

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.27 of 1995

Arising Out of PS.Case No. -289 Year- 1990 Thana -Surajgarha District- MUNGER

The State of Bihar

.... Appellant/s

Versus

- 1. Jiblal Yadav, son of Raman Yadav
 - 2. Sukhdeo Yadav, son of Tukul Yadav
 - 3. Umesh Yadav, son of Sukhdeo Yadav
 - 4. Bilash Yadav @ Ram Bilash Yadav, son of Sukhdeo Yadav
 - 5. Shankar Yadav, son of Jitlal Yadav
- All of village Nista, P.S. Surajgarha, District Munger

.... Respondent/s

Appearance :

For the Appellant/s : Mr. A.K. Sinha, APP
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 06-07-2015

Heard learned counsel for the appellant. None appears for the respondents.

2. This Government Appeal is directed against judgment/ order dated 16.05.1995, passed by Sessions Judge, Munger in Sessions Case No. 194/1991 whereunder the five respondents have been acquitted of the charge under Sections 302, 302/149 of the Penal Code and Section 27 of the Arms Act.

3. Prosecution case, as set out in the fardbeyan of informant (P.W. 8) is that on 19.12.1990 at 5.30 P.M. his younger brother Rajendra Yadav went to attend the call of nature on the



western side of Munger-Lakhisarai road in village Nista, while informant and the eye-witnesses i.e. P.Ws. 1, 4 were engaged in chit-chat at Lal Baba Asthan. No sooner Rajendra Yadav returned, accused persons named in the fardbeyan surrounded him. Accused No. 1 Jiblal Yadav asked Shankar Yadav and others to fire at Rajendra Yadav, who died at the spot. The witnesses wanted to intervene, the accused persons resorted to firing to scare them away.

4. Aforesaid prosecution story has been disbelieved by the learned trial court as the three eye-witnesses are not only related but have also given two different versions, one before the police and the other in the court, which is evident from paragraphs 17, 18 of the impugned judgment. Trial court having appreciated the inherent contradiction in the evidence of the prosecution witnesses has proceeded to grant the accused persons benefit of doubt and acquitted them of the charge levelled against them.

5. Appeal has remained pending for about 20 years as the same was filed on 25.08.1995, admitted under order dated 08.09.1995. The trial court having considered the evidence of the prosecution witnesses chose to acquit the accused persons granting them benefit of doubt, it may not be appropriate in the interest of

justice to upset the judgment of acquittal at this distance of time i.e.
after about 20 years. Appeal is, accordingly, dismissed.

(V.N. Sinha, J)

(Nilu Agrawal, J)

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