

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.189 of 2019

In
CRIMINAL APPEAL (SJ) No.4268 of 2018

Arising Out of PS. Case No.-44 Year-2003 Thana- MORO District- Darbhanga

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Roshan Khatoon @ Roshan Bibi, aged about 51 years, Female, Wife of Md. Mustafa, Resident of Godaipatti, P.S. - Maro, District - Darbhanga.

... .. Appellant

Versus

1. The State of Bihar
2. Khodaija Khatoon, Wife of Md. Yunus, Resident of Khodaipatti, P.S.- Moro, District- Darbhanga.

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Ajay Kumar Thakur, Adv. Mr. Nilesh Kumar, Adv. Mr. Pravin Kumar, Adv. Miss Swati Sinha, Adv.
For the State	:	Mr. Abhimanyu Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

6 06-09-2019 Heard learned counsel appearing for the appellant, namely, Roshan Khatoon @ Roshan Bibi as well as learned Additional Public Prosecutor for the State on the point of admission and, in our view, this criminal appeal can be disposed of on admission stage itself.

The appellant, namely, Roshan Khatoon @ Roshan Bibi happens to be injured and being aggrieved by the impugned judgment, dated 11.09.2018, passed by Presiding Officer, F.T.C.,



Darbhanga in Sessions Trial No. 70A of 2006 arising out of Moro P. S. Case No. 44 of 2006, by which and whereunder, learned Presiding Officer, F.T.C., Dharbhanga acquitted the respondent no. 2 from the charges framed against her under Section 307/34, 341 and 504 of the Indian Penal Code, however, convicted her for the offence punishable under Section 323 of the Indian Penal Code and released her on furnishing bond of Rs. 5000/- for keeping peace and good behaviour for a period of one year, has preferred the instant appeal.

Learned counsel appearing for the appellant submits that there was sufficient material to prove the charge under Section 307 of the Indian Penal Code against respondent no. 2 as the appellant being injured remained in hospital for more than 20 days and, therefore, the aforesaid fact established that the appellant had sustained grievous injury.

On the other hand, learned Additional Public Prosecutor refuted the above stated submission arguing that the doctor, who was examined in course of trial, specifically, stated that the appellant had sustained simple injury and, therefore, there is no need to interfere into the impugned judgment.

Having heard the contentions of the parties, we went through the record.



It appears from perusal of the record that the alleged occurrence took place on account of land dispute and both parties filed cases against each others. Moreover, the prosecution witnesses claimed that respondent no. 2 gave order to her two sons, who assaulted the appellant and thereafter, the respondent no. 2 also assaulted the appellant by means of *Lathi*. Furthermore, we found that the appellant sustained simple injuries and no bone injury was found and, therefore, we are of the view that the learned trial court rightly acquitted the respondent no. 2 of the charge of Section 307/34 of the Indian Penal Code. Furthermore, we do not find any ground to interfere into the findings of learned trial court. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Rajeev Kumar/-

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