

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.107 of 2017

Arising Out of PS.Case No. -20 Year- 2006 Thana -PUNPUN District- PATNA

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1. Bipin Malakar, Son of Late Gopali Bhagat,
2. Navin Malakar, Son of Late Ram Pravesh Malakar,
3. Navnit Malakar, Son of Late Ram Pravesh Malakar, All are resident of Village-
Khaira, Police Station- Gaurichak in the district of Patna. Appellant/s
Versus

1. The State of Bihar. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar, Adv

For the Respondent/s : Mr. Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-10-2018

Heard learned counsel for the parties.

2. This appeal is against refusal of the prayer for discharge under Section 227 of the Code of Criminal Procedure passed in connection with Punpun (Gaurichak) P.S.Case No.20 of 2006, a case under Section 302/34 of the Indian Penal Code corresponding to Special Case No.108 of 2016 by the learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Patna.

3. According to FIR, for dispute relating to purchase of land of the informant, the appellants and co-accused Sunil Malakar came at the house of the informant and in presence of the informant, co-accused-Sunil Malakar fired at her husband, which resulted in his death. The informant supported the aforesaid allegation before the police. However, no other witness named the appellants as member of the unlawful assembly



present at the time of occurrence. Hence, the police did not send up the appellants for trial. However, the learned Magistrate differed with the police opinion and took cognizance against the appellants and thereafter rejected their prayer under Section 227 of the Code of Criminal Procedure.

4. Submission of that learned counsel for the appellants is that there is no material at all against the appellants to prosecute them, as none has supported the fact that the appellants were present at the time of occurrence. Therefore, fate of the trial is known against the appellants.

5. It is true that before the police, other witnesses have not supported the fact that appellants were also present at the time of occurrence, though some of the witnesses claimed to be eye witness of the occurrence. However, at this stage, statement of the informant cannot be disbelieved. Moreover, the law is well settled that conviction is possible, even on the evidence of single witness provided the witness is wholly reliable and trustworthy. Therefore, this appeal has got no merit.

6. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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