

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.66 of 2020

Arising Out of PS. Case No.-44 Year-2012 Thana- BATHNAHA District- Sitamarhi

Abdul Quadir, Son of Md. Subhan Ansari, Resident of Village - Hari Bela,
P.S.- Bathnaha, Distt.- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
2. Wasi Haidar, Son of Maula Baksh Resident of Village - Hari Bela, P.S.-
Bathnaha, Distt.- Sitamarhi
3. Ashraf Ansari Son of Baiyan Ansari Resident of Village - Hari Bela, P.S.-
Bathnaha, Distt.- Sitamarhi
4. Nurul Hoda Son of Maula Baksh Resident of Village - Hari Bela, P.S.-
Bathnaha, Distt.- Sitamarhi
5. Zakir Hussain, Son of Maula Baksh Resident of Village - Hari Bela, P.S.-
Bathnaha, Distt.- Sitamarhi
6. Azmat Ansari, Son of Umrul Resident of Village - Hari Bela, P.S.- Bathnaha,
Distt.- Sitamarhi
7. Mustafa Ansari Son of Navijan Ansari Resident of Village - Hari Bela, P.S.-
Bathnaha, Distt.- Sitamarhi
8. Aslam Ansari Son of Babiyan Ansari Resident of Village - Hari Bela, P.S.-
Bathnaha, Distt.- Sitamarhi
9. Maula Baksh Ansari Son of Late Farijan Mian Resident of Village - Hari
Bela, P.S.- Bathnaha, Distt.- Sitamarhi
10. Babujan Ansari Son of Late Farijan Ansari Resident of Village - Hari Bela,
P.S.- Bathnaha, Distt.- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Nasrul Hoda Khan, Advocate.
For the Respondent/s : Mr. Abhimanyu Sharma, APP.

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

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

4 05-07-2022 Heard Mr. Nasrul Hoda Khan, learned counsel for
the appellant and Mr. Abhimanyu Sharma, learned APP for the
State.



2. The present appeal is directed against the judgment and order dated 12.12.2019 by which the respondents no. 2 to 10 have been acquitted of the charge under Sections 307/34 of the Indian Penal Code in Sessions Trial No. 490 of 2014, arising out of Bathnaha P.S. Case No. 44 of 2012, G.R. No. 811 of 2012.

3. As per the F.I.R., the respondents no. 2 to 10 are said to have assaulted the father of the informant i.e., the appellant, who later succumbed and also of causing injury to two other persons.

4. Learned counsel for the appellant submitted that there is specific allegation of the deceased being dragged down from the motorcycle and also assault on the informant and other persons. It was submitted that the brutal assault clearly indicates that there was intention to cause death and thus the respondents no.2 to 10 / accused have wrongly been acquitted.

5. Learned APP submitted that the trial court has meticulously weighed the evidence and arrived at the right conclusion that the intention to kill was not there and thus they have been convicted only under Section 323 of the Indian Penal Code.

6. Having considered the facts and circumstances of



the case and submissions of learned counsel for the parties, the Court does not find any reason to interfere in the judgment and order under appeal. The fact that the injury report does not corroborate brutal assault and only two lacerated wounds have been found on the head and three other lacerated wounds on the lower part of the body does not indicate the intention to kill as has been rightly held by the trial court. However, the fact that evidence has come with regard to assault, the trial court has convicted the respondents no. 2 to 10 under Section 323 of the Indian Penal Code.

7. Thus, taking an over all view in the matter, the appeal having no merits stands dismissed.

(Ahsanuddin Amanullah, J)

(Purnendu Singh, J)

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