

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.303 of 2016

Arising Out of PS.Case No. -191 Year- 2013 Thana -MOHANIA District- BHABHUA (KAIMUR)

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KALENDAR KUMAR @ KALENDRA KUMAR S/o Jang Bahadur Prasad, R/o
Village - Bhokhari, P.S. - Kargahar, District - Rohtas.

.... Appellant/s

Versus

1. The State of Bihar
 2. Prakash Ram @ Jay Prakash Ram, S/o Hari Ram,
 3. Mewalal Ram, S/o Hari Ram,
 4. Hari Ram, S/o Late Bhukhan Ram,
 5. Trioka Devi, W/o Hari Ram,
 6. Kumari Devi, W/o Mewa Lal Ram,
 7. Kusum Devi, W/o Mishri Ram,
 8. Sanjay Ram, S/o Mewalal Ram,
- All 2 to 8 R/o Village - Devariya, P.S. - Mohaniya, District - Kaimur (Bhabhua).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 11-08-2016

Heard learned counsel for the appellant, who is none other but the informant of the case and cousin brother of the deceased. This is an appeal against acquittal. The accused persons were charged with offence under Section 302 of the Indian Penal Code, alternatively, under Sections 304-B and 201 of the Indian Penal Code. The Court upon perusal of the evidence has acquitted the accused persons, as charge not having been established. It appears, on



01.07.2013 on basis of statement of the informant-appellant First Information Report was lodged, inter alia, alleging that on the night of 27-28.06.2013 the appellant came to know about the death of his cousin sister, who was married 10-11 years prior to her death. On inquiry he was told that she was in hospital, gone to the hospital and did not find her there. He allegedly lodged First Information Report thereafter.

We must therefore, first note that as per the appellant's own showing death and cremation had taken place on 28.06.2013. The fardbeyan was lodged on 01.07.2013 long after cremation with no explanation of delay.

Learned counsel for the appellant submits that the police wrongly delayed registration of the First Information Report. The submission is devoid of any material, inasmuch as, in course of trial no such plea was at all taken. The Trial Court has noticed that large number of charge-sheet witnesses, who were of the house where the death occurred, turned up in the court. Learned counsel for the appellant draws attention of the Court to the deposition of the daughter of the deceased who was about 7 years of age. She merely stated that her father and others had killed her mother and carried her in a sack to a railway track. There is no other evidence to support this. Learned counsel for the appellant states that the village chowkidar had

seen the dead body on the railway track and informed the police. Again this is a submission not supported by evidence on record; inasmuch as, nothing has been brought on record with regard to village chowkidar for his evidence. Court has to proceed on evidence brought on record.

Considering all these aspects, we are not inclined to interfere. We may also note that right to file an appeal under Section 372 of the Code of Criminal Procedure is available to the prosecution and the aggrieved party. Cousin of the deceased cannot be said to be an aggrieved party.

For the aforesaid reasons, we are not inclined to interfere in the matter. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	
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