

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.46 of 2016**

Arising Out of PS. Case No.-79 Year-2001 Thana- KARJA District- Muzaffarpur

Parma Singh son of Late Hulash Singh, resident of village- Fanda Goraiya
Sthan, P.S. Karja, District- Muazaffarpur

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant : Mr. Abhas Chandra, Amicus Curiae

For the State : Mr. S.A. Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 06-05-2026

Heard learned counsel *Amicus Curiae* for the
appellant and learned Additional Public Prosecutors appearing
for the State.

2. This appeal has been filed challenging the
judgment of conviction dated 01.12.2015 and order of sentence
dated 05.12.2015 passed by the learned Additional Sessions
Judge 3rd, Muzaffarpur in connection with Sessions Trial No.
399 of 2002 arising out of Karza P.S. Case No. 79 of 2001
whereby and whereunder this appellants has been convicted for



committing offence under Sections 307 and 341 of the Indian Penal Code and has been sentenced to undergo rigorous imprisonment for five years and pay a fine of Rs. 10,000/- under Section 307 of the Indian Penal Code and in case of default of payment of fine, to further undergo simple imprisonment for two months and has been sentenced to undergo simple imprisonment for one month under Section 341 of the Indian Penal Code.

3. The prosecution story, in brief, is that all the F.I.R. named accused persons are agnates of the informant and there is dispute between them regarding *Shisham* tree since long. Last year, informant cut down three *Shisham* trees out of which, one was stolen and when he was bringing other two *Shisham* trees, all the accused persons stopped him and it was decided that the *Shisham* tree will be handed over to the right owner only after measurement of the land. On the alleged date of occurrence, in presence of both the parties, the land in question was measured and the same fell in share of the informant. Thereafter, all the people were returning home at about 1 PM when this appellant told that he would not accept the measurement, which was objected by son of informant, namely Mithilesh Singh, upon which this appellant assaulted son of informant, namely



Mithilesh Singh, by means of knife which caused injury on his shoulder. It is further alleged that when the informant tried to save his son, co-accused Murli Singh caught him and this appellant assaulted on the back of informant with knife and when another son of informant, namely Krishna Singh, came to lift him upon, all the accused persons, including this appellant, assaulted him.

4. In this case, in order to bring home guilt of this appellant, the prosecution has examined altogether nine witnesses. P.W. 1, namely Krishna Singh, who is son of informant, an injured witness and has supported the prosecution case regarding the occurrence and injuries sustained. P.W. 2, namely Vijay Singh, is an eye witness and supported the prosecution case. P.W. 3, namely Ram Pravesh Singh, who was declared hostile. P.W. 4, namely Ram Naresh Singh, did not fully support the prosecution case and his evidence materially differed from the prosecution version regarding manner of assault. P.W. 5, namely Nawal Kishore Singh, who is informant of the present case and failed to fully corroborate the prosecution story regarding the manner of assault. P.W. 6, namely Pradeep Singh, is a formal witness who proved the signature and documentary evidence. P.W. 7, namely Mithilesh



Kumar Singh, who is son of informant, an injured witness and supported the prosecution story. P.W. 8, namely Dr. Dharendra Prasad Singh, is doctor who examine the injured and found the injuries to be simple in nature caused by hard and blunt substance. P.W 9, namely Guddu Kumar, is a formal witness who identified the handwriting/signature of the officers concerned and proved the formal exhibits.

5. On the other hand, the defence has also examined four witnesses. D.W. 1, namely Ranjan Kumar; D.W. 2, namely Randhir Kumar; D.W. 3, namely Mukesh Singh and D.W. 4, namely Ajit Singh.

6. After hearing the parties, the learned trial court convicted this appellant and sentenced his, as indicated in the opening paragraph of this order.

7. Learned *Amicus Curiae* appearing for the appellant assails the order of conviction and sentence on multiple grounds. He contends that in this case, the Investigating Officer has not been examined. Non-examination of the Investigating Officer has caused great prejudice to the defence of the appellant as the defence was not able to contradict the evidence of the witnesses and the place and manner of occurrence could not be proved. It is further contended that in this case, P.W. 2 is



a hearsay witness. P.W. 4 did not fully support the prosecution case. P.W. 1 and P.W. 7 are sons of informant, injured witness and highly interested witness and P.W. 5 is informant of the present case and his testimony suffers from material infirmities. Thus, there is no independent witness who has corroborated the prosecution story. Moreover, doctor has found the injuries, sustained by the injured, simple in nature. Therefore, the prosecution has failed to prove the case beyond reasonable doubts and the trial court has wrongfully convicted this appellant ignoring material contradictions and hence, the appellant is fit to be acquitted.

8. *Per contra*, learned Additional Public Prosecutor for the State submits that the evidence on record unmistakably points to the guilt of the appellant. The prosecution could prove that it was this appellant who committed the occurrence. Charges against the appellant was proved by the prosecution witnesses beyond all reasonable doubt and, therefore, the learned Trial Court was fully justified in convicting the appellant under Sections 307 and 341 of the Indian Penal Code.

9. On going through the rival submissions, evidences and upon perusal of the records, this Court finds that in this



case, Doctor has found the injuries, allegedly caused by this appellant, simple in nature. Moreover, all the witnesses are highly interested witness and there is material contradiction in their testimony which renders the same unreliable, doubtful and untrustworthy. From the evidence adduced, it appears that both parties are agnates, there is admitted land dispute between the parties and the occurrence took place during measurement of land, on the spur of the moment. In this case, the Investigating Officer has not been examined, which has caused great prejudice to the defence as the defence could not get documentary evidence, explain the material discrepancies and contradict the witnesses. Evidence also reveals admitted prior enmity and land dispute between the parties, thereby rendering possibility of false implication.

10. It is settled law that in criminal cases, since life and liberty of the accused are involved, a strict standard of proof is required as to prove the guilt of the accused. It is not the preponderance of the probabilities that establishes the guilt of the accused. It is necessary that the evidence on record must prove it beyond reasonable doubt. A conviction cannot be based on the consideration that the prosecution story may be true. The accused can only be convicted if the court reaches the



conclusion that the prosecution story must be proved. The burden of proving the guilt of the accused is upon the prosecution. In this case, the prosecution has miserably failed to prove the guilt of the appellant beyond reasonable doubt and thus, the appellant is entitled to be given the benefit of doubt.

11. Accordingly, the impugned judgment of conviction dated 01.12.2015 and order of sentence dated 05.12.2015 passed by the learned Additional Sessions Judge 3rd, Muzaffarpur in connection with Sessions Trial No. 399 of 2002 arising out of Karza P.S. Case No. 79 of 2001 are hereby set aside with respect to this appellant only.

12. In that view of the matter, appellant, above named, is discharged from the liability of his bail bonds in connection with this case.

13. Mr. Abhas Chandra (AUIN- 101556), who was appointed as an *Amicus Curiae* in this case, shall be paid Rs. 10,000/- (Rupees Ten Thousand) by the Patna High Court Legal Services Committed, Patna towards his professional fee for extending valuable assistance to this Court in deciding this appeal.

14. Accordingly, this appeal stands allowed.

15. Interlocutory application/s, if any, also stands



disposed off.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
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