

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.10 of 2016

Arising Out of PS.Case No. -116 Year- 2004 Thana -BIHPUR District- BHAGALPUR

=====

Anil Das, Son of Upendra Das, Resident of Village-Amari, Police Station-Bihpur, District Bhagalpur.

.... Appellant/s

Versus

1. The State of Bihar..
2. Bindeshwari Mandal Son of Singheshwar Mandal
3. Ram Mandal Son of Singheshwar Mandal
4. Naresh Mandal Son of Jodhan Mandal
5. Mahendra Mandal Son of Jodhan Mandal
6. Radhe Mandal Son of Narayan Mandal
7. Prakash Mandal Son of Suresh Mandal
8. Swaroop Lal Mandal son of late Visho Mandal Respondent No. 2 to 8 resident of Village- Amari (Vishanpur), Police Station -Bihpur, District Bhagalpur.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ram Sevak Choudhary, Advocate
For the Respondent/s : Mr. S.A.Ahmad, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 02-12-2016 This is an appeal under proviso to Section 372 of the Code of Criminal Procedure, 1973 preferred by the informant against the judgment and order dated 18.09.2015 passed by learned 1st Additional Sessions Judge-cum-Special Judge SC/ST (POA Act), Bhagalpur arising out of Bihpur P.S. Case No. 116 of 2004, G.R. No. 419 of 2004, whereby the opposite parties No. 2 to 8 have been acquitted of the charge punishable under Sections 342, 323, 324, 385 of the Indian Penal Code and Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities), Act, 1989.

It is submitted on behalf of the appellant that despite there being adequate evidence to establish charge under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, learned trial court ignoring the evidence, recorded acquittal of respondents No. 2 to 8. It has also been submitted that conclusion arrived at by the court below that the prosecution failed to establish the charge, beyond all reasonable doubt, is perverse.

I have perused the judgment and order under appeal. It is evident from the judgment and order under appeal that neither the Doctor nor the Investigating Officer was examined. The court noticed that there were multiple versions of the occurrence presented by the prosecution at the trial. Learned trial court recorded that in view of apparent contradiction in the evidence of witnesses, the Respondents could not be held guilty of the offence beyond all reasonable doubt.

On careful examination of the impugned order, I find that the trial court has discussed the evidence at the trial in detail. It is not the case of the appellant that evidence of the witnesses has wrongly been described in the impugned judgment.

It is trite that in an appeal against acquittal, the



appellate court is required to interfere only when the view taken by the trial court, cannot be said to be a reasonably possible view on the basis of evidence at the trial. On the ground that other view is also possible, interference in an appeal against acquittal will not be justified. It is evident from the materials on record that witnesses, at the trial, were not found to be truthful.

In such circumstance, the judgment and order passed by 1st Additional Sessions Judge-cum-Special Judge SC/ST (POA Act), Bhagalpur does not require interference.

This appeal stands dismissed, at the stage itself.

(Chakradhari Sharan Singh, J)

Vats/-

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

