

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1047 of 2016

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1. Kritya Nand Singh, son of Late Chehangoli Singh, resident of Village- Rampur, Mohanpur, Purvi Tola, Ward No.7, Police Station- Bairganchhi, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Birendra Bahardar, son of Sadhu Bahardar
3. Bidyanand Bahardar, S/o Sukhdev Bhardar
4. Ashok Bahardar, S/o Ganga Bahardar
5. Premlal Bahardar, S/o Minai Bahardar
6. Balkrishn Bahardar, S/o Sadhu Bahardar
7. Kishundev Bahardar, S/o Sukhdev Bahardev
8. Rania Devi, W/o Premlal Bahardar
9. Most Maini Devi, W/o Sukhdev Bahardar

All are resident of Village- Rampur Mohanpur Purvi Tola, Budheshari, Police Station- Bairgachhi, District- Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Giri, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 20-12-2016

Heard.

The present application, under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, has been



filed against the order, dated 30.08.2016, passed by the learned 1st Additional Sessions Judge, Araria, in Criminal Appeal No. 11/61 of 2008, arising out of Trial No. 22 of 2008, whereby and whereunder, he has set-aside the judgment of conviction and order of sentence passed by the learned Judicial Magistrate, Ist Class, Araia, dated 16.07.2008.

Learned trial Court had convicted opposite party Nos. 2 to 9 of the offence punishable under Sections 148 and 323 of the Indian Penal Code and sentenced them to undergo imprisonment for three (3) years for the offence punishable under Section 148 of the Indian Penal Code and one (1) year for the offence punishable under Section 323 of the Indian Penal Code.

Learned trial Court, upon reappraisal of the evidence on record, has recorded acquittal of the opposite parties, as according the appellate court below; the prosecution could not establish the charge against the opposite parties against all reasonable doubts.

Learned counsel, appearing on behalf of the injured witnesses, has submitted that the findings arrived at by the learned appellate court below is erroneous inasmuch as, he has not taken into account the medical evidence, particularly the injury report. He has further submitted that the learned court below



unnecessarily accepted the defence version, while recording acquittal of the opposite parties.

What I notice from the judgment and order, under challenge, that appellate court below found that some of the injured persons, who were material witnesses, were not produced at the trial as prosecution witnesses and only interested witnesses supported the prosecution case at the trial. He also came to a conclusion that some of the persons, who were eye-witnesses, were not produced at the trial, which was sufficient to cast a shadow of doubt on the case of the prosecution. I do not find any legal infirmity in the impugned judgment and order.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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