

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.740 of 2018

In
Criminal Appeal (SJ) No.973 of 2018

Arising Out of PS. Case No.-32 Year-2001 Thana- BHORE District- Gopalganj

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{Against the Judgment of acquittal dated 09.02.2018 passed by the Additional Sessions Judge-VIII, Gopalganj, in Sessions Trial No.111 of 2005}

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Birendra Singh @ Virendra Singh @ Pappu Singh, son of Bijli Singh, resident of Belwa, P.S. Bhore, District-Gopalganj.

... .. Appellant.

Versus

1. The State of Bihar.
 2. Bipin Bihari Singh, son of Late Sakaldhari Singh.
 3. Baij Nath Singh, son of Late Dashrath Singh.
 4. Raj Narayan Singh, son of Late Gaya Singh.
 5. Rajesh Kumar Singh, son of Ram Bihari Singh.
 6. Akhileshwar Singh, son of Late Kapildeo Singh.
 7. Binod Singh, son of Late Ram Vilash Singh.
- All resident of Thakurai Belwa, P.S. Bhore, District-Gopalganj.

... .. Respondents.

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Appearance :

For the Appellant	:	Mr. Prince Kumar Mishra, Advocate.
For the State	:	Mr. Shyed Ashfaque Ahmad, A.P.P.

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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 : 28-06-2018

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

2. This appeal has been preferred against the Judgment of acquittal dated 09.02.2018 passed by the Additional Sessions Judge-VIII, Gopalganj, in Sessions Trial No.111 of 2005, by which and



whereunder he acquitted the respondent nos.2 to 7 of the charges framed under Sections 147, 148, 323 and 307/149 of the Indian Penal Code but convicted them for the offences punishable under Section 323 read with Section 149 of the Indian Penal Code and released them under Section 3 of the Probation of Offenders Act on due admonition for their good conducts and good behaviour in the society.

3. The appellant happens to be the informant in Bhore P.S. Case No.32 of 2001 and claimed that the respondent nos.2 to 7 assaulted him by lathi and farsa.

4. The respondent nos.2 to 7 were put on trial and stood charged for the offences punishable under Sections 147, 148, 323 and 307/149 of the Indian Penal Code.

5. In course of trial, the prosecution examined, altogether, 9 witnesses and also got exhibited the injury report as well as other documents.

6. The learned trial court having scrutinized the evidences, available on the record, passed the impugned Judgment in the manner, as we have already stated above.

7. Learned counsel appearing for the appellant submits that all the eye witnesses including the injured consistently stated before the learned trial court that it were the respondent nos.2 to 7, who assaulted the informant by means of farsa and lathi but the learned trial court acquitted the respondent nos.2 to 7 of the charges



framed under Sections 147, 148 and 307/149 of the Indian Penal Code, only on the ground that no incised wound was found on the person of the injured. He submitted that the learned trial court failed to take note of this fact that a clear cut case under Section 307 of the Indian Penal Code was made out. He further submitted that, moreover, the learned trial court released the respondent nos.2 to 7, giving benefit of Section 3 of the Probation of Offenders Act, without awarding any substantial punishment to them.

8. On the other hand, learned Additional Public Prosecutor for the State supported the impugned Judgment.

9. Having heard the contentions of both the parties, we went through the records and, in our view, this appeal can be disposed of on the admission stage itself.

10. From perusal of the impugned Judgment, we find that the informant sustained, altogether, three injuries, out of them only one injury was found on his head and the aforesaid injury was found simple in nature, said to be caused by hard and blunt substance. So far as the remaining injuries of the informant are concerned, the same were superficial and simple in nature.

11. The aforesaid fact goes to demonstrate that the respondent nos.2 to 7 had not used much force in making the assault and, furthermore, no sharp weapon had been used in committing the alleged offence. The aforesaid fact goes to show that respondent nos.2 to 7 had no intention or knowledge to kill the informant.



Therefore, in our view, the learned trial court rightly came to the conclusion that the prosecution failed to prove the charge under Section 307 of the Indian Penal Code against the respondent nos.2 to 7.

12. So far as the quantum of sentence awarded to the respondent nos.2 to 7 is concerned, the same also appears to be proper because the respondent nos.2 to 7 had no criminal antecedents and the occurrence took place on account of petty dispute.

13. Therefore, in our view, this appeal does not have any merit and is liable to be dismissed on the admission stage itself and, accordingly, this criminal appeal stands dismissed on the admission stage itself and, similarly, I.A. No.1785 of 2018 stands disposed of.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	NAFR
CAV DATE	NA
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