

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.31 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Umesh Narayan, son of Late Laxmi Narayan Singh, resident of village Suitha, Police Station Phulwari, District Patna, at present, residing at 9 MIGH, Lohia Nagar, Kankarbagh Colony, Police Station Kankarbagh, District Patna

.... Appellant

Versus

1. The State of Bihar
 2. Ramashish Singh, son of Sri Sarvanand Singh
 3. Rakesh Singh @ Santu Singh, son of Ramashish Singh
- 2 and 3 are resident of village Bhatheri, Police Station Maner, District Patna, at present Rakesh Kirana Store, Salimpur Ahra, Police Station Kadam Kuan, District Patna

.... Respondents

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Appearance :

For the Appellant/s : Mr. Devendra Kumar Sinha, Sr. Adv.
Mr. Abhinay Raj, Advocate

For the Respondent/s : Mr. Bipin Bihari, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date: 29-11-2016

This petition, seeking leave to appeal against the judgment and order, dated 05.05.2016, passed, in Complaint Case No. 289(C) of 1989, by the learned Judicial Magistrate, 1st Class, Patna, has been preferred under Section 378 (4) of the Code of Criminal Procedure, 1973.

2. The complaint case was filed in the year 1989.

At the trial, 5 (five) witnesses were examined, including the

complainant, as PW 3, and his two sons, as PW 1 and PW 5.

3. From the judgment and order, which is sought to be challenged, it transpires that there was long pending land dispute between the complainant and the accused persons, which was pending on the date of filing of the complaint petition. It also transpires that PW 4, who had deposed as an independent witness, in cross-examination, has admitted that he had deposed more than once on behalf of the complainant against the same accused persons and he, too, had lodged a case against the accused persons.

4. In such circumstance, the learned Trial Court, taking into account the fact that almost all the prosecution witnesses being highly interested witnesses and no independent witnesses came forward to support the case of the prosecution, recorded acquittal of the respondent nos. 2 and 3. At the trial, the witnesses had deposed that many people were staying with their families in the vicinity of the place of occurrence, but none of them appeared before the learned Trial Court in support of the case of the prosecution.

5. I have also noticed that the learned Trial Court took into account certain contradictions in the evidence of the witnesses for recording acquittal of the respondent nos. 2 and 3 since, according to the learned Trial Court, the prosecution failed to prove the offence beyond all reasonable doubt.



6. Mr. Sinha, learned Senior Counsel, appearing on behalf of the appellant, has submitted that the reasons assigned by the learned Trial Court for rejecting the prosecution evidence is not valid since there was nothing to disbelieve the evidence of witnesses, who had deposed in support of the case of the prosecution. He has contended that the evidence of even interested witnesses were not worth being discarded by the learned Trial Court completely.

7. However, on perusal of the impugned judgment and order, I find that the findings recorded by the learned Trial Court cannot be said to be completely perverse, requiring interference by this Court against the judgment and order of acquittal.

8. It is true that evidence of interested witnesses cannot be altogether discarded, but, at the same time, it is also a well recognized principle that evidence of such witnesses must be appreciated with a high degree of care and caution and can be accepted only if such evidence is duly corroborated.

9. Nothing clinching has been shown to me on the basis of which it could be held that conviction of the respondent nos. 2 and 3 could have been the only possible view.

10. In such view of the matter, I do not find any

merit in this application. This application is, accordingly,
dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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