

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.714 of 2019

Arising Out of PS. Case No.-357 Year-2015 Thana- FORBESGANJ District- Araria

Md. Mustaque @ Md. Mustaque Alam, aged about 46 years, Male, Son of Late Md. Khalil, Resident of Village - Khairkhan Tola, Madhubani, ward no.7, P.S.- Forbishganj, Dist.- Araria.

... .. Appellant

Versus

1. The State of Bihar
2. Md. Kurban @ Kurban, aged about 22 years, Male, Son of Md. Jamil, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.
3. Md. Jakir @ Jakir, aged about 30 years, Male, Son of Md. Jasim, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.
4. Md. Niyaz, aged about 25 years, Male, Son of Md. Idris, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.
5. Md. Jasim @ Jasim, aged about 50 years, Male, Son of Late Md. Wazid @ Wazir, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.
6. Bibi Afsana Khatoon, aged about 35 years, Female, Wife of Md. Sabir, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.
7. Bibi Sayara, aged about 45 years, Female, Wife of Md. Jamil, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.
8. Bibi Chandni, aged about 22 years, Female, Wife of Md. Murad, Resident of Village - Khairkhan Tola, Madhubani Ward No.7, P.S.- Forbishganj, Dist.- Araria.

... .. Respondents

Appearance :

For the Appellant	:	Mr. (Dr.) Amrendra Kumar with Mr. Mukesh Kumar Rana, Advocates
For the State	:	Mr. Abhimanyu Sharma, APP

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)



3 06-08-2019 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.

The appellant is aggrieved by the impugned judgment of acquittal, dated 26.04.2019, passed by 2nd Additional Sessions Judge, Araria in Sessions Trial No. 112 of 2016, by which and whereunder, he acquitted the respondent nos. 2 to 8 from the charges framed against them for the offences punishable under Sections 147, 148, 149, 341, 323, 324, 307, 379, 354, 504 and 506 of the Indian Penal Code whereas convicted co-accused Md. Sabir for the offences punishable under Sections 324, 307 of the Indian Penal Code as well as co-accused Md. Murad for the offence punishable under Section 324 of the Indian Penal Code.

Learned counsel appearing for the appellant submits that in course of trial, almost all the prosecution witnesses including injured witnesses, specifically, stated that respondent nos. 2 to 8 had also participated in the alleged occurrence and they had played active role in the occurrence but the learned trial court disbelieved the testimony of prosecution witnesses in respect of respondent nos. 2 to 8 without any valid reason. He



further submitted that witness and injured Md. Jalil very clearly stated that he sustained injury and other injured also stated that they sustained injury and the doctor found injuries on the person of the injureds but learned trial court doubted the injury reports only on the ground that the injureds got CT Scan of their injuries without reference of concerned doctor.

On the other hand, learned Additional Public Prosecutor supported the impugned judgment arguing that the learned trial court has passed well discussed judgment and there is no need to interfere into the findings of the trial court.

Having heard the contentions of both the parties, we went through the record. We find that no specific overt-act has been attributed against the respondent nos. 2 to 8 and the witnesses made vague statements regarding participation of respondent nos. 2 to 8 in the alleged crime. However, it is obvious that there was matrimonial dispute between the parties on account of which the alleged occurrence took place. Moreover, the learned trial court passed well discussed judgment and in our view, learned Additional Public Prosecutor rightly submitted that there is no need to interfere into the impugned judgment of acquittal, and accordingly, this criminal appeal stands dismissed on admission stage itself. However, it is



made clear that the finding/observation given in this order shall
not affect the case of convicted accused.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Rajeev Kumar/-

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