

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.251 of 2018

Arising Out of PS. Case No.-156 Year-2011 Thana- TRIVENIGANJ District- Supaul

1. Pawan Yadav,
2. Dhirendra Kumar @ Dhirendra Yadav, Both of them are Sons of Bhupendra Yadav, resident of Village- Kukurdhari, P.S.- Triveniganj, District- Supaul.

... .. Appellant/s

Versus

1. The State of Bihar,
2. Siyaram Yadav, Son of Late Bhumi Yadav.
3. Sukhsen Yadav.
4. Indrabhushan Yadav,
5. Arun Yadav, Sons of Siyaram Yadav, All of them are resident of village Kukurdhari, P.S.- Triveniganj, District- Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bikramdeo Singh, Advocate. Mr.Nagendra Upadhyay, Advocate. Mr. Ranjay Kumar Singh, Advocate.
For the State	:	Mr. Bipin Kumar, APP
For the Informant	:	Mr. Murari Narayan Choudhary, Advocate. Mr. Mohit Srivastava, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 21-01-2019

1. Show cause is filed on behalf of respondent nos. 2 to

5. Let it be kept on record.

2. Heard learned counsel appearing for the appellants,

learned Additional Public Prosecutor for the State as well as



learned counsel appearing for the respondent nos. 2, 3, 4 and 5 on the point of admission as well as on I.A. No. 1178 of 2018.

3. The appellants claimed themselves to be injured of the present case and, therefore, they come under the definition of victim and they do have right to pursue this criminal appeal, which has been field against the Judgment of acquittal. Accordingly, I.A. No. 1178 of 2018 stands allowed and the appellants are permitted to pursue this criminal appeal.

4. This criminal appeal has been preferred against the Judgment of acquittal dated 18.01.2018 passed by the learned Additional Sessions Judge, F.T.C.-2, Supaul, in Sessions Trial No. 148 of 2012, by which and whereunder, learned trial court acquitted the respondent nos. 2 to 5 from the charges framed against them for the offences punishable under Sections 341, 323, 307/34 and 504 of the Indian Penal Code.

5. Learned counsel for the appellants challenging the impugned Judgment of acquittal submits that the appellants are injured but they were not examined by the trial court and without their examination, the learned trial court passed the impugned Judgment of acquittal.

6. On the other hand, learned counsel appearing for the respondent nos. 2 to 5 submits that the learned trial court had



issued summons and bailable warrant of arrest against the prosecution witnesses including the appellant nos. 1 and 2 and in response thereof informant, who happens to be full brother of appellant nos. 1 and 2, appeared before the court and executed bonds and subsequently, he was examined as prosecution witness but, even, then, the appellants did not appear before the trial court and the aforesaid circumstance clearly goes to show that the appellants were fully aware about the progress of trial of respondent nos. 2 to 5 but they deliberately and willfully avoided to appear before the trial court.

7. Having heard the contentions of both the parties, we went through the impugned Judgment as well as Lower Court Records, we find force in the contention of learned counsel for the respondent nos. 2 to 5. The Lower Court Records goes to show that sufficient opportunity was given to the appellants to appear before the trial court to depose in support of prosecution case but the appellants failed to avail the aforesaid opportunities. Furthermore, we find that the learned trial court discussed the evidence of informant and found several contradictions and taking note of totality of prosecution case passed the Judgment of acquittal and, therefore, there is no need to interfere into the Judgment of acquittal. In view of the aforesaid



discussions, this criminal appeal stands dismissed on admission stage.

(Hemant Kumar Srivastava, J)

Bhardwaj/-

(Rajendra Kumar Mishra, J)

AFR/NAFR	
CAV DATE	
Uploading Date	25.01.2019
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