

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.451 of 2019

Arising Out of PS. Case No.-228 Year-2009 Thana- PURNEA SADAR District- Purnia

Vina Devi @ Bina Devi, aged 53 years, female, Wife of Jharilal Vishwas
Resident of Village- Kishanpur, Police Station- Muffassil, District- Purnea.

... .. Appellant

Versus

1. The State Of Bihar through the Principal Secretary, Department of Home, Bihar , Patna.
2. Dhirendra Goswami, aged 51 years male, Son of Late Butan Goswami
3. Radha Devi, aged 46 years female, Wife of Dhirendra Goswami
4. Bindia Devi, 23 years female, Wife of Anil Goswami
5. Anil Goswami aged 26 years male, Son of Dhiren Goswami
6. Manoj Goswami aged 31 years, male son of Dhiren Goswami
All resident of Village- Kishanpur, Police Station- Muffassil, District- Purnea.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Arun Kumar Lal, Adv.
For the State	:	Mr. Abhimanyu Sharma, 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 : 06-09-2019

1. Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on the point of admission and in our view, this appeal can be disposed of on admission stage itself.

2. The appellant claims herself to be injured as well as informant and being aggrieved by the impugned judgment of acquittal dated 14.03.2018 passed by learned Sessions Judge,



Purnea in Sessions Trial No. 165 of 2011 by which and whereunder the learned Sessions Judge acquitted respondents no. 2 to 6 from the charges framed under Sections 307/149, 323, 325 of the I.P.C., preferred the instant criminal appeal.

3. The appellant claims that on 13.05.2009, while she along with her husband, namely, Jharilal Vishwas went to see her paddy field and when she as well as her husband reached near the paddy field, she as well as her husband saw the respondents no. 2 to 6 who were harvesting paddy crop which was protested by her as well as her husband upon which respondents no. 2 to 6 assaulted her as well as her husband by means of lethal weapons such as *farsa, sword, gupti, lathi, danda etc.*

4. In course of trial, prosecution examined, altogether, seven witnesses and also got exhibited injury reports of the appellant as well as her husband. However, the learned trial court after evaluating the prosecution evidence came to conclusion that appellant as well as her husband were aggressor as paddy field in question was in possession of respondents no. 2 to 6 and they had right to protect their property.

5. Learned counsel appearing for the appellant submits that learned trial court failed to take note of this fact that prosecution witnesses specifically stated that respondents no. 2 to



6 assaulted her as well as her husband as a result whereof they sustained injury and furthermore, the doctor proved the injury reports. He further submits that learned trial court on the basis of imagination came to conclusion that respondents no. 2 to 6 were in possession of paddy field and the appellant as well as her husband might have sustained injury in stampede.

6. On the other hand, learned Additional Public Prosecutor supports the impugned judgment of acquittal submitting that learned trial court has discussed all the evidences available on the records and there is no compelling circumstance for this appellate court to disturb the findings of the learned trial court.

7. Having heard the rival contentions of both the parties, we went through the impugned judgment. We find that learned trial court has well discussed the materials available on the lower court record and after that came to conclusion that respondents no. 2 to 6 exercised their right of private defence to protect their property when appellant as well as her husband tried to stop respondents no. 2 to 6 from harvesting the paddy crop. We do not find any ground to interfere into the findings of learned trial court. It is well settled principle of law that finding of acquittal can only be disturbed, if the same appears to be perverse, absurd as



well as without consideration of evidence but in the present case, we do not find any perversity or absurdity in the impugned judgment and in our view, there is no compelling circumstance before this court to interfere into the findings of learned trial court.

8. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

shahzad/-

AFR/NAFR	A.F.R.
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