

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.773 of 2004

Arising Out of PS.Case No. -408 Year- 1997 Thana -null District- GOPALGANJ

=====

Sitaram Singh son of Janak Singh, resident of Jhahhwa Bazar, P.s. Sindhwaliya,
District Gopalganj

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. S. Bhushan, Advocate

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-11-2015

The Appellant is aggrieved with the judgment of conviction dated 30.10.2004 passed by the Presiding Officer, Fast Track Court No.1, Gopalganj in Sessions Trial No.408 of 1997 (213 of 2002), by which he has convicted the Appellant under Section 324 I.P.C. and sentenced to R.I. for two years.

The case of the Informant Uma Ram is that when he along with others was returning home, on the highway the accused persons waylaid him and on the orders of Shyam Bahadur Singh, Raja Ram Singh, Braj Kishore Singh and Raj Kishore Singh fired but he escaped. Sita Ram Singh then fired, on account of which he was injured. Believing him to be dead the accused persons then fled away.

During trial the prosecution examined eight witnesses. P.W.4 Informant Uma Ram reiterated his statement in the fard beyan and that after having been injured he was taken to the clinic of Dr.

A.K. Choudhary (P.W.7) where he remained for a month. He stated that he had told the other witnesses in regard to the occurrence and that there was previous enmity between the parties.

P.W.1 Jitendra Sharma is the son of Kapil Deo Sharma (P.W.5), who stated that on the date of occurrence he had gone with his father Kapil Deo Sharma to the clinic of Dr. A.K. Choudhary and found the Informant in an injured condition there. It was then that the Informant disclosed about the occurrence. However since P.W.4 Uma Ram did not support this fact, the evidence becomes inadmissible.

P.W.2 Ramayan Manjhi also stated that he had gone to the cline of Dr. A.K. Choudhary where he met Uma Ram, who disclosed to him about the occurrence. However since P.W.4 has not stated the aforesaid fact, his evidence is also not admissible.

P.W.3 also stated that he had gone to the clinic of Dr. A.K. Choudhary where P.W.4 disclosed to him of the occurrence but once again since the P.W.4 did not disclose this fact his evidence is also inadmissible.

P.W.5 Kapil Deo Sharma also stated that when he went to the clinic of P.W.7 the Informant disclosed to him about the occurrence but when P.W.4 himself did not support this fact his evidence is also inadmissible.

P.W.6 stated that he reached the place of occurrence after hearing shots of firing and there he found the Informant injured who

told him about the occurrence.

P.W.7 is Dr. A.K. Choudhary, who has examined the injured and found two injuries on his person, one of which was caused by fire arm.

P.W.8 is the Investigating Officer, who stated that he recorded the fard beyan, prepared the seizure list as also procured the injury report and submitted the charge sheet.

I find that even though six persons were put on trial, the case as against five of the accused persons failed upon which they were acquitted. The Trial Court only convicted the Appellant even though his case was not distinguishable. Moreover I find that the case rests on the sole evidence of P.W.4 whose evidence not being wholly true on account of which others were acquitted this Court is not inclined to uphold the conviction of the Appellant on his shaky evidence.

In view of such, the appeal is allowed and the Appellant, who is on bail, is discharged from the liability of his bail bonds and the judgment of conviction dated 30.10.2004 passed by the Presiding Officer, Fast Track Court No.1, Gopalganj in Sessions Trial No.408 of 1997 (213 of 2002) is hereby set aside.

(Anjana Prakash, J)

Narendra/NAFR

U		T	
---	--	---	--