

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.932 of 2016

Arising Out of PS.Case No. -2 Year- 2013 Thana -HATHAURI District- MUZAFFARPUR

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1. Govind Sahi Son of Ram Babu Sahi resident of Village - Rampur, P.S. - Hathuari, District - Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar Tiwary, Adv.

For the Respondent/s : Mr. Ram Sandesh Rai, Adv.

For the State : Mr. Binay Krishana, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL JUDGMENT

Date: 23-12-2016

Heard learned counsel for the appellant as well as learned Special Public Prosecutor, appearing for the State of Bihar (respondent).

This Cr. Appeal filed u/S 14-2(A) of SC/ST (Prevention of Atrocities) Amendment Act, is preferred against the order dated 30-09-2016 passed by learned 3rd Additional Sessions Judge-cum-Special Judge, Muzaffarpur by which, he refused to enlarge the appellant on bail, who has been made accused in Hathauri P.S. Case No. 02 of 2013 for the offences u/S 302/34 of the Indian Penal Code and Sections-3(2)(5) SC/ST (Prevention of Atrocities) Act, on the ground that prior to the alleged occurrence, the appellant had caught the hands of wife of deceased and when the deceased had made protest, the



appellant had given threatening and, furthermore, in course of investigation, some independent prosecution witnesses stated that the appellant had illicit relation with the wife of the deceased and that was the reason of murder of the deceased.

Admittedly, on recovery of dead body of the deceased, father of the deceased lodged the present case against unknown on 08-01-2013 and initially, the case was registered u/S 302/34 of the Indian Penal Code but when the further statement of the informant as well as the statement of wife of the deceased was recorded by the I.O. and they disclosed the above-said facts, Sections-3(2)(5) SC/ST (Prevention of Atrocities) Act was added on 11-01-2013. However, some prosecution witnesses stated that wife of the deceased had illicit relation with the appellant and that is why, the deceased was killed.

Learned counsel, appearing for the appellant submits that the impugned order of learned trial court is itself contradictory because the learned trial court has mentioned in the impugned order that prior to the alleged occurrence, the appellant had caught hands of wife of deceased with bad intention and when the deceased made protest, the appellant had given threatening and simultaneously, learned trial court also mentioned this fact that witnesses had stated about the illicit relation of wife of the deceased with the appellant and that was the cause of his murder. Continuing his submission, learned counsel



argued on behalf of the appellant that both the aforesaid circumstances cannot go together because if the appellant had illicit relation with the wife of the deceased, the application of provisions of SC/ST (Prevention of Atrocities) Act is doubtful and moreover, the appellant is in jail custody since 05-09-2016 and except suspicion, there appears to be nothing against him but the learned trial court failed to take note of the aforesaid facts.

On the other hand, learned Spl. Public Prosecutor assisted by learned counsel for the informant supported the impugned order arguing that the appellant had strong motive to commit the murder of the deceased as he was entangled with the wife of the deceased and when the deceased made protest, he was killed by the appellant and his associates.

Admittedly, none has seen actual killing of the deceased nor the informant disclosed the fact of giving threatening as well as illicit relation at the time of giving his fardbyan and the aforesaid fact was developed after two or three days of the institution of the present case. The trial court has not taken note of the above said facts as well as circumstances and therefore, in my view, this Cr. Appeal is liable to be allowed.

Accordingly, this Cr. Appeal is allowed and the impugned order dated 30-09-2016 passed by learned 3rd Additional Sessions



Judge-cum-Special Judge, Muzaffarpur is set aside in respect of the appellant only.

In the result, the appellant named above, is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Hathauri P.S. Case No. 02 of 2013 to the satisfaction of learned 3rd Additional Sessions Judge-cum-Special Judge/concerned court, Muzaffarpur.

(Hemant Kumar Srivastava, J)

A.K.V./-

Uploading Date	
Transmission Date	

