

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 1317 of 2017

Arising Out of PS. Case No.-191 Year-1998 Thana- Udwant Nagar District- Bhojpur

Sachchidanand Singh Son of Late Bhola Nath Singh, R/o Village- Mahavirganj Tola, Ekaura, P.S.- Udwant Nagar, District- Bhojpur (Bihar).

... .. Appellant

Versus

1. The State of Bihar.
2. Baban Singh, Son of Ram Keshwar Singh, aged about 48 Years,
3. Vishwanath Singh Son of Ram Dhyan Singh , aged about 70 Years,
4. Daharu Singh Son of Misir Singh, aged about 55 yeas,
5. Shambhu Singh Son of Dhorha Singh, aged about 45 Years,
6. Awadhesh Singh Son of Late Ram Pravesh Singh, aged about 47 Years,
7. Lalan Singh Son of Ram Naresh Singh, aged about 55 Years,
8. Sheo Adhar Singh Son of Ram Naresh Singh, aged about 55 Years,
9. Dinesh Singh, Son of Ram Naresh Singh, aged about 40 Years,
All R/o Village- Sabalpur Behra, P.S.- Udwant Nagar, District- Bhojpur.
10. Birda Yadav Son of Late Ram Naresh Singh , aged about 58 Years, R/o
Village- Pawana, P.S. Pawana, District- Bhojpur.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Pranav Kumar
For the Respondent/s : Mr. Ajay Mishra

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

4. 05-01-2018 Heard Sri Pranav Kumar, learned counsel for the appellant and Sri Ajay Mishra, learned Addl. Public Prosecutor.

2. The present appeal under Section 372 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) has been filed against order of acquittal dated 22-07-2017 of private respondents i.e. respondent no. 2 to 10 passed in Sessions Trial No. 20 of 2001 (arising out of Udwant Nagar P.S. Case No. 191



of 1998) by Sri Ramashankar Singh Yadav, learned Presiding Officer, Fast Track Court - Ist, Bhojpur at Ara (hereinafter referred to as the 'Trial Judge'). By the said judgment, the learned Trial Judge has acquitted private respondents from charge under Sections 307, 302/34 of the Indian Penal Code and Section 27 of the Arms Act, 1959. Alongwith the appeal, the appellant, who is victim since his father was done to death in the occurrence, has also filed a petition for grant of leave, vide I.A. No. 2710 of 2017 under Section 378(3) of the Cr.P.C.

3. Learned counsel for the appellant submits that despite the fact that there were evidence of ocular witnesses, the learned Trial Judge has ignored the same and passed judgment of acquittal. He submits that in the occurrence, besides injury on father of the informant, his sister had also received pellet injury, but everything was ignored and in a cryptic manner, judgment of acquittal has been passed.

4. Besides hearing, we have perused the materials on record, particularly the impugned judgment. On going through the judgment, it is evident that prosecution case was that the accused persons arrived at the house of the informant and called the father of the informant and thereafter, father of the informant (appellant in the present case) went out of his house carrying a



lantern and thereafter, the appellant also followed him carrying a torch. It was claimed that in the torch light and in lantern, they have identified the accused persons. In the occurrence, it was alleged that firing was made and one fire shot from rifle/gun hit thigh of the father of the informant. In the said occurrence, sister of the informant, who was examined as P.W.6, also received pellet injury. Thereafter, both injured were carried to Sadar Hospital, Ara and on way to the P.M.C.H., Patna, father of the appellant succumbed to his injuries, whereas the sister was treated.

5. On the basis of *fardbeyan*, F.I.R. was lodged and case was investigated and thereafter, chargesheet was submitted. During the trial, to establish its case, the prosecution examined altogether nine witnesses, in which, the informant had mainly claimed to be eye-witness to the occurrence, as P.W.5. Regarding some other witnesses, it was stated that they had witnessed the said occurrence. During trial, it was noticed that old animosity in between the parties was going on. The learned Trial Judge had also noticed that though, it was claimed by the prosecution that in between two person, father of the informant had intervened and this was the reason for committing the occurrence. The learned Trial Judge had also noticed that



injuries found on the person of P.W.6 i.e. Ranjita Kumari, the sister of the informant, was not corroborated, since injury on her person was caused by hard and blunt substance. Even in the evidence, there were contradictions regarding using shot of firing. Some of the witnesses have said that indiscriminate firing was made, whereas, some had said three firings were made. However, fact remains that only one fire-arm injury, that too on the thigh of the father of the informant, was found. During trial, source of identification i.e. lantern and torch were not produced, nor during investigation, those facts were produced. After examining the evidence in detail, the learned Trial Judge extending the benefit of doubt has passed order of acquittal.

6. On perusal of the judgment impugned, the Court is satisfied that there is no apparent perversity warranting interference. Accordingly, there is no need to grant leave and as such, leave petition i.e. I.A. No. 2710 of 2017 stands dismissed. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J.)

(Arvind Srivastava, J.)

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