

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.15 of 2018

Arising Out of PS. Case No.-170 Year-2003 Thana- CIVIL LINE District- Gaya

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Zubaida Khatoon, W/o Late Abdul Rauf, Resident of Mohalla- Ghughari
Tand, P.S. Civil Line, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Kaloo Yadav @ Kallo Yadav, S/O Dadu Yadav, Resident of Mohalla-
Gawal Bigha, P.S.- Rampur, District- Gaya.
3. Lallo Yadav, S/O Late Rupan Yadav, Resident of Mohalla- Bisar Talab,
P.S.- Civil Line, District- Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dharmendra Kumar Sinha, Advocate

For the Respondent/s : Mr. SRI ASHWANI KUMAR SINHA, APP

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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 : 30-03-2018

1. 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. 676 of 2018, which has been filed for grant of
leave to file this Criminal Appeal.

2. The present appeal has been preferred against the
Judgment of acquittal dated 17.10.2017 passed in Sessions Trial No.
262 of 2016 by the 9th Additional Sessions Judge, Gaya, by which and
whereunder, he acquitted the respondent nos. 2 and 3 of the charges



framed against them for the offence punishable under Sections 364 and 365/34 of the Indian Penal Code.

3. Learned counsel appearing for the appellant submits that the learned court below failed to take notice of this fact that the postmortem report of deceased negates the theory of accidental death but without discussing the aforesaid aspect of the matter, the learned 9th Additional Sessions Judge, Gaya, passed the Judgment of acquittal. We are not at all impressed with the aforesaid submission, because the impugned Judgment of acquittal reflects that the learned Additional Sessions Judge has discussed, all most, all the materials available on the record and moreover, even if, the evidence came in course of trial is taken for consideration, then also, only case of last seen is proved and only suspicion can be raised against the appellants.

4. Accordingly, we do not find any ground to interfere into the impugned Judgment of acquittal and, hence, this appeal along with I.A. No. 676 of 2018 stands dismissed on admission stage.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.04.2018
Transmission Date	04.04.2018

