

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1440 of 2024

Arising Out of PS. Case No.-242 Year-2014 Thana- RIGA District- Sitamarhi

Surendra Chaudhari @ Surendra Choudhary, Son of Late Ram Prasad Chaudhary, R/o Village- Bhavdepur Got, PS- Riga, Distt- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
 2. Vinod Singh son of Late Kailash Singh
 3. Rahul Kumar Singh, son of Vinod Singh
 4. Anita Devi, wife of Vinod singh
 5. Pinki Devi, Daughter of Suresh Paswan
 6. Subodh Singh, Son of Late Kailash Singh
 7. Usha Devi, Daughter of Harishankar Singh
- All are residents of Village- Bhavdepur, PS- Riga, Distt- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Praveen Kumar, Advocate Mr. Neeraj Kumar, Advocate Mr. Shashank Shekhar, Advocate Mr. Mukund Kumar, Advocate Mr. Amar Nath Kumar, Advocate
For the Respondent/s	:	Mr. Satya Narayan Prasad

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 25-08-2025

The present criminal appeal has been preferred by the informant, under Section 372 of the Code of Criminal Procedure against the judgment of acquittal dated 30.09.2024 passed by the learned Additional Sessions Judge-VIII, Sitamarhi in Sessions Trial No. 490 of 2016 (Registration No. 522 of 2016)



arising out of Riga P.S. Case No. 242 of 2014, whereby Respondent Nos. 2 to 7 were acquitted by the learned Trial Court from the charge under Section 148, and Section 307 read with Section 149 of the I.P.C., and were held guilty under Section 147 and Section 323 read with Section 149 of the IPC. The learned trial court further gave the accused the benefits of Section 3 & 4 of the Probation of Offenders Act, and released them after due admonition.

2. The prosecution case, as per the fardbeyan of the informant, Surendra Chaudhary, in brief, is that on 31.10.2014 at 8:30 PM, when the informant was returning home from his shop, he was assaulted by the accused persons, namely, (1) Subodh Singh, (2) Vinod Singh, (3) Rahul Kumar Singh, (4) Dipak Kumar, (5) Anita Devi, wife on Vinod Singh (6) Wife of Subodh Singh, name not known, (7) Richa Kumari and (8) Usha Devi. The motive for such assault was a previous land dispute between the accused and the victim. It was further alleged that all the accused persons were armed with lathi, danda and rod, and, surrounded the victim/informant with a common object to kill him. The informant further alleged that he was assaulted with lathi, danda and rod, and the accused persons, in course of such assault, used filthy language, and said



“just finish him today”, and *“he has come from outside and occupied the land”*. Thereafter, Subodh Singh stabbed the informant with knife in his stomach, and the knife hit the back side of waist of the informant, thereupon, blood started oozing from the injured body part, and the informant fell on the ground in his own pool of blood. It was further alleged that, while he was lying in his own pool of blood, accused Vinod Singh took away Rs. 15000/- from his pocket, which was the sale amount from the informant’s shop. On raising alarm, several persons gathered who tried to intervene and settle the matter. Subsequently, he was taken away to Sadar Hospital, Sitamarhi by his wife and son, with the help of villagers and went under treatment at the Hospital.

3. On the basis of the fardbeyan of the informant, Riga P.S. Case No. 242 of 2014 was instituted under Sections 147, 148, 149, 307, 323, 341, 342, 379, 447 and 504/34 of I.P.C. and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 to 7, under Sections 147, 148 and 307 read with Section 149 of the IPC 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.

4. During trial, the prosecution examined 7 witnesses, namely, PW1 Avnish Kumar, PW2 Shatrughan Bhandani, PW3 Vinita Devi, PW4 Surendra, PW5 Dr. Alok Kumar, PW 6 Uma Shankar Mmanjhi, A.S.I. and PW7 Dinesh Prasad. The prosecution has also produced certain documents which were marked as 'Exhibits', i.e., Signature of Vinita Devi on the fardbeyan, Signature of Surendra Choudhary on the fardbeyan, Signature of Satendra Singh on the fardbeyan, Forwarding on fardbeyan by Satendra Singh, endorsement on fardbeyan by Rakesh Gosai, Injury report, signature of Rakesh Gosai on formal FIR and the charge sheet.

5. The defence has not produced any oral evidence. However, the defence brought certain documents on record, which were marked as 'Exhibits', i.e., Exhibit A the certified copy of F.I.R. of Riga P.S Case No. 243/2014; Exhibit 2 is certified copy of charge sheet of Riga P.S case No 243/2014; Exhibit C is certified copy of order sheet dated 08-09-2021 to 10-12-2021 of Sessions Trial no. 49/2018 and Exhibit E is certified copy of the evidence of Dr. Alok Kumar of S.T No. 49/2018. 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 acquitted the accused persons.

6. The learned trial court, based on the facts and evidence available on record, held that the accused persons were not guilty under Section 307 read with Section 149 of the I.P.C. and found them guilty under Section 323 read with 149 of the I.P.C. The learned trial court held that the prosecution failed to produce any evidence, which would show that the motive of the accused persons, during the alleged occurrence, was to kill the informant. The court further held that as per the medical report, and the evidence of the doctor, the nature of injuries inflicted upon the victim were simple injuries, which may have been caused by a knife. The trial court further held that no prosecution witnesses, except for the informant, stated about assault by means of knife on the informant. Thus, as per the evidence of prosecution, the learned trial court did not find any corroboration of an assault by knife upon the victim, and made out an offence under Section 323 of the I.P.C., and not under Section 307 of the I.P.C.

7. On the point of sentence, the learned trial court took a lenient view citing that there was no previous criminal convictions against the accused persons and there was a case



and counter case, and thus, granted the benefits under Section 3 & 4 of the Probation of Offenders Act to the accused.

8. Learned counsel for the appellant has submitted that PW1, PW3 and PW4 are the eye witnesses of the alleged occurrence and they have fully supported the prosecution case. The accused persons/Respondent Nos. 2 to 7, were present at the place of occurrence, which, as a fact, is fully corroborated by the prosecution witnesses. The respondent No. 6 Subodh Singh gave knife blow injury in the stomach of the informant, which is fully corroborated by the injury report, and ought to have been convicted under Section 307 IPC instead of Section 323 IPC and the rest of the respondents ought to have been convicted under Sections 147, 148, 149 and 323 IPC. The learned trial court without application of mind and without appreciation of evidence has given the benefit of doubt in casual manners to Respondent Nos. 2 to 7.

9. On the other hand, the learned counsel for the respondents submitted that there is no perversity in the judgment of the learned trial court, and, the order of the learned trial court requires no interference in the present case.

10. We have heard learned counsel for the appellant, and the learned counsel for the respondents and have also gone



through the records of the case.

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

12. As per the evidence of the doctor before the learned trial court, it is clear that the nature of injuries inflicted upon the victim are simple injuries. Paragraph 14 of the impugned judgment deals with the injury of the victim, the relevant part of which is reproduced as under:

“Injury no. 1 Simple in nature caused by sharp object and injury number 2 simple in nature caused by hard and blunt object.

Such injury may be caused by object like knife.”

13. Further, as per the FIR, based upon the fardbeyan of the informant, only a single knife blow is said to have been given to the informant, but in the evidence before the learned trial court, the informant has stated about a second knife injury. The injury report also states that two sharp cut injuries were given to the victim. This story of a second injury is an addition to the facts stated in the FIR registered by the Police. This addition of fact has not been sufficiently explained by the prosecution, which negatively affects the case of the



prosecution. In light of these facts and the injury report, the charge under Section 307 has not been proved by the prosecution and only the offence under Section 323 read with Section 149 IPC is made out against the accused persons.

14. P.W. 2, Shatrudhan Mandal, who is an independent witness, in his evidence, has not specified about any deadly weapon being in possession of the accused persons during the alleged occurrence. The other witnesses, i.e., the wife and the son of the informant, have only corroborated on the fact that the accused persons surrounded the informant, with *lathi, danda and rod*. The possession of a knife by any of the accused is not made out by the evidence of the prosecution witnesses. Further, the evidence of all the witnesses show that the Respondent Nos. 2 to 7, were present on the alleged place of occurrence, however, the possession of a deadly weapon by the accused persons has been disputed. Therefore, on the basis of facts and evidence during the trial, we find that the learned trial court rightly held the convicts guilty under Section 147 of the IPC.

15. The findings recorded by the learned trial court do not suffer from any illegality and perversity in the present case. 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 criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned court below is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based are 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 *Babu Sahebagouda Rudragoudar v. State of Karnataka, 2024 SCC Online SC 561*, Hon’ble Supreme Court, after referring to relevant precedents, has observed as follows:

“41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the



four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

42. The appellate court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial court.”

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 and find that the accused were rightly admonished under Section 3



& 4 of the Probation of Offenders Act, and thereafter, released from custody.

20. Accordingly, the present appeal is dismissed

21. Mr. Praveen Kumar, learned counsel for the appellant has argued very well and assisted the court with his full sincerity.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
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