

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.231 of 2023

Arising Out of PS. Case No.-491 Year-2018 Thana- BARHARA District- Bhojpur

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Amar Nath Yadav, Son of Late Lal Yadav, R/V- Marha, PS- Krishngarh, Dist--
Bhojpur at Ara

... .. Appellant/s

Versus

1. The State of Bihar
2. Sonu Singh @ Shankar Kumar Singh, Son of Arun Singh, R/V- Gajiyapur,
PS- Barhara, Dist-Bhojpur
3. Satendra Singh ,Son of Late Harihar Singh, R/V- Gyanpur PS- Barhara (O.P
Sinha) Dist- Bhojpur
4. Jawala Singh, Son of Rana Pratap Singh, R/o Nathmalpur P.S- Barhara,
Dist- Bhojpur

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Manoj Kumar, Advocate
For the State	:	Mr. Binod Bihari Singh, APP
For the Respondent Nos.2 to 4	:	Mr. Nil Kamal, Advocate

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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 : 19-08-2024

We have heard Mr. Manoj Kumar, the learned

Advocate for the appellant, Mr. Binod Bihari Singh, the

learned APP for the State and Mr. Nil Kamal, the learned



Advocate for the respondent Nos. 2 to 4.

2. This appeal is against the impugned judgment dated 12.01.2023 passed by the learned 7th Additional District & Sessions Judge, Bhojpur at Ara in Sessions Trial No. 82 of 2021 arising out of Barhara (Sinha O.P) P.S. Case No. 491 to 2018 registered under Section 302/34 of the IPC and Section 27 of the Arms Act, 1959, whereby the respondent Nos. 2 to 4 have been acquitted of all the charges levelled against them.

3. A fight had taken place between children while playing.

4. One Preet Bandhu was assaulted by Tunnu and Aman. Preet Bandhu started crying. It was then that his elder brother, Rakesh Kumar Yadav (P.W. 1) came and inquired from Preet Bandhu about the reason for crying. He was told that his two other friends Tunnu and Aman had assaulted him. While he was talking to Preet Bandhu, one Sushil Singh came, who assaulted P.W. 1 and caused injuries on his head. P.W. 1, thereafter went



to his father, who asked him to wait for sometime till he would confront Sushil Singh. Nothing happened thereafter.

5. According to the FIR, later, Sushil Singh, Sonu Singh, Satendra Singh, Jawala Singh and Deepak Singh came to the house of P.W. 1 and started firing indiscriminately from their rifles, which hit Ranglal Yadav, the grandfather of P.W. 1, who died instantaneously.

6. During the course of Trial, only one witness, viz., Rakesh Kumar Yadav (P.W. 1) was examined. Neither the Doctor nor the I.O. has been examined in the Trial. No other person from the family of the deceased came forward to lodge the case. The appellant though is informant of this case but he is no way related to either P.W. 1 or the children who had fought amongst themselves or the deceased.

7. Mr. Manoj Kumar, the learned Advocate for the appellant, has clarified that the informant is distantly



related to the deceased as a nephew.

8. In any view of the matter, we find it rather strange that none of the family members of the deceased came to depose before the Trial Court, notwithstanding the fact that all coercive forces were employed by the Trial Court to ensure their presence at the Trial.

9. The injuries of P.W. 1 also could not be proved which would have at least proved the fact that because Rakesh (P.W.1) had intervened in the fight of the children, he was assaulted by Sushil and, thereafter, the occurrence took place.

10. In view of complete paucity of evidence, the Trial Court was left with no option but to acquit the respondents.

11. There is nothing on record which would entitle the informant to say that the judgment is perverse or not based on records.

12. Finding no merit in this appeal, we dismiss



it.

13. The appeal stands dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

manoj/sunil-

AFR/NAFR	NAFR
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