

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.595 of 2019

Arising Out of PS. Case No.-93 Year-2004 Thana- JOGAPATTI District- West Champaran

Firoz Ansari Son of Saidullah Miyan @ Saidullah Ansari Resident of Village -
Amethiya, P.S.- Yogapatti, District- West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Badak Sah Son of Late Sukhal Sah Resident of Village - Amethiya, P.S.-
Yogapatti, District- West Champaran
3. Prakash Sah Son of Late Sukhal Sah Resident of Village - Amethiya, P.S.-
Yogapatti, District- West Champaran
4. Lal Bihari Sah Son of Late Ramayan Sah Resident of Village - Amethiya,
P.S.- Yogapatti, District- West Champaran
5. Narad Sah Son of Late Bhagwat Sah Resident of Village - Amethiya, P.S.-
Yogapatti, District- West Champaran
6. Pramod Sah Son of Late Sukhdev @ Sahdev Sah Resident of Village -
Amethiya, P.S.- Yogapatti, District- West Champaran
7. Rajendra Sah Son of Late Sahdev Sah Resident of Village - Amethiya, P.S.-
Yogapatti, District- West Champaran
8. Rishi Sah @ Rikhi Sah Son of Late Bhagwat Sah Resident of Village -
Amethiya, P.S.- Yogapatti, District- West Champaran
9. Vinod Sah Son of Dhrup Sah Resident of Village - Amethiya, P.S.-
Yogapatti, District- West Champaran
10. Suresh Sah Son of Laxmi Sah Resident of Village - Amethiya, P.S.-
Yogapatti, District- West Champaran
11. Nagendra Sah @ Ghatak Son of Late Sukhal Sah Resident of Village -
Amethiya, P.S.- Yogapatti, District- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shailesh Kumar, Advocate
For the Respondent/s : Mr. Manish Kumar No.-2, 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 : 30-07-2019



Heard learned counsel for the appellant as well as learned Additional Public Prosecutor for the State on I.A. No. 01/2019 as well as on the point of admission and perused the records.

2. I.A. No. 01/2019 has been filed under Section 5 of Limitation Act on behalf of appellant for condonation of delay of 143 days in filing this criminal appeal. The delay in filing this criminal appeal is condoned on the ground mentioned in I.A. No 01/2019 and accordingly, I.A. No. 01/2019 stands disposed of.

3. The appellant was informant of Yogapatti P.S. Case No. 93 of 2004 and being aggrieved by the impugned judgment of acquittal dated 25.09.2018 passed by learned Additional Sessions Judge V, Bettiah, West Champaran in Sessions Trial No. 407 of 2006 arising out of Yogapatti P.S. Case No. 93 of 2004, the appellant has preferred this criminal appeal.

4. Learned counsel appearing for appellant submits that in course of trial several prosecution witnesses supported the prosecution story and claimed that it were respondent nos. 2 to 11 who committed the murder of deceased, but the trial court acquitted the respondent nos. 2 to 11 from the charges framed under Sections 147, 148, 302/149, 380 and 427 of the Indian Penal Code without any valid reason. He further submits that



the learned trial court failed to appreciate the prosecution witnesses in right perspective as a result whereof, the learned trial court came to wrong conclusion.

5. On the other hand, learned Additional Public Prosecutor supports the impugned judgment of acquittal arguing that the learned trial court has dealt with entire prosecution evidence and after that passed the impugned judgment of acquittal which does not require any interference by this court.

6. Having heard the rival contentions of the parties, we went through the records. Admittedly, Yogapatti P.S. Case No. 93 of 2004 was lodged against unknown person by the appellant who happens to be nephew of the deceased. Furthermore, we find that in course of trial, some witnesses, who happened to be the family members of appellant, claimed themselves to be eye-witness of the alleged occurrence. However, the learned trial court took note of this fact that the aforesaid prosecution witnesses had not claimed themselves to be eye-witness of the alleged occurrence in course of investigation, as the investigating officer admitted in his deposition that the prosecution witnesses had not disclosed the name of respondent nos. 2 to 11. Furthermore, we find that the learned trial court keeping in mind the above stated fact and



circumstances came to conclusion that the prosecution witnesses claimed themselves to be eye-witness of the alleged occurrence after six years of the alleged offence and taking note of the aforesaid fact, the learned trial court passed the Judgment of acquittal.

7. In our view, there is no ground to interfere into the Judgment of acquittal and accordingly, this criminal appeal stands dismissed on admission stage.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.08.2019
Transmission Date	01.08.2019

