

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.29 of 2017

Arising Out of PS.Case No. -54 Year- 2002 Thana -RANIYATALAB District- PATNA

=====

1. Ramashray Sharma @ Munna Sharma,
2. Sanjeet Kumar @ Rintu Kumar
All sons of Gopal Sharma, resident of Village- Kab, P.S.- Ranitalab,
District- Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. Santosh Kumar, S/o Devadhar Singh,
3. Devadhar Singh @ Devendra Singh, S/o Late Ragunandan Singh,
4. Sanjeev Kumar, S/o Devadhar Singh
All are resident of Village- Kab, P.S.- Ranitalab, District- Patna.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Atul Kumar Pandey
For the Respondent/s : Mr. Maya Nand Jha

=====

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

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

7 19-06-2017 Heard Sri Atul Kumar Pandey, learned counsel for the

appellants and Sri Maya Nand Jha, learned Additional Public

Prosecutor.

The present Appeal has been preferred under Section
372 of the Code of Criminal Procedure, 1973 against the
judgment dated 30.09.2016 passed by Sri Santoh Kumar
Agnihotri, learned Additional District and Sessions Judge -VII,
Danapur in Sessions Trial No. 177 of 2003 arising out of
Ranitalab P.S. Case No. 54 of 2002.

In the present case besides memo of Appeal an



application vide I.A. No. 864 of 2017 was filed under Section 372 read with Section 378 (3) of the Code of Criminal Procedure , 1973 for grant of leave.

The respondent no. 2 to 4 were charge sheeted for offence under Section 144, 323, 341, 342, , 325, 504 and 307 of the Indian Penal Code and Section 27 of the Arms Act, however charges were framed for offence under Section 144, 323, 341, 342, 325, 504, 307 of the Indian Penal Code read with Section 27 of the Arms Act. It was alleged that in the occurrence while the prosecution side were in field the accused persons arrived, intercepted and assaulted them. It was alleged that in the occurrence accused persons fired which hit P.W. 5 who received fire arm injury. During trial six witnesses were examined including the Investigating Officer, however charges for offence under Section 307 of the I.P.C. or Section 27 of the Arms Act were not proved. During the trial despite indulgence granted by the learned Trial Court the prosecution did not produce the Medical Officer, who had examined the victim, nor during the trial any injury report was produced. Even, so far offence under Section 27 of the Arms Act is concerned, nothing was shown regarding recovery of arms whereas, it was prosecution case that in the occurrence one of the accused was caught and in scuffle one



of the part of the country made rifle was taken away by the accused and second part was left at the place of occurrence, however nothing was shown regarding recovery of part of the alleged country made rifle. So far offence under Section 341 , 323/34 of the Indian Penal Code is concerned , the prosecution has proved the case and as such, the accused were convicted for such offences. Considering the fact that there was no criminal antecedent against any of accused persons as well as the fact that one of the accused had remained in custody for one year and two months and other accused persons were also confined for considerable period, the learned Trial Court after convicting released them under Section 3 of the Probation of Offenders Act after due admonition.

We have perused the judgment. After going through the judgment of the Trial Court, the Court is of the opinion that same is not perverse and as such, there is no reason to interfere with the same.

Leave is refused and the Appeal stands dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

Praful/-

U		T	
---	--	---	--

