

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.69 of 2015

Arising Out of PS.Case No. -13 Year- 1992 Thana -DINARA District- SASARAM (ROHTAS)

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1. RANGLAL PASWAN SON OF LATE LALLAN PASWAN
 2. SATYENDRA SINGH S/O -LATE CHNDARDEO SINGH
 3. SATYANARAYAN MALI S/O- LATE SHIV PRASAD MALI
- ALL RESIDENTS OF VILLAGE GANJ BHARSARA, P.S. - DINARA,
DISTRICT- ROHTAS.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Sada Nand Roy, Adv.

For the Respondent/s : Mr. Binod Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 30-08-2017

Appellants, Ranglal Paswan, Satyendra Singh, Satyanarayan Mali have been found guilty for an offence punishable under Section 147 of the IPC and each one has been directed to undergo S.I. for one year, 308/149 IPC and each one has been directed to undergo S.I. for four years, appellants Satyendra Singh and Satyanarayan Mali have been found guilty for an offence punishable under Section 27 of the Arms Act and each one has been directed to undergo S.I. for seven years, Ranglal Paswan independently has been held guilty for an offence punishable under Section 379 IPC and sentenced to undergo S.I. for one year with a further direction to run the sentences concurrently vide judgment of conviction dated 07.01.2015 and order of sentence dated 15.01.2015 passed by Additional Sessions Judge, IXth, Rohtas at Sasaram in Sessions Trial no.410 of 2013.



2. PW.3, Feku Sah while was admitted at State Dispensary, Dinara gave his fardbeyan on 06-02-1992 alleging inter alia that on 05.02.1992 at about 05:00 PM he had demanded rupees four hundred from Ranglal Paswan which was coming due whereupon Ranglal Paswan abused as a result of which both of them indulged in verbal altercation. During course thereof, Ranglal Paswan, Kasi Paswan, Gaya Paswan caught hold him and then, began to assault with leg-shoe. He ran therefrom raising alarm whereupon other co-accused, namely, Premchand Mali and Satyendra Singh, Chandradeo Singh, Satya Narayan Mali and others armed variously came at his Darwaja. First of all, Chandradeo fired causing firearm injury to Bishwanath Ram, subsequently thereof, Premchand Mali fired causing injury to one Lalita and subsequently thereof, Satyendra Singh fired causing injury to Jagarnath. The accused persons also made house trespass, and abused Laxman Ram. Furthermore, Ranglal Paswan snatched away Rs.500/- from him. Shuknath Ram, Bhim Paswan, Guput Paswan, Kameshwar Prasad, Baban Paswan, Dinanath Ram and others were cited as a witness who have seen the occurrence as well as intervened into the matter.

3. On the basis of the aforesaid fardbeyan, Dinara P.S. Case No.13/1992 was registered followed with an investigation as well as submission of charge sheet, facilitating the trial which met with the ultimate result, the subject matter of instant appeal.



4. Defence case, as is evident from mode of cross-examination as well as statement recorded under Section 313 of the Cr.P.C. is that of complete denial. Furthermore, it has also been asserted that the prosecution party happens to be members of IPF, a banned out fit organization and are indulged in anti-social activities on account thereof, happens to be well known in the locality and in the aforesaid background, they might have sustained the firearm injury in different manner, at different place but, due to group rivalry, appellants have been falsely implicated.

5. In order to substantiate its case, prosecution examined altogether four PWs out of whom PW.1 is Lalita Devi, an injured, PW.2 is Bimal Paswan an independent witness, PW.3 is Feku Sah, the informant, PW.4 is Jagar Nath Ram, another injured. Side by side had also exhibited Ext.1-Signature of informant over fardbeyan.

6. From the record, it is apparent that neither doctor nor Investigating Officer has been examined. In likewise manner, one of the injured, namely, Bishwanath Ram has also not been examined including the other independent PWs so named in the charge sheet. It is also evident that though PW.4 happens to be one of the injured who had substantiated the factum of being injured as a result of firearm injury during course of trial but failed to name his assailant much less, any of the appellant to be member of an unlawful assembly which indulged in rioting and during said course, fired from



the gun causing injury to respective injured. That being so, the prosecution relied upon evidence of remaining three PWs that means to say PW.1, PW.2 and PW.3.

7. PW.1 had stated that on the alleged date and time of occurrence she was fetching water from a hand pipe where she saw Premchand Mali having a double barrel gun in the hand who fired as a result of which she sustained injury over her waist as well as thigh. She also stated that later on she came to know that Bishwanath Ram as well as Jagarnath have also sustained firearm injury. During cross-examination at para-2 she had stated that she sustained injury from back. She had further stated that pellets are still inside her body She was taken to hospital on the following day. In para-4 there happens to be contradiction more particularly to the effect that during course of statement before the police she had not stated to have sustained injury on a firing made by Premchand Mali.

So, from her evidence it is evident that she had not substantiated the allegation having attributed by the informant, PW.3 with regard to earlier part of occurrence whereunder Kasi Paswan, Ranglal Paswan and Gaya Paswan had assaulted him, and in likewise manner, presence of other co-accused including appellant Satyendra Singh, Satyanarayan Mali to his house where firing was made. Not only this, she had not spoken with regard to presence of any other accused save and except Premchand Mali who is not on record as



already dead. So, she had given different kind of narration with regard to occurrence than as projected by the prosecution.

8. PW.2 is Bimal Paswan who had deposed that on the alleged date and time of occurrence, while he was coming to the shop of Feku Sao, he had seen Kasi Paswan, Gaya Paswan and Ranglal Paswan assaulting the Feku Sah over a passage in front of his house. He had further stated that Chandradeo, Satyendra Singh, Premchand Mali, Satyanarayan came duly armed with gun and fired as a result of which Lalita Devi, Bishwanath and Jagarnath sustained firearm injury. The motive for occurrence has been shown over dispute relating to demand of dues which Ranglal Paswan was carrying since before on account of purchase of different household articles on credit from the shop of informant Feku Sao. It has also been asserted that Jagarnath, Vishwanath, Lalita Devi sustained firearm injury at the end of Satyendra Singh, Premchand, Chandradeo, Satya Narain. He had further stated that Jagarnath sustained injury from firing caused by Satendra, Vishwanath sustained injury by Chandradeo, Lalita from the firing made by Premchand. Ranglal Paswan also snatched away rupees five hundred from the informant Feku Sao. During cross-examination at para-5 he has admitted animosity with the accused persons since before and in some of the cases, he had deposed against them. He had further admitted that though he does not happen to be member of IPF but others of his community are. He had further stated that he was taken to S.P. by Feku Sah as well as



Kameshwar Mali out of whom, Kameshwar Mali was a leader who is no more, where his statement was recorded. In para-8 he has stated that while he was in midst of way he heard sound of uproar. He had further stated that his house as well as house of Feku is intervened by 3-4 houses. Then had stated that when he reached near hand pipe which situate near the house of Baban, he heard the uproar. He had seen Feku. Blood was oozing out from his mouth. Blood was also oozing out from his temporal region. He was lying over the ground. Blood had fallen over the ground covering an area of about a hand. He had further stated in para-9 that he had not intervened into the matter nor lifted the Feku. He was cared by others. Feku Sah was saying that rupees five hundred was snatched away by Ranglal Paswan.

9. PW.3 is the informant Feku Sah who had stated that on the alleged date and time of occurrence he had gone to the place of Ranglal Paswan to demand dues which he was carrying on account of purchase of articles on credit from his shop. He began to abuse whereupon, he protested over which, he caught hold him. He was joined by of Kashi Dushad and Gaya. All of them began to assault him with leg and shoe. He shouted which Chandradeo Singh, Satyendra Singh, Premchand Mali, Satyanarayan came, having duly armed. They were armed with country made gun, pistol. Seeing them, he ran therefrom. They chased. He came to his house over which, all of them began to fire. He had further stated that accused persons



taken away rupees five hundred. He had further stated that on account of firing, people sustained injury. The firing made by the Chandradeo hit Vishwanath, Satyendra Singh to Lalita with regard to others, he had stated that he had not seen. Again stated that Lalita, Jagarnath, Bishwanath have sustained firearm injury. Then thereafter, he was taken to hospital where he gave his fardbeyan. Identified his signature over the fardebayn. During cross-examination at para-6 he had stated that accused persons began to fire right from initial stage up to his house. Then had corrected that they began to fire from hand pipe towards his Darwaja. Again corrected, that first of all they fired at his Darwaja. He had further stated that he had gone to the place of Ranglal Paswan where Kasi Paswan and Gaya Paswan were present since before. In para-7 he had stated that when there was ruckus, on account thereof, Satyanarayan Mali and Premchand Mali came from canal side and indulged in an altercation. In para-8 he had stated that he was standing since before at the place where ruckus was going on. When firing begin, he rushed therefrom, came to house and gone inside. As such, he had not seen the occurrence.

10. After having analyzing the evidence, as referred above it is evident that informant himself disowned to be an eye witness relating to the injury having sustained by Lalita, Vishwanath and Jagarnath. As is evident from PW.1, Lalita, one of the victim had shown Premchand Mali to her assailant and in likewise manner PW.2 had also deposed but PW.3, informant contradicted the same and for



that, he identified Satyendra Singh. So far PW.2 is concerned, he was not examined by the Investigating Officer during course of investigation more over, from para-8 as well as 9 of his examination, it is evident that he reached at the place of occurrence after the occurrence. When the aforesaid deficiency are taken together coupled with the fact that PW.4 one of the injured had not identified the appellants to be his assailant as well as assailant of others along with non-examination of the Investigating Officer as well as doctor, it is found and held that prosecution could not succeed in proving its case beyond all reasonable doubt. That being so, the conviction and sentence recorded by the learned lower court is annulled. Appeal is allowed. Appellants are on bail, hence are discharged from its liability.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

AFR/NAFR	A.F.R.
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