

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1261 of 2019**

Arising Out of PS. Case No.-1 Year-2005 Thana- LAUKAHA District- Madhubani

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Raghwendra Prasad Son of Late Jawahar Prasad R/o Dhanusi, Sarvsima, P.S.-
Laukaha (Lalmania), District – Madhubani ... Appellant
Versus

1. The State of Bihar and
2. Sitaram Sahani Son of Late Nathuni Sahani R/o Dhanusi, Sarvsima, P.S.-
Laukaha (Lalmania), District – Madhubani Respondents

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Appearance :

For the Appellant : Mr.Sanjay Kumar Jha, Advocate
For the Respondents : Mr.Shiwesh Ch. Mishra, Addl Public Prosecutor

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

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

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

Date : 24-10-2019

1. Heard learned counsel for the appellant as well as learned Additional Public Prosecutor appearing for the State on the point of admission and in our view, this criminal appeal can be disposed of on the admission stage itself.

2. The appellant is aggrieved by the impugned judgment of acquittal dated 27.6.2019, passed by the learned Additional Sessions Judge III, Madhubai in Sessions Trial No. 247 of 2005, arising out of Laukaha (Lalmania) Police Station Case No. 1 of 2005 by which the learned Additional Sessions Judge has acquitted respondent no.2 from the charges framed against him for the



offence punishable under sections 395 and 397 of the Indian Penal Code.

3. PW 4 Raghwendra Prasad lodged Laukaha (Lalmania) Police Station Case No. 1 of 2005 against respondent no.2 and one Nathuni Sahani making allegation against them that they along with unknown persons committed dacoity in his house and in course of dacoity, dacoits assaulted the inmates of the house. PW 4 has claimed that he identified respondent no.2 at the time of alleged occurrence.

4. Respondent no.2 was put to trial for the specific charge of sections 395 and 397 of the Indian Penal Code. In course of trial, prosecution got examined altogether 14 prosecution witnesses and also got exhibited certain documents. Statement of respondent no.2 was recorded under section 313 of the Code of Criminal Procedure in which he denied the accusation and claimed his false implication. Although, no oral evidence was adduced by respondent no.2 but certain documents were got exhibited as documentary evidence. Learned trial court, after evaluating the materials available on the record, came to the conclusion that except PWs. 1 and 4, none of the prosecution witnesses claimed to have identified respondent no.2 at the time of alleged occurrence. Furthermore, the learned trial court noticed that there was previous



enmity between respondent no.2 as well as PWs. 1 and 4 and thereafter the learned trial court passed the judgment of acquittal doubting the claim of PWs 1 and 4.

5. Learned counsel appearing for the appellant challenged the impugned judgment of acquittal submitting that PWs. 1 and 4 claimed to have identified respondent no.2 in the light of torch but the learned trial court on flimsy grounds rejected claim of PWs. 1 and 4.

6. On the other hand, learned Addl Public Prosecutor appearing for the State supports the impugned judgment arguing that the learned trial court has passed a well discussed judgment which is evident from the perusal of paragraph 10 of the impugned judgment.

7. Having heard the contentions of the parties, we went through the impugned judgment. It is an admitted fact that respondent no.2 and PW 1 as well as PW 4 are co-villagers and prior to the alleged dacoity, there was enmity between respondent no.2 as well as PWs 1 and 4. Furthermore, it is also admitted case of the prosecution that on the alleged date of occurrence, dacoity took place not only in the house of PWs 1 and 4, but also in the house of some other prosecution witnesses. Learned trial court doubted the claim of PWs 1 and 4 on the ground that except PWs.



1 and 4, none of the co-villagers of PW 2 has claimed to have identified respondent no.2 though dacoity was committed in their respective houses also. Furthermore, the learned trial court also noticed that possibility of false implication of respondent no.2 could not have been ruled out due to previous enmity and taking note of the above stated grounds the learned trial court passed the impugned judgment. We do not find any perversity or absurdity in the impugned judgment and in our view, there is no need to interfere into the judgment of acquittal. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
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