

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 597 of 2009

Pramila Devi,

... .. **Appellant**

-Versus-

The State of Jharkhand

... .. **Respondent**

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. A.K. Chaturvedi, Advocate

For the Respondent : Mr. Rajesh Kumar, Advocate

C.A.V. on 02.04.2026

Pronounced on 06.07.2026

1. This criminal appeal has been filed against the Judgment of conviction dated 07.04.2007 and order of sentence dated 09.04.2007 passed by the learned 1st Additional Sessions Judge, Gumla in S.T. No.143/2004 whereby and whereunder the appellant has been held guilty for committing the offences under Sections 307, 353, 412/34 of the Indian Penal Code (*hereinafter referred to as IPC*) and Sections 25(1-B), 26 and 27 of the Arms Act and Section 17 of the Criminal Law Amendment Act and she has been sentenced to undergo Rigorous Imprisonment for 01 year under Section 25(1-B) of the Arms Act; Rigorous Imprisonment for 06 years under Section 26 of the Arms Act; Rigorous Imprisonment for 08 years with fine of Rs.500/- under Section 27(2) of the Arms Act; Rigorous Imprisonment for 08 years with fine of Rs.500/- under Section 307/34 of IPC; Rigorous Imprisonment for 01 year under Section 353 of IPC; Rigorous Imprisonment for 08 years with fine of Rs.500/- under Section 412 of IPC and Rigorous Imprisonment for 06 months under Section 17 of the Criminal Law Amendment Act. All the sentences were directed to run concurrently, except the fines imposed and in default of payment of fine, to further undergo Simple Imprisonment for 06 months.

2. After conclusion of hearing in the case, the learned counsel for the State has filed a copy of the custody report of the appellant. As per the Report received vide Letter No.2985 dated 04.04.2026 issued by the Superintendent, Birsa Munda Central Jail, Hotwar, Ranchi, the appellant was in jail custody from 12.01.2004 to 08.04.2007 (03 years 02 months 27 days) during investigation and trial and from 09.04.2007 to 03.05.2008 (01 years 00 months 25 days) after conviction i.e. for a total period of 04 years 03 months 22 days as actual custody in Birsa Munda Central Jail, Hotwar, Ranchi and on 03.05.2008, she was transferred to the Superintendent, Divisional Jail, Lohardaga.

3. As per the Report received vide Letter No.432/Jail, Lohardaga issued by the Superintendent, Divisional Jail, Lohardaga, the appellant was in jail custody there from 03.05.2008 to 07.09.2011 i.e. for a period of 03 years 04 months 05 days and after completion of the sentences imposed upon her and after payment of the fine amounts, the appellant has already been released from jail on 08.09.2011.

4. Accordingly, the appellant has already served the entire substantial sentences imposed upon her and after payment of the fine amounts, she has already been released from jail on 08.09.2011.

5. The prosecution case is based on the basis of the self-statement of S.I. Naval Kishore Prasad, Officer-in-charge, Bishunpur P.S. recorded on 11.01.2004 at 11:15 hours at Village- Ninar, P.S.- Bishunpur, District Gumla alleging that after the attack by extremists in the night of 08.01.2004, the Informant alongwith Havaldar Sushil Choudhary of JAP-6, Constable No. 339 Yogendra Sharma, Constable No. 164 Keval Prasad Yadav, constable No. 352 Satyendra Narayan, Police 416 Satyadeo Oraon, Police 373 Jagannath Sharma, A.S.I. Turta Xalxo and Assistant Commander of CRPF and two platoons of C.R.P.F. proceeded to Villages Daduapahi, Tewarpani, Jobhipat, Ninar, etc. for conducting raid and search operation at 04:00 AM. After reaching Bage Sakhua turning on 11.01.2004 at about 05:30 AM, the Informant sent the vehicles back to the Gurdari Mines

picket. After checking the villages Tutuwapati, Tewarpani and Jobhipat, when the Informant alongwith the police party was crossing Jobhipat, one young person started running away on seeing the police, but after chase, he was apprehended by the police and he disclosed his name as Rajesh Oraon. On enquiry, he further disclosed that a group of extremists consisting of about 15-20 persons including three women is staying in a drain situated on the southern side of the house of James Kerketta at village Ninar and they have arms and ammunition in their possession in huge quantity. They are the gangs of Randhirji and Bablu Singh. He further disclosed that on the instruction of Randhirji, he was keeping watch on the passersby and the police. Thereafter, when the police party reached behind the house of James Kerketta at 09:15 AM, an extremist wearing a green uniform and carrying a gun noticed the police force and started firing at them. The rest extremists took their positions and also started firing. Thereafter, the Informant also directed the members of police force for counter firing in defence. The firing continued for 15 to 20 minutes. When the firing stopped from the side of the extremists, the police force apprehended two lady extremists and the rest extremists succeeded to flee away taking advantage of the forest area. On search of the area, two dead bodies of the extremists were found. One police rifle with one cartridge in the chamber and the magazine filled with cartridges of 0.303 were recovered lying near one dead extremist and one DBBL gun lying by the side of the other dead extremists was recovered. Out of the two apprehended ladies, one lady had a baby girl, aged about 1 ½ years in her lap. The apprehended lady extremist disclosed the names of the dead extremists as Bablu Singh @ Niranjanji and Om Prakash Lohra. On interrogation, the lady extremists disclosed their names as Pramila (appellant) and Rita @ Sunita. The appellant also disclosed that she is the wife of Pratul Bhuiya @ Randhirji, the Sub-Zonal Commander of Peoples War and the baby girl is her daughter from him. The appellant further disclosed that she had proceeded from Ranchi 4-5 days ago and had reached to

the group last night and all members had taken shelter at the house of James Kerketta and they had a program to move towards Dumri Area after taking breakfast and Rita @ Sunita and Shanti were also with them. She further disclosed that (1) Randhirji (2) Lalit Oraon (3) Raju (4) Sunil Lohra (5) Birbal (6) Seti Oraon (7) Bablu @ Niranjanji (8) Om Prakash Lohra (9) Ritesh (10) Hemant Oraon (11) Shankar Poraiya (12) Chhathu Poraiya (13) Ramu Oraon (14) Bishwanath (15) Suraj Deo (16) Ajay (17) Rajesh Kherwar (18) Rajesh Oraon were in the group who fled away after the encounter. In the meantime, villagers also reached there and on search in presence of the villagers, one police rifle S.L. No.52AY-16314 and two 0.303 live cartridges and two empty pellets of rifle were recovered beside the dead body of Bablu Singh and one DBBL gun marked with Peoples War was recovered from the possession of the deceased Om Prakash Lohra. One sky blue colour bag was found in the drain. One black colour vindolia was recovered from the possession of deceased Bablu Singh in which total 45 rounds 0.303 live cartridges, 03 country made grenades, ignition sets of two grenades, one detonator, one small transistor of Philips company, one small camera, Rs.7,655/- cash, one walkie talkie wireless of Motorola company bearing no. 672/KBC x 534, 11 exercise books in which information about the Peoples War Group, two diaries in which information about the group were written, 5 Naxal literature, 90 tablets, one pair hunter, one W-spring of rifle magazine, 10 papers in which LAL SALAAM to Martyr of Lango were written in the first line and common papers of Peoples War Group and MCCI were present in the bag. One country made *katta* and six live cartridges of 0.315 bore were also seized in presence of villagers Martin Aind and Nirmal Aind. The Informant further stated that two rounds firing were made by JAP-6 constable with his SLR, 15 rounds firing were made by the Informant himself with his official pistol and C.R.P.F. personnel had fired two rounds with 9 mm pistol, 8 rounds with insas 5.56 rifles and 5 rounds with SLR 7.62. In the result, two extremists were killed, some got injured and some

successfully fled away. 32-35 rounds firing were made by the extremists on the police force, but luckily no police personnel got injured. After encounter, the empty cartridges of the bullets fired by police personnel were searched, but those had lost in the bush. The appellant further disclosed that this group and the group of Manoj Yadav and MCCI Group had made attack at Bishunpur P.S. from the back side in the night two days ago and when counter firing were made by the police, they all fled away from there. The group of Manoj Yadav and MCCI ran away in different directions and reached to Village Ninar where encounter took place with the police personnel. She also disclosed that this group had also made firing at the police camp at Dumarpat in which in addition to the group of Randhirji and Bablu, the group of Sumanji and Sureshji were present. This group had committed loot pat at Latehar Station 8-9 months ago. Last year in 2002, on occasion of the Establishment Day, this group alongwith other groups had set fire in the machines and vehicles in the offices of Forest Department of Banari and Gurdari Mines, after dividing in two parts in which she had also taken part. The Informant claimed that apprehended extremists and the extremists who ran away in furtherance of common intention made the firings on police personnel to kill them. When counter firings were made by the police personnel in their self-defense, Bablu Singh @ Niranjan and Om Prakash Lohra were killed and their associates Rajesh Oraon Pramila (appellant) and Rita @ Sunita were apprehended and the rest succeeded to flee away and weapons, bombs, explosive substances and other articles in huge quantity were seized from the possession of the extremists.

6. On the basis of written report, the case was registered Bishunpur P.S. Case No.03/2004 under Sections 307, 353, 411, 412/34 of IPC, Sections 25(1-B)a, 26, 27, 35 of the Arms Act and Section 4/5 of the Explosive Substance Act against the appellant and other named accused persons. After completion of investigation, charge-sheet was submitted against the appellant and Rita @ Sunita

and the cognizance of the offence was taken in the case on 28.04.2004.

7. On 25.07.2004, charges under Sections 411, 412, 307/34, 353 of the IPC, Sections 25(1-b), 26(A), 27 of the Arms Act and Section 17 of the C.L.A. Act were framed against the appellant which were read over and explained to her in Hindi to which she pleaded not guilty and claimed to be tried.

8. On appraisal of the evidences on record, the learned trial court recorded its findings at Paragraph Nos. 21 to 24 which are as under:

“21. PW-1 Havildar Sushil Chowdhary who was the member of the raiding party has supported the prosecution case and has deposed that they were on patrolling duty and one Rajesh Oraon was caught in suspicious condition who disclosed that extremists were hidden in a drain at Ninar Pat village. When the police party surrounded the village, firings started from the side of the extremists and on counter firing, two extremists Bablu Singh and Om Prakash Lohra were died on spot and two lady extremists Pramila Devi and Sunita were arrested. Pramila had a child in her lap. On search of P.O., huge amount of weapons and explosives substances were seized. Some naxal literatures etc. were also seized. Names of associates were disclosed by the arrested lady extremist Pramila Devi. The evidence of the witness is intact and has not been affected any way in cross-examination. PW's-2 and 3 are also the members of the raiding party and they have supported the above facts and their evidences have not been affected in cross-examination by any contradiction and omission etc. PW-4 Turta Xalxo A.S.I. Bishunpur P.S. has further supported the above facts and has deposed that in the leadership of OC, P.S. Naval Kishore Prasad, two platoons C.R.P.F., members of JAP were on raiding compaigned against the extremists and on the basis of the information given by Rajesh Oraon, when village Ninar was raided, firings opened by the extremists on the police party and on retaliation, two extremists Bablu Singh and Om Prakash Lohra were killed on spot and two lady extremists were apprehended. Those were Pramila Devi and Sunita Kumari. On search in addition to two dead bodies, huge amount of arms, pistols, grenades, transistors, detonators, extremists literature, diary, etc. were seized. Further the evidences disclosed by the witness in examination-in-chief have not been affected during

cross-examination. PW-5 Constable No.373 Jagannath Sharma, PW-6 Havildar Keval Prasad Yadav, all the members of the raiding party have fully supported the prosecution case. The depositions of the police personnels find full support from the seizure lists marked Ext.-3 and further corroborated by the self-statement of the informant marked Ext.-2. PW-7 Martin Aind is the villager of Ninar. He has further supported the prosecution case and has deposed that between quarter past nine and half past nine, he heard the sound of bomb blasting and thereafter when the blasting stops, they went to the house of James Kerketta. He saw two dead bodies behind the house of James Kerketta, those were of Bablu Singh and Om Prakash Lohra. Revolver and gun were fallen beside the dead bodies. Pramila and Sunita were caught there. The witness identifies Pramila Devi in the Court. The witness has further deposed that seizure list was prepared by the police personnel in presence of him and he has made his signature upon the seizure list marked Ext.-1. His friend Nirmal Aind also made his signature upon the seizure list marked Ext.-1/1. The witness has confirmed that Bablu Singh and Om Prakash Lohra had died and they carried the dead bodies from Ninar to Jobhipat. The deposition of this independent witness has further not been affected during cross-examination. The witness has clearly deposed that both Pramila Devi and Sunita are outsiders. They did not belong to their village and they had come there in the night and several persons had come alongwith them. They had reached there and they all had stayed in the house of James Kerketta. PW-8 Nirmal Aind is also an independent witness and R/o village Ninar. He has further confirmed the prosecution case and has deposed that the sound lasted from 10 to 15 minutes and after that when they reached at the house of James Kerketta, they saw the dead bodies of Bablu Singh and one unknown person. Sunita and Pramila were arrested by the police and the seizure list was prepared by the police upon that he has made his signature. The deposition of the witness is intact in absence of any attention towards any contradiction or omission etc. from the previous statement of the witness. On Court question, the witness has further deposed that Pramila and Sunita did not belong to their village. He does not know from where they reached there. PW-9 Naval Kishore Prasad has proved his self-statement which was written on P.O. and the seizure list which

was also prepared on P.O. in presence of two independent witnesses.

22. DW-1 James Kerketta is that person in whose house the accused persons had taken shelter and two independent witness PW-7 Martin Aind and PW-8 Nirmal Aind who are the co-villager and R/o Ninar pat have confirmed that the accused persons had stayed at the house of James Kerketta (DW-1). Rest of the witnesses who are the members of the raiding party have further confirmed that the P.O. was behind the house of James Kerketta. DW-1 has proved at least that Pramila Devi was present at his house, rest of the facts are untrustworthy being contrary to the deposition of the prosecution witnesses including co-villagers. Hence, it is proved beyond the reasonable doubt that on the information of Rajesh Oraon, when village Ninarpat was raided by the police force, fires opened by the extremists on the raiding party and in counter firing, extremists Bablu Singh and Om Prakash Lohra were killed and according to the witnesses and independent witnesses, they have died on P.O. It is further proved that huge amount of arms and ammunitions and other contrabands were seized by the police party from the P.O. in presence of independent witnesses. The seizure list was also prepared on P.O. which was signed by the villagers Martin Aind and Nirmal Aind and the members of the raiding party S.I. Turta Xalxo (Ext.-3). It is also proved beyond reasonable doubt that accused Pramila Devi D/o Ram Prit Singh and W/o Pratul Bhuiya @ Randhirji was apprehended with her daughter and with Sunita Devi on P.O. which is behind the house of James Kerketta, a drain like place and have been clearly mentioned in the seizure list.

23. It is vehemently argued by the learned counsel for the defence that the prosecution has not proved the Sanction Order of the D.C. and in fact, sanction order has not been obtained by the prosecution from the D.C. and hence, in violation of Section 39 of the Arms Act 1959, the witness cannot be held guilty under Arms Act, 1959. Perusal of the Section 39 of the Arms Act, 1959 makes it clear that no prosecution shall be instituted against any person in respect of any offence under Section 3 without the previous sanction of the District Magistrate (D.C.). According to Section 3 of the Arms Act, no person shall acquire, have in his possession or carry any fire arms or ammunitions, unless he holds in this behalf a licence issued in

accordance with the provisions of this act and the rules made thereunder. But according to the Ext.-3 the seizure list, country-made pistols, one DBBL gun, one police rifle marked 4 S.L. No. 52AY-16314, magazine No. Y 37427, Vindolia filled with 45 rounds of 0.303 cartridges, 3 grenades, detonators and other dangerous weapons were seized by the raiding party on P.O. Hence in this case, the offence is not in respect of offence committed under Section 3 only, but violation of other Sections of the Arms Act i.e. Sections 4, 5, 6, 7, etc. have been made by the extremists group to which accused Pramila Devi belonged. Hence under such circumstances previous sanction of D.C. is not essential.

24. It is further argued by the learned defence counsel that witnesses have proved that when the accused Pramila Devi was apprehended, she had a girl child of 1-1/2 years age in her lap and it cannot be even thought that under such condition, she might have able to make any fire against the raiding party. Hence, she cannot be held guilty under Sections 307 and 353 of the I.P.C. The witnesses have proved that when firing were opened by the extremists, accused Pramila Devi was present with the group. The evidences have further proved that she is an active member of the extremist group, hence even if she did not make any fire against the police personnel, she is still guilty for committing offences under Sections 307 and 353 of the I.P.C.”

9. The learned trial court held the appellant guilty for committing the offences under Sections 307, 353, 412/34 of IPC and Sections 25(1-b), 26 and 27 of the Arms Act and Section 17 of the Criminal Law Amendment Act.

10. *The learned counsel appearing for the appellant submitted* that the appellant has been convicted only because she happened to be present at the place of occurrence and her husband is alleged to be an extremist.

11. The learned counsel further submitted that even as per the First Information Report, there is no overt act assigned to the appellant, rather she was found with a child of 1½ months in her lap. He also submitted that even as per the learned trial court’s judgment, the appellant did not take any part in the alleged occurrence, but she has

been convicted on the ground that she is a member of extremist group. He also submitted that as per the order of sentence, the present case is said to be the first offence of the appellant and there is no material that she was a member of extremist group as no other case was registered against her.

12. The learned counsel further submitted that merely because the lady happened to be the wife of one extremist, the same by itself cannot be a ground to sustain her conviction with the aid of Section 34 of Indian Penal Code inasmuch as there is no overt act on the part of the appellant.

13. He further submitted that as per the case of the prosecution, the co-accused persons fled away from the place of occurrence and arms and ammunition were recovered from the place of occurrence. He submitted that merely because the appellant was present at the place of occurrence, conviction of the appellant under the Arms Act is also not sustainable.

14. Learned counsel for the appellant also submitted that as per instructions, the appellant has remained in custody for 5½ years.

15. *Learned counsel for the State opposed the submissions* made on behalf of the appellant and submitted that the impugned judgment of conviction and sentence does not require any interference.

Findings of this court.

16. In course of trial, the prosecution examined altogether 09 witnesses to prove the charges against the appellant.

PW-1	Havalдар Sushil Chowdhary	Member of Raiding Party
PW-2	Jogendra Sharma	Member of Raiding Party
PW-3	Satyendra Narayan	Member of Raiding Party
PW-4	Turta Xalxo	Member of Raiding Party
PW-5	Jagannath Sharma	Member of Raiding Party
PW-6	Keval Prasad Yadav	Member of Raiding Party
PW-7	Martin Aind	Seizure List Witness

PW-8	Nirmal Aind	Seizure List Witness
PW-9	Naval Kishore Prasad	Informant & Member of Raiding Party

17. The prosecution exhibited the following documents:

Exhibit-1 & 1/1	Signatures of PW-7 & PW-8 on seizure list
Exhibit-2	Self-statement of Informant
Exhibit-3	Signature of Informant on seizure list

18. **PW-1** (Havildar Sushil Chowdhary) was member of the raiding party. In his examination-in-chief, he deposed that the occurrence took place on 11.01.2004 and at that time, he was posted at Bishunpur police station on the post of Havaladar. He alongwith Jogendra Sharma, Satyendra Narayan, Jannath Sharma, Satyadeo Oraon and others went to patrolling duty and conducted raid on the direction of the Officer-in-charge, Bishunpur P.S. and C.R.P.F. was also with them. When they reached a hilly area at Ninarpat, they saw one man running away, but after chase, the police party caught him. He disclosed his name as Rajesh Oraon. On interrogation, he further disclosed the names of other extremists who were hidden. When the police party proceeded further and reached Ninar village, the extremists hiding in the village suddenly opened fire and the police force made counter firing in their self-defence. After some time, when the firing stopped, they saw two women running away, but they were apprehended. In course of search, two dead bodies were found. The ladies disclosed their names as Pramila and Sunita and they told the names of dead persons as Bablu and Om Prakash Lohra. On search, one pistol and a child was found in possession of Pramila Devi. On search, weapons and bombs were recovered from the place of occurrence and some naxal literatures were also recovered. He identified the appellant in the court with her girl in her lap. ***During cross-examination***, he admitted Para-19 that his statement was recorded by the police, but he had not stated regarding the seizure of

pistol from the possession of the appellant. He further admitted that the officer-in-charge had searched the appellant in his presence.

19. PW-2 (Jogendra Sharma, JAP-6) was also a member of the raiding party. In his examination-in-chief, he deposed that the occurrence had taken place on 11.01.2004. He had proceeded with Havaladar Sushil Choudhary, Constable Jagannath Sharma, Satyendra Narayan, Satyadeo Oraon and Constable Keval Prasad Yadav for conducting raid against the extremists. In course of raid, Rajesh Oraon was arrested and on the basis of his disclosure, village Ninar was surrounded by force where firings were made by the extremists and counter firings were made by the police party in self-defence. When firing stopped, two dead bodies, arms and ammunitions were found and two lady extremists namely, Pramila and Sunita were found alongwith one child in course of search of place of occurrence. They disclosed the names of the dead extremists as Bablu and Om Prakash Lohra and other extremists fled away. He further deposed that one rifle (looted from the police), one double-barrel gun, hand-grenade, detonator, wire, naxal literature, etc. were recovered. The appellant disclosed herself as the wife of the Zonal Commander of War Group namely, Pratul Bhuiya and the child as his daughter. He identified the appellant in court. ***During cross-examination;*** he admitted that he does not know as to who had apprehended the appellant.

20. PW-3 (Satyendra Narayan, JAP-6) was also a member of the raiding party. In his examination-in-chief, he deposed that the occurrence is of January, 2004 and at that time, he was posted at Bishunpur Police Station on the post of Constable. He alongwith Sushil, Jogendra Sharma, Keval Prasad Yadav and Satyadeo had proceeded for conducting raid against the extremists. When they reached Jobhipat, they saw Rajesh Oraon and after chase, they caught him. Rajesh Oraon disclosed that the extremists are in the next village. When they further proceeded for surrounding the village, firing started and the police also made firing in self-defence. When the firing stopped, the appellant alongwith one child and Sunita were

apprehended in course of search of the place of occurrence. They disclosed the names of the dead persons as Bablu and Om Prakash Lohra. One looted police rifle, one double barrel gun, detonator, wire, hand grenade, cartridges, pamphlets and naxal literature, money, mobile etc. were recovered. He identified the appellant in court who was alongwith the child, aged about 02 years. ***During cross-examination***, he admitted that whatever he deposed about the extremists, he said the same as per the disclosure made by the appellant. He also admitted that he had not apprehended the appellant.

21. PW-4 (Turta Xalxo, A.S.I. Bishunpur P.S.) was also a member of the raiding party. In his examination-in-chief, he deposed that he had proceeded with the raiding party and when they reached near Jobhipat Village, they saw Rajesh Oraon fleeing away, but after chase, CRPF apprehended him and he disclosed that the extremists are hiding in Ninar Village near the house of James. When they started surrounding the Ninar Village, the extremists started firing and they also made counter firing. When the firing stopped, the police party searched the place of occurrence and in course of search, the appellant with a child and one girl, namely, Sunita was apprehended. He identified the appellant in court. Thereafter, two dead bodies and one police rifle, one DB Gun, pellet of DB Gun, pellet of .303, Vindolia pistol, 3 grenades, one camera, one small radio, detonator, naxal literature, diary, shoes, clothes, etc. were recovered and seized. Thereafter, they returned to the police station alongwith the dead bodies and the seized articles. The two lady extremists disclosed the names of the dead persons as Om Prakash Lohra and Bablu Singh. ***During cross-examination***, he admitted at Para-12 that he cannot say as to whether anything was recovered from the possession of the appellant. He also admitted at Para-14 that the appellant was searched by one village lady, but he does not know as to who was that lady.

22. PW-5 (Jagannath Sharma, JAP-6) was also a member of the raiding party. In his examination-in-chief, he deposed that the occurrence had taken place on 11.01.2004 and on that day, he had

gone with the raiding party to Ninarnpat and they had apprehended Rajesh Oraon while fleeing away. When they went behind the house of James Kerketta, firing had started and the police had also made counter firing. When firing stopped and the search was made, two dead bodies were recovered and two lady extremists were apprehended. The lady extremist disclosed the names of the dead persons as Bablu Singh and Om Prakash Lohra. Thereafter, looted rifle of the police, DBL Gun, grenade, pistol and naxal literature were recovered and seizure list was prepared. He identified the appellant in court. ***During cross-examination***, he admitted that the appellant was apprehended by the Officer-in-charge, but she was not searched in his presence.

23. PW-6 (Keval Prasad Yadav) was also a member of the raiding party. In his examination-in-chief, he deposed that the occurrence is of 11.01.2004 and they had gone to Jobhipat. He further stated that the Officer-in-charge had caught the appellant and Rita. He identified the appellant in court. He further stated that two dead bodies were recovered, one was Bablu Singh and the other was Om Prakash Lohra. Thereafter, one government rifle, one DBBL gun and grenade were recovered. The constable had told him that one country-made pistol was recovered from the possession of the appellant. ***During cross-examination***, he admitted at Para-12 that the appellant was arrested from the house of Kerketta and one bag was recovered from her possession which was seized by the Officer-in-charge.

24. PW-7 (Martin Aind) is a villager and one of the seizure list witnesses of the case. In his examination-in-chief, he deposed that the occurrence had taken place 1½ years ago and at that time, he was at his house. When after hearing the blasting of bomb, he went towards the house of James Kerketta, he saw two dead bodies of Bablu Singh and Om Prakash Lohra. The appellant and Rita were apprehended there. He identified the appellant in court. He further stated that the police had recovered and seized the articles in his presence and had prepared a seizure list and he had signed over the seizure list. He

exhibited his signature on the seizure list as Exhibit-1 and the signature of Nirmal Aind on the seizure list at Exhibit-1/1. ***During cross-examination***, he admitted at Para-7 that the police had taken them to Bishunpur police station and the police had taken his signature and the signature of Nirmal Aind at the police station, but he cannot say as to what was written in it. He further admitted at Para-8 that when he had reached, the police had not recovered any article from the possession of the appellant. He also admitted that he has no personal knowledge about the occurrence.

25. ***PW-8*** (Nirmal Aind) is also a villager and the other seizure list witness. In his examination-in-chief, he deposed that the occurrence had taken place 1 ½ years ago and at that time, he was at his house. He had heard sound and when the sound stopped, he went to the house of James, he saw the police and two dead bodies. He also saw rifle near the dead body. The police had taken Martin and him to Bishunpur. He further stated that the appellant and Sunita were apprehended by the police at the village. He identified the appellant in the court. He further stated that the police had prepared the seizure list at the place of occurrence and he had signed on it. He identified his signature on the seizure list, which was already marked as Exhibit-1/1. ***During cross-examination***, he admitted at Para-6 that the police had taken his signature at the police station, but he cannot say as to what was written on the paper.

26. ***PW-9*** (Naval Kishore Prasad) is the informant of the case and he was also a member of the raiding party. In his examination-in-chief, he deposed that on 11.01.2004, he was posted as the Officer-in-charge, Bishunpur P.S. He further stated that two days ago, firing was made by the extremists on the police station. To make enquiry of the occurrence, he went to Jobhipat in the morning of 11.01.2004. On seeing police, a young man tried to run away, but he was apprehended. He disclosed his name as Rajesh Oraon and further disclosed that the gang of Randhirjee and Bablujee is staying in Village- Ninar. When they reached near the house of James Kerketta

at Village- Ninar, on seeing the police, the guard started firing and the extremists also started firing at the police and thereafter, the police also made counter firing on them. Later on, the extremists started fleeing away, but after chase, two lady extremists were apprehended. They disclosed their names as Pramila and Sunitaji @ Ritaji and Pramila had one child in her lap. Two dead bodies were also recovered and it was told that one was Bablu Singh @ Niranjani and the other was Om Prakash Lohra. One police rifle, pellet of .303 and one live cartridge in the magazine were recovered near the dead body. 45 live cartridges of .303 in 09 magazines kept in the Vindolia tied to waist were recovered. One DBBL gun was recovered near the dead body of Om Prakash Lohra. Bag was also recovered from the place of occurrence in which main pack of Motorola and other articles were kept. He further deposed that he had prepared the self-statement at the place of occurrence. He exhibited the self-statement as Exhibit-2. He further stated that the formal FIR was also prepared by him. He also deposed that A.S.I. Turata Xalxo had prepared the seizure list in presence of two independent witnesses at the place of occurrence. He exhibited the seizure list as Exhibit-3. He identified the appellant in court. ***During cross-examination***, he admitted at Para-7 that the appellant had one girl child in her lap and there was no lady constable with the police party. He also admitted that the seizure list was prepared at the place of occurrence and the seized articles are kept at the Malkhana, but the articles were not sealed.

27. On 29.01.2007, statements of the appellant were recorded under Section 313 of Cr.P.C. wherein she denied the incriminating evidences put to her and claimed to be innocent and said in her defence that on release, she will look after her children and will stay in her house.

28. The appellant examined one witness namely, James Kerketta as DW-1 in her defence. In his examination-in-chief, he identified the appellant and her daughter in the court. He deposed that the appellant has one more daughter who studies at Chatakpur. The appellant was

living in his house at Ninarpal. She was working as a labour and cooking food at his house. He further deposed that Bauxite Mines are present beside his village where labours come to work. On the date of occurrence, when the appellant was apprehended, he had gone out to search labour. He further deposed that the appellant was living in his house for one year, when she was apprehended and she used to cook food in his house. The police had apprehended the appellant from his house. The appellant was never involved in any extremist activities. ***During cross-examination***, he denied the suggestion that the appellant is related to extremist organization.

29. This Court finds that ***P.W.-1*** was a member of the raiding party and he had supported the prosecution case, inasmuch as, when he along with other members of the raiding party was on patrolling duty, they caught hold of one person, who was running away and on interrogation, he disclosed the names of other extremists who were hidden. Subsequently, the raiding party proceeded and the extremists hiding in the village opened fire and there was counter firing from the side of the raiding party in self-defense. All men fled away and two dead bodies were found and two women were caught at the place of occurrence, namely, Pramila (appellant) and Rita @ Sunita, who disclosed the names of dead persons. He has stated in his examination-in-chief that on search, one pistol and a child was found in possession of Pramila (the appellant) and weapon and bombs were recovered from the place of occurrence. He identified the appellant lady with a girl in her lap. This witness has been cross-examined and he had admitted that he had not made any statement earlier that the pistol was seized from the possession of Pramila Devi. He further admitted that officer-in-charge had searched the appellant in his presence. Thus, the evidence of ***P.W.-1*** reveals that he tried to improve the case, but he was duly cross-examined.

30. ***P.W.-2*** is also a member of raiding party. He had supported the prosecution case and has stated that Pramila and Sunita were found along with one child in course of search of place of occurrence. The

appellant disclosed herself as wife of Zonal Commander of War Group and the child as his daughter. During cross-examination, this witness has admitted that he did not know as to who had apprehended the appellant.

31. P.W.-3 is also a member of raiding party. This witness has also supported the occurrence and has also stated that the appellant was found along with one child in course of search of place of occurrence. He identified the appellant in the court who was along with the child aged about 2 years. During cross-examination, this witness has admitted that he had not apprehended the appellant.

32. P.W.-4 is also a member of raiding party. He has also supported the prosecution case and has clearly stated that the appellant was with a child. During cross-examination, he has admitted that he could not say as to whether anything was recovered from the possession of the appellant. He also admitted at Para-14 that the appellant was searched by one village lady, but he does not know as to who was that lady.

33. P.W.-5 is also a member of raiding party, who also supported the occurrence. He identified the appellant and during cross-examination, he admitted that the appellant was apprehended by the officer-in-charge, but she was not searched in his presence.

34. P.W.-6 is also a member of the raiding party. During cross-examination, he stated that the appellant was arrested from the house of Kerketta and one bag was recovered from her possession which was seized by the Officer-in-charge.

35. P.W.-7 is a seizure list witness and he identified the appellant in the court and stated that the appellant and another lady were apprehended on the spot. However, during cross-examination, he stated that the police had taken him to the police station and has also stated that the police had not recovered any article from the possession of the appellant.

36. P.W.-8 is another seizure list witness, who identified the appellant in the court. During cross-examination, he stated that the

police had taken his signature at the police station, but he cannot say as to what was written on the paper.

37. *P.W.-9* is the informant of the case. He has also supported the prosecution case and stated that all the extremists fled away and two ladies were apprehended and the appellant had a child in her lap. During cross-examination, he has stated that the appellant had a child in her lap and there was no lady constable with the police party. He had also stated that the seizure list was prepared at the place of occurrence and seized articles were kept in Malkhana, but the articles were not sealed.

38. The signatures of P.Ws. -7 and 8 on the seizure list have been marked as Exhibit-1 and 1/1 and the signature of the informant on the seizure list was marked as Exhibit-3.

39. The evidences on record reveal that large number of extremists gathered at the place of occurrence and when the raiding party reached there, there was exchange of fire and all the extremists ran away and two women were apprehended on the spot. Admittedly, the appellant was found with a baby on her lap at the place of occurrence and she happened to be the wife of one of the extremists, who is said to have fled away from the place of occurrence. However, there is no specific or overt act assigned to the appellant and she was found with a baby of 1½ years on her lap.

40. *P.W.-1* has tried to improve the case by stating that a pistol was recovered from the possession of the appellant, but there was no such material on record and his statement of recovery of pistol from the possession of the appellant appears to be an afterthought. He had not made any such statement earlier. None of the witnesses have stated that any such arms or ammunitions were recovered from the possession of the appellant. The prosecution has tried to make out a case that the appellant is also an extremist associated with the other co-accused, but there is no material on record that the appellant was a member of any extremist group or organization. No other criminal case has been found recorded against the appellant.

41. Considering the totality of the facts and circumstances, it appears that the appellant has been made an accused and termed as an extremist only for the reason that she happens to be the wife of an extremist, who is a co-accused in the present case and that she was present at the place of occurrence. It is not in dispute that the appellant was apprehended at the place of occurrence and at that point of time she was having a child aged 1 and ½ years on her lap.

42. In view of the aforesaid facts and circumstances, this Court is of the considered view that the prosecution has not been able to establish the case against the appellant. This court is of the considered view that mere presence of the appellant at the place of occurrence that too with a child aged 1½ years on the lap and merely because she happens to be the wife of an extremist is not sufficient to sustain the conviction of the appellant.

43. Thus, there is no definite evidence on record with regard to recovery of any fire-arm or incriminating article from the possession of the appellant. There is also no direct and specific evidence with regard to any overt act committed by the appellant. There is also no sufficient evidence on record to suggest that the appellant was member of any extremist group or organization.

44. This Court is of the considered view that the learned court has not considered the aforesaid aspects of the matter while convicting the appellant. The learned court has recorded that the witnesses have proved that when firing was opened by the extremists, the appellant was present with the group and also recorded that the evidences have further proved that she was an active member of extremist group and even if she did not make any firing on the police person, she was found guilty of the alleged offence. This court is of the considered view that the learned trial court failed to consider that no material was placed on record to show that the appellant was an active member of the extremist group and her presence at the place of occurrence was not sufficient to convict the appellant.

45. Although the appellant has served out the substantial sentences awarded to her and after payment of the fine amounts, she has been released from jail custody, it appears to be a case of acquittal of the appellant from the charges framed against her.

46. Accordingly, the impugned judgement of conviction and sentence is set-aside and this appeal is ***allowed***.

47. Pending I.A, if any, is dismissed as not pressed.

48. Let the original records be sent back to the court concerned.

49. Let a copy of this judgement be communicated to the concerned court through 'FAX/e-mail'.

(Anubha Rawat Choudhary, J.)

Dated: 06.07.2026

Uploaded On: 07.07.2026

Mukul/-