

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No 1061 of 2016

Arising Out of PS.Case No. -60 Year- 2008 Thana -BAIKUNTHPUR District- GOPALGANJ

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Satya Narayan Rai Son of Pathlu Rai Resident of Village- Sirsa Setha, P.S.-
Baikunthpur, District- Gopalganj.

.... Appellant/s

Versus

1. The State of Bihar
2. Satya Deo Rai Son of Late Sheolal Rai
3. Manager Rai
4. Indal Rai
5. Parshuram Rai
6. Sipahi Rai
7. Nandlal Rai
8. Hiralal Rai
9. Munnillal Rai 3 to 9 sons of Satya Deo Rai All residents of Village- Sirsa Setha,
P.S.- Baikunthpur, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Rama Kant Sharma, Sr Advocate with
Mr Laxmi Kant Sharma, Advocate

For the S t a t e : Mr G P Jaiswal, APP

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 09-12-2016

Heard Shri Ramakant Sharma, learned Senior Counsel in
support of this appeal against acquittal.

2 He draws our attention to the nature of injury to
submit that the trial Court wrongly acquitted the accused persons for
an offence under Section 307 of Indian Penal Code (for brevity, *IPC*).
He alternatively argues that if it was not under Section 307 of IPC



then at least, the accused persons ought to have been held guilty under Section 325 of IPC for causing grievous injury.

3 We have gone through the medical evidence as reflected in the judgment. The opinion of the doctor is, the injuries are all simple. The allegation is that injured persons did not produce any x-ray as it was suggested. Further, the allegation being that about 8 people, heavily armed, indiscriminately assaulted. If that was so then surely there ought to have been grievous injuries. If we come to Section 307 of IPC, one of the essential ingredients contained therein is the intent to kill. 7-8 persons could not kill unarmed person who is only receiving simple injuries. This is a fight amongst agnates.

4 That being so, there cannot be any intent to kill. The trial Court has not committed any error. So far as grievous injuries are concerned, there is no evidence on record produced by the prosecution to support the same.

5 We, therefore, find no merit in this appeal. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

M.E.H./-

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