

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5158 of 2024

Arising Out of PS. Case No.-38 Year-2017 Thana- SARSI District- Purnia

Rajesh Kumar Mahto @ Rajesh Prasad Mahto Son of Deep Narayan Mahto
R/O Vill.- Samda, P.S.- Sarsi, Dist.- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. Puneet Kumar Mahto Son of Ashok Prasad Mahto R/O Vill.- Samda, P.S.- Sarsi, Dist.- Purnea.
3. Nunu Lal Mahto Son of Yogendra Prasad Mahto R/O Vill.- Samda, P.S.- Sarsi, Dist.- Purnea.
4. Sunil Kumar Mahto @ Sunil Kumar Son of Ashok Mahto R/O Vill.- Samda, P.S.- Sarsi, Dist.- Purnea.
5. Bhushan Prasad Mhato Son of Late Bhim Lal Mahto R/O Vill.- Samda, P.S.- Sarsi, Dist.- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajit Kumar Singh, Advocate
For the Respondent/s : Mr. Zeyaul Hoda, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

13 18-02-2025 Heard Mr. Ajit Kumar Singh, learned Senior Counsel

for the appellant and Mr. Zeyaul Hoda, learned Counsel for the

State.

2. The appeal has been preferred:-

*“against the judgment of acquittal dated 30.05.2024
passed by Sri Purushottam Mishra, District and Sessions
Judge, Purnea in Session Trail No. 195 of 2018 whereby
and whereunder the learned Sessions Judge has been*



pleased to held that after considering the conduct of convict person throughout the trial and he is sole bread earner of his family, convict is released on the period of judicial custody already undergone by him during the trial.”

3. With the consent of the parties, the Criminal Appeal has been taken up for final hearing. As per the prosecution story, the informant alleged that while cultivating his land, the accused being aggressor came to the agricultural field and upon request by Neelam Devi, his sister not to do so, her modesty was outraged. The allegation, thereafter, is that the accused Ashok Mahto ordered his son to crush the informant side under the tractor, where after accused Sunit and Puneet attempted to do so.

4. As the informant's father came to her recuse, Rs. 5 lakhs was demanded as extortion which followed the assault. The father of the informant's sustained injury as also fracture in his hand. They were shifted to Sadar Hospital, Purnea from Sub-Divisional Hospital, Banmankhi for better treatment which followed the F.I.R.

5. The Police investigated the matter and submitted charge sheet under Sections 147, 148, 149, 341, 323, 324, 379, 387, 354(B), 307, 504, 506 of the Indian Penal Code. This



followed cognizance order dated 05.12.2017 and thereafter the Trial took place. Subsequently, the Court came to the conclusion that ingredients of Section 307, 147, 148, 149, 341, 323, 324, 379, 354-B, 504, 506 of the IPC are not made out. However, having found specific allegation against Sunit Kumar @ Sunit Kumar Mahto which stands corroborated for injury report and in that background, he was convicted under Section 324 of the Indian Penal Code.

6. However, having taken note of the fact that he has faced the rigors of the Trial for the last 7 years, has clean antecedent, is young and sole earning member of the family, has already remained in judicial custody between 14.09.2017 to 04.12.2017 and the maximum punishment is 3 years or fine or both, the period undergone by him was taken into account and as such, he was directed to be released with the aforesaid observation.

7. Aggrieved, the present appeal.

8. It is the case of the appellant, as presented by the learned counsel that the Medical Officer opined the wound to be grievous but ignoring the same, the Trial Court has convicted only under Section 324 of the I.P.C. and sentenced for the period undergone which needs to be overturned. It is his further



submission that admittedly, they were aggressor and though free fight took place, once they came to the land, these facts were not taken into consideration by the Court concerned.

9. Learned APP on the other hand opposes the prayer and submits that the Court has recorded the injury of the father of the appellant and according to him, he has given the reason that there was abrasion contrary to the opinion of the Medical Officer who found it to be grievous in nature. The Court recorded that the Exhibit 2 and 2/1 shows abrasion on the fore-arm and lacerated wound on the fore-head which under no circumstances can be brought in the category of grievous injury. He has detailed out Section 320 of the IPC which records grievous hurt to support his observation as to why Section 320 of the IPC is not made out.

10. Having heard the parties and perusing the record, this Court is in complete agreement with the submissions put by the learned APP. Each and every Section has been taken note of by the learned Court threadbare and has recorded his reason not to convict the respondents under the said Section. However, since the abrasion on the fore-arm and injury on the fore-head were there, in that background and since the allegation was on Sunil Kumar Mahto, he was convicted.



11. Further, he took note of the fact that the said Sunil Kumar Mahto do not have criminal antecedent, he has faced trial diligently for two years, and remained in custody between 14.09.2017 to 04.12.2017 and is the sole earning member of his family, in that background, it recorded the same to be sentenced for the period already undergone.

12. This Court does not see any reason to deviate from what has been considered, recorded and justifiably concluded by the learned Trial Court.

13. In that background, Criminal Appeal (SJ) No.5158 of 2024 and I.A. No.01 of 2024 stand dismissed.

(Rajiv Roy, J)

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