

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 279 of 2017

Arising Out of PS. Case No.-70 Year-2014 Thana- Naya Ram Nagar District- Munger

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Anita Devi, wife of Late Arbind Kumar Mishra, Resident of village – Farda, Jagarnathpur Tola, P.S. Nara Ram Nagar (Safiasarai O.P.), District – Munger.

... .. Informant/Appellant

Versus

1. The State of Bihar
2. Madhu Devi @ Karnika Devi, wife of Bhupendra Narayan Mishra, Resident of village – Farda, Jagarnathpur Tola, P.S. Naya Ram Nagar (Safiasarai O.P.), District – Munger.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Ajit Kumar Singh, Adv.
For the Respondent/s	:	Ms. Shashi Bala Verma, APP Mrs. Shama Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

8. 20-09-2017 Heard Sri Ajit Kumar Singh, learned counsel for the appellant, Smt. Shashi Bala Verma, learned Addl. Public Prosecutor and Smt. Shama Sinha, learned counsel, who has appeared on behalf of respondent no. 2.

2. The present appeal has been preferred against the judgment dated 20-01-2017 passed by Smt. Sushma Sinha, learned Sessions Judge, Munger (hereinafter referred to as the ‘Trial Judge’) in Sessions Trial No. 86 of 2015, arising out of Naya Ram Nagar (Safiasarai) P.S. Case No. 70 of 2014. By the said judgment, while convicting three accused persons i.e.



husband of the respondent no. 2 namely Bhupendra Narayan Mishra, son of respondent no. 2 namely Bushi Kumar @ Abhijit Kumar @ Abhinav and one of the relative of respondent no. 2 namely Mithu Kumar @ Hemant Kumar Jha, has acquitted the respondent no. 2 from the charge under Sections 302/34, 120(B) of the Indian Penal Code and Section 27(i) of the Arms Act, 1959.

3. The prosecution case in short is that the appellant disclosed that in the morning at about 4:00 hrs. while her husband went to open his flour mill, she was inside the house and after hearing sound of gun shot, she came out and noticed that five accused persons, including respondent no. 2, were fleeing away carrying pistol in their hands. The appellant is own *gotini* (wife of brother of husband of the appellant) of respondent no. 2.

4. The learned Trial Judge, discussing entire evidence, has noticed that in normal course, it was not expected that husband and son both would have asked the respondent no. 2 (i.e. wife and mother) to participate in the occurrence carrying pistol. The learned Trial Judge has discussed the evidence and material in detail in paragraph 63(C) of the judgment, which we have perused. We have also perused the entire judgment. After



going through the same, the Court is satisfied that there is no perversity in the judgment warranting interference.

5. Accordingly, we do not find any ground to grant leave to appeal and as such, the petition filed under Section 378(3) of the Cr.P.C. i.e. I.A. No. 1319 of 2017 stands rejected. Consequently, the appeal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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