

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1023 of 2016

Arising Out of PS.Case No. -9 Year- 2011 Thana -TRIVENIGANJ District- SUPAUL

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Soman Mandal, S/o late Kusum Lal Mandal, R/o Village Naya Nagar, P.S.
Pipra, District - Supaul.

.... Appellant

Versus

1. The State of Bihar.
2. Manoj Mandal, S/o Shivnarayan Mandal
3. Basanti Devi, W/o Sivnarayan Mandal
4. Shiv Narayan Mandal, S/o late Newam Mandal All R/o Allaxha Belhi
P.S. Triveniganj, Distt. Supaul.

.... Respondents

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Appearance :

For the Appellant : Mr. Manoj Kumar Pandey, Advocate
For the Respondents : Mr. S.N. Prasad (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)

2 08-12-2016 This is an appeal against the order of acquittal as recorded by the 1st Additional Sessions Judge, Supaul, in Sessions Trial No. 129 of 2011/ 252 of 2011, arising out of Triveniganj P.S. Case No. 09 of 2011 instituted under Section 302/34 of the Indian Penal Code.

The appellant is the brother of the victim lady. It is alleged that she had been married to the private respondents no. 2, who was the son of the private respondents no. 3 and 4, about 8 years back. As she got no child she was burnt by her husband and in-laws. She was always told to run away otherwise she would be



killed, which facilitate second marriage of respondent no.2, the husband, so that the family could progress. Ultimately, on the fateful day the informant learnt that his sister had been burnt to death. From his village he came on a bicycle to the village of his sister and found no one was at the home except the dead body of his sister which was severely burnt. Information was given to the police, the case was registered and upon investigation charge sheet having been submitted, the case having been committed to the Court of Sessions, charges having been framed, the trial started. Upon conclusion of the trial, the trial Court acquitted the accused persons on the ground of lack of evidence. Prosecution examined eight witnesses, who all were charge sheeted witnesses. All of them virtually turned hostile. The trial Court noted that neither the informant was examined nor the investigating officer or the doctor and, as such, in absence of evidence, he has no option but to record acquittal.

Learned counsel for the appellant submits that the order sheet would show that the court did not take steps to ensure attendance of the witnesses, we do not agree. The order sheet shows otherwise, the Court issued summons, bailable warrants which were served also on different persons. Eight prosecution witnesses who were of the village of the informant and rather his



witnesses as well as of the sister's matrimonial village witnesses, they were examined. Then to say that the informant was not aware of the trial is incorrect. The order sheet further shows that after prolonged custody the accused persons were released. The order sheet further show that on 04.04.2016 the informant pursuant to summons issued appeared through counsel. He earlier had a counsel and changed it. It is thus wrong to say that he had no information of the trial. It is clear that the informant only wants to prolong the trial as long as possible to harass the accused persons.

We do not think, on the facts aforesaid, that any miscarriage of justice has taken place. The prosecution cannot have luxury to prolong the trial. This application has no merit. It is accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

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