

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.295 of 2018

Arising Out of PS.Case No. -221 Year- 2016 Thana -BUXAR District- BUXAR

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Ayodhya Singh S/o Late Ram Bilash Singh R/o Village – Chhatanwar, P. S
– Krishnabrahm, District Buxar.

.... Appellant

Versus

1. The State of Bihar
2. Sudamini Devi @ Sudamiya Devi wife of Chandradeep Singh.
3. Rajesh Roshan.
4. Rakesh Roshan

Both 3 and 4 are sons of Chandradeep Singh.

All 2 to 4 are resident of Mohalla – Musafirganj, P. S. – Buxar,
District Buxar.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Verma, Adv.

For the Respondent/s : Mr. Abhimanyu Sharma, APP

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

and

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

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

5 10-10-2018 1. Heard learned counsel for the appellant as well as

learned Additional Public Prosecutor for the State on the point of

admission as well as on I. A. No. 2170 of 2018 which has been

filed for grant of Special Leave to file this criminal appeal.

2. The appellant happens to be uncle of the deceased

and therefore, he comes under the purview of relative of the

deceased and, therefore, he has right to file this Criminal Appeal.

Accordingly, the leave to file this appeal is granted to the

appellant and accordingly, I. A. No. 2170 of 2018 stands disposed



of.

3. The appellant being informant in Buxar P. S. Case No. 221 of 2016 challenged the impugned judgment of acquittal dated 27.11.2017 passed by the Presiding Officer, F.T.C.-1, Buxar in S. T. No. 68 of 2017 by which and whereunder, he acquitted the respondent nos. 2, 3 and 4 from the charges framed against them for the offences punishable under Sections 304B/34 and 302 of the Indian Penal Code.

4. Learned counsel appearing for the appellant submits that the learned trial court pronounced the impugned judgment of acquittal on the ground that none had seen the actual killing of the deceased and learned trial court failed to take notice of this fact that in cases of Section 304B of the Indian Penal Code, there is presumption and the burden lies upon the defence to displace the above stated presumption. He submits that in the present case, the prosecution witnesses clearly proved all the ingredients of Section 304B of the Indian Penal Code but even then learned court below acquitted the respondent nos. 2, 3 and 4 on the ground that prosecution failed to produce eye-witness in the alleged crime.

5. On the other hand, learned Additional Public Prosecutor supports the impugned judgment of acquittal arguing that the learned trial court has discussed all the evidences and



found that prosecution could not succeed to prove all the ingredients of Section 304B of the Indian Penal Code and furthermore, the learned trial court also found that the charge under Section 302 of the Indian Penal Code could not be established as none had seen the actual killing of the deceased. He further submits that the learned trial court came on conclusion that the deceased committed suicide but there was nothing before the trial court to show that it were respondent nos. 2, 3 and 4 who abated the deceased for committing suicide and therefore, the learned trial court rightly acquitted the respondent nos. 2, 3 and 4.

6. Having heard the rival contentions of both the parties, we went through the record. The appellant happens to be uncle of the deceased and the above stated Buxar Town P. S. Case No. 221 of 2016 was registered on the basis of written report of the appellant who claimed in his written report that the marriage of the deceased took place with respondent no. 4 on 06.05.2013 and the **gona** of the deceased was performed on 11.06.2015. The appellant also claimed in his written report that at the time of **gona**, the in-laws of the deceased demanded one Scorpion vehicle in dowry. However, the victim went to her in-laws house but she continuously subjected to cruelty due to non-fulfillment of above stated demand of her one Scorpion vehicle. The appellant further



claimed that victim several times gave information of her torturing on the telephone to the informant as well as other family members and on 02.06.2016, one Ashok Singh gave information to the appellant regarding the death of the deceased and having got the aforesaid information, the appellant went to the house of respondent nos. 2, 3 and 4 and found that the door of room of the deceased was locked from inside but the windows of aforesaid room were opened. The appellant saw through the aforesaid window that the deceased was hanging from a ceiling fan. Subsequently, on the information given by the appellant, police came there and took away the dead-body of the deceased. In post-mortem examination, it was found that the cause of death was asphyxia due to hanging.

7. In course of trial, the prosecution got examined several witnesses and the learned trial court discussed the evidence of all the prosecution witnesses. The impugned judgment goes to show that the witnesses admitted in their depositions that one day prior to the death of the deceased, deceased along with her husband celebrated her marriage anniversary and moreover, witnesses also admitted that no quarrel had taken place between in-laws of the deceased as well as her natal people on the day of solemnization of **gona**. Furthermore, we do not find anything in



the impugned judgment to show that soon before her death, deceased was subjected to cruelty rather almost all the prosecution witnesses admitted this fact that the deceased was residing in a hostel at Patna and her in-laws used to bear the cost of her study and living at Patna. Therefore, it is obvious that prosecution could not succeed to prove all the important ingredients of Section 304B of the Indian Penal Code and the learned trial court rightly acquitted the respondent nos. 2, 3 and 4.

8. On the basis of aforesaid discussions, we do not think it proper to interfere into the findings of the learned trial court and in our view, this appeal is liable to be dismissed on admission stage itself. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

Shahid/- Rajeev

(Rajendra Kumar Mishra, J)

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