

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.691 of 2014

Arising Out of P.S.Case No. -93 Year- 2011 Thana -UCHAKAGAON District- GOPALGANJ

Banarshi Mishra, son of Late Ramchandra Mishra R/o village - Luhsi , P.S. -
Uchakagaon , District - Gopalganj .

.... Appellant

Versus

1. The State of Bihar.
2. Lakhichand Yadav son of Late Saryug Yadav
3. Govind Yadav son of Lakhichand Yadav
4. Basdeo Yadav son of Lakhichand Yadav, All R/o village - Luhsi , P.S. -
Uchakagaon , District - Gopalganj .

.... Respondents

Appearance :

For the Appellant : Mr. Binod Murari Mishra, Adv.
Mr. Prem Kumar.

For the Respondents : Ms. S.B. Verma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 21-01-2015

Heard learned counsel for the appellant and the State.

Informant of Uchkagaon P.S Case No. 93/2011 has
filed this appeal assailing the judgment dated 20.04.2013 passed by
Adhoc 1st Additional District and Sessions Judge, Gopalganj in
Sessions Trial No. 04/2012 whereunder the respondent nos. 2 to 4
have been acquitted of the charge under Section 307/34 and other
allied sections of the Indian Penal Code.

It appears prosecution case, as set out in the written
application of the informant dated 15.05.2011, is that while he was
returning from Mirganj after purchasing ornament for marriage of his
daughter, reached Luhasi market, went to the shop of Jitan Bhagat for

taking tea. The accused respondents also came to the tea stall and questioned him as to why did he not cast vote for them. Altercation took place and accused-respondent Lakhichand Yadav assaulted the informant by farsa and others by lathi as also snatched ornaments worth Rs. 56,000/- There is a counter case also bearing Uchakagaon P.S. Case No. 94/2011 instituted on the same day.

Prosecution story, as set out by the informant and other witnesses, has been disbelieved by the trial Court, though medical evidence of P.W.5 Dr. Khawar Imam indicates that informant suffered incised wound which could have been caused by farsa on the ground that place of occurrence, the Tea Shop, has not been established, as there is contradiction in the evidence of the eye witnesses regarding the place of occurrence, as some of them has asserted that the occurrence took place inside the shop but others asserted that occurrence took place outside the tea shop. The Tea Shopkeeper Jitan Bhagat has also not been examined.

The view taken by the trial Court appears to be reasonable. In the circumstances, we are not inclined to interfere with the judgment. The appeal is dismissed.

(V.N. Sinha, J)

(Rajendra Kumar Mishra, J)

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