

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1133 of 2018

Arising Out of PS.Case No. -56 Year- 1995 Thana -BISHUNPUR District- DARBHANGA

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1. Lal Bibi, Wife of Md. Khurshid Hasnain, Resident of Village- Ratanpura,
P.S.- Moro, District- Darbhanga.

.... Appellant/s

Versus

1. The State of Bihar.
2. Sikandar, Son of Md. Issa,
3. Amin, Son of Abdul Rab,
4. Md. Azhar, Son of Abdul Rab,
5. Md. Jugnu, Son of Atta Ahmad,
6. Md. Chunnu, Son of Atta Ahmad,
7. Md. Ahsan, Son of Md. Nathu Miyan @ Abdul Wahid,
8. Md. Masoon, Son of Md. Nathu Miyan @ Abdul Wahid,
9. Md. Funna, Son of Late Taibul Hassan,
10. Fahmi @ Faiyaz, Son of Md. Funna @ Izharul Haque @ Izharul
Hassan, All are resident of Village- Ratanpura, P.S.- Moro, District-
Darbhanga.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Iqbal Asif Niazi
For the Respondent/s : Dr. Mayanand Jha

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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)**

- 3 02-11-2018 1. Heard learned counsel for the appellant and

learned Addl. Public Prosecutor for the State on I.A. no.

2798/2018 as well as on the point of admission of this appeal.
2. I.A. no. 2798/2018 has been filed on behalf of the

appellant under section 378(3) of the Cr.P.C for grant of special

leave to file this appeal. Appellant happens to be the informant



and appears to be victim of the present case and, therefore, she has right to file this criminal appeal and accordingly, I.A. no. 2798/2018 is allowed and the appellant is permitted to pursue this criminal appeal. Hence, I.A. no. 2798/2018 stands disposed of.

3. This criminal appeal has been preferred against the impugned judgment dated 12.07.2018 passed by the Presiding Officer, Fast Track Court, Darbhanga in Sessions trial no. 478/1999 by which and whereunder he convicted respondent nos.2 to 10 for the offence punishable under section 323 of the Indian Penal Code and released them on execution of PR bond of Rs.5,000/- each under section 4 of the Probation of Offenders Act for keeping peace and good behaviour for a period of one year from the date of execution of bond.

4. The grievance of the appellant is that the prosecution adduced evidences to show that respondent nos.2 to 10 had made attempt to commit murder of the informant and others and witnesses, specifically, stated that respondent nos. 2 to 10 assaulted the injured person by means of **Garasa** but instead of convicting respondent nos.2 to 10 for the offence punishable under section 307 of the Indian Penal Code the learned trial court acquitted them from the charge of section 307



IPC and convicted them only for the offence punishable under section 323 IPC. He, further, submits that the learned trial court has not passed adequate sentence against respondent nos.2 to 10. He, further, submits that the learned trial court has also wrongly acquitted respondent nos.2 to 10 from the charge of section 380 IPC.

5. On the other hand, learned Addl. Public Prosecutor points out that no doubt, the doctor has found seven injuries on the person of the appellant but all injuries were found simple in nature and caused by hard and blunt substance and, therefore, it is obvious that learned trial court rightly convicted respondent nos.2 to 10 for the offence punishable under section 323 IPC instead of convicting them for the offence punishable under section 307 IPC. He, further, submits that so far as order of sentence is concerned, admittedly, alleged occurrence took place in the year 1995 and the informant as well as respondent nos.2 to 10 were related with each others and, therefore, learned trial court has awarded appropriate sentence to respondent nos.2 to 10 and there is no need to interfere into the impugned judgment of conviction and sentence order.

6. Having heard the above stated contentions of the parties, we went through the record. We find force in the



contentions of learned Addl. Public Prosecutor and we are also of the view that there is no need by this appellate court to interfere into the impugned judgment. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

Shahid/-

(Rajendra Kumar Mishra, J)

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