

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.26 of 2018

Arising Out of PS.Case No. -25 Year- 2012 Thana -NIMCHAKBATHANI District- GAYA

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Pramod Kumar Son of Late Kailash Roy R/o Village Manjhauli PS
 Nimchak Bathani Dist. Gaya

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Yadav

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)

- 8 26-04-2018 1. Heard learned counsel for the appellant as well as learned Addl. Public Prosecutor for the State on the point of admission.
2. In our view, this appeal can be disposed of on the admission stage itself.
3. This criminal appeal has been preferred against the judgment of acquittal dated 9.3.2017 passed by the Addl. Sessions Judge IV, Gaya in Sessions trial no. 510 of 2012/29 of 2013 by which and whereunder he acquitted respondent nos.2, 3 and 4 of the charges framed against them for the offence punishable under sections 302/34 of the Indian Penal Code and 27 of the Arms Act.



4. The prosecution came with story that respondent nos.2, 3 and 4 shot fire at the deceased when he went to make protest against illegal activity of respondent nos.2, 3 and 4.

5. In course of trial, prosecution examined, altogether, 11 witnesses and from perusal of the impugned judgment, we find that the prosecution witness nos. 1 to 5 were declared hostile and the prosecution witness nos. 6, 7, 8, 9 and 10 supported the prosecution story but in cross-examination, prosecution witness no. 6 admitted that when he heard the sound of firing, he was at his home. The aforesaid witness further admitted that the police came and enquired from him as well as others and after that the present case was lodged. Furthermore, we find that some witnesses stated that the police came on the place of occurrence after two days of the alleged occurrence and, therefore, it appears that the case was lodged after two days of the occurrence. Further, from perusal of the impugned judgment, we find that the learned trial court doubted the genuineness of the prosecution story on various grounds including non-examination of the material witnesses as well as Investigating officer. Furthermore, we find that some witnesses though they have been declared hostile, claimed that the deceased was killed by naxalite.



6. Therefore, in our view, there is no ground to interfere into the impugned judgment of acquittal and learned trial court has rightly passed the above stated judgment of acquittal.

7. Considering the aforesaid facts and circumstances as well as submissions of the parties, this criminal appeal along with I.A. no. 382/2018 stand dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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