

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1204 of 2018**

Arising Out of PS. Case No.-228 Year-2013 Thana- KATEYA District- Gopalganj

Vijay Kumar Singh S/o Late Bikarma Singh, Resident of Village- Niyamat Guriaown, P.S. Kateya, District- Gopalganj.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Hari Bansh Singh, S/o Nathuni Singh, Resident of Village- Jamunaha Bazar, P.S. Kateya, District Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Baxi S.R.P. Sinha, Sr. Advocate Mr. Harendra Prasad, Advocate
For the Respondent no. 2		Mr. Y.V. Giri, Sr. Advocate Mr. Arbind Kr. Singh, Advocate
For the Respondent/s	:	Mr. Dilip Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 18-06-2019

Heard Mr. Baxi S.R.P Sinha, learned senior counsel appearing for the appellant, Mr. Y.V. Giri, learned senior counsel appearing for the respondent no. 2 as well as Mr. Dilip Kumar Sinha, learned Additional Public Prosecutor for the State on the point of admission and in our view, this criminal appeal can be disposed of on admission stage itself.

2. The appellant being informant in Kateya P.S. Case No. 228 of 2003 is aggrieved by the impugned judgment of



acquittal dated 31.07.2018 passed by the learned Additional Sessions Judge, VIII, Gopalganj in Sessions Trial No. 794 of 2016 by which and where under he acquitted the respondent no. 2 from the charges framed against him for offences punishable under Sections 147, 148, 149, 341, 302/149 of the Indian Penal Code and Section 27 of the Arms Act.

3. Learned counsel appearing for the appellant submits that the learned Trial Court has not properly appreciated the prosecution case. He submits that the impugned judgment goes to show that the learned Trial Court based his findings on the case diary which is not in accordance with law and the above stated perversity is itself sufficient for setting aside the impugned judgment of acquittal.

4. On the other hand, learned senior counsel appearing for the respondent no. 2 as well as learned Additional Public Prosecutor for the State supported the impugned judgment of acquittal arguing that the learned Trial Court has passed a well thought and well discussed judgment and there is no need to interfere into the impugned judgment of acquittal.

5. Learned senior counsel appearing for the opposite party no. 2 further submits that not a single prosecution witness claimed himself to be eye witness of the alleged occurrence and



taking note of the aforesaid fact as well as keeping in mind that the prosecution could not succeed to bring any circumstantial evidence against the respondent no. 2, the learned Trial Court passed the judgment of acquittal which does not need any interference by this Court.

6. Having heard the rival contentions of both the parties, we went through the impugned judgment. We find force in the contention of respondent no. 2 and perusal of impugned judgment goes to show that the learned Trial Court has passed a well discussed and well thought judgment. Furthermore, we find that the prosecution failed to produce reliable evidence to show the involvement of the respondent no. 2 in the alleged crime and taking note of the aforesaid fact, the learned Trial Court passed the impugned judgment of acquittal which does not need any interference by this Court. Accordingly, this Criminal Appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	
Transmission Date	

