

Laldeo Paswan and Others Vs. State of Bihar

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Court : Patna

Decided On : Mar-04-2014

Judge : Dharnidhar Jha

Appeal No. : Criminal Appeal (SJ) Nos. 383, 391, 394 & 396 of 2002

Appellant : Laldeo Paswan and Others

Respondent : State of Bihar

Judgement :

Dharnidhar Jha :

Smt. Meena Singh and Shri Ashutosh Ranjan Pandey, Advocate, appear in Cr.Appeal Nos. 383 and 396 of 2002. None appears in the remaining two connected appeals. The court has requested Shri Neeraj Kumar and Smt. Uma Kumari, who are present in Court room to assist me in Amicus Curiae.

The present batch of four appeals arise out of judgment dated 3.7.2002 passed by the learned 6th Additional Sessions Judge, Aurangabad in Sessions Trial no. 318 of 1999/ 304 of 2001. By the impugned judgment, the five appellants were held guilty of committing offence under Section 395 of the Indian Penal Code and after being heard on sentence each of them was directed to suffer rigorous imprisonment for seven years.

Appellants- Arjun Rajwar and Ravidnra Paswan were also convicted under Section 412 of the Indian Penal Code and each of them were directed to suffer rigorous imprisonment for three years on that count. Sentences were directed to run concurrently.

The case related to an incident dated 10th of May, 1999 having taken place at around 7.30 P.M. when the informant along with his Bahnoi- Bhanu Pratap Singh (not examined) his son Awanish Kumar (P.W.9) and brother Lallu Singh (P.W.8) was going to one of his relatives at village Madera in the district of Rohtas by the Tata Sumo bearing no.W.B. 026/4558 It was about 9 P.M. and the informant found that road block has been created by putting some big stone boulders in the way, as a result of which the driver of the vehicle slowed down the vehicle. Bhanu Pratap Singh, brother in law of the informant, asked the driver to go back and accordingly, when the driver was in the process of getting the vehicle back, 5-6 criminals came and surrounded the vehicle. The informant stated that he was about to run but the criminals threw a bomb as a result of which the driver was injured around his eye and was forced to stop the vehicle, which was surrounded by the criminals. The informant has further stated that except the one, who was armed with a country made pistol, others were armed with Lathi/Danda in their hands. A gold chain and VIP attach containing certain cloths, Yasik Camera,cash and other articles were taken away by the dacoits. Likewise, the other occupants of the vehicle were also relieved of their belongings like watch etc.

It appears that the injured driver was rushed to Bose Dehri clinic and he his fardbeyan was recorded there and on that basis the case was instituted and the investigation was carried out. There is no evidence of any investigating officer as to how the investigation proceeded, but it appears from the judgment that the five appellants were suspected to have participated in commission of the offence and were put on trial after being charged under Sections 395 and 412 of the Indian Penal Code, which ultimately ended in their conviction, as noted above.

Nine witnesses were examined by the prosecution in support of the charges. P.Ws 1 to 5 were witnesses to the seizure list and they also do not support the factum of seizure of any article in their presence or within their knowledge. The properties

were also allegedly recovered from the accused persons and, as it appears from the record, they were put for identification and some of them were identified. But again, neither the investigating officer, who had recovered the property nor the officer who had supervised the identification parade in respect of the recovered articles was examined and as such, the evidence on identification of recovered article was deficient.

As regards the identification of five appellants, who had allegedly participated in commission of dacoity, there is no evidence in that behalf . The identification of articles by identifying witness like P.W.6. appears doubtful as he had stated in para 4 of his evidence that the articles were not his articles and he did not know as to from where those articles were produced by the investigating officer and further that those articles were readily available in the market and the same could be hired. This was the quality of the evidence on which the appeal has been preferred to challenge the judgment of conviction and order of sentence.

After having heard learned counsel for the appellants, the State and after having considered the evidence , there is no doubt that the impugned judgment was passed on no evidence.

In the result, the appeal is allowed and the judgment of conviction passed against the appellants is set aside. The appellants are acquitted of the charge. They shall be discharged from the liability of their bail bond.

Shri Neeraj Kumar and Smt. Usha Kumari shall be paid one fee each of hearing and for that purpose let the copy of the first and last pages of the judgment be made over to Shri Neeraj Kumar and Smt. Usha Kumari.

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