

(2019) 12 PAT CK 0203

In the Patna High Court

Case No : Criminal Appeal (DB) No. 1113 Of 2019

Babu Lal Yadav @ Babu Lal Prasad

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 17-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302
Arms Act, 1959 — Section 27

Citation : (2019) 12 PAT CK 0203

Hon'ble Judges : Shivaji Pandey, J;Anjani Kumar Sharan, J

Bench : Division Bench

Advocate : Umesh Kumar, Ashwani Kumar Sinha

Final Decision : Dismissed

Judgement

Heard learned counsel for the appellant and counsel for the respondents.

The present appeal has been filed against the judgment and order dated 7.8.2019 passed in Sessions Trial No. 317 of 2011 / 371 of 2017 arising out of Ghosi P.S. Case No. 31 of 2010 registered for offence under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act whereby and whereunder the respondent nos. 2 to 4 and one Raj Nandan Yadav have been acquitted of the charges leveled against them.

In the present case, the appellant is the Informant who has come before this Court against the judgment of acquittal having stated that the court below has not appreciated the evidence properly whereas the P.W.1 Ram Chandra Prasad has stated that he heard the sound of firing and came running at Lakhawal More where he saw the deceased lying down dead and there were firearms injury on the chest and forehead of the deceased. P.W. 4 Kamindra Yadav has given full description of the occurrence in his statement but, he has been declared hostile. From the statement of the Informant, who is the father of the deceased, it appears that he was on duty and, on receipt of the telephonic call on mobile, he

came to know about the death of his son.

One thing is very important in this case that the injury mentioned in postmortem report does not support the statement of P.W.1 who claims to have seen the accused persons fleeing from there but, in the postmortem report, there is no firearm injury on the body of the deceased rather lacerated wounds have been found which has been shown to be the cause of death of the deceased.

From perusal of the evidence, no one can be said to be an eyewitness as the statement of P.W.1 is non-compatible with the findings recorded in the postmortem report.

Accordingly, we do not find any reason to interfere in the impugned judgment passed in Sessions Trial No. 317 of 2011 / 371 of 2017.

Accordingly, this appeal is dismissed.