

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.20 of 2016

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1. Prabhu Kumar son of Suresh Prasad resident of Village Singhwa P.S.
Deo District- Aurangabad.

.... Appellant/s

Versus

1. The State of Bihar.
2. Sharda Devi W/o Bindhachal Singh resident of Mohalla- Indra Bigha P.S.
Aurangabad District Aurangabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bindeshwar Prasad Singh

For the Respondent/s : Mr. Binod Bihari Singh(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 28-11-2016 This application for grant of leave to appeal is for challenging a judgment and order, dated 10.02.2016, passed by learned Additional Chief Judicial Magistrate, Aurangabad in Trial No. 573 of 2016 arising out of Complaint case No. 825 of 1999, whereby the respondents have been acquitted of the charge punishable under Sections 147,323,440,447 of the Indian Penal Code, has been filed under Section 378(4) of the Code of Criminal Procedure, 1973.

2. It is evident from the records that there was some civil dispute between the complainant/appellant on the one side and the present respondents on the other. Allegedly, a plot in question bearing Khata No. 52, Plot No. 1601 admeasuring 2.5 katha was recorded in the name of one Rajdeo Singh, who with the consent of his family



members had executed a gift deed in favour of his daughter Sharda Devi (Respondent No.1). Subsequently, some other lady in the name of Sharda Devi came in possession and got mutated the said land in her favour. The said Sharda Devi had subsequently, sold the land through a registered deed, dated 11.09.1997 to the mother of the appellant Dulari Devi, who came in possession and got her name mutated. When the appellant was attempting to proceed for construction of a boundary wall, the Respondents are said to have assaulted the complainant and others and tried to dispossess them from the said land.

3. At the trial, prosecution witnesses were examined. The trial Court appreciating the evidence on record concluded that there were material contradictions in the evidence of witnesses. He, accordingly, recorded acquittal of the respondents on the ground that the charges could not be established against them beyond all reasonable doubts.

4. Learned counsel appearing on behalf of the appellant has submitted that minor contradictions in the evidence of witnesses have been given undue weightage by the Court below to record acquittal of the respondents. He has submitted that the evidence adduced at the trial, were sufficient to establish the charge of the offence punishable

under various Sections of the Indian Penal Code as mentioned above but the learned trial Court wrongly recorded acquittal of the accused persons.

5. He has also submitted that while recording acquittal of the accused persons, the learned trial Court has gone into the question of title over the land in question.

6. I have perused the impugned judgment and order and other materials on record. No dispute is being raised that evidence of the witnesses have been wrongly described in the judgment and order impugned. The contradictions, which have been mentioned by the learned Court below cannot be said to be immaterial having no consequence on the finding. The view, which the learned trial Court has taken on analysis and scrutiny of the evidence cannot be said to be not a reasonably possible view.

7. Learned counsel for the appellant has not been able to satisfy me that on the basis of the evidence adduced at the trial, conviction of the respondents of the charges for which they were put on trial would have been the only possible view.

8. Accordingly, I do not find it to be a fit case for grant of leave to appeal. This application for leave to appeal is, accordingly, rejected.

9. To allay any apprehension, that the findings

recorded by the trial amounts to recording opinion over title of the suit land, it is indicted that any finding recorded by the trial Court in the impugned judgment and order shall not be treated to be an expression on the question of title over the suit land.

(Chakradhari Sharan Singh, J)

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