

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.23 of 2015

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

Upendra Paswan, Son of Late Ramchandra Paswan, Resident of Village - Saraiya,
Ward No. 10, P.S.-Belsand, District - Sitamarhi.

.... Complainant / Appellant

Versus

1. The State of Bihar.
2. Shambhu Prasad Singh, S/o late Ramashish Singh
3. Ajay @ Adichu Singh, S/o Shambhu Prasad Singh
4. Ashok Singh , S/o Lakhandeo Singh
5. Lalan Sharma, S/o Not known

All R/v Saraiya, ward No. 10, P.S.-Belsand, Distt.-Sitamarhi

.... Accused/Respondents

Appearance :

For the Appellant/s : Mr. Pushpendra Kumar Singh, Advocate

For the Respondent/s : Mr. Bipin Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-08-2015

This application under Section 378(4) of the Code of Criminal Procedure has been filed seeking leave to appeal against the judgment and order dated 22.04.2013 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Sitamarhi in connection with SC/ST Case No. 04 of 2011 arising out of Complaint Case No. C-1/617 of 2006 whereby the learned 1st Additional Sessions Judge-cum-Special Judge, Sitamarhi acquitted the accused persons who were charged for the offences punishable under Sections 384 and 379 of the Indian Penal Code as well as

Sections 3(1)(viii), 3(1)(ix), 3(1)(x), 3(2)(v), 3(2)(vi), 3(2)(vii) and 4 of the Scheduled Castes and Scheduled Castes Tribes (Prevention of Atrocities) Act, 1989.

2. The case of the complainant, in brief, is that on 04.06.2006 the accused persons, namely, Shambhu Prasad Singh, Ajay @ Adichu Singh, Ashok Singh and Lalan Sharma forcibly took signature of the complainant Yogi Bhagat and one Feku Bhagat on a blank sheet of paper. It is further stated that the accused Lalan Sharma, S.H.O. Belsand Police Station snatched Rs. 2,000/- from the pocket of the complainant and being S.H.O., he submitted false reports against the complainant and others in a proceeding under Section 107 and 144 of the Code of Criminal Procedure. It is further stated that the accused persons abused the complainant by taking name of his caste and dispossessed him from his property.

3. The complainant was examined on oath and apart from the complainant two of his brothers were also examined in course of inquiry pursuant to which, the court below took cognizance of the offence and, subsequently, framed charges under the sections mentioned hereinabove to which the accused persons did not plead guilty and claimed to be tried.

4. In course of trial, three witnesses including the complainant were examined in support of the case. P.W. 1, Pukar

Paswan and P.W. 2 Yogi Paswan are brothers of the complainant whereas the complainant himself was examined as P.W. 3. No independent witness was examined on behalf of the prosecution during trial.

5. It would be evident from the record that the witnesses categorically denied any right of the accused persons over the property in question. They have stated that no case was ever fought between the complainant and the accused persons. They have also stated that no case relating to the property in question was ever decided in favour of the accused persons and against the complainant by any Court.

6. On the other hand, the defence has proved seven deeds during trial which show that the complainant's mother had already sold the land in question to one Sundar Paswan and one Fekan Tiwary and others from whom the accused Shambhu Prasad Singh had purchased the land in question and order of mutation was also passed in his favour by the Revenue authority. The order of mutation in favour of Shambhu Prasad Singh was challenged before the court of Deputy Collector in appeal by the complainant but the appeal was also decided in favour of the accused Shambhu Prasad Singh. The appellate order passed by the Deputy Collector, Land Reforms was further challenged in appeal and revision by the

complainant but the complainant lost in both the proceedings and the order passed by the Deputy Collector, Land Reforms was upheld. Even in a proceeding under Section 145, it was held by the learned Magistrate that the accused Shambhu Prasad Singh was in possession over the land in question.

7. Considering these facts, the trial court came to a conclusion that the complainant and his witnesses are not reliable at all. Therefore, the accused persons were acquitted by the learned 1st Additional Sessions Judge-cum-Special Judge, Sitamarhi. The Court below has given clear, cogent and convincing reasons for recording the order of acquittal. The order passed by the court below is neither perverse nor illegal.

8. Keeping in mind the aforesaid facts, I find no merit in this application. Accordingly, the leave to appeal is refused.

9. The application stands dismissed.

(Ashwani Kumar Singh, J.)

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