

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (DB) No.10 of 2018

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1. The State Of Bihar through the District Magistrate, Muzaffarpur.

.... Appellant/s

Versus

1. Mukesh Kumar Son of Bhonu Mahto.
2. Amarjit Kumar Son of Jai Mangal Mahto.
3. Pramod Kumar, Son of Jai Mangal Mahto.
 All resident of Village- Mankaull, Police Station- Kudhni,
 District- Muzaffarpur.
4. Ganesh Kumar, Son of Gangajal Mahto, resident of Village- Rajla,
 Police Station- Kudhni, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Mishra

For the Respondent/s : Mr.

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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)

3 24-04-2018 1. Heard learned Addl. Public Prosecutor Mr. Ajay Mishra on I.A. no. 1212/2018, I.A. no. 1213/2018 as well as on the point of admission.

2. This government appeal has been preferred against the judgment of acquittal dated 8.12.2017 passed by the Addl. Sessions Judge VII, Muzaffarpur in Sessions trial no. 531/2017 arising out of Kudhani P.S. case no. 280/2016 by which and whereunder he acquitted respondents of the charges framed against them under sections 302/34, 328/34 and 120B of the



Indian Penal Code on the ground that prosecution could not succeed to prove guilt of the respondents beyond all shadow of reasonable doubts.

3. Mr. Mishra, learned Public Prosecutor submits that prosecution brought materials on record to show that the deceased had left his house along with the respondents and subsequently, after four hours, his dead body was recovered from a river but learned trial court, on the basis of surmises and conjectures, acquitted the respondents. However, from perusal of the impugned judgment, we find that the learned trial court came to the conclusion that from the evidences two views were possible. Admittedly, it is settled principle of law that view favorable to the accused shall be taken into consideration.

4. Therefore, we find that there is no scope to interfere into the impugned judgment of acquittal. Accordingly, this government appeal along with I.A. no. 1212/2018 and I.A. no. 1213/2018 stand dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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