

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.378 of 2018

Arising Out of PS.Case No. -412 Year- 2005 Thana -BARH District- PATNA

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Rajesh Kumar

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rabindra Prasad Singh

For the Respondent/s : Mr. Sri Satya Narayan Prasad

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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)

4 16-08-2018

Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on the point of Admission on I.A.No. 1507 of 2018.

The appellant is aggrieved by the impugned judgment dated 23.01.2018 passed by the learned 1st Additional Sessions Judge, Barh, Patna in Session trial no. 781 of 2006/ 76 of 2007 by which and whereunder he acquitted the respondent nos. 2 to 6 of the charges framed against them for the offences punishable under section 302/34/ 307/34/459,379,398, 400, 402 of the Indian Penal Code and 27 of the Arms Act.

Learned counsel appearing for the appellant submits that in course of investigation, the name of appellant nos. 2 to 6



surfaced in this case and in course of trial, the witnesses specifically stated about the involvement of respondent nos. 2 to 6 and the witnesses also identified them before the court below but in spite of that, the learned court below acquitted the respondent nos. 2 to 6.

It would appear from perusal of the impugned judgment that a dacoity was committed in the house of appellant and in that course, dacoits made firing causing injury to three persons, out of them, one person died in course of his treatment. It would further appear from perusal of the impugned judgment that after the aforesaid dacoity, the FIR was lodged against unknown persons. However, in course of investigation, the name of respondent nos. 2 to 6 surfaced and, accordingly, they were charge-sheeted and put on trial.

It is an admitted position that respondent nos. 2 to 6 are co-villagers of the appellant but they were not made accused by the appellant at the time of lodging the first information report, though the informant claimed himself to be an eye-witness of the alleged occurrence. The impugned judgment goes to show that the learned trial court has taken the aforesaid fact in notice and, furthermore, the learned trial court also noticed several other infirmities in the prosecution case and, accordingly, passed the



impugned judgment of acquittal. We are of the opinion that the learned trial court has passed the well discussed judgment and there is no need to interfere into the findings of learned trial court.

Accordingly, this Criminal Appeal along with I.A. No. 1507 of 2018 stand dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

N.K/-

(Rajendra Kumar Mishra, J)

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