

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.451 of 2017

Arising Out of PS. Case No.-131 Year-1994 Thana- CHANPATIA District- West Champaran

Anwat Prasad, Son of Late Asharfi Sah, Resident of Village- Chanpatia Ward
No.05, P.S.+ P.O.- Chanpatia, District- West Champaran (Bihar).

... .. Appellant

Versus

1. The State of Bihar.
2. Afroj @ Pappu Miyan , Son of Manjur Mian, Resident of Village- Bhola Tola, Chanpatia, P.S.- Chanpatia, District- West Champaran.

... .. Respondent

Appearance :

For the Appellant/s : Mr. Sunil Kumar No.III, Advocate
For the Respondent/s : Mr. Shivesh Chandra Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

And

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

9 06-03-2018 Heard learned counsel for the appellant, learned counsel
appearing for respondent No.2 and also learned Addl. Public
Prosecutor appearing for the State on the point of admission.

This Criminal Appeal has been preferred against the
Judgment of acquittal dated 14.09.2016 passed by the learned
Addl. Sessions Judge-II, Bettiah, West Champaran in Sessions
Trial No. 173 of 1995 by which and whereunder he acquitted the
respondent No.2 of the charges giving benefit of doubt to him.

From perusal of the record, we find that on 05.08.1994
informant P.W.5 Anwat Prasad gave written report to the



concerned Police Station mentioning therein that his son was missing since 26.07.1994, but the concerned Police Station did not institute any F.I.R. on the basis of above stated written report. However, subsequently, the dead body of son of P.W.5 was recovered in Nepal and, thereafter, he again gave written report to concerned Police Station on 05.10.1994 mentioning therein that respondent No.2 took away his son on 26.07.1994 and subsequently his son was murdered by respondent No.2 and his associates on account of non-fulfillment of demand of ransom. It is pertinent to note here that two letters, demanding ransom, were also received by the informant (P.W.5) and his family members.

In course of trial, informant and other prosecution witnesses were examined and some prosecution witnesses claimed that they had seen the respondent No.2 in the company of deceased on the alleged date of occurrence. However, the informant's daughter was examined as P.W.1 and she claimed that on the alleged date of occurrence respondent No.2 had come to her home and took her brother, but it is obvious from perusal of the impugned Judgment that she did not disclose the above stated fact before P.W.5 prior to filing of petition dated 05.08.1994 and moreover she did not make the above stated



statement before the Investigating Officer in course of investigation and it is obvious that she developed her statement in course of trial. The learned trial Court disbelieved the statement of P.W.1 as well as other prosecution witnesses on the ground of improbability. Therefore, we do not find any ground to interfere into the impugned Judgment. Accordingly, this Criminal Appeal stands dismissed at admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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