

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1425 of 2017

Arising Out of PS.Case No. -84 Year- 2005 Thana -PIPRA District- SUPAUL

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1. Karunakar Jha Son of Thakur Prasad Jha resident of village - Sakhua,
P.S. - Pipra, District - Supaul.

.... Appellant/s

Versus

1. The State of Bihar.
2. Kari Prasad Yadav Son of Ganga Prasad Yadav resident of village -
Devipatti, P.S. - Pipra, District - Supaul.
3. Girdhari Pd. Yadav Son of Ganga Prasad Yadav resident of village -
Devipatti, P.S. - Pipra, District - Supaul.
4. Sikandar Yadav Son of Late Babuji Yadav resident of village - Devipatti,
P.S. - Pipra, District - Supaul.
5. Brahmdeo Yadav Son of Late Laxmi Yadav resident of village - Sakhua,
P.S. - Pipra, District - Supaul.
6. Mahanand Yadav Son of Sukhdeo Yadav resident of village - Devipatti,
P.S. - Pipra, District - Supaul.
7. Shailendra Yadav Son of Chandeshwari Yadav resident of village -
Simiyawan, P.S. - Bishanpur, District - Supaul.
8. Sukhdeo Yadav Son of Late Soti Yadav resident of village - Devipatti,
P.S. - Pipra, District - Supaul.
9. Ganesh Choudhary Son of Baiju Choudhary resident of village - Sakhua,
P.S. - Pipra, District - Supaul.
10. Bhupendra Yadav Son of Rameshwar Yadav resident of village -
Devipatti, P.S. - Pipra, District - Supaul.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dilip Kumar Sinha

For the Respondent/s : Mr. Shivesh Chandra Mishra

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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 04-04-2018 1. Heard learned counsel for the appellant as well as

learned counsel for respondent nos.2 to 10 and also heard

learned Addl. Public Prosecutor for the State.

2. Appellant happens to be injured of Pipra P.S. case



no. 84/2005 and is aggrieved by the judgment of acquittal dated 8.9.2017 passed by the learned Sessions, Supaul in Sessions trial no. 322/2010 by which and whereunder he acquitted respondent nos.2 to 10 of the charges framed against them for the offences punishable under sections 147, 148, 307, 149, 323, 379 and 120B of the Indian Penal Code.

3. The learned trial court acquitted the above stated respondents on the ground that their identification was doubtful, there was delay in recording the statements of the witnesses and there was long standing enmity between the parties.

4. It would appear from perusal of the impugned judgment that on 13.8.2005 at about 9 p.m. appellant along with Jannat Hussain (PW5) and Upendra Mandal (PW7) were going on a motorcycle but while they were on their way, respondent nos.2 to 10 stopped them and badly assaulted them with lathi and danta as well as iron rod. Pipra P.S. case no. 84/2005 was registered on 14.8.2005 on the fardbeyan of PW5, Jannat Hussain. Charge sheet was submitted and the above stated respondents were put on trial. However, in course of trial, only appellant (PW11) and injured Upendra Mandal (PW7) supported the prosecution case. So far as PW5, Jannat Hussain, who happens to be the informant and so-called injured of the case is



concerned, he stated that while he along with PW7 and PW11 were going on a motorcycle, 7 to 8 persons blocked the road and having seen the aforesaid situation, he turned his motorcycle and tried to flee but unfortunately, his motorcycle slipped and he as well as the above stated two persons fell on the ground and in that course, light of the motorcycle was also put off. This PW5 was declared hostile by the prosecution. However, it is also pertinent to note here that PW7 claimed to have identified seven persons whereas PW11 claimed to have identified eight persons and the FIR was lodged against nine persons.

5. The learned trial court discussed the evidences available on record and came to the conclusion that when the light of the motorcycle was extinguished, it was not probable for PW7, PW11 and PW5 to identify the culprits because there was no any other source of light and admittedly, occurrence had taken place in the dark night. We do not find any perversity in the aforesaid finding of the trial court and moreover, in view of contradictory statements of PW7 and PW11 in respect of number of culprits, we do not think it proper to interfere into the impugned judgment. Accordingly, this appeal along with I.A. no. 2504/2017 which has been filed on behalf of the appellant under section 378(3) of the Cr.P.C stand dismissed on admission



stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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