

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.26 of 2016

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1. Dev Narayan Sah, S/O Late Naviv Sah, Resident of Village- Balhi Tola
Sakrouli, Police Station- Simari Bakhtiarpur, District- Saharsa.

.... Appellant/s

Versus

1. The State of Bihar.

2. Brahamdeo Yadav, S/o Late Sadhu Sharan Yadav, Resident of Village-
Sabaila, Police Station- Sour Bazar, District- Saharsa.

3. Mansukh Sah, S/o Late Janki Sah, Resident of Village- Balhi Tola
Sakrouli, Police Station- Simari Bakhtiarpur, District- Saharsa.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shailendra Kumar Singh

For the Respondent/s : Mr. Sri Zeyaul Hoda

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

4 05-12-2016

The Respondent Nos. 2 and 3 were put on trial on the charge of commission of offence punishable under Sections 419 read with Section 109, 420, 467, 469 read with 120B of the Indian Penal Code, along with other co-accused persons. One Naresh Yadav, a co-accused was charged of an offence punishable under Section 419 of the Indian Penal Code, in addition to other sections as noted above. The trial Court convicted all the accused persons including Respondent Nos. 2 and 3. Learned appellate Court has, however, while affirming conviction of other persons has recorded acquittal of Respondent Nos. 2 and 3 by the judgment and order, dated 19.04.2016, passed in Criminal Appeal No. 05 of 2014 by learned Third Additional Sessions Judge, Saharsa.



2. The appellant is aggrieved by the said judgment and order, dated 19.04.2016 passed in Criminal Appeal No. 05 of 2014 by the learned Third Additional Sessions Judge, Saharsa to the extent the said Respondent Nos. 2 and 3 have been acquitted of the charge.

3. Briefly narrated, the case of the prosecution as unfolded in the complaint petition is that the appellant had purchased a piece of land for construction of a house on 28.06.1996 from one Dinesh Yadav, whereafter he had taken possession. Co-accused Yugeshwar Yadav objected to such construction being made on the ground that he had purchased the same piece of land from one Rameshwar Sah nearly 30 years ago. The appellant filed a complaint case making the allegation that the sale deed said to have been executed by the said Rameshwar Sah in favour of the co-accused Yugeshwar Yadav was forged and fabricated document inasmuch as Rameshwar Sah had left the place of his residence nearly 30 years ago and his whereabouts were not known to any one. Respondent Nos. 2 and 3 were also made accused in the said complaint Case No. 591C/1996 filed in the Court of learned Chief Judicial Magistrate, Saharsa on the allegation that Respondent No.2 had identified the person, who had executed the sale deed, who was certainly not Rameshwar Sah, rather, he was Naresh Yadav.



Respondent No.3 was implicated on the ground that he was a witness to the said forged and fabricated sale deed.

4. I have perused the judgment and order of the learned trial Court and the appellate Court. From the judgment of the appellate Court, I find that the appellate court recorded acquittal of Respondent Nos. 2 and 3 since the prosecution failed to establish conclusively that the signatures of Respondent Nos. 2 and 3 on the sale deed were in fact in their own handwriting.

5. After having appreciated the evidence on record if the learned appellate Court, in such circumstance, has recorded acquittal of Respondent Nos. 2 and 3, I do not find that the petitioner is able to make out a case for grant of leave to appeal.

6. Accordingly, this application for grant of leave is rejected.

(Chakradhari Sharan Singh, J)

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