

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No. 14 of 2015

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1. Md. Sajjad, Son of Badrujama, resident of village Bishanpur, P.S.
Dhoraiya, District Banka

.... Appellant

Versus

1. The State of Bihar
2. Md. Akhtar Ali, son of Late Shekhawat Hussain
3. Md. Ajahar Hussain, Son of Late Shekhawat Hussain
4. Md. Idrish, Son of Sk. Maldi
5. Md. Naimuddin, Son of Late Shekhawat Hussain
6. Md. Faruk, Son of Md. Ajahar Hussain
7. Md. Nasim, Son of Md. Akhtar, All residents of village - Bishanpur,
P.S. Dhoraiya, District Banka

.... Respondents

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Appearance :

For the Appellant : Mr.

For the Respondent : Mr.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

4 03-07-2015 Heard learned counsel for the appellant and the
learned counsel for the respondents.

This is a petition for Special Leave to Appeal against
the judgment and order dated 04.02.2015 passed by Sri Vijay
Bahadur Yadav, learned 6th Additional District and Sessions
Judge, Banka in Sessions Trial No. 584 of 1998 arising out of
Complaint Case No. 235 of 1995 (Dhoraiya P.S. Case No. 17 of
1994, G.R. No. 302 of 1994) by which the learned Judge has
acquitted all the six accused respondent nos. 2 to 7 from the
charges leveled against them under Sections 379, 148 and 307 of
the Indian Penal Code.

It is alleged that earlier the case was instituted as a



police case alleging, therein, that on 16.03.1994 at about 6:00 A.M. the father of the informant had gone to *Bahiyar* to look after his *Khesari* crop but he rushed back running to house and entered into the house by raising *Hulla*. At the same time the accused persons came near the house of the informant and respondent no. 3 hurled a bomb from out side near the *Angan* of his house which blast inside the *Angan* of the informant due to which the informant, his Bhabhi and Allauddin a co-villager were injured. The informant claimed that the accused persons looted the *Khesari* crop and with intention to kill his father hurled bomb, in his home due to which the informant and others were injured.

The case was instituted under Sections 147, 148, 323, 324 and 379 of the Indian Penal Code and after investigation police found that the informant was preparing bomb in his *Angan* which blast due to which the informant himself injured and on search of house of the informant some live bombs too were recovered. Hence, the police submitted the final form and also recommended for initiating proceeding for offence under Sections 182 and 211 of the Indian Penal Code against the informant. The Magistrate accepted the final form submitted by police, the case proceeded on the basis of protest petition and cognizance has been taken on protest-cum-complaint and the accused persons

summoned for the offences under Sections 147, 148, 323, 379 and 307 of the Indian Penal Code and Section 3 of the Explosive Substance Act. The case proceeded and witnesses examined after framing of charge.

The trial Court taking into consideration the evidence of the witnesses recorded the judgment of acquittal and hence, this Special Leave to Appeal has been filed.

However, after going through the judgment and order of the learned trial Court, it is apparent that the trial Court has gone into the evidence of the witnesses and found that the witnesses are not credible and tried to exaggerate the prosecution story making it more graver by attributing the role of firing for which there was no allegation either in the First Information Report nor in protest-cum-complaint. Exts. A and B are the two judgments of the Sessions Court. Ext. A is in connection with Dhoraiya P.S. Case No. 19 of 1994 (S.T. No. 44 of 1996) in which Allauddin, Badarujjama and Bibi Sanjida were convicted for the offence under Sections 3 of the Explosive Substance Act which is the counter case of the present case and related to the same occurrence. Ext. B is related to Dhoraiya P.S. Case No. 18 of 1994 (S. T. No. 877 of 1998) which also arises out of the present occurrence in which Md. Allauddin is convicted for the offence

under Section 25(1-B)A, 26 of the Arms Act and Section 3/4 of the Explosive Substance Act.

Hence, going through the evidence and material on record and the judgment impugned, it is apparent that the trial Court has well considered the every aspect of the matter and the evidence in proper perspective and there is nothing in its judgment and order which require further consideration.

Hence, taking into consideration the entire facts and circumstances of the case, I do not find merit in the present appeal, accordingly, it is dismissed.

(Gopal Prasad, J.)

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