

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.114 of 2016

Arising Out of P.S. Case No. -75 Year- 2007 Thana -BIHRA District-
SAHARSA

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1. Yogendra Paswan, Son of Late Govind Paswan, Resident of
Village - Sihaul, P.S. - Bihra, District - Saharsa.

.... Appellant/s

Versus

1. The State of Bihar.

2. Md. Shamim Miyan @ Md. Shamim, aged about 45 years, Son
of Md. Nuro Miyan @ Md. Nuro,

3. Md. Salam Miyan @ Salam, aged about 27 years, Son of
Alauddin,

4. Md. Kalam Miyan @ Md. Kalam, aged about 29 years, Son of
Alauddin @ Muslim,

5. Allauddin, aged about 50 years, Son of Late Isho Miyan,

All resident of Village - Sihaul, P.S. - Bihara, District - Saharsa.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Madhav Jha, Adv.

For the Respondent/s : Mr. Ajay Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 10-11-2016

This is an appeal, under the proviso to Section 372
of the Code of Criminal Procedure, 1973, against the judgment
and order, dated 16.12.2015, passed by learned 1st Additional

Sessions Judge-Cum-Special Judge, Saharsa, under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, in G.R. No. 954 of 2007, arising out of Bihra P.S. Case No. 75 of 2007, whereby, he has recorded acquittal of respondent Nos. 2 to 5.

2. Respondent Nos. 2 to 5 were put on trial on the charge of commission of the offence punishable under Sections 341, 323, 427 and 504 read with Section 34 of the Indian Penal Code and Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The informant (P.W. 6) alleged in his complaint petition, which is the basis of registration of the concerned Bihra P.S. Case No. 75 of 2007, that the respondents were forcibly and illegally cutting wheat crop from the field of one Bhagwan Jha, which was planted by him. On objection having been raised, respondent Nos. 2 to 5 are said to have abused the informant by taking his caste name.

4. It appears from the record that altogether six witnesses were examined by the prosecution at the trial. P.W. 2 and P.W. 3 did not support the case of the prosecution and accordingly they were declared as hostile to the prosecution. P.W. 6, the informant, himself did not support the case of the prosecution and he too came to be declared hostile.

5. Learned trial Court upon due analysis of the

evidence, adduced at the trial, doubting the case of the prosecution has recorded acquittal.

6. It is difficult to conclude on the basis of material available on record that conviction could have been the only conclusion on the basis of the evidence adduced at the trial. Upon analysis of evidence, particularly the contradiction in the evidence adduced on behalf of the prosecution and the informant (P.W. 6) himself not supporting the case of the prosecution, if the learned trial Court has recorded acquittal of respondent Nos. 2 to 5, I do not find any reason to interfere with the same in the present appeal preferred against order of acquittal.

7. This appeal has not merit and it does not deserve admission.

8. The appeal is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-c

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