

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.615 of 2016

Arising Out of PS.Case No. -30 Year- 2000 Thana -BARHARA District- BHOJPUR

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Shail Kumari Devi W/o Late Jitendar Singh, Resident of village - Paiga,
Police Station - Barahara, District - Bhojpur Ara.

.... Appellant

Versus

1. The State of Bihar
2. Bangali Singh S/o Hari Nandan Singh
3. Antesh Singh, S/o Dharam Lal Singh,
4. Ramchandra Keshari, S/o Lalchand Keshari,
5. Dilip Prasad Keshari @ Dilip Baniya, S/o Late Uma Baniya,
6. Suresh Singh, S/o Hari Nandan Singh,
7. Hari Lal Keshari, S/o Late Bhagat Sah, Respondent nos. 2 to 7 are
resident of Village- Paiga, P.S. Barahara, District- Bhojpur, Ara.

.... Respondents

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Appearance :

For the Appellant : Mr. Rajiva Ranjan, Advocate.

For the Respondents : Mrs. Shashi Bala Verma (APP)

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

5 10-11-2016

Heard the learned counsel for the appellant.

This is an appeal against acquittal. The appellant is the informant and the wife of the deceased.

It is submitted that as per the fardbeyan (not exhibited by the prosecutor) as recorded through the mouth of the informant (appellant) that in the morning her husband and her brother-in-law had gone to attend the call of nature and her brother-in-law allegedly disclosed that some people had retained her husband and



has dragged him in another house. They were shouting thief-thief-thief and then the people gathered. Upon the information received by her brother-in-law she alongwith her family members rushed to the place of occurrence and found various persons surrounded her husband as he was injured. They were taken him to the hospital but in the next day he died. The police investigated the matter and submitted final form under section 304 read with section 149 of the I.P.C. But there being a protest petition, the case proceeded on the basis of the protest petition. It appears that in course of trial witnesses were examined and the accused persons were examined under section 313 of the Cr.P.C. The matter was then to be argued when belated application under section 311 of the Cr.P.C. was filed by the A.P.P. seeking to examine the informant and several other witnesses. He wanted that summons to be issued by the court for their examination. The court rejected that belated application, against which this Court was approached but this Court also refused to entertain the belated application. Upon perusal of the evidence on record the court has acquitted the accused persons.

Having perused the judgment and after hearing the learned counsel for the appellant, we do not find any reason to interfere with the judgment as the court has considered the evidence on record and non examination of the informant and

other witnesses.

In the circumstances, it cannot be said to be miscarriage of justice. We find no merit in this appeal and it is accordingly dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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