

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.1139 of 2017

Arising Out of PS.Case No. -53 Year- 1999 Thana -HAJIPUR SADAR District-
VAISHALI(HAJIPUR)

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1. Parshuram Sharma son of Jagannath Sharma Resident of Village - Bishunpur
Bala Dhari (Balva Kunwar), Police Station - Sadar, District - Vaishali at Hajipur.

.... Appellant

Versus

1. The State of Bihar.
2. Gulen Thakur @ Gulen, son of Ramdeo Thakur
3. Pramod Sharma son of Chandrika Sharma
4. Akalu Thakur son of Dasai Thakur
5. Arun Thakur son of Balli Thakur All residents of Village - Dighi, Sarda Chak,
P.S. - Sadar, District - Vaishali at Hajipur.

.... Respondents

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date: 07-05-2018

Heard learned counsel for the appellant, learned counsel
appearing for respondents no. 2 to 5 as well as learned Additional
Public Prosecutor for the State.

This criminal appeal has been preferred against the
judgment dated 10.07.2017 passed in Sessions Trial No. 246 of 1999
by which and whereunder learned Presiding Officer, F.T.C., Vaishali
at Hajipur acquitted the respondents no. 2 to 5 of the charges framed
against them for the offences punishable under Sections 364, 302,



201/34 of the Indian Penal Code whereas convicted one co-accused, namely, Uma Rai for the above stated offences.

It would appear from perusal of impugned judgment that informant's youngest son, namely, Mukesh Kumar aged about ten years had gone outside his house on 21.02.1999 at about 07:30 P.M. but did not return till late night. Subsequently, his dead body packed in a bag was recovered on 25.02.1999 and thereafter, the appellant (informant) gave his ferdbeyan on the basis of which present case was lodged. The appellant (informant) expressed his suspicion against convict Uma Rai on the ground that six months prior to the alleged occurrence Uma Rai had kept a Gumti in front of his house as a result whereof a quarrel had taken place and the said Uma Rai had given threatening to him.

In course of investigation, respondents no. 2 to 5 were dragged in this case on the basis of confessional statement. However, in course of trial, some witnesses claimed to this extent that on the day of alleged occurrence they had seen the respondents no. 2 to 5 along with convict Uma Rai providing biscuit to deceased boy and except the aforesaid circumstance, the prosecution could not bring any other circumstance against the respondents no. 2 to 5.

Learned counsel appearing for the appellant submits that the learned trial court convicted co-accused Uma Rai on the same set



of evidence whereas acquitted the respondents no. 2 to 5 which is not in accordance with law but in our view, the submission of learned counsel of the appellant does not have any merit because perusal of impugned judgment goes to show that learned trial court passed the impugned judgment in respect of respondents no. 2 to 5 after proper scrutiny of the evidences and moreover, the circumstance placed before the trial court was not sufficient to convict the respondents no. 2 to 5 and accordingly, we do not find any ground to interfere into the impugned judgment.

Hence, this criminal appeal stands dismissed on admission stage itself. Similarly, I.A. No. 2040 of 2017, which has been filed under Section 378(3) of the Cr.P.C., stands disposed of.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

SHAHZAD/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2018
Transmission Date	17.05.2018

