

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1062 of 2018

In
Criminal Appeal (SJ) No.2422 of 2018

Arising Out of PS. Case No.-105 Year-2011 Thana- RAMNAGAR District- West Champaran

=====

Ram Narayan Yadav @ Ramayan Yadav, son of Birja Yadav @ Braja Yadav
@ Chhathu Yadav, Resident of village-Ratanmala, P.S. Bagaha, District-West
Champaran.

... .. Appellant

Versus

1. The State Of Bihar,
2. Dhrub Yadav, son of Late Radha Yadav,
3. Nunu Yadav, son of Late Sukhlal Yadav,
4. Amar Yadav, son of Late Lagan Yadav,

All are resident of village – Harinagar Murila, P.S. Ram Nagar, District –
West Champaran.

... .. Respondents

=====

Appearance :

For the Appellant/s	:	Mr. Anand Kishore Choudhary
For the Respondent/s	:	Mr. Shyed Ashfaque Ahmad

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)

6 04-12-2018 Heard learned counsel for the appellant as well as

learned Addl. Public Prosecutor for the State on I.A. No. 2591 of

2018 as well as on the point of admission and perused the

record.

I.A. No. 2591 of 2018 has been filed under Section
378(3) of the Code of Criminal Procedure praying therein for
grant of leave to file this criminal appeal. The applicant in I.A.
No. 2591 of 2018 happens to be brother of victim of the present



case and, therefore, I.A. No. 2591 of 2018 stands allowed.

This appeal has been preferred against the Judgment of acquittal dated 27.04.2018 passed by Addl. Sessions Judge-II, Bagaha, West Champaran in Sessions Trial No. 20 of 2013 Tr. No. 427 of 2014, C.I.S. No. 2070 of 2014, arising out of Ram Nagar P.S. Case No. 105 of 2011 by which and whereunder, he acquitted the respondents No. 2 to 4 from the charges framed against them for the offence punishable under Sections 364, 302 and 201/34 of the Indian Penal Code.

Learned counsel appearing for appellant challenged the impugned Judgment of acquittal submitting that the prosecution successfully brought on record circumstantial evidences to show the involvement of respondents No. 2 to 4 in committing the murder of the deceased, but learned trial Court acquitted the respondent Nos. 2 to 4 without any valid reason. He further submits that the witnesses claimed that the deceased was seen in the company of respondents No. 2 to 4 prior to her missing and the prosecution also proved motive of commission of alleged occurrence, but learned trial Court ignored the aforesaid circumstantial evidences. He further submits that the respondent Nos. 2 to 4 are close relative of the deceased, but they did not give any information regarding the



missing of the deceased.

On the other hand, learned Addl. Public Prosecutor supported the impugned Judgment of acquittal arguing that almost all the prosecution witnesses turned hostile in course of trial and, moreover, the trial Court rightly held that mere last seen is not a ground to conclude the guilt of a person.

The respondent Nos. 2 to 4 are, admittedly, the close relative of victim of the present case and it is also an admitted position that victim as well as respondent No.4 were jointly residing and cultivating their lands jointly. It is further an admitted case of the prosecution that the victim was mother of three children and when her husband was caught on paralytic attack, it was respondent No.4, who used to look after the entire state of affairs of the victim. The informant has claimed, in his fardbeyan, that on the alleged date of occurrence, the victim was seen along with respondent No.4 working in her field and after that she was found missing.

The perusal of impugned Judgment goes to show that several prosecution witnesses turned hostile and they have stated nothing about the involvement of respondent Nos. 2 to 4 in the alleged occurrence. However, even if, it assumes that on the alleged date of occurrence the victim was seen in



the company of respondent No. 2 to 4, then also, the aforesaid circumstances was not sufficient to conclude that it were respondents No. 2 to 4, who committed the alleged crime. The dead body of the victim has not been recovered and the prosecution could not succeed even to prove that the victim was killed.

The learned trial Court has observed in the impugned Judgment that mere last seen is not sufficient to convict a person. We are in full agreement with the learned trial Court and we do not find any ground to interfere into the impugned Judgment of acquittal, because the impugned Judgment of acquittal is a well discussed and well thought Judgment.

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

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

manish/-

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

