

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 1353 of 2017

Arising Out of PS. Case No.-32 Year-2015 Thana- Bagaha District- West Champaran

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Munni Kumari @ Munni Devi, Wife of Late Ramod Parit, Resident of
Village- Tonawa, Police Station- Bhairoganj, District- West Champaran.

... .. Appellant

Versus

1. The State of Bihar.
 2. Lahawar Bhar, Son of Paras Bhat,
 3. Subhawati Devi, Wife of Lahawar Bhar
- Both the resident of Village- Tonawa, Police Station- Bhairoganj, District-
West Champaran.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Milind Kumar Mishra
For the Respondent/s : Mr. Mayanand Jha

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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)

4. 20-12-2017 Heard Sri Milind Kumar Mishra, learned counsel for the

appellant and Sri Mayanand Jha, learned Addl. Public

Prosecutor.

2. The present appeal against acquittal has been
preferred by the appellant, wife of the deceased, against the
judgment dated 10-08-2017 passed by Sri D.M.Tripathi, learned
2nd Additional Sessions Judge, Bagaha, West Champaran
(hereinafter referred to as the 'Trial Judge') in Sessions Trial
No. 177 of 2015, arising out of Bagaha (Bhairoganj) P.S. Case
No. 32 of 2015. By the said judgment, the learned Trial Judge



has acquitted respondent no. 2 & 3 from the charge under Sections 302, 201 read with section 34 and 120(B) of the Indian Penal Code.

3. Short fact of the case is that on the basis of written information by the appellant, a case, vide Bagaha P.S. Case No. 32 of 2015, was registered for offence under Sections 302, 201, 34 of the Indian Penal Code on 30-01-2015. The F.I.R. was lodged against unknown without making any accusation, save and except the fact that from 26-01-2015, her husband Ramod Pandit was missing. The said information was given after the dead body of the deceased was found on 30th January, 2015. During investigation, though fact had come that deceased was lastly seen with two persons namely Munna Ram and Ajit Ram in a field, while they were consuming *Mahua* liquor. However, the investigating officer, on the basis of so called C.D.R., suspected involvement of respondent no. 2 & 3 and thereafter, on 31-01-2015, both respondent no. 2 & 3 were arrested. It has come that before the police, the accused made confessional statement regarding their guilt. Even, it was alleged that on disclosure made by accused/respondent no. 2 & 3 in their confessional statement, this fact had come that after killing the husband of the informant, they had thrown mobile of the



deceased in a drain and on their disclosure, the said mobile was shown to be recovered and seizure list was prepared. Witnesses to the seizure list were none else, but close relatives of the deceased. One was the brother of the deceased and another was nephew of the deceased. It was also shown that one burnt mobile was also found near the house of the respondent no. 2 & 3. The police had made out a case that deceased was having illicit relation with respondent no. 3 and she had called him and thereafter, all the occurrence had taken place.

4. During the trial, the doctor, who conducted *post-mortem* examination on the dead body, was examined as P.W.-6. It is pertinent to mention that in this case, *post-mortem* examination was held on 31-01-2015 at about 2:45 PM and time of death was indicated in between 24 to 48 hours. However, during his evidence, P.W.6 (doctor) has stated that though, in *post-mortem* examination report, time of death was mentioned in between 24 to 48 hours, on the pressure of concerned Superintendent of Police, a supplementary report was obtained, in which, time was extended and it was mentioned in between 48 to 96 hours.

5. In normal course, we would have taken appropriate decision to take action against such Superintendent of Police,



however; at the moment, we are not proposing to delve on such issue. It was a case of completely circumstantial evidence and none of the chain was shown to be connected.

6. Learned counsel for the appellant has tried to persuade the Court by way of referring to evidence of investigating officer that it was specific case of involvement of respondent no. 2 & 3.

7. However, considering the entire material on record, we are of the opinion that the learned Trial Judge has committed no error in passing the order of acquittal warranting interference.

8. We do not find any ground to grant leave and as such, leave petition i.e. I.A. No. 2407 of 2017 filed under Section 378(3) of the Cr.P.C. stands dismissed. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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