

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.669 of 2018

Arising Out of PS.Case No. -295 Year- 1991 Thana -NAUGACHIA District- BHAGALPUR

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Rajendra Kumar

.... Appellant

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant : Mr. Saurabh Kumar, Adv.

For the Respondent/s : Mr. Smt. Abha Singh, APP

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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)

7 24-09-2018 Heard learned counsel for the appellant on the point of admission as well as I. A. No. 1655 of 2018 which has been filed for grant of leave to file appeal against the judgment of acquittal.

The interlocutory petition is allowed as the appellant comes under the definition of the victim.

The appellant is aggrieved by the impugned judgment of acquittal dated 01.04.2017 passed by learned 1st Additional Sessions Judge, Naugachia in Sessions Case No. 674 of 1998/ Trial No. 740 of 2016 by which and whereunder, learned trial court acquitted the respondent nos. 2 to 8 of the charges framed against them for the offences punishable under Sections 147, 148, 149, 447, 427, 379 and 307 of the Indian Penal Code.



Originally, the appellant filed complaint petition and subsequently, having found prima facie case, the respondent nos. 2 to 8 were put on trial. However, in course of trial, only appellant got examined himself as prosecution witness and the learned trial court taking note of this fact, that not a single witness except appellant turned up to support the prosecution case, particularly, in the circumstance when so many persons were cited in complaint petition as witness and also taking note of this fact that there was previous litigation as well as case and counter case between the parties, passed the impugned judgment of acquittal.

Learned counsel appearing for the appellant tried to convince us by arguing that the judgment of conviction can be passed on the solitary evidence of a prosecution witness. No doubt, the judgment of conviction can be recorded on sole testimony of witness but prior to recording of judgment of conviction on sole testimony of a prosecution witness, it is essential to judge the credibility of the aforesaid prosecution witness. In the present case, the learned trial court doubted the credibility of the appellant, taking note of previous litigation as well as case and counter case between the parties. Moreover, it is well settled principle of law that the appellate court can not impose his view over the view of trial court, if two views are



possible. Therefore, we do not find any ground to differ with the findings of learned trial court.

Accordingly, this Criminal Appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

N.K/-

(Rajendra Kumar Mishra, J)

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