

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.98 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- SARAN

[Against judgment of conviction and order of sentence dated
05.02.2009 passed by the Additional Sessions Judge, Fast Track
Court IV, Chapra, in Sessions Trial No.325 of 2006/146 of 2006
arising out of Panapur P.S. Case No.03 of 2005]

- =====
1. Ravindra Mahto, son of Sri Yamuna Mahto, &
 2. Yamuna Mahto, son of late Baij Nath Mahto, both resident of village-Dhanuki,
P.S.-Panapur, District- Saran at Chapra

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

With

=====

Criminal Appeal (SJ) No. 148 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- SARAN

[Against judgment of conviction and order of sentence dated
05.02.2009 passed by the Additional Sessions Judge, Fast Track
Court IV, Chapra, in Sessions Trial No.325 of 2006/146 of 2006
arising out of Panapur P.S. Case No.03 of 2005]

=====

Vijay Singh, son of late Janak Singh, resident of village-Dhanuki, P.S.-Panapur
(Masrakh), District- Saran at Chapra

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

=====

Appearance :

(In CR. APP (SJ) No.98 of 2009)

For the Appellant/s : Mr. Arun Kumar Tripathi, *Amicus Curiae*

For the Respondent/s : Mr. Bipin Kumar, APP

(In CR. APP (SJ) No.148 of 2009)

For the Appellant/s : Mr. Raghvendra Kumar, Advocate

For the Respondent/s : Mr. Bipin Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT



Date: 14-09-2018

By judgment of conviction and order of sentence dated 05.02.2009 passed by the Additional Sessions Judge, Fast Track Court IV, Chapra, in Sessions Trial No.325 of 2006/146 of 2006 arising out of Panapur P.S. Case No.03 of 2005, all the three Appellants have been convicted for the offence under Section(s) 341/34, 504/34 and 307/34 Indian Penal Code and sentenced to undergo rigorous imprisonment for one month under Section 341/34 Indian Penal Code, rigorous imprisonment for six months under Section 504/34 Indian Penal Code and rigorous imprisonment for five years under Section 307/34 Indian Penal Code. All the sentences were ordered to run concurrently.

2. None appeared on behalf of the Appellants in Cr. Appeal (SJ) No.98 of 2009.

3. Sri Arun Kumar Tripathi, Advocate, is appointed as *Amicus Curiae*, to assist the Court on behalf of the Appellants of Cr. Appeal (SJ) No.98 of 2009.

4. Mr. Raghvendra Kumar Singh, Advocate, has appeared on behalf of the Appellant in Cr. Appeal (SJ) No.148 of 2009.

5. The prosecution case as per *fard-e-beyan* of the informant, in brief, is that on 07.05.2005 at 6.00 PM the informant



was sitting near his house when accused persons reached there and abused the informant and asked him why he had gone to make demand of money at their door and insulted his family members. The informant told that they have kept the money of shop and on demand they are feeling insulted. If money will be paid, he will not go to their door. Thereafter, accused Vijay Singh abused the informant and ordered to kill, caught hold the informant and pulled him down. The informant tried to get up, but accused Yamuna Mahto caught hold the informant and accused Vijay Singh started assaulting the informant with slaps. The informant raised protest then accused Ravindra Mahto took knife from his possession with intention to kill the informant and assaulted him with knife on his abdomen as a result of which the informant fell down and his intestine came out. Suresh Mahto, brother of the informant and other villagers brought the informant on a jeep to PHC, Mashrakh, where *fard-e-beyan* of the informant was recorded and forwarded to Panapur P.S.

6. During trial, the prosecution has examined eleven witnesses in the case. Defence has also examined four witnesses in the case.

7. The informant, Baban Mahto, has been examined as PW 7. He has proved his *fard-e-beyan* as Ext.4. He has stated in his evidence that *fard-e-beyan* was recorded in Mashrak Hospital.



This witness has stated that Vijay Singh caught hold his collar and gave 2-4 slaps. Yamua Mahto caught hold him from back side and Ravindra Mahto gave knife blow. He did not become senseless. Vehicle came after 1¼ hours and he reached to Mashrakh Hospital from where Doctor referred him to Chapra and in the way to Chapra, he became senseless.

8. Other prosecution witness, namely, Amla Singh (PW 9) is not the witness of occurrence. He was the jeep driver. He had taken the injured to Panapur Hospital and from there to Mashrakh and then to Chapra. Thereafter, he returned back to his house. He has not deposed anything about the occurrence.

9. Other prosecution witnesses, namely, Sarita Devi (PW 1), Dargoa Mahto (PW 2), Saroj Devi (PW 3), Prema Devi (PW 4), Suresh Mahto (PW 5) and Malti Devi (PW 6) have appeared as eye witnesses. All these witnesses have stated that accused Ravindra Mahto gave knife blow to the informant in his abdomen, as a result of which, his intestine came out.

10. Dr. Surendra Prasad Singh (PW 8) has examined the injured at PHC, Mashrakh. He has found one incised wound on the lower part of the abdomen on left side about 2" x 2" x deep to abdominal cavity left side. Some part of intestine came out of abdominal cavity with bleeding. Patient was referred to Chapra



Sadar Hospital for proper treatment and opinion regarding injury. Injury was caused by sharp cutting weapon. This witness has stated that he examined the injured on the basis of police requisition. He has proved his injury report as Ext.2. He has stated in his evidence that patient was conscious at the time when he was brought before him.

11. Dr. Prashant Shankar Sinha (PW 10) is Associate Professor in the Department of Surgery, NMCH, Patna. He examined the injured on 08.05.2005 at 8.30 AM and found one stitched wound about 3” long in left lumbar area of abdomen with slight oozing of blood from inside the wound. X-ray of abdomen was taken and he found injury as mentioned in the injury report. He has stated that damaged part of the gut was removed and continuity was maintained. Stitches were removed on 18.05.2005 and patient was discharged on 19.05.2005. Nature of weapon was sharp cutting weapon. Nature of injury was dangerous to life. He has proved his injury report marked as Ext.2/1.

12. Nayeem Ahmad (PW 11) is the Investigating Officer. He has proved the place of occurrence and formal First Information Report. He has stated that he obtained Injury report from Mashrakh Hospital and submitted charge-sheet in the case.

13. The defence has examined four witnesses in the



case. DW 1 (Tilleshwari Devi) has stated that she filed the case against the informant about two years back in which Ravindra Mahto and Vijay Singh were witnesses.

14. DW 2 (Pancham Manjhi) is formal witness. He has proved Complaint Petition dated 27.01.2005 filed by Tilleshwari Devi as Ext. A.

15. DW 3 (Satya Narain Manjhi) is a formal witness, who has proved formal First Information Report of Panapur P.S. Case No.04 of 2005 marked as Ext. D.

16. DW 4 (Aditya Kumar) is also a formal witness, who has proved two informatory petitions as Ext. E and E/1 given by Ravindra Mahto and Vijay Kumar Singh on 02.02.2005 before the SDO, Marhowrah.

17. In this manner, from the entire evidence of prosecution, as mentioned above, in detail, this Court finds that there is specific allegation against Ravindra Mahto of causing injury with knife in the abdomen of the informant on account of which his intestine came out. The informant (PW 7) has also stated in his evidence that Ravindra Mahto caused injury in his abdomen on account of which his intestine came out and he was taken to hospital. Doctors have been examined as PW 8 and 10. The doctor has found only one injury in the abdomen caused by sharp cutting weapon,



which was described by the doctor as dangerous to life. Other witnesses on behalf of the prosecution, namely, PW 2, 3, 4, 5 and 6 have all stated that Ravindra Mahto caused injury in the abdomen of the informant with knife.

18. In view of such, this Court is not inclined to interfere with the judgment of conviction and order of sentence passed against Ravindra Mahato by the Trial Court.

19. Accordingly, impugned judgment of conviction and order of sentence dated 05.02.2009 passed by the Additional Sessions Judge, Fast Track Court IV, Chapra, in Sessions Trial No.325 of 2006/146 of 2006 arising out of Panapur P.S. Case No.03 of 2005, with regard to Appellant, Ravindra Mahto, (Cr. Appeal (SJ) No.98 of 2009) is hereby affirmed.

20. So far conviction of other Appellants, namely, Yamuna Mahto (Cr. Appeal (SJ) No.98 of 2009) and Vijay Singh (Cr. Appeal (SJ) No.148 of 2009) are concerned, none of the witnesses has levelled any allegation against them of causing injury on the body of the informant. The doctor has also found only one injury on the person of the informant caused by sharp cutting weapon in the abdomen, which is specifically attributed to Appellant, Ravindra Mahto.

21. Therefore, impugned judgment of conviction and



order of sentence dated 05.02.2009 passed by the Additional Sessions Judge, Fast Track Court IV, Chapra, in Sessions Trial No.325 of 2006/146 of 2006 arising out of Panapur P.S. Case No.03 of 2005 with respect to aforesaid Appellants, namely, Yamuna Mahto (Cr. Appeal (SJ) No.98 of 2009) and Vijay Singh (Cr. Appeal (SJ) No.148 of 2009), are hereby set aside. They are acquitted from the charges levelled against them. They are discharged from the liabilities of their respective bail bonds.

22. In the result, Cr. Appeal (SJ) No.98 of 2009 is allowed in part and Cr. Appeal (SJ) No.148 of 2009 is allowed.

23. Appellant, Ravindra Mahto, (Cr. Appeal (SJ) No.98 of 2009) is directed to surrender before the Court below to serve out remaining part of his sentence. The Court below will take appropriate steps for securing arrest of the Appellant, Ravindra Mahto, to serve out the sentence in the event he does not surrender in the Court below.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	19-09-2018
Transmission Date	19-09-2018

