

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.848 of 2018

Arising Out of PS.Case No. -115 Year- 2004 Thana -MAIRWA District- SIWAN

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Jagdish Gond, Son of late Gopal Gond, resident of Village-Chitmath, P.S. Mairwan,
District Siwan.

.... Appellant

Versus

1. The State of Bihar
2. Dharmendra Nonia, son of late Raghu Nonia
3. Bhuteli Gond, son of Dwarika Gond
4. Nandlal Ram, son of late Bechan Ram

All (2-4) residents of village Chitmath, P.S. Mairwan, District Siwan.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Sanat Kumar Mishra, Adv.
Mr. Rohit Mishra, Adv.

For the State : Mr. Satya Narayan Prasad, 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: 20-07-2018

1. Heard learned counsel for the appellant as well as learned
Additional Public Prosecutor for the State on the point of admission
and in our view, this appeal can be disposed of on admission stage
itself.

2. This appeal has been preferred against the judgment of
acquittal dated 05.05.2018 passed by learned Additional Sessions
Judge, F.T.C-2, Siwan in Sessions Trial No. 124 of 2006 by which
and whereunder he acquitted the respondents no. 2, 3, and 4 of the
charges framed against them for the offences punishable under



Sections 364, 323, 447 and 120B of the Indian Penal Code.

3. Originally, appellant filed complaint case which was converted into Mairwan P. S. Case No. 115 of 2004. The appellant claimed in his complaint petition that in the night of alleged date of occurrence while he was sleeping in his house, the respondents no. 2, 3 and 4 being armed with firearms came there and forcibly took him towards western side but the appellant raised alarm which attracted villagers and thereafter, respondents no. 2, 3, and 4 left him in a field which was situated at the distance of half kilometer from his house.

4. After investigation and cognizance, respondent nos. 2, 3 and 4 were put on trial and stood charged for the offences punishable under Sections 364, 323, 447 and 120B of the Indian Penal Code. To prove the charges, prosecution examined, altogether, four prosecution witnesses. The statements of respondent nos. 2, 3, and 4 were recorded under Section 313 of the Cr. P. C and thereafter, the learned trial court after scrutinizing the evidences available on the record came to the conclusion that the above stated case had been lodged on account of previous enmity and litigation. The trial court also found that non-examination of investigation officer was fatal to the prosecution case.

5. Learned counsel appearing for the appellant challenged the impugned judgment of acquittal arguing that it is well settled



principle of law that enmity cuts in both ways but the learned trial court while writing the impugned judgment of acquittal failed to take notice of above stated settled maxim of the law and wrongly observed that the above stated case had falsely been lodged on account of previous enmity.

6. No doubt, it is well settled maxim of law that enmity cuts in both ways but when the learned trial court after scrutinizing and analyzing the evidences available on the record came to the conclusion that the above stated case had been lodged on account of previous enmity and litigation, then, in that circumstance, this Court is not in a position to impose its own view in respect of the above stated finding. Furthermore, we find that there is no irregularity, illegality or perversity into the impugned judgment of acquittal and, accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

SHAHZAD/-

AFR/NAFR	NAFR
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