

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.1119 of 2017

Arising Out of PS.Case No. -278 Year- 2012 Thana -BHORE District- GOPALGANJ

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Vijay Kumar @ Vijay Kumar Pandey, S/o Late Gauri Shankar Pandey, R/o of Vill. Domanpur, P.S. Bhore, Dist.- Gopalganj.

.... Appellant/s

Versus

1. The State of Bihar.
2. Rajeev Pandey @ Guddu Pandey S/o Late Dhruvdeo Pandey,
3. Mani Kant Pandey, S/o Late Dhruvdeo Pandey, 2 & 3 are R/o Vill. Domanpur, P.S. Bhore, Dist.- Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Sharma, Advocate.

For the Respondent/s : Mr. Shivesh Chandra Mishra, 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: 29-01-2018

1. Heard learned counsel for the appellant, learned Additional Public Prosecutor for the State as well as learned counsel appearing for the respondent nos. 2 and 3, on the point of admission as well as on Interlocutory Application No. 2006 of 2017.

2. The appellant being informant of Bhore (Hathuwa) P.S. Case No. 278 of 2012 is dissatisfied with the Judgment and sentence order dated 13.07.2017 passed by Additional Sessions Judge-VIII, Gopalganj, in Sessions Trial No. 04 of 2014, by which and whereunder, he acquitted the respondent nos. 2 to 3 of the charges under Sections 341/34 and 307/34 of the Indian Penal Code, but



convicted them for the offence punishable under Sections 323/34 and 504/34 of the Indian Penal Code and, accordingly, gave benefit to them of Section 4 of the Probation of Offenders Act, directing them to furnish probation bonds of Rs.5000/- with two sureties each for the period of one year for their good conducts and good behaviour in the society.

3. Learned counsel for the appellant assailed the impugned Judgment arguing that the learned court below committed error while observing in the impugned Judgment that the Doctor and Investigating Officer had not been examined, whereas the Doctor and Investigating Officer were examined in course of trial. He further submitted that the learned court below ought to have convicted the respondent nos. 2 and 3 for the offence punishable under Section 307/34 of the Indian Penal Code, but the learned trial court wrongly acquitted the respondent nos. 2 and 3 of the charges framed under Section 307/34 of the Indian Penal Code. He also submitted that the Doctor clearly stated that the injuries were caused by sharp cutting weapons and, therefore, at least the respondent nos. 2 and 3, ought to have been convicted for the offence punishable under Section 324 of the Indian Penal Code.

4. On the other hand, learned counsel for the respondent nos. 2 and 3 supported the impugned Judgment arguing that the learned trial court passed the well discussed Judgment and there is no



need to interfere into the findings of impugned Judgment and sentence order.

5. We perused the impugned Judgment and sentence order and we do not find any ground to interfere into the impugned Judgment and sentence order. No doubt, the learned court below ought to have convicted the respondent nos. 2 and 3 for the offence punishable under Section 324 of the Indian Penal Code, because the injuries found on the person of injured are said to have caused by sharp cutting weapon, but, even then, the aforesaid error does not give any ground to this Court to interfere into the findings of the court below.

6. In the aforesaid circumstance, this criminal appeal stands dismissed on admission stage. The Lower Court Records be returned to the concerned court immediately.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.02.18
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