

16.11.2022
BMJR
Item no. 14
Ct. No.236

CRR 3589 of 2005

**Tagi Mahato
Vs.
The State of West Bengal**

Mr. Milan Mukherjee

.... For the petitioner

Challenge in this application for revision is to the judgment and order of acquittal passed by learned Additional Sessions Judge, Fast Track, 3rd Court, Purulia in G.R Case No.788 of 1991 under Section 148/149/447/326 of the Indian Penal Code.

Briefly stated that one Tagi Mahato informed the Officer In-charge of Arsha Police Station that on 31.05.1991 at about 21.15 hours Shyamapada rushed to her to show that he sustained injury being assaulted by Hari Mahato, Prasadi Mahato, Ananda Mahato, Buti Mahato, Raja Mahato, Kartick Mahato, Rangu Mahato and others formed unlawful assembly all with deadly weapons came to arable land of the complainant which was being flouted by her brother-in-law and others. The accused persons assaulted Sahebram Mahato and Yudhistir Mahator.

Since the offences disclosed are cognizable in nature, Arsha Police Station Case No.25 of 1991 dated 31.05.1991 under Sections 147/148/149/326 of the Indian Penal Code. Police took up investigation which culminated into submission of Charge Sheet under Sections 149/447/326 of the Indian Penal Code. Charge was, accordingly, framed under Sections 149/447/326 of the Indian

Penal Code by which the accused persons pleaded to be innocent and claimed to be tried.

During trial prosecution examined as many as thirteen witnesses and after considering the evidences on record, learned trial Court opined that the prosecution failed to bring the charges beyond all reasonable doubts and recorded order of acquittal which is under challenge in the proceeding before this Court.

I have perused the judgment passed by the learned trial Court. Nucleous of the dispute is the claim of ownership over a piece of land. Civil Suits are pending between the parties. On the fateful date the incident took place. The petitioner and his family members on one side and informant and his family members on the other side engaged in fighting. Hari, Prasadi and Sumitra and other other family member of the informant were assaulted and three of them succumbed to injuries in hospital. Subsequent to the death of Hari, Prasadi, and Sumitra, the informant (P.W.1) set the criminal administration of justice into motion by informing the Arsha Police Station about the alleged incident.

After careful scrutiny of evidence learned trial Court observed that the family members of the de facto complainant were the sufferers and not the accused persons. The incident took place at 7.30 in the morning and the matter was brought to the notice of the local Police Station at 21.15 hours subsequent to registration of case by the accused persons against the family members of the de facto complainant.

It is true one Yudhisthir sustained injuries at a time when

he was trying to pacify his men who were attacking Prasadi, Hari and Sumitra. The information given by the de facto complainant Smt. Tagi Mahato gave birth to a counter case pursuant to the death of three persons being assaulted by her family members.

Having considered the impugned judgment I am of the view that the learned trial Court was absolutely correct in his appreciation of evidence and thereby coming to conclusion that the prosecution has failed to prove the charges against the accused persons beyond reasonable doubt. I do not find any reason to interfere with the impugned judgment. The criminal revision is bereft of any merit and is dismissed without cost. The application, if any, together with interim orders, stand vacated.

Copy of the Order be sent to learned Trial Court for information.

(Siddhartha Roy Chowdhury, J.)