

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.497 of 2019

Arising Out of PS. Case No.-187 Year-2014 Thana- UDWANTNAGAR District- Bhojpur

SUJIT KUMAR @ SUEEIT KUMAR (Male), aged about 30 years, Son of Satya Singh @ Satyendra Singh, Resident of Village- Maulana Chak, Police Station- Udwanthnagar (Gajrajganj), District- Bhojpur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Ajay Yadav (Male), aged about 33 years, Son of Ramji Singh, Resident of Village- Maulana Chak, Police Station- Udwanthnagar (Gajrajganj), District- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manish Kumar No2
For the Respondent/s	:	Ms Shashi Bala Verma
For the Respondent No.2:		M/s Bikramdeo Singh and Anant Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 14-05-2019

At the very out set Mr. Manish Kumar No. 2, learned counsel appearing for appellant seeks permission to make correction in paragraph No. 1 as well as in prayer portion of the memo of appeal.

Learned counsel of the appellant is permitted to make necessary correction in Para-I and in prayer portion of memo of appeal within course of the day.



1. This criminal appeal has been preferred against the impugned Judgment dated 21.01.2019 passed by learned 1st Additional Sessions Judge – cum – Special Judge, Excise Act, Civil Court, Bhojpur at Ara in Sessions Trial No. 279 of 2015, by which and whereunder the learned trial court acquitted the respondent No. 2 from the charge framed against him for the offence punishable under Section 341, 120B, 504, 320/34 of the Indian Penal Code and Section 27 of Arms Act, whereas convicted the co-accused Dharmendra Yadav for the offence punishable under Section 307 of the Indian Penal Code and 27 of Arms Act and, accordingly, the co-accused Dharmendra Yadav has been sentenced to undergo life imprisonment with fine of Rs. 25,000/- for the offence punishable under Section 307 of the Indian Penal Code and, furthermore, three years rigorous imprisonment with fine of Rs. 10,000/- for the offence punishable under Section 27 of the Arms Act.

2. The grievance of the appellant is that there was sufficient material before the trial court to convict the respondent No. 2 for abetment as well as for hatching conspiracy with co-accused Dharmendra Yadav but learned trial court did not consider the evidences available on the



record in its right perspective and, accordingly, committed error in acquitting the respondent No. 2.

3. On the other hand, learned Additional Public Prosecutor as well as learned counsel appearing for respondent No. 2 supported the impugned Judgment arguing that the learned trial court has dealt with the prosecution evidence in respect of respondent No. 2 at paragraph 21 of the impugned Judgment and, therefore, it cannot be said that the learned trial court did not appreciate the prosecution evidence.

4. Having heard the rival contentions of both the parties, we went through the impugned judgment as well as Lower Court Records.

5. In our view, this criminal appeal can be disposed of at admission stage itself.

6. The perusal of impugned Judgment goes to show that appellant claimed that on 14.5.2014 at about 6.00 P.M. while he was going to his house and reached near his village, respondent No. 2 along with co-accused Dharmendra Yadav started abusing him and when he raised objection, co-accused Dharmendra Yadav shot fire on him.

7. No doubt, in course of trial, the appellant as well as some other witnesses supported the prosecution case



but from perusal of the materials available in the impugned Judgment, we find that the learned trial court rightly acquitted the respondent No. 2 as there was only allegation against respondent No. 2 that he along with co-accused Dharmendra Yadav abused the appellant. Furthermore, we find that it was co-accused Dharmendra Yadav, who shot fire on the appellant and no specific overt act has been attributed against the respondent No. 2.

8. In view of the aforesaid discussions, we find that this appeal does not have any merit and is liable to be dismissed at admission stage itself.

9. Accordingly this criminal appeal stands dismissed at the admission stage itself.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

Spd/-

AFR/NAFR	AFR
CAV DATE	NA
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