

CASE NO.:
Appeal (crl.) 392-393 of 1998

PETITIONER:
AYODHYA SINGH

RESPONDENT:
STATE OF BIHAR & ORS.

DATE OF JUDGMENT: 03/02/2005

BENCH:
B.P.SINGH & B.N.SRIKRISHNA

JUDGMENT:
J U D G M E N T

B.P.SINGH, J.

We have heard counsel for the Appellant who is the informant. As many as eight persons were put up for trial before the 2nd Additional Sessions Judge, Bhabua in Sessions Trial Case No. 285/5 of 1994. By Judgment and Order dated 22nd November, 1995 the Trial Court acquitted as many as six of the accused persons but convicted Respondent Nos. 2 and 3 of the offences under Section 302 IPC and Section 27 of the Arms Act. Respondent No. 2 was sentenced to death whereas Respondent No.3 was sentenced to imprisonment for life.

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Two separate appeals were preferred by Respondent Nos. 2 and 3 before the High Court of Judicature at Patna being Criminal Appeal Nos. 379 and 406 of 1995 which were heard along with Death Reference No.3 of 1995. The High Court, on a consideration of the evidence on record, came to the conclusion that the Trial Court was fully justified in acquitting six of the accused persons and the evidence of the eye-witnesses did not appear to be reliable inasmuch as even those eye-witnesses who alleged overt acts against some of the acquitted accused persons were not believed. In fact, two of the accused persons against whom overt acts were alleged, were not even named in the first information report. The High Court thereafter considered the evidence of the sole eye-witness, the informant Ayodhya Singh (PW9), and did not rely on his evidence, particularly when the other eye-witness namely Jatau Ram was not even examined by the prosecution. The High Court has noticed the fact that the deceased and the prosecution witnesses are closely related. The High Court was not satisfied with the evidence led by the prosecution

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with regard to the motive for the assault nor did the genesis of the occurrence appear to be natural. Having regard to all these facts, the High Court gave Respondent Nos. 2 and 3 the benefit of doubt and acquitted them of the charges levelled against them.

We have gone through the record placed before us and having considered the material on record we are satisfied that the view taken by the High Court is a possible reasonable view on the evidence on record. It is well settled that if on the same evidence two views are

reasonably possible, where the Court below takes a view in favour of the accused, the Appellate Court will not set aside the order of acquittal unless it finds the findings to be perverse, highly unreasonable, based on no evidence on record or made in ignorance of relevant evidence on record or for other such reasons. We find that in the instant case, the High Court appreciated the evidence on record and recorded its findings which appear to be reasonable and based on evidence on record.

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We, therefore, find no reason to interfere with the Judgment of the High Court. These appeals are, therefore, dismissed.

JUDIS