

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.706 of 2018

Arising Out of PS.Case No. -234 Year- 2012 Thana -BARSOI District- KATI HAR

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1. Savera Khatoon, W/o Late Kahlilur Rahman D/o Kismat Ali R/o Village- Goruba P.S.- Barsoi (Kachna O.P.), District- Katihar, Bihar.

.... Appellant/s

Versus

1. The State of Bihar.
 2. Md. Hussain, S/o Faiju, R/o village- Goruwa, P.S.- Barsoi, District- Katihar, Bihar.
 3. Sajan @ Sahjahan @ Sah Jaan S/o Mahlat Ali R/o village- Goruwa, P.S.- Barsoi, District- Katihar, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Yashraj Bardhan

For the Respondent/s : Mr. S.B. Verma

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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)

3 26-07-2018 Heard learned counsel for the appellant as well as learned Additional Public Prosecutor for the State on the point of admission and I.A. No. 1728 of 2018.

This appeal has been preferred against judgment of acquittal dated 06.04.2018 passed by learned Additional Sessions Judge-III, Katihar, in Sessions Trial No. 271 of 2013 arising out of Barsoi P. S. Case No. 234 of 2012 by which and where under he acquitted the respondent nos. 2 and 3 of the charges framed under sections 302 and 201/34 of the Indian Penal Code.



Learned counsel appearing for the appellant challenged the impugned judgment arguing that in course of trial prosecution brought circumstantial evidences on record to prove the guilt of the respondent nos. 2 and 3 but the learned trial court acquitted the respondent nos. 2 and 3 completely ignoring the evidences available on the record. Continuing his submission, he further submitted that it has come in evidence of prosecution witnesses that respondent nos. 2 and 3 had a quarrel with the deceased prior to his death and in the next day, the deceased was seen in the company of respondent no. 3. He, further, submitted that subsequently, dead body of deceased was recovered and several injuries were found on the person of deceased. He submitted that the aforesaid circumstances clearly established this fact that it were respondent nos. 2 and 3 who committed the murder of deceased.

Having heard the aforesaid contentions of learned counsel appearing for the appellant, we went through the record and find that the learned trial court discussed all the evidences available on the record and came to the conclusion that prosecution failed to prove its case beyond all shadow of reasonable doubts. However, even if the submission advanced on behalf of the appellant is assumed to be true for sake of



convenience, then also, the aforesaid circumstances are not conclusively proved that it were respondent nos. 2 and 3 who had committed the murder of deceased and on the basis of aforesaid circumstances only a suspicion can be raised against the respondent no. 2. It is well settled principle of law that suspicion, however, it may be strong, can not take place of evidence.

Therefore, in the aforesaid circumstances, we do not find any illegality, irregularity or perversity in the impugned judgment of acquittal and accordingly, this criminal appeal stands dismissed on admission stage itself and I.A. No. 1728 of 2018 stands disposed of.

(Hemant Kumar Srivastava, J)

Shahid/- Rajeev

(Rajendra Kumar Mishra, J)

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