



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(arising out of SLP(Crl.) No. 9840/2025)

SANJAY KUMAR & ANR. APPELLANT(S)

VERSUS

STATE OF BIHAR & ORS. RESPONDENT(S)

with

CRIMINAL APPEAL NO. OF 2026
(arising out of SLP(Crl.) No.15696/2025)

CRIMINAL APPEAL NO. OF 2026
(arising out of SLP(Crl.) No. 17735/2025)

O R D E R

Leave granted.

These appeals arise out of the judgments dated 06.03.2025 passed by the Patna High Court in Criminal Appeal (DB) Nos. 1136/2016, titled "Ram Sevak Shah &

Ors. vs. State of Bihar", and 1160/2016, titled "*Laxman Sah & Ors. vs. State of Bihar*", confirming the conviction and the sentences visited upon the appellants, *vide* judgments dated 27.08.2016 and 02.09.2016, passed by the learned VIII Additional Sessions Judge, East Champaran at Motihari, Bihar, in Sessions Trial Nos. 403/2009 and 936/2007 (both arising out of FIR/Case No. 15/2007 dated 25.01.2007 registered with Police Station - Adapur, District - East Champaran, Bihar).

The trial court had convicted the appellants under Sections 302, 147 and 149 of the Indian Penal Code, 1860, and sentenced them to life imprisonment along with payment of fines, coupled with default stipulations.

Though this Court had earlier directed the Registry to requisition the trial court records, being of the opinion that the aforestated judgments warranted interference, we are now informed that the

trial court records have not yet been received. Instead of awaiting receipt of the records, we deem it appropriate to resort to the alternative that is available to us, that is, to remit the matter to the trial court instead of undertaking adjudication of these appeals on merit.

We find from the material placed on record by the learned counsel for the appellants that the examination of the accused under Section 313 of the Code of Criminal Procedure Code, 1973¹, was brief to the point of being cryptic and was limited to just three questions. The first question was as to whether the accused had heard the statement of the witnesses. The second question was as follows: -

“There is an allegation against you that on 24th February 2007 at 06.30 A.M., in village Harpur, police station Harpur, district East

1 For short “the Code”

Champan, you along with other accused for the fulfillment of a common purpose, killed Shivnath Shah, brother of Suresh Prasad, the complainant in this Case, by hitting with sticks, what do you have to say in this regard?"

The third question was as to whether the accused had something to say in his defence.

The aforestated three questions were posed to one of the accused/appellants, namely, Mahanth Sah. However, the same format was adopted for examination of the remaining accused. This is not in dispute.

Needless to state, the aforestated casual examination of the accused falls woefully short of the required standard, as stipulated by law. This Court has emphasized this point, time and again. We may refer to the recent judgment of this Court on this point in "*Ashok vs. State of*

Uttar Pradesh"². Therein, a 3-Judge Bench of this Court observed that it is the duty of the public prosecutor to assist the trial court in recording the statement of the accused under Section 313 of the Code; if the court omits to put any material circumstances brought on record against the accused, the public prosecutor must bring it to the notice of the court while the examination of the accused is being recorded; he must assist the court in framing the questions to be put to the accused; and as it is the duty of the public prosecutor to ensure that those who are guilty of the commission of offence must be punished, it is also his duty to ensure that there are no infirmities in the conduct of the trial, which will cause prejudice to the accused.

We may also note the earlier decision of another 3-Judge Bench of this Court in "*Shivaji Sahabrao Bobade vs. State of*

Maharashtra"³, wherein the *in pari materia* provision in the erstwhile Code was under consideration and it was observed that great care is expected of Sessions Judges, who try grave cases to collect every incriminating circumstance and put it to the accused even though at the end of the long trial, the judge may be a little fagged out.

In the light of the aforestated settled legal principle, we are of the opinion that incurable injustice was done to the appellants in the course of their examination under Sections 313 of the Code, as no specific questions were put to them apropos each piece of incriminating evidence adduced against them. The judgments of the trial court based on such inadequate examination of the accused, therefore, cannot be sustained.

The High Court was also in error in overlooking this crucial aspect and in

confirming the conviction and sentences visited upon the appellants.

We, accordingly, set aside the judgments passed by the High Court and also the judgments of conviction and the orders of sentence passed by the learned VIII Additional Sessions Judge, East Champaran at Motihari, Bihar, in Sessions Trial Nos. 403/2009 and 936/2007 (both arising out of FIR/Case No. 15/2007 dated 25.01.2007 registered with Police Station - Adapur, District - East Champaran, Bihar)

Sessions Trial Nos. 403/2009 and 936/2007 shall stand restored on the file of the learned VIII Additional Sessions Judge, East Champaran at Motihari, Bihar, to enable fresh examination of the accused under Section 313 of the Code strictly in accordance with the legal parameters applicable thereto.

As we are informed that the appellants were on bail, prior to their

conviction and sentencing, they would be entitled to the same relief pending the fresh exercise to be undertaken by the trial court.

The appeals are, accordingly, allowed in the aforestated terms.

The appellants shall be released on bail on such appropriate terms and conditions as may be fixed by the trial court, pending the exercise to be undertaken by the trial court pursuant to this order.

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

.....J.
(SANJAY KUMAR)

.....J.
(K. VINOD CHANDRAN)

NEW DELHI;
FEBRUARY 12, 2026.

ITEM NO.10

COURT NO.12

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No.
9840/2025

[Arising out of impugned final judgment and order dated 06-03-2025 in CRADB No. 1136/2016 passed by the High Court of Judicature at Patna]

SANJAY KUMAR & ANR.

Petitioner(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

(IA No. 128135/2025 - EXEMPTION FROM FILING O.T. and
IA No. 197172/2025 - SUSPENSION OF SENTENCE)

WITH

SLP(Crl) No. 15696/2025 (II-A)

SLP(Crl) No. 17735/2025 (II-A)

(FOR ADMISSION AND IA No. 181127/2025 - EXEMPTION
FROM FILING O.T.)

Date : 12-02-2026 These matters were called on for
hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KUMAR

HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s)

Mr. Kumar Vaibhaw, Adv.
Mr. Gautam Khazanchi, Adv.
Mr. Vaibhav Dubey, Adv.
Mr. Bilal Mansoor, Adv.
Mr. Mansoor Ali, AOR

For Respondent(s) Mr. Azmat Hayat Amanullah, AOR
 Ms. Rebecca Mishra, Adv.
 Ms. Vanshita Gupta, Adv.
 Mr. Dipesh Singhal, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

In terms of the signed order, the appellants shall be released on bail on such appropriate terms and conditions as may be fixed by the trial court, pending the exercise to be undertaken by the trial court pursuant to this order.

The appeals are allowed in terms of the signed order.

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

(BABITA PANDEY)
AR-cum-PS

(PREETI SAXENA)
COURT MASTER (NSH)
(Signed order is placed on the file)