

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.57 of 2015

Arising Out of PS.Case No. -3 Year- 2007 Thana -DHANAHAN District-
WESTCHAMPARAN(BETTIAH)

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Sayda Khatoon, wife of Taj Mohamed, resident of Padri, Piprapati, P.S.
Jatha, District- Kushinagar, U.P.

.... Appellant

Versus

1. The State of Bihar
 2. Rameshwar Sharma, son of Paras Sharma, resident of Village- Daunha, Nawaka Tola, P.S. Dhanaha, Dist- West Champaran.
 3. Sukhal Sharma, son of late Ghuran Sharma, and
 4. Ram Ashish Sharma, son of late Dhanesh Sharma
- Both residents of Village- Parari Piparpati, P.S. Jatha, District- Kushinagar.

.... Respondents

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Appearance :

For the Appellants : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

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

Date: 20-01-2015

Informant of Dhanaha P.S. Case No.

3/2007 has filed this appeal against the judgment dated 01.09.2014, passed by Additional Sessions Judge-IIInd, Bagaha, West Champaran in Sessions Trial No. 33 of 2008/Sl. No. 01 of 2014, whereunder accused of the said case (Respondent Nos. 2 to 4) have been acquitted of the charge under Sections 302, 201 read with Section 34 of the Penal Code for committing murder of Akhtaj Mohammad and one Neyaz @ Munna.



2. Prosecution case as it has appeared during investigation and while recording evidence of the said case is that the two deceased had gone to the house of Accused No. 1 (Respondent No. 2) 20-22 days prior to the recovery of their dead body from pond for dinner, whereafter they were never seen and their bodies were recovered from the pond. After recovery of the dead bodies, *fardbeyan* was registered by Chowkidar at whose instance the bodies were recovered from the pond and subjected to *post mortem* vide *post mortem* report on the date of recovery itself i.e. 04.02.2007 in which the age of the two deceased was assessed as 20-25 years with further opinion that they died 48-72 hours prior to the *post mortem* examination. From the evidence of the sister-in-law of deceased Akhtaj Mohammad (P.W. 8) it appears that the two deceased were 13, 16 years old and in the light of the age disclosed by P.W. 8 and the one found by the doctor, trial court has even doubted the identity of the two deceased. Trial court has further disbelieved the prosecution case on the ground that deceased had gone to the house of Accused No. 1 for dinner 20-22 days prior to the



recovery of their dead body and their death having occurred between 48-72 hours prior to the recovery of their dead body the two deceased could not have been in the company of Accused No. 1 where both had gone for dinner 20-22 days earlier as in the next morning P.W. 5 the brother of deceased Akhtaj Mohammad and father of the other deceased Neyaz @ Munna had visited the house of Accused No. 1 who was available in his house and told the two that the deceased had not come to his house, yet thereafter no information was lodged to the Police Station.

3. The view taken by the trial court appears to be reasonable. In the circumstances, we do not find any merit in the appeal, which is dismissed.

(V.N. Sinha, J)

(Rajendra Kumar Mishra, J)

P.K.P.

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