

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.998 of 2018

Arising Out of PS. Case No.-45 Year-2015 Thana- MAKHDUMPUR District- Jehanabad

Mamta Devi @ Mamta Kumari, Wife of Vidya Nand Sharma, Resident of
Village- Bhaikh, P.S.- Makhdumpur, District- Jehanabad.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Devendra Sharma, Son of Bhuneshwar Sharma,
3. Girja Nand Sharma, Son of Late Ram Nandan Sharma,
Both are resident of Village- Bhaikh, P.S.- Makhdumpur, District- Jehanabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binay Kumar Singh, Advocate
For the Respondent/s : Mr. Ajay Mishra, APP

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 18-12-2018

Heard learned counsel appearing for the appellant as
well as learned Additional Public Prosecutor for the State on I.A.
No. 2467 of 2018 as well as on the point of admission.

2. I.A. No. 2467 of 2018 has been filed under Section
378(3) of the Code of Criminal Procedure on behalf of the
informant of the present case and she has prayed in the aforesaid
petition to permit her to pursue this criminal appeal.



Since the appellant claims herself to be informant as well as victim, she is permitted to pursue this criminal appeal.

Accordingly, I.A. No. 2467 of 2018 stands allowed.

3. This criminal appeal has been preferred against the judgment of acquittal dated 12.7.2018 passed by learned Presiding Officer, Fast Track Court No. II, Jehanabad, in Sessions Trial No. 286 of 2015/ 22 of 2018, by which and whereunder he acquitted the respondent Nos. 2 and 3 from the charges framed against them for the offences punishable under Sections 302/149, 307/149, 323/149, 148, 326/149 and 147 of the Indian Penal Code.

4. Learned counsel appearing for the appellant assailed the impugned judgment of acquittal, arguing that in course of trial, prosecution witness No. 2, prosecution witness No. 3 and prosecution witness No. 6 claimed themselves to be eye witnesses as well as injured witnesses but the learned trial court discarded the testimony of the aforesaid prosecution witnesses without any valid reason. He submitted that the status of an injured witness is more stronger than an ordinary witness because the presence of injured witness over the place of occurrence cannot be disputed and disbelieved but, in the present case, the learned trial court disbelieved and discarded the testimony of the prosecution witnesses.



5. On the other hand, learned Additional Public Prosecutor supported the impugned judgment of acquittal, arguing that the learned trial court has discussed the evidences in right manner and there is no need to interfere into the impugned judgment of acquittal.

6. Having heard the rival contentions of the parties, we went through the impugned judgment.

7. We find that in course of trial, prosecution witness No. 2, prosecution witness No. 3 and prosecution witness No. 6 supported the occurrence but on the point of participation of respondent Nos. 2 and 3 in the alleged occurrence, the statements of aforesaid prosecution witnesses are contradictory because prosecution witness No. 2 has named only respondent No. 3 and prosecution witness No. 2 has, nowhere, stated about the participation of the respondent No. 2 in the alleged crime. Similarly, prosecution witness No. 6 has, nowhere, stated about the participation of respondent Nos. 2 and 3 in the alleged crime.

8. No doubt, prosecution witness No. 3 claimed about the participation of respondent Nos 2 and 3 in the alleged crime but except the aforesaid prosecution witness, none of the prosecution witnesses claimed about the participation of both the respondents and the aforesaid fact has been noticed by the learned



trial court, while passing the impugned judgment of acquittal. Apart from this, the learned trial court has also taken several other grounds for writing the judgment of acquittal and we do not find any perversity or illegality into the impugned judgment and, therefore, we are of the view that there is no need to interfere into the impugned judgment and this criminal appeal is liable to be dismissed on the admission stage itself.

9. In view of the aforesaid discussions, this criminal appeal stands dismissed on the admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2018
Transmission Date	19.12.2018

