

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1308 of 2009

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Vishwakarma Sharma, S/o late Jagarnath Sharma, R/o- Nauranga, P.S.-
G.B. Nagar, District-Siwan.

.... Petitioner/s

Versus

1. State of Bihar .
 2. Bhuneshwar Bhagat @ Bhuneshwar Sharma @ Bhunashwar Mistri,
S/o- Gorakh Sharma,
 3. Ramnath Sharma S/o Jhunjhun Sharma
 4. Gorakh Sharma S/o- Rachan Sharma
- Opposite party Nos. 2 to 4 are R/o- Nauranga, P.S.-G.B. Nagar,
District- Siwan.

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad 1

For the Respondent/s : Mr. Nirbhay Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

6 30-11-2016

This criminal revision application has been filed against the judgment and order dated 12.05.2009 passed by the learned Additional District & Sessions Judge (Fast Track Court No. III), Siwan in Sessions Trial No. 80 of 1995, whereby, while convicting the opposite party Nos. 2 to 4 of the offences punishable under Sections 324/34 of the Indian Penal Code, the trial court has recorded their acquittal of the offence punishable under Section 307 of the Indian Penal Code.

2. Briefly narrated, case of the prosecution is that the informant was going to construct a Brick wall over a land for the purpose of construction of her house. Allegedly, one Gorakh Mistri, who happened to be her agnate, objected to it. In the meanwhile, the



other accused persons including opposite parties came. Allegedly, opposite party No.2 was armed with spade and opposite party No.3 was armed with knife. On the instigation of opposite party No.4, accused, Rameshwar Mistri gave a blow with knife on the right side of abdomen of the informant in order to kill her. Ramnath Mistri thereafter assaulted the informant. The informant was thereafter taken to hospital for treatment.

3. With these allegations, an F.I.R. came to be registered for the offences punishable under Sections 307, 323 and 324 read with Section 34 of the Indian Penal Code.

4. Before framing of charge, in course of trial, Rameshwar Mistri against whom there was allegation of giving blow with knife had died and, accordingly, charge was framed against these opposite parties only for commission of offence punishable under Sections 307, 323 and 324 read with Section 34 of the Indian Penal Code. Since the said opposite parties denied the charge, the trial commenced.

5. At the trial, altogether four (4) witnesses were examined including the son of the informant as P.W.-1. P.W.-2 was declared hostile. P.W.-3, the Doctor, who had examined the informant, found incised wound on the right upper quadrant of abdomen, 1½ X 1/5” skin deep injury. He also proved injury No.2



as swelling on the back side of the neck. The doctor opined that the injury No.2 was simple in nature. I.O. was examined as P.W.-4.

6. Considering the evidence of P.W.-1 and the evidence of the Doctor that injury was simple in nature and, therefore, no commission of offence under Section 307 could be established beyond all reasonable doubts, learned trial court recorded acquittal of opposite parties Nos. 2 to 4 of the offence punishable under Section 307 of the Indian Penal Code and held them guilty of the offence punishable under Section 324 read with Section 34 of the Indian Penal Code. They have, accordingly, been sentenced to undergo imprisonment for a period of two years.

7. I do not find any legal infirmity in the conclusion recorded by the learned trial court that the prosecution failed to establish the charge under Section 307 of the Indian Penal Code against opposite party Nos. 2 to 4 beyond all reasonable doubt. The said judgment and order does not require any interference.

8. This criminal revision application has no merit and is, accordingly, dismissed.

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(Chakradhari Sharan Singh, J.)

