

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.8 of 2018

Arising Out of PS. Case No.-1087 Year-2007 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

Pyari Devi @ Mostt. Ram Pyari Devi, wife of Late Rajendra Paswan alias
Dukhan Paswan, resident of village-Dumari, P.S. Sadar, District-Muzaffarpur.

... .. Appellant.

Versus

1. The State of Bihar.
2. Guddu Dubey alias Gaganjeet Kumar, son of Late Prabhunath Dubey.
3. Malti Devi, wife of Late Prabhunath Dubey.
Both residents of village-Dumari, P.S. Sadar, District-Muzaffarpur.

... .. Respondents.

Appearance :

For the Appellant : Mr. Indrajeet Bhushan, Advocate.
Mr. Manish Kumar, Advocate.
For the State : Mr. Zeyaul Hoda, A.P.P.
For the Respondent nos.2 and 3 : Ms. Bela Singh, Advocate.

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL JUDGMENT

Date : 11-07-2019

Heard learned counsel for the appellant, learned
Additional Public Prosecutor for the State as also the learned
counsel for the respondent nos.2 to 3 on I.A. No.634 of 2018 as
well as on the point of admission of this Special Leave to
Appeal.

2. I.A. No.634 of 2018 has been filed on behalf
of the appellant under Section 5 of the Limitation Act to
condone the delay of 60 days in filing the present Special Leave
to Appeal.

On the grounds mentioned in the aforesaid



Interlocutory Application, the delay in filing the present Special Leave to Appeal is, hereby, condoned and, accordingly, I.A. No.634 of 2018 stands disposed of.

3. This Special Leave to Appeal has been filed on behalf of the appellant under Section 378(4) of the Code of Criminal Procedure, seeking leave to file appeal against the Judgment and Order dated 13.09.2017 passed in Complaint Case No.1087 of 2007/Tr. No.341 of 2017, by which and whereunder the court of the learned Judicial Magistrate, First Class, Muzaffarpur, acquitted the respondent nos.2 to 3 from the charges framed against them for the offence under Sections 406, and 418 of the Indian Penal Code.

4. From perusal of the impugned Judgment and Order dated 13.09.2017, it appears that the learned Judicial Magistrate, First Class, Muzaffarpur, has discussed all the evidence, available on the record, and arrived at the conclusion that while charge has been framed against the respondent nos.2 to 3 under Sections 406 and 418 of the Indian Penal Code but on mere failure to keep up the promise, as contained in the agreement to sell, it cannot be said that there is criminal breach of trust or cheating and, accordingly, acquitted the respondent nos.2 to 3 from the charges framed against them for the offence



under Sections 406, and 418 of the Indian Penal Code.

5. I find no illegality or infirmity in the impugned Judgment and Order to interfere with the same and, accordingly, this appeal is dismissed being devoid of merit.

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2019.
Transmission Date	12.07.2019.

