

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1088 of 2017

Arising Out of PS. Case No.-333 Year-2010 Thana- BUXAR District- Buxar

Sudarshan Thakur, Son of Late Deep Narayan Thakur, Resident of Village- Agrer Kala, Police Station -Surpura, in the district of Rohtas.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Neha Devi, wife of Late Bijay Narayan Thakur and daughter of Late Phulan Prasad, Resident of Village- Sohni Patti, Police Station Buxar Town, in the district of Buxar.
3. Amar Turha @ Bholoo Turha, son of Late Paras Prasad @ Paras Turha, Resident of Village- Baba Nagar, CD Gate, Buxar, Police Station Buxar Mufassil, in the district of Buxar.

... .. Respondent/s

Appearance :

For the Appellant/s : Sri Akhileshwar Prasad Singh, Sr. Advocate

Sri Amrit Anunay

For the Respondent/s : Sri Abhimanyu Sharma , A.P.P.

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

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

4 01-12-2017 Heard Sri Akhileshwar Prasad Singh, learned senior counsel, assisted by Sri Amrit Anunay, learned counsel for the appellant and Sri Abhimanyu Sharma, learned Additional Public Prosecutor.

The present Appeal under Section 372 of the Code of Criminal Procedure, 1973 has been preferred against the judgment of acquittal dated 15.07.2017 passed by Sri Uday



Kumar Upadhaya, learned Additional Sessions Judge VI, Buxar (hereinafter referred to as the “trial judge”) in Sessions Trial No. 88 of 2011 [arising out of Buxar Town P.S. Case No. 333 of 2010] . By the said judgment the learned trial judge has acquitted two respondents i.e. respondent no. 2 and 3 from charges under Section 302/34 and 120B of the Indian Penal Code, 1860 (hereinafter referred to as the “I.P.C.”) and Section 27 of the Arms Act, 1959 (hereinafter referred to as the “Arms Act”).

Short fact of the case is that the son of the appellant was got married with respondent no. 2 and he was posted in Mumbai. The marriage was solemnized in the year 2008. It was alleged that the son of the informant after taking leave had gone to his wife’s house and he was done to death on 22.12.2010. In the F.I.R. no suspicion was raised against respondent no. 2, however during investigation respondent no. 3 was shown to be arrested and it was alleged as if he made confession before the Police and on the basis of such confessional statement of respondent no. 3 both the respondent no. 3 and respondent no. 2 were made accused and forwarded to face trial. During trial the



prosecution examined altogether seven witnesses, however none of the witnesses claimed to have seen the occurrence, only on suspicion both the private respondents were made accused. Even except the informant, who was examined as P.W. 6, other witnesses whatever had stated had stated that they were informed by P.W. 6 / Sudarshan Thakur (informant). The learned trial judge noticed that even no telephone call detail in relation to deceased was obtained by the investigating officer. Only unsustainable evidence to show regarding call in respect of respondent no. 2 and one lady has been shown to be obtained, but the investigating officer has not even bothered to examine other lady. During investigation no call detail was obtained to show connection of respondent no. 2 in the occurrence, who is the widow of the deceased. So far respondent no. 3 is concerned, save and except the so-called confessional statement before the Police, no other evidence has been brought on record. This fact was also stated by the investigating officer, who was examined as P.W. 7. The investigating officer also stated that he had not examined any of the local resident i.e. residents of hutments, which



were near the place of occurrence where dead body was found. In the case none of the witnesses had ever said as to whether the respondent no. 3 was found loitering at the place of occurrence or he was seen with the deceased or he had committed any offence. This statement was mentioned in paragraph no. 41 of the case diary, which was noticed by the learned trial judge in paragraph no. 15 of its judgment. P.W. 7 /investigating officer has also stated that from the place of occurrence nothing was seized showing that in any manner respondent no. 2 / wife of deceased was involved in the case. In view of the facts and circumstances, the learned trial court has considered that prosecution has not proved its case beyond all reasonable doubt and extending the benefit of doubt has passed the order of acquittal.

During trial suggestion was given from the side of respondent no. 2 (i.e. widow of deceased) that with a view to prevent the widow from claiming any right in the property, she was falsely implicated in the present case, however said suggestion was denied.

We have examined the record and after going through



the same we are of the considered opinion that the learned trial judge has committed no error in passing judgment of acquittal warranting interference. Accordingly, the petition i.e. I.A No. 2412 of 2017 filed for grant of leave stands rejected. Consequently, the Appeal against acquittal too is dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

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