

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.516 of 2003

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

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Manoj Kumar Singh, son of Shri Damodar Singh, resident of Gudri Bazar (opposite of Homeopathic college), Bhagwan Bazar, District Saran

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant/s : Ms. Manjari Kumari, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 31-08-2018

Sole appellant has been convicted under Sections 341, 323 and 324 of the Indian Penal Code and acquitted from the charge under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and instead of imposing any substantive sentence he was ordered to be released on furnishing bond of Rs.3,000/- with one surety for a period of one year for maintaining peace and for maintaining good behaviour vide judgment dated 20.9.2003 passed by Sri R.P.Singh, the then 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Saran in Sessions Trial No. 321 of 2001.

2. Prosecution case as per fardbeyan of Santosh Kumar (PW 5), in short, is that while he was coming to his house from Gudari Bazar riding bicycle accused appellant Manoj Kumar Singh came from his behind and caught collar of his shirt as a result of which he



fell on the ground from the bicycle and thereafter the accused appellant Manoj Kumar Singh assaulted on his back of chest by some weapon and he sustained bleeding injury and the accused fled away.

3. On the basis of aforesaid fardbeyan Bhagwan Bazar P.S.Case No. 313 of 1995 was registered. Post investigation charge sheet has been submitted, cognizance of the offence has been taken and after commitment the case ultimately traveled to the file of Sri R.P.Singh, the then 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Saran for trial and disposal.

4. Charges were framed against the appellant under Sections 341, 323, 324 IPC and Section 3(1)(x) of SC/ST Act.

5. In order to establish its case altogether six witnesses have been examined on behalf of prosecution, they are PW 1 Shambhu Nath Gupta, PW 2 Ahmad Hussain, PW 3 Jawahar Lal Mahto, PW 4 Dhrub Lal Ram, PW 5 Santosh Kumar and PW 6 Dr. Sanat Kumar Singh, out of whom PW 5 is informant and injured and PW 6 is Doctor, who has examined PW 5 and proved the injury report (Ext.2) and other PWs. have been declared hostile by the prosecution.

6. That apart, the prosecution has brought on record some documents as exhibits, they are Ext.1- signature of informant on fardbeyan and Ext.2 is injury report of informant (PW 5).

7. On behalf of defence also one witness has been examined, namely, Madan Mohan Singh as DW 1 in order to prove the fact that



Tara Devi had some relation with father of informant and Tara Devi was employed as Nurse at Sadar Hospital, Chapra and she influenced the doctor and obtained false injury report in order to implicate the accused appellant.

8. On behalf of defence some documents have also been brought on record as exhibits, they are Ext.A- certified copy of voters list, Ext.B- certified copy of informatory petition filed by Kanti Devi, mother of appellant against Tara Devi and Tulsi Ram, Ext.C- certified copy of FIR of Sonapur P.S.Case No.88 of 2003 lodged against Tulsi Ram, Ext.D is certified copy of FIR of Sonapur P.S.Case No.87 of 2003 lodged against Tulsi Ram, father of informant, Ext.E- certified copy of sale deed executed by Laxmi Devi in favour of Tara Devi, wife of Phulan Ram, Ext.F- certified copy of demand register of holding No. 35/899 in the name of Smt. Tara Devi, wife of Phulan Ram.

9. Learned trial court on conclusion of trial has convicted the appellant under Sections 341, 323 and 324 IPC and released him on execution bond of Rs.3000/- for a period of one year for maintaining peace and good behaviour, however acquitted the appellant from the charge under Section 3(1)(x) of SC/ST (POA) Act.

10. Learned counsel for the appellant has assailed the judgment on the ground that all the prosecution witnesses have been declared hostile by the prosecution except PW 5, who is informant of



this case and as such there is no independent witness in this case. Further submission is that defence has brought on record some materials to show that one Tara Devi, who was posted as Nurse in Sadar Hospital, Chapra had some relation with father of informant and on her influence forged injury report was obtained and earlier also cases were filed against Tara Devi and in support of its contention the defence has brought on record Exts. A to F but the same have not been examined in right perspective and learned trial court has convicted the appellant under Sections 341, 323 and 324 IPC on the basis of solitary evidence of PW 5 and no independent witness in this case has been examined, as such, the impugned judgment of conviction cannot sustain in the eye of law.

11. On the other hand, learned counsel for the State has supported the impugned judgment of conviction and submitted that appellant has rightly been convicted as there is evidence of PW 5 that he was assaulted by the appellant on back of his chest by some weapon and he received injuries and the Doctor (PW 6) has also found two injuries on the person of informant, as such, learned trial court has rightly convicted the appellant and the same does not require any interference by this Court.

12. In the background of submission of both the parties, on perusal of evidence of PW 5, who is informant and injured in this case, it appears that while he was coming to his house by bicycle,



appellant caught hold of his collar of his shirt and assaulted him by some weapon from behind, causing injuries and he fled away and the Doctor (PW 6), who has examined the informant, has also found one penetrating wound on left scapular region measuring 1" x ½" x muscle deep and swelling over right shoulder measuring 2" x 2" and both the injuries were found to be simple in nature and injury No.1 was caused by sharp cutting weapon, whereas injury No.2 was caused by hard and blunt substance and as such the manner of occurrence as stated by PW 5 has been corroborated from the evidence of Doctor and so far defence of appellant is concerned, there is no independent witness except PW 5, who is informant and injured and his evidence has been corroborated by the evidence of Doctor (PW 6) and, as such, non-examination of any independent witness, the solitary evidence of PW 5, who is informant and injured, cannot be brushed aside as it is well settled that evidence of injured is always considered in high pedestals than the other witnesses. So far defence case is concerned, it was contended that medical evidence does not corroborate the ocular evidence of the informant and defence has tried to show that injury report is false and concocted as at the influence of Tara Devi, who has some relation with the father of informant, the same was obtained. On perusal of evidence and materials on record it appears that occurrence took place on 13.11.1995 at 7 P.M. and the fardbeyan was recorded on the same day at 9.30 P.M. at the Sadar Hospital, Chapra just after



the occurrence and there is no chance of manipulation of that and evidence of PW 5 is corroborated by medical evidence so far manner of occurrence is concerned. So far documents brought by defence are concerned, Exts. C & D are of the year 2003 much after the occurrence and other documents are also of no help to the defence.

13. Considering the above facts and circumstances, I find no infirmity in the impugned judgment of conviction and so far sentence is concerned, the appellant has been released on execution of bond of Rs.3000/- for a period of one year for maintaining peace and good behaviour and the record shows that bond has already been executed and period expired.

14. In the result, this appeal being devoid of merit is dismissed.

(Vinod Kumar Sinha, J)

spa/-

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