

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.777 of 2019**

Arising Out of PS. Case No.-229 Year-2014 Thana- AURANGABAD TOWN District-
Aurangabad

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Khusboo Kumari @ Khushbu Kumari D/O- Santosh Kumar Singh Resident of Mohalla- Dehri (Poinwa), P.S.- Muffasil, District- Aurangabad

... .. Appellant

Versus

1. The State of Bihar
2. Rakesh Sao @ Rakesh Kumar Son of Mahendra Sao Resident of Village - Simra, P.S.- Simra, District - Aurangabad
3. Jata Shankar Prasad @ Jaishankar Prasad Son of Sadhu Prasad Resident of Village - Sahpur, P.S.- Aurangabad Town, District- Aurangabad
4. Manoj Kumar @ Manoj Kumar Gupta Son of Shri Krishna Prasad @ Krishna Sah Prasad Resident of Village - Karpi, P.S.- Karpi, District- Arwal
5. Shiv Kumar @ Shiv Kumar Thakur Son of Shri Kailash Thakur Resident of Village - Sahpur Akhara, P.S.- Town, District- Aurangabad

... .. Respondents

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Appearance :

For the Appellant : Mr.Santosh Kumar Pandey, Advocate &
Mr. Rajesh Kumar, Advocate

For the Respondents : Mr.Satya Narayan Prasad, Addl Public Prosecutor

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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 : 26-08-2019

1. Heard learned counsel for the appellant as well as learned counsel appearing for the respondents on the point of admission and in our view, this appeal can be disposed of at the admission stage itself.

2. This criminal appeal has been preferred against the judgment of acquittal dated 6.4.2019, passed by the learned



Additional Sessions Judge-I cum Special Judge, POCSO Act in Town Police Station Case No. 229/2014 corresponding to GR Case No. 1442/2014/13/2014 by which and whereunder the learned Special Judge has acquitted respondent nos.2 to 5 from charges framed against them for offence punishable under sections 120B, 376(D), 504 & 506 of the Indian Penal Code read with sections 4, 8, 10 & 14(1) of the POCSO Act.

3. Learned counsel appearing for the appellant submits that in course of trial, the prosecution witnesses including the appellant clearly stated about the involvement of respondent nos. 2 to 5 in the alleged crime but the learned trial court overlooked the aforesaid fact. He further submits that the police did not investigate the matter properly and in course of investigation, it did not seize the Video film but the learned trial court did not take step to direct the prosecution to produce the said video film.

4. Perusal of the impugned judgment goes to show that respondent no. 2 to 5 were neither named in the First Information Report nor in the statement of appellant recorded under section 164 of the Code of Criminal Procedure. However, their name came in course of investigation but the IO after completion of investigation submitted final form in respect of respondent no. 2 to 5 showing lack of evidence. The appellant filed protest petition



against the investigation but the protest petition also did not contain the name of respondent nos. 2 to 5. Perusal of the impugned judgment further goes to show that the learned trial court has discussed all the evidences available on the record and came to the definite finding that the prosecution could not succeed to prove the charges framed against respondent nos. 2 to 5.

5. We do not find any perversity or absurdity in the findings of the learned trial court and, therefore, we are not inclined to interfere into the findings of the trial court.

6. Accordingly, this appeal stands dismissed on the admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
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