

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.225 of 2019

Arising Out of PS. Case No.-443 Year-2009 Thana- MADHEPURA District- Madhepura

Heena Khatoon @ Bibi Heena Khatoon, Wife of Md. Asif R/o village-
Madhepura,(Navlakhiya), Ward No. 1, P.S- Madhepura, District- Madhepura

... .. Appellant

Versus

1. The State Of Bihar
2. Md. Salauddin Son of Md. Jamal
3. Md. Salim Son of Late Md. Alijan Miya
4. Md. Kalam Son of Md. Jamal
5. Md. Anwar Son of Md. Shalim
6. Md. Jamaluddin Son of Late Md. Alijan Miya
7. Md. Nababuddin Son of late Md. Ajijan Miya
8. Md. Sabo Son of Late Ismail Miya
9. Md. Nizam Son of Md. Sabo
10. Md. Tarwir @ Md. Tanwir Son of Md. Alm
11. Md. Sabbir @ Md. Sabir Alam Son of Md. Alam
12. Md. Alam Son of Late Alijan Miya
13. Md. Sahed @ Md. Saheb Son of Md. Sabo
14. Md. Halim Son of Late Alijan Miya
15. Md. Aslam Son of Md. Majid
16. Md. Majid Uddin Son of Late Ismail Miya

All resident of village- Madhepura,(Navlakhiya), Ward No. 1, P.S &
District- Madhepura

... .. Respondents

Appearance :

For the Appellant/s : Mr. Gopal Kumar Jha, Adv.
For the State : Mr. Ajay Mishra, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

**HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**



(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 31-07-2019

1. Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on I.A. No. 01 of 2019 as well as on the point of admission and in our view, this appeal can be disposed of on admission stage itself.

2. I.A. No. 01 of 2019 has been filed on behalf of the appellant for grant of leave to file this appeal but the appellant appears to be victim and, therefore, she has statutory right to prefer the criminal appeal against the judgment of acquittal and accordingly, I.A. No. 01 of 2019 stands disposed of.

3. The appellant is aggrieved by the impugned judgment dated 24.12.2018 passed by learned Additional Sessions Judge, Fast Track Court-II, Madhepura in Sessions Trial No. 85 of 2011/C.I.S. No. 1917 of 2013 by which and whereunder he acquitted the respondents no. 2 to 16 from the charges framed against them for the offences punishable under Sections 147, 148, 379, 380 and 307 of the I.P.C. though the aforesaid respondents were convicted for the offence punishable under Section 323/149 of the I.P.C.

4. The appellant is informant of Madhepura P.S. Case No. 443 of 2009 and she claimed that respondents no. 2 to 16 were annoyed with her as she had solemnized her love marriage with



one Md. Asif, one of the injureds of the case and due to above stated reason, the respondents no. 2 to 16 being armed with deadly weapons assaulted the aforesaid Md. Asif and others.

5. The learned trial court framed charges for the offences punishable under Sections 147, 148, 323, 379, 380, 307/149 of the I.P.C. against the respondents no. 2 to 16. The prosecution examined, altogether, eleven witnesses to prove the above stated charges. However, the learned trial court having analyzed the evidences available on the record doubted about the injury reports of injured persons and thereafter, passed the impugned judgment.

6. Learned counsel appearing for the appellant submits that altogether four persons sustained injury and one of the injureds got his treatment at Saharsa. He, further, submitted that fracture injury was found on the person of one of the injureds but the learned trial court ignored the above stated facts. However, from perusal of impugned judgment, we find that the learned trial court has dealt with the prosecution evidences in proper manner and there is no absurdity or perversity into the impugned judgment. Therefore, in our view, there is no need to interfere into the impugned judgment, so far as it relates to acquittal of



respondents no. 2 to 16 from the charges framed under Sections 148, 379, 380 and 307 of the I.P.C.

7. Admittedly, respondents no. 2 to 16 have been convicted for the offence punishable under Section 323/149 of the I.P.C. but they have not been convicted for the offence punishable under Section 147 of the I.P.C. Although, respondents no. 2 to 16 ought to have been convicted for the offence punishable under Section 147 of the I.P.C. when they were convicted for the offence punishable under Section 323/149 of the I.P.C. but since they have already been convicted for major offence, the aforesaid irregularity is liable to be ignored.

8. On the basis of aforesaid discussions, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

shahzad/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	01.08.2019
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