

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.30 of 1995

State of Bihar

... .. Appellant/s

Versus

1. Sudama Bhagat, S/o- Mahangu Bhagat

2. Janak Bhagat, Son of Satna Bhagat

3. Bishwanath Bhagat, son of

4. Binda Bhagat, son of Marai Bhagat

5. Ramayan Bhagat, son of

6. Subhash Chandra Bhagat, Son of

7. Baliram Bhagat, son o Mahangu Bhagat

8. Gulab Chand Bhagat, son of Bahar Bhagat

All residents of Village- Dhowri, P.S. Mashrak, District- Saran

... .. Respondent/s

Appearance :

For the Appellant/s :

For the Respondent/s : Mrs. Shashi Bala Verma, APP

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-03-2018

Challenging the acquittal of the respondents by the
court of 2nd Additional Sessions Judge, Saran, Chapra in
Sessions Trial No. 15 of 1984/3 of 1986 vide judgment dated



30th of March, 1995 for the offences under Sections 302, 302/149, 436/149, 436, 324/149, 323 and 147 of the Indian Penal Code, this appeal has been filed by the State of Bihar under Section 378 (1 & 3) of the Code of Criminal Procedure.

Today, during the course of hearing Madam Shashi Bala Verma, Additional Public Prosecutor produced before us a report of the Superintendent of Police, Saran dated 25.02.2018 which goes to show that out of the eight respondents, except accused persons, Respondent No. 2 Janak Bhagat, son of Satna Bhagat and Respondent No. 8 Gulab Chand Bhagat, son of Bahar Bhagat, all the other respondent accused have died during the pendency of the appeal. Accordingly, the appeal stands abated against all the accused persons except Respondent No. 2 Janak Bhagat and Respondent No. 8 Gulab Chand Bhagat.

Even though learned counsel for the appellant tried to argue that the learned court below has committed an error in acquitting the respondent accused persons but on going through the facts and circumstances of the case we find that with regard to an incident that took place at 10.30 A.M. on 12.03.1981 based on the information given by one Punyadeo Bhagat (P.W.7), the fardbeyan was registered and it was the case of the informant and the prosecution that there was a dispute with regard to land



in question, a Gharari land wherein Respondent No. 1 since dead Sudama Bhagat used to create an issue and threatened the informant for removing his house and Palani and grant possession. It is said that Sudama Bhagat got the land measured by an Amin and came out with a case that the house and the Palani fell in his share and he used to ask the informant to remove the same and when nothing was done, it is alleged that on 11.03.1981 at about 12 noon all the accused persons armed with lathi, Farsa and other equipment assaulted the informant and his brother Mangal Bhagat and his son Rajdeo Bhagat and in the assault Rajdeo Bhagat is said to have died.

The respondent accused persons were prosecuted for the aforesaid offence and from the statement and evidence that came on record the learned court found that general and omnibus allegations are made. Only one injury was sustained by the deceased and finding the case of the prosecution not proved the acquittal was ordered.

From the material that has come on record we find that the main allegations with regard to the assault in question are against respondent Sudama Bhagat who was carrying a Barchhi, Bhukhal Singh, another accused person who died during the trial who was carrying a Farsa and the fatal injury



seems to have been caused by the Barchhi and the Farsa used by Sudama Bhagat and Bhukhal Singh. Sudama Bhagat has died and the appeal stands abated against him. That apart, there are allegations of assault by lathi against Subhash Chandra Bhagat Respondent No. 6 also. This respondent has also died and the appeal against him also stands abated. So far as the surviving accused Respondent No. 2 Janak Bhagat and Respondent No. 8 Gulab Chand Bhagat are concerned, from the F.I.R., the statement of P.W. 7 Punyadeo Bhagat and the statement of other witness, we find that general and omnibus statements are made with regard to their presence in the spot in question. No specific overt act is attributed to them and from the medical report available on record i.e. Exhibit-7 the Post Mortem Report and Exhibit 2/1 the X-ray report and the statement of Dr. V.K. Gupta P.W. 9 who examined the deceased Rajdeo Bhagat on 11.03.1981, the deceased has only suffered one injury on the right side of his head measuring 1½” in diameter and it was because of this injury that he died. This injury is said to have been caused by a hard and blunt weapon like Barchhi used by Respondent No. 1 Sudama Bhagat. As far as the present respondents are concerned, we find that there is no specific overt act attributed to them except for a statement that they were



present along with other accused persons. Nothing is alleged against them or proved by the prosecution and taking into consideration all these factors they have been acquitted.

We find no error in the same warranting reconsideration. The appeal is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	12.03.2018
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