

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.405 of 1994

Against the judgment of conviction and order of sentence passed on 19.08.1994 in Sessions Trial No.372 of 1991 by 3rd Additional Sessions Judge, Bhojpur.

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1. Raghunandan Singh, son of Gopaljee Singh
 2. Gopaljee Singh
 3. Deenanath Singh
 4. Sribhagwan Singh alias Bhola Singh
Sl. 2 to 4 all sons of late Ram Bilas Singh
 5. Yadunandan Singh, son of Deenanath Singh
All resident of village Dhobaha, P.S. Ara Muffasil, District-Bhojpur.
 6. Raghubar Yadav alias Raghunandan Yadav
son of Dharichhan Yadav, resident of village Kadra Basantpur, P.S. Ara Moffasil, District-Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pratik Mishra, Advocate Mr. Birendra Kr. Singh, Advocate
For the Respondent/s	:	Ms. Shashi Bala Verma, APP

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-01-2018

Six appellants herein along with co-accused appellant Ashok Singh in Criminal Appeal (DB) No.526 of 1994 have filed this appeal challenging their conviction ordered by the 3rd Additional Sessions Judge, Arrah on 19th August, 1994 in Sessions Trial No.372 of 1991.

Co-accused Ashok Singh in the connected Criminal Appeal (DB) No.526 of 1994 is the main accused, who has been convicted



under Sections 148, 302 IPC and under Section 27 of the Arms Act for committing the murder of Hareram Yadav. However, Ashok Singh having expired during the pendency of the appeal as per the report received from the Superintendent of Police, Bhojpur, Ara on 16th of January, 2018, his appeal has been dismissed as having abated by a separate order passed today.

It may be taken note of that Ashok Singh is the main accused who used a fire arm and the injuries caused by Ashok Singh resulted in death of deceased Hareram Yadav. That apart, in this appeal, three of the appellants, namely appellant no.2 Gopal Jee Singh, appellant No.3 Dinanath Singh and appellant No.4 Shri Bhagwan Singh @ Bhola Singh, all sons of Ram Bilash Singh, have died and in this regard, report has been received from the Superintendent of Police, Bhojpur, Ara on 16th January, 2018 indicating that these three appellants along with Ashok Singh, appellant of Criminal Appeal (DB) No.526 of 1994, have died. Death certificates and other documents have been forwarded by the Superintendent of Police, Bhojpur, Ara.

In view of the aforesaid, this appeal as far as it pertains to appellant No.2 Gopal Jee Singh, appellant no.3 Dinanath Singh and appellant no.4 Shri Bhagwan Singh @ Bhola singh are concerned, stands dismissed as having abated. Accordingly, now



this appeal only survives and the grievance of appellant no.1 Raghunandan Singh, appellant no.5 Yadunandan Singh and appellant no.6 Raghubar Yadav is only required to be considered and for consideration of the same, on going through the record it is seen that on 07.11.1990 at about 10.30 A.M., Kaushalya Devi, the informant, P.W.1, was harvesting paddy crop in her field and her cousin Dewar Deonath Yadav was ploughing the field with a tractor. At that point of time, co-accused deceased Ashok Singh came there and asked the driver of the tractor to plough his field. On this, the driver stated that fare and money for ploughing the field should be paid. On this, deceased co-accused Ashok Singh is said to have asked Suresh Yadav, P.W.2, cousin Dewar of the informant, to go to his house and get the fare. Suresh Yadav refused to do so on the pretext that family members of Ashok Singh will not give him the money. Thereafter, it is said that Ashok Singh is said to have abused Hare Ram Yadav, the deceased, another Dewar/brother-in-law of the informant who was standing there, on which the informant also protested and forbade from abusing. On this, accused Ashok Singh is said to have caught hold of neck of Hare Ram Yadav and then left. Ashok Singh rushed back to his house and brought his rifle and along with accused Chandra Bhushan Singh alias Butan and Raghunandan Singh came



there. It is said that accused Dinanath Singh, Gopaljee Singh, Sri Bhagwan Singh alias Bhola Singh also came there armed with *lathi* and various other weapons. Raghunandan Singh and Yadunandan Singh also came there and they are said to have instigated Ashok Singh and on this Ashok Singh is said to have fired thrice from his rifle which hit Hareram Yadav and he succumbed to the same. As far as Raghunandan Singh is concerned even though in the *ferdbeyan* it is stated that he fired with the country-made pistol which hit nobody, but in the evidence adduced in the Court, no such material has come.

From the aforesaid narration of facts, it is clear that as far as surviving appellants are concerned, except for making an assertion against Raghunandan Singh in the *ferdbeyan* that he fired with country made pistol, which did not hit anyone, there is no overt-act or any specific act attributed to Yadunandan Singh or Raghubar Yadav. Both of them are only said to be present along with all other accused persons which included Deenanath Singh, Gopaljee Singh, Bhola Singh and others.

Accordingly, now on analyzing the entire material available on record, we find that the main accused person, who caused fatal injury, namely Ashok Singh, has died and as far as surviving three appellants herein are concerned, there is no specific overt-act



attributed to them, they are only present on the spot and as the incident took place in the manner indicated hereinabove more than 27 years back in the year 1990 and the appellants, who are on bail since 31.08.1994, have not been alleged to have committed any specific act which warrants their conviction.

Accordingly, in the facts and circumstances of the case, now in the light of the role attributed to the three appellants, namely Raghunandan Singh, Yadunandan Singh and Raghubar Yadav, we find that no case is made out for convicting them and sentencing to undergo imprisonment after such a long period of time. The appeal in the peculiar facts and circumstances is allowed, the appellants are acquitted of the charges levelled and they are directed to be set free after cancellation of their bail bonds.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	AFR
CAV DATE	NA
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