

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.656 of 2016

Arising Out of PS.Case No. -581 Year- 2014 Thana -BANKA District- BANKA

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Manish Kumar, son of Narayan Mandal, resident of village
Kevaldih, P.S. Banka, District Banka

.... Appellant/s

Versus

1. State of Bihar
2. Subhash Mandal,
3. Prakash @ Om Prakash Mandal,
Both residents of village Kevaldih, P.S. Banka, District Banka
.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vibhakar Kumar, Advocate
For the Opp. Parties : Mr. Ajay Mukherjee, Advocate
For the State : Mr. S.B. Verma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)
Date: 17-08-2016

Heard learned counsel for the Appellant as well as
learned counsel for the State and the opposite parties.

The instant appeal is filed against the judgment and
order of acquittal, dated 02.05.2016, passed in Sessions Trial
No. 109 of 2015, whereby the 1st Additional Sessions Judge,
Banka, acquitted the opposite parties, Subhash Mandal and
Prakash @ Om Prakash Mandal, of the charges under Sections
302/34 and 394/34 of the Indian Penal Code and Section 27 of
the Arms Act for causing death of Parasuram Mandal, brother
of the informant.



As per the prosecution case, the informant, Manish Kumar (appellant herein), proceeded from shop along with his brother Parsuram and salesman, Vinod Kumar. Just before 500 mtrs. from his house, at about 09:00 p.m., all accused persons, namely, Prakash, Subhash and Pradeep Mandal, surrounded there. Prakash opened fire on his brother and Pradeep assaulted by the butt of pistol, which caused the death of his brother.

Learned counsel submits that the informant has supported the prosecution case and the medical report too supports the case of the prosecution.

We find that the Trial Court has elaborately discussed the grounds for acquitting the opposite parties, in paras 14 and 15 of its judgment. From a bare reading of paras 14 and 15 of the judgment, it would appear that the informant would be the only eye witness of the occurrence. Furthermore, one Vinod Kumar, who was along with the informant at the relevant time, as per the informant itself, was not examined in this case. Further, one Hembrum, who reached at the time of occurrence, was also not examined.

The Trial Court found that there is inherent contradiction in the written statement of the informant and his deposition before the Trial Court. Furthermore, the motorcycle was also not seized by the Police.

We find that the Trial Court has discussed all the relevant evidences and as such, we find no merit in the appeal and the same is accordingly dismissed.

(Samarendra Pratap Singh, J.)

(Rajendra Kumar Mishra, J.)

Kunal/-

AFR/NAFR	NAFR
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