

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.317 of 2020

Arising Out of PS. Case No.-51 Year-2010 Thana- LAXMIPUR District- Jamui

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Jankawa Devi @ Janki Devi Wife Of Sri Sitaram Das Resident Of Village - Harla, P.S.- Laxmipur, District - Jamui.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bablu Sah Son of Late Krishnadeo Sah Resident of Village - Harla, P.S.- Laxmipur, District - Jamui.
3. Niranjana Sah Son of Late Krishnadeo Sah Resident of Village - Harla, P.S.- Laxmipur, District - Jamui.
4. Diwakar Sah Son of Late Krishnadeo Sah Resident of Village - Harla, P.S.- Laxmipur, District - Jamui.
5. Pankaj Sah Son of Late Krishnadeo Sah Resident of Village - Harla, P.S.- Laxmipur, District - Jamui.
6. Ram Lakhan Sah Son of Late Jagdish Sah Resident of Village - Harla, P.S.- Laxmipur, District - Jamui.
7. Pawan Sah Son of Sri Ram Lakhan Sah Resident of Village - Harla, P.S.- Laxmipur, District - Jamui.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Prakash Mahto, Advocate
For the State : Mrs. Usha Kumari No.1, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 13-07-2023

The present appeal under *proviso* to Section 372
has been filed by the appellant taking exception to the judgment



and order dated 21.12.2019, passed by learned Special Judge-cum-Additional District and Sessions Judge 1st, Jamui in Scheduled Caste/Scheduled Tribe Special Case No. 66 of 2011, whereby and whereunder, the respondents No. 2 to 7 have been acquitted of the charges of commission of offences punishable under Sections 341, 323, 379, 307, 354, 504, 506 of the IPC and Section 3(i)(X) of the Scheduled Caste/Scheduled Tribe Prevention of Atrocities Act. The appellant is the informant of the concerned Laxmipur PS Case No. 51 of 2010 which gave rise to the aforesaid SC/ST Special Case No. 66 of 2011. It transpires from the impugned judgment that according to the prosecution's case, the occurrence had taken place on 10.04.2010 at 06:00 am when the informant, his daughter-in-laws and her daughter were collecting *mahua* fruits from a land bearing description Khata No. 196, Khesra No. 593. In the meanwhile, the respondents No. 2 to 5, all sons of Krishnadeo Sah, respondent No. 6 and respondent No. 7 came there and objected to the informant and her family members collecting *mahua* fruits. The informant is said to have claimed that the land belonged to her grandfather-in-law. She alleged that the accused persons, thereafter, started assaulting the informant and her family members with fists and slaps, *lathi*, *danda*. It is alleged



in the FIR against respondent No. 4, Diwakar Sah that with an intention to kill the informant's daughter, he assaulted her with the butt of his pistol on her neck. Further, respondent No. 5 snatched a golden earring from her daughter. She further alleged that respondent No. 2 pulled up the informant's daughter-in-law's *saree* making her become semi-nude. There is accusation of molestation also in the FIR. Against respondent No. 6 the informant alleged that he snatched a silver chain from the informant's daughter-in-law, Bobi Devi.

2. The police upon completion of investigation submitted chargesheet and subsequently, charges were framed for commission of the offences punishable under Sections 147, 149, 323, 379, 354, 504, 506 and 3(i)(X) and 3(i)(XI) of the SC/ST Prevention of Atrocities Act. At the trial nine witnesses came to be examined for the prosecution including the informant/appellant (PW-4). After deposition of the prosecution's witnesses the trial court questioned respondents No. 2 to 7 under Section 313 of the CrPC as is evident from the impugned order. After having analyzed the evidence of the prosecution's witnesses, the trial court has recorded acquittal of the aforesaid respondents by the impugned judgment and order.

3. Learned counsel appearing on behalf of the



appellant has submitted that the learned trial court has not duly appreciated the evidence of the injured witnesses. He has submitted that the injury report adduced at the trial supports the prosecution's case. He contends that despite the fact that the prosecution's witnesses were consistent in their depositions about the manner of occurrence, the trial court has committed an error by recording finding of acquittal.

4. We have perused the impugned judgment and order of the trial court and we have considered the submissions advanced on behalf of the appellant. It has not been submitted on behalf of the appellant that depositions of the witnesses adduced at the trial have been wrongly mentioned in the impugned judgment. We are, therefore, considering the merits of the present appeal based on the evidence of the witnesses as noted by the trial court in the impugned judgment and order at the stage of the admission itself.

5. Learned trial court has taken into account in its judgment a sale deed marked as Exhibit-A, by the defence, through which the said land was transferred by the grandfather-in-law of the informant Naino Chamar in favour of Jagdish Sah, father of respondent No. 6. The trial court has further noted that there is a land dispute between the informant's family and the



respondents. The trial court has dealt with each and every evidence of the witnesses in detail and has concluded that such depositions are full of self-contradictions. It is evident from the impugned order that PW-2, Sunita Devi in her deposition stated that if the accused persons stopped claiming their title over the land, no case shall continue against them. Whereas according to the FIR, the occurrence had taken place at 09:00 am in the morning in 2010, PW-2 deposed that the occurrence had taken place five years prior to the date on which she was deposing before the court which came to 2009 as noted by the trial court. The trial court has noted in its judgment patent contradictions in the evidence of the prosecution's witnesses and taking into account the pending land dispute between the parties has recorded acquittal of respondents No. 2 to 7.

6. It is settled legal principle that an Appellate Court while considering an appeal against acquittal is required to interfere only when the finding of the trial court is found to be manifestly erroneous. The trial court has the added advantage of seeing the witnesses physically during the course of the trial and watching their demeanor.

7. The learned counsel appearing on behalf of the appellant has not been able to satisfy this Court that the



contradictions in the evidence of the prosecution’s witnesses as noted by the trial court were not substantial and were minor in nature. The informant at one stage of her deposition denied about pendency of any title suit between the parties, but subsequently admitted that there was title suit pending between the parties. The injury report brought on record at the trial by way of documentary evidence does not bear the signature of the concerned persons said to have sustained injury during the course of the trial. This aspect has been duly appreciated by the trial court while recording acquittal of the respondents No. 2 to 7.

8. For the aforesaid reasons, we do not find any merit in this appeal against acquittal which is dismissed at this stage itself.

(Chakradhari Sharan Singh, J)

(Nawneet Kumar Pandey, J)

Sachin/Nishant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

