

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1307 of 2020

Arising Out of PS. Case No.-113 Year-2019 Thana- SALAKHUA District- Saharsa

Ganesh Yadav S/o Surya Narayan Yadav R/o Village- Parasbanni Dobhiya
Tola Ward No. 11, P.S.- Salkhua (O.P. Banma Ithari), District- Saharsa.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shiva Shankar Sharma, Adv.
For the Respondent/s : Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 29-06-2020 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

The instant appeal under section 14A(2) of the SC and ST (Prevention of Atrocities) Act has been preferred against the rejection of appeal of the appellant vide order dated 14.2.2020 passed in Special Case no.97 of 2019 arising out of Salkhua (Banma Ithari O.P) Case No. 113 of 2019) registered under sections 147, 148, 149, 307, 326, 302 and 120B of the Indian Penal Code, section 27 of the Arms Act and section 3(2)(v) of the SC and ST (Prevention of Atrocities) Act.

As per the allegation in the FIR, while the petitioner and others were sleeping at about 1 am in the night they woke up on the sound of firing. It is stated that the informant saw in the light of bulb that it was the appellant who opened fire upon



Gaurav Kumar hitting him on his hand. He ran and entered into the the house of Rikesh Yadav to save his life. It is further stated that on Rikesh Yadav coming out of his house, the accused persons also fired at him as a result of which he died on spot.

The case diary had been called for in the case which has been received.

It is submitted by learned counsel for the appellant that the occurrence is stated to have taken place late in the night. It is further submitted that from perusal of Annexure-2 and other annexures, it would be evident that there is pending land dispute between the parties which is the cause of false implication. He further refers to the statement of the of the wife of the deceased recorded in course of investigation to submit that the manner of occurrence as stated in the F.I.R. is not correct. The injury caused is on a non-vital part of the body. The appellant is in custody since 8.12.2019 and chargesheet has already been submitted in the case.

The appeal is opposed by the learned Special P.P. for the State who submits that apart from the instant case, three other cases are pending against the appellant under the SC and ST (Prevention of Atrocities) Act besides other sections. There is land dispute between the parties and which is the cause of



occurrence. Referring to the postmortem report it is submitted that the cause of death is the ante mortem injury caused by fire arm.

Having heard learned counsel for the parties, in view of the allegation against the appellant in the F.I.R. together with the material on record that has transpired in course of the investigation as also the postmortem report, the Court is not inclined to allow the instant appeal.

The appeal stands rejected.

(Partha Sarthy, J)

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