

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.676 of 2019

Arising Out of PS. Case No.-9 Year-2007 Thana- MUNGER MUFFASIL District- Munger

=====

MD. ISLAM, aged about 72 years, Male, son of Late Hazi Abdul Sattar,
Resident of Village - Churamba, P.S.- Kotwali, District- Munger

... .. Appellant

Versus

1. The State of Bihar
2. Md. Jahangir, Son of Late Gafoor, Resident of Village - Churamba, P.S.-
Kotwali, District- Munger.

... .. Respondents

=====

with

CRIMINAL APPEAL (DB) No. 826 of 2019

Arising Out of PS. Case No.-9 Year-2007 Thana- MUNGER MUFFASIL District- Munger

=====

MD. ISLAM, aged about 72 years, Male, Son of Late Hazi Abdul Sattar,
Resident of Village - Churamba, P.S.- Kotwali, Dist.- Munger.

... .. Appellant

Versus

1. The State of Bihar
2. Bibi Bano, W/o Md. Jahangir.
3. Md. Hasim Dealer, Son of Late Ibrahim.
4. Md. Sanaullah, Son of Late Md. Syed.
5. Md. Alam, Son of Late Md. Sharif.
6. Md. Mahfooz Alam @ Budhan, Son of Md. Fakhruddin.
7. Md. Mintu. Son of Md. Mobin.
8. Md. Mirja Son of Sukkho

All resident of Village-Churamba, P.S.- Kotwali, Dist.-
Munger.

... .. Respondents

=====



Appearance :

(In CRIMINAL APPEAL (DB) No. 676 of 2019)

For the Appellant/s : Mr. Md. Najmul Hodda, Advocate
For the Respondent/s : Mr. Ashwani Kumar Sinha, APP

(In CRIMINAL APPEAL (DB) No. 826 of 2019)

For the Appellant/s : Mr. Binay Kumar, Advocate
For the Respondent/s : Km. Shashi Bala Verma, APP

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 18-11-2019

Since both the appeals arise from Muffasil P.S. No. 9 of 2007 as such, they have been heard together and are being disposed of at the admission stage itself.

2. Heard learned counsel for the appellant, learned APP for the State as learned counsel for the private respondents.

3. The appellant of Criminal Appeal (D.B.) No.676 of 2019 is aggrieved by the impugned judgment of acquittal dated 20.04.2019 passed by the Ad-hoc F.T.C. 1st, Munger, in Sessions Trial No.895 of 2007/Tr. No.34 of 2018, whereby and whereunder, he acquitted the respondent no.2 from the charges framed against him for the offence punishable under Section 304(B), 120B and 504 /34 of the Indian Penal Code.



4. The appellant of Criminal Appeal (D.B.) No.826 of 2019 is aggrieved by the impugned judgment of acquittal dated 15.05.2019 passed by the Sessions Judge, Munger, in Sessions Trial No.898 of 2008/C.I.S. No. 3692 of 2013, whereby and whereunder, he acquitted the respondent nos.2 to 8 from the charges framed against them for the offence punishable under Section 304(B), 120(B) and 504 /34 of the Indian Penal Code.

5. As per the F.I.R. lodged by Md. Islam, P.W.-7, that his daughter namely, Safida Praveen @ Baby, was married to Md. Saif Ali in the month of July, 2002. After some days, her in-laws started demanding Rs.1,50,000/0- towards dowry, on account of non-fulfillment of said demand, they used to assault and torture his daughter. It has been alleged that on 26.01.2007 at about 9 A.M. he received informant that his daughter has been killed by Md. Jahangir, Bibi Basro and Md. Hasim. On arrival at the Place of occurrence, Md. Mintu, Md. Alam, Md. Mahfooj @ Budhan, Md. Mirja and Md. Sanaullah, misbehaved with the informant and helped the accused persons to flee away from there. It has also been alleged that these accused persons have killed the daughter of the informant. On the basis of statement, the F.I.R. was instituted being Mufassil P.S. Case No. 09 of 2007 for the offence punishable under Sections 304(B),



120(B) and 504/34 of the Indian Penal Code. On completing the investigation, charge-sheet has been submitted and after commitment of the case, charges have been framed.

6. Altogether 10 witnesses have been examined. The prosecution has also exhibited 7 documentary evidence as Exhibit Nos. 1 to 5 and two witness namely, D.W. -1 and D.W.-2.

7. On behalf of the defence side, plea has been taken that on account of fallen from the stair, the deceased died. Whereas, other prosecution witnesses has said that there is a demand of dowry of Rs.1,50,000/- and when the demand was not fulfilled, the death has occurred.

8. In the present case, the husband of the deceased, at the relevant time, was doing the job in Qatar in Middle East, hence, he has not been made accused. The Police in the inquest report has not found any injury or any mark except blood stain in the nostril. At the same time, doctor, who has conducted Postmortem, has been examined as P.W.-10, has failed to identify the cause of death of the deceased. Viscera was also preserved but, the same has not been brought on record.

9. Learned counsel for the appellant submitted that it



was an unnatural death and as per Section 113B of the Evidence Act, the onus is upon the defence to show that the cause of death is natural but, the Court below has failed to appreciate the material available on record.

10. Upon hearing the parties and having gone through the impugned judgments, it appears that the Police did not find any bodily harm in the inquest report and the doctor who has performed the Postmortem has only stated that it was not a natural death but, what the cause of death he failed to explain it, inasmuch as, the chemical analysis report does not suggest that any foreign material has been administered in the body of the deceased. Furthermore, the trial court has rightly observed that the basic ingredients of section 304-B IPC have not been proved that just before the death, there was a demand of dowry or any torture has been committed upon the deceased.

11. In such view of the matter, we do not find any ground to interfere with the impugned judgments of acquittal as because the findings given by the learned trial court are neither perverse nor absurd and therefore, in the aforesaid circumstance, we are of the opinion that these criminal appeals are liable to be dismissed.



12. Accordingly, these criminal appeals stand dismissed on the admission stage itself.

(Shivaji Pandey, J)

(Prabhat Kumar Singh, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.11.2019
Transmission Date	20.11.2019

