

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.105 of 2018

Arising Out of PS. Case No.-117 Year-2012 Thana- SASARAM NAGAR District- Rohtas

Pankaj Kumar son of Sri Dinesh Kumar, resident of Mohalla- Prem Chand Path, Hanumant Kutir, Gauraxani, P.S. Sasaram Town, District Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ayodhya Singh, son of Sahdeo Singh
3. Premchand Singh, son of Sahdeo Singh,
4. Rinku @ Manmohan Kumar, son of Ayodhya Singh
5. Mukesh Kumar, son of Ayodhya Singh All resident of Village- Patarhi, P.S. Seosagar, District- Rohtas, at present mohalla Yadav Mohalla, Ward No. 7, Gauraxani, P.S. Sasaram Town, District- Rohtas.
6. Uttam Kumar @ Anup Kumar, son of Late Nand Kishor Ram, resident of Mohalla- Prem Chand Path, Gauraxani, P.S. Sasaram Town, District Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Raghunandan Kumar Singh, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP
For the Opposite Parties	:	Mr. Vindhyachal Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date : 06-05-2019

Heard learned counsel for the parties.

2. The petitioner Mr. Pankaj Kumar is informant of Sasaram (Town) P.S. Case No.117 of 2012 registered under Sections 147/148/149/447/341/323/427 of the Indian Penal Code and under Section 27 of the Arms Act. Opposite Party Nos.2 to 6 are accused of the case. They faced trial in connection with the aforesaid case before the learned Sub-



Divisional Judicial Magistrate, Rohtas, in G.R. No.299 of 2012, corresponding to T.R. No.767 of 2017. The trial resulted in acquittal by judgment dated 23.05.2017. The petitioner challenged the aforesaid acquittal in Cr. Appeal No.39 of 2017 before the learned Sessions Judge, Rohtas. By the impugned order dated 31.10.2017 the appeal was dismissed as not maintainable.

3. According to FIR, the accused persons were damaging the boundary wall of the informant. They were variously armed with spade etc. On being forbade by the informant to not to damage, accused Ayodhya Singh and Prem Chand Singh fired from their pistols. However, no injury was caused to anyone. However, the occurrence of assault was committed by the named accused persons. Besides allegation of mischief of Rs.10,000/- there is allegation of commission of theft of building materials.

4. Apparently, the informant of this case is the "victim" of the crime.

"Section 2(wa) Cr.P.C. defines the word "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been



charged and the expression “victim” includes his or her guardian or legal heir.”

5. In this case the informant is the victim of physical assault as well as victim of loss arising out of the mischief committed by the accused persons.

6. The proviso to Section 372 Cr.P.C. brought on the statute on 31.12.2009 reads as follows:

“Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

7. Learned lower appellate-court has referred to the judgment of the Hon’ble Supreme Court in **Satya Pal Singh Vs. State of M.P. in SLP (Cri) No.8954 of 2014** and judgment in **Ripendra Singh Vs. State of Tripura and Anr. in SLP (Cri) 7014 of 2012** reported in **2017 (3) PLJR (SC) 189**. However, the impugned order does not reveal that how those cases were applicable in the facts and circumstances of this case especially in view of the specific statutory provision giving



right of appeal to the victim. Apparently, the Court-below is misunderstood the judgment of the Hon’ble Apex Court.

8. The appellate-court is bound to hear and decide the appeal brought by the victim against the judgment of acquittal. Accordingly, the impugned order is set aside and the matter is remitted back to the learned appellate-court to decide the appeal on merit and expeditiously.

This order shall not prejudice the mind of the lower appellate Court so far merit of the judgment of acquittal is concerned.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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