2025 INSC 1371

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No (s). 5137-5138 OF 2025
(Arising out of SLP (Crl.) No (s). 3685-3686 of 2025)

CHANDAN PASI & ORS. ... APPELLANT (S)

VERSUS

THE STATE OF THE BIHAR ... RESPONDENT (S)

J U D G M E N T

Leave granted.

2. The present appeals arise from the final judgments and orders dated 4th September, 2024 and 26th September, 2024 passed by the High Court of Judicature at Patna in Criminal Appeal (DB) No.443 of 2017, which affirmed the judgment of conviction dated 27th March 2017 and the order of sentence dated 29th March 2017 passed by the Court of District

& Session Judge, Buxar[1] in Sessions Trial No.256 of 2016, whereby a total of six persons were sentenced to life imprisonment along with a fine of Rs.10,000/- each under Section 302/34 of the Indian Penal Code 1860[2], one year simple imprisonment each under Sections 448 & 323 along with Section 34 IPC with all of them running concurrently. Before us are three of the six convicts namely – Chandan Pasi, Pappu Pasi and Gidik Pasi. Here only it may be noted that there was a seventh accused person who was, by the process of law held to be a juvenile and thus dealt with in accordance with the applicable law.

3. By way of a factual background, it shall suffice to take notice of the following:

3.1. On 31st March 2016, the informant Kachan Pasi along with his father Ghughali Pasi, mother Kouta Devi and sister-in-law Dharmsheela Devi were returning from the fields of one Nanhaku Singh when the accused persons surrounded the above-named and assaulted Ghughali Pasi with a katta, who died as a result thereof. Particular allegations of such assault were also levelled against Joni Pasi @Ravindra Pasi.

3.2. The Trial Court convicted in the manner already referred to *supra*. All the accused persons before the Trial Court filed appeals under Section 374(2) of the Code of

1 Hereinafter referred to as the 'Trial Court'.
2 'IPC' for short.

Criminal Procedure 1973[3], in which the High Court upheld the findings of the Court below.

4. We have heard Ms. Anjana Prakash, learned Senior Counsel for the appellants and learned Counsel appearing for the State.

5. A perusal of the Special Leave Petition reveals that amongst other grounds, the primary contention rests on the non-compliance of Section 313, CrPC. This Court had indicated in the order issuing notice that, should the ground of proper compliance be made out, only then, we would proceed to examine other grounds.

6. One of the non-negotiable requirements of a fair trial is that the accused persons should have ample opportunity to dispel the case and claims of the prosecution against them. This ample opportunity can take many forms, whether it is adequate representation through counsel or the opportunity to call witnesses to present their side of the case or to have the occasion to answer each and every allegation against them, on their own, in their own words. The last one happens under Section 313 CrPC.

7. This Court, in many judgments, delineated the scope and object of Section 313 CrPC. The position is no longer up for debate. Even so, we may refer to certain pronouncements for the sake of completeness.

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3 Hereinafter referred to as “CrPC”

7.1. In ***Sanatan Naskar v. State of W.B***[4], this Court as follows, regarding the scope of the examination under Section 313 CrPC:

> "**21.** The answers by an accused under Section 313 CrPC are of relevance for finding out the truth and examining the veracity of the case of the prosecution. The scope of Section 313 CrPC is wide and is not a mere formality. ...
>
> **22.** As already noticed, the object of recording the statement of the accused under Section 313 CrPC is to put all incriminating evidence to the accused so as to provide him an opportunity to explain such incriminating circumstances appearing against him in the evidence of the prosecution. At the same time, also permit him to put forward his own version or reasons, if he so chooses, in relation to his involvement or otherwise in the crime. The court has been empowered to examine the accused but only after the prosecution evidence has been concluded. It is a mandatory obligation upon the court and, besides ensuring the compliance therewith, the court has to keep in mind that the accused gets a fair chance to explain his conduct. The option lies with the accused to maintain silence coupled with simpliciter denial or, in the alternative, to explain his version and reasons for his alleged involvement in the commission of crime. This is the statement which the accused makes without fear or right of the other party to cross-examine him. However, if the statements made are false, the court is entitled to draw adverse inferences and pass consequential orders as may be called for in accordance with law. The primary purpose is to establish a direct dialogue between the court and the accused and to put every important incriminating piece of evidence to the accused and grant him an opportunity to answer and explain. ..."
>
> (emphasis supplied)

4 (2010) 8 SCC 249

7.2. In ***Indrakunwar v. State of Chhattisgarh***[5], this Court, through one of us (Sanjay Karol, J.), after consideration of various judgments formulated the following principles vis-à-vis this Section:

> **"35**. A perusal of various judgments15 rendered by this Court reveals the following principles, as evolved over time when considering such statements.
>
> **35.1** The object, evident from the Section itself, is to enable the accused to themselves explain any circumstances appearing in the evidence against them.
>
> **35.2** The intent is to establish a dialogue between the Court and the accused. This process benefits the accused and aids the Court in arriving at the final verdict.
>
> **35.3** The process enshrined is not a matter of procedural formality but is based on the cardinal principle of natural justice, i.e., audi alterum partem.
>
> **35.4** The ultimate test when concerned with the compliance of the Section is to enquire and ensure whether the accused got the opportunity to say his piece.
>
> **35.5** In such a statement, the accused may or may not admit involvement or any incriminating circumstance or may even offer an alternative version of events or interpretation. The accused may not be put to prejudice by any omission or inadequate questioning.
>
> **35.6** The right to remain silent or any answer to a question which may be false shall not be used to his detriment, being the sole reason.
>
> **35.7** This statement cannot form the sole basis of conviction and is neither a substantive nor a substitute piece of evidence. It does not discharge but reduces the prosecution's burden of leading evidence to prove its case. They are to be used to examine the veracity of the prosecution's case.
>
> **35.8** This statement is to be read as a whole. One part cannot be read in isolation.
>
> **35.9** Such a statement, as not on oath, does not qualify as a piece of evidence under Section 3 of the Indian Evidence Act, 1872; however, the inculpatory aspect as

5 2023 SCC OnLine SC 1364

> may be borne from the statement may be used to lend credence to the case of the prosecution.
> **35.10** The circumstances not put to the accused while rendering his statement under the Section are to be excluded from consideration as no opportunity has been afforded to him to explain them.
> **35.11** The Court is obligated to put, in the form of questions, all incriminating circumstances to the accused so as to give him an opportunity to articulate his defence. The defence so articulated must be carefully scrutinized and considered.
> **35.12** Non-compliance with the Section may cause prejudice to the accused and may impede the process of arriving at a fair decision."

7.3. In ***Raj Kumar v. State (NCT of Delhi)***[6] as subsequently approved by a bench of three-Judges in ***Aejaz Ahmad Sheikh v. State of U.P. and Another***[7], the Court laid down the following factors:

> "**22.** The law consistently laid down by this Court can be summarised as under:
> **22.1.** It is the duty of the trial court to put each material circumstance appearing in the evidence against the accused specifically, distinctively and separately. The material circumstance means the circumstance or the material on the basis of which the prosecution is seeking his conviction.
> **22.2.** The object of examination of the accused under Section 313 is to enable the accused to explain any circumstance appearing against him in the evidence.
> **22.3.** The Court must ordinarily eschew material circumstances not put to the accused from consideration while dealing with the case of the particular accused.
> **22.4.** The failure to put material circumstances to the accused amounts to a serious irregularity. It will vitiate the trial if it is shown to have prejudiced the accused.

6 (2023) 17 SCC 95
7 2025 SCC OnLine SC 913

> **22.5.** If any irregularity in putting the material circumstance to the accused does not result in failure of justice, it becomes a curable defect. However, while deciding whether the defect can be cured, one of the considerations will be the passage of time from the date of the incident.
> **22.6.** In case such irregularity is curable, even the appellate court can question the accused on the material circumstance which is not put to him.
> **22.7.** In a given case, the case can be remanded to the trial court from the stage of recording the supplementary statement of the accused concerned under Section 313CrPC.
> **22.8.** While deciding the question whether prejudice has been caused to the accused because of the omission, the delay in raising the contention is only one of the several factors to be considered."

[See also: ***Ranvir Yadav v. State of Bihar***[8] and ***Naresh Kumar v. State of Delhi)***[9]]

8. Having duly considered the position of law and principles as above, we now examine the statements of the appellant(s) recorded under this Section. For ready reference, the statements are reproduced below:

Appellant No.1 (Chandan Pasi) statement:

> "My name is Chandan Pasi, My Father's name is Birendra Pasi …
> (1) Question: - Did you listen to the Deposition of the Witnesses?
> Answer: - Yes
> (2) Question: - The witnesses have alleged and stated that on March 31, 2016, at 8:05 AM, with common intention along with other accused persons killed the Informant's father Ghughali Pasi by assaulting with katta, daba. What do you have to say about this?
> Answer: False statement.

8 (2009) 6 SCC 595
9 2024 SCC OnLine SC 1641

(3) Question- It is also alleged and evidenced against you that you entered the Informant's house and verbally abused and physically assaulted the Informant's niece Poonam Kumari and Kajal Kumari, along with his nephew, Raju Kumar. What do you have to say about this?
Answer: False allegations.
(4) Question: - Whether you want to Say anything in your defence?
Answer: I am innocent."

Appellant No.2 (Pappu Pasi) statement:

"My name is Pappu Pasi @ Hindustan Pasi …
(1) Question: - Did you listen to the Deposition of the Witnesses?
Answer: - Yes
(2) Question: - The witnesses have alleged and stated that on March 31, 2016, at 8:05 AM with common intention along with other accused persons killed the Informant's father Ghughali Pasi by assaulting with katta, daba. What do you have to say about this?
Answer: False Allegation.
(3) Question- It is also alleged and evidenced against you that you entered the Informant's house and verbally abused and physically assaulted the Informant's niece Poonam Kumari and Kajal Kumari, along with his nephew, Raju Kumar. What do you have to say about this?
Answer: False allegation.
(4) Question: - Whether you want to Say anything in your defence?
Answer: I am innocent."

Appellant No.3 (Gidik Pasi) statement:

"My name is Gidik Pasi …
(1) Question: - Did you listen to the Deposition of the Witnesses?
Answer: - Yes
(2) Question: - The witnesses have alleged and stated that on March 31, 2016, at 8:05 AM with common intention along with other accused persons killed the

Informant's father Ghughali Pasi by assaulting with katta, daba. What do you have to say about this?
Answer: False Allegation.
(3) Question- It is also alleged and evidenced against you that you entered the Informant's house and verbally abused and physically assaulted the Informant's niece Poonam Kumari and Kajal Kumari, along with his nephew, Raju Kumar. What do you have to say about this?
Answer: False allegations.
(4) Question: - Whether you want to Say anything in your defence?
Answer: I am innocent."

9. The statements extracted above reveal a sorry state of affairs- an abject failure on the part of the Court in complying with the basic tenets of law. The statements given by all three persons are carbon copies of each other. How such statements can pass muster at the hands of the learned Trial Judge is something which we fail to understand. Out of the four questions asked, directly related to the sequence of events, were only two. The second question was as general as can be, with reference to only the bare allegations, to which an omnibus denial was issued. The third was also of similar nature, saying that it has been alleged and evidenced, and nothing further. This cannot be said to be the putting of every material circumstance. It is equally disturbing for us to see that in the desire to secure a conviction for the accused persons, the prosecutor also let their duty of assisting the Court in conducting the examination of the accused under this section fall by the wayside. The prosecutor is an officer of the Court and holds a solemn duty to act in the

interest of justice. They cannot act as a defence lawyer, but for the State, with the sole aim of making the gauntlet of punishment fall on the accused. [See: ***Sovaran Singh Prajapati v. State of U.P.***[10]]

10. In view of the above observations, we need not delve into the other grounds raised, questioning the concurrent conviction against the appellants herein. On this ground alone, the Appeals are allowed and the matter is sent back to the concerned Trial Court to recommence from the state of the recording of the Section 313 CrPC statements. We may clarify that the remand is limited to the cases of the three appellants before us and our observations herein shall not affect the sanctity of the findings already arrived at, *qua* the other accused persons. A trial is a function of memory; it is this memory that, when translated into spoken word testimony on oath, becomes evidence, and thus the same is susceptible to the vagaries of time. Keeping in view the fact that the offence is from the year 2016, and while being cognizant of the observations of the Constitution Bench in ***High Court Bar Association, Allahabad v. State of U.P.*** [11], we direct the concerned Trial Court to do the needful within four months from the date of the communication of this judgment.

11. Registrar (Judicial) to communicate this judgment and order to the learned Registrar General, High Court of Judicature

10 2025 SCC OnLine SC 351
11 (2024) 6 SCC 267

at Patna, who will forthwith communicate the same to the concerned court for necessary action and compliance.

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

……J.
(SANJAY KAROL)

……J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
DECEMBER 01, 2025