

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.54 of 2016

Arising Out of PS. Case No.-8 Year-2006 Thana- BHAGWANPUR District- Begusarai

1. Jagdish Sah, Son of Late Mohar Sah
2. Bipin Sah
3. Sudhir Sah, Both Nos. 2 & 3 are Sons of Shri Jagdish Sah
4. Sunil Sah Son of Ram Prakash Sah
5. Mukund Sah Son of Ramadhar Sah
6. Anilsah Son of Ram Prakash Sah
7. Ramadhar Sah Son of Late Mohar Sah All are Residents of village - Bhith,
Police Station Bhagwanpur, District - Begusarai

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Saroj Shandilya, Advocate Mr. Binay Kumar Jha, Advocate
For the State	:	Mr. Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 30-04-2026

Heard learned counsel for the appellants and
learned Additional Public Prosecutor for the State.

2. This appeal has been filed challenging the
judgment of conviction and order of sentence dated 04.12.2015
passed in Sessions Trial No. 127 of 2007 arising out of
Bhagwanpur P.S. Case No. 08 of 2006 whereby all these
appellants have been convicted under Section 323 of the Indian
Penal Code and have been sentenced to undergo rigorous
imprisonment for one year and fine of Rs. 500/- each.



3. The prosecution case, in brief, is that on 16.01.2006 at about 7 AM, all these accused-appellants, armed with *lathi*, *danda*, *khanti* and *garsa*, came to the house of informant and assaulted informant, her husband, her son and other family members. It is further alleged that the accused persons also took away a box containing jewellery and other household articles.

4. In this case, in order to bring home guilt of the accused person, the prosecution has examined altogether six witnesses. P.W. 1, namely Gulden Sah, is husband of informant. P.W. 2, namely Mahendra Sah, is son of informant. P.W. 3, namely Gita Devi, is sister-in-law (*Gotni*) of the informant. P.W. 4, namely Sarjugia Devi, is informant. P.W. 5, namely Dr. Devendra Singh, is doctor who examined the injuries. P.W. 6, namely Suresh Poddar Karpardaz, is a formal witness who proved the *Fardbeyan*. The prosecution has also adduced documentary witnesses, which are marked as:-

Exhibit 1	Injury Report
Exhibit 2	<i>Fardbeyan</i>
Exhibit 3	Formal F.I.R.
Exhibit 4 and 4/1	Certified copy of deposition

5. On the other hand, the defence has also produced four defence witnesses, i.e., D.W. 1, namely Devendra Pd.



Singh, D.W. 2, namely Bipin Paswan, D.W. 3, namely Devendra Pd. and D.W. 4, namely Balmiki Singh. The defence has also adduced documentary witnesses, which are marked as:-

Exhibit A	Complaint Petition No. 83C of 2006
Exhibit B	Report in proceeding under Section 107 of the Cr.P.C.
Exhibit C	Attendance register relating to accused Ramadhar Sah
Exhibit D	Rent receipt
Exhibit E	Complaint of Title Suit No. 56 of 2006
Exhibit F	Deposition of Gulten Sah dated 28.02.2011
Exhibit G	Sale deed

6. After hearing the parties, the learned trial court convicted the appellants and sentenced them, as indicated in the opening paragraph of this order.

7. Learned counsel appearing for the appellants assails the order of conviction and sentence on multiple grounds. He contends that the impugned order of sentence and conviction are fit to be quashed and set aside on the basis of facts and circumstances. The learned trial court has committed grave illegality in facts and law both. As a matter of fact, both parties are *Gotiyas* and due to admitted land dispute between the parties, a series of litigation are pending between them. As a matter of fact, the alleged incident occurred spontaneously in the spur of the moment over a minor dispute. It is further contended that a case has been lodged by Appellant No. 5, namely Mukund Sah, against informant and others, in which



other appellants are witnesses and only with a view to save their skin from the aforesaid case, this false and concocted case has been lodged. Moreover, there is material contradiction in the statement of the witnesses. In this case, the Investigating Officer has not been examined. Non-examination of the Investigating Officer has caused great prejudice to the defence of the these appellants as they were not able to contradict the evidence of the witnesses and the place and manner of occurrence could not be proved. The doctor who examined the injured (P.W. 5) has opined the injuries as simple in nature. It is lastly submitted that all the witnesses are family members of the informant and are highly interested witnesses and there is no independent eye-witness to the alleged occurrence. Thus, the prosecution has failed to prove the case beyond reasonable doubts and the trial court has wrongfully convicted these appellants ignoring material contradictions and hence, the appellants are fit to be acquitted.

8. On the other hand, learned A.P.P. for the State has submitted that there is no need of any interference in this appeal since the prosecution witnesses have supported the corroborated the prosecution story and there is no reason to differ with the findings of the learned trial court and the judgement of



conviction and order of sentence are justified and legal.

9. From going through the evidence and perusal of the records, this Court finds that the impugned order of conviction and sentence suffers from material infirmity. In this case, there is material contradiction in the deposition of the witnesses. It appears that all the independent prosecution witnesses are related to the informant and are highly interested witnesses. In this case, the Investigating Officer has not been examined, which has caused great prejudice to the defence as the defence could not get opportunity to explain the material discrepancy and contradict the witnesses. The doctor has opined the injuries, allegedly caused by these appellants, simple in nature and a series of litigation are pending between the parties.

10. Thus, in view of the facts and circumstances of the case, as discussed above, it is evident that the prosecution has failed to prove the guilt of these appellants beyond reasonable doubt and thus, the appellants are entitled to be given the benefit of doubt.

11. In that view of the matter, the impugned judgment of conviction and order of sentence dated 04.12.2015 passed by the learned Additional Sessions Judge-I, Begusarai in Sessions



Trial No. 127 of 2007 in connection with Bhagwanpur P.S. Case No. 08 of 2006 are hereby set aside with respect to these appellants only.

12. Appellants, above named, are acquitted of all the charges and are discharged from the liability of the bail bonds in connection with this case.

13. Accordingly, this appeal stands allowed.

14. Interlocutory application/s, if any, also stands disposed off.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
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