

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.370 of 2018

Arising Out of PS. Case No.-180 Year-2011 Thana- TEGHRA District- Begusarai

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{Against the Judgment of acquittal dated 31.01.2018 passed by the learned Additional Sessions Judge-I, Begusarai, in Sessions Trial No.39 of 2014}.

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Shambhu Prasad Sah @ Shambhu Prasad, son of Late Ram Bhaiju Sah alias Late Rambhajju Prasad, resident of village-Suryagarha Bazar, P.S. Suryagarha, District-Lakhisarai.

... .. Appellant.

Versus

1. The State of Bihar.
2. Mantosh Sah, son of Upendra Sah.
3. Upendra Sah, son of Late Maksudan Sah.
4. Santosh Kumar Sah, son of Upendra Sah.
5. Lilawati Devi, wife of Upendra Sah.
6. Shobha Devi, wife of Santosh Sah.

All residents of village near Congress Office, P.S. Teghra, District-Begusarai.

... .. Respondents.

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Appearance :

For the Appellant	:	Mr. Lalan Kumar, Advocate.
For the State	:	Mr. Mayanand Jha, A.P.P.

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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 : 31-07-2018

Heard learned counsel for the appellant as well as learned Additional Public Prosecutor for the State on the point of admission as well as I.A. No.1187 of 2018, which has been filed under Section 378(3) of the Code of Criminal Procedure.

2. The appellant has preferred this criminal appeal



against the impugned Judgment of acquittal dated 31.01.2018 passed by the learned Additional Sessions Judge-I, Begusarai, in Sessions Trial No.39 of 2014, by which and whereunder he acquitted the respondents no.2 to 6 of the charges framed under Section 304B read with Section 34 of the Indian Penal Code.

3. The appellant lodged Teghra P.S. Case No.180 of 2011 for the offences under Sections 304B/34 of the Indian Penal Code against the respondents no.2 to 6, when he learnt that his daughter was burnt to death by the respondents no.2 to 6 due to non-fulfillment of the illegal demand of dowry.

4. The respondents no.2 to 6 were put on trial and stood charged for the offences punishable under Section 304B read with Section 34 of the Indian Penal Code.

5. In course of trial, the prosecution examined, altogether, six witnesses and also got exhibited certain documents. The respondents no.2 to 6 got examined two defence witnesses and got proved the injury reports.

6. Learned trial court having analyzed the evidences, available on the record, came to conclusion that the prosecution failed to prove the ingredients, as required under Section 304B of the Indian Penal Code.

7. Learned counsel appearing for the appellant



challenged the impugned Judgment of acquittal, arguing that the learned trial court failed to take notice of this fact that the door of the room was found partially burnt and the aforesaid circumstance goes to show that the deceased was caught fire in a room but the learned trial court having relied upon the injury reports of the respondents no.2, 3 and 4 acquitted the respondents no.2 to 6, treating the death of the deceased as an accidental death.

8. Having heard the above stated contentions of the learned counsel for the appellant, we went through the record.

9. We find that the learned trial court has discussed all the evidences in proper manner and, furthermore, we find that, in course of trial, the defence got exhibited the injury reports of the respondents no.2, 3 and 4. Furthermore, we find that the defence successfully proved this fact that the respondent no.2 got 60% burn injury, whereas the respondents no.3 and 4 also got burn injury, though simple in nature. Furthermore, we find that the learned trial court having discussed the evidences, available on the record, came to the conclusion that the prosecution could not succeed to prove the factum of illegal demand of dowry and torture. Furthermore, it would appear from perusal of the impugned Judgment that the learned trial



court doubted the prosecution story, treating the death of the deceased as an accidental death.

10. The impugned Judgment is a well discussed and well written Judgment and, therefore, we do not think it proper to interfere into the findings of the learned trial court and, accordingly, this criminal appeal as well as I.A. No.1187 of 2018 stand dismissed on the admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018.
Transmission Date	01.08.2018.

