

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.22 of 1992

Against the judgment of acquittal dated 31.07.1992 passed by 2nd Additional Sessions Judge, Munger in Sessions Trial No.70 of 1990.

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The State of Bihar

.... Appellant/s

Versus

1. Ramautar Singh son of late Hito Singh
2. Sita Ram Singh, son of late Hito Singh
3. Satish Kr. Singh, son of Tej Narain Singh
4. Bibeka Nand Singh, son of Tej Narain Singh
5. Amod Singh alias Pramod S/o Ramautar Singh
6. Surendra Singh alias Suro Singh
7. Pago Singh, son of late Sita Singh
8. Bigo Singh, son of late Sita Singh

All residents of village-Indrukh, Police Station (Naya Ramnagar) Mufasil, District-Munger.

.... Respondent/s

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Appearance :

For the Appellant/s : Dr. Mayanand Jha, A.P.P.

For the Respondent/s : Mr. Abhimanyu Sharma, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-05-2015

The State preferred this appeal challenging the judgment dated 31.07.1992 passed by the Court of 2nd Additional Sessions Judge, Munger in Sessions Trial No.70 of 1990.

The case of prosecution was that on 19.12.1988, Naresh Singh, C.W.1, went to Bhagalpur and when he returned to his village in night, he came to know that the respondents herein and some others have harvested the pulse crop from the field of himself



and another person, by name Ranjan Kumar Singh, and on the next day at 6 A.M., both of them, along with others went to the accused to question as to why they have harvested and destroyed the pulse crop and that the same resulted in altercation between them. One Pramod Singh armed with pistol, the 6th respondent armed with gun and others were armed with *lathis* and other weapons, are said to have attacked and C.W.1 Naresh Singh and Ranjan Kumar Singh are said to have received injuries. The police who reached the place recorded the *Ferdbeyan* of CW 1 and F.I.R. was registered against the respondents by alleging offences punishable under Sections 147, 148, 307, 452, 337 and 323 of the Indian Penal Code and Section 27 of the Arms Act. It was also stated that Ranjan Kumar Singh died on 22nd December, 1988, and in view of that, provision in the FIR was altered and offence punishable under Section 302 of the Indian Penal Code was also included.

Investigation was taken up and inquest and postmortem on the dead body was conducted. Charge-sheet was filed against the respondents. Since the respondents pleaded not guilty, trial was undertaken.

On behalf of the prosecution, Court Witness nos. 1 to 9 were examined and the postmortem report was brought on record. P.W.1 is the witness, through whom *ferdbeyan* was proved and the

P.W.2 is the doctor who treated the injured. The defence also examined D.Ws 1 to 5. Through the judgment under appeal, the trial Court acquitted all the accused.

Dr. Mayanand Jha, learned Additional Public Prosecutor submits that prosecution has placed reliable and acceptable evidence before the trial Court to prove its case, but the trial Court has acquitted the respondents just on the basis of vague and general observations. He contends that the very fact that an injured witness like C.W.1 was examined, is sufficient to believe the version of the prosecution.

Sri Abhimanyu Sharma, learned counsel for the respondents, on the other hand, submits that the trial Court pointed out several inconsistencies in the evidence, such as that though CWs 4 and 5 were said to be eye witnesses, their names were not mentioned in the *Ferdbeyan*.

The incident giving rise to injuries to C.W.1 and death of Ranjan Kumar Singh is said to have taken place, in the morning of 20th December, 1988. The record does not disclose that any of the complainants or victims have submitted complaint to the police. It is only on coming to know that some altercation had taken place in the village, that the police reached the village, and there, the *Ferdbeyan* of CW 1 was recorded. By that time, Ranjan Kumar Singh was very

much alive. Therefore the police was expected to record his statement at least under Section 161 Cr. P.C. If, on the other hand, his condition was serious, the police ought to have arranged for recording dying declaration. None of such steps were taken.

Death of the deceased took place two days after the alleged incident. It is only the Investigating Officer who could have explained the developments that have taken place in the meanwhile, or the manner in which the incident had occurred. However, the investigating officer did not throw light in this respect at all.

The evidence of C.W.1 would have certainly commanded acceptability since he was shown as injured witness. However, his version is so unbelievable that though CWs 4 and 5, who are said to be eye witnesses, were examined; there is clear contradiction in their evidence of the so called injured witnesses. The investigating officer did not explain the nature of developments that had taken place between the time of recording the *Ferdbeyan* and the death of the deceased. In the postmortem report also, injuries were not attributed to by any weapon that can be said to have been used by the accused.

One serious lapse in this case is that the very allegation against the respondents was that they used fire arms and, in fact, a charge was also framed under Section 27 of the Arms Act.

That could have been held proved, if only the weapons said to have been used by the respondents or some of them were seized and submitted before the Court as material objects. Neither bullet through which the injuries are said to have been caused; nor any other material was placed before the trial Court.

We have gone through elaborate discussion undertaken by the trial Court. At some places, the discussion is in the form of repetition and at other places there is excessive elaboration. However, the learned trial Judge has assigned cogent reasons in support of his conclusion that the prosecution has failed to prove its case beyond reasonable doubt. We are in agreement with the conclusion arrived at by the learned trial Court and the learned Public Prosecutor has not pointed out any serious error in the judgment under appeal, to convince us, to take a different view.

Hence, the appeal is dismissed.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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