

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.969 of 2019

In
CRIMINAL APPEAL (SJ) No.2967 of 2019

Arising Out of PS. Case No.-159 Year-2005 Thana- LAKHISARAI District- Lakhisarai

Jaya Devi, aged about 60 years, Female, Wife of Late Ajablal Yadav, Resident of Village - Gohari Tola, Deonagar (Shobhnagar), P.S.- Chanan (now Kiul), District- Lakhisarai.

... .. Appellant

Versus

1. The State of Bihar.
2. Ram Grijesh Yadav, aged about 51 years, Male, Son of Jagarnath Yadav, Resident of Village - Gohari, P.S.- Chanan (now Kiul), P.O.- Bandhu Bagicha, District- Lakhisarai, Pin Code - 811310.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Bharat Lal, Adv.
For the Respondent/s : Mr. Abha Singh

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

4 14-10-2019 Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on Leave Petition as well as on the point of admission and perused the record.

Leave Petition has been filed on behalf of the appellant for grant of leave to file and pursue this criminal appeal but admittedly, the appellant is wife of injured Ajablal Yadav, therefore, in our view, there is no need to file leave



petition.

The appellant is aggrieved by the impugned judgment, dated 30.5.2019, passed by learned F.T.C-I, Lakhisarai in Sessions Trial No. 867 of 2013, by which and whereunder, learned F.T.C.-I, Lakhisarai acquitted the respondent no. 2 from the charges framed against him and others for the offences punishable under Sections 147, 341, 323 and 307 of the Indian Penal Code whereas convicted three other accused persons for the above stated offences.

Learned counsel appearing for the appellant submits that the learned trial court after evaluating the prosecution evidence came to the conclusion that respondent no. 2 and other accused having form an unlawful assembly assaulted the informant and others but in spite of that the learned trial court acquitted the respondent no. 2 from the above stated charges.

On the other hand, learned Additional Public Prosecutor supports the impugned judgment of acquittal submitting that the learned trial court has given sound reasoning for passing the judgment of acquittal in favour of the respondent no. 2 and therefore, it would not be proper for this court to interfere into the findings given by the learned trial court.

Having heard the above stated contentions of the



parties, we went through the record.

Lakhisarai P. S. Case No. 159 of 2005 was registered against accused Jagarnath Yadav, Anandi Yadav, Jagdambi Yadav, Ram Pravesh Yadav, Ram Sarobar Yadav, Ram Sudhar Yadav and four to five unknown persons. Admittedly, respondent no. 2 was not named in the first information report though he happens to be co-villager of the informant. However, after investigation, police submitted charge sheet against respondent no. 2 and others and, accordingly, respondent no. 2 along with three other persons were put to trial and stood charged for the offences punishable under Sections 147, 341, 323 and 307 of the Indian Penal Code.

In course of trial, prosecution examined, altogether, eight prosecution witnesses and also got exhibited some documents but except PW-5, who happens to be son of informant, and PW-7, who happens to be wife of informant, not a single prosecution witness named the respondent no. 2. Learned trial court doubted about the participation of the respondent no. 2 in the alleged crime on the ground that he was not named in the first information report though the respondent no. 2 was well known to informant from before. We do not find any perversity in the aforesaid finding of the learned trial court.



The finding of trial court cannot be disturbed by the appellate court unless the finding of the trial court is perverse, absurd or without consideration of the evidence but in the present case, as we have noticed that the above stated finding of the trial court is neither perverse nor absurd and the learned trial court has given its finding after considering the entire evidence.

Therefore, in our view, there is no need to interfere into the finding given by the trial court in respect of respondent no. 2.

On the basis of aforesaid discussion, this criminal appeal stands dismissed on admission stage itself.

However, it is made clear that the finding given in this order shall not affect the other convicted persons.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Rajeev Kumar/-

U		T	
---	--	---	--

