

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.78 of 1994

Arising Out of PS.Case No. - 40- year 1991 Thana – Bengali Bazar, Saharsa District- Saharsa

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The State of Bihar

.... Appellant

Versus

1. Dharam Nath Choudhary
2. Vakil Choudhary
3. Shambhu Choudhary
4. Kailash Choudhary
5. Dharamshila Devi @ Dhari Devi
6. Bilash @ Rambilash Choudhary.

.... Respondents

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Appearance :

For the Appellants : Mr. A.K. Sinha, A.P.P.

For the Respondents : None.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 13-07-2015

Instant Government Appeal, preferred by the State, is directed against judgment dated 18.08.1994 passed by 2nd Additional Sessions Judge, Saharsa in Sessions Trial Case No. 82 of 1992/11 of 1992, whereunder the six respondents i.e. the husband, in-laws of the deceased Munni Devi, have been acquitted of the charge under Sections 304B, 498A and 201 of the Penal Code, Section 4 of the Dowry Prohibition Act.

2. Prosecution case, as set out in the First Information Report of the maternal brother of Munni



Devi (Exhibit-1/2) is that informant along with mother of the deceased and others came to meet Munni Devi at her in-laws' house where she was not available, the informant and others were informed by the accused persons that she disappeared 20 days earlier and is traceless. Informant and others thereafter asked the villagers about Munni Devi and in presence of the villagers accused persons accepted that 20 days earlier she suffered burn injuries because of electrocution and died, her dead body was put in a gunny bag and carried on the push cart of Jai Narayan Bhagat and thrown near the culvert on the river front. During investigation the dead body of Munni Devi could not be recovered, however, from seizure-list dated 25.09.1991 (Exhibit-1) drawn in connection with Saharsa Railway Police Station Case No. 40/91 it appears that 12 pieces of bone, bunch of hair etc. were recovered but from the same the identity of the person whose bones or bunch of hair was seized is not established. Investigating Officer of the case placing reliance on the contents of the First Information Report and the police statement of the mother of Munni Devi as also others submitted



charge-sheet against the six accused persons put on trial. After submission of charge-sheet cognizance was taken and case was committed to the court of Sessions. The Sessions court framed charges under order dated 19.08.1992 to which the accused persons pleaded not guilty, claimed to be tried.

3. In support of the charge prosecution examined as many as 14 witnesses including the informant (P.W. 12), mother of the deceased Kaushalya Devi (P.W. 13). The accused persons also examined four witnesses.

4. The informant and other witnesses except the mother of the deceased Munni Devi (P.W. 13) have not supported the occurrence. Evidence of P.W. 13 has not been relied by the trial court giving reasons as there was nothing to establish that the bones and the bunch of hair found on the river side was of deceased Munni Devi. The trial court has also considered another aspect of the matter that the relationship between Munni Devi and her in-laws including husband was admittedly strained, yet no information about such strained relationship between the two was ever given to the police. Trial court

having acquitted the husband and the in-laws under the impugned judgment, in the circumstances, at this distance of time i.e. after more than 20 years of their acquittal, it may not be appropriate to set aside the impugned judgment, all the more when there is nothing to establish that the bones and the bunch of hair seized in connection with Saharsa Rail P.S. Case No. 40/91 was the remnants of the deceased Munni Devi. We see no merit in the appeal, which is dismissed.

(V.N. Sinha, J)

(Jitendra Mohan Sharma, J)

N.A.F.R.
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