

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3375 of 2022

Arising Out of PS. Case No.-41 Year-2012 Thana- MASHRAK District- Saran

RAMAWATI DEVI Wife of Pundev Ram R/o Village - Chand Kundaria,
P.S.- Masrakh, District - Saran at Chapra.

... .. Appellant

Versus

1. The State of Bihar
2. Jay Narayan Singh Son of Late Kameshwar Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
3. Munna Singh Son of Srinaraya Singh @ Sri Narayan Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
4. Pappu Singh Son of Jay Narayan Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
5. Sri Narayan Singh Son of Late Kameshwar Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
6. Mintu Singh Son of Late Ram Narayan Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
7. Ugra Narayan Singh Son of Late Moti Lal Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
8. Tej Narayan Singh Son of Late Moti Lal Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
9. Manoj Singh Son of Birendra Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
10. Kishori Singh Son of Bachcha Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
11. Bikrama Singh Son of Late Gorakh Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.
12. Sanjit Singh Son of Late Nawab Singh Resident of Village - Chand Kundaria, P.S.- Masrakh, District - Saran at Chapra.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Jeetendra Narayan, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP



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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 12-11-2024

Heard learned counsel for the appellant and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. The present appeal filed on behalf of the appellant/informant under Section 14A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "SC/ST (POA) Act"), which has been preferred against the judgment of acquittal dated 02.07.2022 rendered by learned Additional Sessions Judge-III-cum-Exclusive Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Session Trial No. 512/2014 arising out of Masrakh P.S. Case No. 41 of 2012 whereby the present respondents/accused have been acquitted from the charges levelled against them.

3. Brief facts of prosecution case, as appears from complaint petition of the complainant is that on 07.01.2012, in the morning, respondent nos. 2 to 12 armed with various weapons like lathi, spear and country made pistol arrived at



the plot bearing khata No. 268, survey No. 2368 with area having 4 katha and 13 dhurs, took the stalk bundles of complainant/appellant with value of Rs. 2500/- thrown in the canal and taken away 70 pieces of bamboo sticks with a value of Rs. 3500/-. The complainant further stated that when she objected to do so, all the accused persons threatened and abused her by calling her '*Chamayin-Siyarin*' and destroyed the wheat crops. She further alleged that all the accused persons assaulted her and forcibly taken her thumb impression on two plain papers and fled away. The complainant further alleged that earlier the accused persons had burnt her house for which she had lodged a case. She stated that all the accused persons belonged to the dominant 'Rajput' caste.

4. On the basis of aforesaid complaint, a complaint case bearing No. 119/2012 was filed in the court of learned C.J.M. Saran. Thereafter, the learned C.J.M, Saran sent the same for registration of case to the concerned police station, upon which Mashrakh P.S. Case No. 41 of 2012 dated 13.02.2012 was registered under



Sections, 147, 148, 341, 323, 427, 379, 504, 385 and 506 of the Indian Penal Code as well as Sections 3(i)(x) of the SC/ST (POA) Act, 1989 against the respondent nos. 2 to 12.

5. After investigation of the case, police submitted charge-sheet No. 02/2013 dated 29.01.2013 against above-named accused persons (respondents herein) under Section 147, 341, 323, 504, 427 of the I.P.C. and under Sections 3(i)(x) of the SC/ST (POA) Act. Learned C.J.M. Saran by order dated 27.04.2023 took cognizance against all the above-mentioned accused persons/respondents under Sections 147, 341, 323, 504, 427 of the I.P.C. and Section 3(i)(x) of the SC/ST (POA) Act. The charges were framed against the accused persons on 20.08.2014 under the aforesaid sections, for which all the accused persons/respondents pleaded not guilty and claimed to be tried.

6. Before the Trial Court, the prosecution had examined four witness namely, Ramawati Devi (PW-1), Pundev Ram (PW-2), Most. Dipiya Kunwar (PW-3) and Kameshwar Ram (PW-4/I.O. of the case).



7. The statement of the respondents-accused were recorded under Section 313 of the Code, where all of them denied the evidences surfaced against them and claimed their complete innocence and false implication. After the conclusion of trial, the learned Trial Court acquitted the respondents/accused persons through impugned judgment from the charges levelled against them. Being aggrieved, with aforesaid order of acquittal, appellant/informant preferred the present appeal.

8. Hence, the present appeal.

9. Learned counsel appearing on behalf of appellant submitted that learned trial court merely on the ground as the witnesses appears to be interested being relative discarded their testimony, which is otherwise reliable and trustworthy. It is submitted that presence of those witnesses at the place of occurrence appearing very natural and justified. It is also pointed out that having civil litigation prior to this criminal case cannot be the sole ground to reject the testimony of witnesses of the occurrence, who otherwise supported it and, therefore, the judgment of acquittal is bad



in the eyes of law and same is liable to be set-aside.

10. Heard learned Special P.P. appearing on behalf of the State, who upon assailing the impugned judgment submitted that judgment is well discussed on every aspects.

11. It appears from the impugned judgment of the learned trial court that occurrence took place in the background of land dispute. It appears from the deposition of PW-2 that the Sri Narayan Singh (Respondent No. 5) was holding the pen whereas Jay Narayan Singh (Respondent No.2) was holding the plain paper and they took thumb impression of Ramawati Devi. It appears doubtful that how thumb impression was obtained out of pen. PW-2 also deposed during the trial that at the time of occurrence no co-villagers were present over there and he did not objected when thumb impression of his wife Ramawati Devi was taken on plain paper.

12. It also appears from cross-examination of PW-1 that she could not remember the exact date or month of the happenings of the incident. It also appears from



deposition of the Investigating Officer/PW-4 that none of the witnesses stated during investigation that any bundle/husk or bamboos were found at disputed land. It also appears from his testimony that there was land dispute between the parties. Though PW-1/complainant stated that her hand got fractured during the occurrence and she had taken medical treatment at Sadar Hospital, Chapra, where she remained admitted for 14 – 15 days, but no medical paper in support of allegation was produced during the trial. Same was also not collected by the Investigating Officer/PW-4 during course of investigation. However, contrary to aforesaid, PW-2, who is the eye witness of the occurrence and husband of PW-1, testified during the trial that injury of his wife was cured at home itself by self-medication.

13. It is apparent that occurrence did not took place in public view and only family members were present. With aforesaid available testimony, it would be apposite to reproduce **para 34** from the judgment of Hon'ble Supreme Court as available through **Gulam Mustafa vs. State of Karnataka and Anr. [2023 SCC OnLine SC 603]** , which



reads as under:

"34. Insofar and inasmuch as interference in cases involving the SC/ST Act is concerned, we may only point out that a 3-Judge Bench of this Court, in *Ramawatar v. State of Madhya Pradesh*, 2021 SCC OnLine SC 966, has held that the mere fact that the offence is covered under a '*special statute*' would not inhibit this Court or the High Court from exercising their respective powers under Article 142 of the Constitution or Section 482 of the Code, in the terms below:

"15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The SC/ST Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the SC/ST Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily civil or private where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the SC/ST Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court,



from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr. P.C."

14. On the basis of *prima-facie* evidence as discussed in the impugned judgment, it nowhere appears that alleged occurrence arises out of atrocities defined within the meaning of SC/ST (POA) Act, 1989.

15. It would be further apposite to reproduce Para no. 42 of the legal report of Hon'ble Supreme Court as available through **Chandrappa and Others Vs. State of Karnataka [(2007) 4 SCC 415]**.

"42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) An appellate Court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in



mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

16. From the aforesaid observation made by the Hon'ble Supreme Court, it can be said that an appellate court must bear in mind in a case of acquittal, there is double presumption in favour of the accused persons. Firstly, the presumption of innocence is available to them under the fundamental principle of criminal jurisprudence that every person is presumed to be innocent unless he is proved guilty by competent court of law. Secondly, the accused having secured their acquittal, the presumption of their innocence is further reinforced, reaffirmed and strengthened by the Trial Court. Further, if two reasonable conclusions are possible on the basis of the evidence on the record, the appellate court should not disturb the finding of acquittal recorded by the Trial Court.



17. Keeping in view of the aforesaid principles laid down by the Hon’ble Supreme Court to the facts of the present case, as discussed hereinabove, and examined, I am of the view that the Trial Court has not committed any error while passing the impugned order and, therefore, no interference is required.

18. Hence, in view of aforesaid factual and legal discussions, the present appeal, which is preferred against acquittal, is dismissed herewith, at admission stage itself.

19. Copy of this judgment be sent to learned trial court, immediately.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.11.2024
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