhap under Section 164 Cr.P.C., which is proved as Exhibit-P-9/P.W.-11.

In his cross-examination, this witness has expressed his no knowledge as to whether the accused was produced from police custody or was remanded from jail custody at the time of recording his statement. He has no knowledge as to after how many days of the occurrence, the statement of accused was recorded under Section 164 Cr.P.C., but he admits that it was recorded on 20.06.2017.

He has denied the suggestion of defence that he has not recorded the statement of accused in strict compliance with the provisions of Section 164 Cr.P.C.

14. On the other hand, the case of defence is denial from occurrence and false implication without any reasonable cause. However, one witness has been examined by the defence namely, **Uday Kumar Gupta (D.W.-1)**. He happens to be third Investigating Officer in this case, who

received charge of investigation on 06.11.2016. According to his evidence, the accused Jetha Kachhap was remanded in this case on 22.05.2017 from another case. After taking permission from the court on his written application, he recorded the statement of Jetha Kachhap at Hotwar Jail on 12.06.2017. He also got recorded the statement of Jetha Kachhap under Section 164 Cr.P.C. on 20.06.2017 with the permission of the court on his application dated 14.06.2017, but this fact is not mentioned in the case diary.

In his cross-examination, he admits that after perusal of previous case diary, he found that charge sheet has been submitted against Dinesh Gope, Tilkeshwar Gope, Zidan Guria, Krishna Gope and supplementary investigation was continued against Laxmi Devi, MLA Paulus Surin, Chamma Oraon, Minzin Orain, Sunita Orain, Moti Devi and an application has also filed for remand of accused Jetha Kachhap from another case, who is in custody in connection with Dhurwa P.S. Case No. 159 of 2014. He has also recorded the statement of witness Binod Singh under Section 161 Cr.P.C. and also got recorded the statement under Section 164 Cr.P.C. before Magistrate. He submitted charge sheet against accused Jetha Kachhap on 17.08.2017 continuing investigation against rest accused persons. He has also interrogated with witness Sandhya Devi, wife of deceased Bhushan Kumar Singh on 04.10.2017, who disclosed that her husband was implicated falsely in a rape case, wherein he has also filed an application before several authorities about false implication of the accused as well as

apprehension of murder at the hands of MLA Paulus Surin. In this connection, he also went to the office of Police Inspector Torpa and perused the documents concerning Karra P.S. Case No. 41/11 registered under Section 376 of the I.P.C. against Bhushan Kumar Singh and found that one application bearing signature of Bhushan Kumar Singh vide Memo No. 1118/11 dated 29.06.2011 was found wherein it was informed by the deceased Bhushan Kumar Singh to Deputy Superintendent of Police, Khunti that he is apprehending danger of his life at the hands of MLA Paulus Surin, Mukhiya Laxmi Devi and others. This letter has been marked as D-1/DW-1. He has also filed an application before the court for remanding the non-F.I.R. accused Lakhan Gope in this case on 10.07.2018. Accused Paulus Surin was granted bail in this case, then he recorded his statement under Section 161 Cr.P.C. with the permission of Court. After completion of investigation, he submitted charge sheet against accused Paulus Surin and Lakhan Gope, continuing investigation against remaining accused persons. Thereafter, he was transferred and handed over the investigation to Officer-in-Charge.

15. From the testimony of ocular witnesses, as discussed above, following facts are emanating.

(i) As per written report (Exhibit-1) of the informant Kamayani Singh (P.W.-1) on 27.05.2013 at about 4:45 P.M., while his brother Bhushan Singh sitting on Village Chabutra situated near the house of Chama Oraon along with co-villagers Devendra Singh, Varun Pradhan, Sanju Singh and Ram Govind Singh were talking

and informant was playing cards with his friends near the said Chabutra, then they heard sound of firing and saw that PLFI Supremo Dinesh Gope and other PLFI members Tilkeshwar Gope @ Rajesh Gope, Jetha Kachhap and Gidan Guria were firing from AK-47 riffle indiscriminately upon Bhushan Singh. The first firing was opened by Tilkeshwar Gope. The other persons talking with Bhushan Singh fled away due to fear except Ram Govind Singh, who also sustained fire arm injuries and died at the spot along with Bhushan Singh. The informant in his self-defence entered into his house and from the rooftop of his house started firing upon the accused persons, then they fled away. There is allegation that appellant Paulus Surin under the conspiracy with Chama Oraon, Minzin Orain, Sunita Orain, Moti Devi and Laxmi Devi (Mukhiya) were threatening to kill the deceased Bhushan Singh implicating him in a false rape case.

(ii) The informant has been examined as P.W.-1, wherein for the first time, he has added new story that on 09.04.2013, he along with his elder brother Bhola Singh (deceased), Prabhakar Singh, Sanju Singh and Varun Pradhan went to Village Torpa for placing order for cement, where Paulus Surin (appellant) was also present, who threatened Bhushan Singh to be killed as like Vijay Munda, unless he should abstain from giving information to police about activities of PLFI members.

In cross-examination, P.W.-1 has categorically admitted that he saw accused persons after firing. He can't tell who shot first fire, but all accused persons were indiscriminately firing against his brother Bhushan Singh. P.W.-1 has also not seen any of the PLFI members after first encounter in 2011 at Nagra Forest Area. P.W.-1 admits that they are indulged in giving information to police about activities of extremists since the year 2000.

(iii) P.W.-4, who happens to be wife of the deceased Bhushan Singh has admitted in her cross-examination that at the time of occurrence, she was in her house. She heard 1-2 sound of firing then proceeded from her house towards place of occurrence, which is situated at the distance of 50 meter from her house. She was never acquainted with the accused persons prior to occurrence. She has taken plea that her husband had old mobile phone (key pad model) and several photos were stored, which were shown to her by her husband. Hence, she has taken the name of accused persons Dinesh Gope, Jetha Kachhap, Tilkeshwar Gope, Zidan Guria, who fired upon her husband and Ram Govind Singh, who died on the spot.

P.W.-4 has also admitted that her husband was police spy. Hence, he was threatened by MLA Paulus Surin to be killed. Her husband was falsely implicated in rape case by the daughter of Chama Oraon in conspiracy with Paulus Surin.

(iv) P.W.-6 Prabhakar Kumar Singh @ Tinku Singh is the driver of vehicle owned by deceased Bhushan Singh. Admittedly, this witness was not present at the place of occurrence on the relevant date and time and he has been simply produced for proving threatening extended by appellant Paulus Surin to the deceased Bhushan Singh on 09.04.2013 at Cement Shop situated in Village – Torpa in presence of this witness. He also admits that in connection with above threatening, no case was lodged and no complaint was made to police or any other authority.

(v) Exhibit-D-1 proved by D.W.-1 S.I. Uday Kumar Gupta, who happens to be one of the Investigating Officer in this case. In course of investigation, he inspected the record of Karra P.S. Case No. 41/2011, registered under Section 376 of I.P.C. against deceased Bhushan Singh, wherein a Letter Momo No. 1118/2011 dated 29.06.2011 was found in the office of Deputy Superintendent of Police, Torpa. This letter is in respect of threatening given to Bhushan Singh by the appellant Paulus Surin, Village Mukhiya Laxmi Devi and Others showing apprehension of death at the hands of above persons to Bhushan Kumar Singh.

(vi) The entire conspectus of the case is centered round on the evidence of P.W.-1 informant-cum-brother of the deceased Bhushan Kumar Singh. There are no other eye-witness of the occurrence. The trend of evidence given by P.W.-1 also suffers

from material improvement as regards identity of accused persons, who fired upon the deceased. He was not acquainted with the accused persons prior to occurrence. P.W.-4 & P.W.-6 are also not eye-witnesses. Other co-accused namely, Krishna Mahto, Minzin Orain, Sunita Orain and Moti Devi jointly tried with the present appellant have been extended benefit of doubt and acquitted from the charges under Section 302/307/379/34 & 120B of the I.P.C., under Section 27 of Arms Act and under Section 17 of C.L.A. Act.

(vii) It is admitted case of prosecution that the deceased was murdered by extremists, who was indulged since the year 2000 in furnishing information against extremists to the police.

(viii) The deceased was also accused in rape case bearing Karra P.S. Case No. 41 of 2011, therefore, there was resentment in the villagers and local female folk due to non-arrest and any substantive action against the accused by the police, which lead to gheroa of the police station by Village Mukhiya Laxmi Devi and other social workers like Moti Devi along with 250-300 persons. The local MLA Paulus Surin (appellant) was also instrumental in favour of action to be taken against Bhushan Singh, who was accused of serious offence of rape.

(ix) The threatening given to the deceased by appellant Paulus Surin on 09.04.2013 at Cement Shop situated in Village-Torpa has not been proved by any independent witness. The Investigating

Officer has also not interrogated with the Cement Shop Dealer or any other local persons adjacent to the shop. This fact was brought on record as improvement in earlier versions. Similarly threatening letter D-1 was also of the year 2011, when the deceased Bhushan Kumar Singh was already accused in rape case. Therefore, the alleged threatening does not bear any connection with the present incident.

(x) The prosecution case as regards conspiracy is based upon simple suspicion and no concrete facts have been brought on record proving any conspiracy hatched by appellant with any other co-accused persons as leveled in the FIR namely, Minzin Orain, Sunita Orain, Chama Oraon, Laxmi Devi. Moreover, the co-conspirator as alleged by the prosecution has been acquitted from the charges leveled against them. Therefore, the appellant alone cannot be attributed entering into any conspiracy with himself, in absence of any other person.

(xi) P.W.-8 S.I. Subh Chandra Jha, the first I.O. of the case has proved about two places of occurrence, the first place of occurrence is the PCC road situated near the Village – Chabutra and Library where dead body of Bhushan Singh and Ram Govind Singh was found. It was alleged that PLFI extremists have murdered the deceased. At the distance of 50 yards from the first place of occurrence, the house of deceased Ram Govind Singh is situated. At a distance of 25 yards house of accused Chama Oraon is situated.

The second place of occurrence is the pucca house of deceased Bhushan Singh made of brick and cement, two storied house, having main door towards west. He also noticed in the left gate of the house mark of two holes caused by gun shot and in right door, one mark of hole by bullet was found and on the wall of the house 35 marks of firing were found. Scorpio vehicle was also damaged by fire arm.

(xii) It is admitted by P.W.-1 and P.W.-4 that their house was situated at a distance of 50 yards from the first place of occurrence.

(xiii) The claim of informant (P.W.-1) that he was present and playing cards with his friends does not appears to be convincing in view of the fact that none of his friends, who were indulged in playing cards with him, have been named in the F.I.R. and no such witness has been examined by prosecution to corroborate the presence of the informant near the Village Library. The claim of presence of the informant also appears to be doubtful near the Library in view of the fact that he himself admits that indiscriminating firing was also opened against him, but he did not sustained any injury, rather rushed towards his home, which is at a distance of 50 yards, particularly in view of the fact that 35 marks of firing on the wall of his house was found. The main gate along with Scorpio Vehicle were damaged by indiscriminate firing. Under such circumstances, safe fleeing into the house by the informant is completely impossible. The factual scenario

indicates that the informant himself was in the house along with his sister-in-law (P.W.-4) and after hearing sound of firing, he went of his roof top from where he started firing against the accused persons.

(xiv) The appellant Jetha Kachhap was remanded in this case from another case i.e. Dhurwa P.S. Case No. 159 of 2014 through Video Conferencing on 22.05.2017. Thereafter, his statement under Section 164 Cr.P.C. was recorded, which does not indicate that he himself was involved in firing upon the deceased persons, rather he along with co-accused Paulus Surin were standing at some distance. His statement also shows that Paulus Surin has threatened to eliminate the deceased Bhushan Singh because he was police spy. Therefore, the statement of accused Jetha Kachhap under Section 164 Cr.P.C. cannot be said to be confessional statement in strict sense as it appears to be exculpatory in nature. Moreover, he was brought by police force for recording his statement under Section 164 Cr.P.C. and on the same day, his statement was recorded without providing any opportunity to the accused to make confessional statement after considering its effect in cool mind.

16. We have given thoughtful consideration towards the above aspects of the case and also gone through the impugned judgment along with record of the case and other materials available on record.

17. It appears that the learned trial court has heavily relied upon the evidence of P.W.-1, P.W.-4 and P.W.-6 as material witnesses of occurrence. Out of them, P.W.-1 & P.W.-4 have been considered as eye-witnesses of the occurrence, who have given vivid description of the occurrence. The learned trial court has recorded findings that genesis, manner and place of occurrence has been categorically proved by P.W.-1 and corroborated by P.W.-4. The involvement of appellant Jetha Kachhap and Paulus Surin has been proved by aforesaid witnesses as well as Investigating Officer S.I. Uday Kumar Gupta by proving Letter Memo D-1. The statement of accused Jetha Kachhap recorded under Section 164 Cr.P.C. has also been proved by P.W.-11, Ravi Prakash Tiwari, the then Judicial Magistrate, 1st Class, Civil Court, Khunti showing involvement of appellants hatching conspiracy against the deceased and in pursuance of previous threatening murder of the deceased has been committed.

18. We further find that the learned trial court has ignored the materials elicited during cross-examination of P.W.-1 & P.W.-4, who claims to be eye witnesses of the occurrence. Admittedly they do not appear to be eye-witnesses of the occurrence, rather they were present in their own house and after hearing the sound of firing, the informant went over the roof top of his house and started firing. The extremists have also indiscriminately fired on his house causing severe damage to the wall, gate and vehicle. The claim of informant that indiscriminate firing was going on against him cannot be believed by any stretch of imagination.

The statement of the accused appellant Jetha Kachhap is also of no consequence being as exculpatory in nature and disowned any liability and participation in firing against the deceased. The prosecution has also not been able to prove the previous enmity or any kind of threatening given to the deceased by the appellants. The factum of threatening dated 09.04.2013 has not been proved by any concrete evidence and also finds no corroboration from any independent source except bald statement of the informant and his henchmen. Similarly, the letter D-1 informing about threatening is also stale one and having no casual connection with the occurrence of this case.

19. In our considered view, the learned trial court has miserably failed to properly appreciate the evidence of witnesses in right perspective in the light of materials elicited in their cross-examination and other attending circumstances proved by the Investigating Officer regarding place of occurrence and firing by the extremists on the house of the deceased. The claim of identification of the present appellants as perpetrator in the alleged crime has also not been proved beyond all reasonable doubt.

20. In view of the above discussions and reasons, we are constrained to held that the impugned judgment and order of conviction and sentence of the appellants suffers from serious error of law and is based beyond the weight of evidence available on record, which is hereby set aside and the appellants are acquitted from the charges leveled against them.

21. Accordingly, both these appeals are **allowed**.

22. The appellants are in jail custody, therefore, they are directed to be released forthwith, if not, wanted in any other case.

23. Pending I.A(s), if any, is also disposed of accordingly.

24. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned through FAX/E-mail for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi
Date: 01 /07/2026
Sunil/- **N.A.F.R.**
Uploaded on : 01/07/2026