

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.29 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- ARRARIA

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Deepak Kumar Deep, Son of Sachidanand Yadav, resident of Village- Raniganj
Diwan Tola, P.S Raniganj, District Araria

.... Appellant

Versus

1. The State of Bihar.
2. Sudhir Yadav Son of late Bhuvneshwari Yadav, resident of Village- Kusmaul,
P. S. Bhargama, District Araria at present Sultan Pokhar Lal Kothi P.S
Forbisganj, District Araria as well as Village : Sheikhpura P.S Bhargama
District Araria.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Singh, Adv.

For the Respondent/s : Mr. Sujeet Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 14-09-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present application under Section 378 (4) of the
Code of Criminal Procedure has been filed by the petitioner
seeking leave to appeal against the judgment and order dated
16.7.2015 passed by the learned Judicial Magistrate, 1st Class,
Araria in Complaint Case No. 2810 of 2011 by which the learned
Magistrate has acquitted opposite party no. 2, Sudhir Yadav under
Sections 323, 379, and 406 of the Indian Penal Code.

3. The petitioner is the complainant of Complaint Case



No. 2810 of 2011. In the complaint, he has alleged that opposite party no. 2, Sudhir Yadav was his childhood friend. He had given him a loan of Rs.1,79,851/- in April 2006 on his promise to refund the amount within a week. Since opposite party no. 2 failed to return the said amount, he repeatedly requested him to return the amount. Ultimately, he gave Rs.10,000/- to the complainant and asked him to collect the balance amount from his residence at Sheikhpura. Thereafter, the complainant went to Sheikhpura on 17.8.2011 and demanded back the remaining amount from him. However, the opposite party no. 2 not only denied to repay the amount, but also snatched Rs.2000/- from his pocket and pushed him aside as a result of which he sustained certain injuries.

4. The complainant was examined on solemn affirmation and on his behalf two other witnesses were also examined during inquiry conducted under Section 202 of the Code of Criminal Procedure. Finding a prima facie case to be made out against the accused Sudhir Yadav, the learned Magistrate summoned him to face trial. After appearance of the accused, the learned Magistrate framed charges under Sections 323, 379 and 406 of the Indian Penal Code to which he did not plead guilty and claimed to be tried. Accordingly, the trial commenced.

5. During the trial, three witnesses including the

complainant were examined before the learned Magistrate. They are P. W. 1 Bhushan Kumar, P. W. 2 Pravesh Kumar Singh and P.W. 3 Deepak Kumar Deep (the complainant).

6. It would appear from the trial Court judgment that the complainant had not said anything about the occurrence of assault. Similarly, P.W. 1 and P. W. 2 had also denied the occurrence of assault. Further, P.W. 2 had not stated a word regarding the snatching of money from the possession of the complainant. The complainant himself had admitted in cross-examination that no other witness had seen the occurrence of snatching money by the accused from his possession. The trial Court had found that save and except, a sweeping allegation that the accused had taken a friendly loan from the complainant which was partly repaid, there is no other material to corroborate the fact that as a matter of fact, there was any transaction of money between the complainant and the accused.

7. In my opinion, having regard to the evidence led before the trial Court, the trial Court has rightly acquitted the opposite party no. 2 of the charges levelled against him under Sections 323, 379 and 406 of the Indian Penal Code. The complainant has failed to adduce cogent evidence in order to bring home the charges. I find neither any illegality nor any irregularity in order impugned.

8. In that view of the matter, leave to appeal is refused.

The application stands dismissed.

(Ashwani Kumar Singh, J.)

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