

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.231 of 2004

(Arising out of Judgment and order of conviction dated 28.2.2004/10.3.2004 passed by the Additional District and Sessions Judge, Fast Track Court-III, Munger, in connection with Sessions Case No. 206 of 1996 arising out of Surajgarha Piri Bazar P.S. Case No. 123 of 1994)

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1. Vijay Singh @ Bijay Kumar Singh, son of Jaiprakash Singh
 2. Anil Singh @ Modakwa, son of Triveni Singh
 3. Manoj Singh, son of late Ramcharitra Singh
 4. Dilip Singh, son of late Ramcharitra Singh

All resident of village Ghosaith, P.S. Piri Bazar, Distt. Lakhisarai

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. B.S. Tiwary, Adv.
Mr. Sanjay Pandey, Adv.
Mr. Rakesh Ranjan Mishra
Mr. Prafull Chandra Dwivedi

For the Respondent/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-02-2016

Heard learned counsel for the Appellants and the learned
Additional Public Prosecutor.

2. The Appellants have been convicted under Sections 201 and 120(B) of the Indian Penal Code and sentenced to rigorous imprisonment for three years and a fine of Rs.2,000/- under both counts by the Additional District & Sessions Judge, Fast Track Court III, Munger, by a Judgment and order of conviction dated 28.2.2004/10.3.2004 in Sessions Case No. 206 of 1996 arising out of Surajgarha Piri Bazar P.S. Case No. 123 of 1994.

3. The case of the Prosecution according to the Informant Pankaj Kumar Singh is that on 8.5.1994, Appellants killed

his brother Pintu Kumar Singh, whereafter, he was not found. In course of search, several witnesses said that they had seen Pintu Kumar on 7.5.1994 between 9:00 P.M. to 11:00 P.M. going towards a pond along with some other accused persons. When the Informant asked these Appellants as to whether the brother was, he had denied giving satisfactory reply and in course of search, the dead body was found in a pool of blood. He thus suspected him to be killed by the accused persons.

4. During Trial, the Prosecution has examined 10 witnesses out of whom PW-4 Gulli Singh has been declared hostile. PW-1 Rajo Singh, PW-2 Birendra Singh, PW-3 Sanjeev Kumar, PW-5 Ram Bilash Singh, PW-6 Pankaj Kumar Singh, PW-7 Bhim Sinch and PW-8 Ramsarup Singh are material witnesses.

5. PW-6, Pankaj Kumar Singh, is the Informant who supports the earlier version given in the Fard-beyan with regard to the Appellants having taken away his brother who was thereafter, seen in the company of other accused persons and after which his dead-body was recovered. This fact is supported by PWs 1, 2, 5 and 7 who also stated that the deceased had been seen in the company of the present Appellants.

6. PW-10, Basant Kumar Singh, who is the Investigating Officer stated that he had seen the dead body of Pintu Kumar and some blood stains near the Bathan of Appellant No. 4 and

Dilip Singh.

7. The Doctor who performed the Postmortem found several incised injuries on the persons of the deceased and fire-arm injuries. In his opinion, the death was due to haemorrhage and asphyxia.

8. On going through the evidence of the witnesses, I find that there is uncorroborated evidence that some two years back, an occurrence of Mar-Pit had taken place between the Appellants and the father of the Informant on account of land dispute and the deceased had been in the company of the Appellants. There is no further circumstance to suggest that it was the Appellants who had killed the deceased or conspired or concealed his dead body.

9. I, thus, find that apart from suspicion, there is no material against the Appellants and, hence, the Appeal is allowed and the Judgment and order of conviction dated 28.2.2004/10.3.2004 passed by the Additional District & Sessions Judge, Fast Track Court III, Munger, in connection with Sessions Case No. 206 of 1996 arising out of Surajgarha Piri Bazar P.S. Case No. 123 of 1994, is hereby set aside.

(Anjana Prakash, J)

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