

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1501 of 2017

Arising Out of PS. Case No.-88 Year-2012 Thana- KHAJEKALLAN District- Patna

{Against the Judgment of acquittal dated 17.10.2017 passed by the learned 6th Additional Sessions Judge, Patna City, Patna, in Sessions Trial No.1052 of 2013}.

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Sanjay Kumar Jaiswal @ Chunnu, Son of Satyanarayan Paswan alias Satyanarayan Prasad, Resident of Village- Begum Haveli, P.S. Khajekalan, District- Patna.

... .. Appellant.

Versus

1. The State of Bihar.
 2. Mahendra Paswan, Son of Late Tetar Paswan.
 3. Ravi Kumar, Son of Mahendra Paswan.
 4. Rikki Kumar @ Rahull Kumar, Son of Mahendra Paswan.
- Respondents no. 2 to 4 resident of Village- Wahi Road, Sonartolli, Shivkala Mandir, P.S. Khajekalan, District- Patna.

... .. Respondents.

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Appearance :

For the Appellant	:	Dr. Anand Kumar, Advocate.
For the State	:	Mr. Abhimanyu Sharma, A.P.P.
For the Respondents No.2 to 4	:	Mr. P.C. Agrawal, Advocate.

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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 : 17-09-2018

Heard learned counsel appearing for the appellant, learned counsel appearing for the respondents no.2 to 4 as well as learned Additional Public Prosecutor for the State on the point of admission as well as I.A. No.2751 of 2017, which has been filed under Section 378(3) of the Code of Criminal



Procedure for grant of leave to file this appeal.

2. The appellant is the informant and the so-called injured of the present case and, accordingly, he is permitted to file this appeal and, hence, I.A. No.2751 of 2017 stands allowed.

3. The appellant being aggrieved by the Judgment of acquittal dated 17.10.2017 passed by the learned 6th Additional Sessions Judge, Patna City, Patna, in Sessions Trial No.1052 of 2013 has preferred this appeal.

4. Learned Additional Sessions Judge acquitted the respondents no.2, 3 and 4 from the charges framed against them for the offences punishable under Sections 341/34, 323/34, 337/34, 307/34 and 379 of the Indian Penal Code passing the impugned Judgment.

5. The appellant lodged Khajekalan P.S. Case No.88 of 2012 against the respondents no.2 to 4 for assaulting him as well as snatching his gold chain. The appellant claimed in his fardbeyan that he was examined by the doctor at Guru Govind Singh Hospital after the alleged occurrence.

6. In course of trial, altogether, 6 witnesses were examined but the doctor, who had examined the appellant, was not examined by the prosecution in course of trial. However,



the injury report of the appellant was brought on the record by the Pharmacist (P.W.6), who proved the writing and signature of the concerned doctor on the injury report, which was marked as Ext.5.

7. Learned counsel appearing for the appellant assailed the impugned Judgment of acquittal, arguing that the learned trial court has not appreciated the prosecution evidence in its right perspective and failed to take note of this fact that the appellant as well as other eye witnesses specifically stated that the respondents no.2, 3 and 4 assaulted the appellant and snatched his gold chain in course of the occurrence. He further submitted that the appellant as well as other witnesses claimed that the respondents no.2 to 4 illegally got constructed “Chhajja” on the land of the appellant and when the appellant made protest, the respondents no.2, 3 and 4 committed the alleged offence. He further submitted that the learned trial court acquitted the respondents no.2, 3 and 4, taking note of minor contradictions, which caused miscarriage of justice.

8. On the other hand, learned counsel appearing for the respondents no.2 to 4 as well as the learned Additional Public Prosecutor for the State supported the impugned Judgment of acquittal, arguing that the learned trial court has



passed a well discussed and well thought Judgment. They further submitted that the learned trial court has discussed the contradictions occurred in ocular evidence as well as in medical evidence and the learned trial court rightly came to the conclusion that the prosecution could not succeed to prove its case beyond all shadows of reasonable doubts.

9. Having heard the contentions of both the parties, we went through the Lower Court Records.

10. We find that the appellant claimed in his fardbeyan that the alleged occurrence took place on account of construction of “Chhajja” on his land by the respondents no.2, 3 and 4 but it is obvious from perusal of the Lower Court Records that almost all the prosecution witnesses admitted, in course of trial, that “Chhajja” of the respondents no.2, 3 and 4 had already been constructed. Furthermore, the informant claimed in his fardbeyan that he sustained injury by the brick on his back and chest but no such injury was found in the injury report of the appellant and, furthermore, the Investigating Officer did not find any brick on the place of the occurrence.

11. The perusal of the impugned Judgment goes to show that the learned trial court has taken note of all the above stated contradictions and shortcomings of the prosecution case



and, therefore, we are of the view that there is no need to interfere into the impugned Judgment of acquittal.

12. Accordingly, this appeal 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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