

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.875 of 2022

Arising Out of PS. Case No.-99 Year-2008 Thana- MASHRAK District- Saran

=====

Sunil Kumar, male, aged about 33 years, S/o Late Lal Bahadur Rai, R/v-
Sundar, P.S.- Masrakh, District- Saran at Chapra.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Bhola Rai;
3. Dinesh Rai;

Both are Sons of Late Dhela Rai, R/v- Sundar, P.S.- Masrakh, District- Saran
at Chapra, presently Chapra Jail, P.S.- Town, District- Saran at Chapra.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Jeetendra Narayan, Adv.

For the Respondent/s : Mr. Abhimanyu Sharma, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NANI TAGIA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

3 30-01-2024 We have heard Mr. Jeetendra Narayan, the

learned counsel for the appellant/informant and Mr.

Abhimanyu Sharma, the learned APP for the State.

2. The appellant is aggrieved by the judgment



of the Trial Court, whereby the respondent Nos. 2 and 3 have been sentenced for a lesser offence, *i.e.*, for the offence under Section 304 Part-I of the Indian Penal Code and have been sentenced to undergo R.I. for 10 years. They have been convicted for some other lesser offences of the I.P.C., for which also separate sentences have been recorded.

3. The contention of the learned Advocate for the appellant/informant is that with the evidence on record, there was no way in which the respondent Nos. 2 and 3 could have got an exit from the charge under Section 302 I.P.C.

4. The respondent Nos. 2 and 3 are said to have assaulted the deceased by means of pieces of bamboo.

5. The Trial Court, after having recorded the deposition of all the witnesses, has found that the deceased had suffered three injuries, but he was never taken to hospital for treatment on the same day. The



death occurred only a day after. The *post-mortem* report reflected that there were three injuries on the body of the deceased.

6. There was no pre-meditation and it all happened because of claim and counter-claim of possession over a plot of land.

7. After analyzing the evidence, the Trial Court found that the case squarely fell in the category of culpable homicide not amounting to murder, as there was no intention to cause death nor the intention to cause such bodily injury, as would have, in normal course of nature, caused death.

8. We do see that respondent Nos. 2 and 3 have not been able to invoke any exception under Section 300 of the I.P.C.; but considering the entire circumstances, we are of the view that the Trial Court has taken a reasonable view of the evidence, which requires no interference.

9. There is no merit in this appeal.



10. The appeal is, accordingly, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

(Nani Tagia, J)

U		T	
---	--	---	--

