

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.487 of 2019

Arising Out of PS. Case No.-50 Year-2015 Thana- AZIMABAD District- Bhojpur

Ajit Kumar Singh @ Ajit Yadav s/o late Satish Yadav, r/v- Kamariaon, P.S.-
Ajimabad, District - Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Rinku Singh @ Santosh Kumar Singh s/o Ram Ayodhya Singh
3. Awadhesh Singh, s/o late Laxman Singh
Both are r/v-Badgaon, P.S.-Azimabad, District - Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rakesh Kumar Sinha
For the Respondent/s : Mr. Ashwani Kumar Sinha

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

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

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

3 03-07-2019 Heard learned counsel appearing for appellant as well

as learned Additional Public Prosecutor for State on the point of

admission.

We are of the view that this appeal can be disposed of
at admission stage. The appellant, namely, Ajit Kumar Singh @
Ajit Yadav happens to be informant as well as son of deceased
and being aggrieved by the impugned judgement of acquittal
dated 14.02.2019 passed by learned Presiding Officer Fast Track
Court No. 1, Bhojpur at Arrah (hereinafter referred to as trial



court) in Sessions Trial No. 387/17 by which and whereunder learned trial court acquitted the respondent nos. 2 and 3 from the charges framed against them for the offences punishable under Sections 302/34 of the I.P.C. and section 27 of the Arms Act.

Learned counsel appearing for appellant submits that the learned trial court committed error in acquitting the respondent nos. 2 and 3, as without any valid ground the learned trial court discarded the testimonies of eye-witnesses. Learned counsel for the appellant raised question mark in respect of the manner in which the learned trial court appreciated the prosecution evidence.

On contrary, learned Additional Public Prosecutor having gone through the impugned judgement submits that the learned trial court has passed a well discussed judgement and after appreciating the prosecution evidence the learned trial court passed the impugned judgement of acquittal taking note of infirmities of the prosecution case. He, further, submits that it is a well settled principle of law that if two views are possible on the same set of evidence and fact, the view favourable to the accused, shall be taken into consideration.

Having heard the rival contentions of the parties we went through the memo of appeal as well as impugned



judgement of acquittal, we find that the learned trial court has taken several grounds for writing the judgement of acquittal. The learned trial court noticed that there was inordinate delay in registration of the case and also noticed that prosecution failed to explain the circumstances in which the F.I.R was lodged belatedly. Furthermore, we find that the trial court also noticed the contradictions occurred in the testimonies of the prosecution witnesses as well as the fact that the post-mortem report of the deceased was not in consonance with the statements of the prosecution witnesses. We do not find any perversity or absurdity in the findings given by the learned trial court. Therefore, in our view there is no need of interference into the impugned judgement of acquittal.

Accordingly, this Cr. Appeal stands dismissed at admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

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