

IN THE HIGH COURT OF JUDICATURE AT PATNA**Govt. Appeal (DB) No.28 of 1995**

Sessions Case no. 72 of 1993 arising Out of Kotwali P.S. Case no. 211/1992
District- MUNGER

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State of Bihar

.... Appellant/s

Versus

1. Md. Jahidul Ishlam @ Nanhaki @ Md. Jahid son of Md. Ashlam
2. Md Farman son of Md Nadeem
3. Md. Bablu Son of Md. Nadeem
4. Md. Arman @ Saiful Ishlam son of Md Ashlam
5. Md. Ashlam son of Sah Mohammad

All resident of Mohalla Topkhana Bazar P.S. Kotwali District Munger

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Shiwesh Chandra Mishra, APP

For the Respondent/s : Mr.

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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: 19-04-2018

1. This Government appeal has been preferred against the impugned judgment of acquittal dated 15.6.1995 passed by the Addl. Sessions Judge I, Munger in Sessions Case no. 72 of 1993 by which and whereunder he acquitted the respondents of the charges framed against them for the offences punishable under section 302/34 of the Indian Penal Code and 27 of the Arms Act.

2. It would appear from the impugned judgment that PW5 Ajmeri Khatoon lodged Kotwali P.S. Case no. 211/1992



giving her fardbeyan before the police to this effect that on 6.5.1992 while her son along with his **Thela** was returning to his home, respondents came there and at the instigation of respondent- Arman, respondent- Nanhaki shot fire to her son as a result of which having sustained firearm injury, he fell down on the ground and the respondents fled away from there. At the time of alleged occurrence, a **patromax** was burning on the thela. Witnesses saw the occurrence. The reason behind is said to be previous quarrel.

3. After submission of the charge sheet, respondents were put on trial and all respondents stood charged for the offence punishable under section 302/34 of the Indian Penal Code whereas respondent Nanhaki stood charged for the offence punishable under section 27 of the Arms Act.

4. In course of trial, prosecution examined, altogether, seven witnesses including doctor and the I.O but from perusal of the impugned judgment, we find that except PW5 not a single witness claimed to be eye-witness of the alleged occurrence rather they stated that they came to know about the names of the assailants from PW5. The learned trial court doubted credibility of PW5 on various grounds and we do not find reasoning given by the trial court in the impugned



judgment as absurd and, therefore, in our view, it would not be proper for this court to interfere into the impugned judgment of acquittal. Accordingly, this Government appeal stands dismissed. Respondents are on bail. They are discharged from the liability of their bail bonds.

(Hemant Kumar Srivastava, J)
(Rajendra Kumar Mishra, J)

Shahid

AFR/NAFR	NAFR
CAV DATE	NA
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