

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.718 of 2018

Arising Out of PS. Case No.-256 Year-2014 Thana- BIHIYA District- Bhojpur

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{Against the Judgment of acquittal dated 02.05.2018 passed by the Additional Sessions Judge-VI, Bhojpur, Ara, in Sessions Trial No.60 of 2016}.

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Krishan Kumar, Son of Late Ramjit Prasad, resident of Village- Kalyanpur,
P.S.- Bihiya, District- Bhojpur.

... .. Appellant.

Versus

1. The State of Bihar.
 2. Sunil Yadav, Son of Rajnath Yadav.
 3. Delip Yadav, Son of Lallu Yadav.
 4. Deepak Yadav, Son of Lallu Yadav.
 5. Raj Nath Yadav, Son of Late Belash Yadav.
 6. Manoj Yadav, Son of Late Deenath Yadav.
 7. Vijay Yadav, Son of Late Deenath Yadav.
 8. Budhram Yadav, Son of Jalim Yadav.
 9. Baban Yadav, Son of Sumeshwar Yadav.
 10. Pintu Yadav, Son of Lakthu Yadav.
 11. Binod Yadav, Son of Bideshi Yadav.
 12. Birander Yadav, Son of Dhuke Yadav.
 13. Harishankar Yadav Son of Late Bajnath Yadav.
- All are resident of Village- Kalyanpur, P.S. Bihiya, District- Bhojpur.

... .. Respondents.

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Appearance :

For the Appellant	:	Mr. Gopal Govind Mishra, Advocate.
For the State	:	Mr. Mayanand Jha, 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 : 06-08-2018

Heard learned counsel for the appellant as well as learned
Additional Public Prosecutor for the State on the point of admission
as well as I.A. No. 2003 of 2018.



2. The appellant is aggrieved by the acquittal of respondents no.2 to 13 of the charges framed against them for the offences punishable under Sections 147, 148, 323, 341, 504 and 149 of the Indian Penal Code and Section 27 of the Arms Act passed by the learned Additional Sessions Judge-VI, Bhojpur at Ara, vide Judgment dated 02.05.2018 in Sessions Trial No. 60 of 2016.

3. Learned counsel appearing for the appellant submits that the prosecution witnesses specifically stated that respondents no.2 to 13 were, too, present being armed with lethal weapons at the time of alleged occurrence and they abused the informant and others, but the learned Trial Court failed to take note of this fact that the respondents no.2 to 13 had shared common intention with other accused, who have been convicted for the offence punishable under Section 302 of the Indian Penal Code.

4. The perusal of the impugned Judgment goes to show that on the alleged date of occurrence, the Driver of informant gave information to him that he was beaten up by Delip Yadav and Deepak Yadav. Having got the aforesaid information, the informant along with his father went to the place of the occurrence, where Lallu Yadav, Delip Yadav, Deepak Yadav and Sumeshwar Yadav being armed with licencee guns were standing. The informant made query regarding the assault of his driver but, in the meantime, Rajnath Yadav, Manoj Yadav, Vijay Yadav and Budhram Yadav having armed with licencee guns also came there and, similarly, Baban Yadav,



Binod Yadav, Pintu Yadav, Birander Yadav, Harishankar Yadav, Sunil Yadav and Satyanarain Yadav alias Sattan Yadav being armed with 'lathi, 'danda' and 'Desi Katta', too, came there and started abusing him as well as his father. In the meantime, Satyanarain Yadav alias Sattan Yadav and Sumeshwar Yadav exhorted the others to kill the informant and his father and, thereafter, Lallu Yadav opened fire from his licencee rifle, which hit on the back side of the head of the informant's father, as a result whereof he died then and there.

5. The prosecution, in course of trial, examined, altogether, 10 witnesses and got exhibited certain documents. However, the learned trial court having considered the evidences, available on the record, convicted the accused Lallu Yadav for the offence punishable under Section 302 of the Indian Penal Code and Section 27 of the Arms Act and, similarly, convicted the accused Sattan Yadav and Sumeshwar Yadav for the offence punishable under Section 302 read with Section 109 of the Indian Penal Code, whereas acquitted the respondents no.2 to 13 of the charges framed against them.

6. The sole contention of the learned counsel for the appellant is that the respondents no.2 to 13 had also shared common intention to commit the murder of the deceased but from perusal of the impugned Judgment, we find that on spur of moment, the co-convicts Sattan Yadav and Sumeshwar Yadav ordered the others to kill the deceased and, thereafter, in no time, co-convict Lallu Yadav opened fire on the deceased and, therefore, it cannot be said that the



respondents no.2 to 13 had also shared common intention to commit the murder of the deceased and, therefore, we are of the view that the learned trial court rightly acquitted the respondents no.2 to 13.

7. We do not find any ground to interfere into the impugned Judgment of acquittal and, accordingly, this criminal appeal as well as I.A. No.2003 of 2018 stands dismissed on the admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	NAFR
CAV DATE	NA
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