

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.235 of 2019

Arising Out of PS. Case No.-133 Year-2012 Thana- HARNAUT District- Nalanda

DINESH KUMAR, aged about 30 years, Male, Son of Rajendra Ram @
Rajendra Prasad, resident of Village - Rahui, P.S.- Rahui, Distt - Nalanda

... .. Appellant/s

Versus

1. THE STATE OF BIHAR AND ORS Bihar
2. Kaushal Yadav, aged about 30 years, Male, Son of Masudan Yadav, resident of Village - Ghorhari, P.S.- Chandi, Distt - Nalanda.
3. Nitish Kumar, aged about 27 years, Male, Son of Rajo Yadav, resident of Village - Birampur, P.S.- Harnaut, Distt - Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s	:	M/s Jagdish Prasad, Bhim Sen Prasad, Advocates
For the Respondent/s	:	Ms. Shashi Bala Verma, APP

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

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

Date : 25-07-2019

Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on I.A. No. 1 of 2019, which has been filed under Section 5 of the Limitation Act as well as on the point of admission.

Re. I.A. No. 1 of 2019

I.A. No. 1 of 2019 has been filed under Section 5 of the Limitation Act for condonation of delay of 6 days in filing this criminal appeal.



For the reasons stated in the aforesaid I.A. No. 1 of 2019, the delay in filing this criminal appeal is, hereby condoned and, accordingly I.A. No. 1 of 2019 stands disposed of.

Re. Criminal Appeal (DB) No.235 of 2019

The appellant has challenged the impugned judgment dated 03.11.2018 passed by learned Presiding Officer, Fast Track Court No. 1st, Nalanda at Biharsarif in Sessions Trial No. 510/2012, by which and whereunder he acquitted the respondent Nos. 2 and 3 from the charges framed against them for the offences punishable under Sections 302 and 201 of the Indian Penal Code, whereas convicted the co-accused Pintu Yadav for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

Learned counsel appearing for appellant submits that the learned trial court convicted co-accused Pintu Yadav for the offences punishable under Section 302 and 201 of the Indian Penal Code but on the same set of evidence, he acquitted the respondent Nos. 2 and 3.

On the other hand, learned Additional Public Prosecutor supports the impugned judgment, which relates to respondent Nos. 2 and 3 and submits that there is no perversity



in the impugned judgment.

The perusal of impugned judgment goes to show that Harnaut P.S. Case No. 133 of 2012 was registered against unknown persons but in course of trial, the informant as well as some witnesses claimed to have seen the respondent Nos. 2 and 3 as well as co-accused Pintu Yadav near the place of occurrence in suspicious condition. The impugned judgment further goes to show that mobile phone of the deceased was recovered from the house of the co-accused Pintu Yadav and so far as the respondent Nos. 2 and 3 are concerned, except suspicion, there is nothing against them, therefore, we do not find any ground to interfere into the findings of the trial court so far as it relates to respondent Nos. 2 and 3.

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

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2019
Transmission Date	29.07.2019

