

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.1137 of 2017

Arising Out of PS.Case No. -166 Year- 2009 Thana -MUZAFFARPUR SADAR District-
MUZAFFARPUR

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Poshan Yadav Son of Late Yugal Yadav, R/o Village- Sherpur, P.S.- Sadar,
District- Muzaffarpur.

.... Appellant

Versus

1. The State of Bihar.
2. Mithlesh Rai, Son of Late Ram Prit Rai, R/o Village- Dodhiya Ashadhar, P.S.-
Angarghat, District- Samastipur.

.... Respondents

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Appearance :

For the Appellant/s : Mr.

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: 04-04-2018

Heard learned counsel for the appellant as well as
learned Additional Public Prosecutor for the State.

The present appeal has been filed against the judgment of
acquittal dated 28.06.2017 passed by learned 2nd Additional Sessions
Judge, Muzaffarpur in Sessions Trial No. 362 of 2010 by which and
where under he acquitted respondent no. 2 and others.

It would appear from perusal of the impugned judgment
that victim was found missing from his home since 22.07.2009 and on
the basis of aforesaid fact the case was registered. The name of



respondent no. 2 came in the above stated case in course of investigation when investigating officer got information that respondent no. 2 and his son were seen moving on the motorcycle of the deceased. Subsequently, the respondent no. 2 was arrested and made confession before the police disclosing the manner in which the deceased was killed. It is pertinent to note here that dead body of the deceased had already been recovered much prior to recording of confessional statement of respondent no. 2.

Learned counsel appearing for the appellant submits that confessional statement of an accused recorded before the police is not admissible in evidence under Section 26 of the Evidence Act but if the aforesaid confessional statement reveals any new fact, the same is admissible under Section 27 of the Evidence Act.

There is no dispute in respect of legal proposition but the above stated legal proposition is not applicable in the present case because in the present case, learned counsel appearing for the appellant is trying to get inadmissible evidence admitted in evidence in guise of Section 27 of the Evidence Act. Furthermore, from perusal of impugned judgment we find that learned trial court has discussed all the evidences available on the record and there is no illegality, irregularity or perversity into the impugned judgment.

Therefore, we do not find any ground to interfere into the



impugned judgment of acquittal. Accordingly, this criminal appeal along with I.A. No. 2531 of 2017 which has been filed for grant of leave to file this appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

SHAHZAD/-

AFR/NAFR	NAFR
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