

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.604 of 2019

Arising Out of PS. Case No.-59 Year-2013 Thana- ISLAMPUR District- Nalanda

=====

Ram Janm Kumar Son of Bhushan Prasad Resident of Village- Laljee Bigha,
P.S.- Islampur, District- Nalanda.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Mukesh Yadav Son of Jogendra Prasad Resident of Village- Lalji Bigha,
P.S.- Isalampur, District- Nalanda
3. Mithlesh Prasad @ Mita Prasad Son of Radhe Prasad Resident of Village-
Lalji Bigha, P.S.- Isalampur, District- Nalanda
4. Raj Kumar Prasad Son of Badri Prasad Resident of Village- Lalji Bigha,
P.S.- Isalampur, District- Nalanda
5. Ram Bilas Prasad Son of Badri Prasad Resident of Village- Lalji Bigha, P.S.-
Isalampur, District- Nalanda
6. Nagendra Yadav Son of Chanirak Yadav Resident of Village- Lalji Bigha,
P.S.- Isalampur, District- Nalanda
7. Sidhi Prasad Son of Radhe Das Resident of Village- Lalji Bigha, P.S.-
Isalampur, District- Nalanda
8. Mithlesh Prasad Son of Sadhy Prasad Resident of Village- Lalji Bigha, P.S.-
Isalampur, District- Nalanda
9. Kavita Devi Wife of Kamlesh Prasad Resident of Village- Lalji Bigha, P.S.-
Isalampur, District- Nalanda
10. Gita Devi Wife of Ravindra Yadav Resident of Village- Lalji Bigha, P.S.-
Isalampur, District- Nalanda
11. Lalti Devi D/o of Jagendra Prasad Resident of Village- Lalji Bigha, P.S.-
Isalampur, District- Nalanda
12. Munki Devi @ Munarka Devi Wife of Sidhi Prasad Resident of Village-
Lalji Bigha, P.S.- Isalampur, District- Nalanda
13. Urmila @ Parmila @ Urmila Devi @ Parmila Devi Wife of Mahesh Prasad
Resident of Village- Lalji Bigha, P.S.- Isalampur, District- Nalanda

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Arvind Prasad Singh, Advocate
For the Respondent/s : Mr. Ashwini Kumar Sinha, APP

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH



ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 22-08-2019

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

2. The appellant is aggrieved by the impugned judgment dated 12.04.2019 passed by learned Additional District and Sessions Judge II, Hilsa (Nalanda) in Sessions Trial No. 620 of 2013 arising out of Islampur P.S. Case No. 59 of 2013 by which and whereunder he convicted only two accused persons namely, Mahesh Prasad and Jitendra Prasad whereas, acquitted respondent nos. 2 to 13 from the charges framed against them for the offences punishable under Sections 147, 148, 341/149, 337/149, 307/149, 302/149 and 120B/149 of the Indian Penal Code and section 25(1-B) and 27 of the Arms Act.

3. The perusal of the record goes to show that respondent nos. 2 to 13 along with co-accused Mahesh Prasad and Jitendra Prasad faced trial on the allegation that co-accused Mahesh Prasad and Jitendra Prasad and one Ravindra Prasad made indiscriminate firing, as a result of which, two persons died and one person sustained injury. So far as respondent nos. 2



to 13 are concerned, it is alleged that they also participated in the alleged crime and at the time of occurrence, the respondent nos. 2 to 13 were also making firing as well as pelting bricks upon the prosecution party.

4. However, learned trial court after scanning and evaluating the production evidence found that there were major contradictions in the depositions of prosecution witnesses in respect of participation of respondent nos. 2 to 13 in the alleged crime and, taking note of the aforesaid contradictions, the learned trial court acquitted respondent nos. 2 to 13 from the charges as stated above.

5. Learned counsel appearing for appellant submits that almost all the witnesses including one injured witness, categorically, stated that respondent nos. 2 to 13 also participated in the alleged crime by pelting bricks and making firing, but the learned trial court failed to take note of the aforesaid fact, and, erroneously acquitted respondent nos. 2 to 13 from the charges.

6. On the other hand, learned Additional Public Prosecutor submits that impugned judgment goes to show that the learned trial court having noticed the contradictions occurred in the depositions of the prosecution witnesses passed the



judgment of acquittal in favour of respondent nos. 2 to 13 and therefore, there is no need to interfere into the impugned judgment of acquittal.

7. Having heard the above stated contentions of the parties we went through the impugned judgment. We find that the learned trial court having scrutinized the statements of prosecution witnesses in respect of participation and role played by respondent nos. 2 to 13 at the time of alleged occurrence, and, having noticed the contradictions occurred in the statements of prosecution witnesses, doubted about the participation of respondent nos. 2 to 13 in the alleged crime and, accordingly, gave benefit of doubt to them.

8. It is well settled principle of law that the finding of the trial court cannot be disturbed unless the finding appears to be perverse and absurd as well as without consideration of evidence, but in the present case, we find that the learned trial court has considered all the evidences produced by the prosecution in respect of respondent nos. 2 to 13 and having considered the evidence, passed the impugned judgment. Furthermore, we find that there is no perversity as well as absurdity in the impugned judgment and, therefore, in our view, there is no need to interfere into the impugned judgment which



relates to respondent nos. 2 to 13.

9. On the basis of aforesaid discussions, this criminal appeal stands dismissed and the impugned judgment so far as, it relates to respondent nos. 2 to 13 is, hereby confirmed.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.08.2019
Transmission Date	27.08.2019

