

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1401 of 2019

Arising Out of PS. Case No.-20 Year-2015 Thana- JADIA District- Supaul

Bhajan Lal Sah, Son of Late Mushahru Sah, Resident of Village- Datua, P.S.-
Jadiya, District- Supaul.

... .. Appellant/s

Versus

1. The State of Bihar
2. Laxmi Sah Son of Late Bhola Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
3. Bindeshwari @ Buchai Sah Son of Laxmi Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
4. Baijnath Sah Son of Laxmi Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
5. Raghu Sah Son of Laxmi Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
6. Sitaram Sah Son of Late Bhola Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
7. Chhedan Sah Son of Siatram Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
8. Sugiya Devi Wife of Laxmi Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
9. Urmila Devi Wife of Bindeshwari @ Buchai Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
10. Sita Devi Wife of Raghu Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
11. Rina Devi Wife of Baijnath Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
12. Uria Devi Wife of Sitaram Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.
13. Thakni Devi Wife of Chhedan Sah Resident of Village- Datua, P.S.- Zadiya, District- Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Nikesh, Advocate
For the Respondent/s : Mr. Abhimanyu Sharma, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE KHATIM REZA

ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 28-11-2022

This appeal has been filed under Section 372 of the Cr.P.C. against the judgment dated 03.10.2019 passed in Sessions Trial No. 80 of 2017, arising out of Zadia P.S. Case No. 20 of 2015 by the Court of learned Presiding Officer, Fast Track Court (FTC), Supaul, whereby respondents No. 2 to 13 have been acquitted of the charges framed against them. Respondents Rahu Sah, Chhedan Sah, Sitaram Sah, Sugiya Devi, Urmila Devi, Sita Devi, Rina Devi, Uria Devi and Thakni Devi were charged of the offences punishable under Sections 147, 341, 323, 504, 302/149 of the Indian Penal Code, whereas respondents Laxmi Sah, Bindeshwari @ Buchai Sah and Baijnath Sah were charged of the offences punishable under Sections 148 and 302 of the IPC, at the trial.

2. The prosecution's case, as set up in the *fardbeyan* of the appellant/informant was that when the mother of the informant was performing some work in front of a thatched house, his neighbour Sugiya Devi (respondent No.8) came there with her family members and started abusing her, claiming their ownership over the land. Upon hearing the noise, other respondents also came and started abusing the informant's



mother. The informant's twelve-year old daughter is said to have, thereafter, made an attempt to rescue her grandmother. The informant also alleged that the respondent Laxmi Sah assaulted his mother by means of *dabiya* causing serious injury in her head. Respondent No. 8 thereafter caught the deceased by her hair. He further alleged that respondent Buchai Sah gave a *samath* blow in the neck of the deceased, whereas respondent Raghu Sah assaulted his daughter with a bamboo stick. All other persons thereafter assaulted the deceased with feet and fist. At the same time respondent Baijnath Sah also came armed with bow and arrow. Subsequently, few neighbours also assembled there who tried to pacify the dispute. According to the prosecution's case as disclosed in the FIR, Yogendra Sah and Gajendra Sah also reached the place of occurrence. Subsequently, because of the injuries sustained by the mother of the informant in the said incident, she died. After completion of investigation, charge-sheet was submitted. After taking of cognizance, the case was committed to the Court of Sessions for trial. Charges were framed subsequently by the trial court for commission of the offences as noted above.

3. At the trial, the prosecution examined altogether ten witnesses in support of its case including the Investigating



Officer (PW-10) and the Doctor (PW-5). The trial court has, in its judgment has noted at the outset, the medical evidence adduced at the trial. According to the medical evidence, the cause of death was due to injuries caused by heavy impact of sharp cutting substance leading to haemorrhage and shock. Only one head injury was found on the body of the deceased. The Investigating Officer in his evidence in cross-examination, admitted that the place of occurrence was neither a field nor a thatched house. He admitted that he had not seized any blood stained clothes of the deceased and that he had found the dead body of the deceased in the said thatched house. In paragraph 8 of his cross-examination he divulged that he had not seen any injury on the neck of the deceased caused by means of *samath*. Further, it is evident that he had submitted charge-sheet against only four persons on the basis of evidence whereas other eight persons were found innocent during the course of the investigation.

4. The trial court has noticed in its judgment the material contradictions in the evidence of witnesses. The Investigating Officer controverted the statement of the informant himself and contradicted the evidences of other material prosecution's witnesses, which the trial court has



noticed in its judgment. PW-6, brother-in-law of the informant claimed to be a chance witness, who received the information about killing of the deceased from the informant. The trial court has noticed the deposition of PW-9 to the effect that the informant/appellant had come to the place of occurrence after the death of the deceased. PW-9 is the daughter-in-law of the deceased. She deposed that she had told them about the death of her mother-in-law. In the opinion of the trial court, the evidence of PW-9 suggested that other witnesses who claimed to be the eye-witnesses of the occurrence were not present at the place of occurrence.

5. After analyzing the evidence adduced at the trial, the trial court has reached the conclusion that the prosecution failed to prove the place of occurrence and further the evidence of the witnesses who claimed to be the eye-witnesses were not reliable. The trial court has also noticed material contradictions in the evidences of the witnesses. Such contradictions have been duly dealt with in the impugned judgment of the trial court.

6. The finding of the trial court, recording acquittal of respondents No. 2 to 13, in our opinion, cannot be said to be erroneous or not a reasonably possible view. The trial court has rather rightly acquitted the respondents taking into account the



evidence of the Investigating Officer, the medical evidence read with evidence of PW-9 before reaching the conclusion that the prosecution failed to establish it's case beyond all reasonable doubts.

7. The impugned judgment of the trial court needs no interference.

8. Accordingly, we do not find any merit in this appeal, which is thus dismissed.

(Chakradhari Sharan Singh, J)

(Khatim Reza, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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