

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.540 of 2017

Arising Out of PS.Case No. -284 Year- 2016 Thana -GIRIYAK District- NALANDA
(BIHARSHARIFF)

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1. Shiv Balak Singh S/o Late Raghunandan Singh Resident of Village-
Ghosrwan, P.S. Giriyak in the district of Nalanda.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 12-05-2017 Heard learned counsel for the appellant as well as
learned Special PP for the State.

Deceased Rajo Manjhi along with one Karan of Village,
Kerua had gone for fishing. Later on, Karan came and informed
the informant, Shivarti Devi, wife that Rajo Manjhi was being
assaulted by two persons of Village, Ghosrwa and Lakhachak,
whereupon she along with villagers had gone and found the
deceased in injured and unconscious condition. He was lifted to
hospital where, during course of treatment, succumbed to his
injuries. From perusal of the case diary, it is evident that during
course of further statement informant had developed her story by
introducing that the deceased was murmuring that Dayanand
Singh as well as Shiv Balak Singh assaulted him as he refused to
part with the fish. Karan as well as informant, both have been



examined under Section 164 CrPC whereunder informant had disclosed that firstly Karan had disclosed regarding main assailants to be Dayanand Singh and Shiv Balak Singh and further deceased had also disclosed the same. While Karan had disclosed that Dayanand and one more had assaulted whereupon he ran away and further informed the informant. He had not uttered a word over dying declaration.

The reliability of the dying declaration, at the present moment, did not attract proper scrutiny so, in the aforesaid background, appellant, Shiv Balak Singh who is under custody since 24.10.2016, is directed to be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of 1st Additional District and Sessions Judge-cum-Special Judge, Nalanda at Biharsharif in connection with Giriyak PS Case No. 284/2016, after setting aside order dated 15.11.2016 passed by learned lower court.

This appeal is allowed.

(Aditya Kumar Trivedi, J)

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