

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79961 of 2019

Arising Out of PS. Case No.-1360 Year-1996 Thana- SIWAN COMPLAINT CASE District-
Siwan

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SRIKANT RAI @ SHREE KANT RAY Son of Shivjee Rai Resident of
Village- Khamauri, P.S.- G.B. Nagar, District- Siwan.

... .. Petitioner

Versus

1. The State of Bihar Bihar
2. Manoj Rai Son of Praduman Rai Resident of Village- Khamauri, P.S.- G.B. Nagar, District- Siwan.
3. Sonu Rai Son of Praduman Rai Resident of Village- Khamauri, P.S.- G.B. Nagar, District- Siwan.
4. Dipu Rai Son of Praduman Rai Resident of Village- Khamauri, P.S.- G.B. Nagar, District- Siwan.
5. Guni Rai Son of Praduman Rai Resident of Village- Khamauri, P.S.- G.B. Nagar, District- Siwan.

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Sanjeet Kumar
For the Opposite Party/s : Mr.Damodar Prasad Tiwary

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-12-2019

Heard learned Counsel for the petitioner and the learned
Counsel for the State.

This application has been filed for quashing the
judgment dated 22.8.2018 of the appellate court in Cr. Appeal No.
16 of 2018 passed by learned Additional District & Sessions Judge
VIth, Siwan. Order and judgment dated 6.2.2018 by the trial
court in Trial No. 1839 of 2018 is also assailed in the instant
proceeding.



Learned Counsel appearing for the petitioner has submitted that the doctor has specifically found injury on the person of the informant, the prosecution story in so far as the allegation under Section 323 IPC is concerned, could not have been disbelieved by the trial court. It is submitted that the medical evidence could not have been discarded in the manner in which it has been done by the trial court. The Appellate Court also has not taken due care to examine this issue. It is on these grounds that the petitioner has sought quashing of the order of the trial court as well as the appellate court.

After hearing Counsel for the parties and on going through the orders passed by the trial court as well as the appellate court, this Court would observe that entire prosecution story is that when the complainant went to his pond he saw that all the accused persons, four in number, were fishing from his pond with intention to commit theft. This forms the genesis of the occurrence upon which it is alleged that the scuffle ensued and the accused persons assaulted the informant and snatched his watch.

The trial court after going through the depositions has observed that the occurrence is unbelievable and beyond doubt for many reasons. One, that there is stark inconsistency as regards manner in which the wrist watch of the informant has been taken



away. The trial court has recorded that the inconsistency suggests that the prosecution witnesses are tutored to reproduce the allegations made from the complaint petition although the informant himself in the trial court has given different version as regards snatching or taking away of the watch.

Further the prosecution story has been found to be unbelievable on account of the fact that the pond from which four persons are alleged to have been fishing is of a very small dimension i.e. 15 feet X 20 feet. In the circumstances the fact that four persons would be fishing in the pond has been disbelieved. On such findings the trial court has observed that the prosecution case could not be established beyond doubt. When the prosecution case itself has not been established it would not be prudent to attribute the simple injuries which have been found by the doctor, to the petitioner. Injuries detected upon the petitioner are as follows:-

“(1) Swelling with on the side of left elbow 3” X 2”X 1/4”.

(1) Swelling with on the part of back on right side 2” X1-1/2” X 1/4”.

The above injure have been caused by hard blunt substance that it may be possible lathi. Injure is simple in nature and age about 8 hours.

On the basis of injure report I have supplied of attested copy in my hand it being in my signature.”



Injuries, per se cannot be made the basis to presume that it has been caused by the accused persons, more so when the entire prosecution story has been found to be false and unsustainable by the trial court and such findings affirmed by the appellate court.

This Court in the circumstances does not consider it appropriate to proceed any further in this matter.

The application stands dismissed.

(Madhuresh Prasad, J.)

SNkumar/-

AFR/NAFR	NAFR
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