

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.359 of 2019

Arising Out of PS. Case No.-213 Year-2005 Thana- DEHRI TOWN District- Rohtas

Devanti Devi @ Devanti @ Devanti Kuwar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Nagendra Prasad
		Mr. Amit Narayan
For the Respondent/s	:	Mr.Satya Narayan Prasad

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

4 10-07-2019 Heard learned counsel for the appellant as well as learned Additional Public Prosecutor for the State on I.A.No. 01 of 2019 as well as on the point of admission.

I.A.No. 01 of 2019 has been filed on behalf of the appellant under section 5 of the Limitation Act for condonation of delay of 15 days in filing this criminal appeal. The delay in filing this criminal appeal is condoned on the ground mentioned in I.A.No.01 of 2019.

Accordingly, I.A.No. 01 of 2019 stands disposed of.

In our view, this criminal appeal can be disposed of on admission stage itself.



The appellant is aggrieved by the impugned judgment of acquittal dated 05.11.2018 passed by the learned Presiding Officer F.T.C-II in Session trial no.86 of 2006 by which and whereunder he acquitted the respondent nos. 2, 3 and 4 from the charges framed against them for the offence punishable under section 302/34 of the Indian Penal Code.

Learned counsel appearing for the appellant clearly admitted this fact that I.O and Doctor were not examined by the prosecution in course of trial and in absence of evidence of I.O and Doctor, it was very difficult for the trial court to convict the respondent no. 2, 3 and 4. However, the learned counsel for the appellant submitted that the learned trial court ought to have taken steps to procure the evidence of I.O and Doctor but the learned trial court failed to do so and, therefore, the impugned judgment suffers from perversity.

We are not at all convinced with the above stated submission of learned counsel for the appellant. The impugned judgment goes to show that the learned trial court had given sufficient opportunity to prosecution to examine its witnesses and, furthermore, petition filed by the prosecution under section 311 of the Cr.P.C for examination of I.O and Doctor was also allowed but, even then, prosecution could not succeed to



examine I.O and Doctor. Therefore, we do not find any perversity in the impugned judgment of acquittal. Accordingly, this criminal appeal stands dismissed on admission stage itself.

Hemant Kumar Srivastava, J)

N.K/-

(Prabhat Kumar Singh, J)

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