

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.25 of 2016

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1. Anil Kumar @ Raju son of Kedar Prasad, Resident of Village-Mirganj, Ward No.9, P.S.- Mirganj, District-Gopalganj.

.... Appellant/s

Versus

1. Verma Prasad @ Brahma son of Late Mohan Lal
2. Sarswati Kumar D/o Verma Prasad
3. Munni Kumari D/o Verma Prasad
4. Sita Kumari D/o Verma Prasad
5. Sunita Kumari D/o Verma Prasad
6. Rina Kumari D/o Verma Prasad All are resident of village Mirganj, Ward No. 9
7. Draupadi Devi wife of Mukti Prasad
8. Mukti Prasad S/o Shyam Sundar Prasad Both Resident of Village Mirganj, Ward No.8 (Brahma Sthan), P.S.- Mirganj, District- Gopalganj.
9. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar Tiwary

For the Respondent/s : Mr. Sri Bipin Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 19-12-2016 I. A. No. 1321 of 2016 has been filed for condoning the delay in filing the present application for leave to appeal to assail an order dated 18.03.2016 passed by learned Judicial Magistrate Ist Class, Goaplganj in Trial No. 1448 of 2016 arising out of Complaint Case No. 1115 of 2004.

2. For the reasons mentioned in the application seeking condonation of delay, the same is allowed. Delay stands condoned.

3. Though the matter has been listed on the point of



limitation, after having condoned the delay, with the consent of the learned counsel for the petitioner, this application is being disposed of at this stage itself.

4. By the impugned judgment and order, learned Judicial Magistrate Ist Class, Goaplganj has recorded acquittal of the respondents, who were put on trial on the charge of commission of offences punishable under Sections 147,323,325,341,379 of the Indian Penal Code.

5. On perusal of the impugned judgment and order, I notice that the Court below has taken into account the material contradictions in the statement of complainant's witnesses, which were found also to be at complainant's own case. Case of the prosecution as narrated by the witnesses at the trial appeared to be entirely different from what was narrated in the complaint petition. I have noticed that C.W.1 in his evidence deposed that Opposite parties No. 2 and 6 both had assaulted the complainant with *rod*, whereas the complainant had asserted in his complaint petition that only Opposite party No.2 had assaulted the complainant with *daab*. Further, the complainant did not disclose in his complaint petition that Swami Nath was also present at the place of occurrence, whereas at the trial, the said Swami Nath was produced by the prosecution as eye-witness. These contradictions



coupled with the fact that there was delay in lodging of the complaint petition and the complainant himself was charge-sheeted by the police in a case lodged by Respondent No.1, the Court below recorded that the prosecution could not prove the charge beyond all reasonable doubt.

6. I do not find any reason to allow this application for grant of appeal since I do not find any merit in the plea taken on behalf of the petitioner.

7. This application has no merit and is, accordingly, dismissed. Leave to appeal is, hereby, rejected.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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