

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.614 of 2018

Arising Out of PS.Case No. -30 Year- 2001 Thana -HARNAUT District- NALANDA
(BIHARSHARIFF)

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Ajay Kumar @ Ajay Mahto, Son of Bachchu Mahto, Resident of village-Tiskurwa,
P. S. – Harnaut, District – Nalanda.

.... Appellant

Versus

1. The State of Bihar
2. Shambhu Prasad S/o Late Janeshwar Mahto R/o Village – Tiskurwa, P. S. –
Harnaut, District – Nalanda.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Anil Kumar No. 1, Adv.

For the Respondent/s : Mrs. Shashi Bala Verma, APP

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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: 19-09-2018

I.A. No. 2068 of 2018 has been filed under Section 378(3)
of the Cr. P. C praying therein to permit the applicant to pursue this
criminal appeal.

The applicant happens to be informant and accordingly, he
is permitted to pursue this criminal appeal.

In the aforesaid manner, I. A. No. 2068 of 2018 stands



allowed.

Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on the point of admission and perused the record including impugned judgment.

The appellant has preferred this criminal appeal against the judgment of acquittal dated 21.03.2018 passed in S. T. No. 349 of 2002 by which and whereunder, the learned Presiding Officer, F.T.C. No. – 1, Nalanda, Bihar Sharif acquitted the respondent no. 2 of the charges framed against him for the offences punishable under Sections 307/34, 504/34 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel appearing for the appellant submits that the learned trial court closed the prosecution case on 02.08.2017 without issuance of summonses to doctor and investigating officer and thereafter, a petition under Section 311 of the Cr. P. C was filed before the learned trial court praying therein to issue summonses to doctor and investigating officer and the learned trial court allowed the aforesaid petition filed under Section 311 of Cr. P. C vide order dated 30.08.2017, subject to payment of cost of Rs. 3000/-. The appellant challenged the order dated 30.08.2017 before this court being aggrieved by imposition of cost but during pendency of criminal miscellaneous before this court, the learned trial court pronounced the



impugned judgment.

Annexure-1, certified copy of order dated 30.08.2017 passed in S. T. No. 349 of 2002, goes to show that charge against respondent no. 2 was framed on 17.04.2007 and the prosecution case was closed on 02.08.2017. However, the aforesaid order further reveals that due to delaying tactics of the prosecution, the above stated S. T. No. 349 of 2002 remained pending for more than ten years. Furthermore, the aforesaid order reveals that before closure of the prosecution case, the learned trial court had issued summonses and warrant of arrest against the prosecution witnesses but in spite of that, except the informant and some others, the remaining prosecution witnesses did not appear. However, the learned trial court vide order dated 30.08.2017 gave liberty to concerned Additional Public Prosecutor to produce investigating officer and doctor within four dates, subject to payment of cost of Rs. 3000/- but the appellant challenged the order dated 30.08.2017 before this court and the aforesaid fact indicates that the appellant was interested only to harass the respondent no. 2 and he had no interest in disposal of S. T. No. 349 of 2002.

Therefore, we are of the view that the learned trial court has rightly passed the impugned judgment of acquittal and there is no need to interfere into the impugned judgment.



Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

SHAHZAD/- Rajeev

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	25.09.2018
Transmission Date	25.09.2018

