

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No 301 of 2016

Arising Out of PS.Case No. -5 Year- 2014 Thana -GOPALPUR District- BHAGALPUR

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Soni Devi W/o Late Pankaj Kumar, Resident of Village - Saidpur, P.S. - Gopalpur,
District - Bhagalpur.

.... Appellant/s

Versus

1. The State of Bihar
2. Rama Nand Kumar, S/o Madari Kumar,
3. Binay Kumar, S/o Sri Ram Kumar, Both are residents of village - Saidpur, P.S. -
Gopalpur, District - Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Krishna Prasad Singh, Sr Advocate with
Mr Bhaskar Shankar, Advocate

For the S t a t e : Mr D K Sinha, APP

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE SANJAY PRIYA

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 23-12-2016

Heard Shri Krishna Prasad Singh.

2 There is no delay in filing this appeal against acquittal.

We have heard learned Senior Counsel at length and also
perused the judgment under appeal and we have no reason to interfere.

3 Learned Senior Counsel submits that the trial Court had
relied on statements, as recorded in the case diary, which he could not
do. We do not agree inasmuch as the Court has used the statements,
as recorded in the case diary, only for the purposes of contradiction



which is permissible. The witnesses were asked whether they had deposed or their statements had been recorded by the Police. The Investigating Officer was confronted with the statements so recorded. The statements are at variance than what was being deposed in the Court. On examining the evidence of each of the witnesses, the Court came to the conclusion that there was serious doubt that they were in fact eye witnesses to the occurrence. Court also noticed that though, seeking the nature of injury, where the person had been shot at close range with the bullet piercing one side of the head to another damaging eye and the brain and the deceased must have died instantaneously, yet the inquest report was prepared much later and that too in the Hospital and *Fardbayan* was recorded thereafter though the police had arrived at the place of occurrence itself.

4 Taking all these circumstances, the trial Court found that the prosecution could not establish the guilt of the accused persons beyond reasonable doubt. We have no reason to take a different view of the matter.

5 This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Sanjay Priya, J)

M.E.H./-

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