

(2013) 12 PAT CK 0088

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 302 of 2001, (Appeal against the Judgment and order of conviction dated 13.9.2001 passed by the Presiding Officer, Fast Track Court No. 1, Siwan, in Sessions Trial No. 27 of 1987/63 of 2001)

Maya Yadav

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 10-12-2013

Acts Referred:

Citation : (2014) 2 BBCJ 198 : (2014) 1 BLJud 146

Hon'ble Judges : Smt. Anjana Prakash, J.

Bench : Single Bench

Advocate : Mr. Raghav Prasad and Mr. Maheshwar Prasad, Advocates, for the Appellant; None, for the State

Final Decision : Allowed

Judgement

Smt. Anjana Prakash, J.(Oral)—The Appellant has been convicted under Section 4 of the Explosive Substance Act and sentenced to rigorous imprisonment for seven years and also a fine of Rs.2,000/- in default of which further imprisonment for 1 ? years by the Presiding Officer, Fast Track Court No. 1, Siwan, in Sessions Trial No. 27 of 1997/63 of 2001 by a Judgment and order of conviction dated 13.9.2001.

2. The case of the Informant Mudrika Ram was that on 28.7.1986 at 7.20 P.M. he was informed that some Bomb explosion had taken place near the Bathan of the present Appellant. He heard that the Appellant had sustained injury in the said transaction. He then reached the place of occurrence and in the presence of others, recovered certain materials indicating that Bomb explosion had taken place there.

3. During Trial, the Prosecution examined seven witnesses. PW-5 and PW-7 have been declared hostile whereas PW-2 has merely stated that he had noticed that

the smoke was coming out of the Pelani of the Appellant. PW-1 has also not stated anything with regard to the preparation of the Bomb by the Appellant.

4. PW-3 is the Doctor who examined the Appellant Maya Yadav and found Bomb injuries on his person. PW-4 Jagat Nandan Prasad, the then District magistrate, Siwan, had accorded sanction of prosecution.

5. On a fair analysis of this case, I find that there is no positive material against the Appellant of having been engaged in preparation of Bomb. The only material which has been found in support of the same, is that the Appellant had sustained Bomb injuries from which it cannot be positively inferred that the Appellant had been injured while preparing a Bomb.

6. Since the entire case is based merely on speculation and suspicion, I would be inclined to conclude that the Prosecution has failed in proving its case beyond all reasonable doubts.

7. Hence the Appeal is allowed. The order of conviction and sentence dated 13.9.2001 passed against the Appellant in Sessions Trial No. 27 of 1987/63 of 2001 by the Presiding Officer, Fast Track Court No. 1, Siwan, is, hereby, set aside.

8. The Appellant is discharged from the liability of his bail bond.