

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.23 of 1995

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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State of Bihar

.... Appellant/s

Versus

1.Jai Prakash Thakur Son of Bhikhari Thakur
2.Uday Kumar Thakur son of Jagdish Thakur
3.Ajay Kumar Thakur son of Jagdish Thakur, all the residents of
Thakur Tola, P.S- Lauriya, Dist- West Champaran

.... Respondent/s
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Appearance :

For the Appellant/s : Mr. S.N.Prasad

For the Respondent/s : Mr.

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

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date: 10-04-2018

1. Heard learned Additional Public Prosecutor for
the State. No one appears on behalf of the respondents
though notices have already been served.

2. This Criminal Appeal has been preferred against
the judgment of acquittal dated 08.12.1994 passed by 2nd
Additional Sessions Judge, West Champaran, Bettiah in
Session trial no. 506 of 1993 by which and whereunder he
acquitted the respondents of the charges framed under section



302/34 of the Indian Penal Code giving benefit of doubt to them.

3. Bettiah Muffasil P.S. Case No. 179 of 1993 for the offence punishable under section 302/34 of the Indian Penal Code was registered on the basis of fardbeyan of PW-6 (informant), who gave his fardbeyan on 30.09.1993 at about 7.30.p.m at M.J.Hospital, Bettiah before PW-8 (I.O) to this effect that on the same day, he along with deceased and others had gone to see Mela and while returning from Mela as soon as they reached near village Barbat Lacchu, one motorcycle came from opposite direction and hit the deceased upon which a quarrel took place between the motorcycle riders and the deceased. However, anyhow, the matter was pacified and they again proceeded ahead but the motorcycle riders along with two others again came there and out of them, two persons caught hold the deceased Faiyaz Alam. The person who was driving motorcycle pierced dagger into the abdomen of deceased Faiyaz Alam and, therefore, all the aforesaid three persons started fleeing away



from there but they were chased by the informant and others and, subsequently, they were caught by him as well as other persons. The culprits, who had given dagger blow to the deceased, disclosed his name as Jaiprakesh Thakur. The remaining two persons disclosed their names as Udai Kumar Thakur and Ajai Kumar Thakur. The deceased was taken to M.J.K Hospital, Bettiah but he was declared brought dead by the doctor. PW-6 further claimed that the aforesaid persons had thrown the dagger while they were fleeing from the place of occurrence and the aforesaid dagger could not be traced out.

4. After investigation, charge sheet was submitted and respondents were put on trial before the learned court below. Respondent no. 1 was, separately, charged for the offence punishable under section 302 of the Indian Penal Code whereas all the three respondents stood charged for the offence punishable under section 302 read with section 34 of the Indian Penal Code. In course of trial, all together, nine witnesses were examined and apart from this prosecution got



exhibited some documents. The statement of respondent, was recorded under section 313 of the Cr.P.C. The defence also got exhibited some documents in support of their defence. However, the learned court below after analyzing and scrutinizing the evidences available on the record acquitted the respondents of the charges giving benefit of doubt, passing the impugned judgment.

5. Learned Additional Public Prosecutor appearing for the State assailed the impugned judgment of acquittal arguing that the learned trial court discarded the testimony of eye witnesses only on the ground that the aforesaid eye witnesses were related to each others. He submitted that it is well settled principle of law that the testimony of a witness cannot be rejected only on the ground being related witness unless strong ground is brought to disbelieve his testimony. He further submitted that the impugned judgment of acquittal is full of surmises and conjectures and, as a matter of fact, the learned trial Judge committed illegality in acquitting the respondents particularly, in the circumstance, when almost



all the eye witnesses, clearly stated that it were respondents, who committed the murder of deceased. He further submitted that eye witnesses have proved the manner of occurrence and, similarly, investigating officer has proved the place of occurrence and apart from this, the doctor also found injury on the abdomen of deceased and the aforesaid injury corroborates the statements of eye witnesses but the learned trial court overlooked the above stated facts and passed a perverse judgment.

6. From perusal of the impugned judgment, we find that the learned court below acquitted the respondents on the ground that so-called eye witnesses are related with each others and are not reliable. Apart from this, the learned court below considered several other circumstances, which emerged in course of trial. The learned court below, highlighting the circumstances, doubted the fardbeyan of the present case and came to the conclusion that the fardbeyan of the present case was replaced by earlier fardbeyan and furthermore, the learned court below also found several



infirmities in the prosecution case in respect of recovery of motorcycle as well as other matters. Although learned Additional Public Prosecutor tried to convince us regarding the perversity of the impugned judgment of acquittal but we are not at all convinced with the submission of learned counsel for the appellant and we find that the learned court below has passed a well discussed judgment which does not need any interference by this Court.

7. Accordingly, we do not find any merit in this criminal appeal and this criminal appeal stands dismissed and the impugned judgment of acquittal, is hereby, confirmed. The respondents appear to have filed bail bonds after admission of this appeal before the court below and, accordingly, they are discharged from the liabilities of their bail bonds.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.04.2018
Transmission Date	



