

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1039 of 2018

Arising Out of PS. Case No.-238 Year-2001 Thana- MIRGANJ District- Gopalganj

{Against the Judgment of acquittal dated 25.05.2018 passed by the learned
Fast Track Court-II, Gopalganj, in Sessions Trial No.81 of 2002}.

Maya Lal Singh, S/o Late Dwarika Singh, Resident of Village- Basdila, P.O.-
Basdila, P.S.- Mirganj, District- Gopalganj.

... .. Appellant.

Versus

1. The State of Bihar.
2. Nagina Singh alias Ram Nagina Singh, S/o Ram Kumar Singh, Resident of
Village & Post- Basdila, P.S. Mirganj, District- Gopalganj.

... .. Respondents.

Appearance :

For the Appellant : Mr. Dhananjay Kumar Shahi, Advocate.
For the State : Mr. Ajay Mishra, A.P.P.

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

and

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL JUDGMENT

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

Date : 11-10-2018

I.A. No.2743 of 2018 has been filed on behalf of
the appellant Maya Lal Singh, under Section 378(3) of the Code
of Criminal Procedure, seeking leave to file this appeal.

The appellant happens to be the informant and the
son of the deceased and, therefore, he has right to file the appeal
against the Judgment of acquittal.

Accordingly, I.A. No.2743 of 2018 stands allowed
and leave is granted for pursuing this criminal appeal.



2. Heard learned counsel appearing for the appellant as well as the learned Additional Public Prosecutor for the State on the point of admission and, in our view, this appeal can be disposed of on the admission stage itself.

3. The appellant is aggrieved by the Judgment of acquittal dated 25.05.2018 passed by the learned Fast Track Court-II, Gopalganj, in Sessions Trial No.81 of 2002, by which and whereunder he acquitted the respondent no.2 of the charge framed under Section 302/34 of the Indian Penal Code.

4. Learned counsel appearing for the appellant challenged the impugned Judgment of acquittal, arguing that the learned trial court failed to appreciate the evidences, available on the record, in its right perspective. He submits that, in course of trial, viscera report of the deceased was produced before the trial court and the viscera report reveals that the deceased was poisoned to death as Thimate was detected in the viscera of the deceased but the learned trial court did not give any finding on the aforesaid viscera report. He further submits that the informant and other witnesses, specifically, stated that the deceased was assaulted by lathi but the doctor in collusion with the accused gave false post-mortem report. He further submits that it is well settled principle of law that the ocular evidence



shall prevail over the medical evidence and, therefore, in the aforesaid circumstance, the learned trial court committed error in acquitting the respondent no.2. He further submits that the learned trial court wrongly held that due to non-examination of the Investigating Officer, the prejudice was caused to the defence.

5. On the other hand, learned Additional Public Prosecutor supports the impugned Judgment of acquittal, arguing that the impugned Judgment of acquittal reflects that the learned trial court discussed each and every point and came to the right conclusion. He further submits that the impugned Judgment goes to show that the prosecution miserably failed to prove its case and, therefore, there is no need to interfere into the impugned Judgment of acquittal. He submits that the appellant has wasted a valuable time of this Court and, therefore, heavy cost should be imposed upon the appellant.

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

7. We find force in the contentions of the learned Additional Public Prosecutor. Furthermore, we find that the learned trial court has discussed the evidence, at length, and passed a well thought Judgment.



8. So far as the imposition of cost is concerned, we do not think it proper to impose cost upon the appellant because every person has right to come before this Court for redressal of his grievance in accordance with law.

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

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2018.
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