

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 350 of 2018

Arising Out of PS.Case No. -62 Year- 2009 Thana -JAMALPUR District- DARBHANGA

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Abdul Rahman @ Md. Rahaman Son of late Mohibullah Resident of
Village- Mansara, P.S. Jamalpur, District- Darbhanga.

.... Appellant

Versus

1. The State of Bihar.

2. Faizul Haque

3. Md. Umar Farooque

4. Badrul Driver

All Sons of Abdur Rahman

5. Haleema daughter of Badrul Driver

6. Khushia Khatoon Daughter of Sadrul Hoda

7. Ahmadulla Son of Badrul Driver

8. Kamrunnisha Wife of Faizul Haque

All resident of Village- Mansara, P.S. Jamalpur, District- Darbhanga.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Wasi Ahmad Khan, Adv.

For the State : Mr. S.B. Verma, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

5 16-07-2018 Heard learned counsel appearing for the appellant as

well as learned Additional Public Prosecutor for the State on the

point of admission along with I.A. No. 1363 of 2018 and I.A. No.

1362 of 2018.

I.A. No. 1363 of 2018 has been filed under Section 5 of



Limitation Act for condonation of delay of 42 days in filing this criminal appeal.

Delay in filing this criminal appeal is, hereby, condoned and accordingly, I.A. No. 1363 of 2018 stands disposed of.

I.A. No. 1362 of 2018 has been filed for granting leave to appellant to contest this criminal appeal.

The appellant happens to be informant in Jamalpur P. S. Case No. 62 of 2009 and accordingly, he is permitted to contest this criminal appeal. Accordingly, I.A. No. 1362 of 2018 stands disposed of.

This criminal appeal has been preferred against the judgment dated 17.10.2017 passed by learned Additional Sessions Judge-II, Benipur, Darbhanga in Sessions Trial No. 133 of 2010 by which and whereunder, he acquitted the respondents no. 5, 6 and 8 of the charges framed against them and convicted the respondents no. 2, 3, 4 and 7 for the offences punishable under Sections 147 and 323 of the Indian Penal Code.

The grievance of the appellant is that the learned trial court committed error in acquitting the respondents of the charges framed under Sections 436 and 380 of the Indian Penal Code, particularly, in the circumstance, when almost all the prosecution



witnesses in course of trial, specifically, stated that the respondent nos. 2 to 8 put the residential house of appellant on fire and also committed theft.

Learned counsel appearing for the appellant took us through the impugned judgment and submitted that almost all the prosecution witnesses stated the factum of putting fire on the residential house of the appellant and similarly, almost all the witnesses stated that respondent nos. 2 to 8 committed theft of belongings of the house of the appellant.

On contrary, learned Additional Public Prosecutor supported the impugned judgment arguing that the learned trial court has properly discussed the evidences available on the record and came to the conclusion that prosecution failed to prove the charges framed under Sections 436 and 380 of the Indian Penal Code.

Having heard the rival contentions of both the parties, we went through the record. From perusal of para 21 of the impugned judgment, we find that the learned trial court appreciated properly the evidences available on the record and having noticed the contradictions occurred in the deposition of prosecution witnesses held that prosecution could not succeed to prove charges framed under Sections 436 and 380 of the Indian



Penal Code. Therefore, we do not find any ground to interfere into the impugned judgment. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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