

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.51 of 2017

Arising Out of PS. Case No.-147 Year-2014 Thana- BELHAR District- Banka

Upendra Yadav, Son of Ayodhi Yadav @ Ayodhya Yadav, Resident of Village-
Tengara, P.O.- Tengara, P.S.- Belhar, District- Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 12 of 2017

Arising Out of PS. Case No.-147 Year-2014 Thana- BELHAR District- Banka

Karoo Yadav, Son of Nago Yadav, Resident of Village - Tengra, P.S. Belhar,
District - Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 51 of 2017)

For the Appellant/s : None.

For the Respondent/s : Ms. Anita Kumari Singh, APP

(In CRIMINAL APPEAL (SJ) No. 12 of 2017)

For the Appellant/s : None.

For the Respondent/s : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL JUDGMENT

Date : 05-09-2023

1. No one appears on behalf of the appellants while
learned APP Ms. Anita Kumari Singh for the State is present.

2. Both the appeals have arisen out of same judgment,
hence, they are being decided together by a common judgment.

3. The appellants stood charged for the offences
punishable under Sections 302/149, 307/149, 323/149, 324/149,



341/149, 147, 148, 504/149 of Indian Penal Code (For short "I.P.C.") in Session Case No. 132 of 2015 arising out of Belhar P.S. Case No. 147 of 2014.

4. The instant Criminal Appeals have been filed against the Judgment of Conviction dated 28.10.2016 and Order of Sentence dated 03.11.2016, passed by learned Adhoc. Addl. Sessions Judge-1 (F.T.C-I), Banka, in Sessions Case No. 132 of 2015 arising out of Belhar P.S. Case No. 147 of 2014, whereby and whereunder the appellants were convicted for the offences punishable under Sections 341, 323, 308 and 304 Part II of the I.P.C. and sentenced to undergo rigorous imprisonment for one year for the offence punishable under Section 323 of I.P.C., simple imprisonment for one month for the offence punishable under Section 341 of I.P.C., rigorous imprisonment for five years for the offence punishable under Section 308 of I.P.C. and the same punishment (five years of rigorous imprisonment) for the offence punishable under Section 304 Part II of I.P.C. and all the said sentences were directed to run concurrently but the appellants were acquitted of the offences punishable under Sections 504/149, 147 and 324/149 of I.P.C.

5. The substance of the prosecution's case is as follows:-



As per the informant namely, Sanyukti Devi, on 21.08.2014 at about 9:30 AM she along with her father-in-law (Yogendra Yadav) and brother-in-law (Om Prakash Yadav) went at her purchased land where she saw that her co-villagers (accused) Karoo Yadav (appellant), Upendra Yadav (appellant), Jagdish Yadav, Suma Devi, Umesh Yadav, Tripurari Yadav and Kanhaiya Yadav were sowing paddy crop over her land which was objected by her father-in-law and brother-in-law, then appellants Karoo Yadav and Upendra Yadav came with *Tengari* and other accused persons Jagdish Yadav, Umesh Yadav, Tripurari Yadav, Kanhaiya Yadav and Suma Devi came with *lathi* and thereafter all of them surrounded her father-in-law and brother-in-law and appellant Karoo Yadav assaulted her father-in-law on his leg by means of *tangi* and then other accused also started assaulting her father-in-law and brother-in-law indiscriminately, then she rushed to save her father-in-law but she was also assaulted by them but somehow she managed to escape and rushed to her village and raised an alarm, then her other villagers came at her field and brought her brother-in-law in serious condition at Belhar Hospital for treatment but her father-in-law died on the spot.

6. The informant filed a written application (exhibit-1) with the above allegations on which basis the formal FIR of Belhar



P.S. Case No. 147 of 2014 was registered for the offences punishable under Sections 302/149, 307/149, 323/149, 324/149, 341/149, 147, 148, 504/149 and after the investigation, the police submitted chargesheet against the appellants but investigation was kept pending against other co-accused persons and thereafter, the case of the appellants was committed to the Court of Sessions after the cognizance of the alleged offences by the concerned Judicial Magistrate.

7. During trial, the prosecution examined altogether 13 witnesses in support of its case including informant and her brother-in-law namely, Om Prakash Yadav who are stated to be the injured persons. After completion of prosecution's evidence, the statements of the appellants were recorded by the Trial Court, in which they denied the circumstances appearing against them from prosecution's evidences and claimed themselves to be innocent. The appellants did not give any evidence in their defence.

8. In documentary evidence, the prosecution produced and proved the following documents which were marked as exhibits:-

(i) Ext.1: *Fardbeyan* of the informant

(ii) Ext.2: Postmortem Report of the deceased Yogendra Yadav.



(iii) Ext.3 and 3/1: Injury Reports of the informant and injured Om Prakash Yadav respectively.

9. After completion of evidence, the learned Trial Court convicted and sentenced the appellants for the offences in the manner as mentioned above in paragraph No. 4.

10. Learned APP has argued that against the appellants the prosecution succeeded to prove the offences for which they have been convicted and the informant examined as P.W.5 and her brother-in-law namely, Om Prakash Yadav examined as P.W.1 fully supported the prosecution's case and both are stated to be eye-witnesses of the alleged occurrence and their evidence is fully in confirmity with the prosecution's allegation and the postmortem report of the deceased namely, Yogendra Yadav (Ext.2) was proved by the Doctor concerned who was examined as P.W.12 and the injury report of the informant was also proved by the Doctor concerned who was examined as P.W.13 and the learned Trial Court rightly convicted the appellants for the alleged offences and there is no force in both the appeals hence they are liable to be dismissed.

11. Heard learned APP appearing for the State and perused the evidences available on the case record of the Court Below. In the instant matter the main allegations levelled by the



informant are that both the appellants and other accused firstly, came at the land of the informant, thereafter started sowing paddy crop over it, which was objected by the informant, her father-in-law and brother-in-law and then the accused persons including the appellants assaulted them which resulted in death of father-in-law of the informant at the spot and informant and her brother-in-law Om Prakash Yadav sustained injury in that occurrence. The informant made specific allegation against appellant Karoo Yadav of having inflicted a *Tangi* blow at the leg of informant's brother-in-law and kept on assaulting him by the said weapon even after the informant's brother-in-law fell down and further the specific allegation made by the informant against the appellant Upendra Yadav is that the said appellant assaulted her father-in-law by means of *Tangi* on his leg and he was also assaulted repeatedly by the said appellant.

12. The prosecution examined 13 witnesses, out of them, P.W.6, P.W.7, P.W.8, P.W.9 and P.W.10 were declared hostile and amongst the other prosecution witnesses the most important witnesses are the informant, examined as P.W.5 and injured Om Prakash Yadav, examined as P.W.1. Both the witnesses fully supported the prosecution's allegations levelled in the FIR and they stated that the appellants and other co-accused persons were



sowing paddy crops over their land, when late Yogendra Yadav (Father of P.W.1) objected to their act the accused persons including the appellants started assaulting them by means of *tangi*. Both the witnesses supported the specific allegations levelled against the appellants in the FIR. Relevant facts regarding the place of occurrence, nature of weapon, genesis of the occurrence and parts of body of the deceased and injured persons on which the appellants assaulted, fully get support from the evidence of both the witnesses. On the person of the informant, three lacerated wounds were found and these injuries are in confirmity with the allegation of the prosecution as to the accused persons being equipped with *lathi* at the time of commission of the alleged occurrence. On the person of the injured Om Prakash Yadav, cut injuries on his both leg and right hand were found by the Doctor concerned and in this regard Ext.3 and 3/1 are relevant and the nature of injuries mentioned in Ext.3 and 3/1 supports the allegation against the appellants of having assaulted the deceased and injured Om Prakash Yadav by means of *Tangi*. On external examination, the Doctor concerned found three incised wounds, two fracture injuries on left Elbow, lower Tibia and ankle joint and four bruises on the body of the deceased Yogendra Yadav, who was, as per allegation, assaulted by the appellants by means of



Tangi and the presence of three incised wounds over his body, supports the allegation which was specifically levelled against the appellants and accordingly, the medical opinion given in respect of the external injuries of the deceased in his postmortem report is completely supportive to the prosecution's case.

13. The other prosecution witnesses P.W.2, P.W.3 and P.W.4, who are also stated to be the eye-witnesses of the alleged occurrence, fully supported the allegations levelled by the prosecution against the appellants and all these witnesses including P.W.1 and P.W.5 (injured persons) remained firm to their stand in their cross-examination and except minor contradictions appearing from their evidences, I find no reason to disbelieve their testimony and the appellants did not get success in eliciting any fact from their cross-examination to disprove the allegations of the prosecution and the evidence of these witnesses remained completely reliable.

14. After having discussed the evidences adduced by the prosecution before the Trial Court, I am of the considered view that the Trial Court rightly convicted the appellants for the offences mentioned above in Paragraph No. 4 and I find no reason to interfere in the conclusion of the Trial Court, accordingly, both the appeals stand dismissed.



15. As per report of Jail Superintendent, Banka Jail vide letter No. 444 dated 08.02.2023, Appellant **Upendra Yadav** (appellant of Cr. APP (SJ) No. 51 of 2017) has already been released from jail on 16.02.2019 after completing the entire sentence awarded upon him by the Trial Court and as per report of Jail Superintendent of Shahid Jubba Sahni Central Jail, Bhagalpur, vide letter No. 947 dated 13.02.2023, Appellant **Karoo Yadav** (appellant of Cr. APP (SJ) No. 12 of 2017) has been granted special remission on 02.10.2018 on the eve of 150th Birth Anniversary of Father of Nation, Mahatma Gandhi by the order of Principal Secretary, Government of Bihar (Order No. 6965 dated- 28.09.2018 Sl. No. 26) hence, **both the appellants are entitled to remain free, if their custody is not required in any other case.**

16. Let the LCR be sent back to the concerned Trial Court.

(Shailendra Singh, J.)

Maynaz/-

AFR/NAFR	NAFR
CAV DATE	NA
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