

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.881 of 2016

Arising Out of PS.Case No. -118 Year- 2001 Thana -DHURAIYA District- BANKA

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Md. Badrujjama @ Badrujjama son of Late Makbul Ahmad,
resident of Village Bishanpur, P.S. Dhoraiya, District Banka

.... Appellant

Versus

1. The State of Bihar.
 2. Md. Mahfooz Son of Late Ajij
 3. Md. Jasim son of Late Lakkho.
 4. Md. Lutto @ Md. Ludo Son of Ismail.
 5. Md. Ajhar
 6. Md. Nayeem both sons of Late Shekhawat.
 7. Md. Akhtar son of Late Shekhawat
 8. Md. Maroof.
 9. Md. Farooque Both sons of Azhar Hussain.
 10. Md. Jamil.
 11. Md. Nasim both sons of Md. Akhtar Hussain All residents of
Village and P.O.Bishanpur, P.S. Dhoraiya, District- Banka
- Respondents

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Appearance :

For the Appellant : Mr. Ranjit Kumar Das No.2

For the Respondents : Mr. Dilip Kr.Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)

Date: 19-09-2016

The instant appeal has been filed against the judgment of acquittal dated 29.2.2016, passed in Sessions Trial No. 391 of 2008/Trial No.192 of 2016, arising out of Gauriya Police Station Case No. 118 of 2001, GR No.1497 of 2001, under sections 147, 148, 323, 341, 325, 307/149 of the Indian Penal Code, whereby respondents no. 2 to 11, namely, Md.

Mahfooz, Md. Jasim, Md. Lutto @ Ludo, Md. Ajhar, Md. Nayeem, Md. Akhtar, Md. Maroof, Md. Farooque, Md. Jamil and Md. Nasim have been acquitted of charges under sections 147, 148, 323, 341, 325, 307/149 of the Indian Penal Code.

2. The informant Badarujamma, in his written statement given to the police station on 19.12.2001, stated that he and others, were cutting paddy crops in the field at about 1 PM. Thereafter, he along with his brother Salauddin, Shabbir and his son Gaffar and his friend Farid were returning to village with bundle of crops. As soon as they reached the place 'Manihat', the accused persons intercepted them. In the meantime, appellant Md. Ajhar asked others to kill the informant, thereafter, appellant Md. Akhtar hurled *lathi* blow on the back side of the informant's head on account of which he got injured and fell down. Thereafter, Md. Mahfuz and Md. Farukh gave *lathi* blow causing fracture injury on his right side hand and other parts of the body. When informant's brother and one Farid came to save him, the aforesaid accused persons also assaulted them.

3. On going through the evidence, we find that neither the informant, nor the doctor who examined the injured was examined in course of trial. Further more, the injury report was not brought on record. As such, the prosecution has not been able to establish that the injuries were caused either to the

informant, or to his brother, or to his son. The trial court on finding that the prosecution has not been able to establish the charges against the appellants, has rightly acquitted the respondents no. 2 to 11.

4. In the attending facts and circumstances of the case, we do not find any reason to interfere with the order of the trial court. The appeal, filed against acquittal of respondents no. 2 to 11, namely, Md. Mahfooz, Md. Jasim, Md. Lutto @ Ludo, Md. Ajhar, Md. Nayeem, Md. Akhtar, Md. Maroof, Md. Farooque, Md. Jamil and Md. Nasim, vide judgment dated 29.2.2016, passed in Sessions Trial No. 391 of 2008/Trial No.192 of 2016, is dismissed.

(Samarendra Pratap Singh, J)

(Rajendra Kumar Mishra, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
Uploading Date	27.9.2016
Transmission Date	