

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1096 of 2016

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1. Deo Narayan Biswas Son of late Mangal Prasad Bishwas Resident of
Village: Baturbari, Biswas Tola, P.S. Tarabari, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ambika Bhagat

For the Respondent/s : Dr. Indivar Kumari, APP

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

6 11-05-2017

Heard learned counsel for the parties.

2. The petitioner assails the judgment and order, dated 23.08.2016, passed by learned First Additional Sessions Judge, Araria, in Criminal Appeal No. 101 of 2009, who, while partly allowing the petitioner's appeal against judgment of conviction recorded by the Court of learned Judicial Magistrate, Ist Class, Araria, has affirmed his conviction of the offence punishable under Section 324 of the Indian Penal Code while acquitting him of the offences punishable under Sections 147,148,341,504 and 324 of the Indian Penal Code.

3. At the Trial No. 1523 of 2009 before the learned Judicial Magistrate, Ist Class, Araria arising out of Araria P. S. Case No. 248 of 1999 (G.R. No. 972/1999) altogether six persons



including the petitioner were put on trial on the charge of offences punishable under Sections 147,148,341,504 and 324 of the Indian Penal Code. Learned trial Court, upon appreciation of evidence adduced at the trial recorded conviction of all the aforesaid six persons, who were put on trial. The appellate Court by the impugned judgment and order, dated 23.08.2016 has acquitted all other persons put on trial except the present petitioner.

4. Learned counsel appearing on behalf of the petitioner has submitted that petitioner's conviction has been upheld on the sole basis that the witnesses in their deposition supported the case of the prosecution that petitioner had assaulted the informant Krishna Kumar Biswas with *farsa*, which is a sharp edged weapon, on his left *ear*. He has submitted that the Courts below have failed to take into account that the injury has not been found to have been caused by sharp edged weapon, rather by a hard and blunt substance. This fact creates serious doubt over the case of the prosecution. It has further been submitted that according to the case of the prosecution, all six accused persons had actively participated in commission of the offence and in that background acquittal of other persons demolishes the case of the prosecution in its entirety, including the charge against this petitioner. It has thirdly been submitted that it is evident from the



materials on record that there had been civil dispute between the parties and the witnesses, who adduced at the trial cannot be said to be independent witnesses.

5. Learned Additional Public Prosecutor appearing on behalf of the State has justified conviction of the petitioner recorded by the Court below of the offence punishable under Section 324 of the Indian Penal Code. He has, however, not been able to convince this Court as to how the injury found on the person of the informant could be conclusively held to have been caused by the petitioner since it has been found to have been caused by hard and blunt substance and not by a farsa which is a sharp edged weapon,, learned Additional Public Prosecutor could not make a satisfactory reply.

6. Upon consideration of the materials on record including the fact that on same set of evidence, the Court below has recorded acquittal of other accused persons giving them benefit of doubt, in my view, the petitioner also deserve to be given benefit of doubt.

7. The impugned order, dated 23.08.2016, is, accordingly, set aside.

8. This application is allowed.

9. The petitioner stands acquitted. He and his bailors



are discharged from the liabilities of their bail bonds.

ArunKumar/-

(Chakradhari Sharan Singh, J)

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