

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.612 of 2019

Arising Out of PS. Case No.-46 Year-2014 Thana- PAUTHU District- Aurangabad

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RAM CHANDRA PRAJAPAT @ RAM CHANDRA PRAJAPATI S/o Late
Faudari Prajapati Resident of Village- Uprahuli, P.S.- Paraiya, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Chintu Prajapati S/o Jagdeo Prajapati Resident of Village- Harbansa, P.S.- Pauthu, District- Aurangabad, Bihar.
3. Jagdev Prajapati S/o Sohrai Prajapati Resident of Village- Harbansa, P.S.- Pauthu, District- Aurangabad, Bihar.
4. Mintu Prajapati S/o Jagdev Prajapati Resident of Village- Harbansa, P.S.- Pauthu, District- Aurangabad, Bihar.
5. Binod Prajapati S/o Sohrai Prajapati Resident of Village- Harbansa, P.S.- Pauthu, District- Aurangabad, Bihar.
6. Reeta Devi W/o Mintu Prajapati Resident of Village- Harbansa, P.S.- Pauthu, District- Aurangabad, Bihar.
7. Gita Devi W/o Jagdev Prajapati Resident of Village- Harbansa, P.S.- Pauthu, District- Aurangabad, Bihar.
8. Dharmendra Prajapati S/o Bisun Prajapati Resident of Village- Shahpur, P.S.- Pauthu, District- Aurangabad, Bihar.
9. Lekha Prajapati S/o Hiraman Prajapati Resident of Village- Shahpur, P.S.- Pauthu, District- Aurangabad, Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Praveen Kumar
For the Respondent/s : Mr.Dilip Kumar Sinha

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

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

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

Date : 14-10-2019

Heard learned counsel appearing for appellant as
well as learned Additional Public Prosecutor for State on the
point of admission.



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

The appellant is aggrieved by the impugned judgment of acquittal dated 8.4.2019 passed by learned *Ad hoc* Additional Sessions Judge, Fast Track Court No. VI, Aurangabad, in Sessions Trial No. 50/16/932/17 by which and whereunder learned Fast Track Court acquitted the respondent Nos. 2 to 9 from the charges framed under Sections 304B/34 and 201/34 of the Indian Penal Code.

Puthu P.S. Case No. 46/2014 was registered for the offences punishable under Sections 304B and 201/34 of the Indian Penal Code on 29.8.2014 on the basis of typed report filed by appellant before Superintendent of Police, Aurangabad. The appellant claimed in his typed report that his daughter Savita Devi was married with respondent No. 2, Chintu Prajapati and at the time of marriage, he gifted articles worth of Rs. two lacs but when his daughter went to her in-law's house, the respondent No. 2 demanded Hero Honda motorcycle in dowry and when the aforesaid demand was not fulfilled the above stated Savita Devi was subjected to cruelty and harassment. The appellant, further, claimed in his typed report that after solemnization of marriage of Savita Devi, he went to



Delhi in connection with his livelihood and when he returned and went to in-law's house of Savita Devi, he found Savita Devi missing from her in-law's house and on inquiry, respondent No. 3, Jagdev Prajapati disclosed that Savita Devi died on 7.6.2014. The appellant claimed that Savita Devi was killed by respondent Nos. 2 to 9 within one month of her marriage due to non-fulfillment of his illegal demand of dowry.

The respondent Nos. 2 to 9 were put to trial and they stood charged for the offences punishable under Sections 304B/34 and 201/34 of the Indian Penal Code. In course of trial, prosecution examined several witnesses and also got exhibited some documents but except appellant as well as his son Ashok Prajapati (PW 1), not a single prosecution witnesses supported the prosecution case rather almost all the prosecution witnesses, except appellant as well as his son, stated that deceased died of sun stroke.

Learned trial court after evaluating the evidences available on record came to conclusion that prosecution miserably failed to prove its case beyond all shadow of reasonable doubts and, accordingly, passed the judgment of acquittal in favour of respondent Nos. 2 to 9.

Learned counsel appearing for appellant



challenged the impugned judgment of acquittal arguing that in course of trial, prosecution got exhibited certain documents including written report of the appellant but the learned trial court did not refer the aforesaid exhibited documents while passing the judgment of acquittal and, therefore, it is a clear cut case of non consideration of evidence.

Learned counsel of the appellant, further, submits that the learned trial court failed to take note of this fact that appellant as well as his son, categorically, supported the prosecution case and claimed that deceased was subjected to cruelty due to non fulfillment of dowry demand. He, further, submits that deceased died within one month of her marriage and no information regarding her death was given to the appellant and on a very hurried manner the dead body of the deceased was disposed off. He, further, submits that all the aforesaid circumstances clearly go to show that deceased was killed due to non fulfillment of illegal demand of dowry but the learned trial court did not take note of the aforesaid circumstances.

On the other hand, learned Additional Public Prosecutor supported the impugned judgment of acquittal arguing that the learned trial court has passed a well discussed



judgment and while passing the judgment of acquittal, the learned trial court took note of all the circumstances and after that the trial court came to conclusion that prosecution failed to prove its case beyond all shadow of reasonable doubts.

Having heard the rival contentions of the parties, we went through the impugned judgment of acquittal. We find that except appellant as well as his son, almost all the prosecution witnesses stated before trial court that the deceased died of sun stroke. Furthermore, we find that after two months of the alleged occurrence Puthu P.S. Case No. 46/2014 was lodged at the behest of the appellant. Although, learned counsel appearing for appellant submits that the appellant had given sufficient explanation of above stated delay but we find that the learned trial court has well discussed the aforesaid point in the impugned judgment and, furthermore, learned trial court also noticed this fact that some of the prosecution witnesses improved their statements in course of trial and taking note of the aforesaid improvement, the learned trial court doubted the prosecution case. Moreover, 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 perverse as well as without



consideration of the prosecution evidence. However, in the present case, we find that the learned trial court has discussed almost all the evidences adduced on behalf of the prosecution while passing the impugned judgment of acquittal. Furthermore, we do not find any perversity or absurdity in the impugned judgment and, therefore, there is no need to interfere into the impugned judgment of acquittal.

On the basis of aforesaid discussion, this criminal appeal stands dismissed on the admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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