

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1197 of 2023

Arising Out of PS. Case No.-8 Year-2021 Thana- BHARGAMA District- Araria

Hira Devi, Wife of Late Jai Kumar Shah, Resident of Village- Naya Bhargama, Police Station- Bhargama, District- Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjay Kumar @ Sanjay Kumar Sah, Son of Late Laxmi Sah, Resident of Village- Hingwapatti, Police Station- Bhargama, District- Araria
3. Bijay Kumar Sah @ Bijay Sah, Son of Late Laxmi Sah, Resident of Village- Hingwapatti, Police Station- Bhargama, District- Araria
4. Ganita Devi @ Moti Devi, Wife of Jai Prakash Sah, Resident of Village- Naya Bhargama, Police Station- Bhargama, District- Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Dr. Manoj Kumar, Advocate
For the State	:	Mr. Bipin Kumar, APP
For the Respondent/s	:	Mr. Alok Kumar Choudhary, Advocate
		Mr. Shiv Pujan Sahay, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 01-08-2024

We have heard Dr. Manoj Kumar, the learned Advocate for the appellant/informant and Mr. Alok Kumar Choudhary, the learned Advocate for respondents No. 2, 3 and 4.

2. The respondents have been acquitted *vide* judgment dated 19.09.2023 passed by the learned



District and Sessions Judge, Araria in Sessions Case No. 100 of 2022.

3. The appellant/ informant, who is the wife of the deceased, has alleged that because of the dispute over using the boring pump for watering the field, her husband was assaulted by Jai Prakash Sah and Akshay Sah. Later, the respondents No. 2, 3 and 4 also arrived at the scene and respondents 2 and 3 resorted to firing, one of which shots hit the deceased in his leg whereas the other shot fired by one the respondents did not hit him.

4. The postmortem examination conducted by PW-7 reflected eight injuries on the person of the deceased, viz.,

- (i) Blood clots and mud stains over whole face;
- (ii) Blood clots in the right ear;
- (iii) Bruise and swelling over the right side face;
- (iv) Sharp cut incised wounds over left mandibular area, below lower lips and left side of the



forehead;

(v) Clean lacerated wound below the left ear;

(vi) A lacerated wound causing fracture of occipital region;

(vii) Incised wound which was bone deep on the upper part of the right leg and

(viii) Blackening of skin over the left chest (underline muscles hematoma)

5. The occipital bone was found to be fractured with lacerated brain matter.

6. In the opinion of PW-7, the death was because of traumatic brain injuries leading to haemorrhage and shock as a result of those injuries.

7. The deceased and convict/ Jai Prakash are own brothers who fought over watering of field. The deceased had spent money on fixing the boring pump which was unauthorisedly being used by convict/ Jai Prakash Sah. This had led to the fight in which Jai Prakash assaulted the deceased by the back portion of



spade. Convict/ Akshay is also said to have assaulted the deceased repeatedly.

8. The injuries suffered by the deceased corroborate the ocular testimony of the appellant/ informant (PW-6).

9. However, the Trial Court, on perusal of the entire evidence on record, found that the accusation against respondents No. 2 and 3 was totally non-existent as no gun shot wound was found on the person of the deceased. Though respondent No. 4 is also said to have assaulted by means of *lathi*, but there is a great variance in the deposition of the witnesses with respect to her participation in the assault.

10. The respondents did not have any dispute with the deceased or the informant. It appears from the records that they had come to the place of occurrence in support of the accused persons, viz., Jai Prakash and Akshay.

11. The Trial Court, therefore, has rightly



acquitted the respondents, holding that evidence against them is not sufficient to record any conviction against them.

12. There is no merit in this appeal.

13. The appeal is dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Rajesh/Saurav

AFR/NAFR	NAFR
CAV DATE	NA
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