

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (DB) No.9 of 2015

1. The State Of Bihar

.... Appellant/s

Versus

1. Dhananjay Rai Son of Late Shio Muni Rai,
 2. Munna Rai, Son of Mirchai Rai
 3. Vinod Yadav Son of Brij Bihari Singh,
 4. Santosh Yadav, Son of Late Rajendra Singh,
- All Resident of Village - Ballia, Police Station - Natwar, District –
Rohtas.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Uday Chand Prasad, Advocate.

For the Respondent/s : Mr. Krishna Prasad Singh, Sr. Advocate.
Mr. Bhashkar Shankar, Advocate.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

4 29-09-2015

By the judgment and order, 26.08.2014, passed in Sessions Trial No. 402 of 2011/Comp. No.1311 of 2013, the learned Additional Sessions Judge-II, Rohtas, at Sasaram, acquitted respondent Nos.1 to 4 of this appeal, namely, Dhananjay Rai, Munna Rai, Vinod Yadav and Santosh Yadav, of the charges framed against them under Sections 120B, 302 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act, 1959. The person, who has shot dead Deobansh Rai has, however, absconded.

Aggrieved by the acquittal of the present respondent

Nos.1 to 4, namely, Dhananjay Rai, Munna Rai, Vinod Yadav and Santosh Yadav, the informant of the case namely, Raghubansh Rai, preferred an appeal, which came to be Registered as Cr. Appeal (DB) No.781 of 2014.

By order, dated 08.10.2014, a co-ordinate Bench of this Court has dismissed the appeal by assigning reasons, which read as under:

“It appears from the impugned judgment that the four private respondents put on trial are not the assailants of the deceased, Deobansh Rai, who was shot at by Ajit Rai on the orders of Anil Singh. These respondents are said to have come to the place of occurrence afterwards and are said to have facilitated the escape of the two assailants by resorting to firing and according to the learned counsel for the appellant, the objective finding of the Investigating Officer as would appear from his evidence is indicative of the fact that shots, other than the fatal shot, were fired, which is reflected from the marks available on the wall and in such view of the evidence, it is submitted that these respondents are equally responsible like Ajit Rai and Anil Singh.

We regret not to accept such submission in view of the clear evidence on record that the four private respondents reached the place of occurrence afterwards and fired shot marks available on wall is attributed to the assailants.

In such circumstances, we are not inclined to interfere with the impugned judgment. The appeal is, accordingly, dismissed.

Before parting with the order, we observe that the finding recorded in the impugned judgment about the place of occurrence may not have any bearing in the matter as and when the two main assailants are apprehended and put on trial.”

It is conceded, on behalf of the appellant, that in the light of the order, dated 08.10.2014, whereby the Cr. Appeal (DB) No.781 of 2014 has been disposed of, this appeal does not make out any ground for interference in the acquittal of the accused aforementioned.

In view of the above and in the interest of justice, we do not find that any such ground has been raised by the appellant, which can be said to have made out a case warranting admission of this appeal.

The appeal stands dismissed accordingly.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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