

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.495 of 2015

Arising Out of PS.Case No. -36 Year- 2003 Thana -HARIZAN District- BEGUSARAI

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Pramila Devi, W/o Rajendar Chamar, Resident of Village Bahdarpur, Ghodda, P.S.-
Muffasil, District Begusarai.

.... Appellant

Versus

1. The State of Bihar.
2. Yogendra Singh, S/o Siyaram Singh
3. Kartik Singh
4. Mahesh Singh
5. Ganesh Singh All 3 to 5 are S/o Sri Ganja Singh
6. Upendar Yadav @ O.P. Yadav S/o Sri Bino Yadav
All Resident of Village -Bahdarpur, P.S.- Muffasil, District -Begusarai.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Ram Sumiran Rai, Advocate

For the Respondent/s : Mrs. Abha Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-09-2015

Heard learned counsel for the appellant.

The instant appeal has been filed under the proviso to
Section 372 of the Code of Criminal Procedure (For short “Cr.
P.C.”) challenging the judgment of acquittal of opposite party nos. 2
to 6 dated 19.03.2015 passed by the learned 1st Additional Sessions
Judge-cum-Special Judge, Begusarai in SC/ST Case No. 36 of

2003/0005137 of 2013.

The prosecution case in brief is that on 24th April, 2003 at about 7 a.m. at village-Bahadurpur Ghodda, P.S.-Mufasil, District-Begusarai while the informant Pramila Devi was watching her maize field, the accused persons being variously armed came there and told her to go away from the field. They abused her by taking her caste name. When she protested, the accused Yogendra Singh (O.P. No. 1) exhorted and on that order, all other accused persons began to assault her with *lathi*, stick, fists, feet and butt of pistol. The informant's mother came in rescue but she was also brutally assaulted by the accused persons. It has further been alleged that the accused persons harvested the standing maize crop from the field of the informant and took away the same.

Initially, Compliant Case No. 598C/2003 was filed before the court of learned Chief Judicial Magistrate, Begusarai who referred the same under Section 156(3) of the Cr. P.C. for investigation pursuant to which a police case was registered and investigation was taken up against six named accused persons. On completion of investigation, charge-sheet was submitted against the accused persons and after taking cognizance of the offences, the case was committed to the court of Special Judge-cum-Sessions Judge for trial.

The trial court framed charges under Sections 147, 149, 323, 504 and 379 of the Indian Penal Code as well as 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to which the accused persons pleaded not guilty and claimed to be tried. Accordingly, the trial commenced.

In course of trial, altogether three witnesses were examined on behalf of the prosecution in support of the charges. They are P.W. 1 Arjun Yadav, P.W. 2 Pramila Devi (informant) and P.W. 3 Mukesh Kumar. The prosecution failed to prove any document in support of the charges during trial.

It would be relevant to mention here that P.W. 1 Arjun Yadav did not turn up for cross-examination during trial and, hence, his statements made in examination-in-chief cannot be considered to be evidence.

P.W. 2 Pramila Devi, informant of the case, did not support allegation of crop cutting. In her deposition, she failed to disclose even the khata no. and plot no. of the field in question. She has admitted in cross-examination that after the assault was made upon her mother-in-law, the accused persons came which would mean that they did not abuse or assault the informant prior to the assault made upon her mother-in-law. In the FIR, P.W. 2 has stated that the accused persons had first abused and assaulted her and,

thereafter, when her mother-in-law came in rescue, she was also assaulted by the accused persons. Apparently, the informant (P.W. 2) has given a contradictory statement while deposing in court.

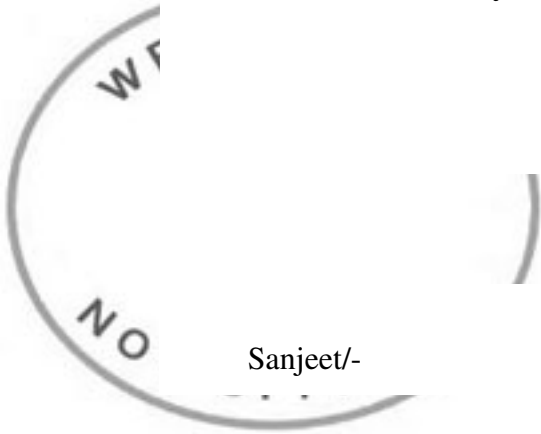
P.W. 3 Mukesh Kumar, *dewar* of the informant, has also not stated about the description of the maize field where the alleged occurrence is said to have been taken place. He has also not supported the case of crop cutting or theft of crop. He has also not supported the occurrence of abuse and assault. He has not supported the prosecution case as alleged in the FIR that his mother was also assaulted by the accused persons. Thus, it would appear that P.W. 3 has also not supported the major part of the occurrence as alleged in the FIR.

The court below has appreciated the evidence led before it. It has considered the fact that no independent witness was examined on behalf of the prosecution and in absence of examination of the investigating officer of the case, the place of occurrence was also not established.

Having considered all these materials, the trial court has acquitted the accused persons of the charges levelled against them.

Having regard to the nature of evidence led before the trial court, I find no illegality in the impugned order passed by the court below.

Accordingly, the appeal, being devoid of any merit, is
hereby dismissed.



Sanjeet/-

(Ashwani Kumar Singh, J.)

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