

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (SJ) No.7 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- GAYA

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1. The State Of Bihar through the District Magistrate, Gaya having his Office at
Collectorate, District, Gaya.

.... Appellant/s

Versus

1. Ajay Yadav, aged about 31 years Son of Mukhi Yadav @ Shyamnandan Yadav,
Resident of Noni, Jalalpur, P.S. Tekari, District- Gaya.
2. Mukhi Ydadv @ Shyam Nandan Yadav, Aged about 6 years, of Madan Yadav,
Resident of Village Noni, Jalalpur, Police Station- Tekari, District- Gaya.
3. Pawan Yadav, aged about 29 years, Son of Mukhi Yadav, @ Shyam Nandan
Yadav, Resident of Village - Noni, Jalalpur, P.S. Tekari, District- Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukeshwar Dayal, Advocate

For the Respondent/s : Mr.

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

ORAL JUDGMENT

Date: 08-02-2017

The delay in filing of the present appeal is condoned.

2. The State of Bihar has preferred this appeal against
order dated 02.08.2016, whereby the learned Assistant Sessions
Judge, IV, Gaya, has recorded acquittal of Respondent Nos. 1, 2
and 3 of the offences punishable under Sections 436,428,427
read with Section 34 of the Indian Penal Code in S. T. No. 44 of
2007 arising out of Tekari P. S. Case No. 42 of 2007.

3. Learned counsel appearing on behalf of the State
of Bihar has submitted that despite the fact that the prosecution
witness Nos. 1, 2 and 3 consistently supported the case of the
prosecution establishing specific criminal misconduct of the



respondents, the Court below has recorded acquittal. According to him, the judgment and order of the Court below is erroneous and requires interference by this Court.

4. I have perused the impugned judgment and order of the Court below.

5. Briefly narrated, the case of the prosecution is that on 19/20.04.2007 at 2 A.M. when the informant awoke, he saw flame of fire in his house. He raised hulla and noticed the respondents fleeing away. As per the case of the prosecution, the occurrence took place because of dispute between the miscreants and the informant over passage of water.

6. At the trial, altogether 7 witnesses were examined but except P. W.1, father of the informant, P. W.3, wife of the Informant and P. W.2, the informant himself, no one supported the case of the prosecution. It further appears that Respondent No.2 is own brother of the informant whereas Respondent Nos and 3 are sons of Respondent No.2. *Intra* family dispute is apparent on the basis of the records available. The seizure list witnesses did not support the case of the prosecution. In such circumstance, the finding of the trial Court recording acquittal of the Respondents cannot be said to be suffering from any perversity requiring this Court's interference in an appeal against acquittal.

7. The appeal has no merit and is, accordingly,



dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

AFR/NAFR	N/A
CAV DATE	N/A
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