

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2401 of 2019**

Arising Out of PS. Case No.-14 Year-2010 Thana- SONBERSA District- Sitamarhi

Lakshman Kumar Prabhakar @ Laxman Kumar Prabhakar Son of Kunkun
Sah Resident of Village - Pakariya, P.S.- Sonbarsa, Distt - Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rakesh Kumar Singh Mr. Ranjeet Kumar Mishra
For the Respondent/s	:	Mr. Syed Ashfaque Ahmad
For the Informant	:	Mr. Santosh Kumar

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT**

Date : 10-02-2025

Heard the parties.

2. The present appeal has been preferred on behalf of the appellant for quashing the judgment and conviction order dated 8.5.2019 and 15.05.2019 respectively passed by the learned Additional Sessions Judge-VI, Sitamarhi in connection with Sessions Case No. 103 of 2011 / CIS No. 1817 of 2014 arising out of G.R. No. 263 of 2010 / Sonbarsa P.S. Case No. 14 of 2010 by which the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of five years with a fine of Rs. 1000/- and in default of payment of fine, the appellant will have to undergo rigorous imprisonment for a



period of further three months.

3. As per the prosecution case, because of land dispute between the parties, the appellant along with others is said to have assaulted the informant and his family members. It is alleged that the appellant has assaulted the informant on his head with *Dabiya* and other members who were accompanying the appellant have assaulted the informant and his family members with *Lathi* and *Danda* (stick).

4. Upon submission of a written report by the informant about the aforesaid occurrence, a criminal case was instituted as Sonbarasa P.S. Case No. 14 of 2010 under Sections 341, 323, 324, 504, 379, 34 of the Indian Penal Code. The Police, after investigation, submitted charge-sheet against all the named accused persons and accordingly, cognizance was taken against the appellant and other accused persons and trial commenced against all of them. During the trial, one Acche Lal Sah died and the case against him was dropped.

5. During the trial, 7 prosecution witnesses have been examined and their names are mentioned below:-

P.W. 1- Tej Narayan Sah

P.W. 2- Rajendra Sah

P.W. 3- Ram Vishwas Yadav @ Vishwas Yadav

P.W. 4- Anita Devi @ Lalita Devi

P.W. 5- Ram Chandra Sah (Informant).

P.W. 6- Amerika Paswan, I.O.



P.W. -7 Guru Dayal Sinha, Doctor.

6. It has been submitted by the learned counsel for the appellant that the appellant is innocent and he has falsely been implicated in this case. He further submits that the present FIR is nothing but a counter blast of the FIR which has been filed by the appellant side bearing Sonbarasa P.S. Case No. 13 of 2010. He further submits that none of the independent witnesses have supported the case of the prosecution.

7. Learned counsel for the appellant further submits that there is admitted land dispute between the parties and the informant has given contradictory statements before the trial Court. First the informant has said that the appellant has assaulted the informant by *Dabiya* and other accused persons with *Lathi-Danda* (stick) but the doctor has reported that three sharp cut injuries were found which does not support the case of the prosecution.

8. Learned counsel for the appellant further submits that there are contradictions between the statement of the informant and the statement and injury report of the doctor and therefore it appears that the injury report is doubtful. The doctor has given statement that the injury is not bone deep and therefore they are simple in nature.

9. Learned counsel for the appellant further



submits that the time of lodging the FIR was 1 P.M. on 9.2.2010 and the time of examination of injury of *Ram Chandra Sah* is 9.2.2010 at 11:55 A.M. but the witnesses have said that they first lodged the FIR and thereafter they went for examination themselves from the doctor which, in itself, is contradictory.

10. It has also been argued by the learned counsel for the appellant that the prosecution side has failed to prove the manner of occurrence as well as the place of occurrence as no eye witness is there of the said occurrence and all the witnesses are hearsay witnesses.

11. In conclusion of his argument, learned counsel for the appellant has submitted that the entire prosecution case is false and fabricated and because of the admitted land dispute between the parties, this false case has been lodged by the prosecution side just to save themselves from the case lodged by the appellant side.

12. Learned counsel for the State and the Informant have supported the impugned judgment and have submitted that the impugned judgment is a well reasoned judgment and the same may not be interfered with. It has also been submitted by the learned counsel for the informant that the deposition of an injured witness cannot be crossed aside.



13. I have considered the submission of the parties.

14. The main thrust of the argument of the learned counsel for the appellant is that the appellant being a Government Servant who is working as a teacher in School has been falsely implicated in this case and from the deposition of the Doctor and the I.O. with regard to the injuries and the preparation of the medical report, the participation of the appellant in the occurrence or the injuries caused to the informant side become doubtful.

15. The deposition of P.W. -1 with regard to the assault by the appellant is that he had used a *Dabiya* to assault the injured. In his deposition, P.W. 1 has also said that when he reached the place of occurrence, the occurrence was over. He has also said that he had reached the place of occurrence ten minutes after *Halla* and from his statement, it appears that he is not an eye witness.

16. P.W. 2 has also said that the prosecution side was assaulted by the appellant and others by *Lathi-Danda* (stick) and the appellant has assaulted the informant with *Dabiya*. He further says that he heard *Halla* and identified the appellant by his voice and he, after watching the incident for two-three minutes, went back to his house and did not tell



anyone anything.

17. P.W. 3 has named eight persons as having assaulted the victims and they injured *Ram Chandra Sah*, *Jogendar Sah* and have also injured Bhabhi and Mother of *Ram Chandra Sah* by *Lathi-Danda* (stick).

18. P.W. 4 has said that the appellant had assaulted *Ram Chandra Sah* with *Dabiya* and others had assaulted with stick. She has not said anything about as to which part of the body *Ram Chandra Sah* was hit by the appellant and before police, she has not said that the appellant had assaulted *Ram Chandra Sah* with *Dabiya*.

19. P.W. 5, who is the informant has said that the appellant had assaulted him with *Dabiya* and rest of the accused persons had assaulted with stick. In his cross-examination, he has said that P.W. 1, 2 and 3 had reached the place of occurrence after the occurrence was over i.e. he had denied the presence of P.W. 1, 2 and 3 at the place of occurrence, who claimed themselves to be eyewitnesses. So the only eye witness of the occurrence, as per P.W. 5 is P.W. 4. P.W. 5 has said before the police that the appellant assaulted him with *Dabiya* but further he said in his cross-examination that he got head injury pursuant to the *Lathi* (stick) blow.



20. From the statement of the informant and other witnesses, it appears that there are major contradictions in their evidence. First, the informant says that the appellant assaulted him with *Dabiya* but subsequently he says that he got head injury because of a *Lathi* blow. The presence of P.W. 1, 2 and 3 has also been denied by the informant.

21. The consistent case of the prosecution is that the appellant had assaulted the informant with *Dabiya* whereas the informant himself, in his cross-examination has said that he got head injury because of a *Lathi* (stick) blow.

22. P.W. 6 is the I.O. of the case. He says that he has not seized any weapon used in the occurrence and also says that no blood was found at the place of occurrence. He has further said that during investigation, he found that there was land dispute between the parties.

23. P.W. 7 is the Doctor. He has found three injuries on the head of the informant. He has said that all the three cut injuries have been made by sharp-edged weapon and they are grievous in nature. In his cross-examination, he has admitted that he has not given the dimension of injury number one and he has further said that injuries were not bone deep. The doctor has not noted the identification mark of the injured.



24. It has come in the deposition of the witnesses that the injury report was prepared after the FIR was registered but the time of registration of FIR is 1:00 P.M. and the injury report was prepared at 11:55 A.M and these things in consistencies also make the injury report doubtful.

25. Considering the deposition by P.W. 4, the statement of the informant in which he says that he got head injury by *Lathi* (stick) and discrepancies in the injury report, I am of the view that the prosecution has not been able to prove its case beyond reasonable doubt and therefore, the conviction of the appellant cannot be sustained.

26. Accordingly, the judgment and conviction order dated 8.5.2019 and 15.05.2019 respectively passed by the learned Additional Sessions Judge-VI, Sitamarhi in connection with Sessions Case No. 103 of 2011 / CIS No. 1817 of 2014 arising out of G.R. No. 263 of 2010 / Sonbarsa P.S. Case No. 14 of 2010, are hereby set aside.

27. The appellant is acquitted of all charges levelled against him.

28. Since the appellant is on bail, he is discharged from the liabilities of the bail bonds.

29. Let the LCR be returned to the concerned Court



below forthwith.

30. Interlocutory application/s, if any, also stand disposed off accordingly.

(Sandeep Kumar, J)

Vikas/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	12.02.2025
Transmission Date	12.02.2025

