

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.298 of 2018

Arising Out of PS. Case No.-220 Year-2014 Thana- NOKHA District- Rohtas

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{Against the Judgment dated 06.01.2018 passed in Sessions Trial No.257 of 2015 by the court of the learned Additional Sessions Judge-IV, Sasaram, Rohtas}.

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Deepak Kumar Tiwary @ Deepak Tiwary @ Amit Kumar Tiwari, son of Late Gajendra Tiwary, resident of village-Gamharia, P.S. Nokha, District-Rohtas.

... .. Informant (victim)-Appellant.

Versus

1. The State of Bihar.
 2. Murari Singh alias Muralidhar Singh, son of Late Deo Muni Singh.
 3. Arun Singh, son of Bishwanath Singh.
 4. Anuj Singh alias Ramanuj Singh, son of Dhani Singh.
- All respondents no.2 to 4 are resident of village-Gamharia, P.S. Nokha, District-Rohtas.

... .. Respondents.

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Appearance :

For the Appellant	:	Mr. Sanjay Kumar, Advocate. Mr. Kuber Pathak, Advocate. Dr. Anshuman, Advocate.
For the State	:	Mr. Shiwesh Chandra Mishra, A.P.P.
For the Respondent Nos.2 to 4	:	Mr. Tej Pratap Singh, Advocate. Mr. Kamal Kishore Singh, Advocate. Mr. Harsh Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA)

Date : 19-11-2018

Heard learned counsel appearing for the appellant, learned Additional Public Prosecutor appearing for the State as also the learned counsel appearing for the respondent nos.2 to 4 on the point of admission.

2. The appellant being the legal heir of the deceased



Gajendra Tiwary and the informant of Nokha P.S. Case No.220 of 2014 has preferred this criminal appeal against the impugned Judgment dated 06.01.2018 passed in Sessions Trial No.257 of 2015, whereunder the learned Additional Sessions Judge-IV, Sasaram, Rohtas, while acquitting the respondent nos.2 to 4 of the charges framed against them under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, convicted the co-accused Pappu Singh alias Ranjeet Bihari Singh, Ekram Singh alias Baliram Singh, Kamla Singh and Jhunna Singh alias Ranjeet Singh for the offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Learned counsel appearing for the appellant submits that while the respondent nos.2 to 4 were named in the F.I.R. as members of an unlawful assembly, indulged in committing the murder of the deceased Gajendra Tiwary and Vibhav Tiwary and in course of trial, the witnesses have also stated the said fact but the learned trial court while convicted the co-accused Pappu Singh alias Ranjeet Bihari Singh, Ekram Singh alias Baliram Singh, Kamla Singh and Jhunna Singh alias Ranjeet Singh for the offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act but acquitted the respondent nos.2 to 4 of the charges framed against them under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

4. On the other hand, learned Additional Public Prosecutor



appearing for the State and the learned counsel appearing for the respondent nos.2 to 4 submits that there is no doubt that the respondent nos.2 to 4 were named in the F.I.R. and in course of trial, the witnesses have also stated about their presence at the place and the time of the occurrence but no specific overt act has been attributed against the respondent nos.2 to 4.

5. On going through the impugned Judgment, it appears that the respondent nos.2 to 4 were named in the F.I.R. but no specific overt act has been attributed against them, nor any witnesses have stated about committing any overt act against them at the time of the occurrence.

6. We find no reason to interfere into the impugned Judgment.

7. Accordingly, this criminal appeal as well as I.A. No.1305 of 2018 stands dismissed on the admission stage itself.

(Rajendra Kumar Mishra, J)

(Madhuresh Prasad, J)

**Pradeep
Srivastava/-**

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.11.2018.
Transmission Date	20.11.2018.

