

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1467 of 2018**

Arising Out of PS. Case No.-34 Year-2005 Thana- MOTIHARI MUFASIL District- East
Champaran

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Naimuddin Miyan, S/o Sahadman Miyan @ Sahabjan Miyan, Resident of
Vill-Patkhauliya, Sirsamal, Motihari, P.S Motihari, Distt.-East Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Bhusan Sah, S/o Hari Nandan Sah, Vill-Patkhauliya, Sirsamal, Motihari, P.S-
Motihari, Dist.-East Champaran.
3. Virendra Kishore Sah, S/o Hari Nandan Sah, Vill-Patkhauliya, Sirsamal,
Motihari, P.S-Motihari, Dist.-East Champaran.
4. Hari Nandan Sah, S/o Late Ram Sundar Sah, Vill-Patkhauliya, Sirsamal,
Motihari, P.S-Motihari, Dist.-East Champaran.
5. Raj Kishore Sah, S/o Muni Lal Sah, Vill-Patkhauliya, Sirsamal, Motihari,
P.S-Motihari, Dist.-East Champaran.
6. Chuman Sah, S/o Late Sukhdeo Sah, Vill-Patkhauliya, Sirsamal, Motihari,
P.S-Motihari, Dist.-East Champaran.
7. Manoj Sah, S/o Muni Lal Sah, Vill-Patkhauliya, Sirsamal, Motihari, P.S-
Motihari, Dist.-East Champaran.
8. Ramjas Mahto, S/o Paspas Mahto, Vill-Patkhauliya, Sirsamal, Motihari, P.S-
Motihari, Dist.-East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Madhurendra Kumar
For the Respondent/s : Mr. Satya Narayan Prasad

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

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

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

Date : 16-05-2019

Heard learned counsel appearing for the appellant,

learned counsel for the respondents no. 2 to 8 and 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.

2. The appellant is aggrieved by the judgment of acquittal dated 09.10.2018 passed by the learned Fast Track Court-II, East Champaran, Motihari in Sessions Trial No. 881 of 2005/ 4300 of 2016 by which and whereunder learned Trial Court acquitted the respondents no. 2 to 8 from the charges framed under Sections 307/149, 302/149, 147 and 148 of the Indian Penal Code.

3. Learned counsel appearing for the appellant submits that the learned Trial Court did not consider the evidence of prosecution properly while passing the judgment of acquittal. He submits that almost all the eye-witnesses supported the prosecution case and, specifically, stated about the participation of respondents no. 2 to 8 in the alleged crime but the learned trial Court overlooked the aforesaid claim of the eye-witnesses as a result of which, the learned trial Court came on erroneous conclusion.

4. On the other hand, learned counsel appearing for the respondents no. 2 to 8 supports the judgment of acquittal arguing that the learned trial Court has discussed all the



prosecution evidences and after that came to conclusion that prosecution failed to prove the charges against the respondents no. 2 to 8. He, further, submits that the I.O., and the Doctor were not examined nor the postmortem report was brought on record and in that circumstance as well as taking into consideration the other circumstances, the learned trial Court passed the judgment of acquittal which does not need any interference by this court.

5. Having heard the contentions of both the parties, we went through the impugned judgment. Perusal of the impugned judgment goes to show that the learned Trial Court has noted in the impugned judgment that the injury report as well as postmortem report were not produced before the court and prosecution could not succeed to prove the complicity of respondents no. 2 to 8 in the alleged crime. The learned Trial Court also noted in the impugned judgment that mere allegation levelled against the respondents no. 2 to 8 was not sufficient to prove their guilt. We find that the learned Trial Court having considered the entire evidence of the prosecution, formed his opinion and, in our view, learned counsel appearing for the respondents no. 2 to 8 has rightly submitted that there is no need to interfere into the impugned judgment of acquittal.



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

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

Prakash/Sushma

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

