

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (SJ) No.5 of 2016

=====

The State of Bihar

.... Appellant/s

Versus

1.Kedar Singh son of Late Bindeshwar Singh
2. Hari Singh Son of Late Bindeshwar Singh
3. Vijay Singh son of Late Bindeshwar Singh
4. Rajiv Singh Son of Hari Singh
5. Sri Narayan Dubey son of Late Chatur Dubey. All are residents of
village- Aura, P.S. Tariyani, District-Sheohar Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Parmeshwar Mehta, Advocate

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

2 28-11-2016

I. A. No. 1088 of 2016

I. A. No. 1088 of 2016 has been filed, seeking
condonation of delay in filing the present government appeal
under section 378(1) and (3) of the Code of Criminal Procedure,
1973.

I A. No. 1088 of 2016 is allowed.

With the consent of learned counsel appearing on
behalf of the appellant, this appeal has been heard on the point of
admission and this being accordingly disposed of by the present
order.

The State Government of Bihar has preferred the
present government appeal against the judgment and order of
acquittal dated 12.10.2015 passed by learned Additional District
and Sessions Judge-I, Sheohar in Sessions Trial No. 424 of 2007

whereby the respondents have been acquitted of the charges punishable under Sections 341, 323 and 504/34 of the Indian Penal Code and Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act.

Learned counsel appearing on behalf of the appellant has submitted that though, at the trial, nine prosecution witnesses adduced evidence in support of the charge, learned court below recorded acquittal of the respondents without duly appreciating the evidence on record.

I have perused the order under appeal passed by learned Additional Sessions Judge-I, Sheohar and the materials on record and considered the submission advanced on behalf of the appellant. It is apparent that the respondents have been acquitted mainly on the ground that the occurrence had not taken place within the public view in order to make out a case under Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act. Further, no evidence to prove use of abusive word produced at the trial as recorded by the learned trial court which has also not in dispute. Learned trial court has recorded that on the basis of evidence on record, charge of the offences punishable under Sections 341 and 323 of the Indian Penal Code also could not be established and lodging of the First Information Report itself so malicious prosecution.

The findings recorded by the court below cannot be said to be contrary to the evidence on record. This Court, an appeal against acquittal is not required to re-appreciate the evidence and interference in judgment of acquittal is warranted only if the findings can be termed to be perverse.

It is trite that a judgment of acquittal strengthens the presumption of innocence of an accused, only in exceptional circumstances, this Court can be required to interfere with the judgment of acquittal.

I do not find any merit in this appeal, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Vats/-

U		T	
---	--	---	--