

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1438 of 2018

Arising Out of PS. Case No.-432 Year-2012 Thana- KUCHAIKOTE District- Gopalganj

Anand Dikshit @ Anand Kumar Dikshit S/o Ramjas Dikshit, R/o Village-
Pokhar Bhind, P.S.- Kuchaikot, District- Gopalganj.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Madan Shukla, S/o Late Vachan Shukla @ Vaksha Shukla
3. Sweeti Kumari, D/o Madan Shukla.
4. Santosh Shukla S/o Ravindra Nath Shukla.
5. Mintu Shukla, S/o Ravindra Nath Shukla.
6. Ravindra Shukla, S/o Late Vachan Shukla @ Vaksha Shukla
7. Vageshwari Devi, w/o Ravindra Shukla

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Satyendra Rai
For the Respondent/s	:	Mr.Shashi Bala Verma

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 21-01-2019

1. Learned counsel appearing for the appellant is permitted to make necessary corrections in para 1 of the memo of appeal within course of the day.

2. Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor on I.A. No. 41 of 2019 which has been filed under Section 378(3) of the Cr.P.C as well as on the point of admission.



3. I.A. No. 41 of 2019 has been filed on behalf of the appellant who happens to be injured and informant of the case and, therefore, he does have right to challenge the impugned judgment. Accordingly, I.A. No. 41 of 2019 stands allowed and the appellant is permitted to pursue this criminal appeal.

4. This criminal appeal has been preferred against the impugned judgment dated 12.09.2018 passed by learned Additional Sessions Judge V, Gopalganj in Sessions Trial No. 432 of 2013 by which and whereunder he acquitted respondent nos. 2 to 7 from the charges framed under Sections 307 and 325 of the Indian Penal Code but convicted them for the offences punishable under Sections 147, 341, 323 and 504 of the Indian Penal Code and released them after due admonition under Section 3 of Probation of First Offenders Act.

5. The grievance of the appellant is that there was sufficient material before the learned trial court to convict the respondent nos. 2 to 7 for the offences punishable under Sections 307 and 325 of the Indian Penal Code but in spite of that the learned trial court acquitted respondent nos. 2 to 7 from the charges of Sections 307 and 325 of the Indian Penal Code. Furthermore, grievance of the appellant is that the learned trial court took very lenient view while awarding sentence to the



respondent nos. 2 to 7, particularly in the circumstance, when the appellant had sustained grievous injury.

6. On the other hand, learned Additional Public Prosecutor supports the impugned judgment arguing that in course of trial, the prosecution did not produce any X-ray report or X-ray plate and the learned trial court noticed that the concerned doctor had given his opinion regarding so-called grievous injury of informant without any proper examination and on the aforesaid ground, the learned trial court disbelieved the opinion of the doctor in respect of so-called grievous injury of informant and that is why the learned trial court acquitted the respondent nos. 2 to 7 from the charges framed under Sections 307 and 325 of the Indian Penal Code.

7. Having heard the contentions of both the parties, we went through the impugned judgment. In our view, this appeal can be disposed of on admission stage itself.

8. The impugned judgment goes to show that the appellant (informant) and one Ampu Kumari sustained injury in the alleged occurrence and both the injureds sustained simple injuries except appellant, who is said to have sustained one grievous injury on his second toe of right foot. The impugned judgment further goes to show that the learned trial court



disbelieved the opinion of the doctor regarding the aforesaid injury of the appellant (informant). Furthermore, we find that the learned trial court has well discussed the evidences available on the record and came to conclusion that prosecution failed to prove the charges framed under Sections 307 and 325 of the Indian Penal Code. Therefore, in the aforesaid circumstances, we are of the view that the learned trial court rightly acquitted the respondent nos. 2 to 7 from the charges framed under Sections 307 and 325 of the Indian Penal Code and there is no requirement to interfere into the above stated findings of the learned trial court. So far as the point of sentence is concerned, we do not find any ground to interfere into the sentence imposed upon the respondent nos. 2 to 7 and there is no ground to enhance their sentence.

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

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

s.hassan/-rajeev

AFR/NAFR	NAFR
CAV DATE	NA
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