IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1001 of 2024

Arising Out of PS. Case No.-73 Year-2017 Thana- BAKHTIYARPUR District- Patna

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Ranjeet Kumar, son of Tuntun Das @ Tuntun Ravidas, Resident of Village -Abbu Mahamadpur PS- Bakhtiyarpur, Dist- Patna

... ... Appellant

Versus

1. The State of Bihar
2. Pramod Sao @ Pramod Kumar, son of Late Kedar Lal Prasad, Resident of Village -Abbu Mahamadpur PS- Bakhtiyarpur, Dist- Patna
3. Raju Kumar @ Raju Sao, son of Late Kedar Lal Prasad, Resident of Village -Abbu Mahamadpur PS- Bakhtiyarpur, Dist- Patna
4. Laxman Kumar @ Laxman Sao, son of Late Kedar Lal Prasad, Resident of Village -Abbu Mahamadpur PS- Bakhtiyarpur, Dist- Patna
5. Nishant Kumar, son of Pramod Sao @ Pramod Kumar Gupta, Resident of Village -Abbu Mahamadpur PS- Bakhtiyarpur, Dist- Patna

... ... Respondents

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Appearance :

For the Appellant : Mr. Ram Shankar Prasad, Advocate

For the State : Mr. Sujit Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 11-08-2025

The present criminal appeal has been preferred under Section 372 of the Code of Criminal Procedure against the judgment of acquittal dated 30.05.2024 passed by the learned Exclusive Special Judge (SC/ST Act), Patna in Special Case No.

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209 of 2017, arising out of Bakhtiyarpur P.S. Case No. 73 of 2017, whereby Respondent Nos. 2 to 5 have been acquitted by the learned Trial Court from the charge of Sections 147, 149, 341, 323, 307, 504 of Indian Penal Code and under Section 3(1)(r) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The prosecution case, in brief, is that on 14.03.2017 at 10:00 a.m., a *Panchayati* with regard to the disputed land was held in the house of the informant. In the *Panchayati*, the informant proposed to the parties to get land as per the registered deed, whereupon, Pramod Kumar refused to agree with the said proposal. It was further alleged that all the accused persons, started abusing and assaulting him, his brother and his other family members. The informant was assaulted by bricks on his head by Pramod Sao, and when his brother came in his rescue, he was also assaulted by Pramod Sao, with *lathi*. His mother was also assaulted and abused by the accused and they snatched one earring from her. They also abused the informant using the word "*Harijan*".

3. On the basis of *fardbeyan* of the informant, Bakhtiyarpur P.S. Case No. 73 of 2017 was instituted under Sections 147, 149, 341, 323, 307, 504 of Indian Penal Code and

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Section 3(1) (r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 to 5 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 the trial, the prosecution examined altogether nine prosecution witnesses i.e. PW1 Nipun Kumar, PW2 Bindeshwar Prasad, PW3 Bechan Kumar, PW4 Ranjeet Kumar (informant), PW5 Viltu Prasad Gupta, PW6 Bipin Kumar, PW7 Sarita Devi, PW8 Skand Kumar (I.O.) & PW9 Dr. Binod Kumar Singh. The prosecution has also produced certain documents which were marked as 'Exhibits' i.e., signature of the Informant on the *fardbeyan*; the *fardbeyan*; signature of SHO Lalan Prasad on the formal F.I.R.; chargesheet No. 190/2017 & injury report of injured Ranjeet Kumar. No witness has been examined on behalf of the defence. 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 has acquitted the accused persons.

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5. The learned Trial Court acquitted the accused on the ground that the prosecution was unable to prove the guilt of the accused beyond all reasonable doubts. The learned Trial Court held that all the independent witnesses did not support the case of the prosecution. The learned Court further held that there was a contradiction relating to the nature of injury inflicted upon the informant and his family members. The learned Trial Court further held that the investigating officer in his evidence did not find any incident which would attract the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The judgment of the learned Trial Court is reproduced as under:

> "उपरोक्त तथ्यो पर विचार करने के पश्चात् स्पष्ट है कि घटना स्थल के बारे मे सूचक का विरोधाभासी बयान है तथा सूचक के अलावा अन्य साक्षिगण द०प्र०स० धारा *161* के अन्तर्गत बयान नही हुआ है एवं दोनो साक्षिगण सूचक के रिस्तेदार है जिनका साक्षय विश्वनीय नही है। चोट के संबंध में भी विरोधाभासी बयान है। अनुसंधानकर्ता ने भी अनुसूचित जाति एवं जनजाति अधिनियम के अन्तर्गत नही पाने की बात अपने साक्षय में कही है। अभियोजन घटना क्रम संदेहात्मक प्रतीत होता है तथा प्रस्तुत वाद जमीनी विवाद में फायदा लेने के लिए किया गया प्रतीत होता है।"

6. It has been submitted by the learned counsel for the appellant that the learned Trial Court has failed to consider the fact that the *Panchayati* was being held in public view and hence the offence punishable under the SC/ST Act is constituted. It is further submitted by the learned counsel for the

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appellant that the Trial Court has also failed to consider the fact that the injury sustained by the informant has been proved by the Doctor.

7. The learned counsel for the respondent submitted that the learned Trial Court had rightly acquitted the accused and the judgment of the learned Trial Court requires no interference.

8. We have heard learned counsel for the appellant and the respondents and have also gone through the records of the case.

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

10. We find that, as per the F.I.R., three persons are said to have been injured, namely the P.W. 4, P.W.6 and P.W. 7. However, after the alleged occurrence only one person was examined by the Doctor. The Doctor (P.W.9) has deposed in his evidence that only the informant (P.W.4) was medically examined by him, and the injuries inflicted upon him were simple in nature. Thus, the injury report does not corroborate the prosecution case, especially the nature and manner of assault.

11. We also find that P.W.-6 and P.W.-7 have not been

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examined by the Investigating officer and their statements have not been recorded under Section 161 of Cr.P.C. Only the statement of the informant was recorded under Section 161 of Cr.P.C. It was during the trial that the statements of P.W.6 and P.W.7 were recorded. It should also be noted that there is a contradiction between the statement of P.W.6 and P.W.7. P.W.6 stated that only he and the informant were assaulted, whereas, P.W. 7 in her evidence before the Court stated that she was also injured in the alleged occurrence. Thus, there seems to be a contradiction between the statement of the prosecution witnesses, regarding the injury inflicted, and as such the manner of assault does not find corroboration from the statement of the prosecution witnesses.

12. For an offence to be committed under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, it is essential that the offence needs to be committed in a public view. The relevant part of the Section reads as under:

> *"(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or Scheduled Tribe in any place* ***within public view****"*

From perusal of the Trial Court records, we do not find that the alleged occurrence was committed in public view.

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The said *Panchayati* was being held at the house of informant itself, and no other person other than the family members were present. The prosecution has also not adduced any evidence before the learned Trial Court to attract the relevant provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The investigating officer has also stated in his evidence before the learned Trial Court that he did not find the allegation of SC/ST Act to be correct, but on the direction of his superior, he added the SC/ST Act in the charge-sheet.

13. We find that the findings recorded by the learned Trial Court do not suffer from any illegality and perversity. 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.

14. 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 is 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

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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 (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*

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> *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……."*

In the case of ***Ghurey Lal versus State of Uttar Pradesh*** reported in (***2008) 10 SCC 450*** in paragraph 75, the Hon'ble Supreme Court reiterated the said view and observed as under:

> *"75. The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable."*

15. 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

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upset in absence of strong and compelling grounds.

16. In view of the above, we do not find any illegality and perversity in the findings recorded by the Trial Court.

17. Accordingly, the present appeal is dismissed.

(Sudhir Singh, J)

(Ramesh Chand Malviya, J)

Sachin/-

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