

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1027 of 2019**

Arising Out of PS. Case No.-98 Year-2010 Thana- SULTANGANJ District- Bhagalpur

DEEPAK KUMAR Son of Kailash Das Resident of Village - Ghorghat, P.S.-
Sultanganj, Dist.- Bhagalpur ... Appellant

Versus

1. The State of Bihar
2. Ashok Sah Son of Late Rajendra Sah Resident of Village - Ghorghat, P.S.-
Sultanganj, Dist.- Bhagalpur.
3. Nand Kishore Sah Son of Late Rajendra Sah Resident of Village - Ghorghat,
P.S.- Sultanganj, Dist.- Bhagalpur.
4. Shyam Sunder Sah Son of Late Rajendra Sah Resident of Village -
Ghorghat, P.S.- Sultanganj, Dist.- Bhagalpur.
5. Mukesh Sah Son of Late Rajendra Sah Resident of Village - Ghorghat, P.S.-
Sultanganj, Dist.- Bhagalpur.

... .. Respondents

Appearance :

For the Appellant : Mr.Binay Kumar, Advocate
For the Respondents : Mr.Binay Krishna, Addl Public Prosecutor

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 16-09-2019

1. Heard learned counsel 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 at the admission stage itself.

2. The appellant is aggrieved by the impugned judgment dated 2.7.2019, passed by the learned Additional Sessions Judge -III cum Special Judge, SC/ST Act, Bhagalpur in



Sessions Trial No. 924 of 2012/CIS No. 924 of 2012 by which and whereunder he acquitted respondents no. 2, 3, 4 & 5 from the charges framed against them for the offences punishable under sections 379, 307, 454/34 of the Indian Penal Code, under section 27 of the Arms Act as well as under section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, though by the same impugned judgment the learned trial court convicted the respondents no. 4 and 5 for the offences punishable under sections 323, 354, 504/34 of the Indian Penal Code.

3. The grievance of the appellant is that a clear cut case under sections 307, 379, 454/34 of the Indian Penal Code, under section 27 of the Arms Act as well as under section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was made out against the respondents no. 2, 3, 4 & 5 on the basis of evidences adduced on behalf of the prosecution but the learned trial court acquitted the above stated respondents from the aforesaid charges. Learned counsel for the appellant further submitted that almost all the prosecution witnesses, consistently, considerably stated that at the time of alleged occurrence, the above stated respondents uttered the caste name of the appellant and assaulted him with an intention



to kill him but the learned trial court failed to take note of the above stated fact as well as the evidence.

4. On the other hand, learned Additional Public Prosecutor refuted the above stated submissions of learned counsel of the appellant, submitting that the learned trial court has passed a well discussed judgment and there is no scope for this Court to interfere into the findings of the learned trial court.

5. Having heard the above stated contentions of the parties, we went through the impugned judgment. On perusal of paragraphs 17, 18 and 19 of the impugned judgment, we find that the learned trial court discussed all the evidences available on the records and after that formed his opinion regarding non-proving of offences punishable under sections 379, 307, 454/34 of the Indian Penal Code, section 27 of the Arms Act and section 3(1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. We do not find any illegality or impropriety in the findings of the learned trial court.

6. It is well settled principle of law that if on the basis of the same fact and evidence, two views are possible, the view of the learned trial court shall prevail, unless the said view is absurd, perverse or without consideration of evidence. But in the present case, we do not find any perversity or absurdity in the



grounds taken by the learned trial court. We further find that the learned trial court has passed a well thought and well discussed judgment. Therefore, there is no need to interfere into the impugned judgment of acquittal.

7. Accordingly, this criminal appeal stands dismissed at admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2019.
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