

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.10 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Bechulal Sah son of Late Gopal Sah, resident of village-Laukaria, Mishri Tola,
P.S.-Bairia, District- East Champaran

.... Appellant/s

Versus

1.The State of Bihar
2.Surendra Sah
3.Rajendra Sah
4.Shambhu Sah

All sons of Late Asarfi Sah, resident of village-Laukaria, Mishri Tola, P.S.-
Bairia, District- West Champaran

.... Respondent/s

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Appearance :

For the petitioner/s : Mr. Sanjeev Kumar, Advocate

For the opp. Party/s : Mr. Sanjay Kumar, Advocate

For the State : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-07-2015

This application under section 378(4) of the Code of Criminal Procedure (for short “the Code”) has been filed seeking special leave to file an appeal against the judgment dated 24.11.2014 passed by the learned Judicial Magistrate, 1st Class, Bettiah, West Champaran in Complaint Case No.2957-C of 2004, whereby the opposite party nos. 2 to 4 have been acquitted of all the charges.

2. The case of the complainant is that on 31st March, 2013 the accused persons had filed a complaint vide Complaint Case No.663-C of 2003 against the complainant. When the complainant went to enquire about the case from the accused persons, they abused

him and striked him with fists and slaps and grounded him on the earth. The complainant has stated that due to the intervention of the witnesses, he could be saved from being beaten more.

3. The alleged occurrence is said to have taken place on 25th November, 2004 and the complaint case was filed on 3rd December, 2004. The reason for delay in filing the complaint has been stated by the petitioner that though the matter was reported to the police immediately after the occurrence, the FIR was not instituted.

4. After examination of the complainant (appellant) on solemn affirmation and conducting enquiry under section 202 of the Code, the opposite party nos.2 to 4 were summoned to face trial for the charges under sections 323 and 341 of the Indian Penal Code. The substance of accusation was explained to them to which they pleaded not guilty and claimed to be tried. In course of trial, the complainant examined himself as C.W.3 whereas two other witnesses, namely, Satyadeo Mukhiya and Bhikhari Sah were examined as C.Ws.1 and 2.

5. Having regard to the evidence adduced during trial, the learned Magistrate acquitted the accused persons vide judgment dated 24.11.2014 with a finding that the prosecution has failed to prove the charges against them.

6. Heard Mr. Sanjiv Kumar, learned counsel for the petitioner, learned counsel for the opposite party nos. 2 to 4 and

perused the record.

7. It would appear from the record that several litigations are going on between the parties. Though the complainant has alleged that several independent witnesses had seen the occurrence of offence, in course of trial, only two witnesses, namely, Satyadeo Mukhiya and Bhikhari Sah could be examined on behalf of the complainant. Both independent witnesses have contradicted each other on the material particulars.

8. Taking into consideration the entirety of the matter, the learned Magistrate has come to a conclusion that the prosecution has failed to bring home the charges against the accused beyond reasonable doubt. The learned Magistrate has given clear, cogent and convincing reason for recording the judgment of acquittal. I find no illegality in the impugned judgment passed by the learned Magistrate.

9. In that view of the matter, I find no merit in this application. Accordingly, leave to file an appeal against the impugned judgment dated 24.11.2014 passed in Complaint Case No.2957-C of 2004 is hereby refused. The application stands rejected.

(Ashwani Kumar Singh, J)

Md.S./-

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