

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.588 of 2016

Arising Out of PS.Case No. -175 Year- 2003 Thana -BIHARSHARIF District- NALANDA
(BIHARSHARIFF)

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Pramod Kumar, S/o Sri Bijeshwar Ram, Resident of village and P.S. Dip
Nagar, District- Nalanda.

.... Appellant

Versus

1. Kamla Prasad @ Laldhar Mukhiya S/o Shri Ramdhani Yadav of
village- Mahanandpur, P.S. Dipnagar, District- Nalanda.
2. The State of Bihar.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Pratik Kumar Sinha
For the Respondent/s : Mr. Mayanand Jha, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**

And

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP
SINGH)**

5 22-08-2016 Heard learned counsel for the appellant and learned
A.P.P. for the State.

The instant appeal has been filed against the
Judgment dated 04.03.2016 and Order of Sentence dated
14.03.2016 in which Md. Chand Miyan has been convicted under
Section 364-A of the Indian Penal Code and Opposite Party No.1,
namely, Kamla Prasad @ Laldhar Mukhiya was acquitted by the
trial Court.

As per the prosecution, informant's son was abducted
while he had gone to learn 'Karate' at Kachahari Road, behind
fire brigade station, Biharsharif on 06.07.2003 on his Bajaj
Scooter bearing No. BPA522. However, the son of the informant
did not return, pursuant to which the informant lodged an F.I.R.

giving rise to Bihar P.S. Case No. 175 of 2003, dated 13.07.2003.

The trial Court, on consideration of the materials available on record, convicted Md. Chand Miyan and acquitted O.P. No.1 i.e. Kamla Prasad @ Laldhar Mukhiya.

Learned counsel for the appellant submits that O.P No.1 was present at the time of handing over of the ransom to accused Md. Chand Miyan. He also submits that P.W.5 and Second I.O of this case, in his evidence, has also found involvement of the O.P. No. 1 Kamla Prasad @ Laldhar Mukhiya in the present crime.

However, we find that P.W.1, P.W.2 and P.W.3 have categorically stated that O.P.No.1, namely, Kamla Prasad @ Laldhar Mukhiya was not involved in this case and not a single witness has stated before the I.O that he was present at the time of giving ransom and none of the Investigating Officers made any specific statement before the Court that any witness has stated before him regarding presence of O.P.No.1.

In view of the aforesaid circumstances, we do not find any error in the Judgment of the trial Court and, accordingly, this appeal is dismissed.

(Samarendra Pratap Singh, J.)

(Rajendra Kumar Mishra, J.)

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