

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.1075 of 2017

Arising Out of PS.Case No. -61 Year- 2011 Thana -BHAGWANPUR District- BEGUSARAI

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Ravish Kumar, Son of Late Sambhu Singh, R/o Village- Mehdauli, P.S.-
Bhagwanpur, District- Begusarai.

.... Appellant/s

Versus

1. The State of Bihar.
2. Ajay Kumar, Son of Devnandan Singh, R/o Village- Mehdauli, P.S.-
Bhagwanpur, District- Begusarai.
3. Rinki Singh, Son of Devnandan Singh, R/o Village- Mehdauli P.S.- Bhagwanpur,
District- Begusarai.
4. Rajnandan Singh, Son of Late Banarsi Singh, R/o Village- Mehdauli, P.S.-
Bhagwanpur, District- Begusarai.
5. Pintu Singh, Son of Devendan Singh, R/o Village- Mehdauli, P.S.- Bhagwanpur,
District- Begusarai.
6. Sunita Devi, W/o Pintu Singh, R/o Village- Mehdauli, P.S.- Bhagwanpur,
District- Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Anjani Kumar Jha, Advocate.
For the State	:	Mr. Ajay Mishra, A.P.P.
For the Informant	:	Mrs. Soni Srivastava, Advocate.
		Mr. Madhu Kumari, Advocate.
		Mr. Sudhanshu Bhushan, Advcoate.
		Mr. Gopal Pandey, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date: 12-02-2018

1. Heard learned counsel for the appellant, learned
Additional Public Prosecutor for the Sate as well as leaned counsel
appearing for the respondent nos. 2 and 6, on the point of admission
as well as on Interlocutory Application No. 1894 of 2017.



2. The present appeal has been filed against the Judgment of acquittal dated 30.05.2017 passed in Sessions Trial No. 871 of 2011 by the learned Additional Sessions Judge-V, Begusarai, by which and whereunder, he acquitted the respondent nos. 2 to 6 of the charges framed against them on the ground that prosecution failed to prove the place of occurrence, manner of occurrence etc.

3. It would appear from perusal of the record that Bhagwanpur P.S. Case No. 61 of 2011 was registered under Section 302 and other minor Sections of the Indian Penal Code against respondent nos. 2 to 6 on the basis of Fradbeyan of informant, Rabish Kumar (P.W.4), who stated in his Fradbeyan that on 22.05.2011, at about 4 P.M., the respondent nos. 2 to 6 having armed with lethal weapons came at his house and assaulted his father as well as him. Subsequently, his father died in Bhagwanpur Hospital. The reason of the occurrence was given as political rivalry.

4. The learned court below having considered the evidences brought on record passed the impugned Judgment of acquittal giving findings that respondent nos. 5 and 6 were not present on the place of occurrence as they succeeded to prove their plea of alibi. The learned trial court also came to the conclusion that the witnesses including P.W.4 are not reliable witnesses.

5. Learned counsel appearing for the appellant



submits that P.W.4 (informant) had sustained injury in the occurrence and the injury report of P.W.4 (informant) was brought on record as Ext.4, but even, then the learned trial court discarded the testimony of P.W.4. He further submits that the learned trial court has not properly discussed the evidences adduced by the prosecution and, accordingly, committed error in acquitting the respondent nos. 2 to 6.

6. On contrary, learned counsel appearing for the respondent nos. 2 to 6 refuted the above stated submissions arguing that, in course of trial, prosecution witness themselves admitted that respondent nos. 5 and 6 were not present on the place of occurrence at the time of so-called occurrence. It is further submitted that the learned trial court has taken into consideration all pros and cons of the case as well as the evidences and came to the conclusion that the prosecution could not succeed to prove its case beyond all shadow of reasonable doubts. Continuing the submission the learned counsel for the respondent nos. 2 to 6 highlighted the evidence of P.W.1, who at paragraph 24 of his cross-examination, admitted that the P.W.4 (informant) was in unconscious state till last ceremony of the deceased and, therefore, the aforesaid admission of P.W.1 clearly indicates that the First Information Report was an antedated document.



7. Having heard the contentions of both the parties, we went through the record along with the Lower Court Records. We find that the learned trial court has discussed all the evidences available on the record and having discussed the evidences come to the conclusion that prosecution could not succeed to prove its case beyond all shadow of reasonable doubts. Therefore, in our opinion, there is no scope to interfere into the impugned Judgment of acquittal because the appellant could not succeed to bring any material in our notice to show that the approach of the learned trial court was of pervasive.

8. In the aforesaid circumstances, this criminal appeal as well as Interlocutory Application No. 1894 of 2017 stand dismissed on admission stage itself. The Lower Court Records be returned to the concerned court immediately.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.02.18
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