

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.13 of 2016

Arising Out of Complaint Case No. -946 Year- 2001 Thana -null District- NALANDA (BIHARSHARIFF)

1. Devia Devi Wife of Munnu Chaudhary Resident of Village - Ambair, P.S. - Bihar, District – Nalanda

.... Appellant/s

Versus

1. The State of Bihar
2. Shivilal Ravidas Son of Late Janki Ravidas
3. Vijay Ravidas Son of Late Janki Ravidas
4. Suresh Das Son of Late Jai Ram Das
5. Sakli Devi Wife of Suresh Das No. 2 to 5 are Resident of Village - Ambair Shekhana, P.S. Bihar, District - Nalanda
6. Rajaram Ravidas Son of Late Kishun Ravidas
7. Sunder Ravidas Son of Harilal Ravidas No. 6 to 7 are Resident of Village - Imadpur, P.S.- Bihar, District – Nalanda

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Satya Ranjan Sinha, Adv.

For the Respondent/s : Mr. Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-10-2016

The present application under clause (4) of Section 378 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioner seeking leave to appeal against the judgment and order dated 16th January, 2016 passed by the learned 6th Additional Sessions Judge, Nalanda at Biharsharif in Sessions Trial No. 238 of 2004 arising out of Complaint Case No. 946(C) of 2001, whereby the opposite parties no.2 to 7 have been acquitted of the charges under Sections 194, 323, 341 and 504/34 of the Indian Penal Code.

2. The complainant-petitioner filed a written complaint in



the court of Chief Judicial Magistrate, Nalanda at Bihar Sharif vide Complaint Case No. 946(C) of 2001 alleging, inter alia, that on 24th July, 1996 at 4.00 p.m. the complainant was sitting in her house along with her husband and son. In the meantime Bihar Police came there and arrested her husband and son and on inquiry the police informed that one Shakli Devi lodged a case against them regarding kidnapping one Suresh Das vide Bihar P.S. Case No. 246 of 1996 under Section 364 of the Indian Penal Code. It is further alleged that the complainant informed the police that her husband and son have been falsely implicated in the said case as the said Suresh Das and his wife had earlier threatened her to implicate her husband in a false case and that Suresh Das must be hiding somewhere. It is alleged that her husband was released from jail after 4-5 months though her son being minor was released within one month. After release, her husband got information that the said Suresh Das was working in Hazaribagh. Her husband went to Hazaribagh along with the police and got Suresh Das arrested on 3rd November, 2001. The police brought him to Bihar Sharif and produced him in court on 5th November, 2001 and he was released on the same day. It is further alleged that in the evening of 5th November, 2001 itself, Suresh Das along with other accused persons came to her house and started hurling abuses, assaulted her husband and demanded Rs.5,000/- as extortion. Out of fear, the husband of the complainant gave him Rs.1,500/-. On alarm being

raised, many people of the Mohalla arrived there and the accused persons fled away.

3. In course of inquiry, the complainant was examined on solemn affirmation and some witnesses were also examined on her behalf. After inquiry, the Magistrate took cognizance of the offence against all the accused persons under Sections 341, 323, 504/34, 120-B and 194 of the Cr.P.C. The case was committed to the court of Sessions on 27th April, 2004

4. After appearance of the accused persons, charges were framed against them under Sections 194, 323, 341 and 504/34 of the Indian Penal Code. On hearing the charges, the accused persons pleaded themselves not guilty and claimed to be tried.

5. During trial, the complainant examined altogether five witnesses. They are P.W.1 Purushottam Prasad, P.W.2 Munnu Chaudhary, P.W.3 Dipak Kumar Chaudhary, P.W.4 Pappu Singh and P.W.5 Deviya Devi. The defence also examined three witnesses. They are D.W.1 Suresh Das, D.W.2 Raja Ram and D.W.3 Geeta Devi.

6. Learned trial court discussed the evidence adduced on behalf of both the parties. Having considered the entire evidence and the arguments advanced on behalf of the parties, the trial court came to the conclusion that the complainant has not been able to prove her case beyond shadow of reasonable doubt. Hence, the trial court

acquitted all the accused persons of the charges leveled against them.

7. Once the trial court has formed its opinion and recorded the judgment of acquittal in a complaint case, which relates to an occurrence of 2001, I see no reason to grant leave to the petitioner to file appeal against the judgment of acquittal.

9. I have perused the evidence adduced on behalf of the parties. It is true that for recording the judgment of acquittal, the learned Additional Sessions Judge has not assigned reasonings in detail. He has also missed out to record the acquittal in respect of the charges under Sections 323, 341 and 504/34 of the Indian Penal Code. However, from the evidence discussed in the impugned judgment and produced before me by the learned counsel for the petitioner, this Court is of the opinion that the prosecution has not been able to prove its case beyond reasonable doubt even for the charges punishable under Sections 323, 341 and 504/34 of the Indian Penal Code. Accordingly, leave to appeal is refused.

10. The application stands dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	----
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