

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.62 of 2022

Arising Out of PS. Case No.-29 Year-2007 Thana- DARPA District- East Champaran

Hirdesh Mahto S/o- Sita Ram Mahato Resident of Village- Gamahariya Kala,
P.S.- Darpa, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Lal Babu Das S/o Ramdeo Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.
3. Ramanand Das S/o Gyani Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.
4. Anil Das Son of Ramanand Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.
5. Jitendra Das Son of Ramdeo Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.
6. Rajendra Das S/o Banarsi Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.
7. Bam Shankar Das @ Jeera Das Son of Ramadya Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.
8. Bipin Das Son of Late Sheomangal Das Resident of Village- Gamahariya Kala, P.s.- Darpa, District- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Vijay Shankar Shrivastava, Advocate
For the State	:	Mr. Ajay Mishra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

4 18-08-2022 Heard Mr. Vijay Shankar Shrivastava, learned counsel

for the appellant and Mr. Ajay Mishra, learned Additional Public

Prosecutor for the State.

2. The present appeal is directed against the judgment

of acquittal dated 22.11.2021 passed in Sessions Trial No.



788/2008 by which the respondents no. 2 to 8 have been acquitted from the charge under Sections 148, 342, 324, 307 of the Indian Penal Code and their release under the Probation of Offenders Act, 1958 under Sections 147, 323 and 504 of the Indian Penal Code after giving warning by judgment and order dated 22.11.2021 passed by the learned Additional Sessions Judge-VIII, East Champaran, Motihari in Sessions Trial No. 788/2008, arising out of Darpa P.S. Case No. 29/2007.

3. Learned counsel for the appellant submitted that one of the victims Baidhnath Mahto, named in the F.I.R. sustained *farsa* blow on his head, Hirdesh Mahto sustained injury on his hand and one Baidhnath Mahto sustained injury in his finger which got fractured. He has further submitted that almost all the prosecution witnesses has supported the allegation made in the F.I.R. and the Court below has not considered the testimony of the witnesses and has also not taken into consideration that the examination of doctor who had examined the victim was not examined in the present case which leads the entire proceedings and as such the impugned judgment convicting the accused persons under Sections 323, 504, 147 is not sustainable and as such, the same requires interference of this Court.



4. Learned A.P.P. on the other hand submitted that the learned court below has examined the version of all the prosecution witnesses in want of any material produced or exhibited by the prosecution side, the accused persons have been convicted in accordance with law and as such, the impugned judgment does not require any interference by this Court.

5. Having considered the rival submissions of learned counsel for the parties and from the materials it appears that Hirdesh Mahto who is the appellant of the present appeal is not the victim as defined in under Section 2W(8) of the Code of Criminal Procedure, 1973, and from the impugned judgment also this Court does not find any infirmity or perversity in the present appeal.

6. Accordingly, the same stands dismissed.

(Ahsanuddin Amanullah, J)

(Purnendu Singh, J)

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