

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.595 of 2016

Arising Out of PS.Case No. -16 Year- 2005 Thana -SAUR BAZAR District- SAHARSA

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Bhagawati Prasad Singh @ Sudhir Kumar Singh Son of Late Shaligram Singh
Resident of Village : Maina, Police Station : Mahishi, District - Saharsa, At present
residing at Village - Bella, P.S. Khagaria, District - Khagaria.

.... Appellant

Versus

1. The State of Bihar.
2. Nishant Kumar Singh, Son of Shiv Shankar Singh
3. Shiv Shankar Singh, Son of Late Nathuni Singh
4. Dinu Singh, Son of Shiv Shankar Singh
5. Ranju Singh, Wife of Babloo Singh
6. Babloo Singh, Son of Shiv Shankar Singh

.... Respondents

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Appearance :

For the Appellant/s : Mr. B. N. P. Singh, Advocate

For the Respondent/s : Mr. Ajay Mishra, A.P.P.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DR. RAVI RANJAN)

Date: 18-10-2016

Heard learned counsel for the appellant and the State.

2. The appellant is the informant of Saur Bazar P.S. Case No. 16/2005. He has filed this appeal assailing the judgment of acquittal, dated 01.04.2016, passed by learned Additional Sessions Judge-II, Saharsa, in Sessions Trial Nos. 115 of 2006/133 of 2006, by which the prosecution's case, as set out in the aforesaid Saur Bazar P.S. Case No. 16/2005, has been disbelieved and the private respondent Nos. 2 to 6 have been acquitted of the charges framed under Sections 304 (B)/34 and 201 of the Indian Penal Code.

3. The prosecution's case, based on the *fardbeyan* of the



informant, is that the daughter of the informant, namely, Nikki Kumari, was married with respondent no.2, namely, Nishant Kumar Singh, on 6.07.2003. At the time of marriage, sufficient gifts and articles were given. After marriage, the respondents had been demanding a sum of Rs.50,000/- and a Hero Honda Motorcycle. After 'Duragman', the demand continued for which the deceased was subjected to torture by physical assault and she used to communicate her grievance to her parents against accused persons. On 17.01.2005, the informant received information that her daughter was killed by putting her on fire and her in-laws cremated her dead body clandestinely. He rushed to the respondents' house and learnt that his daughter was killed in the night of 15/16 in January, 2005. He found that respondents were absent from their house.

4. On the basis of the aforesaid *fardbeyan* of the informant, the present case was lodged as Saur Bazar P.S. Case No. 16/2005 under Sections 304 (B)/34 and 201 of the Indian Penal Code.

5. After investigation, the police submitted *charge sheet* against the private respondents under the aforesaid penal provisions of law. Thereafter, *cognizance* was taken under the aforesaid penal provisions and the case was committed to the Court of Session, where charges were framed, to which, the accused persons pleaded not guilty. Thereafter, trial started.

6. During trial, the prosecution has examined altogether six witnesses in support of its case. P.W.1 is Shankar Paswan, P.W.2

is Azad Prasad Singh, P.W.3 is Bhagwati Prasad Singh @ Sudhir Kumar, P.W.4 is Om Prakash Singh, P.W.5 is Satya Narayan Singh and P.W.6 is Sanjay Kumar Singh.

7. Defence has also examined altogether seven witnesses. D.W.1 is Kailash Kumar Singh, D.W.2 is Ranjeet Kumar Singh, D.W.3 is Jawahar Yadav, D.W.4 is Dr. Amar Nath Thakur, D.W.5 is Narayan Prasad Singh, D.W.6 is Lalit Prasad Singh and D.W.7 is Ramshankar Singh.

8. The learned trial Court, in para 23 of its judgment, after examining the facts and circumstances of the case and evidence on record, has come to the conclusion that P.Ws. 1 to 4 are not the eye witnesses to the occurrence. P.W.1, before the alleged occurrence, had gone to the house of the deceased, where the deceased had talked with him and given a letter, but that letter was not produced before the trial Court in support of any cruelty, which she was subjected and it was the most important piece of evidence. Certain witnesses had made statements under Section 164 Cr.P.C. in support of the prosecution case, but they had not supported the alleged occurrence. From perusal of deposition of D.W.1, it appears that the information of occurrence was given to the parents of the deceased, soon after her death. The informant has stated that he had received information regarding the alleged occurrence two days after the occurrence by unknown person; but P.W.2, during his deposition, has stated that on 16.01.2005, the informant himself had informed him that the deceased was killed by



her in-laws. During investigation, the Investigating Officer had found the place of cremation at a distance of ½ K.M. from the house of her in-laws; but P.Ws. 3 and 4 had stated that the place of cremation was a 'Bar', which is situated just by the side of the house, as such, it appears that the aforesaid statement is full of contradiction. The mother of the deceased, who was one of the most important witness on the point of cruelty, was not examined by the prosecution. The Investigating Officer, in para 3 of his deposition, has clearly stated that no witnesses had stated that the deceased had been killed due to non-fulfillment of demand of dowry, rather, they had stated that death was caused due to illness.

9. The learned trial Court, in paragraph 25 of its judgment, has scrutinized the evidence of defence witnesses. D.W.4 is a doctor, who, during the course of his deposition, had stated that he had treated the deceased on 10.01.2005 and 13.01.2005, whose situation was critical. He had identified the medical prescription issued by him, which has been marked as *Exhibit 'A'*, which shows that the deceased was suffering from diarrhoea and could not have, therefore, been killed. The other witnesses have stated that the deceased died due to illness. They had stated that husband of the deceased was living separately from his family members as the partition between them had taken place long before the date of occurrence and, in this context, a '*panchnama*' had been filed in the learned Court below, which has been marked as *Exhibit 'B'*.

10. On account of the conflicting 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 illness. Trial Court has found that the doctor, who has been examined as D.W.4, has withstood the test of cross-examination and it is nobody's case that any evidence of burning was found at the place of occurrence.

11. In view of the aforesaid facts, duly discussed by the learned trial Court, we are of the considered opinion that the view, taken by the learned trial Court, is a plausible one and does not require any interference by us in appeal.

12. This appeal is, therefore, not admitted and shall accordingly stand dismissed.

(I. A. Ansari, CJ.)

(Dr. Ravi Ranjan, J.)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
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