

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.600 of 2002

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Parshuram Yadav, Son of late Dhanuk Yadav, resident of Village- Badki, P.S.-
Karama, District- Aurangabad.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranbir Singh (Amicus Curiae)
For the Respondent/s : Mr. Sujeet Kumar Singh, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 11-11-2017

In this appeal filed by the appellant under Sections 374(2) and 389(1) of C.P.C., he calls in question the tenability of his conviction vide judgment dated 27.9.2002 passed by the learned Additional Sessions Judge (Fast Track Court No.1), Aurangabad in Sessions Trial No.148/90/184/02 convicting him for offences under Sections 324 and 448 of I.P.C. and sentencing him to undergo two years' R.I.

It is the case of the prosecution that the accused and the informant Ram Vilas Yadav are real brothers. On 14.6.1987 at 6:00 a.m., it is said that when the informant was to go outside his house for attending the call of nature and his wife, P.W.2 Soniya Devi was sweeping the courtyard, the appellant came there with a sword and gave a blow on the left side of the back of his wife and



when the appellant tried to save her, the appellant assaulted on the left forearm of the informant because of which they sustained injury. It is said that the F.I.R. was lodged, they were referred to Gaya hospital where they were treated and the injury reports, Exts.3 and 3/A was produced. The prosecution examined six witnesses. P.W. 1 Indradeo Yadav and P.W.5 Ranjit Yadav were produced as eye-witnesses, but they did not support the case of the prosecution and, therefore, they were declared hostile. P.W. 6 Satyendra Prasad is a witness who proved the F.I.R. Except P.W.2. Soniya Devi, who is the injured wife of P.W.3 Rambilas Yadav, and P.W.4, Ram Pravesh Yadav, another eye-witness has been declared hostile. Even though the learned trial Court has convicted the appellant on the oral testimony of P.W.2 and P.W.3, the injured witness and the informant, records indicate that the I.O. and the Doctor who had treated and submitted the injury report, Exts.3 and 3/A, have not been examined. The evidence available on record and the categorical finding recorded by the trial Court is to the effect that the informant and the appellant are real brothers and various family disputes between them were being contested in Courts of Law. In spite of the same, based on the oral testimony of the brother of the appellant and his sister-in-law, the appellant has been convicted. Neither the I.O. has been



examined nor the injury report, Exts.3 and 3/A proved by examination of the Doctor who submitted the report. His non-examination on the injury report has caused prejudice to the appellant as the appellant was denied the opportunity to challenge the veracity of the medical evidence by cross-examination of the Doctor who had authored the document. This, in my considered view, has caused great prejudice to the appellant and as the nature of injury sustained by them itself has not been proved by the prosecution in the instant case, that itself is a good ground for acquittal of the appellant.

Accordingly, the appeal is allowed. The impugned judgment is quashed. The appellant is acquitted of the charge. He is discharged from the liability of the bail-bonds.

(Rajendra Menon, CJ)

K.C.Jha/-

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