

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.712 of 2019

Arising Out of PS. Case No.-142 Year-2007 Thana- ADAPUR District- East Champaran

MD. RAUFUL AZAM, aged about 41 years (Male), Son of Manjir Hassan
Resident of Village - Bishun Purva, Ward No. 10, P.S.- Adapur, District- East
Champaran

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Md. Oliullah Son of Late Sharif Mian Resident of Village - Bishun Purva,
Ward No. 10, P.S.- Adapur, District- East Champaran
3. Md. Bashirul Hassan @ Jila Babu Son of Maqshood Ahmad Resident of
Village - Bishun Purva, Ward No. 10, P.S.- Adapur, District- East
Champaran
4. Md. Samim Son of Bashirul Hassan Resident of Village - Bishun Purva,
Ward No. 10, P.S.- Adapur, District- East Champaran
5. Samiullah @ Motlib Son of Md. Oliullah Resident of Village - Bishun
Purva, Ward No. 10, P.S.- Adapur, District- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Yogendra Prasad Sinha
For the Respondent/s : Mr. S.N. Prasad, 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 : 12-07-2019

Heard learned counsel appearing for the appellant as
well as learned Additional Public Prosecutor for the State on
the point of admission and we are of the view that this appeal
can be disposed of on admission stage itself.

2. The appellant, being injured, is aggrieved by



the impugned judgment of acquittal dated 4.5.2019 passed by learned 6th Additional Sessions Judge, East Champaran at Motihari in Sessions Trial No. 169 of 2008 (arising of Adapur P.S. Case No. 142 of 2007), by which and whereunder he acquitted the respondent Nos. 2 to 5 from the charges framed against them for the offences punishable under Sections 307/34, 325/34 and 406 of the Indian Penal Code.

3. Learned counsel appearing for the appellant submits that that the learned trial court has passed the impugned judgment of acquittal only on the ground that there was contradictions between ocular as well as medial evidence but the learned trial court failed to take note of this fact that almost all the prosecution witnesses including the injured supported the manner of occurrence. He, further, submitted that the learned trial court discarded the testimonies of prosecution witnesses on the ground that the prosecution witnesses were relative of the injured and, therefore, the learned trial court committed error in discarding the testimonies of the prosecution witnesses because it is well settled principle of law that the testimonies of prosecution witnesses cannot be discarded only on the ground that the said prosecution witnesses are related with the victim.



4. On the other hand, learned Additional Public Prosecutor supports the impugned judgment of acquittal, arguing that the learned trial court has discussed all the evidences available on the record and also taken note of this fact that the injured (appellant) claimed that he sustained injury on his abdomen, thigh and other parts of the body but the medical report does not support the aforesaid claim of the informant and on the above stated ground, the trial court disbelieved the claim of the prosecution.

5. Having heard the rival contentions of the parties, we went through the impugned judgment.

6. We find that the appellant (informant) claimed that while he was sitting at his door, respondent Nos. 2 to 5 came there and badly assaulted him by means of *Lathi* and dagger etc.. The appellant (informant), specifically, claimed in his written statement that he sustained injuries on his abdomen, thigh etc. by means of dagger but perusal of impugned judgment goes to show that no injury was found on abdomen and thigh on the appellant (informant). Furthermore, the learned trial court has given reasoning for disbelieving the testimonies of the prosecution witnesses and, therefore, we are of the view that there is no ground to interfere into the impugned judgment



of acquittal.

7. In view of the aforesaid discussions, this criminal appeal stands dismissed on the admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Spd/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	15.07.2019
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