

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1229 of 2018

Arising Out of PS. Case No.-3 Year-2002 Thana- CHENARI District- Rohtas

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Manoj Kumar Agrawal @ Raju Agrawal S/o Late Jitan Agrawal Resident of
Village-Chenari Bazar,Ram Janki Marg,P.S. Chenari,Distt.-Rohtas at Sasaram

... .. Appellant

Versus

1. The State of Bihar
2. Uma Shankar Agrawal sons of Late Jitan Agrawal
3. Saroj Agrawal Sons of Late Jitan Agrawal Both Resident of Village-Chenari
Bazar,Ram Janki P.S. Chenari,Distt.-Rohtas

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Chandra Mohan Jha, Advocate
For the Respondent/s : Mr. Mayanand Jha, APP

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER**

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

4 04-01-2019

Ref: I.A. No. 3294 of 2018

(1) Heard learned counsel appearing for
appellant as well as learned Addl. Public Prosecutor for the
State on I.A. No. 3294 of 2018, which has been filed under
Section 378(III) of the Code of Criminal Procedure for grant of
leave to file this appeal as well as on the point of admission and
perused the record.

(2) The applicant of aforesaid Interlocutory
Application No. 3294 of 2018 is injured and informant of the
present case and, therefore, he comes under the ambit of victim



and he has right to challenge the impugned Judgment of acquittal and, accordingly, I.A. No. 3294 of 2018 is allowed and the appellant is permitted to pursue the appeal. In the aforesaid manner, the said I.A No. 3294 of 2018 stands disposed of.

(3) This Criminal Appeal has been preferred against the impugned Judgment of acquittal dated 21.08.2018 passed by Presiding Officer, Fast Track Court No.II, Rohtas at Sasaram in Sessions Trial No. 255 of 2002, arising out of Chenari P.S. Case No. 03 of 2002, by which and whereunder, he acquitted the respondent Nos. 2 and 3 from the charges framed against them for the offences punishable under Sections 325, 379/34, 504 and 307/34 of the Indian Penal Code giving them the benefit of doubt.

(4) The appellant lodged Chenari P.S. Case No. 03 of 2002 against respondents No. 2 and 3 and claimed that on 06.01.2002 at about 8.00 A.M., he was assaulted by respondents No.2 and 3 by means of Garasa and, in that course, his gold chain was snatched by the respondent Nos. 2 and 3.

(5) The respondent Nos. 2 and 3 were put on trial and, accordingly, they were charged for the offences punishable under Section 325, 379/34, 504 and 307/34 of the Indian Penal Code. In course of trial, the prosecution examined,



altogether, seven prosecution witnesses and also got exhibited some documents. The learned Trial Court, after scrutinizing the evidences available on the record, passed the Judgment of acquittal, which has been challenged by the appellant before this Court.

(6) The perusal of impugned Judgment goes to show that the learned trial Court doubted the manner of occurrence as well as the genuineness of injury report produced on behalf of the prosecution.

(7) Learned counsel appearing for appellant assailed the impugned Judgment of acquittal arguing that the learned trial Court based his finding of acquittal on minor contradictions, which had occurred in the testimony of prosecution witnesses. He further submitted that the informant being the injured supported the prosecution story and the injury report also proved that the informant had sustained injury. He further submitted that the learned trial Court doubted the genuineness of injury report on flimsy grounds and, therefore, the impugned Judgment cannot be sustained in the eye of law.

(8) On the other hand, learned Addl. Public Prosecutor supports the impugned Judgment of acquittal



arguing that the learned trial has well discussed the evidences available on the record and after thorough discussion came to the conclusion that the prosecution suppressed the real facts and, therefore, there is no need to interfere into the impugned Judgment of acquittal.

(9) Having heard the contentions of the parties, we went through the impugned Judgment. In our view, this appeal can be disposed on admission stage itself.

(10) The impugned Judgment goes to show that there was case and counter case between the parties and both parties levelled allegation of assault against each others. Furthermore, the impugned Judgment goes to show that time, date and place of occurrence were admitted by both parties in their respective claims and there was only dispute in respect of manner of occurrence. Admittedly, the respondent Nos. 2 and 3 had also sustained injury in the alleged occurrence, but the informant did not disclose the injuries sustained by respondent Nos. 2 and 3 nor took any attempt to explain the injuries of respondent Nos. 2 and 3. It is obvious, from perusal of the impugned Judgment, that on the above stated grounds the learned trial Court doubted the manner of occurrence of the present case. Furthermore, we find that the learned trial



Court doubted the genuineness of injury report on several grounds such as non giving advice of X-ray report of the injuries as well as other omissions committed by the concerned Doctor. Moreover, the impugned Judgment also goes to show that the witnesses made contradictory statements, which also created doubt in the mind of learned trial Judge. In our view, learned Addl. Public Prosecutor rightly said that there is no need to interfere into the impugned Judgment of acquittal.

(11) On the basis of the aforesaid discussions, we do not find any force to interfere into the impugned Judgment and in our view, this criminal appeal is liable to be dismissed on admission stage itself. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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