
(2012) 02 PAT CK 0080

In the Patna High Court

Case No : Criminal Appeal No. 6 of 1999 in SLA 6 of 99

Ashok Kumar Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Citation : (2012) 02 PAT CK 0080

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Shyam Kishore Sharma

1. This appeal is directed against the judgment and order dated 25th November, 1998 passed in Sessions Trial No. 451 of 1992 by Sri Shiva Shankar Sharma, IXth Additional Sessions Judge, Patna whereby the respondent nos. 2 to 5 were acquitted from the charges levelled against them.

2. Initially a complaint case was filed by the appellant in the Court of the learned Chief Judicial Magistrate, Patna on 21.12.1988 in which it was averred that the complainant was made accused in Fulwari P.S. Case No. 221 of 1988 u/s 302 and some other ancillary sections of the Penal Code read with section 27 of the Arms Act. That case was filed by Surendra Ram Kahar accused of the present case. Prayer for anticipatory bail of the complainant was refused and thereafter he along with his witnesses came to Patna Civil Court on 16.12.1988 to surrender in the court of the learned C.J.M. A surrender cum bail application was drafted but it became late so it could not be filed then the complainant was returning back along with otheRs. No sooner the complainant reached near Ashok Rajpat near Mahabir Temple then accused persons along with 4-5 unknown arrived there. Allegation in the complaint petition was that one of the accused Surendra Ram fired from pistol aiming on the chest of the complainant which caused injury upon his left hand and waist. Ram Sunder Ram fired aiming at the complainant but it hit another person sitting on a rickshaw. That person succumbed to his injuries. Accused persons made their escape. The complainant was brought to NMCH where he was admitted as indoor patient but the police did not record his

statement or register the case. The complainant remained in police custody and he filed a complaint belatedly on 21.12.1988.

3. Ultimately the charges were framed and accused persons were put on trial where the court did not find the prosecution case proved beyond the shadow of all reasonable doubts so after discussing the evidence by the reasoned order the accused persons were acquitted.

4. Mr. Ashhar Mustafa, appearing on behalf of the appellant, has assailed the order of acquittal and stated that the same is perverse and is not based on reasons so it is fit to be set aside. Reliance has been placed on two judgments reported in Himmat Sukhadeo Wahurwagh and Others Vs. State of Maharashtra, and judgment reported in Ashok Kumar Chaudhary and Others Vs. State of Bihar, .

5. We have perused the judgments and those judgments cannot be said to be relevant in the present case because the facts available in the present case are quite different and thus cannot be applied in the present case. However, this Court appreciates the argument of the learned counsel for the appellant who has beautifully placed the matter but in view of the fact that the judgment of the learned trial court is quite reasoned and it has grounds for acquittal. This appeal is held to be without merit. It is accordingly, dismissed.