

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.321 of 2019

Arising Out of PS. Case No.-59 Year-2010 Thana- HALSI District- Lakhisarai

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Mala Devi Wife of Lakhan Mistri, Resident of Village-Dheera, P.S.-Halsi,
District-Lakhisarai. Appellant/s

Versus

1. The State of Bihar
2. Awadesh Yadav @ Awdhesh Yadav Son of Kameshwar Yadav, Resident of
Village-Dheera, P.S-Halsi, District-Lakhisarai.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Vijay Kumar
For the Respondent/s : Mr.Dilip Kumar Sinha

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

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 03-05-2019

Heard learned counsel for the appellant as well as learned
Additional Public Prosecutor for the State on I.A. No. 1 of 2019
which has been filed under Section 378(4) of the Code of
Criminal Procedure as well as on the point of Admission.

I.A. No. 1 of 2019 has been filed on behalf of the
appellant for grant of leave to file this Criminal Appeal against
the judgment of acquittal.

The appellant happens to be the cousin daughter-in-law of
deceased as well as the informant of the case and therefore, she
is permitted to pursue this appeal. Accordingly, I.A. No. 1 of
2019 stands disposed of.



This Criminal Appeal has been preferred against the judgment dated 22.01.2019 passed by learned Additional Sessions Judge, F.T.C. 1st, Lakhisarai by which and where under he acquitted the respondent no. 2 from the charge framed against him for the offence punishable under Section 302/34 of the Indian Penal Code whereas convicted the other accused for the offence punishable under Section 302 of the Indian Penal Code.

The impugned judgment goes to show that the case of the prosecution is that while the deceased was sitting at his Baramda, co-accused Vijay Yadav, came there and started abusing the deceased and after that the deceased was dragged from the house and in the meantime, co-accused Kamleshwar Yadav and Vijay Yadav, assaulted the deceased and after that co-accused, Vijay Yadav and Kamleshwar Yadav, both assaulted the deceased by shoe and by fist and slaps. The prosecution claims that the respondent no. 2 also came there and he too abused the deceased. It would further appear from perusal of the impugned judgment that in course of trial, prosecution witnesses including appellant- informant claimed that respondent no. 2 had also participated in assaulting the deceased but the learned Trial Court disbelieved the aforesaid improvement of the



prosecution witnesses on the ground that there was contradictions in the statements of prosecution witnesses on the point of participation of respondent no. 2 in assaulting the deceased.

We perused the findings and reasoning given by the learned Trial Court for acquitting the respondent no. 2 and we do not find any perversity or illegality in the findings of the learned Trial Court. Accordingly, we are of the view that there is no need to interfere into the impugned judgment so far as it relates to acquittal of respondent no. 2 and accordingly, this appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

