

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3881 of 2024
In
CRIMINAL REVISION No.1385 of 2019

Arising Out of PS. Case No.-55 Year-2000 Thana- PHULWARIYA District- Gopalganj

Dinanath Prasad S/O Late Yamuna Prasad R/O Village- Bathuwa Bazar, P.S-
Fulwaria, Distt.- Gopalganj. Appellant/s

Versus

1. The State of Bihar
2. Yogendra Prasad S/O Late Yamuna Prasad R/O Village- Bathuwa Bazar, P.S-
Fulwaria, Dist.- Gopalganj.
3. Suresh Prasad S/O Late Yamuna Prasad R/O Village- Bathuwa Bazar, P.S-
Fulwaria, Dist.- Gopalganj.
4. Birendra Prasad S/O Late Yamuna Prasad R/O Village- Bathuwa Bazar, P.S-
Fulwaria, Dist.- Gopalganj.
5. Mosmat Sunaina Kunwar W/O Late Surendra Prasad R/O Village- Bathuwa
Bazar, P.S- Fulwaria, Dist.- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Prasad Singh, Sr. Advocate
Mr. Shambhu Prasad Yadav, Advocate
For the Respondent/s : Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 17-02-2025 Learned counsel for the appellants undertakes to
remove the defect(s) as pointed out by the office.

2. Heard Mr. Krishna Prasad Singh, learned Senior
Counsel for the appellant duly assisted by Mr. Shambhu Prasad
Yadav and Dr. Indihar Kumari, learned APP.

3. The present revision application has been
preferred:

*against the Judgment and order dated 30-08-2019
passed in Cr. App. No. 46/2018 by learned Vith
Additional Sessions Judge Gopalganj, whereby*



the learned Additional Sessions Judge has pleased to dismissed the appeal and is hereby sustained and confirmed the lower court Judgment as well as Judgment and order dated 30-07-2018 passed in G. R. No. 838/2000 and Fulwaria P. S. case No. 55/2000 Vide Trial No. 1675/2018 by learned A.C.J. M. IX, Gopalganj, where by and where under the learned A. C. J. M. IX, was pleased to acquit to the Opp. Party nos. 2 to 5 due to not sufficient evidence giving benefit to the private opposite parties for offence under sections 419, 420, 467, 468, 471,120(8) of the Indian Penal Code.

4. With the consent of the parties, the appeal has been taken up for final hearing.

5. As per the prosecution story, there is allegation that in the family partition, the signatures of the family members of the complainant were taken and later the complainant was surprised to know that his Bathuwa Bazar shop has been let out to 'Khadi Gramodyog Sangh' and he has to vacate the rooms. He found difference in the original Panchnama and the later Panchnama and realized that respondent no.2 Subhash Prasad



took away the witness Krishna Kumar Ojha to his village and informed that they agreed to some change in the Panchnama. According to which, the correction was made. This led to the FIR.

6. After the cognizance was taken, trial took place in the matter and the Court on 30.07.2018 passed an order of acquittal giving them the benefit of doubts.

7. Aggrieved, the Cr. Appeal No. 46 of 2018 was filed by the appellant herein which was taken by the learned VIth Additional Sessions Judge, Gopalganj on 30.08.2019 and he once again went through the witnesses statement. He also took note of the fact that though the documentary evidences have been produced by the appellant and save and except there is nothing on record to support the case. He further took note of the statement of the witnesses that the paper was not returned by Krishna Kumar Ojha in his presence. One of the witness also recorded that he has not seen the paper of partition.

8. In that background, the Court came to the conclusion that the Trial Court rightly passed the order of acquittal and there is no merit in the appeal. Accordingly, the same was dismissed.

9. Aggrieved, the present appeal.



10. Learned Senior Counsel for the appellant submits that both the Courts failed to take into account that the prima facie case was made out. The cognizance was also taken but order of acquittal was passed.

11. Learned Spl. P.P. on the other hand opposes the prayer submitting that both the Courts were fully justified in passing the order of acquittal as a pure civil dispute has been turned into criminal case. Save and except the documents that are on record, there is no supportive evidence to show that the accused cheated the appellant.

12. Having gone through the facts and circumstance of the case as also the submissions of the parties, there is concurrent finding of the acquittal by both the Courts and the reason has also been assigned as rightly pointed out by the learned Spl. P.P. In that background, the appeal fails and is accordingly, dismissed.

(Rajiv Roy, J)

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