

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.231 of 2019

Arising Out of PS. Case No.-88 Year-2007 Thana- RAGHOPUR District- Supaul

Mohammad Hanif Son of Late Ajhar Hussain Resident of Village - Ward No.4
Dintol Post- laudh, P.S and Distt.- Supaul

... .. Appellant

Versus

1. The State of Bihar
2. Bibi Samina Khatoon @ Birma Khatoon Son of Md. Najir
3. Md. Mustaqeem Son of Md. Najir
4. Md. Fakruddin Son of Md. Najir

All are Resident of Village - Dumari Achalpur, P.S.- Raghobpur, Distt.-
Supaul

... .. Respondents

Appearance :

For the Appellant/s : Mr. Pramod Mishra
For the Respondent/s : Mr. Shiwesh Chandra Mishra

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

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

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

Date : 24-09-2019

Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on the point of admission and in our view, this criminal appeal can be disposed of on admission stage itself.

The appellant has preferred this criminal appeal under the proviso of Section 372 of the Cr.P.C. against the judgment of acquittal dated 19.01.2019 passed by learned Sessions Judge, Supaul in Sessions Trial No. 55 of 2009 by which and



whereunder he acquitted respondents no. 2, 3 and 4 from the charge framed against them under Section 304-B of the I.P.C.

The appellant filed complaint petition before the court which was sent to concerned police station and accordingly, Raghapur P.S. Case No. 88 of 2007 was registered against the respondents no. 2, 3 and 4. The claim of the appellant/complainant is that his daughter, namely, Najma Khatoon was married with respondent no. 3 six years ago but subsequently, respondents no. 2, 3 and 4 started misbehaving with his daughter and lastly, she was killed by respondents no. 2, 3 and 4. The complainant further claimed that he having got information regarding death of his daughter went to in-laws' house of his daughter and found the dead body of his daughter lying in a room. He claimed that he noticed marks of assault on the person of the deceased but respondents no. 2, 3 and 4 forcibly buried dead body of his daughter.

Respondents no. 2, 3 and 4 were charge sheeted and subsequently, they were put on trial before the learned Sessions Judge in Sessions Trial No. 55 of 2009 and accordingly, they stood charged for the offence punishable under Section 304-B of the I.P.C. In course of trial, altogether, ten prosecution witnesses were examined and some documents were also got exhibited. The statements of respondents no. 2, 3 and 4 were recorded under



Section 313 of the Cr.P.C. in which they denied the claim of the prosecution.

Learned trial court having evaluated the evidences available on the record came to conclusion that prosecution could not succeed to prove all the ingredients of Section 304-B of the IPC and accordingly, the learned trial court acquitted the respondents no. 2, 3 and 4.

Learned counsel appearing for the appellant submits that in course of trial, appellant as well as some other prosecution witnesses supported the prosecution story stating that deceased was subjected to cruelty and harassment by respondents no. 2, 3 and 4 due to non fulfilment of illegal dowry demand and subsequently, she was killed by the above stated respondents. Learned counsel of the appellant further submitted that appellant as well as other witnesses also claimed that they had seen injury marks on the person of the deceased when having got information regarding death of the deceased they went to the house of respondents no. 2, 3 and 4. He submitted that learned trial court ignored all the above stated evidences and passed erroneous judgment which cannot stand in the eye of law.

On the other hand, learned Additional Public Prosecutor supported the impugned judgment of acquittal arguing



that learned trial court has discussed almost all the evidences available on the record and pointed out infirmities in the prosecution case and, therefore, there is no need to interfere into the impugned judgment of acquittal.

Having heard the rival contentions of the parties, we went through the impugned judgment.

Perusal of impugned judgment goes to show that learned trial court noticed that the appellant filed complaint case after one month of the alleged occurrence though in his presence dead body of the deceased was buried after her death. The learned trial court also noticed that although prosecution witnesses claimed to have seen the injuries on the person of the deceased just after her death but the learned trial court doubted the above stated claim of the prosecution witnesses on the ground that none of the prosecution witnesses made any attempt to report the matter to concerned police station immediately after noticing the injuries of the deceased and moreover, the learned trial court also doubted the above stated claim of the prosecution witnesses on the ground that there was not a single chit of paper to prove that deceased had sustained injuries. Furthermore, the learned trial court noticed that complainant (appellant) did not disclose the factum of dowry in his



complaint petition and the aforesaid story was introduced in course of trial.

We do not find any perversity in the findings of the learned trial court and in our view, it would not be proper for this appellate court to interfere into the impugned judgment by exercising the power of appellate court.

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

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

shahzad/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
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