

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.10 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

The State of Bihar.

.... Appellant.

Versus

1. Dhanesh Yadav
2. Ramesh Yadav both sons of Doma Yadav
3. Prema Yadav @ Prem Yadav Son of Vishwanath Yadav
4. Prabhu Yadav Son of Vishwanath Yadav
5. Suresh Yadav Son of Vishwanath Yadav.
6. Pramod Yadav Son of Vishwanath Yadav.
7. Rajendra Yadav Son of Vishwanath Yadav.
8. Doma Yadav S/o Kodai Yadav
9. Ramashray Giri S/o Indradeo Giri.
10. Ganesh Yadav S/o Doma Yadav,
11. Satan Yadav S/o Chandradeo Yadav, All residents of Village- Nautan Balua,
P.S. Nautan, District- West Champaran.

.... Respondents.

Appearance :

For the Appellant : Mr. Parmeshwar Mehta, A.P.P.

For the Respondent/s : Mr.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 12-05-2016

This Government appeal arises out of judgment and order, dated 27.08.2015, passed by the learned 4th Additional Sessions Judge, West Champaran, at Bettiah, in Sessions Trial No.557 of 1999 (G.R. No.140 of 1999), arising out of Nautan P.S. Case No.12 of 1999. The learned Additional Sessions Judge, while convicting the accused persons under Sections 147, 148 and 323 of the Indian Penal Code, has acquitted 11 accused persons for the charges under Sections 325, 307 and 504 of the Indian Penal Code. Hence,

the Government appeal in respect of acquittal.

We have heard learned Additional Public Prosecutor who has primarily argued against acquittal in respect of charge under Section 307 of the Indian Penal Code.

Having heard the learned Additional Public Prosecutor and considered the judgment under appeal, we find that the learned trial Court has, in detail, taken into account the fact that the allegation was that 11 accused persons, variously armed with '*lathi*' '*danda*' brutally assaulted the prosecution party causing upon them bodily injuries. The learned trial Court examined the injuries and the depositions of the doctors, P.Ws. 8 and 10 and came to the finding that none of the injuries were grievous in nature. The learned trial Court, thus, rightly came to the conclusion that if the accused persons had any intention to kill, which is an essential ingredient for attracting punishment, under Section 307 of the Indian Penal Code, 11 accused persons had ample opportunity and time to ensure the same and achieve the object of killing; but what had resulted were simple injuries, even though assault was by 11 persons, as noticed above.

In our view, the finding and the conclusion of the learned trial Court cannot be said to be unwarranted or wrong



in fact or in law requiring interference by this Court in appeal.

Thus, this appeal merits no consideration and is dismissed as such.

(I. A. Ansari, ACJ)

(Navaniti Prasad Singh, J)

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