

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.36 of 2016

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1. Shankar Mandal @ Shivshankar Prasad Mandal S/o Shri Ganga Prasad Mandal resident of village- Fulkaha, P.S. - kishanpur, District-Supaul

.... Appellant/s

Versus

1. The State of Bihar

2. Baidyanath Choudhary S/o Shri Moti Choudhary resident of Nirmali at Present Supaul, Ward No. - 1 Lohiya Nagar Supaul, P.S. and District-Supaul

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Naresh Kumar Mehta

For the Respondent/s : Mr. Sri Bipin Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 13-12-2016

Heard learned counsel for the parties.

This application for leave to appeal under Section 378(4) of the Code of Criminal Procedure, 1973 has been filed to assail the judgment and order, dated 22.04.2016, passed by learned ACJM-Ist, Supaul in Complaint Case No. 458 of 2000, whereby he has recorded acquittal of Opposite party No.2 of the charge punishable under Sections 406 and 420 of the Indian Penal Code.

From the impugned judgment and order, it is evident that acquittal has been recorded mainly on the ground of apparent contradictions between the evidence of prosecution witnesses and insufficiency of evidence.



Learned counsel appearing on behalf of the petitioner has submitted that contradictions in the evidence of witnesses were not so vital as to give the Opposite party No.2 cline chit. He has submitted that learned Court below has taken into consideration minor contradictions and recorded acquittal.

I have perused the impugned judgment and order. It is not the case of the petitioner that the evidence of the prosecution witnesses as described in the said judgment and order is incorrect. Whereas the complainant alleged that he had given to the Opposite party No.2 a sum of Rs. 50,000/- (fifty thousand), one of the witnesses deposed that the amount so paid was Rs. 70,000/-. Further, the prosecution could not produce any chit of paper or any other reliable evidence to prove the payment of the said amount to Opposite party No.2. Thirdly, the petitioner had claimed in his complaint petition that he will be producing tape recorded conversation between him and Opposite party No.2. However, no such evidence was brought on record at the trial.

In such circumstance, I do not find any illegality or other infirmity in the impugned judgment and order.

This application for leave to appeal has no merit and



is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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