

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.161 of 2016

Arising Out of PS.Case No. -47 Year- 2012 Thana -SAHKUND District- BHAGALPUR

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Naveen Singh @ Naveen Prasad Singh, son of Rudro Prasad Singh, resident
of Village and Post Office- Karanja, Police Station- Shambhuganj, District-
Banka.

.... Appellant/s

Versus

The State of Bihar & Others.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vipin Kumar Singh

For the Respondent/s : Mr. D.K. Sinha (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA

ORAL ORDER

(Per: HONOURABLE JUSTICE SMT. ANJANA PRAKASH)

2 30-03-2016

I.A. No. 486 of 2016.

This interlocutory application has been filed for
condonation of delay in filing the Appeal.

Heard.

The learned counsel for the Appellant submits
that after the Trial Court had found that it was a case of
murder, he should have convicted the husband under section
302 I.P.C. and sentenced him to Rigorous Imprisonment for
life along with the rest of the family members instead of
convicting him under Section 304B I.P.C. and sentencing him
only for 7 years.

He relies on the decisions reported in 2010(15)

S.C.C. page 116 by which the Hon'ble Apex Court had given a general direction to all Courts to ordinarily add Section 302 to the charge of Section 304B, so that death sentences can be imposed in such heinous and barbaric crimes against women.

He also relies upon a decision reported in 2014 S.C.C.(4) page 375 wherein, the Hon'ble Apex Court had enunciated the principles of sentencing but we are unable to understand how the decision is applicable in the facts of the present case, since the consideration was only whether the sentence of life imprisonment imposed on the Appellant-accused for commission of offence under Section 304B I.P.C. was in anyway excessive so as to require interference by the Apex Court.

He further relies on a decision reported in 2014 PLJR (1) page 377 wherein a Division Bench of this Court held that in cases of an Appeal against acquittal, there would be no question of limitation.

The facts of the present case is that on 22.05.2011, the deceased was married to Shiv Shankar Singh and on the fateful day repeated phone calls were made to him so that the Informant could speak to the deceased but he kept holding it off on some pretext or the other. The Informant also

stated that the husband demanded a Bolero Car as also they learnt that the deceased had been killed so they reached the place of occurrence and saw all of the family members inside the house.

The defence of the accused was that the deceased had committed suicide.

From the evidence of P.W. 2 Vishwajeet Singh, who was the cousin brother of the deceased, it appears that it was the accused persons, who had gone to inform the Police. P.W. 3 Piyush Kumar Singh, brother of the deceased, in Court deposed as an eye-witness to the assault and murder but evidently when this fact was not mentioned in the First Information Report, it is highly unreliable.

.From the evidence of P.W. 4, Sintu Diwaker, who was also a brother of the deceased, we find that when he arrived he saw some of the in-laws present near the dead body which was laid out on the bed.

P.W.5 Naveen Singh has improved his case during trial saying that demands of dowry were made by all the accused even though such was not his case at the earliest instance.

From the evidence of Doctor, P.W. 7, it appears

that the deceased had died on account of strangulation by means of ligature.

From the impugned judgment, we find Defence Witness No.1 stated when the inmates of the house learnt that the deceased had committed suicide, Shiv Shankar Singh went to the Police but he was detained there and he had also learnt that it was Shiv Shankar Singh, who had informed the family members of the deceased.

It was only on consideration of such circumstances that the Trial Court had acquitted all the Respondents under section 302/34 I.P.C. and Respondents 2-6 under Section 304B I.P.C. which cannot be faulted and hence, finding no merit in the application, the same is dismissed.

(Anjana Prakash, J.)

(Rajendra Kumar Mishra, J.)

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