

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 1035 of 2017

Arising Out of PS. Case No.-137 Year-2010 Thana- Kuchaikote District- Gopalganj

Ravindra Nath Pandey S/o Late Ramsakal Pandey R/o Village
Khargauli, P.S. - Kuchaikote, District – Gopalganj.

... .. Appellant

Versus

1. The State of Bihar
2. Sattan Sah S/o Late Palatdhari Sah
3. Naresh Sah S/o Sattan Sah
4. Umesh Sah S/o Sattan Sah
5. Jatta Nonia S/o Amerika Nonia
6. Parama Yadav S/o Kodai Yadav @ Ambika Yadav
7. Yodha Nonia S/o Late Mahajan Nonia
8. Rajesh Nonia S/o Yodha Nonia
9. Ashok Nonia S/o Yodha Nonia
All Resident of hafuwa Balram, P.S. Tareya Suzan, Dist. Kushinagar,
(Uttar Pradesh).

... .. Respondents

Appearance :

For the Appellant/s : Mr. Ajay Kumar Sharma
For the Respondent/s : Mr. Sujit Kumar Singh

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

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

6 15-11-2017 Heard Sri Ajay Kumar Sharma, learned counsel for the
appellant and learned Addl. Public Prosecutor.

The present appeal has been preferred against judgment
dated 28th February, 2017 passed by Sri Shobha Kant Mishra,
learned Additional Sessions Judge – VIII, Gopalganj
(hereinafter referred to as the ‘Trial Judge’) in Sessions Trial
No. 692 of 2010/CIS No. 2903 of 2013 (arising out of



Kuchaikote P.S. Case No. 137 of 2010). By the said judgment, the learned Trial Judge has acquitted respondent no. 2 to 9 from the charges under Sections 148, 341, 307, 504/34 of the Indian Penal Code. However, by the same judgment, the learned Trial Judge has convicted aforesaid private respondents for offence under Sections 147, 323, 427/34 of the Indian Penal Code and thereafter, by way of considering the fact that the private respondents were firstly involved in the case, the learned Trial Judge took lenient view and exercising power under Sections 3 & 4 of the Probation of Offenders Act, 1958 released the private respondents with admonition of keeping good conduct and good behaviour in the society.

Sri Sharma, learned counsel for the appellant tried to persuade the Court that there were evidence on record at least to suggest that private respondents had committed offence under Section 324 of the Indian Penal Code, but to the reasons best known to the Trial Judge, they were held guilty under Section 323 and other minor sections of the Indian Penal Code. He submits that injury report, which has been discussed in paragraph – 19 of the impugned judgment, suggests that the appellant side were brutally assaulted.

However, on perusal of the evidence of Dr. Om Prakash



Lal, who had examined the injuries on the person of prosecution side, it is evident that all the injuries were found as lacerated and simple in nature. Moreover, against the same judgment, earlier the State had preferred an appeal, vide Govt. Appeal (DB) No. 16 of 2017, and on 08-11-2017, after noticing the hostile attitude of the Court, the learned Addl. Public Prosecutor sought permission to withdraw the appeal, which was allowed and said appeal stood dismissed as withdrawn. Since, in respect of the same matter, this Court had already not interfered, it would not be appropriate for this Court to further examine the impugned judgment and take a contrary view.

Accordingly, there is no ground to grant leave and as such, the leave petition i.e. I.A. No. 1837 of 2017 filed under Section 378(3) of the Code of Criminal Procedure, 1973 for grant of leave stands dismissed. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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