

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 505 of 2016

Arising out of P.S. Case No. -216 Year- 2013 Thana -KAKO
District- JEHANABAD

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Bamdev Yadav, Son of Late Mahangu Yadav, Resident of Village
Kumdiha P.S.- Kako (Bhelawar) District- Jehanabad.

.... Appellant/s

Versus

1. The State of Bihar.
2. Vishundeo Yadav.
3. Sahdeo Yadav, Both sons of Jawahir Yadav.
4. Jawahir Yadav, Son of Late Ramkeshwar Yadav. All are resident of
Village Salempur, P.S. Kako District- Jehanabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Paras Nath, Advocate.

For the Respondent/s : Mr. APP.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 28-09-2016

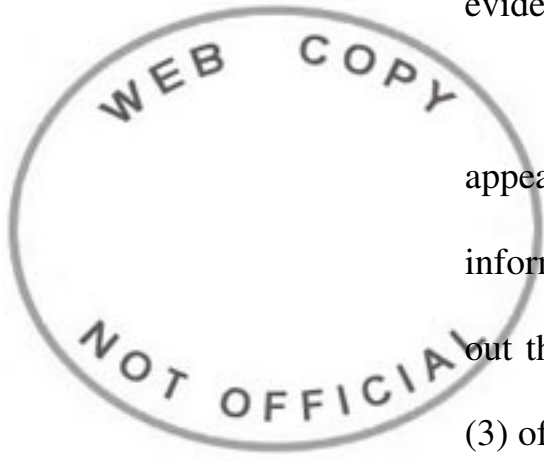
1. This appeal is directed against the judgment and order, dated 11.04.2016, passed by the learned Additional District and Sessions Judge, V, Jehanabad, in Sessions Trial No.104 of 2014/ 70 of 2015, which arose out of Kako PS case No 216 of 2013. The learned Sessions Judge, at the end of the trial, has acquitted all the seven (7) accused persons and set them at liberty. Assailing the judgment, the present appeal has been preferred, primarily, on the ground that the learned trial Court discarded the testimonies of PW1 and PW2 without just or valid

reasons and that the findings arrived at is contrary to the evidence on record and needs to be interfered with.

2. At this juncture, it needs mention that in the instant appeal, the appellant is the father of the deceased and he is the informant of Kako PS case under reference. Be it also pointed out that the appellant has challenged the acquittal of only three (3) of the seven (7) accused persons in this appeal and has, in the appeal petition, chosen not to state anything about the other four (4) accused persons, who were acquitted by the judgment and order under challenge. A description of the respondent is needed for clarity and, hence, it is pointed out that the respondent no. 2 is the son- in-law of the appellant, whereas respondent numbered 3 and 4 are his close relatives.

3. We have heard the learned counsel appearing for the appellant as well as the learned Prosecutor.

4. Let us, now, analyse the record and determine whether the impugned judgment calls for interference or not. To determine the correctness or otherwise of a judgment, first of all, one, necessarily, has to read and re-read the judgment assailed and when we have done so what attracts our attention is that the appellant (informant) has himself resiled from his version given in the FIR and stated, in his evidence, that, on the relevant date,



his daughter had gone out of his home without informing him and, on the next day, her dead body was found. In other words, the appellant does not even whisper, in his testimony, that any of the respondents had induced his daughter to come to a particular place; the appellant has expressed his ignorance as to how his daughter went to that place, where her dead body was found.

5. A careful reading of the testimony of this vital witness, the appellant herein, who was examined as PW 4, goes to further show that his daughter got married to respondent No. 2 about ten (10) years ago and the couple shared a cordial relation and at the relevant point of time, she was in her maternal home. We may also point out that PW4 has not stated anything about demand of dowry or cruelty upon his daughter; rather, he has deposed that after marriage, his daughter used to go to her matrimonial home now and then, but mostly, she stayed at her paternal house and it was the respondent No.2, who would come over and stay at his in-laws' house.

6. It is crystal clear from a bare reading of the deposition of the informant/appellant that he has negated the prosecution's version inasmuch as he states that he had never filed the *First Information Report* against the accused persons and that the police had taken his thumb impression on a blank

paper and converted the same into the *fard-e-beyan*. This very informant, now, comes in the appeal before this Court, assailing the judgment and order, dated 11.04.2016, passed by the Additional District and Sessions Judge, V, Jehanabad, in Sessions Trial No.104 of 2014/ 70 of 2015, acquitting the accused persons of the charges.

7. Here, it also needs mention that the mother of the deceased was examined as PW3 and she would state that the deceased was married to respondent no. 2 about 10/20 years ago and that at the time of death, her daughter was staying in her parental house. What is significant is that PW3, too, has not implicated any of the accused of either making demand of dowry or of subjecting her daughter to cruelty prior to her death and this witness does not state that any of the accused had caused the death of his daughter.

8. When the learned counsel, appearing on behalf of the appellant, was confronted with the evidence of PW 3 and PW 4 so recorded, the learned counsel had no answers.

9. From the above, it is transparent that prosecution witnesses have come out with two inconsistent versions of the occurrence. One version of the occurrence is contained in the evidence of PW 3 and PW 4 given in the Court, while the other

version is contained in their statements made before the police.

In view of these contradictory versions, there is no doubt that no reliance can be placed on the evidence of such witnesses. It is true that PW1 (sister-in-law of the deceased) and PW2 (another relative of the deceased) have tried to implicate the accused persons, but law is settled that when the prosecution witnesses portray different pictures of the same incident and the two pictures are contradictory and self-destructive of each other, the prosecution's case is bound to fail.

10. In the case, at hand, the evidence of PW 3 and PW 4 debilitate and cause substantial damage to the version of the PW 1 and PW 2 and, in that view of the matter, when the entire prosecution evidence is read as a whole, we find that there is no infirmity in the judgment passed by the learned Court below.

11. The appeal is, thus, devoid of merit. The appeal is, therefore, not admitted and shall stand dismissed.

(I.A. Ansari, CJ)

Vikash/-

(Dr. Ravi Ranjan, J)

AFR/NAFR	NAFR
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