

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.607 of 2009

Arising Out of P.S.Case No. 28 Year- 1997 Thana –Khaira District- JAMUI

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1. Suresh Yadav,
 2. Bhagwan Yadav, both sons of Late Ramtahir Yadav, resident of village-Bhithara, P.S. Sono, District-Jamui.
 3. Guhni Devi, wife of Sri Laljeet Yadav
 4. Parmeshwari Devi wife of late Masudan Yadav, both resident of village-Deopur, P.S. Khaira, District-Jamui.

.... Appellants

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellants : Shri Prakash Mahto, Advocate.

For the Respondent : Shri Dilip Kumar Sinha, APP.

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA

and

HONOURABLE SHRI JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA)

Date: 26-06-2015

The learned Sessions Judge, Jamui put four persons- three appellants, namely, Bhagwan Yadav, Guhni Devi and Parmeshwari Devi with deceased appellant Suresh Yadav- on trial in Sessions Trial No.200 of 1999/176 of 2009 by charging them of committing offences under Sections 302/34 and 201 Indian Penal Code. The learned Judge delivered the judgment on 24.06.2009 and held the four accused persons including the three appellants guilty of committing the offences they had been charged with. The convicts were heard on sentence on the same day and each of them was directed to suffer rigorous imprisonment for life as also to pay a fine of Rs.10,000/-



each, else to suffer simple imprisonment for six months each on account of having been found guilty under Section 302 Indian Penal Code. As regards their conviction under Section 201 Indian Penal Code each of them was directed to suffer rigorous imprisonment for five years. The sentences imposed upon the convicts were directed to run concurrently.

2. The four convicts preferred the present appeal and during pendency thereof appellant Suresh Yadav was reported dead. By order dated 24.06.2015, the appeal as on behalf of appellant Suresh Yadav was abated as regards the substantive sentence of imprisonment. Thus, leaving the present appeal surviving only on behalf of appellants Bhagwan Yadav, Guhni Devi and Parmeshwari Devi.

3. Some of the facts are not disputed. Deceased Ranju Kumari was the daughter of informant Bangali Yadav (P.W.19) and she was married some five years back from 12.04.1997 to deceased appellant Suresh Yadav. When she was out in the evening on 12.04.1997 to attend to call of nature, she disappeared, her dead body, subsequently to be found floating in the well belonging to the informant himself at the cattle shed which was located away from his residential house.

4. The allegation was that the deceased appellant Suresh



Yadav was a man of criminal behaviour and the deceased was not inclined to join him in his house as his wife and refused to go with him when he had come to take away the lady on the 12th of April, 1997 on the ground that the deceased appellant Suresh Yadav should give up the company of his criminal friends. The informant stated that on 12.04.1997 when deceased appellant Suresh Yadav had come to take his wife Ranju Kumari back to his house, the informant had asked him to bring five more persons along with his family members to his house for a Panchayati and then only the informant would allow his daughter to accompany Suresh Yadav to his house. It was stated that deceased appellant Suresh Yadav came with one Naresh Yadav and another unknown to the house of the informant and took his meals there, but no headway was made in the negotiations for the *Rukhshadi* of the deceased from her father's house to that of his husband as the informant insisted upon talking to the accused Suresh Yadav only in presence of five *Panches*. Deceased appellant Suresh Yadav along with his brother Naresh Yadav and another unknown stayed at the house of one of his relatives and met the informant in the morning outside the village in the field and had threatened the informant that his wife Ranju Kumari had to be taken by him at any cost.

5. It was in the evening of 12.04.1997 that the deceased had gone with some other ladies of the village, i.e., the wives of Laljit



Yadav and Masudan Yadav to attend to call of nature, but she did not return and on enquiry the two ladies initially could not give any clue. But, subsequently, yielded to the pressures to point out that some villagers from the village of the present appellants were moving around and probably they could have taken away the deceased Ranju Kumari. The informant stated that his son and others went to the house of appellant Bhagwan Yadav but they did not give any clue and rather stated that they did not know anything about the circumstances and sarcastically remarked that let the informant call more *Panchayaties* for the purpose. It was stated that one *Panchayati* was subsequently convened in some line hotel and appellant Bhagwan Yadav had assured the return of the deceased lady Ranju Kumari to her parents' house within a fortnight or so. However, when the informant had returned to his house after attending the *Panchayati*, he found his wife and other family members weeping and wailing and, was told that the dead body of Ranju Kumari was floating in his very well situated at the cattle shed. The informant went there and saw by himself the dead body in the well.

6. It was stated by the informant that he went to the police station and gave a written report to the Assistant Sub Inspector of Police who was present there but nothing happened. Lastly, when the Officer-in-Charge had come, he gave his *fardbeyan* on 15.04.1997

at about 10 P.M.

7. The investigation had been taken up by P.W.21 S.I. Babu Lal Baitha who brought the dead body out of the well, held inquest upon it, sent the same for postmortem examination and after questioning the witnesses and other persons who could be acquainted with the facts and circumstances of the case and completing the investigation, he sent up the four accused persons for their trial which ended in the impugned judgment.

8. During the course of the trial, twenty one witnesses were examined and what appears is that P.W.4 Surendra Yadav, P.W.8 Ravindra Yadav, P.W.9 Manju Devi who happened to be the daughter of the informant, P.W.17 Pramila Devi, the daughter-in-law of the informant, P.W.18 Janki Yadav and P.W.19 Bangali Yadav gave some evidence in support of the prosecution story. Other witnesses were not supporting the story and they were declared hostile. P.W.20 Dr. Satya Narayan Singh had held postmortem examination and had found that the dead body was in a swollen and decomposed condition with maggots present all over the body. The neck was swollen with redness and congestion. The tongue had protruded out on the right side but both the eyes were open. Multiple bruises and blisters were found present over the front, chest, back of abdomen and front of abdomen.

9. There was a laceration of vagina on both sides of the uterus index with further laceration of vaginal canal. Blisters were present over face and extremities and the teeth was clenched under congested mouth which was open.

10. Thus what appears is that the lady had been ravished and probably had been asphyxiated thereafter to death which opinion also appears rendered by P.W.20.

11. Witnesses who came to tell some part of the story, like, P.Ws.4, 8, 9, 17, 18 and 19, in fact, did not lead to any concrete inference. They all stated that the lady had gone out to ease in the cover of the darkness with the wives of Masudan Yadav and Laljit Yadav and she did not return and when the two ladies were questioned by the family members, like, the witnesses they stated that some persons from village-Bhithara, i.e., the village of the present appellants, were seen roaming around the place and they suspected that the lady had been taken away by them. The two ladies were not examined. So it remains inadmissible and uncertain piece of evidence to place reliance upon because the witnesses who came to depose to the above fact were not themselves the persons who had seen any one moving around. Thus, what we find is that persons from village Bhithara, leaving aside the three appellants, could not be said with certainty to be roaming around the scene of occurrence and, as such,



could not even be suspected to have their hands in any manner in causing the disappearance of the deceased Ranju Kumari. The deceased was definitely strangled to death and she was strangled to death after she had been brutally assaulted sexually as appears from the evidence of the doctor. Deceased appellant Suresh Yadav was alleged to be having link with some of his criminal friends and the informant along with his daughter the deceased Ranju Kumari, were unhappy with the company which deceased Suresh Yadav was keeping. He had been asked to shun the company of his criminal friends and to reform himself by bringing himself on to the right path. There is no evidence nor there was any allegation as to how the deceased appellant Suresh Yadav had responded to that advise of the informant and his wife, but this appears sufficiently pointed out by the evidence of the witnesses that the deceased Ranju Kumari had refused to join the company of her husband deceased appellant Suresh Yadav on account of her husband having fallen into bad company. The informant was annoyed with him. The deceased had refused to live with her husband and the very prosecution story that the informant was insisting upon discussing the issue at least with five persons in addition to the family members of deceased appellant Suresh Yadav itself indicated that they were not mentally prepared to allow the daughter of the house to live in the company of a person of

criminal antecedent or behavior. The deceased Ranju Kumari disappeared suddenly in the evening on 12.04.1997 and she could not be traced out.

12. There was some evidence of witnesses, like, P.Ws.4 and others that in a *Panchayati* which was convened at a line hotel appellant Bhagwan Yadav had assured the informant and the witnesses to ensure that the deceased Ranju Kumari was back to her parents house but that particular incriminating fact appears not put to appellant Bhagwan Yadav in his statement under Section 313 Cr.P.C. So, that particular circumstance in spite of being very innocuous appears of no use so as to raising any inference even if the appellant had the knowledge of the whereabouts of the deceased Ranju Kumari. Not only that if the accused persons had already killed the deceased Ranju Kumari as per the prosecution story or suspicion which was raised by them, then she had been killed prior to 14.04.1997 as the decomposition of the body and the findings of the maggots itself indicates that the lady could have been killed many days prior to 15.04.1997. If that was so and the accused had the knowledge about the incident, then they must not have promised the return of the lady to her parent's house. These are some of the suspicious circumstances appearing from the prosecution evidence making it utterly unsafe to uphold the judgment of conviction and order of sentence.

13. In the result, the appeal succeeds and the same is allowed. The conviction and sentence passed upon each of the appellants are hereby set aside. The appellants are acquitted of the charges they had been held guilty of. The three appellants are on bail. They shall stand discharged from the liabilities of their respective bail bonds.

(Dharnidhar Jha, J.)

(Ahsanuddin Amanullah, J.)

B.Kr./-Saif.

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