

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (SJ) No.2 of 2016

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State of Bihar

.... Appellant/s

Versus

1. Hardeo Mahto, Son of Late Fekan Mahto

2. Rajaniti Mahto

3. Raj Kishore Mahto

4. Randhir Mahto

Sons of Hardeo Mahto

5. Champa Devi, Wife of Rajniti Mahto

6. Gayatri Devi, Wife of Raj Kishore Mahto

All Resident of Village Chhotaki Balaha, P.O.- Balaha, P.S.- Mansi,
District- Khagaria.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiwesh Chandra Mishra

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 28-11-2016

Heard.

2. This appeal has been preferred, under Section 378 (1) and (3) of the Code of Criminal Procedure, 1973, which is barred by limitation. An application, bearing I.A. No. 797/2016, has been filed seeking condonation of delay in filing

of the present appeal.

3. For the reasons mentioned in the application, the same is allowed. The delay in filing of the present appeal is, hereby, condoned.

4. With the consent of learned Additional Public Prosecutor, this appeal has been heard on merits and is being disposed of at this stage itself, by the present judgment and order.

5. The respondents have been acquitted of the charges framed against them of the offences punishable under Sections 147, 323, 149, 341 and 149 of the Indian Penal Code and Sections 3 (1) (v) and 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

6. Briefly narrated, the case of the prosecution is that respondent No. 1, namely, Hardeo Mahto, and others had encroached upon the informant's land on which they were running small shop. Respondent No.1 was directed by the Sarpanch of the Panchayat to remove the said shop, but he did not do it and when the informant approached respondent No. 1, he abused and assaulted the informant, leading to registration of the First Information Report.

7. The police, on completion of investigation, submitted charge-sheet, whereafter, cognizance was taken and the trial commenced, since the accused persons denied the

charges.

8. At the trial altogether six (6) prosecution witnesses were examined. Two (2) defence witnesses were also examined.

9. Learned court below, upon analysis and appreciation of evidence on record, concluded that there was apparent dispute in relation to share in the property inasmuch as the accused persons had purchased some land from the co-sharer of the informant. The dispute, in the opinion of learned trial Court, related to shifting of shares. Learned court below took into account the apparent contradictions in the evidence of prosecution witnesses and, accordingly, recorded acquittal of the respondents.

10. I have perused the impugned judgment and order carefully and have also seen the material available on the record. I have given my anxious consideration to the submission made on behalf of the appellant, the State of Bihar, that the findings, recorded by the learned court below, are perverse. However, the said submission is not acceptable on perusal of the material available on the record and the reasoning assigned by the learned court below in recording acquittal of the respondents.

11. I do not find any exceptional circumstance for this Court to interfere with the judgment and order, under

appeal, recording acquittal of the respondents. The findings are based on due appreciation of evidence, which cannot be said to be perverse.

12. This appeal has no merit and is, accordingly, dismissed at this stage itself.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30/11/16
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