

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.384 of 2015

Arising Out of PS.Case No. -103 Year- 2010 Thana -BHAGWANPUR District- BHABHUA
(KAIMUR)

Madan Ram, Son of Late Narayan Ram, Resident of Village-Dubouli, P.S.-Belaon,
District-Kaimur (Bhabua)

.... Appellant

Versus

1. The State of Bihar
2. Raju Dubey, son of Ram Bharat Dubey,
3. Sanjay Dubey, son of Ram Bharat Dubey,
4. Baliram Dubey @ Munna Dubey, Son of Late Satyaram Dubey
5. Ram Bharat Dubey, son of Late Satyaram Dubey.

Respondent no. 2 to 5 are resident of Village-Dubouli, P.S.-Belaon, District-
Kaimur (Bhabua)

.... Respondents

Appearance :

For the Appellant/s : Mr. Kumar Sunil, Advocate
Mr. Amit Pandey, Advocate

For the Respondent/s : Mr. Bipin Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-07-2015

Heard learned counsel for the appellant.

This appeal under proviso to Section 372 of the Code of
Criminal Procedure is directed against the judgment dated
22.04.2015 passed in SC/ST Case No. 336 of 2011/39 of 2011
arising out of Bhagwanpur (Belaon) P.S. Case No. 103 of 2010

whereby the learned 1st Additional District & Sessions Judge, Kaimur at Bhabua has acquitted respondent nos. 2 to 5 from the charges under Sections 341, 323, 379 and 504 read with 34 of the Indian Penal Code as well as Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to the informant on 18.08.2010 at about 12 p.m. while he went to Brahm Baba Sthan for cutting grass and reached near the field of Ram Bharat Dubey, he forbade him from cutting grass. Thereupon, the informant returned to his home. Thereafter, on 20.08.2010 at about 1.00 p.m. while the informant was going to bring kerosene oil from the dealer and reached near the *baithaka* of respondent no. 5, Ram Bharat Dubey, respondent nos. 2 to 5 namely, Raju Dubey, Sanjay Dubey, Baliram Dubey @ Munnu Dubey and Ram Bharat Dubey, abused him taking name of his caste and started assaulting him with *lathi*, *danda* etc. due to which he sustained injuries and upon *hulla*, the villagers assembled. The appellant has further alleged that the accused persons took away his wrist watch and Rs. 200/- from his pocket.

On the basis of said written report submitted by the informant to the SHO Bhagwanpur (Belaon) Police Station, the aforesaid police case was registered and investigation was taken up. After completion of investigation, the police submitted charge



sheet pursuant to which cognizance of the offence was taken and the matter was committed to court of Special Judge for trial. The trial court framed charges under Sections 341, 323, 379 and 504 read with 34 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against respondent nos. 2 to 5. Since the accused respondents did not plead guilty to the charges, the trial commenced.

Six witnesses were examined during trial on behalf of the prosecution. They are P.W. 1, Bhairo Ram, P.W. 2 Ram Surat Ram, P.W. 3 Nathuni Ram, P.W. 4 Madan Ram, P.W. 5 Guddu Ram and P.W. 6 Anil Prasad.

On conclusion of trial, the trial court acquitted the accused-respondents vide impugned judgment and order dated 22.04.2014.

Learned counsel for the appellant has submitted that the allegations made in the FIR were duly corroborated by the witnesses examined during trial and on the basis of deposition of the witnesses the trial court ought to have recorded a judgment of conviction.

I have heard learned counsel for the appellant and carefully examined the material brought on record.

It would appear from the evidence of witnesses



examined during trial that apart from P.W. 6 Anil Prasad who is a formal witness, all other witnesses are closely related to the informant Madan Ram (P.W. 4). Earlier also they have deposed in cases lodged against the accused respondents by the informant. There is an admitted land dispute between the parties. The consistent case of the prosecution is that the accused persons were variously armed with *lathi and danda*. They are stated to have assaulted the informant for about ten minutes with *lathi and danda*. The informant claims that he had sustained several injuries on his person but no medical report issued by any doctor was brought on record on behalf of prosecution. In order to substantiate the charges no doctor was examined during trial.

In the background of the facts enumerated hereinabove, the trial court came to a finding that the case of the prosecution could not prove beyond reasonable doubt.

Having perused the impugned judgment passed by the trial court. I am of the opinion that the trial court has given clear, cogent and convincing reasons for recording judgment of acquittal. The judgment of the trial court is neither perverse nor illegal. It is a settled position of law that in case of acquittal, there is double presumption in favour of the accused. Firstly, presumption of innocence is available to them under the fundamental principle of

criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, the accused having secured their acquittal, the presumption of their innocence is further re-inforced, re-affirmed and is strengthened by the trial court. The parameter available to deal with an appeal against the judgment of acquittal is that if two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

For the reasons assigned, hereinabove, I find no merit in this appeal. Accordingly, the appeal is dismissed.

(Ashwani Kumar Singh, J.)

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