

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.627 of 2017

Arising Out of PS. Case No.-70 Year-2009 Thana- LAXMIPUR District- Jamui

Ranvir Kumar Mandal @ Ranbir Kr. Mandal, son of Shiv Narain Mandal,
resident of village Kakanchaur, P.O. Digghi, P.S. Laxmipur, District Jamui

... .. Appellant/s

Versus

1. The State Of Bihar
 2. Ram Bahadur Mandal, son of Late Bhuneshwar Mandal
 3. Ram Charitar Mandal, son of Late Bhuneshwar Mandal
 4. Munil Mandal @ Prabhat Mandal, son of Ram Bahadur Mandal
 5. Sunil Mandal, son of Ram Bahadur Mandal
 6. Anil Mandal, son of Bhuneshwar Mandal
 7. Ramesh Mandal, son of Sri Niwas Mandal
 8. Pankaj Mandal, son of Ram Charitar Mandal
 9. Umesh Mandal, son of Sri Niwas Mandal
 10. Amit Kumar Patel @ Amit Kumar, son of Ram Bahadur Mandal
 11. Sujit Mandal, son of Jai Prakash Mandal
- All resident of village Kakanchour, P.S. Laxmipur, District - Jamui

... .. Respondent/s

Appearance :

For the Appellant/s	:	Sri Ajay Kumar Thakur
		Sri Nilesh Kumar
For the Respondent/s	:	Sri Satya Narayan Prasad

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

6 24-11-2017 Heard Sri Ajay Kumar Thakur, learned counsel, assisted
by Sri Nilesh Kumar, learned counsel for the appellant and Sri
Satya Narayan Prasad, learned Additional Public Prosecutor.

The present Appeal has been preferred against judgment of
acquittal passed in Sessions Trial No. 445 of 2010. By the said
judgment Sri Vikram Singh, learned 2nd Additional Sessions
Judge, Jamui (hereinafter referred to as the “trial judge”)



acquitted respondent no. 2 to 11 from charges under Sections 147, 148, 323, 504, 324, 307/149 of the Indian Penal Code, 1860 (hereinafter referred to as the “I.P.C.”) .

Short fact of the case is that on 3.6.2009 the fardbyan in the present case was got recorded in which it was alleged that the informant's side had gone to a temple for sacrifice of goat (“Bali”) however, due to dispute as to who will offer sacrifice for the time time dispute arose in between the informant's side and accused side, who are the private respondents. It was alleged that in the said occurrence the respondents' side assaulted the informant's side. On the basis of fardbyan Laxmipur P.S. Case No. 70 of 2009 was registered on 8.6.2009 . After investigation, charge -sheet was submitted and on 28.6.2010 case was committed to the court of Sessions , and finally, on 26.11.2010 charges were framed under Sections 147, 148, 149, 323, 324, 504 , 307/149 of the I.P.C. against the accused persons. Since the accused persons denied charges and claimed to be tried, the prosecution to establish its case examined altogether eleven witnesses, however during trial since the prosecution failed to establish its case beyond all reasonable doubt, the learned trial judge passed order of acquittal. During trial it was noticed that prior to filing of the



present case in respect of an occurrence which had taken place on the same day an F.I.R. vide Laxmipur P.S. Case No. 63 of 2009 was already registered on 2.6.2009 against the informant /appellant of the present case and others. It is also not in dispute that in the case in which the appellant /informant and others were made accused, they were put on trial and finally they were held guilty convicted and sentenced, however in the present case, the learned trial judge has noticed that out of eleven witnesses, P.W. 5 and P.W. 7 turned hostile whereas, P.W. 9 and P.W. 11 were formal witnesses. Most of the witnesses who had come forward to support the prosecution case, directly or indirectly, were related with the informant's side, however the prosecution failed to satisfy the court as to why other independent witnesses were not produced by the prosecution, whereas, the alleged occurrence had taken place in presence of more than 300-350 peoples who had gathered in the temple. Besides this, there was no consistency in the evidence and as such, the learned trial judge noticed that prosecution had failed to prove its case beyond all reasonable doubt and passed order of acquittal.

Sri Thakur, learned counsel for the appellant, tried to persuade the Court that the learned trial judge has not



appreciated the evidence in its right perspective and as such, the judgment is required to be interfered with. However, on examination of the judgment impugned, we have not noticed any apparent perversity warranting interference. Moreover, once the evidences which were brought on record before the trial court were examined and appreciated by the trial judge, in case of Appeal against acquittal, it would not be appropriate to examine the evidences in a different manner. Moreover, it is not a case that the learned trial judge has recorded its finding contrary to the evidence on record. In absence of any apparent perversity, there is no need to grant leave to Appeal. Accordingly, the leave petition i.e. I.A. No. 1166 of 2017 filed under section 378 (3) of the Code of Criminal Procedure, 1973 stands dismissed. Consequently, the Appeal against acquittal too is dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

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