

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.61 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- VAISHALI(HAJIPUR)

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1. Ram Chandra Ram, son of late Ramdeo Ram
 2. Rajesh Kumar, son of Shri Sheo Prakash Ram
 3. Dinesh Prabhakar @ Dinesh Ram, son of Shri Sheo Prakash Ram
 4. Jagdish Ram, son of late Saryug Ram
 5. Jitendra Prabhakar, son of Shri Ram Chandra Ram
 6. Tuntun Ram, son of late Baleshwar Ram
 7. Akhilesh Kumar, son of Shri Sheo Prakash Ram
 8. Suresh Ram, son of late Ram Rup Ram

All are residents of village Bidupur, P.S. Bidupur, Distt. Vaishali at Hajipur.

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mayank Kumar, Amicus Curiae

For the State : Mr. B.M.P. Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-08-2018

1. This Criminal Appeal has been filed against the judgment of conviction and order of sentence dated 16.01.2009 passed by learned Additional Sessions Judge, F.T.C. 1st, Vaishali at Hajipur, in Sessions Trial No. 246 of 2005 arising out of Vidupur P.S. Case No. 26 of 2005, G.R. No. 407 of 2005 by which the Appellant Nos. 7, 8 have been convicted under Section 324 Indian Penal Code, Appellant No. 2 has been convicted under Section 379 Indian Penal Code and Appellant Nos. 1 to 6 have been convicted under Section 323/34 Indian Penal Code. The appellant Nos. 1 to 6 have been sentenced to undergo simple imprisonment for three months for the



offence under Section 323/34 Indian Penal Code and Appellant Nos. 7 and 8 have been sentenced to undergo simple imprisonment for six months under Section 324 Indian Penal Code. The Appellant No. 2 has also been sentenced to undergo simple imprisonment for three months under Section 379 Indian Penal Code. The sentences against Appellant No. 2 were ordered to run concurrently.

2. Heard Mr. Mayank Kumar, learned Amicus Curiae and learned Additional Public Prosecutor.

3. Learned Amicus Curiae has submitted that injury found on the person of informant was simple in nature. All the witnesses examined in the case are relatives and friends of informant. They are interested witnesses.

4. Learned counsel for the State has submitted that there is no illegality in the impugned judgment. All the witnesses have supported the case of prosecution.

5. As per allegation in the written report, the Appellants came at the door of informant Muniya Devi and assaulted on her head, leg and other parts of body with knife. It is alleged that on the order of Appellant No. 8, Appellant No. 7 gave knife blow to the informant causing injury on her forehead (*Lalat*), on account of which, the informant fell down. Thereafter, all the accused persons



assaulted the informant with *lathi* and *Farsa*. It is further alleged that Appellant No. 8 assaulted the informant with *Farsa* causing injury in the leg of the informant. It is further alleged that Appellant No. 2 snatched golden chain from neck of the informant.

6. During trial, the prosecution has examined seven witnesses. Muniya Devi (informant) has been examined as PW-2. She has supported the case in her examination-in-chief. She has stated that when she was sitting on her *Darwaza*, all the appellants arrived. Suresh Ram (Appellant No. 8) told her to withdraw the case of kidnapping. She refused, then Suresh Ram (Appellant No.8) along with Akhilesh Kumar (Appellant No. 7) abused the informant. Suresh Ram (Appellant No. 8) ordered to kill her. Thereafter, Appellant No. 7 assaulted the informant on her left forehead (*Lalat*) with knife and she fell down. Suresh Ram (Appellant No. 8) assaulted the informant with *Farsa* causing injury on her left leg. Ram Chandra Ram assaulted the informant with *lathi* causing injury on her right arm. Jitendra Ram (Appellant No.5) also assaulted her with *lathi* causing injury on her right cheek. Tuntun Ram (Appellant No. 6) assaulted informant with *lathi*. The other family members of the informant arrived and saved her. Rajesh Kumar (Appellant No. 2) has snatched golden chain. She got treatment in Vidupur Hospital. She has given her *Fard-e-beyan* in



the aforesaid Police Station. She has stated in her cross-examination that she had gone to Police Station. She was given knife blow from the front side. She has stated that she fell down in the *Sahan* and blood had fallen on the ground. She felt unconscious due to knife blow. Suresh Ram (Appellant No. 8) has also filed case for the same date of occurrence against her, Ganesh Ram, Ram Bilas Ram etc. She had not seen any sign of assault on person of Suresh Ram on the date of occurrence.

7. The other witnesses namely, Sanjay Ram (PW-1), Santosh Kumar (PW-3), Meena Kumari (PW-4) have supported the case as mentioned in the written report.

8. The Doctor Lalan Kumar has been examined as PW-6. He has found four injuries on the person of informant Muniya Devi which are mentioned below:

- (i) Incised wound on left side of forehead 1 ½” x ¼” x ¼” in dimension.
- (ii) Incised wound on antero – lateral part of middle of left leg 2” x ½” x ½” in dimension.
- (iii) Swelling on right arm 1 ½” x 2” in dimension.
- (iv) Swelling on right side of face 2” x ½” in dimension.



Injury Nos. (i) and (ii) were caused by sharp edged substance and injury Nos. (iii) and (iv) were caused by hard and blunt substance. All the injuries were opined to be simple in nature.

9. Abhay Kumar Singh is Investigating Officer of the case. He has been examined as PW-5. He has inspected the place of occurrence i.e. *Darwaza* of the informant as mentioned in the written report. He has stated that all the witnesses have supported the case before him in their statement recorded under Section 161 Cr. P.C.

10. The defence has also examined two witnesses namely, Avinash Kumar Singh (DW-1) and Dr. Lalan Kumar (DW-2). DW-1 has proved F.I.R. of Vidupur P.S. Case No. 25 of 2005 in which Appellant Suresh Ram was informant and informant Muniya Devi of instant case was accused in that case.

11. DW-2 Dr. Lalan Kumar has stated that he was posted in primary Health Centre, Vidupur. He has examined Santosh Ram (PW-5) and found three injuries on his person as described by him in his evidence, although, the opinion was kept reserved.

12. From the evidence of all the prosecution witnesses and injury report it appears that all have supported the evidence of informant Muniya Devi (PW-2) which also get corroboration from the



evidence of Dr. Lalan Kumar (PW-5).

13. This Court from evidence of DW-2 finds that nature of injury with regard to Appellant Suresh Ram has not been given by the Doctor. The injury report of Suresh Ram has been marked as Exhibit “D”. There is no mention in the injury report about nature of injury sustained by Appellant Suresh Ram. Mere producing the injury report marked as Exbt. ‘D’ showing that three injuries had been sustained by Appellant Suresh Ram in Vidupur P.S. Case No. 25 of 2005, will not be sufficient to totally disbelieve the entire evidence of the prosecution. It is specifically alleged that all the Appellants assaulted the informant after coming to her *Darwaza* having armed with sharp aged weapons as well as hard blunt substance. The informant and all the witnesses have fully supported the case of prosecution. The evidence of all the witnesses get corroboration from evidence of Dr. Lalan Kumar who has found four injuries on the person of informant. Two injuries caused by hard and blunt substance and two caused by sharp edged weapon.

14. Therefore, this Court does not find any illegality in the impugned judgment of conviction and order of sentence dated 16.01.2009 passed by learned Additional Sessions Judge, F.T.C. 1st, Vaishali at Hajipur, in Sessions Trial No. 246 of 2005 arising out of



Vidupur P.S. Case No. 26 of 2005, G.R. No. 407 of 2005.

15. This Criminal Appeal is accordingly dismissed.

16. The court below will take appropriate steps for arrest of the Appellants to undergo sentence as ordered in the impugned judgment of Trial Court.

(Sanjay Priya, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31/08/2018
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