

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.345 of 2018

Arising Out of PS. Case No.-23 Year-1989 Thana- BHAPATIYAH I District- Supaul

{Against the Judgment of acquittal dated 03.01.2018 passed by the Presiding Officer, Fast Track Court-2, Supaul, in Sessions Trial No.62 of 2002}.

Mahabir Mehta, Son of Rasiklal Mehta, Resident of Village- Kataiya, P.S. Bhaptiyahi, District- Supaul.

... .. Appellant.

Versus

1. The State of Bihar.
 2. Hare Krishna Singh, S/o Mahanthi Singh.
 3. Lal Singh, S/o Jageshwar Singh.
 4. Sukhdeo Mehta, S/o Ramjee Mehta.
 5. Fulai Singh, S/o Bhaiya Lal Singh.
 6. Bal Ram Singh, S/o Mahanthi Singh.
- All Residents of Village- Kataiya, P.S. Bhaptiyahi, District- Supaul.

... .. Respondents.

Appearance :

For the Appellant	:	Mr. Parmeshwar Mehta, Advocate.
For the State	:	Ms. Shashi Bala Verma, A.P.P.
For the Respondent Nos.2 to 6	:	Mr. Sanjay Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 25-06-2018

Heard learned counsel for the appellant, learned counsel appearing for the respondent nos.2 to 6 as well as the learned Additional Public Prosecutor for the State.

2. This appeal has been preferred against the Judgment of acquittal dated 03.01.2018 passed by the Presiding Officer, Fast Track Court-2, Supaul, in Sessions Trial No.62 of



2002, by which and whereunder he acquitted the respondent nos.2 to 6 of the charges framed under Section 302 and other minor Sections of the Indian Penal Code.

3. The appellant is the informant of Bhaptiyahi P.S. Case No.23 of 1989, which was lodged on 03.12.1989. The informant claimed that on 03.12.1989 at about 04.00 P.M., he along with the injured Badrinarayan Singh and the deceased Yugeshwar Mehta was going to his village-Kataiya from village- Majhoua and when reached at Kataiya, he saw the accused Suresh Singh, Umesh Singh, Dinesh Singh, Jageshwar Singh, Gunilal Yadav, respondent no.6 Bal Ram Singh, respondent no.2 Hare Krishna Singh, Yogender Singh, son of Mishri Lal Singh, Fulender Singh, son of Bhaiyalal Singh, Yogender Singh, son of Panchi Lal Singh, respondent no.4 Sukhdeo Mehta and Trilok Singh were cutting the paddy from his field having armed with arrow, farsa, lathi etc. He as well as the deceased Yugeshwar Mehta and injured Badrinarayan Singh made protest upon which accused Suresh Singh ordered the others to kill them and, thereafter, the deceased Yugeshwar Mehta and injured Badrinarayain Singh started running from there and to save their lives, they entered into the house of Ram Kishun Mehta but the above stated accused persons encircled



the house and accused Dinesh Singh shot arrow, which hit on the chest of Yugeshwar Mehta and, similarly, the accused Guniya Yadav shot arrow, which caused injury to injured Badrinarayan Singh on his left chest. After the occurrence, the aforesaid persons fled away. The deceased Yugeshwar Mehta and injured Badrinarayan Singh were brought to the hospital but the deceased Yugeshwar Mehta died in course of his treatment.

4. On the basis of the fardbeyan of the appellant, the above stated Bhaptiyahi P.S. Case No.23 of 1989 was registered against the respondent nos.2 to 6 and others. The case was investigated and after completion of the investigation, charge-sheet was submitted.

5. The cognizance of the offence was taken and the case was committed to the court of sessions. The respondent nos.2 to 6 were put on trial and, accordingly, they stood charged for the offences punishable under Sections 452, 307, 302, 147, 148, 324 and 447 of the Indian Penal Code. They denied the charges and claimed to be tried.

6. In course of trial, the prosecution examined, altogether, 8 witnesses and also got exhibited the signature of P.W.7 on the search list as Ext.1 and the post-mortem report as Ext.2. The respondent nos.2 to 6 claimed their innocence when



their statements under Section 313 of the Code of Criminal Procedure were recorded. The learned court below acquitted the respondent nos.2 to 6 after scrutinizing the evidences available on the record.

7. Learned counsel appearing for the appellant challenged the impugned Judgment of acquittal, arguing that the learned trial court failed to appreciate the evidences in proper way, as a result whereof, the learned court below committed error in acquitting the respondent nos.2 to 6. He further submitted that the informant as well as other witnesses supported the prosecution case but, even then, the learned court below acquitted the respondent nos.2 to 6.

8. On the other hand, learned counsel appearing for the respondent nos.2 to 6 supported the impugned Judgment of acquittal, arguing that the learned trial court found several contradictions in the depositions of the prosecution witnesses and the learned trial court also noticed that the Investigating Officer and the doctor had not been examined and having noticed the above stated facts the learned trial court acquitted the respondent nos.2 to 6, giving the benefit of doubt to them. He further submitted that unless there is perversity and illegality in the impugned Judgment, the appellate court cannot interfere



into the Judgment of acquittal.

9. Having heard the contentions of both the parties, we went through the records.

10. We find that the learned trial court has discussed the evidences, available on the record, and having noticed the contradictions appearing in the depositions of the prosecution witnesses came to the conclusion that the prosecution could not succeed to prove its case beyond all shadows of reasonable doubts. Furthermore, the learned trial court observed that the non-examination of Investigating Officer and doctor was fatal to the prosecution case.

11. It is the settled principle of law that an accused is presumed innocent until he is convicted and if an accused is acquitted after facing full fledged trial, the aforesaid presumption shall be more strong and, therefore, unless there is glaring illegality or perversity into the impugned Judgment of acquittal, the Courts are generally restrain themselves to interfere into the Judgment of acquittal.

12. In the present case, we do not find any glaring illegality or perversity into the impugned Judgment of acquittal and, therefore, we do not think it proper to interfere into the impugned Judgment of acquittal and, 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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