

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.319 of 2017

Arising Out of PS.Case No. -94 Year- 2010 Thana -RIVILGANJ District- SARAN

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Shankar Chaudhary, S/o Late Tulsi Chaudhary, resident of Village-
Semaria Mallah Tola, P.S.:- Revelganj, Dist.- Saran at Chhapra.

.... Appellant/s

Versus

1. The State of Bihar.
2. Saroj Chaudhary alias Baddu Chaudhary, S/o Satya Narayan Chaudhary.
3. Sudhir Kumar Chaudhary, S/o Late Kanhaiya Chaudhary.
4. Mahendra Chaudhary, S/o Late Shivnath Chaudhary,

--- Respondent 2nd Set

All Respondents No. 2 to 4, residents of Village- Semaria Mallah Tola,
P.S.- Revelganj, District- Saran at Chhapra.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Yashraj Bardhan
For the Respondent/s : Sri Dilip Kumar Sinha, A.P.P.
Sri Manoranjan Kumar
Sri Raghvendra Kumar
Sri Rajesh Roy

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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)

5 04-08-2017 1. Heard Sri Yashraj Bardhan, learned counsel for the
appellant , Sri Dilip Kumar Sinha , learned Additional Public
Prosecutor , Sri Manoranjan Kumar, learned counsel , who has
appeared on behalf of respondent no. 4 as well as Sri Raghvendra
Kumar, learned counsel , assisted by Sri Rajesh Roy , learned
counsel for the respondent no. 2 and 3.

2. The Appeal has been preferred belatedly and as
such, a limitation petition vide I.A. No. 712 of 2017 was filed. On



examining the grounds set forth in the petition, the limitation petition is allowed and delay in filing Appeal stands condoned.

3. Besides filing limitation petition, the appellant has also filed a petition under Section 378(3) of the Code of Criminal Procedure, 1973 for grant of leave vide I.A. No. 1041 of 2017.

4. The present Appeal has been preferred against the judgment dated 10.06.2016 passed by learned Additional District & Sessions Judge -V, Saran at Chapra in Sessions Trial No. 248 of 2012 whereby the learned trial judge after trial convicted the private respondents for offence under Section 302/ 34 of the Indian Penal Code, 1860 and Section 201 /34 of the Indian Penal Code, 1860 and sentenced them to undergo rigorous imprisonment for life besides fine. However, the learned trial judge acquitted the private respondents from the offence under Section 376 /34 of the Indian Penal Code, 1860.

5. Learned counsel for the appellant tried to persuade the court that it was a case of rape and after committing rape the private respondents had murdered the daughter of the informant. It is evident that the First Information Report was lodged by the informant on the basis of information given by his son that his daughter was being raped by respondent no. 2 and other respondents were present there, however the informant was



subsequently threatened by the accused persons and this was the reason that the informant even did not go to see the place of occurrence. Subsequently, a dead body was found near railway track as unclaimed body and a U.D. case was registered after recovery of beheaded dead body. Post-mortem examination was conducted by P.W. 4 / Dr. Ravi Shankar Singh, however Sri Ravi Shankar Singh though was examined and cross-examined, he did not say as to whether the deceased was raped or not.

6. Besides hearing we have minutely examined the impugned judgment. Considering the fact that respondent no. 2 to 4 have already been convicted under Section 302/ 34 of the Indian Penal Code, 1860 and sentenced to undergo rigorous imprisonment for life as well as the fact that doctor in cross-examination has categorically stated that on the dead body there was no sign of rape and thereafter the trial judge considering entire evidence though convicted the private respondents under Section 302/ 34 of the Indian Penal Code, 1860 as well as Section 201/ 34 of the Indian Penal Code, 1860 and acquitted the private respondents from offence under Section 376 /34 of the Indian Penal Code, 1860 and considering the materials available on record, the court is of the opinion that while acquitting the private respondents from offence under Section 376/ 34 of the



Indian Penal Code, 1860 he had committed no error, and as such, the court is of the considered opinion that it is not a case for grant of leave. Accordingly, the leave petition i.e. I.A. No. 1041 of 2017 stands rejected. Consequently, the Appeal too is dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

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