

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.328 of 2018

Arising Out of PS.Case No. -28 Year- 1999 Thana -BHAGWANPUR District- BHABHUA
(KAIMUR)

=====

Dasai Singh son lof Raja Sisng @ Dhodha Singh resident of Manikpur PS
Bhagwanpur District Kaimur (Bhabua)

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Vikramdeo Singh
Mr. Sada Nand Roy

For the Respondent/s : Ms. Shashi Bala Verma

=====

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

and

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

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

5 31-10-2018 1. I.A. no. 946/2018 has been filed on behalf of the

appellant under section 378(3) of the Cr.P.C for grant of leave to

file this appeal which is allowed and the aforesaid I.A. stands

disposed of.

2. Heard learned counsel for the appellant, learned
counsel for respondent nos.2 and 3 as well as learned Addl.
Public Prosecutor for the State and, in our view, this appeal can
be disposed of on admission stage itself.

3. This criminal appeal has been preferred against the
judgment of acquittal dated 16.01.2018 passed by the Fast Track
Court I, Kaimur at Bhabua in Sessions trial no. 204/2000 by
which and whereunder he acquitted respondent nos.2 and 3 of



the charges framed against them under sections 302, 326 and 307 of the Indian Penal Code.

4. Learned counsel appearing for the appellant submits that the learned court below failed to appreciate the evidences available on record and passed judgment of acquittal taking note of minor contradictions as well as on flimsy ground. Continuing his submissions, he submits that witnesses stated that the deceased and others had taken bread prior to alleged occurrence but in post mortem report, rice was found in stomach of the deceased and the learned trial court took notice of the aforesaid minor contradiction and passed the judgment of acquittal and similarly, learned trial court disbelieved the testimonies of injured witnesses only on the ground that there were contradictions in the injury report of the injured witnesses prepared by the Investigating officer as well as injury report of that witnesses prepared by the doctor. He submits that all the aforesaid contradictions are minor contradictions but the learned trial court passed the judgment of acquittal against settled principle of law that the minor contradictions in the statement of prosecution witnesses can not be made a ground to disbelieve the prosecution case.

5. On the other hand, learned counsel for respondent nos. 2 and 3 supports the impugned judgment of conviction arguing that learned trial court has passed well discussed



judgment and moreover, it is well settle principle of law that if two views are possible on the basis of evidences available on record and if learned trial court takes one view, the appellate court can not interfere into the judgment of acquittal on the ground of other view.

6. Having heard rival contentions of both parties, we went through the record. The learned trial court noted several contradictions in the testimonies of the prosecution witnesses and discussed almost all evidences available on record. Furthermore, we, too, agree with the submissions advanced by learned counsel for respondent nos. 2 and 3 that if two views are possible, appellate court can not impose another view, if trial court has taken other view.

7. Considering the aforesaid facts and circumstances as well as submissions of the parties, we do not think it proper to interfere into the findings of the learned trial court and accordingly, this appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Shahid/-

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

