

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.519 of 2016

Arising Out of PS.Case No. -24 Year- 2013 Thana -SHANKARPUR District- MADHEPURA

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Rajeev Kumar Singh, son of Late Ganesh Prasad Singh, resident of Adarsh Mohalla
Triveniganj, P.S.- Triveniganj, District- Madhepura.

.... Appellant

Versus

1. The State of Bihar
 2. Nirmala Devi, wife of Ram Kumar Singh
 3. Uttam Kumar Singh, son of Ram Kumar Singh
 4. Manish Kumar Singh, son of Ram Kumar Singh
 5. Ram Kumar Singh, son of Late Ram Datta Singh
 6. Ganesh Kumar Singh @ Ganesh Kumar, son of Ram Kumar Singh
- All 2 to 6 are residents of Village- Garha P.S.- Sankarpur, District- Madhepura.

.... Respondents

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Appearance :

For the Appellant : Mr. Ajay Kumar Jain, Advocate
For the State : Mr. D.K. Sinha, A.P.P.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 03-10-2016

We have heard Mr. Ajay Kumar Jain, learned Counsel
for the appellant, and Mr. D. K. Sinha, learned Additional Public
Prosecutor, appearing for the State.

2. The appellant is the informant of Sankarpur P.S. Case
No. 24/2013. He has filed this appeal assailing the judgment of
acquittal, dated 19.03.2016, passed by the Additional Sessions
Judge-III, Madhepura, in Sessions Trial Nos.253/2013, and
253A/2013 by which the prosecution case, as set out in the aforesaid
Sankarpur P.S. Case No. 24/2013, has been disbelieved and the

private respondent Nos. 2 to 6 have been acquitted of the charges under Sections 304 (B)/34, 302/34 and 201/34 of the Indian Penal Code.

3. The prosecution case, in brief, is that the sister of the informant, namely, Nibha Devi was married to accused-respondent, Ganesh Kumar Singh, in the month of December, 2009. The accused persons started torturing the deceased just after the marriage by raising demand for *dowry*. The informant, though had weak financial status, had to give sufficient *dowry* including land having an area of 1 Katha 6 dhurs apart from ornaments and cash. On 3.04.2013, at about 11:00 A.M., the informant received a mobile call from the deceased regarding torture and threat to her life by the accused persons. Upon this information, when the informant was ready to proceed, he received the information that his sister had suffered burn injuries. When, he reached his sister's matrimonial house, he was informed that the accused persons had taken her to Saharsa. Thereafter, when he reached Saharsa, he received information that they had proceeded with his sister to Patna. Thereafter on 7.04.2013, her dead body was disposed of at Patna.

4. On the basis of the aforesaid *fardbeyan* of the informant, the present case was lodged as Sankarpur P.S. Case No. 24/2013 under Sections 304 (B), 201/34 of the Indian Penal Code.

5. After investigation, the police submitted *charge*



sheet against the respondent Nos. 2 to 6 under the penal provisions aforementioned. Thereafter, *cognizance* was taken under the aforesaid sections and the case was committed to the Court of Session, where charges were framed under Sections 304 (B)/34, 302/34 and 201/34 of the Indian Penal Code. To the charges so framed, the accused persons pleaded not guilty. Thereafter, trial started.

6. During trial, the prosecution had examined altogether twelve witnesses in support of its case. P.W.1 is Shyam Kishore Singh, P.W.2 is Ranjan Kumar Singh, P.W.3 is Vijay Kumar Singh, P.W.4 is Shiv Kumar Singh, P.W.5 is Manoj Kumar Singh, P.W.6 is Rajeev Kumar Singh, P.W.7 is Rambha Singh, P.W.8 is Rimjhim Singh, P.W.9 is Uma Devi, P.W.10 is Devendra Prasad Yadav, P.W.11 is Vakil Prasad Sharma and P.W.12 is Shiv Kumar.

7. The learned trial Court, in its judgment, has considered the evidence led during the trial quite in detail. P.W. 1, Shyam Kishore Singh, has been declared hostile by prosecution. However, the learned trial Court has noticed that it is clear from the evidence of this prosecution witness that after hearing the scream, when he reached the house of the accused Ganesh Kumar Singh, he saw him trying to extinguish the fire from the body of his wife and he, later on, took his wife, for treatment, to Saharsha and P.M.C.H, Patna. He has further stated that the deceased was burnt accidentally,

while preparing the tea. He has also stated that the deceased was cremated in the presence of her relatives.

8. P.W.2, Ranjan Kumar Singh, who is brother of the deceased, has stated that his sister was married to Ganesh Kumar Singh in the year 2009 and the couple was blessed with two children from the wedlock. Though he has supported the prosecution's case in his examination-in-chief and has stated that there was demand for *dowry* and his sister was used to be tortured for which *panchayti* (arbitration) was also held and, ultimately, she was burnt by her in-laws in the year 2013. The husband or in-laws of the deceased did not inform the parental family of the deceased regarding the occurrence. When he heard regarding the occurrence from his co-villagers, he went to the matrimonial house of his sister and it transpired there that his sister was taken to hospital. When he went to Saharsa hospital, he was informed that she was taken for treatment to the P.M.C.H., Patna. When he did not find his sister in P.M.C.H. also, then, after gathering some information, he reached the Apollo Burn Hospital, Patna, where he found the dead body of his sister. He has also stated that though he insisted, the in-laws' side of his sister did not allow *post mortem* examination to be conducted on the said dead body and cremated the dead body.

9. However, during the cross-examination, the first informant denied that he had not informed anybody regarding any ill



treatment by the husband of his sister or his family or by anybody. He could not disclose the name of the co-villagers, who had informed him regarding the occurrence, because he had informed his elder brother. It has been noticed by the learned trial Court that this witness could not disclose any date on which the accused persons had assaulted his sister. He has gone on to state, during his cross-examination, that cloth of his sister caught fire accidentally, while preparing tea. He has also accepted that after the death of his sister in the Apollo Burn Hospital, his family members had written that while preparing tea, the victim's cloth caught fire and they were not willing to lodge any case. He has also accepted, during the cross-examination, that they were present during the cremation of the deceased and also that his sister never complained regarding the conduct or ill-treatment by her husband and the fire was accidental.

10. P.W. 3, Vijay Kumar Singh, did not support the occurrence and has stated that he did not have any knowledge of the occurrence and police did not record his statement. In his cross-examination, he has stated that he never stated before the police that there was any dispute regarding construction of house on a particular land, which was the genesis of the occurrence. He has stated that the family members tried to extinguish the fire and took the victim for treatment to Saharsa, and, thereafter, to Patna, for better treatment. He was also declared hostile.

11. P.W.4, too, has deposed that on alarm being raised, he reached the house of accused Ganesh Kumar Singh and found Nibha Devi in burnt stage. The fire was, somehow, extinguished and he found that the gas pipe line was in torn condition. The utensil for preparing tea was found thrown there. He has also denied that there was any demand for *dowry* ever or she was forcibly burnt. He has also stated that the deceased was taken to Saharsa and P.M.C.H., Patna, for better treatment.

12. P.W.5, Manoj Kumar Yadav, is a friend of the informant. Though he has supported the occurrence, he has denied that the police has made any inquiry from him during course of investigation. He has accepted that he has come to defend his friend, Rajiv Singh; but in the cross-examination, he has denied that he was knowing fully well that the sister of his friend had been killed and he never advised his friend to lodge first information report. The learned trial Court has noted, in the judgment, that the evidence of this prosecution does not generate faith in view of the fact that he is neither the eye witness nor has he been able to substantiate his statement regarding demand for *dowry* etc. or regarding the purchase of the land concerned by giving relevant dates and other vital information.

13. P.W. 6, Rajiv Kumar Singh, is the informant. He has supported the occurrence. He has, strangely enough, deposed, in



his evidence, that he could not meet his brother or mother, when he came to Patna on receiving information that his sister was burnt by the accused persons. He searched his sister for about 6 to 7 days and, then, it transpired from his friend that the dead body of his sister was already cremated. He, first, visited Saharsa hospital, but when he could not find his sister there, he came to P.M.C.H., Patna, where he came to know that the accused persons had brought his sister for better treatment. However, the learned trial Court has disbelieved his evidence on the ground that it is apparent from the statement of the mother of the deceased that they had accompanied the deceased to Apollo Burn Hospital, where she died and they had filed a joint application before the Officer-in-Charge, Agamkuan Police Station, which has been brought on record as Exhibit 'X'. It is stated therein that she received burn injury accidentally during the preparation of tea and died because of the burn injury, which she had sustained and, therefore, they did not want her daughter's dead body to be subjected to *post mortem* examination, which clearly goes to show that the mother and brother of the informant had accepted before the police that the injuries, sustained by the deceased, were accidental. In such circumstances, the evidence of P.W.6, during his examination, that he searched for his sister from 3rd to 7th day of the month does not generate confidence as his family members were, admittedly, knowing that his sister was being treated at Apollo Burn



Hospital, and were accompanying her. A joint petition was also prepared in the Apollo Burn Hospital, which has been signed by the mother of the deceased, her brother, Pintu Singh, and Ranjan Kumar Singh, and also by co-accused, Ganesh Kumar Singh, and the father-in-law of the deceased, Ram Kumar Singh, along with Veerkaran Singh, who had put his signature there as a witness, and has been brought on record as Exhibit 'B', clearly goes to show that neither any demand for *dowry* was raised nor was there any family dispute. Thus, the learned trial Court has come to the conclusion that the First Information Report lodged by the informant, Rajeev Kumar Singh, is an afterthought and after much delay.

14. Similarly, the evidence of P.W.7, sister of the deceased, and P.W.8 could not induce confidence for the reasons, which we have already discussed above.

15. Another witness, P.W.9, who is the mother of the deceased, though has also supported the occurrence, it transpires from the judgment that during her cross-examination, she has denied that when her daughter was burnt, she had accepted that she had gone to see her daughter in the hospital. She has deposed that when she reached Patna, her daughter had already died and she has also denied that the police came there, but when she was confronted with Exhibit 'X', she identified her signature over there. She has further stated that she could not recognize the photographs of her son-in-law



and she even does not know that, at the time of extinguishing the fire to save her daughter, his hand got also burnt. She has deposed that the case has been lodged by her son, Rajiv, who had gone to jail once or twice. The evidence of P.W.9 could not instill confidence in the learned trial Court for the reason that she could not take the name of the accused, who were involved in alleged killing of the deceased nor could she give the dates of *dowry* demands made. The witness, though has admitted that she went to Patna to see her daughter, she has denied that the police came there. At the same time, however, she has accepted her signature (Exhibit 'X') upon the document, which was filed before the Officer-in-Charge, Agamkuan Police Station. Therefore, she was, strangely enough, unable to identify even the photographs of her son-in-law and has stated that she did not meet the son-in-law in the hospital, whereas, at the same time, she along with one of her son has stated before the police by submitting written document that the fire was accidental and there was no family dispute. Therefore, her evidence also could not be relied upon.

16. The Investigating Officer has been examined as P.W.10. But the learned trial Court has pointed out that his evidence is merely a formality as he could not substantiate anything. The second Investigating Officer, P.W. 11, has accepted that he procured all the copies of the treatment of the deceased and the compromise



petition, which was signed by the mother (P.W. 9) and brother of the deceased Ranjan Kumar Singh along with others and another Sanha No.362/13, which was filed by them requesting the authority concerned not to conduct *post mortem* upon the dead body. He has stated that all the documents were entered and appended with the case diary and the document of hospital was certified by the doctor of the concerned hospital. P.W. 12 is the another Investigating Officer, who has submitted the charge-sheet.

17. Learned trial Court has pointed out that the prosecution's case suffers from lack of reliable evidence as regards demand for *dowry*, allegedly, raised by the accused and the death of the deceased having been caused by the accused respondents. On the contrary, one of the brothers of the deceased, namely, Ranjan Kumar Singh (PW 2), has clearly deposed before the learned trial Court that deceased died accidentally and, in this regard, his sister (deceased) had also informed him before her death that her husband and his family members had never demanded any *dowry*. The documents, signed by him as well as the mother of the deceased, i.e., Exhibits 'B' and 'X', also clearly supported the evidence so given by PW 2. The photographs reveal that at the time of cremation, the close relatives of the deceased were present and the burn injury upon the hand of the husband accused Ganesh Kumar Singh also indicates that he had tried to save his wife and that is how, he sustained such

burn injuries. It needs to be pointed out that the evidence on record also discloses that the purpose of taking the said deceased to Patna hospital was for her better treatment and not with any ulterior motive.

18. It appears from the discussion made in the judgment that another story has emerged that there was accidental fire due to which the deceased received severe burn injuries. She was treated at hospitals at Saharsa, P.M.C.H, Patna, and Apollo Burn Hospital, Patna. At the time of treatment, mother of the deceased as well as her brothers, Pintu Singh and Ranjan Kumar Singh, were all along present. When the deceased died, a joint application, signed by mother of deceased and others, was submitted before the police stating that the death was accidental and, thus, no *post mortem* should be conducted upon the dead body and photographs show that close relatives of the deceased were present at the time of cremation. The exhibits also show that there was no demand for *dowry* or any family dispute.

19. On account of the to irreconcilable versions set up by the prosecution, the learned trial Court has come to the conclusion that the prosecution has not been able to prove that demand for *dowry* was raised and/or that the accused persons had killed the deceased due to non-fulfillment of the demand so raised; rather the death, according to the evidence on record, appeared to be

accidental.

20. Because of what have been discussed and pointed out above, we do not find that the impugned judgment and order of acquittal suffer from any infirmity, legal or factual. The judgment and order, under appeal, do not, therefore, call for any interference by this Court.

21. The appeal is, therefore, not admitted and shall accordingly stand dismissed.

(I. A. Ansari, CJ)

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	A.F.R.
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