

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1364 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- East Champaran

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Arjun Prasad Shrivastav @ Arjun Prasad Srivastava @ Arjun Prasad Srivastav, Son of Late Shambhu Saran Prasad Resident of Mohalla - Bhawanipur Zirat, P.S.- Chhatauni, Distt - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Govind Sharan @ Lal Sahab, Son of Late Shambhu Saran Prasad Resident of Village - Amwa Karariya, P.S.- Kotwa, Distt - East Champaran at present Assistant Sub Division Officer, Areraj, Distt - East Champaran now at present posted at Sub Divisional Office, Pakarideyal, at P.O.- and P.S.- Pakrideyal, Distt - East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar No.III
For the Respondent/s : Mr.Bhanu Pratap Singh

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 12-01-2024 1. Judgment, dated 26th July, 2019, passed in Criminal Appeal No. 51 of 2017, by the learned Additional Judge, 4th Court, Motihari, East Champaran, affirming the judgment and order of acquittal passed in Case No. 1907 of 2002 (Trial No. 589 of 2017) by the learned Judicial Magistrate, 1st Class,



Motihari, is under challenge in the instant revision.

2. The complainant is the petitioner before this Court.

3. On the basis of a written complaint against the accused / Opposite Party No. 2, filed by the petitioner, the Trial Judge took cognizance of offence under Sections 323 and 379 of the IPC and issued a process against the accused. The accused duly appeared before the Trial Court to face trial on the basis of evidence before charge. The Trial Court framed charge against the accused, Opposite Party No. 2 herein, under Sections 323 and 379 of the IPC.

4. During trial, complainant examined five witnesses. Some documents were exhibited at the instance of the complainant. The learned Magistrate, on due consideration of evidence on record, held that the complainant failed to bring home the charge against the accused and recorded an order of acquittal in favour of him.

5. The aforesaid judgment was assailed in appeal before the learned Sessions Judge, Motihari, East Champaran. The said Criminal Appeal being No. 51 of 2017, was heard by the learned Additional Sessions Judge 4th Court at Motihari and by passing the impugned judgment, dated 26th July, 2019, the



learned Additional Sessions Judge affirmed the judgment and order of acquittal passed by the learned Magistrate and the appeal was dismissed.

6. The appellate order is under challenge in the instant revision.

7. I have heard the learned Advocate for the petitioner.

8. On perusal of the impugned judgment and other materials on record, it is ascertained that the accused / Opposite Party No. 2 is the full brother of the petitioner. A long-standing family dispute relating to landed property is going on between the parties. The petitioner is a practicing Advocate of Motihari Court.

9. It is alleged by the petitioner that on 16th October, 2010, at about 08:00 AM, when he was brushing his teeth, his younger brother came and claimed shared in the dwelling house and when the complainant replied that the claim of the accused is sub-judiced in the Civil Court, he assaulted him with bamboo and took away five numbers of brief from his Chamber. Both the Trial Court and the Court of Appeal did not believe the case of the complainant on the ground that the alleged incident took place inside the house of the complainant,



but no family member of the complainant came forward to support the case.

10. Secondly, all the witnesses on behalf of the complainant are either the lawyers or their Clerk, whose presence at the scene of occurrence in the early morning is a matter of chance and the said witnesses being chance witnesses cannot be believed without a pinch of salt.

11. Thirdly, the relation between the complainant and the Opposite Party No. 2 is admittedly inimical due to the family dispute. As a result, implication of the Opposite Party No. 2 in a false case cannot be ruled out.

12. Fourthly, when two views, one favouring the complainant and the other favouring the accused come, the Court shall accept the view that favours the accused and extend benefit of doubt to him. Therefore, the accused person / Opposite Party No. 2 was acquitted.

13. On careful perusal of the judgments passed by the Trial Court as well as the Court of Appeal, I find that the impugned judgments were passed on due appreciation of evidence, both oral and documentary. There is no illegality or material irregularity on the face of the record.

14. For the reasons stated above, I do not find any



ground to interfere with the judgment passed by the Court of Appeal, affirming the judgment and order of acquittal passed by the Trial Court.

15. The instant revision is accordingly dismissed.

(Bibek Chaudhuri, J)

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