

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.35 of 2015

Arising Out of PS.Case No. -409 Year- 2008 Thana -BHABHUA District- BHABHUA (KAIMUR)

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Kishori Raman Pandey, S/o Late Ramayan Pandey, Resident of Village – Amathi,
P.O. – Saitha, P.S. – Sonhan, District – Kaimur (Bhabua)

.... Appellant/s

Versus

1. The State of Bihar
2. Gauri Shankar Pandey, Son of Late Ganga Pandey
3. Bisheshwar Pandey, Son of Late Ganga Pandey
4. Janardan Pandey, Son of Late Ramayan Pandey
5. Dheeraj Pandey, Son of Gauri Shankar Pandey
6. Neeraj Pandey, Son of Gauri Shankar Pandey. All (2 to 6) Resident of Village
– Amathi, P.O. – Saitha, P.S. – Sonhan, District – Kaimur (Bhabua)

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Vinod Kumar Seth & Rajesh Kumar, Advocates

For the State : Mr. A.K. Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

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

Date: 15-01-2015

Heard learned counsel for the appellant and the

State.

2. By filing the present appeal, informant of

Bhabua P.S. Case No. 409 of 2008 has assailed the impugned

judgment dated 06.08.2014 passed in Sessions Trial No. 47/20 of

2010/2013 by Ad hoc Additional Sessions Judge-III, Kaimur at

Bhabua whereunder he acquitted private Respondent nos. 2 to 6

of the charge under Sections 148, 307 and 379 of the Indian

Penal Code, but convicted them for the lesser offence under Section 323 and other allied Sections of the Indian Penal Code and thereafter released them after due admonition under the Probation of Offenders Act.

3. It is submitted on behalf of the appellant that initially the case was registered for the offence under Section 307 and other allied sections of the Indian Penal Code, the Investigating Agency submitted charge sheet for the said offences, charges were also framed under the said Sections, as such, in view of the evidence on record, including the medical evidence, private respondents should have been convicted for the offence under Section 307 of the Indian Penal Code and not under Section 323 and sentenced accordingly.

4. We have examined the aforesaid submission in the light of the evidence as discussed in the impugned judgment. From the medical evidence, as detailed in paragraph 17 of the impugned judgment, it is evident that the injured suffered two simple injuries caused by hard and blunt substance. Injured having suffered simple injuries was only hurt and for causing hurt, trial court, in our opinion, has rightly convicted private respondents for the offence under Section 323 and other allied

Sections of the Indian Penal Code. There being no material to establish any theft at the instance of the private respondents, trial court rightly acquitted them for the offence under Section 379 of the Indian Penal Code. The appeal is, accordingly, dismissed.

(V.N. Sinha, J.)

(Rajendra Kumar Mishra, J.)

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