

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.144 of 2017

Arising Out of PS.Case No. -209 Year- 2006 Thana -PATNA CITY CHOWK District- PATNA

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Bimla Devi, wife of Rakesh Kumar Singh, Daughter of Ram Dayal Prasad,
Resident of Mohalla- Marchi, P.S.- Chowk, District- Patna. At present residing at
Mohalla- Changar, P.S.- Kankarbagh, District- Patna.

.... Appellant

Versus

1. The State of Bihar.
2. Rakesh Kumar Singh, Son of Mehrai Singh, Resident of Mohalla- Marchi, P.S.-
Chowk, District- Patna.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Ghosarvey, Advocate
For the State : Mr. S.C. Mishra, A.P.P.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 23-03-2017

We have heard learned counsel for the appellant and the
State.

The appellant is the informant of Patna City Chowk P.S.
Case No.209 of 2006. She has filed this appeal assailing the judgment
of acquittal dated 28.07.2016 passed by 3rd Additional Sessions
Judge, Patna City, in Sessions Trial No.341/2008, by which the
prosecution's case, as set out in the aforesaid Chowk P.S. Case
No.209 of 2006, has been disbelieved and the private respondent,
namely, Rakesh Kumar Singh, has been acquitted of the charges
framed under Sections 328, 302 and 201 of the Indian Penal Code.

The prosecution's case, based on the written report of



Bimala Devi, the informant, is that she was married to Rakesh Kumar Singh (respondent no.2) in the year 1998 and went to live in her matrimonial house. After two years, her relation with her in laws became bad to worse for which a criminal case was filed against Rakesh Kumar which, later on, was compromised after intervention of the family members. Her father-in-law came and took her to his residence situated at Marchi. At that time, she had a baby of six months in her lap. On 7.10.2006 at about 7.00 PM she went out of her room for washing her face and mouth leaving her son in the room but after some time her son started weeping and when she came, she saw that her husband was coming out of the room. She took her son and tried to console her but the child did not keep mum. On smelling the mouth of her son, she got some smell of some poisonous substance. The lips of her son became black. She came to understand that her husband had supplied some poisonous material into the mouth of her son in anger. Thereafter, her son died.

On the basis of the aforesaid written report of the informant, the present case was lodged as Chowk P.S. Case No.209 of 2006 under Sections 328 and 302 of the Indian Penal Code.

After investigation, the police submitted *charge sheet* against the private respondent under Sections 328, 302 and 201 of the Indian Penal Code. Thereafter, *cognizance* was taken under the aforesaid penal provisions and the case was committed to the Court of



Session, where charges were framed, to which, the accused person pleaded not guilty. Thereafter, trial started.

During trial, the prosecution has examined altogether eight witnesses in support of its case. P.W.1 Vimla Devi is the informant of this case and she is also the mother of the deceased. P.W.2 Gangajali Devi is the mother of the informant. P.W.3 Sanju Kumari is the younger sister of the informant. P.W.4 Gajadhar Singh is the resident of Marchi. P.W.5 Shiv Dayal Singh is also resident of Marchi where the incident had taken place. P.W.6 Ramesh Paswan is an independent witness. P.W.7 Janak Singh is also an independent witness and resident of Marchi. P.W.8 Deo Kumar Singh is the Investigating Officer of this case.

The defence has also examined three witnesses in support of its case. D.W.1 Mohri Singh is the father of the accused person and the father-in-law of the informant. D.W.2 Sohan Singh is the brother of the D.W.1. D.W.3 is the Dr. Saha Advait Krishna.

The learned trial Court, in its judgment, after examining the facts and circumstances of the case and evidence on record, has come to the conclusion that both the sides were in inimical terms and due to that a criminal case was running previously and after compromise, the informant was brought by her father-in-law in her matrimonial house with her son of tender age of only 6-7 months. According to the informant, she had gone out of her room to wash her



mouth and face at bout 7.00 A.M. on the day of the occurrence, when she heard the cry of her son and intended to come to her room, she found her husband slipping out of her room. She tried to console her child but she failed to do so and she found smell of some poisonous drug or substance. Her son died but the dead body of her son was snatched by her father-in-law and she was forcibly confined to a room but during her cross-examination, she has stated that she was going with her son for her treatment but in the way her son died and her son was snatched by her in laws. A contradictory fact to the prosecution case has been brought on the record that the deceased was admitted in the clinic of Dr. Krishna Shahi. P.W.8, the Investigating Officer, has supported this fact and he has stated in para 4 of his statement that the son of the informant had became ill in the night of 5.10.2006 and father of the son admitted him in the clinic in the early morning of 6.10.2006 and, on the same day, when his son did not recover, the doctor advised him to take his son to NMCH where he died. In paragraph 5, P.W.8 has further stated that he has enquired from doctor Krishna Shahi, who has supported this fact and the doctor had supplied him the documents of treatment of the deceased. The informant had filed a compromise petition and she has stated in Para 31 of her statement during cross-examination that she has willingly compromised this case. The informant has further stated that her husband is behaving well with her like as wife. The trial court was of



the view that although the compromise petition has no value and no effect in this case but it shows that the attitude and tendency of the informant. P.Ws. 1 to 3 are the interested persons who have supported the prosecution case but rest of the prosecution witnesses including the Investigating Officer and all the three defence witnesses have supported the version of the defence that, due to illness, the son of the informant died.

In view of the aforesaid facts duly discussed by the learned trial Court, we are of the considered opinion that the view taken by the learned trial Court is plausible one and does not require any interference by us in appeal.

This appeal is, therefore, not admitted and shall, accordingly, stand dismissed.

(Dr. Ravi Ranjan, J)

(Vikash Jain, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	

