

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.319 of 2015

Arising Out of PS.Case No. -12 Year- 2009 Thana -SHARGHAT District- MADHUBANI

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1. Ajit Jha Son of Uday Jha
2. Mukesh Jha Son of Parsuram Jha
3. Vikram Jha Son of Madan Jha
4. Phul Babu Jha Son of Madan Jha
5. Suman Jha @ Soman Son of Ghanshyam Jha resident of village- Saharghat, P.S.-
Saharghat, District- Madhubani

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

with

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Criminal Appeal (SJ) No. 345 of 2015

Arising Out of PS.Case No. -12 Year- 2009 Thana -SHARGHAT District- MADHUBANI

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1. Ranjeet Kumar Thakur @ Ranjeet Thakur S/o Shri Kameshwar Thakur
2. Rinku Thakur @ Reenku Thakur S/o Late Sachindra Kumar Thakur
3. Lal Saheb S/o Shri Surendra Prasad Thakur All are Resident of Village Bengra,
P.S. Saharghat (Madhwapur), District Madhubani.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

(In CR. APP (SJ) No.319 of 2015)

For the Appellant/s : Mr. Gagandeo Yadav, Adv.

For the Respondent/s : Mrs. Abha Singh, APP

(In CR. APP (SJ) No.345 of 2015)

For the Appellant/s : Mr. Murari Narayan Chaudhary,
Mr. Vijay Kumar,

Mr. Mohit Srivastava, advocates

For the Respondent/s : Mrs. Abha Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 02-11-2017

Cr. Appeal (SJ) No. 319/2015 wherein Ajit Jha, Mukesh

Jha, Vikram Jha, Phul Babu Jha, Suman Jha @ Soman Jha happen to

be appellants while in Criminal Appeal (SJ) No. 345/2015, Ranjeet

Kumar Thakur @ Ranjeet Thakur, Rinku Thakur @ Reenku Thakur



and Lal Saheb are the appellants, commonly originate against the judgment of conviction and order of sentence dated 27.05.2015 passed by 5th Additional Sessions Judge, Madhubani in Sessions Trial No. 61/2011, on account thereof, have been heard together and are being disposed of by a common judgment.

2. All the aforesaid appellants have been found guilty for an offence punishable under Sections 147 of the IPC and each one has been sentenced to undergo SI for one year, under Section 353 of the IPC sentenced to undergo SI for one year, under Section 504/34 of the IPC sentenced to undergo SI for one year and under Section 323 IPC sentenced to undergo SI for six months with a further direction to run the sentences concurrently.

3. Sudhir Kumar (not examined) recorded his self statement disclosing therein that after coming to know about the affray persisting on account of quarrel in between Suresh Mehta, Rakesh Mehta at one side and Dinesh Panjiyar, Ram Prasad Panjiyar and Mukesh at other side whereupon he along with ASI, Bhuneshwar Pd. Singh, Chaukidar No. II/5, Kailash Mandal, Chaukidar No. II/8, Bhikhari Paswan, Chaukidar No. III/5, Raj Kishore Paswan along with reserved armed constables, Rishideo Singh (not examined), Sepoy 314, Dinesh Kumar Tiwari (not examined), Sepoy 14, Ashwani Kumar came at the place of occurrence and then thereafter, pacified



the situation. Thereafter they returned back and during course thereof, when they reached at Netaji Chowk, Ranjeet Kumar Thakur @ Ranjeet Thakur, Rinku Thakur @ Reenku Thakur, Lal Saheb, Ajit Jha, Mukesh Jha, Vikram Jha, Phul Babu Jha, Suman Jha @ Soman Jha along with 5-6 unknown persons armed with Lathi and Danda cordoned them and then said that what is the use of police as they themselves happen to be Fauji and then, thereafter, hurled Lathi. Rinku and Ranjeet assaulted him with lathi as a result of which he sustained injury over right palm. Chaukidar, Kailash Mandal came in rescue who was also assaulted by Lal Saheb and Rinku by Lathi. Bhuneshwar Pd. Singh, ASI, Chaukidar, Raj Kishore Paswan, Chaukidar, Bhikhari Paswan, Hawaldar, Rishideo Singh came in rescue who were also assaulted by Ajit Jha, Mukesh Jha, Phul Babu Jha along with 5-6 unknown persons with lathi and danda as a result of which they also became injured. Bechan Sahani (PW 2) came in rescue who was also assaulted by them.

4. On the basis of the aforesaid written report, Saharghat PS Case No. 12/2009 was registered whereupon investigation was taken up and after completing the same, charge-sheet was submitted paving the way for trial which ultimately concluded in a manner subject matter of instant appeal.

5. The defence case as is evident from the mode of cross-



examination as well as statement recorded under Section 313 of the CrPC is that of complete denial. Neither any DW nor any kind of documentary evidence has been adduced on behalf of appellants.

6. In order to substantiate its case, prosecution had examined altogether seven PWs out of whom, PW-1, Bhikhari Paswan, PW-2, Bechan Sahani, PW-3, Kailash Mandal, PW-4, Raj Kishor Paswan, PW-5, Ashwani Kumar, PW-6, Sanjay Kumar and PW-7, Bhuneshwar Prasad Singh. Side by side had also exhibited Ext-1, Fard-e-beyan (Self Statement), and Ext-2, endorsement over his self statement.

7. As stated above neither any DW nor any kind of documentary evidence has been adduced.

8. After going through the record, it is evident that it happens to be a case of no evidence against the appellants on account of the fact that though, the occurrence has been supported but none of the PWs had claimed identification against the appellants. Furthermore, only one witness PW-7 had elaborately detailed the occurrence and named the accused but did not claim identification in dock. Moreover, from para-8, it is evident that he was not knowing, identifying the appellants since before. Whatsoever been disclosed by the Chaukidar is the basis of naming the culprit. Moreover, name of Chaukidar has also not been disclosed. Accordingly, the judgment of



conviction and sentence recorded by the learned lower court is, hereby, set aside. Appeals are allowed.

9. Since all the appellants are on bail, they are discharged from the liability of bail bonds.

(Aditya Kumar Trivedi, J)

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