

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1374 of 2017

Arising Out of PS. Case No.-7 Year-2008 Thana- BAGAINGOLA District- Buxar

Shankar Singh S/o Bashishtha, resident of Village- Jamaniyo, P.S.- Ghazipur,
District- Ghazipur.

... .. Appellant

Versus

1. The State of Bihar.
 2. Bharat Singh S/o Late Sita Ram Singh,
 3. Pankaj Singh S/o Bharat Singh,
 4. Upendra Yadav S/o Late Dhari Yadav,
 5. AbhimanyuYadav S/o Baljori Yadav,
- All are resident of village- Kaithi More, P.S- Begengola, District- Buxar.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Mohit Shrivastava, Adv.
For the Respondent/s : Mr. Ashwani Kumar Sinha, A.P.P.

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

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

3 06-12-2017 Heard Sri Mohit Shrivastava, learned counsel for the

appellant and Sri Ashwani Kumar Sinha, learned Addl. Public

Prosecutor.

2. The present appeal has been preferred by the informant/appellant, who was son-in-law of the deceased. The appeal has been preferred against the Judgment of acquittal dated 14.09.2017 passed by the Fast Track Court-II, Buxar in Sessions Trial No.191 of 2008/34 of 2011 arising out of Bagen Gola P.S. Case No.07 of 2008 registered for the offence under Sections 302,120(B)/34 of the Indian Penal Code against



respondent nos.2 to 5. By the said Judge, learned trial Judge has acquitted private respondents from the charges under Sections 302, 120B/34 of the Indian Penal Code.

3. Short fact of the case is that an F.I.R. vide Bagen Gola P.S. Case No.07 of 2008 was registered for the offence under Sections 302,120B/34 of the Indian Penal Code against private respondents purely on suspicion. The informant had disclosed that his father-in-law had gone on a tractor with accused persons for purchasing cement and sand. Subsequently, one of the accused returned back and gave information that Malik (deceased) had died due to fall from the running tractor. Thereafter, family members of the deceased visited the place of occurrence and noticed that there was injury on the neck of the deceased and they also suspected regarding conduct of all accused persons and F.I.R. was lodged as if the father-in-law of the informant was done to death. Initially chargesheet was submitted against one of the accused and case was committed to the court of Sessions vide Sessions Trial no.191 of 2008. Subsequently, after submission of chargesheet against three more accused persons, their case was committed and separate trial number was given vide Sessions Trial No.34 of 2011. However, both trials were amalgamated and proceeded together



and finally learned trial Judge after noticing the evidences on record showing absence of complicity of the private respondents has passed order of acquittal, which has been assailed in the present appeal. Along with the present appeal, a petition has been filed vide I.A.No.2433 of 2017 under Section 378(3) of the Code of Criminal Procedure for grant of leave.

4. Sri Mohit Srivastava, learned counsel for the appellant has argued that though it was consistent case of prosecution that father in law of the appellant was done to death by slitting his neck, in the case order of acquittal has been passed. Whereas Sri Ashwani Kumar Sinha, learned Addl. Public Prosecutor drawing our attention to the evidence of the doctor, who had conducted the post-mortem examination on the dead body of the deceased, submits that the evidence of P.W.9, Dr. Chandrashekhar Singh, who conducted post-mortem examination on the dead body of the deceased, categorically establishes that death in the case has occurred due to accident and it was not a case of death caused by any incised injury on the neck. Even on the neck, regarding which it was alleged that it was slitted, the doctor had found said injury as caused by hard blunt substance. Besides this, he has further placed evidence of P.W.9 Dr. Chandrashekhar Singh, to substantiate that the doctor has opined that even injury on the



neck was not sufficient to cause death. Meaning thereby that death had occurred due to accident, but colour of commission of murder was given by the informant and false accusation was made. Since there was no sufficient material, learned trial Judge has passed judgment of acquittal.

5. Besides hearing learned counsel for the parties, we have perused materials available on record. On going through the Judgment as well as evidence of the doctor, who had conducted post-mortem examination on the dead body of the deceased, we are satisfied that the learned trial judge has committed no error in passing the Judgment of acquittal. We are satisfied with the Judgment of acquittal and, as such, leave petition i.e I.A. No.2433 of 2017 stands dismissed. Consequently, the appeal against acquittal too stands dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

nawalkrs/-

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