

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.52 of 2016

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Ram Krishna Choubey, Son of Late Ramadhar Choubey, resident of
Village- Nawada Choubey Tola, P.S. Gobindganj, District- East
Champaran.

.... Appellant

Versus

1. The State of Bihar.
2. Om Prakash Choubey, Son of Late Ram Nagina Choubey.
3. Abhishek Kumar @ Jhunjhun Choubey, Son of Om Prakash Choubey.

.... Respondents

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Appearance :

For the Appellant : Mr. Umesh Tiwari, Advocate
For the Respondents : Mr. Zeyaul Hoda, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 06-02-2017

I. A. no. 2388 of 2016

This application has been filed for condoning the delay in filing the special leave to appeal against the judgment and order dated 24.6.2016 passed by learned Additional Chief Judicial Magistrate, Areraj, Motihari, in Complaint Case C.R. no. 1817 of 2005/Tr. No. 194 of 2016 whereby he has ordered for acquittal of opposite parties no. 2 and 3.

From the statements made in the limitation application, I am of the view that petitioner has been able to make out a case that he was prevented by the circumstances beyond the control of the petitioner leading to delay in filing the application.

I. A. no. 2388 of 2016 is allowed. Delay is



condoned.

The matter has been taken up on merit with the consent of learned counsel for the petitioner.

I have perused the impugned order and materials on record. The case of the prosecution, in brief, is that the accused persons had intercepted the petitioner, who is the complainant of the connected case and got punctured the tyre of his bi-cycle. The petitioner thereafter fell down, whereafter the accused persons started assaulting him and one of them took out a sum of Rs.3,500/- from his pocket. They are also said to have taken thumb impression on a blank paper.

From the impugned judgment and order I find that P.W. 2, in his examination-in-chief, did not support any occurrence to the effect that the accused persons had got punctured the tyre of the complainant's bi-cycle. There is material contradiction in the evidence of prosecution witnesses. Learned court below reached the conclusion that the prosecution failed to prove the charge against the concerned opposite parties beyond reasonable doubt.

I do not find any clinching material on record on the basis of which it can be said that on such basis conviction of the respondents would have been the only possible view.



I do not find any merit in this application. Special leave to appeal against the said judgment and order dated 24.6.2016 is rejected.

This application stands disposed of.

(Chakradhari Sharan Singh, J)

sudip/-

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