

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.1252 of 2018

Arising Out of PS. Case No.-37 Year-2012 Thana- PIPRIYA District- Lakhisarai

Subodh Kumar, S/o Bhagirath Singh, R/o Village Walipur P.S.- Pipariya,
District- Lakhisarai.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Bijay Singh, S/o Late Siyaram Singh,
3. Ajay Singh, S/o Late Siyaram Singh,
4. Bablu Singh, S/o Ramesh Singh, O.P. NO. 2 to 4 r/o Village- Khutahdih,
P.S.- Barahiya, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Kumar
For the Respondent/s : Mr. Satya Narayan Prasad

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)

- 3 05-12-2018 1. Heard learned counsel appearing for the appellant as well as learned Addl. Public Prosecutor appearing for the State on I. A. No. 3045/2018 which has been filed under section 378(3) of the Cr.P.C for grant of leave to file this criminal appeal and also heard on the point of admission of this criminal appeal.
2. The appellant is nephew of the deceased and he does not come under the purview of the victim as defined in section 2(wa) Cr.P.C which says that the victim means a person



who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes his or her guardian or legal heir. Therefore, in our view, appellant does not have right to file this appeal and accordingly, I. A. No. 3045/2018 stands dismissed. However, in the interest of justice, we went through the impugned judgment and, in our view, this appeal is liable to be dismissed on merit also because learned trial court at para 25 of the impugned judgment held that respondent nos.2, 3 and 4 are not co-villagers of prosecution witnesses rather their village was situated at 25 K.M. away from the village of the prosecution witnesses. Learned trial court further observed that alleged occurrence took place in the night and, therefore, identification of respondent nos.2, 3 and 4 was doubtful and taking note of the aforesaid fact, learned trial court acquitted respondent nos.2, 3 and 4. We do not find any perversity in the aforesaid finding of trial court and accordingly, on the basis of the aforesaid discussions, this appeal stands dismissed.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

s.hassan/-

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