

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1297 of 2017

Arising Out of PS. Case No.-147 Year-2004 Thana- SATHI District- West Champaran

Babuna Dubey, Son of late Ramjee Dubey, Resident of Village- Katahari,
Police Station- Sathi, District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar,
2. Chandrabhushan Rao, Son of late Jagarnath Rao,
3. Pintu Rao, Son of Chandrabhusan Rao,
4. Nishu Rao, Son of Chandrabhushan Rao,
5. Rama Kant Giri, Son of late Kashi Giri,
6. Shri Kant Giri, Son of late Kashi Giri, All the Resident of Village- Katahari,
Police Station -Sathi, District- West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Milind Kumar Mishra, Advocate.
For the Respondent/s	:	Mr. Sri Shivesh Chandra Mishra, APP

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 27-06-2018

1. Heard learned counsel for the appellant as well as learned Additional Public Prosecutor for the State on I.A. No. 2535 of 2017 as well as on the point of admission.

2. The appellant is informant in Sathi P.S. Case No. 147 of 2004 and gave his Fradbeyan on 04.09.2004 and on the basis of his Fradbeyan the above stated Sathi P.S. Case No. 147 of 2004 was lodged against eight accused persons for the offence punishable under Section 302 and other minor Sections of the



Indian Penal Code. The police after investigation submitted the charge sheet against eleven persons including respondent nos. 2 to 6 in piecemeal manner. The cognizance of the offence was taken and the case was committed to the court of Sessions. The respondent nos. 2 to 6 along with remaining accused were put on trial before the trial court and, accordingly, the respondent nos. 2 to 6 as well as remaining charge sheeted accused were charged for the offence punishable under Sections 147, 148, 302/149, 307/149, 341 and 323 of the Indian Penal Code and the prosecution adduced its evidence. The statement of respondent nos. 2 to 6 as well as other accused was recorded under Section 313 of the Cr.P.C. The defence also adduced its evidence.

3. The learned court below after considering the materials available on record acquitted the respondent nos. 2 to 6 whereas convicted the remaining accused for the offence punishable under Sections 147, 148, 323/149, 341/149 and 302/149 of the Indian Penal Code.

4. From perusal of the impugned Judgment, we find that the learned court below acquitted the respondent nos. 2 and 4 on the plea of alibi whereas the respondent nos. 3, 5 and 6 were acquitted as they were not named in the First Information Report, which has created doubt in the mind of trial court. The learned trial



court has discussed the evidences at paragraph 21 of the impugned Judgment and from perusal of the aforesaid paragraph, we do not find any ground to interfere into the finding of the learned trial court because neither there is illegality nor there is any perversity in the finding of the learned trial court.

5. Accordingly, this appeal stands dismissed on admission stage itself and I.A. No. 2535 of 2017 stands disposed of.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Bhardwaj/

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

