

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (DB) No. 14 of 2017

Arising Out of PS. Case No.-96 Year-2014 Thana- Hussainganj District- Siwan

The State of Bihar through the District Magistrate Siwan having his office at
Collectorate Compound, Siwan.

... .. Appellant

Versus

1. Ramji Ram aged about 75 years, S/o Late Chandeshwar Ram.
2. Hiralal Ram, aged about 70 years, S/o Late Chandeshwar Ram.
3. Chandrawati Devi, aged about 55 years, W/o Hiralal Ram,
4. Bebi Devi aged about 30 years, W/o Vikram Ram,
All resident of Village Jurkan, P.S Hussainganj, District- Siwan.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Mukeshwar Dayal
For the Respondent/s : Mr.

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

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

5. 20-11-2017 Heard Sri Mukeshwar Dayal, learned Addl. Public
Prosecutor, who has appeared on behalf of appellant/State.

2. Alongwith the present appeal, the appellant has also
filed a limitation petition, vide I.A. No. 1623 of 2017. In
filing appeal, 60 (sixty) days delay has occurred. The
appellant has also filed a petition, vide I.A. No. 1622 of 2017,
which has been filed under Section 378(3) of the Cr.P.C., for
grant of leave. The appellant/State has properly explained the
reason for delay in filing the appeal and as such, the limitation
petition i.e. I.A. No. 1623 of 2017 is allowed and delay in



filing appeal stands condoned.

3. The present Government Appeal has been preferred against judgment and sentence dated 23-02-2017 and 27-02-2017 respectively passed by learned Additional District & Sessions Judge – III, Siwan (hereinafter referred to as the ‘Trial Judge’) in Sessions Trial No. 446 of 2014 (arising out of Hussainganj P.S. Case No. 96 of 2014). By the said judgment, the learned Trial Judge, while convicting one of the accused namely Sharma Ram, against whom there was allegation of giving assault by *pasuli* in which two persons died, acquitted rest of the accused persons, who are respondent no. 1 to 4 in the present appeal. The accused Sharma Ram, who was convicted for offence under Sections 302 and 307 of the Indian Penal Code, was sentenced to undergo rigorous imprisonment for life under Section 302 of the Indian Penal Code and also to pay a fine of Rs. 2,500/- (two thousand five hundred) and Rs. 5,000/- (five thousand) respectively. So far as sentence under Section 307 of the Indian Penal Code is concerned, Sharma Ram was directed to undergo rigorous imprisonment for life for taking attempt to murder of injured Ramashanker Ram and he was further directed to pay a fine of Rs. 4,000/- (four thousand), ten years



imprisonment and fine Rs. 1,000/- (one thousand) for taking attempt to murder to injured Bacchi Kumari and ten years imprisonment and fine of Rs. 1,000/- (one thousand) for taking attempt to murder to injured Manjit Kumar (informant). All the sentences were directed to run concurrently.

4. It is case of the prosecution that an occurrence took place on 16-04-2014, in which, five accused persons, which include four respondents, started abusing informant side and while altercation was going on, one of the accused Sharma Ram went inside his house, came out with a *pasuli* and gave *pasuli* blow. There is specific accusation that Sharma Ram had given *pasuli* blow on two persons of the informant side, who subsequently died. It was alleged that Sharma Ram had also assaulted one other person. It was consistent case of the prosecution that at the time, while altercation was going on and all accused persons were present, none of the accused persons were carrying arm. It appears that in spur of moment, one of the accused Sharma Ram went inside the house, brought *pasuli* and gave blow.

5. Though, Sri Mukeshwar Dayal, learned Addl. Public Prosecutor has argued that respondent no. 1 to 4 were



liable to be held guilty under Section 302/34 of the Indian Penal Code, the learned Trial Judge erroneously passed order of acquittal in their favour.

6. However, on perusal of materials on record, it is evident that at the time of first occurrence i.e. relating to altercation, it was specific case that none of the accused persons were having any arm. It is also not a case that any of the private respondents had asked accused Sharma Ram to bring weapon and kill informant side. In the occurrence itself, suddenly Sharma Ram left the place of occurrence and came out with a *pasuli* and gave blow and as such, the learned Trial Judge has rightly considered that it was not a case of common intention of other accused persons and passed order of acquittal.

7. After examining the record, we are satisfied that the learned Trial Judge has committed no perversity warranting interference, nor it is case of the appellant/State that learned Trial Judge has passed judgment contrary to the evidence on record. It was purely appreciation of the evidence by the Trial Court and as such, we do not find any ground to interfere with the judgment of acquittal.

8. In view of facts and circumstances, we do not find



any ground to grant leave to appeal. Accordingly, the leave
petition i.e. I.A. No. 1622 of 2017 stands dismissed.
Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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