

(2001) 08 PAT CK 0098
In the Patna High Court
Case No : Criminal Revision No. 304 of 2001

Rajju Rai

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-08-2001

Acts Referred:

Penal Code, 1860 (IPC) — Section 305, 323, 341, 379

Citation : (2001) 4 PLJR 450

Hon'ble Judges : P.K. Deb, J

Bench : Single Bench

Advocate : Satyendra Narain Singh No. 2, for the Appellant; Anjana Prakash, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Deb, J.—This revision petition has been preferred against the order of acquittal recorded by the Judicial Magistrate 1st Class, Saran at Chapra in G.R. No. 2513/90 (Trial No. 33/2001) relieving the accused-opposite parties from the charges under Sections 341/323/305/379 of I Indian Penal Code.

2. The First Information Report was lodged to the effect that on 18.9.1990 while the informant was going to the Hospital where his daughter was admitted r treatment having Rs. 600/- in his pocket for medicine, he was caught by accused persons and when the Petitioner opposed then in the meantime other accused persons came there with hi and iron rod and assaulted the Petitioner. Jhaurilal Rai took six hundred rupees and an H.M.T. watch from the Petitioner. On the basis of the information being lodged in Parsa P.S. Case No. 118/90 investigation was done. During the bourse of investigation, the injured was examined and then charge-sheet was submitted. In total 10 witnesses had been examined for and on behalf of the prosecution; out of them P.Ws. 1, 2, 3 land 4 had posed themselves to be the eye witnesses to the occurrence. They happended to be relations of the informant and by elaborate discussions of all the eye witnesses, the learned court below came to the finding that they cannot be relied on rather

they were not giving true picture of the occurrence. Regarding the injury report also the Radiologist who had done the X-ray had only been examined and as per the injury report given by the Doctor, by touching only he found the injury to fractured injury and as such grievous one. On elaborate discussions of each and very individual witness, the learned court below has arrived at the decision that they cannot be relied on for the purpose of conviction and injury report has also been considered in its proper perspective and as such the acquittal has been recorded.

3. It is the contention of the learned Counsel for the Petitioner that in total 10 witnesses have been examined for and on behalf of the prosecution and they had supported the occurrence in toto and in that way their evidence ought not to have been thrown out on the ground that the statement of the informant at the place of occurrence could not be established as nothing could be shown that he had gone to the hospital to see his ailing daughter. It is only one aspect of the judgment of the court below. Individual evidence of all the witnesses especially who are posing themselves to be the eye witnesses to the occurrence, the court below came to the finding that they could not be the eye witnesses and as such held to be non-believable moreso when they are partisan witnesses.

4. Mrs. Anjana Prakash learned Counsel appearing for and on behalf of the opposite parties has rightly submitted that when the inference arrived at by the learned court below cannot be said to be perverse on the face of it rather the inferences arrived at are also plausible inferences then there is no scope of the revisional court to interfere with the same, even if the revisional court has got a different view regarding the inferences arrived at by the learned court below. On close scrutiny of the impugned judgment I find that the learned court below has considered the evidence in their proper perspective and the inferences arrived at cannot be said to be perverse on the face of it. In that way there is no scope to interfere with the same and hence this revision petition is rejected having no force.