

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.809 of 2016

Arising Out of PS.Case No. -104 Year- 2000 Thana -BEGUSARAI TOWN District- BEGUSARAI

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Gopal Mahto, son of late Baldeo Mahto, resident of village – Bishanpur,
P.S. – Town, District – Begusarai.

.... Appellant

Versus

1. The State of Bihar
2. Gorelal Mahto, son of Late Ram Bahadur Mahto
3. Manoj Mahto, son of Rajendra Mahto
4. Santosh Mahto, son of Rajendra Mahto
All resident of village – Bishanpur, P.S. – Town, District – Begusarai.

.... Respondents

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Appearance :

For the Appellant : Mr. Vivekanand Vivek, Advocate

For the Respondents : Mr. Ashwani Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

2. 19-11-2016

Heard learned counsel for the appellant in

this appeal against acquittal.

Firstly, in our view, the appeal is not maintainable, as the appellant who himself is neither the victim nor the injured person. He is father of the injured Babloo Mahto. Babloo Mahto has been examined as a witness being PW-3. He is alive and does not complain about the order of acquittal.

Thus, in our view, not being a victim, as per section 372 of the Code of Criminal Procedure, this appeal is not maintainable.

However, on persuasion of the learned

counsel for the appellant, we have also gone through the appeal, we find that the judgment and order of acquittal requires no interference.

The trial court has considered the evidence in his right perspective. He has noted that the allegation was that the accused persons had assaulted Babloo Mahto, PW-3 with *Khurpi*, a small agricultural equipment. He sustained bleeding injury behind his ear which required to be stitched in hospital. No injury report was exhibited nor the doctor examined to prove the injury. Six witnesses were examined, out of whom, three are the appellant and his two sons. There are three independent witnesses who did not support the prosecution. The investigating officer was also not examined.

In that view of the matter, if the trial court acquitted the accused persons, we see no reason to interfere. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

Rajeev/-

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