

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.51 of 2022

Arising Out of PS. Case No.-16 Year-1983 Thana- SUGAULI District- East Champaran

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Jawahar Prasad @ Jawahar Prasad Rai, aged about 64 years, male, Son of Late Ramcharitar Rai, resident of Village- Laxmipur, P.S.- Sugauli, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Nripendra Prasad Rai, Son of Deonarayan Prasad;
3. Jai Mangal Prasad, Son of Shishu Pal Rai;
4. Ashok Rai, Son of Ramchatri Prasad;

All are resident of Village- Madhu Malti, P.S.- Sugauli, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Vijay Shankar Shrivastava, Adv.

For the Respondent Nos. 2 to 4 : Ms. Rashmi Jha, Adv.

For the State : Mr. Abhimanyu Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 06-03-2024

Heard Mr. Vijay Shankar Shrivastava, the

learned Advocate for the appellant/informant and Ms.



Rashmi Jha, the learned counsel for the respondent Nos. 2 to 4.

2. The State has been represented by Mr. Abhimanyu Sharma, the learned APP.

3. The appellant/informant is aggrieved by the acquittal of the respondents *vide* judgment dated 25.11.2021 passed by the learned Addl. Sessions Judge-X, East Champaran, Motihari in Sessions Trial No. 139 of 1986, arising out of Sugauli P.S. Case No. 16 of 1983.

4. On the F.I.R. lodged by P.W. 10/Jawahar Prasad Rai, a case was instituted *vide* Sugauli P.S. Case No. 16 of 1983, dated 14.02.1983, for the offences under Sections 147, 148, 149, 323 and 324 of the I.P.C. and Section 27 of the Arms Act against the respondents and others. However, only the respondents were put on Trial.

5. There is nothing on record to indicate as to why the other persons who were made accused in this



case and who were attributed with the role of firing at the informant/P.W. 10 and Shambhu Sharan Yadav (P.W. 5) have not been put on Trial.

6. According to the accusation, the servant of P.W. 10 had plucked a sugarcane from the field of respondent No. 2. As a result of that, he was assaulted. This was objected to by the brother of P.W. 10. The servant of respondent No. 2 was assaulted thereafter. Later, when P.Ws. 10 and P.W. 5 were on their way to Sugauli, the respondents and others waylaid them. One Ram Chandra Prasad is said to have fired from his gun, which hit P.W. 10 in his leg; whereas one Ram Ayodhya Prasad fired twice from his gun, which hit Shambhu Sharan Yadav (P.W. 5). Thereafter, their movement to Sugauli was also restrained.

7. On the basis of such case lodged by P.W. 10, the respondents and others were made accused but, as noted-above, only the respondents faced Trial.

8. During the course of Trial, so far as the



assault is concerned, it has been attributed to Ram Chandra Prasad and Ram Ayodhya Prasad only and not against the respondents. Both P.W. 10 and P.W. 5 have received gunshot injuries, but the injuries were found to be simple in nature and on non-vital part of their bodies.

9. The Trial Court, however, took note of the fact that the prosecution party of the instant case were actually the aggressors. In fact, Jawahar Rai (P.W. 10), Ramcharitra Rai, Angad Rai, Satya Narayan Rai, Lal Bahadur Rai, Bindeswari Rai, Mahendra Rai, Ragho Rai and Shambhu Sharan Yadav (P.W. 5) had crossed river Sikrahana on 08.02.1983 and had entered the village *Madhumalti* and had resorted to firing in which one Anil Rai was killed. Three other persons, namely, Akshay Lal Sahani, Vikrama Rai and Ashok Rai were injured by gunshot. All of them were treated in Motihari Hospital, whereafter they were referred to P.M.C.H., Patna.

10. With respect to the afore-noted occurrence, a case *vide* Sugauli P.S. Case No. 12 of



1983 was instituted (Exhibit-D).

11. The Trial Court further found that P.W. 10 did not lodge any case at Sugauli Police Station regarding the occurrence and had himself gone to Dr. Hari Kishore Verma for his treatment, where, at the instance of afore-noted Dr. Hari Kishore Verma, the police was called, who arrested him.

12. It was only later that P.W. 10 lodged the F.I.R. of Sugauli P.S. Case No. 16 of 1983 on 14.02.1983. The reason for the delay, as explained by P.W. 10, was not found to be acceptable by the Trial Court.

13. There was no way in which P.W. 10 and P.W. 5 could have stopped from going to Sugauli. Evidence was brought on record to indicate that there was another way through which P.W. 10 and P.W. 5 could have gone to Sugauli Police Station.

14. The Trial Court, therefore, rightly found that P.W. 10 and his associates were the aggressors and



the present prosecution was only a counter blast to Sugauli P.S. Case No. 12 of 1983 and a desperate attempt to anyhow save their own skins from being prosecuted and convicted in Sugauli P.S. Case No. 12 of 1983.

15. On such finding of facts, the respondents were acquitted by the Trial Court.

16. We do not find any reason to interfere with the judgment of acquittal, referred to above, as we have noticed no perversity in the judgment.

17. There is no merit in this appeal and the same is, accordingly, dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
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