

(2018) 11 PAT CK 0030

In the Patna High Court

Case No : Criminal Appeal (DB) No.298 of 2018

**Deepak Kumar Tiwary @ Deepak Tiwary @ Amit Kumar Tiwari, son of
Late Gajendra Tiwary @APPELLANT@Hash State of Bihar**

Date of Decision : 19-11-2018

Acts Referred:

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

Citation : (2018) 11 PAT CK 0030

Hon'ble Judges : Rajendra Kumar Mishra, J;Madhuresh Prasad, J

Bench : Division Bench

Advocate : Sanjay Kumar, Kuber Pathak, Anshuman, Shiwesh Chandra Mishra,
Tej Pratap Singh, Kamal Kishore Singh, Harsh Singh

Final Decision : Dismissed

Judgement

MADHURESH PRASAD

1.Heard learned counsel appearing for the appellant, learned Additional Public Prosecutor appearing for the State as also the learned counsel

appearing for the respondent nos.2 to 4 on the point of admission.

2. The appellant being the legal heir of the deceased Gajendra Tiwary and the informant of Nokha P.S. Case No.220 of 2014 has preferred this

criminal appeal against the impugned Judgment dated 06.01.2018 passed in Sessions Trial No.257 of 2015, whereunder the learned Additional Sessions

Judge-IV, Sasaram, Rohtas, while acquitting the respondent nos.2 to 4 of the charges framed against them under Sections 302/34 of the Indian Penal

Code and Section 27 of the Arms Act, convicted the co-accused Pappu Singh alias Ranjeet Bihari Singh, Ekram Singh alias Baliram Singh, Kamla

Singh and Jhunna Singh alias Ranjeet Singh for the offences under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Learned counsel appearing for the appellant submits that while the respondent nos.2 to 4 were named in the F.I.R. as members of an unlawful

assembly, indulged in committing the murder of the deceased Gajendra Tiwary and Vibhav Tiwary and in course of trial, the witnesses have also

stated the said fact but the learned trial court while convicted the co-accused Pappu Singh alias Ranjeet Bihari Singh, Ekram Singh alias Baliram

Singh, Kamla Singh and Jhunna Singh alias Ranjeet Singh for the offences under Sections 302/34 of the Indian Penal Code and Section 27 of the

Arms Act but acquitted the respondent nos.2 to 4 of the charges framed against them under Sections 302/34 of the Indian Penal Code and Section 27

of the Arms Act.

4. On the other hand, learned Additional Public Prosecutor appearing for the State and the learned counsel appearing for the respondent nos.2 to 4

submits that there is no doubt that the respondent nos.2 to 4 were named in the F.I.R. and in course of trial, the witnesses have also stated about their

presence at the place and the time of the occurrence but no specific overt act has been attributed against the respondent nos.2 to

5. On going through the impugned Judgment, it appears that the respondent nos.2 to 4 were named in the F.I.R. but no specific overt act has been

attributed against them, nor any witnesses have stated about committing any overt act against them at the time of the occurrence.

6. We find no reason to interfere into the impugned Judgment.

7. Accordingly, this criminal appeal as well as I.A. No.1305 of 2018 stands dismissed on the admission stage itself.