

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.171 of 1993

Arising out of PS.Case No. 267 Year- 1991 Thana – Arrah Town District- BHOJPUR

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1. Ranjit Singh, son of Sita Ram Singh
 2. Shri Bhagwan Singh @ Shri Bhagwan Yadav, son of Devi Deyal Yadav,
Both residents of Village- Bhaluhipur, P.S. Arrah Town, District- Bhojpur.
- Appellants

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellants : Mr. Dineshwar Mishra, Advocate.
Mr. Surendra Mishra, Advocate.
Mr. Ajit Kumar Singh, Advocate.

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

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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: 21-07-2015

This appeal is directed against the judgment of conviction, order of sentence dated 25.02.1993 passed by 1st Additional Sessions Judge, Arrah in Sessions Trial No. 179/1992, whereunder the two appellants have been convicted for the offence under Sections 302/34, 201/34 of the Penal Code and sentenced to suffer Rigorous Imprisonment for life, three years under the two counts. The sentences, however, have been directed to run concurrently. They have also been directed to pay a fine of Rs. 200/-, 100/- each respectively under the two counts,

on their failure to pay the same, to undergo further Rigorous Imprisonment for three months.

2. Prosecution story, as set out in the fardbeyan of informant (P.W. 1) Sudama Prasad Bind is that he had seen the two accused persons coming to his house on 16.08.1991 between 10:00-11:00 A.M., taking his brother Subhash Bind along with them. Later on the same day around 3:00 P.M. informant learnt from his nephew Lakshman Bind, who has a Litti stall in the local country made liquor shop, that in the liquor shop itself both the accused persons and Subhash Bind had taken liquor and thereafter had gone towards the river side. Sometime thereafter Accused No. 2 Sri Bhagwan Yadav came back, told him that he and Accused No. 1 Ranjit Singh had killed his uncle Subhash Bind. Lakshman Bind thereafter came to his house and informed his uncle P.W. 1 Sudama Prasad Bind whereafter Lakshman Bind, Sudama Prasad Bind and other villagers went towards the river side and after spotting the dead body took out the same from the river bed and informed the police, whereafter Inspector R.A. Singh, Officer-in-Charge, Arrah Town



Police Station recorded the fardbeyan in the river side at Gumati Bhalahipur Embankment (बांध) near place of occurrence on 16.08.1991 at 5:15 hours. Attesting witness of the fardbeyan (Exhibit-3) are Tarkeshwar Prasad, Indradeo Prasad. At the place of occurrence itself inquest was conducted on the same day at 6:00 P.M. by S.I. Rameshwar Prasad. From the Inquest Report (Exhibit-5) it appears that the deceased Subhash Bind had suffered injury by a sharp cutting weapon on his neck. After inquest over the dead body of Subhash Bind, the dead body was sent for post mortem to Ara Sadar Hospital, which was received in the hospital at 9:05 P.M. on 16.08.1991. The post mortem was, however, conducted next morning on 17.08.1991 at 7:10 A.M. In the light of the fardbeyan, further statement of the informant, police statement of Lakshman Bind and other witnesses as also the Inquest, Post Mortem Report, charge-sheet was submitted against both the accused persons. In the light of the charge-sheet cognizance was taken and the case was committed to the court of Sessions. The Sessions Judge framed charges under Sections 302/34, 201/34 of the Penal Code against the two

accused persons under order dated 21.05.1992 to which both the accused persons pleaded not guilty, claimed to be tried.

3. In support of the case, prosecution examined as many as 12 witnesses. P.W. 1 Sudama Prasad Bind is the informant and brother of the deceased. P.W. 2 Dr. Triyogi Narain Prasad is the Medical Officer of Ara Sadar Hospital who conducted post mortem over the dead body of the deceased. P.W. 3 Parwati Devi, P.W. 4 Naradh Bind, P.W. 5 Laxman Bind are the wife, brother and nephew of the deceased respectively. P.W. 6 Lalmohar is brother-in-law of the deceased. P.W. 7 Bhim Prasad is the father of the deceased and has been declared hostile. P.W. 8 Tarkeshwar Prasad is a seizure-list witness. P.W. 9 Mankeshwari Devi is the distant daughter-in-law of the deceased. P.W. 10 Basista Bind is brother of the deceased but was not included in the charge-sheet as a witness in support of the prosecution. P.W. 11 Ram Bharos Bind is a co-villager of the informant but from his evidence it does not appear as to how his evidence is relevant to support the prosecution story. P.W. 12 Ram Aasray Prasad is the Investigating Officer of the

case.

4. Learned counsel for the appellants submitted that none of the prosecution witnesses have supported the prosecution case as an eye-witness of the occurrence. It is also submitted that their evidence does not indicate as to how chain of circumstances, connecting the two appellants with the murder of the deceased, can be completed. It is submitted that according to the informant (P.W. 1) he had seen deceased Subhash Bind going along with the two accused persons in the afternoon from his house, whereafter the two accused persons, according to the informant, were seen with the deceased by Lakshman Bind who saw them drinking in the local country made liquor shop and thereafter going towards the river side and sometimes thereafter Accused No. 2 Sri Bhagwan Yadav is said to have returned and informed Lakshman Bind that he along with Accused No. 1 Ranjit Singh had killed his uncle Subhash Bind with a sharp cutting weapon which fact Lakshman Bind had informed the informant and thereafter informant along with villagers and Lakshman Bind had gone to the river side, searched



for the body and after discovering the same took out from the river bed but in court Lakshman Bind has not supported that he ever informed P.W. 1 Sudama Prasad Bind that he saw deceased going along with the two accused persons towards river side on 16.08.1991 in the afternoon and that later in the same afternoon Sri Bhagwan Yadav informed him that he along with Ranjit Singh had killed his uncle Subhash Bind.

5. Trial court held the two accused persons guilty with reference to the evidence of informant and other prosecution witnesses holding that the chain connecting the two accused persons with the murder of Subhash Bind is complete but in our opinion such finding of the trial court cannot be sustained in the light of the fact that P.W. 5 Lakshman Bind had not even supported the story narrated by the informant in the fardbeyan that it was Lakshman Bind who had informed him about the murder. Such being the position, there is hardly any material on the basis of which we can maintain the conviction of the two appellants.

6. In the circumstances, we have no

option but to grant the appellants benefit of doubt.
The impugned judgment of conviction, order of sentence is, accordingly, set aside. The appeal is allowed, both the appellants are directed to be discharged from the liabilities of their respective bail bonds.

(V.N. Sinha, J)

(Jitendra Mohan Sharma, J)

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