

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.459 of 2022

Arising Out of PS. Case No.-171 Year-2003 Thana- PAUTHU District- Aurangabad

Ramjari Devi, aged about 72 years, W/o Late Ram Narayan Singh Prabhaker
@ Ram Narayan Sharma, Resident of Village Barki English , P.S. Pauthu,
Distt. Aurangabad.

... .. Appellant

Versus

1. The State of Bihar
2. Rampravesh Sharma, S/o Yamuna Sharma
3. Pinku Sharma
4. Manoj Sharma, both sons of Rampravesh Sharma,
5. Narsingh Sharma, s/o Ambika Sharma
6. Arvind Sharma,
7. Niranjana Sharma, both sons of Narsingh Sharma,
all residents of village Fesra Tola, Bari English, P.S.-Pauthu, District-
Aurangabad.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Prabhat Ranjan Singh, Advocate
For the Respondents	:	Mr. Ashok Kumar Singh, Advocate
		Mr. A. K. Singh, Advocate
For the State	:	Ms. Shashi Bala Verma, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 11-08-2025

The present criminal appeal has been preferred under
Section 372 of the Code of Criminal Procedure against the
judgment of acquittal dated 09.03.2022 passed by the learned
Sessions Judge, Aurangabad in Sessions Trial No.213 of 2004
arising out of Pauthu P.S. Case No.171 of 2003, whereby
Respondent Nos. 2 to 7 have been acquitted by the learned Trial
Court from the charge of Sections 148, 307/149, 386 of the



Indian Penal Code and respondent Nos. 2, 4 and 6 have also been acquitted from the charge of Sections 436/34 & 307/34 of the Indian Penal Code.

2. Vide order dated 20.07.2024, trial court records was called for, which was received on 14.08.2024.

3. The prosecution case, in brief, is that on 16.12.2003, at about 07:30 A.M., the accused persons, namely, Ram Pravesh Singh armed with a gun, Manoj Sharma, Pinku Sharma, Narsingh Sharma, Arvind Sharma & Niranjana Sharma, all with *lathi*, came at the Dalan of Ram Narayan Sharma (informant). Rampravesh Sharma pointed the gun at the informant's chest and threatened him to put his signature on two stamp papers, due to fear the informant put his signature on two stamp papers and two blank papers also. Thereafter, all the accused persons went from there. It is further alleged that when the informant narrated the occurrence to his wife (Ramjari Devi) and son (Upendra), his son went to the accused persons and told them to return all the signed papers, upon which, the accused persons assaulted him with fist and legs and twisted his neck. On hulla, Ramjari Devi came to save him but she was also assaulted by the accused Manoj Sharma with *lathi* hitting her hand and arm also. Further, Ram Pravesh Sharma ordered the



other accused persons to set the house of the informant on fire with his family members and tied a rope around the neck of Ramjari Devi and dragged her. Arvind and Manoj Sharma took out the matchsticks from their pockets and set the house on fire. On hulla, some villagers came to the place of occurrence and saved the informant's family members, and all accused persons fled away from there.

4. On the basis of written complaint of the informant, Pauthu P.S. Case No.171 of 2003 was instituted under Sections 147, 148, 149, 452, 341, 323, 354, 436, 307, 348 & 386 of the Indian Penal Code and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos.2 to 7 and, accordingly, cognizance was taken. Thereafter, the case was committed to the Court of Sessions. Charges were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

5. During the trial, the prosecution examined altogether 17 witnesses, *i.e.*, PW-1 Ramjari Devi, PW-2 Upendra Sharma, PW-3 Lakhan Yadav, PW-4 Urmila Devi, PW-5 Ram Narayan Sharma, PW-6 Dr. Sajjan Kumar Mishra, PW-7 Surendra Ram, PW-8 Surendra Prasad Singh, PW-9, Baliram Ram, PW-10 Birendra Ram, PW-11 Sukhdeo Ram, PW-12



Lakhan Ram, PW-13 Nagendra Singh, PW-14 Dinesh Sharma, PW-15 Harihar Ram, PW-16 Bhola Prasad and PW-17 Phekan Ram. The prosecution has also produced certain exhibits (*Fardbeyan*, Injury report of Ramjari Devi, Injury report of Ramjari Devi, Injury report of Upendra Sharma, Injury report of Upendra Sharma, Formal FIR of Pauthu P.S. Case No.171 of 2003, Endorsement on *fardbeyan* Charge-sheet, Supplementary charge-sheet, Charge-sheet no.31 of 2003 dated 30.05.2003 in connection with Pauthu P.S. Case No.114 of 2003, Certified copy of order/judgment passed in Gr. 1558 of 2003, Tr. 1392 of 2014). The defence has also produced certain exhibits (Sale deed by Pundeo Pathak, Sale deed by Sanjay Narayan Singh, Evidence of Ramjari Devi in S.Tr. No.93 of 2003, Evidence of Urmila Devi in S.Tr. No.93 of 2003, Evidence of Upendra Sharma in S.Tr. No.93 of 2003, R.T.I. Paper, Sadar Hospital, Aurangabad, Complaint Case No.1159 of 2003, Order sheet of 1159 of 2003, FIR of Pauthu P.S. Case No.155 of 2003, Formal FIR 155 of 2003, Order passed in Cr. Appeal No.18/14, Memo of Appeal of Cr. Appeal No.18/14, Judgment passed in Cr. Appeal No.18/14). The defence has also examined three witnesses, i.e., DW-1 Shivnandan Singh, DW-2 Shivdeo Paswan and DW-3 Madan Kumar Sharma. After closure of prosecution



evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, learned trial court has acquitted the accused persons.

6. It has been submitted by the learned counsel for the appellant that the learned Trial Court has taken into consideration the minor discrepancy in the deposition of witnesses, and that cannot be a ground for acquittal of the accused as the appellant sustained grievous injury on her elbow and thigh. At this stage, learned counsel for the appellant further submits that the Trial Court has also failed to consider that the official witnesses have also supported the case of the prosecution and the injury sustained by the injured, fully corroborating with the opinion of the Doctor (PW-6).

7. We have heard learned counsel for the appellant and have also gone through the records of the case.

8. The sole question that requires consideration by this Court is whether the impugned judgment of acquittal requires any interference by this Court.

9. As per the prosecution case, two persons are said to be injured in course of occurrence, one Ramjari Devi (PW-1) and other Upendra Sharma (PW-2). Upon meticulous evaluation of the evidence adduced by the prosecution, the attention of this



Court is drawn towards the nature of injuries and applicability of Section 307 of the Indian Penal Code. On perusal of the medical report of injured witness Ramjari Devi (Ext.2, 2/1 & 2/2), it is evident that, except for injury No.2, all injuries are simple in nature. Injury No.2, though opined to be grievous, is on a non-vital part of the body, i.e., the middle finger of the left hand. In absence of injury on a vital organ and in absence of cogent evidence demonstrating intention or knowledge to cause death, the statutory ingredients of Section 307 of the Indian Penal Code stand unfulfilled.

10. Similarly, in respect of Upendra Sharma (PW-2), the medical report (Ext. 2/3 & 3) discloses only simple injuries, described as bruises or abrasions, none of which are on vital parts or of a nature contemplated under Section 307 of the I.P.C.

11. Further, the attention of this Court is drawn towards the credibility of witnesses but a significant portion of the prosecution evidence suffers from lack of reliability, as P.Ws.9 to 17 have been declared hostile. The hostile stance of these witnesses materially weakens the prosecution case and erodes the chain of evidence necessary for conviction.

12. Further, for evidence regarding alleged arson, as per Paragraph No.6 of the deposition of the Investigating



Officer, it is admitted that the houses of the accused and the informant are adjoining. Given the close proximity, the allegation of setting fire to the adjoining house, appears improbable in the absence of any corroborative evidence. This casts serious doubt on the prosecution's version regarding the alleged act of arson.

13. At this stage, learned counsel for the respondents submits that the informant and his family members are in habit of instituting false criminal cases against the respondents. The wife of the informant's brother has also got instituted a criminal case with the identical allegations to set her house on fire by same set of accused persons just 20 days prior to the institution of the present case. The F.I.R. relating to aforesaid occurrence has already been marked as defence Exhibit F in this case.

14. In view of such submissions advanced by learned counsel for respondents, together with material contradiction in the testimony of prosecution witnesses, does not inspire confidence of this Court to draw an other view with regard to the judgment of acquittal recorded by Trial Court.

15. We find that the findings recorded by the learned Trial Court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the



guilt of the accused beyond the shadow of a reasonable doubt. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

16. In a criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned Trial Court is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based is not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Mrinal Das vs. State of Tripura*** reported in ***(2011) 9 SCC 479***, paragraphs 13 & 14 of which read as under:

"13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal



provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.....”

17. In the case of ***Ghurey Lal versus State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in paragraph 75, the Hon’ble Supreme Court reiterated the said view and observed as under:

“75. The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by



the trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”

18. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case if the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

19. In view of the above, we do not find any illegality and perversity in the findings recorded by the Trial Court.

20. Accordingly, the present appeal stands dismissed.

(Sudhir Singh, J.)

(Ramesh Chand Malviya, J.)

*Gaurav Kumar,
Mayank/-*

AFR/NAFR	NAFR
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