

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.511 of 2018

Arising Out of PS. Case No.-172 Year-2015 Thana- BHORE District- Gopalganj

Jawahar Lal Singh @ Jawahar Singh S/o Late Rameshwar Singh, Resident of Village- Sitapatti, Mauza- Chakhni, P.S.- Vijayeeपुर, District- Gopalganj.

... .. Appellant

Versus

1. The State Of Bihar
2. Ishrawati Devi, W/o Raj Kishore Bhagat,
3. Ram Ekbal Bhagat, S/o Parmanand Bhagat, Respondent no.2 and 3 Both are resident of Village- Khadhi Purab Tola, P.S.- Bhore, District- Gopalganj.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Prakash Ch. Jha, Adv. Mr. Bijay Prakash Singh, Adv.
For Respondent No. 2 & 3:		Mr. Vikas Ratan Bharti, Adv.
For the State		Mr. Ashwani Kumar Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 30-04-2019

1. Heard learned counsel appearing for the appellant, learned Additional Public Prosecutor for the State and learned counsel appearing for respondent nos. 2 and 3 on I. A. No. 1366 of 2018 as well as on the point of admission and perused the record.

2. I. A. No. 1366 of 2018 has been filed on behalf of the appellant Jawahar Lal Singh @ Jawahar Singh praying therein for grant of leave to file and pursue this criminal appeal.



3. The appellant happens to be father of deceased and proviso of Section 372 of the Criminal Procedure Code gives him statutory right to prefer appeal against judgment of acquittal and, therefore, the appellant is permitted to pursue this criminal appeal.

4. In the aforesaid manner, I. A. No. 1366 of 2018 stands disposed of.

5. The appellant has preferred this criminal appeal against the impugned judgment of acquittal dated 23.12.2017 passed by learned 1st Additional Sessions Judge, Gopalganj in Sessions Trial No. 217 of 2016 by which and whereunder he acquitted the respondent nos. 2 and 3 from the charges framed against them for the offences punishable under Sections 304-B and 302 of the Indian Penal Code.

6. The appellant gave written report to Officer In-charge of Bhorey police station on 24.09.2015 stating therein that the marriage of his daughter, namely, Rubi Devi was solemnized with respondent no. 3 on 10.05.2015 but on 24.09.2015 at about 5.00 A.M., he got information that his daughter died and having got the aforesaid information, he visited the in-laws' house of his daughter where he found that all the in-laws including husband of his daughter were absconding. The appellant came to know that dead body of his daughter was taken away on Bolero by her in-laws.



However, the appellant informed the police and thereafter, the dead body of his daughter was brought from village Sisai. The appellant claimed that his daughter was subjected to cruelty on account of non-fulfillment of dowry demand.

7. On the basis of aforesaid written report, Bhorey P. S. Case No. 172 of 2015 under Section 304-B/34 of the Indian Penal Code was registered and on the same day formal FIR was drawn up against respondent nos. 2 and 3 for the above stated offences. The matter was investigated and after completion of the investigation, respondent nos. 2 and 3 were charge sheeted and, accordingly, they were put on trial before learned court below. The respondent nos. 2 and 3 stood charged for the offences punishable under Sections 304-B/34 and 302/34 of the Indian Penal Code.

8. In course of trial, prosecution examined, altogether, seven witnesses. The statements of respondent nos. 2 and 3 were recorded under Section 313 of the Cr. P. C in which they claimed their innocence.

9. The learned trial court after analyzing the evidences available on the record came to the conclusion that deceased died of snake biting and, accordingly, acquitted the respondent nos. 2 and 3 from the charges framed against them.



10. Learned counsel appearing for the appellant assailed the impugned judgment of acquittal arguing that PW-7 did postmortem examination on the corpus of the deceased and found that blood was oozing out from both nostrils and froth was coming out from the mouth. He further submitted that the aforesaid condition of dead body of deceased clearly established that she was poisoned to death and as a matter of fact, she never died of snake biting but the learned trial court did not take note of the aforesaid fact as a result whereof the learned trial court came at wrong conclusion.

11. On the other hand, learned counsel appearing for the respondent nos. 2 and 3 supported the impugned judgment of acquittal arguing that except PW-4 (appellant), almost all the prosecution witnesses admitted that deceased died of snake biting. He further submitted that the prosecution witnesses including investigating officer admitted that after death of the deceased, PW-3 immediately gave information to local police in respect of death of the deceased. He further submitted that moreover, prosecution could not succeed to prove all the ingredients of Section 304-B of the Indian Penal Code and, therefore, there is no need to interfere into the impugned judgment of acquittal.



12. Having heard the above stated contentions of the parties, we went through the record and in our view, this appeal can be disposed of on admission stage itself.

13. From perusal of the lower court record, we find that PW-2, namely, Binda Devi, who happens to be co-villager of respondent nos. 2 and 3 specifically stated that respondent no. 3 informed her that deceased died of snake biting and after that the deceased was taken to Amawa Sati Mai for local treatment on a Bolero Jeep. She further claimed that she had accompanied the deceased up to Amawa Sati Mai where one Sadhu Baba after seeing the deceased said that she has already died. This witness has not been declared hostile by the prosecution.

14. PW-1 Bikram Singh happens to be friend of appellant. This witness stated that in the night of 23.09.2015, respondent no. 3 came at his house and informed about the death of the deceased and also disclosed that dead body of the deceased was to be cremated in the morning.

15. PW-3 happens to be driver of the vehicle on which deceased was taken to Amawa Sati Mai. This witness stated that he took the deceased and others to Amawa Sati Mai where he came to know that deceased has already died. He further stated that he dropped the occupants of the vehicle as well as dead body near



Bhagalpur bridge and when he reached at his home, police came at his home and thereafter he came to police station along with police.

16. PW-4 happens to be informant (appellant) of this case. This witness stated that on 24.09.2015, he got information about the death of his daughter on phone and thereafter, he went to in-laws' house of his daughter where he came to know that in-laws of his daughter took her dead body on a vehicle. However, this witness claimed that he gave information to police and after that the dead body of his daughter was recovered from Sisai village. This witness further claimed that prior to death of his daughter, her in-laws had demanded motorcycle and gold chain in dowry and used to torture her for which Panchayati had taken place several times. This witness admitted at para 11 of his cross examination that the dead body of deceased was recovered from a vehicle.

17. PW-5 is Investigating Officer. This witness admitted at para 6 of his cross examination that respondent no. 3 had given information that his wife has become victim of snake biting.

18. From perusal of evidence available on the lower court record, we find that the respondent no. 3 had given information regarding snake biting of his wife promptly to concerned police station and had also informed the police before



taking away his wife for local treatment. Furthermore, we find that the doctor did not opine regarding the cause of death of the deceased as he sent viscera of dead body for chemical examination but admittedly, the prosecution did not produce any viscera report. Therefore, in our view, the learned trial court rightly passed the judgment of acquittal and there is no need to interfere into the findings recorded by the learned trial court by which the learned trial court acquitted the respondent nos. 2 and 3.

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

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

shahzad/-rajeev

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	03.05.2019
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