

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (DB) No.547 of 2019

Arising Out of PS. Case No.-102 Year-2018 Thana- LAURIA District- West Champaran

=====

BHIKHAM THAKUR S/o Jhawar Thakur R/o village- Thakur, resident of
village Thakur Tola Lauriya, P.S.- Lauriya, District- West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Munna Thakur S/o Jageshwar Thakur R/o village- Thakur Tola
Lauriya, P.S.- Lauriya, District- West Champaran
3. Kundan Thakur S/o Jageshwar Thakur R/o village- Thakur Tola
Lauriya, P.S.- Lauriya, District- West Champaran
4. Kanhaiya Thakur S/o Jageshwar Thakur R/o village- Thakur Tola
Lauriya, P.S.- Lauriya, District- West Champaran

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Brij Kishor Mishra, Advocate
For the Respondent/s : Mr.Satya Narayan Prasad, APP

=====

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

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

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

Date : 17-06-2019

Heard learned counsel appearing for the appellant as
well as learned Additional Public Prosecutor for the State on



the point of admission.

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

The respondent Nos. 2 to 4 faced trial in Sessions Trial No. 462 of 2018 (arising out of Lauriya P.S. Case No. 102 of 2018) and, accordingly, they stood charged for the offence punishable under Sections 302 read with Section 34 of the Indian Penal.

Prosecution in course of trial examined, altogether, 6 witnesses.

Learned trial court after evaluating the prosecution evidence passed the judgment of acquittal and, accordingly, acquitted the respondent Nos. 2, 3 and 4 from the charge framed against them *vide* impugned judgment dated 25.4.2019, which is under challenge, before this Court.

Learned counsel appearing for appellant submits that the eye witnesses supported the prosecution case and the medical evidence also corroborates this fact that deceased had sustained several injuries but the learned trial court discarded the prosecution evidence only on the ground that the respondent Nos. 2, 3 and 4 had inimical terms with informant as well as the deceased. He, further, submitted that the learned trial court also



overlooked this fact that when informant reached at the place of occurrence, deceased disclosed the name of assailants and, therefore, the aforesaid statement of deceased comes under the category of his dying declaration.

On the other hand, learned Additional Public Prosecutor submits that the learned trial court has passed a well discussed judgment and there is no need to interfere into the impugned judgment.

Having heard the above stated contentions of both the parties, we went through the impugned judgment.

We find that the learned trial court has discussed all the prosecution evidence and gave sound reasons for acquittal of respondent Nos. 2, 3 and 4. It is well settled principle of law that on the same set of evidence if two views are possible, the view of the trial court shall prevail unless the view taken by the trial court is either absurd or without consideration of the prosecution evidence.

In the present case, as we have already stated that the learned trial court has discussed all the prosecution evidence and has given sound reasons for passing the judgment of acquittal and, therefore, we are not inclined to interfere into the judgment of acquittal.



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

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

Spd/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25.06.2019
Transmission Date	25.06.2019

