

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.52 of 2019

Arising Out of PS. Case No.-27 Year-2011 Thana- BARUN District- Aurangabad

Sri Kishun Ram @ Kishun Ram, aged about 49 years, Gender-Male, son of Late Arjun Ram, resident of – Manikpur, P. S.- Dhansoi, Distt. - Buxar, at present residing in Quarter of Assistant Labour Commissioner, Dalmia Nagar, P. S.-Dalmia Nagar, District-Rohtas

... .. Appellant

Versus

1. The State Of Bihar
2. Jitendra Ram, son of Suresh Ram
3. Suresh Ram, son of Late Dukh Bhanjan Ram
4. Satyendra Ram, son of Suresh Ram

All resident of village – Sirshi Railway Quarter Sone Nagar, P. S.- Barun, Distt. Aurangabad.

5. Kuer Ram, son of Sri Ghura Ram, resident of Mohalla-Keshav Market, Bhuiya Tola, P.S.-Barun, Distt.-Aurangabad

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Chandra Mohan Jha, Adv. Mr. Randhir Kumar No. 1, Adv.
For the Respondent/s	:	Mr. Nivedita Nirvikar, Adv.
For the State	:	Mr. S. N. Pd., APP

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

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

4 09-04-2019 Heard learned counsel appearing for the appellant, learned counsel appearing on behalf of the respondent nos. 2 to 5 as well as learned Additional Public Prosecutor for state on I. A. No. 1 of 2019 as well as on the point of admission and perused the record.

I. A. No. 1 of 2019 has been filed on behalf of the



appellant under Section 378(3) of Criminal Procedure Code for grant of leave to file and pursue this criminal appeal.

Admittedly, the appellant-applicant is informant as well as maternal uncle of deceased. However, the appellant-applicant claims himself guardian of the deceased. Therefore, in the aforesaid circumstance, we are permitting him to file and pursue this criminal appeal. Accordingly, I. A. 1 of 2019 stands disposed of.

This criminal appeal has been preferred against judgment of acquittal dated 19.11.2018 passed by Ad-hoc Additional Sessions Judge, F.T.C.-VI, Aurangabad in Sessions Trial No. 277/11/449/17 arising out of Barun P. S. Case no. 27 of 2011 by which and whereunder the learned trial court acquitted the respondent nos. 2 to 5 from the charges framed against them for the offence punishable under Section 304B of the Indian Penal Code on the ground that the prosecution could not succeed to prove the essential ingredients of Section 304B of the Indian penal Code.

Learned counsel appearing for the appellant assailed the impugned judgment of acquittal arguing that the learned trial court did not appreciate the prosecution evidence in right perspective and only on the ground that the prosecution



witnesses did not disclose the date and year of demand of dowry as well as failed to prove that the deceased was subjected to cruelty soon before her death, passed the impugned judgment of acquittal. It is submitted that there was sufficient material to show that demand of dowry was made and the deceased was subjected to cruelty in connection with the aforesaid illegal demand prior to her death.

On the other hand, learned counsel appearing for respondent nos. 2 to 5 refuted the above stated submissions arguing that the learned trial court has rightly held that the prosecution could not succeed to prove its case beyond all shadow of reasonable doubts and therefore, there is no need to interfere into the impugned judgment of acquittal.

Heaving heard the contentions of both the parties, we went through the impugned judgment as well as lower court record.

In our view, this appeal can be disposed of on admission stage itself. It is obvious from perusal of the record that in course of trial, prosecution examined, altogether, five witnesses and the trial court dealt with the statements of above stated prosecution witnesses. The mother of deceased was examined before the trial court as PW-2 whereas informant was



examined as PW-4 and his full brother was examined as PW-1. The perusal of statements of aforesaid prosecution witnesses go to show that the aforesaid prosecution witnesses made general allegation of demand of motor cycle in dowry but they failed to disclose as to when and where the aforesaid demand was made. However, PW-2 has admitted in her deposition that when PW-1 as well as her son had gone to take Bidai of the deceased, the demand of motor cycle was made but, admittedly, the son of PW-2 was not examined before the trial court and PW-1 has, nowhere, stated that the demand was made in his presence. Furthermore, we find that not a single prosecution witness disclosed as to when and where the deceased was put under cruelty by the respondent nos. 2 to 5. The learned trial court at Para 12 of the impugned judgment dealt with the ingredients of Section 304B of the Indian Penal Code and noticing the evidences available on the record came to definite conclusion that prosecution could not succeed to prove all the ingredients of Section 304B of the Indian Penal Code and accordingly, the learned trial court passed the impugned judgment of acquittal. We do not find any perversity or illegality in the impugned judgment and, therefore, we are of the view that there is no need to interfere into the judgment of acquittal.



Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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