

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.890 of 2017

Arising Out of PS. Case No.-4 Year-2013 Thana- THANA BIHPUR RAIL P.S. District-
Khagaria

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Rajnish Kumar , Son of Arvind Kumar Singh, resident of Village+P.O.-
Chamatha Chhotkhunt, P.S.- Bachhawara, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
 2. Yadvendra Kumar Singh @ Pinku Ji, Son of Jivendra Kumar Singh,
 3. Kaushalendra Kumar Singh , Son of Jivendra Kumar Singh,
 4. Jivendra Kumar Singh , Son of Late Narain Singh,
 5. Veena Devi , W/o Jivendra Kumar Singh,
 6. Anshu Singh , wife of Kaushalendra Kumar Singh,
- All are resident of Village+P.O. - Bharatkhand Daudhi, P.S.- Parabatta,
District- Khagaria.

... .. Respondent/s

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Appearance :

For the Appellant/s : Sri Bikramdeo Singh
Sri Poddar Suresh Gandhi

For the Respondent/s : Sri Ajay Mishra , A.P.P.
Sri Abhay Kumar Singh No. 1

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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)

6 06-12-2017 Heard Sri Bikramdeo Singh, learned counsel, assisted
by Sri Poddar Suresh Gandhi, learned counsel for the
appellant , Sri Ajay Mishra , learned Additional Public
Prosecutor as well as Sri Abhay Kumar Singh No. 1 ,
learned counsel, who has appeared on behalf of the private



respondents i.e. respondent no. 2 to 6.

The present appeal has been preferred under Section 372 of the Code of Criminal Procedure , 1973 (hereinafter referred to as the “Cr.P.C.”) against the judgment of acquittal dated 13.04.2017 passed by Sri Krishna Murari Sharan, learned Additional Sessions Judge – IV, Khagaria (hereinafter referred to as “trial judge”) in Sessions Trial / Case No. 332 of 2014 (arising out of Bihpur Rail P.S. Case No. 04 of 2013 dated 5.4.2013, G.R. No. 28 of 2013) . By the said judgment the learned trial judge has acquitted private respondents from charges under Sections 306 /34 and 302 / 34 of the Indian Penal Code, 1860 (hereinafter referred to as the “I.P.C.”) . The appeal against acquittal has been filed along with leave petition vide I.A. No. 1581 of 2017 under Section 378 (3) of the Cr.P.C.

Short fact of the case is that the sister of the appellant was married with respondent no. 2 some time in the year 2004. Thereafter, there was some matrimonial dispute and divorce case was also filed. Subsequently, the dead body of the sister of the appellant was found on the Railway track on 04.04.2013 and subsequently, a U.D. case was



registered and appellant's side were informed, thereafter, the present case vide Rail Bihpur P.S. Case No. 04 of 2013 was registered on an allegation that the sister of the appellant was done to death. Initially the case was registered under Section 306/ 34 of the I.P.C. and during trial charge was amended and Section 302/34 of the I.P.C. was added and private respondents were tried. During the trial it appears that the learned trial judge noticed that by the deceased, after filing of the divorce case, a complaint case was also filed in which the husband preferred an anticipatory bail petition and in the said anticipatory bail petition he was extended provisional bail for one year with a view to get the dispute settled in between the parties, however from the judgment impugned it is evident that till the date of occurrence dispute in between the parties had not resolved and considering the entire evidence the learned trial judge noticed that prosecution had failed to prove its case beyond all reasonable doubt and extending the benefit of doubt acquitted all the private respondents from the charges.

Sri Bikramdeo Singh, learned counsel appearing on



behalf of the appellant tried to persuade the Court that there is perversity in the judgment since during trial only after noticing sufficient evidences, the learned trial judge *suo motu* had added Section 302 / 34 of the I.P.C., but ignoring all those evidences the learned trial judge subsequently has passed the judgment of acquittal, and as such, according to learned counsel for the appellant it is a fit case for grant of leave.

Sri Abhay Kumar Singh No. 1, learned counsel appearing on behalf of the private respondents has argued that since the prosecution had not proved its case beyond all reasonable doubt, the learned trial judge has rightly passed order of acquittal. He further submits that during the pendency of divorce case and till the date of death of the sister of the appellant she had never returned back to her in-laws' house, and as such, there was no question either for application of Section 306/34 of the I.P.C. or Section 302/34 of the I.P.C.

Besides hearing learned counsel for the parties, we have perused the materials available on record particularly the judgment impugned and after going through the same,



we are of the considered opinion that the learned trial judge has not committed any apparent perversity warranting interference nor it is the case of the appellant that the learned trial judge has passed order contrary to the evidence on record.

In view of the facts and circumstances, we do not find any ground to grant leave. Accordingly, the interlocutory application i.e. I.A. No. 1581 of 2017 filed for grant of leave stands dismissed. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

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