

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.27 of 2018

Arising Out of PS. Case No.-1367 Year-2010 Thana- COMPLAINT CASE District- Jamui

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Maheshwar Modi, son of Baiju Modi resident of Village- Sangdhu, P.S. Jamui, District- Jamui, At present resident of Village- Piri Khairi Rampur, P.O. Amrath, P.S. & District- Jamui.

... .. Appellant/s

Versus

Balmiki Modi son of Laxmi Narayan Modi, resident of Mohalla- Near Jamui Thana Chowk, P.O.+ P.S. Jamui, District Jamui.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kartik Kumar Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 22-11-2018 The petitioner (proposed appellant) seeks grant of leave for preferring an appeal against the judgment and order of acquittal dated 06.03.2018 passed by the learned Judicial Magistrate, Ist Class, Jamui in connection with Complaint Case No. 1367C of 2010.

The allegation in the complaint petition is that the petitioner, after locking his shop, had gone to Delhi and when he came back, he found that another lock was put on the shop. Later, a compromise was effected with the intervention of the local police. However, again when the father of the petitioner wanted to open the shop, an occurrence took place in which the petitioner is said to have been assaulted.

Three witnesses were examined during the



course of trial.

The learned trial court was of the view that from the deposition of none of the witnesses, any act of assault or of affray could be established. So far as the offence under Section 385 of the Indian Penal Code is concerned, the statement of the complainant/petitioner and the complaint lodged by him differ in material aspects. Considering those facts, the trial court recorded a finding of acquittal.

No good ground has been made out by the learned counsel for the petitioner to grant leave for preferring in appeal.

The leave is declined.

The petition is dismissed.

(Ashutosh Kumar, J)

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