

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1020 of 2016

Arising Out of PS.Case No. -505 Year- 2004 Thana -SULTANGANJ District- PATNA

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Md. Firoz Ahmad, Son of Late Md. Neyaz Ahmad, Resident of Naugarwa,
P.S.- Sultanganj, District- Patna.

.... Appellant

Versus

1. The State of Bihar
2. Khursheeda Parveen, wife of Late Neyaz Ahmad, Resident of Naya Tola, Ishapur, P.S.- Phulwari, District- Patna.
3. Md. Naushad
4. Md. Shamsad, both son of Md. Mojibur Rahman, Resident of Mauza- Ishapur, P.S.- Phulwari, District- Patna.

.... Respondent

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Appearance :

For the Appellant : Mr. Krishna Kant Singh, Advocate

For the Respondents : Mr. Ajay Mishra (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)

3 08-12-2016 The present appeal is filed by the informant who is the victim, against judgment of acquittal dated 30.07.2016 passed by 2nd Additional District and Sessions Judge, Patnacity. (Patna), in Sessions Trial No. 2338 of 2008, arising out of Sultanganj P.S. Case No. 505 of 2004, by which the accused persons being opposite party nos. 2 to 4 have been acquitted of the charges under Sections 307/34, 341, 504 & 120(B) of the Indian Penal Code and Section 27(1) of the Arms Act.

It may be noted that opposite party no. 2 Khursheeda Parveen claims to be the mother of the appellant. It is alleged that



on the date of occurrence opposite party nos. 3 and 4 at the instance of opposite party no.2 shot at the informant and his friend who were grievously injured but survived. Upon information to the police the case was registered and ultimately the trial ended in their acquittal. The trial Court has noted that in spite of summons, warrants and letter written to the authority except the four witnesses no other witnesses including the informant, I.O. and the doctor were examined and, as such, in absence of proper evidence benefit of doubt had been given and judgment of acquittal was passed.

Learned counsel for the appellant submits that no summons was received by the appellant and service thereof, if any shown was a paper formality. The submission is wisely worded and well placed; it means issuance of summons is not denied nor attempts to serve it which belies the submission that they had no acknowledge of the summons. Paragraphs 13 and 14 of the judgment records that the summons and warrants were issued to the witnesses including letter written to the Superintendent of Police for production of official and non-official witnesses. No where it is suggested that the facts recorded in paragraph 13 are in correct. We do not think that this is wrong or an error. It may further be noted that four prosecution witnesses were indeed



examined. They could not name the accused persons though they admitted such an accident. P.W.3 was the tenant of the informant/appellant. If the tenant was examined, can the landlord, who is the informant be said to be not aware of the trial. We think not.

For the reasons aforesaid, we do not find any reason to interfere as in spite of efforts of the Court and in spite of repeated adjournments the prosecution was unable to examine the witnesses. There cannot be a protracted prolonged trial. It must come to an end. There is no miscarriage of justice. This appeal is accordingly dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

R.K.Sinha/abhay

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