

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.913 of 2014

Arising Out of PS.Case No. -97 Year- 2003 Thana -MURLIGANJ District- MADHEPURA

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Md. Yunus, son of Late Md. Hanif, resident of village-Gamaharia, P.S. Murliganj, District-Madhrpura.

.... Appellant.

Versus

1. Sanjay Kumar @ Sanjay Yadav, son of Turanti Yadav.
 2. Ramdeo Yadav, son of Late Tanuk Yadav.
 3. Ramesh Yadav, son of Ramdeo Yadav.
 4. Dinesh Yadav, son of Ramdeo Yadav.
 5. Kari Yadav, son of Ramdeo Yadav.
 6. Mahadeo Yadav, son of Ram Swaroop Yadav.
 7. Ram Swaroop Yadav, son of Late Taunk Yadav.
 8. Kulo Yadav alias Fulo Yadav, son of Ram Swaroop Yadav.
 9. Niroj Yadav alias Neeraj Yadav, son of Sukhdeo Yadav.
 10. Sukhdeo Yadav, son of Late Kanti Yadav.
 11. Birendra Yadav, son of Ayodhi Yadav.
 12. Ayodhi Yadav, son of Chamak Yadav.
 13. Md. Khalil, son of Late Lal Mohammad.
 14. Md. Amruddin, son of Late Dharamu Mian.
 15. Md. Atabul Mia alias Md. Atabul, son of Dukhan Mian.
 16. Md. Mustaque, son of Rahim Mian.
 17. Md. Jumarati Mian alias Md. Jumrati, son of Soman Mian.
 18. Md. Insul alias Insul Miya, son of Late Ajjamat Mian.
- All accused persons resident of village-Chamgarh, P.S. Murliganj, District-Madhepura.
19. The State of Bihar.

.... Respondents.

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Appearance :

For the Appellants : M/s. Y.C. Verma, Senior Advocate & Parmanand Kumar, Advocate.

For the State : Ms. S.B. Verma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

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

6 12-01-2015 Informant of Murliganj P.S. Case No.97 of 2003 has

filed this appeal assailing the order dated 01.06.2009, whereunder

2nd Additional Sessions Judge, Madhepura, proceeded to dispose

of Sessions Trial No.307 of 2006 under Section 232 of the Code of Criminal Procedure as there was no evidence to support the charge levelled under Section 302 and other allied Sections of the Penal Code and 27 of the Arms Act as far back on 14.02.2007.

From perusal of the orders dated 18.02.2009 and 23.03.2009, it is evident that summons and warrants for appearance of the prosecution witnesses were issued from time to time even then only five prosecution witnesses came forward to examine themselves but they did not support the charge. Thereafter, letter dated 23.03.2009 was written to the Superintendent of Police, Madhepura, asking him to ensure production of the prosecution witnesses to support the prosecution story even then the witnesses did not appear. Thereafter, the court below had no option but to close the prosecution case under order dated 23.05.2009 fixing 28.05.2009 for examining the accused persons under Section 313 of the Code of Criminal Procedure and, thereafter, the impugned order dated 01.06.2009 was passed.

The court below not only took steps to issue summon but also issued warrant and wrote to the Superintendent of Police, Madhepura, for appearance of the prosecution witnesses to support the charge even then they did not appear, in the circumstance the court below had no option, but to dispose of the trial under Section

232 of the Code of Criminal Procedure. We do not find any fault in the endeavour made by the trial court in the matter.

The appeal is dismissed.

(V.N. Sinha, J)

(Rajendra Kumar Mishra, J)

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