

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1032 of 2018**

Arising Out of PS. Case No.-51 Year-2001 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Kailoo Mochi S/o Late Ragho Mochi, resident of village Tekanpura, P.S-
Nawkothe, Dist- Begusarai

... .. Appellant/s

Versus

State Of Bihar and Anr

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Indrajit Kumar
For the Respondent/s : Mr. Sri Ashwani Kumar Sinha

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

**HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

7 04-09-2019 Heard learned counsel appearing for the appellant,

learned Additional Public Prosecutor for the State as well as

learned counsel appearing for respondent no. 2 on the point of

admission and in our view, this criminal appeal can be disposed

of on admission stage itself.

The appellant has challenged the impugned judgment
of acquittal, dated 30.05.2018 passed by learned Additional
Sessions Judge 5th , Begusarai in session trial no. 88 of 2002 by
which and whereunder he acquitted the respondent no. 2 from
the charges framed against him under section 302/34 of the
Indian Penal Code and 27 of the Arms Act.



Learned counsel appearing for the appellant submits that in course of trial, appellant as well as some other prosecution witnesses claimed to have seen the respondent no. 2 and others at the place of occurrence but the learned trial court did not take note of claim of appellant as well as other witnesses and disbelieved the claim of appellant and others.

On the other hand, learned counsel appearing for the respondent no. 2 refuted the above stated submission arguing that the learned trial court has passed a well discussed judgment and after evaluating the material available on the record, the learned trial court came to the conclusion that prosecution could not succeed to prove its case beyond all shadow of reasonable doubts. It is well settled principal of law that the appellate court can reappraise the evidence even in case of acquittal but simultaneously, it is also well settled principle of law that the appellate court can interfere in the judgment of acquittal, if there is strong compelling circumstances for interference and unless the view of trial court appears to be absurd, perverse and without consideration of evidence, the appellate court, generally, does not interfere into the judgment of acquittal.

In the present case, the impugned judgment of



acquittal goes to show that the learned trial court discussed the evidence and, thereafter came to the conclusion that the prosecution failed to prove its case beyond all shadow of reasonable doubts. Therefore, we do not find any perversity or absurdity in the impugned judgment of acquittal and accordingly, this criminal appeal stands dismissed on admission stage itself.

N. K/-

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

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