

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1030 of 2017

Arising Out of PS. Case No.-70 Year-2007 Thana- KUDRA District- Bhabhua (Kaimur)

Pandit Rajendra Chaubey, Son of Ram Awadh Chaubey, R/o Village-Bhadaula, P.S.- Kudra, District- Kaimur at Bhabhua.

... .. Appellant/s

Versus

1. The State of Bihar .
2. Bajarangi Chaubey, Son of Om Prakash Chaubey,
3. Om Prakash Chaubey, Son of Ram Awadh Chaubey, Both R/o Village-Bhadaula, P.S.- Kudra, District- Kaimur at Bhabhua.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Parwej Khan, Advocate.
For the Respondent/s	:	Mr. Sri Shivesh Chandra Mishra, APP

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 10-04-2018

1. Heard learned counsel for the appellant as well as learned Additional Public Prosecutor appearing for the State.

2. This Criminal Appeal has been preferred against the Judgment of acquittal dated 09.06.2017 passed by the learned Fast Track Court -I, Kaimur at Bhabhua, in Sessions Case No. 216 of 2009/ Tr. No. 230 of 2017, whereby and whereunder, he acquitted the respondent nos. 2 and 3 of the charges framed against them for the offence punishable under Sections 307/34, 341, 323 and 324 of the Indian Penal Code.



3. Learned counsel for the appellant submits that the learned trial court failed to appreciate the evidence available on the record in its right perspective, as a result whereof, the court below came to wrong conclusion. He further submitted that, even if, it assumed that the prosecution could not succeed to prove the injuries beyond all shadow of reasonable doubts, then also, the learned trial court ought to have convicted the respondent nos. 2 and 3 for the offence punishable under Section 323 of the Indian Penal Code, because almost, all the witnesses supported the story of assault.

4. On the other hand, learned Additional Public Prosecutor supported the impugned Judgment of acquittal arguing that the learned trial court has passed a well discussed Judgment.

5. On perusal of the record, we find that the appellant lodged Kudra P.S. Case No. 70 of 2007 against respondent nos. 2 and 3 on 04.07.2007 disclosing this fact that, on 03.07.2007, at about 6 P.M., he was mercilessly assaulted by respondent nos. 2 and 3.

6. On perusal of the impugned Judgment, we find that the learned trial court doubted the injury report of appellant on the ground that the Doctor, who had allegedly examined the appellant on 04.07.2007, found the injuries within six hours and on that



basis the learned trial court came to conclusion that prosecution failed to establish the time of occurrence. Furthermore, we find that the learned court below noticed the improvement and embellishment made by the witnesses in course of trial. Furthermore, the learned trial court found that the prosecution could not succeed to prove the place of occurrence. We find that the learned trial court has touched almost all the evidences available on the record and we do not find any ground to interfere into the impugned Judgment of acquittal. Accordingly, this appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	19.04.2018
Transmission Date	19.04.2018

