

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1230 of 2017

Arising Out of PS. Case No.-215 Year-2004 Thana- Balia District- Begusarai

Hare Ram Singh, Son of Late Damodar Singh, Resident of Village-
Bariyarpur, P.S.- Ballia, District- Begusarai.

... .. Appellant

Versus

1. The State of Bihar.
2. Naresh Singh, Son of Shivdani Singh.
3. Brajesh Kumar Singh, Son of Gandhi Singh,
4. Manish Singh, Son of Naresh Singh.

All Residents of Village- Bariyarpur, P.S.- Ballia, District- Begusarai.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Sandip Kumar Gautam, Adv
For the Respondent/s : Mr. Ashwani Kumar Sinha , A.P.P.

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

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

3 22-11-2017 Heard Sri Sandip Kumar Gautam, learned counsel

for the appellant/informant and Sri Ashwani Kumar Sinha,

learned Addl. Public Prosecutor.

2. The present appeal has been preferred against the

Judgment of acquittal dated 25.08.2017 passed by the

learned Addl. Sessions Judge-IV, Begusarai in Sessions

Trial No.294 of 2012(arising out of Ballia P.S. Case No.215

of 2004). By the said Judgment, respondent nos. 2 to 4 have

been acquitted from the charge under Section 307, 326/34

of the Indian Penal Code and Section 27 of the Arms Act.



3. Learned counsel for the appellant submits that though during evidence, there was consistent evidence to show that in the occurrence, respondent no.4 had fired, which hit the thigh of the informant. It has also been argued that the witnesses had stated that firing was made on instigation of respondent nos.2 and 3. However, learned trial judge has passed Judgment of acquittal.

4. Besides hearing learned counsel for the parties, we have also perused the materials on record. Fact remains that during trial neither the doctor nor the Investigating Officer was examined. Even the Injury report was not proved by the prosecution. In absence of such injury report, the charge of fire arm injury was not established by the prosecution as well as in absence of evidence of the Investigating Officer, the learned trial Judge has rightly noticed that respondents were seriously prejudiced and the prosecution has not proved its case beyond all reasonable doubt.

5. The Court is of the considered opinion that it is not a fit case for interference with the impugned Judgment. Accordingly, Interlocutory Application i.e. I.A.No.2166 of



2017, which has been filed under Section 378(3) of the Code of Criminal Procedure for grant of leave to appeal, stands rejected. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

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