

Nanda Bhat Vs. State of Bihar

Nanda Bhat Vs. State of Bihar

SooperKanoon Citation : sooperkanoon.com/138236

Court : Patna

Decided On : Oct-26-1999

Judge : R.N. Sahay, J.

Appeal No. : Criminal Appeal (S.J.) No. 247 of 1991

Appellant : Nanda Bhat

Respondent : State of Bihar

Disposition : Appeal Allowed

Judgement :

R.N. Sahay, J.

1. This is jail appeal. The appellant Nanda Bhat, who was resident of village Amuni, P.S. Mewadih in the district of Barabanki (U.P.), has been convicted under Section 395 of the Indian Penal Code and sentenced to seven years imprisonment by the 5th Additional Sessions Judge, Munger by his judgment and order dated 3-7-1991.

2. On 16-4-1988, Dwarika Singh, driver of a Public Carrier Truck No. BRB-9125 was passing through Jamui Malepur Road. The truck loaded with coal, was on its way to Madhubani. On Jamui Malepur Road, tyre of the truck got punctured near Khairma Bridge. The truck was stopped to change the wheel. Owner of the truck

Ashok Shah was also in the truck. The driver, owner and the khalasi were engaged in the process of changing the tyre. In the meantime, 5-6 persons came running and asked these persons not to move. Some of them were also armed with lethal weapons and aforesaid three persons were held captive and taken on the left side of the road. The owner and khalasi were made to sit and the driver was taken to switch on the light of the truck. The driver Dwarika Singh claims to have identified the miscreants and gave their description. The miscreants removed 15-20 Audio cassettes and snatched Rs. 400/- from the person of the owner of the truck. Another truck was also looted.

3. This appellant and other persons were arrested on suspicion on 3-4-1988 and placed on T.I. Parade after five months. There is no explanation why holding of T.I. Parade was delayed for five months. Dwarika Singh could not identify the appellant in Court. Witness Rajendra Yadav identified the appellant in Court. He also identified him in T.I. Parade. Another witness Raso Yadav, Khalasi of the truck identified the appellant in T.I. Parade and also in Court. It is clear from the First Information Report that the owner and khalasi of the truck were made to sit away from the truck. It was not possible for this witness to have vision of the culprits in the light of the truck.

4. The appellant in his defence has pleaded that he has been implicated by the police for not obliging the Sub-Inspector of Police. The appellant used to collect honey. His defence was that the Police Sub-Inspector wanted the appellant to supply honey to him.

5. Heard Mrs. Suchitra Prasad, who argued the appeal as Amicus Curiae. She has argued the appeal with ability. She has submitted that no reliance could be placed on the identification of two witnesses when the occurrence had taken place in the night and the appellant was put on T.I. Parade on 19-8-1988 whereas he was arrested on 3-4-1988.

6. There is much force in her submission. There is no reason why the appellant was not placed on T.I. Parade immediately after his arrest. Both the witnesses appear to be unreliable and otherwise also the evidence is not sufficient for conviction of the appellant. Learned Additional Sessions Judge, in my opinion was

not right in convicting the appellant on meagre evidence which is not free from doubt.

7. In the result, this appeal is accordingly allowed and the conviction of the appellant is set aside and he is acquitted of the charges. The appellant has already served out the sentence.

8. Let a copy of this judgment be given to Mrs. Suchitra Prasad.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com