

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.220 of 1994

Against judgment and order dated 27th April, 1994 passed by 3rd Additional Sessions Judge, Vaishali at Hajipur in Sessions Trial No. 405 of 1990

=====

1. Jamadar Manji alias Jaminder Manjhi
2. Punit Manjhi
3. Mahavir Manjhi - All sons of late Bipat Manjhi
4. Sobhit Manjhi son of Punit Manjhi

All residents of Village Chand Sarai, PS Jandaha, District Vaishali

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Shrinandan Prasad Singh
Mr. Naresh Nandan and Mr. P Sharma
For the Respondent/s : Mrs. S B Verma

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-01-2018

The appellants Jamadar Manjhi @ Jamindar Manjhi, Punit Manjhi, Mahavir Manjhi and Sobhit Manjhi have filed this appeal challenging their conviction ordered by 3rd Additional Sessions Judge, Vaishali at Hajipur on 27th April, 1994 in Sessions Trial No. 405 of 1990 by which the appellants have been sentenced to undergo rigorous imprisonment for life. Appellant No. 4 Sobhit Manjhi is charged under Section 302 of the Indian Penal Code for committing murder of Muneshwar Majhi. He is also convicted uner Section 148 IPC. The remaining three appellants have been convicted under



section 302/149 IPC. As far as the appellant no. 2 Punit Manjhi and appellant no. 4 Sobhit Manjhi are concerned, it is reported that both have died during the pendency of the appeal and, therefore, the appeal so far as these two appellants are concerned, stands abated.

The appeal now persists only with regard to the two appellants, namely, Jamadar Manjhi and Mahavir Manjhi.

It is the case of the prosecution that on 23.06.1986 at about 6.00 AM the informant and his cousin brother Fekan Manjhi requested Jamadar Manjhi and Mahabir Manjhi, the appellants herein, to remove the Nad and Khunta from the field of informant Ramashish Manjhi. It is said that this led to an altercation and in the result Sobhit Manjhi came with a dagger and assaulted Muneshwar Manjhi giving him one dagger blow on the head as a result of which Muneshwar Manjhi fell down and died.

Various witnesses were examined and from the statement of the doctor who conducted the post-mortem and examination of the deceased, it is clear that the deceased suffered one dagger blow on his head which proved fatal. Admittedly, from the statement of PW 2 Muesh Nandan Jha, Doctor, there is only one injury on the right side frontal part of the head. That apart, from the statement of the eye-witnesses, i.e., PW 4 Umesh Kumar Manjhi, PW 5 Brahmdeo Manjhi, PW 12 Ramashish Manjhi, PW 16 Fekan Manjhi, it is clear that this



fatal injury was caused by use of dagger by Sobhit Manjhi and as far as the other three appellants, namely, Jamadar Manjhi, Mahavir Manjhi and Punit Manjhi are concerned, no specific overt act is attributed to them. It is only stated that Ramashish Manjhi and Fekan Manjhi had requested the appellants Jamadar Manjhi and Mahavir Manjhi to remove the Khunta and Nad. Except for this, no specific allegation is levelled against any of the appellants. It is, therefore, clear that Sobhit Manjhi is the accused who is the author of the fatal injury sustained by the deceased and this appellant has expired. So far as three other appellants are concerned, they are only shown to be present in the spot. No specific overt act is attributed to them and one of the appellants, namely, Punit Manjhi has died during the pendency of the matter.

Considering the fact that now against the appellants Jamadar Manjhi and Mahavir Manjhi for an incident took place as far back as on 23.06.1986, the only material available is that they were present in the spot and the place of the incident and without no specific overt act is attributed to them, it is not appropriate to convict them for the aforesaid act of theirs.

Taking note of the circumstances, the appeal so far as the appellants Jamadar Manjhi and Mahavir Manjhi are concerned, is allowed. They are acquitted of the charges levelled against them and



their conviction is set aside. They are directed to be set free after release of their bail bonds.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.01.2018
Transmission Date	

