

CRR 416 of 2005

In the matter of : Anil Mahato

Mr. Abhra Mukherjee
Mr. Sauradeep Dutta
Mr. S. K. Mondal ... for the petitioner

Mr. Samik Ganguly ... for the O.Ps.

This revisional application impeaches the judgement and order of acquittal passed by the learned Additional Sessions Judge, 1st Court, Purulia in Sessions Trial No. 6 / 99. By the impugned judgement learned Trial Court pleased to record an order of acquittal under Section 235(1) of Cr.P.C. against ten accused persons.

Briefly stated, on 28.7.1997 one Anil Mahato informed Arsha police station that the accused persons being armed with lathi, iron rod and other deadly weapons forming an unlawful assembly with attacked Chaitu Mahato and others within Haranama Mouza on 27.7.1997 at about 7-00 hours in the morning when Chaitu and others were engaged in cultivation. Durjodhan, Chaitu, Bharat, Panchanan sustained injuries and Chaitu ultimately succumbed to such injuries. As the information disclosed the offence cognizable in nature, Arsha P.S. Case No. 38/97 was registered under Sections 147/149/324/325/326 and 304 of Indian Penal Code. Police after investigation submitted charge sheet. Prosecution examined thirteen witnesses. Learned Trial Court after

considering the evidence on record both oral and documentary was pleased to pass impugned judgement.

Mr. Mukherjee, learned counsel representing the petitioner submits with all fairness that the accused persons also sustained injuries being assaulted by the de facto complainant and other persons. The accused persons were the aggressors and the de facto complainant along with other injured witnesses sustained injuries as they were at the receiving end. Learned Trial Court failed to appreciate this evidence.

Mr. Ganguly, learned counsel representing the opposite parties, however, makes me go through the impugned judgement.

It appears that Balaram Mahato, his wife Mitali and one Alok Mahato sustained grievous injuries and these unexplained injuries on the person of Balaram, his wife Mitali and Alok Mahato is bound to strike at the root of the prosecution case. There is no evidence to suggest that the accused persons were aggressors, rather the evidence discloses that there was a free-fight between the accused and the de facto complainant and other persons.

Mr. Ganguly, submits that being assaulted by the de facto complainant and his men, Balaram sustained injuries and informed police, after police registered a case, this case was filed at the instance of Anil Mahato.

Under such circumstances, in my opinion, learned Trial Court was absolutely justified in recording an order of acquittal and the impugned judgement does not warrant any interference.

With this observation, the revisional application, is dismissed along with application, if any, without any order as to costs.

Let a copy of the order along with lower court record be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)