

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.338 of 2014

Arising Out of PS.Case No. -109 Year- 2003 Thana -DUMRA District- SITAMARHI

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1. Ram Pravesch Ram Son of Gagandeo Ram R/o Village Kumhra
Vishanpur, p.S. Dumra, District Sitamarhi

.... Appellant/s

Versus

1. The State of Bihar
2. Shiv Nath Das Son of Ramji Das
3. Abhilakh Das son of Fawi Das
4. Ramji Das son of Sukhlal Das All are resident of Village Kumhra,
Vishanpur, P.S. Dumra, District Sitamarhi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Barun Kumar Choudhary
For the Respondent/s : Mr. S. A. Ahmad (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

8 13-01-2015 Heard learned counsel for the appellant and learned
counsel appearing on behalf of the State.

This appeal under the proviso to section 372 of the
Code of Criminal Procedure is directed against the judgment and
order dated 7th December, 2012 passed by the learned Additional
District & Sessions Judge-cum-Special Judge, Sitamarhi in Trial
No. 121 of 2004 arising out of Dumra P.S.Case No. 109 of 2003,
whereby and whereunder respondent nos.2 to 4 have been
acquitted of the charges framed against them under sections 341,
323 and 427 of the Indian Penal Code and Sections 3(1)(x) and
3(1)(iv) of the S.C. and S.T. (Prevention of Atrocities) Act, 1989.



According to the prosecution case as narrated in the F.I.R., the appellant was living in a hut along with his family members on a plot bearing khata no.2822, khesra no.8093, measuring an area of 2 decimals. On 8th July, 2003 at about 8.00 a.m. respondent nos. 2 to 4 came to his house and forbade him to proceed with repairing of the hut in question. When the appellant failed to abide by the dictates of the accused persons, they abused him by taking the name of his caste and assaulted him with fists and slaps.

On conclusion of investigation the police submitted charge-sheet in the case and after complying with the mandatory requirements under section 207 of the Code of Criminal Procedure, charges were framed against the accused persons. Since the accused persons denied the charges the trial commenced.

In course of trial, altogether seven witnesses were examined on behalf of the prosecution. Out of them, P.W.5 Ram Pukar Kushwaha is the second Investigating Officer of the case. He had not recorded the statement of any witness in course of investigation under section 161(3) of the Code of Criminal Procedure. As a matter of fact, the first Investigating Officer, who had conducted the main investigation of the case, was never

examined on behalf of the prosecution in course of trial. P.W.5 is simply a formal witness, who had submitted charge-sheet in the case. He has proved the formal F.I.R.

P.W.7 Ram Kailash Prasad Yadav is an advocate clerk, who is also a formal witness. He has proved the rent receipt dated 13th May, 2005 in course of trial, which has been marked as Ext.-3.

P.W.3 Ram Pravesh Ram and P.W.4 Gagandeo Ram are informant and his father respectively whereas P.W. 1 Binod Ram and P.W.2 Bifai Ram are relatives of the informant. The court below has found their evidence to be unreliable. It has also noticed the fact that the investigation of the case was conducted by an officer of the rank of Assistant Sub-Inspector of Police whereas the S.C. & S.T. (POA) Act mandates that the offences under the Act shall be investigated by an officer not below the rank of Deputy Superintendent of police.

I have heard learned counsel for the appellant and with his assistance, have gone through the findings recorded by the trial court. In my view, the finding recorded by the learned court below cannot be held to be erroneous or that there is no perverse appreciation of evidence. It is not a case in which the court below has ignored the admissible evidence while acquitting

the accused giving them benefit of doubt.

In that view of the matter, I find no merit in the present appeal. Accordingly, the appeal is dismissed.

(Ashwani Kumar Singh, J)

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