

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.50 of 2023

Arising Out of PS. Case No.-2 Year-2021 Thana- ARWAL District- Jehanabad

Sunil Kumar, Son of Govardhan Pandit @ Govardhan Singh, R/O Village-
Balubigha, P.S.- Arwal, District- Arwal

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 161 of 2023

Arising Out of PS. Case No.-2 Year-2021 Thana- ARWAL District- Jehanabad

1. Shambhu Pundit, S/O Aandhi Pundit, Resident of Village- Balubigha, P.S.-
Arwal, District- Arwal.
2. Rambhu Pundit, S/O Aandhi Pundit, Resident of Village- Balubigha, P.S.-
Arwal, District- Arwal.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 202 of 2023

Arising Out of PS. Case No.-2 Year-2021 Thana- ARWAL District- Jehanabad

Ramji Pandit, S/O Dwarika Pandit, R/O Village -Balubigha, P.S.- Arwal,
District- Arwal

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 286 of 2023

Arising Out of PS. Case No.-2 Year-2021 Thana- ARWAL District- Jehanabad



Pawan Kumar, Son Of Rambhu Pundit, Resident Of Village - Balubigha, P.S.
- Arwal, Distt. - Arwal

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (DB) No. 50 of 2023)

For the Appellant/s : Mr. Rajesh Kumar Singh, Sr. Advocate.
Ms Akrity Aishwarya, Advocate.
Mr. Manish Kumar, Advocate.
Mr. Shrikesh Kumar, Advocate.

For the Respondent/s : Mr. Satya Narayan Prasad, APP.

(In CRIMINAL APPEAL (DB) No. 161 of 2023)

For the Appellant/s : Ms. Soni Shrivastava, Advocate.
For the Respondent/s : Mr. Abhimanyu Sharma, APP.

(In CRIMINAL APPEAL (DB) No. 202 of 2023)

For the Appellant/s : Mr. Anupa Nand Jha, Advocate.
For the Respondent/s : Mr. Binod Bihari Singh, APP.

(In CRIMINAL APPEAL (DB) No. 286 of 2023)

For the Appellant/s : Ms. Soni Shrivastava, Advocate.
For the Respondent/s : Mr. Manish Kumar No.2, APP.

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NANI TAGIA
ORAL ORDER**

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

10 06-02-2024 We have heard Mr. Rajesh Kumar Singh, the
learned Senior Advocate for the appellant/ Sunil Kumar
in Cr. APP. (DB) No. 50 of 2023; Ms. Soni Shrivastava,
the learned Advocate for the appellants/Shambhu Pundit



and Rambhu Pundit in Cr. APP. (DB) No. 161 of 2023 and appellant/Pawan Kumar in Cr. APP. (DB) No. 286 of 2023 and Mr. Anupa Nand Jha, the learned Advocate for the appellant/Ramji Pandit in Cr. APP. (DB) No. 202 of 2023.

2. The learned APP for the State is present.

3. The written objection in all the appeals are on record.

4. All the four appeals have been taken up together on the issue of suspension of sentence of the respective appellants and are being disposed of by this common order.

5. The appellants (five in all) have been convicted under Sections 147, 323/149, 341/149, 302/149 of the Indian Penal Code, *vide* judgment dated 16.12.2022 passed by Additional District & Sessions Judge-II, Jehanabad in Sessions Trial No.277 of 2021 (G.R. No. 10 of 2021) arising out of Arwal P.S. Case



No. 02 of 2021 and by order dated 21.12.2022 they have been sentenced to undergo R.I. for two years for the offence under Section 147 of IPC, to undergo R.I. for six months, to pay a fine of Rs.200/- each and in default of payment of fine, to further suffer imprisonment for two weeks for the offence under Section 323/149 of IPC and to undergo S.I. for one month, to pay a fine of Rs.500/- each and in default of payment of fine, to further suffer imprisonment for one week for the offence under Section 341/149 of IPC. They have been further sentenced to undergo imprisonment for life, to pay a fine of Rs. 2000/- each and in default of payment of fine, to further suffer imprisonment for six months for the offence under Section 302/149 of the IPC.

6. The sentences have been ordered to run concurrently.

7. According to the FIR, lodged by one Kariman Singh (P.W. 6), his niece a 15 years old girl, was abused



by appellant/Pawan Kumar. She came back home and spoke about Pawan's behavior. When persons of her family went to question the accused person (about eleven of them), they assaulted the brother of the informant *viz.* Vijay, who succumbed to the injuries and P.W. 1/Sona Kumari, P.W.4/Bikki Kumar and the informant (P.W. 6) were also injured.

8. Hence the case.

9. According to the FIR as also from the deposition of the witnesses, it has been argued that one Sanjit, who has not faced Trial, gave an iron-rod blow on the head of the deceased. Thereafter, one Gautam and appellant/Pawan assaulted Vijay (deceased) by lathi. When P.Ws. 1, 4 and 6 went to his rescue, they too were assaulted.

10. The records reveal that all the three *viz.* P.Ws. 1, 4 and 6 have received simple injuries.

11. Mr. Rajesh Kumar Singh, the learned



Senior advocate, who has appeared for appellant/Sunil Kumar (Cr. APP (DB) No. 50 of 2023) has submitted that practically no role has been attributed to him in the entire case. He has not even been named in the FIR. Thus, according to him, the conviction and sentence of appellant/Sunil Kumar is unwarranted.

12. Ms. Soni Shrivastava, the learned Advocate for the appellants/Shambhu Pandit and Rambhu Pandit (Cr. APP. (DB) No. 161 of 2023) and appellant/Pawan Kumar (Cr. APP. (DB) No. 286 of 2023) has submitted that though appellant/Pawan is also said to have assaulted the deceased but the accusation is very general. The deceased suffered contusion on his scalp, as a result of which there was intra-cranial bleeding which led to his death. The other injuries on the person of the deceased are two abrasions; one on the cheek and the other on the right knee.

13. It has thus been submitted on behalf of



appellant/Pawan that though he may have been alleged to have assaulted the deceased but the fatal attack was by Sanjit which led to his death.

14. With respect to others *viz.* Shambhu Pandit and Rambhu Pandit, Ms. Shrivastava has submitted that they have not at all been attributed with any specific role, except for their having been present at the P.O.

15. Mr. Anupa Nand Jha, the learned Advocate has appeared for appellant/Ramji Pandit (Cr. APP. (DB) No. 202 of 2023), who too has not been attributed with any specific role of assault.

16. All the accused persons are, in a general manner, alleged to have assaulted P.Ws. 1, 4 and 6.

17. The further argument on behalf of the appellants is that there was no intention to commit the murder of Vijay as the issue arose out of a small incident



in the early part of the day. There is no allegation of any serious misdemeanor against the niece of P.W. 6. According to their submission, there was no premeditation and the fatal assault is specifically attributed to Sanjit Kumar, who has not even been charge-sheeted.

18. Considering the afore-noted facts, we find that appellant/Pawan first started the dispute by abusing the niece of P.W.6 while he was in an inebriated condition. When a complaint was made by P.W. 6 and others viz. P.Ws. 1 and 4, the accused persons became restive and assault was perpetrated. So far as the deceased is concerned, he is said to have been assaulted by Sanjit Kumar, Gautam Kumar and appellant/Pawan Kumar. As we have already noted, Sanjit has not been put on Trial and Gautam was declared to be a juvenile. Thus, we find that appellant/Pawan Kumar has assaulted the deceased, though the fatal assault may not be attributed to him.



19. He is in custody since 03.01.2021.

20. Considering the nature of material collected against appellant/Pawan (Cr. APP. (DB) No. 286 of 2023), we are unable to accede to the prayer of Ms. Shrivastava for suspending his sentences.

21. The prayer for suspension of sentence of appellant/Pawan is rejected presently.

22. Rest of other appellants viz. Sunil Kumar (Cr. APP. (DB) No. 50 of 2023), Shambhu Pundit and Rambhu Pundit (Cr. APP. (DB) No. 161 of 2023) and Ramji Pandit (Cr. APP. (DB) No. 202 of 2023) are not said to have assaulted the deceased.

23. They were in jail during the investigation and the Trial.

24. Considering the afore-noted fact of their not having assaulted the deceased in any manner and of all of them only having caused simple injuries to P.Ws. 1, 4 and 6, we are inclined to suspend their



respective sentences during the pendency of this appeal.

25. We order accordingly.

26. The appellants viz. Sunil Kumar (Cr. APP. (DB) No. 50 of 2023), Shambhu Pundit and Rambhu Pundit (Cr. APP. (DB) No. 161 of 2023) and Ramji Pandit (Cr. APP. (DB) No. 202 of 2023) are directed to be released on bail on furnishing their bail bonds in sum of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of the learned Additional District & Sessions Judge-II, Jehanabad in connection with Sessions Trial No.277 of 2021 (G.R. No. 10 of 2021) arising out of Arwal P.S. Case No. 02 of 2021.

(Ashutosh Kumar, J)

(Nani Tagia, J)

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