

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.512 of 2019**

Arising Out of PS. Case No.-62 Year-2011 Thana- DURGAWATI District- Kaimur (Bhabua)

Deepak Chaubey @ Deepak Kumar Chaubey Son of Late Rajbansh Chaubey
Resident of Village - Awarhiya, P.O.- Pipariya, P.S.- Durgawati, District -
Kaimur at Bhabua.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bharat Singh Son of Hawaldar Singh Resident of Village - Awarhiya, P.S.-
Durgawati, District - Kaimur at Bhabua.
3. Amit Singh Son of Bharat Singh Resident of Village - Awarhiya, P.S.-
Durgawati, District - Kaimur at Bhabua.
4. Prabhat Singh Son of Jagdish Singh Resident of Village - Beuri, P.S.- Chand,
District - Kaimur at Bhabua.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Garg, Advocate
For the Respondent/s : Mr. Abhimanyu Sharma, 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 : 05-08-2019

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

2. The appellant has challenged the order dated
13.03.2019 passed by Fast Track Court No. 1, Kaimur at
Bhabua in Sessions Trial No. 33 of 2012 by which and



whereunder learned Presiding Officer Fast Track Court acquitted the respondent nos. 2, 3 and 4 from the charge framed against them for the offences punishable under Section 302/34 of the Indian Penal Code and section 27 of the Arms Act.

3. Learned counsel appearing on behalf of appellant submits that in course of trial, appellant as well as some prosecution witnesses claimed themselves to be eye-witness of the alleged occurrence, and, they specifically stated that it were respondent nos. 2, 3 and 4 who committed the murder of the deceased.

Learned counsel of the appellant further submitted that no doubt, Durgawati P.S. Case No. 62 of 2011 was registered against unknown, but as a matter of fact, the police took thumb impression and signature of appellant as well as witness on plain paper and subsequently, prepared written report on its own level, and, when the aforesaid fact came to the notice of appellant, he immediately filed petition before the Superintendent of Police, Kaimur at Bhabua.

He, next, submitted that there was sufficient material to prove the guilt of respondent nos. 2, 3 and 4, but the learned trial court without taking note of the materials available on record, passed the judgment of acquittal.



4. On the other hand, learned Additional Public Prosecutor supported the impugned judgment of acquittal submitting that the learned trial court has passed a well discussed judgment and before acquitting the respondent nos. 2, 3 and 4, the learned trial court has taken note of all the evidences available on record.

5. Having heard the contentions of both the parties, we went through the impugned judgment. The perusal of impugned judgment goes to show that initially Durgawati P.S. Case No. 62 of 2011 was registered against unknown person in respect of murder of deceased Anmol Chaubey. The above stated Durgawati P.S. Case No. 62 of 2011 was registered on the basis of written report of appellant. Subsequently, in course of investigation, the appellant as well as some prosecution witnesses claimed themselves to be eye-witness and they repeated their statements in course of trial. However, the learned trial court noticed that the prosecution witnesses made contradictory statements, not only on the point of manner of occurrence, but also on the point of place of occurrence, as some prosecution witnesses claimed that deceased was killed at his door whereas, some prosecution witnesses claimed that deceased was killed when he had gone to perform *Tilak*



ceremony. Moreover, the learned trial court also noted that the prosecution improved its case during course of investigation as well as during trial. Furthermore, the learned trial court also noticed that one of the important witnesses, Investigating Officer was not examined by the prosecution and non-examination of the aforesaid Investigating Officer caused serious prejudice to investigation. We do not find any perversity or absurdity in the impugned judgment, therefore, in our view, this appeal is liable to be dismissed on admission stage itself.

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

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

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