

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.73 of 2019

Arising Out of PS. Case No.-66 Year-1999 Thana- MINAPUR District- Muzaffarpur

Bhikhari Sahani, Late Munni Lal Sahani, Resident of village Bara Bharti, P.O.
Bishunpur Pandey, via Kanti, P.S. Meenapur, District- Muzaffarpur.

... .. Appellant

Versus

1. The State of Bihar,
2. Bachan Sahani, son of Ram Ashish Sahni Resident of village Bara Bharti,
P.S. Meenapur, District- Muzaffarpur.
3. Deen Dayal Sahni, son of Ram Ashish Sahni Resident of village Bara Bharti,
P.S. Meenapur, District- Muzaffarpur.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Nilesh Kumar, Advocate Ms. Babita Kumari, Advocate Mr. Arya Achint, Advocate
For the Respondent/s	:	Mr. Shiwesh Chandra Mishra

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

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

3 27-03-2019 Heard learned counsel appearing for appellant as well

as learned Additional Public Prosecutor appearing for the State

on I.A. No. 1 of 2019 as well as on the point of admission.

2. I.A. No. 1 of 2019 has been filed under

Section 378(3) of the Code of Criminal Procedure on behalf of

the appellant, who happens to be the son of deceased as well as

informant of the case for grant of leave to file and pursue this



criminal appeal. The I.A. No. 1 of 2019 stands allowed and, accordingly, the appellant is permitted to pursue this criminal appeal.

3. In the aforesaid manner, the I.A. No. 1 of 2019 stands disposed of.

4. The appellant is aggrieved by the impugned Judgment of acquittal dated 27.10.2018 passed by learned Fast Track Court-I, Muzaffarpur in Sessions Trial No. 505 of 2000, by which and whereunder, learned trial Court acquitted the respondents No. 2 and 3 from the charges framed against them for the offences punishable under Section 302 read with Section 149 of the Indian Penal Code.

5. Learned counsel appearing on behalf of the appellant submits that the learned trial Court disbelieved the prosecution case only on the ground of delay in lodging the case. He further submits that, as a matter of fact, on the alleged date of occurrence, deceased sustained internal injury and got treated by a private Doctor, but, subsequently, after 15 days of the alleged occurrence, she died and, thereafter, the informant lodged the present case. He further submits that, as a matter of fact, after the occurrence, deceased as well as informant had gone to the



concerned Police Chowki to lodge the case, but the concerned Chowki In-charge did not register case as there was no external injury on the person of deceased. However, after death of the deceased, the informant lodged the present case and also explained the delay in lodging the case, while he was examined in course of trial. Learned counsel of the appellant, further, submits that the learned trial Court acquitted the respondent Nos. 2 and 3 on flimsy grounds ignoring the settled principles of law and, therefore, this appeal should be admitted for hearing.

6. On the other hand, learned Additional Public Prosecutor supports the impugned Judgment of acquittal arguing that the learned trial Court has passed a well discussed Judgment and there is no need to interfere into the impugned Judgment of acquittal.

7. Having heard the contentions of both the parties, we went through the impugned Judgment and in our view, this appeal can be disposed of on the admission stage itself.

8. It is an admitted case of the prosecution that the prosecution case was registered after 15 days of the alleged occurrence, when deceased died and at the time of lodging the prosecution case, the informant did not give any explanation of the above stated delay. However, in course of trial, he tried to



explain the delay in lodging the F.I.R., but the learned trial Court disbelieved the aforesaid explanation and in our view the learned trial Court, rightly, disbelieved the explanation of delay as given by the informant in course of trial. Furthermore, we find that the learned trial Court has discussed each and every evidence of the prosecution and there is no perversity or absurdity in the findings of the learned trial Court and, therefore, we do agree with the submission of learned Addl. Public Prosecutor that there is no need to interfere into the findings arrived at by the learned trial Court.

9. On the basis of the aforesaid discussions, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

manish/-

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

