

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.656 of 2018

Arising Out of PS. Case No.-276 Year-2012 Thana- RAJPUR District- Buxar

Panchu Ram, S/o Late Ram Lal Ram, Resident of village - Rampur, P.S.-
Rajpur, District- Buxar (Bihar).

... .. Appellant

Versus

1. The State of Bihar.
2. Sheo Murat Ram S/o Jhagaru Ram,
3. Ram Awadh Ram S/o Jhagaru Ram,
4. Sakhiichand Ram S/o Jhagaru Ram,
5. Dharmawati Devi W/o Sheo Murat Ram, All Residents of Vill.- Rampur, P.S.-
Rajpur, District- Buxar, (Bihar).

... .. Respondents

Appearance :

For the Appellant	:	Mr. Yogendra Kumar, Advocate Mr. Ram Naresh Ray, Advocate
For the Respondents	:	Mr. Bachanjee Ojha, Advocate
For the State	:	Mr. Dilip Kumar Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

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

3 25-08-2018 Heard learned counsel appearing for appellant,

learned counsel appearing for respondents No. 2 to 5 as well as

learned Addl. Public Prosecutor for the State on the point of

admission and I.A. No. 1641 of 2018, which has been filed

under Section 378 (3) of the Code of Criminal Procedure for

grant of leave to file this appeal.

This criminal appeal has been preferred against the

Judgment of acquittal dated 28.03.2018 passed by learned

Presiding Officer, Fast Track Court-1, Buxar in Sessions Trial



No. 184 of 2013, arising out of Rajpur P.S. Case No. 276 of 2012, by which and whereunder, he acquitted the respondents No. 2 to 5 of the charges framed under Sections 302/34, 364/34 and 201/34 of Indian Penal Code disbelieving the statement of sole eye-witness P.W.3.

Learned counsel appearing for appellant submits that the learned trial Court failed to appreciate the evidences properly, as a result thereof, the trial Court came to wrong conclusion. He further claims that P.W.3, the wife of deceased, claimed that she had seen the respondent Nos. 2 to 5 taking away her husband in the alleged night of occurrence and subsequently, the dead body of the deceased was recovered and, therefore, the aforesaid evidence clearly proves this fact that the deceased was kidnapped and, subsequently, murdered by respondents No. 2 to 5, but the learned trial Court on flimsy grounds disbelieved the statement of P.W.3.

On the other hand, learned counsel appearing for respondents No. 2 to 5 supported the impugned Judgment of acquittal arguing that according to the prosecution case, itself, the deceased was taken away on 25.12.2012 and in the morning of 26.12.2012 informant came to know about the missing of the deceased, but it is surprising enough that he lodged the



prosecution case on 27.12.2012. He, further, submits that the learned court below noticed several major contradictions in the deposition of prosecution witnesses and rightly acquitted the respondent Nos. 2 to 5.

Having heard the contentions of both the parties, we went through the impugned Judgment as well as lower Court's record.

It is admitted case of the prosecution that the deceased was taken away in the night of 25.12.2012 and at that time, P.W.3 was also present with the deceased. Furthermore, it is admitted case of the prosecution that in the morning of 26.12.2012, informant went to his field and P.W.3 disclosed before him about alleged occurrence, but even then informant did not lodge any case on 26.12.2012 and he gave written report to concerned Police Station on 27.12.2012. He has given explanation in the written report that after getting information of kidnapping of his father he started searching his father and that is the reason he did not lodge the present case in time, but, in our view, the aforesaid explanation is not sufficient. However, the learned trial Court has noticed the contradictions occurred in the statement of prosecution witnesses and also noticed that there was no source of identification and it was difficult for



P.W.3 to identify the respondent Nos. 2 to 5. We do not find any infirmities in the impugned Judgment and, accordingly, we are of the view that there is no need to interfere into the findings of the learned trial Court.

Accordingly, this appeal as well as I.A. No. 1641 of 2018 stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

manish/-

U		T	
---	--	---	--

