

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1117 of 2018**

Arising Out of PS. Case No.-24 Year-2012 Thana- AGIAON BAZAR District- Bhojpur

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Ram Pravesh Singh S/o Late Mahadeo Singh, R/o Vill.- Nonar Araidih Tola,
P.S.- Piro (Hasan Bazar), District- Bhojpur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Kamlu Singh @ Kanglu Singh S/o Late Bachan Singh,
3. Nirmala Devi W/o Kamlu Singh,
Both are the Vill.- Baburahi Tola, P.S.- Agiaon Bazar, District- Bhojpur.
4. Sarju Singh S/o Late Rambachan Singh,
R/o Vill.- Baseya, P.S.- Agiaon Bazar, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Dhaneshwar Prasad Gupta
For the Respondent/s : Mr. Satya Narayan Prasad

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 26-03-2019

Re. I.A. No. 3268 of 2018

Heard learned counsel appearing for the appellant,
learned Additional Public Prosecutor for the State as well as
learned counsel appearing for respondent Nos. 2 to 4 on I.A.
No. 3268 of 2018 as well as on the point of admission.

I.A. No. 3268 of 2018 has been filed under Section
378(3) of the Code of Criminal Procedure seeking leave to file



and pursue this appeal.

The appellant-applicant happens to be the father of the deceased and comes under the purview of victim and, therefore, he has right to challenge the judgment of acquittal and, accordingly, the appellant-applicant is permitted to pursue this criminal appeal.

In the aforesaid manner, I.A. No. 3268 of 2018 stands allowed.

Re. Criminal Appeal (DB) No. 1117 of 2018

1. This criminal appeal has been preferred against the impugned judgment dated 27.6.2018 passed by learned Additional Sessions Judge 4th, Bhojpur at Ara in Sessions Trial No. 424 of 2012, by which and whereunder the learned trial court acquitted the respondent Nos. 2, 3 and 4 from the charges framed against them for the offence punishable under Section 304-B of the Indian Penal Code , giving them benefit of doubt, whereas convicted the co-accused Laxman Singh for the offence punishable under Section 304-B of the Indian Penal Code.

2. The grievance of the appellant is that on same set of evidence, the learned trial court acquitted the respondent No. 2, 3 and 4 from the charge framed under



Section 304-B of the IPC and convicted co-accused Laxman Singh.

3. Learned counsel appearing for appellant submits that respondent Nos. 2 and 3 are parents-in-law, whereas respondent No. 4 is maternal father-in-law of deceased. He further submits that, admittedly, the deceased died within seven years of her marriage in other than normal circumstances. Continuing his submission, he submits that the prosecution witnesses, specifically, stated that the deceased was subjected to cruelty and harassment due to non-fulfillment of illegal demand of motorcycle and gold-chain but the learned trial court ignored the aforesaid evidence and gave benefit of doubt to respondent Nos. 2, 3 and 4, which is not in accordance with law as the learned trial court failed to appreciate the evidence available on the record in its right perspective.

4. On the other hand, learned counsel appearing for respondent Nos. 2, 3 and 4 submits that the learned trial court, specifically, mentioned at paragraph 32 of the impugned judgment that there was no specific evidence of torturing as well as demand of dowry against respondent Nos. 2, 3 and 4 and taking note of the aforesaid fact, the learned trial court acquitted the respondent Nos. 2, 3 and 4. He further submits



that there were several infirmities in the prosecution case and having considered all the infirmities, the learned trial court passed the impugned judgment of acquittal in respect of respondent Nos. 2, 3 and 4.

5. Having heard the contentions of both the parties, we went through the impugned judgment as well as Lower Court Records.

6. Agiaon Bazar P.S. Case No. 24 of 2012 under Sections 304-B/34 of the Indian Penal Code was registered against respondent Nos. 2, 3 and 4 and others on the basis of *fard-e-beyan* of appellant, who claimed in his *fard-e-beyan* that marriage of his daughter, namely, Puspha Kumari, was solemnized on 15.5.2011 with co-accused Laxman Singh but after solemnization of marriage, respondent Nos. 2, 3 and 4 and other FIR named accused demanded motorcycle and gold-chain in dowry. He further claimed that on 4.3.2012 *Gauna* of his daughter was solemnized and after solemnization of *Gauna*, she went to her in-laws' house. He further claimed that on 2.4.2012 in between 8 A.M. to 9 P.M., he as well as his other family members talked with his daughter Pushpa on mobile but on the same day at about 10.00 P.M., his son-in-law, namely, Laxman Singh, and respondent No. 3 gave



information regarding ill-health of Pushpa Kumari on mobile and, thereafter, on the same day, he reached at the house of respondent Nos. 2 and 3 and found his daughter dead.

7. On the basis of aforesaid *fard-e-beyan*, the police case was registered and the matter was investigated by Investigating Officer. After completion of investigation, charge-sheet was submitted and after cognizance, the case was committed to the court of Sessions. The respondent Nos. 2, 3 and 4 along with co-accused Laxman Singh were put on trial and they were charged for the offences punishable under Sections 304-B/34 of the Indian Penal Code. In course of trial, prosecution examined, altogether, 9 witnesses and also got exhibited some documents. The statements of respondent Nos. 2, 3 and 4 and co-accused were recorded under Section 313 of the Cr.P.C. in which they denied the prosecution story.

8. However, the learned trial court after scrutinizing the evidence available on record passed impugned judgment in the manner as we have already stated.

9. The learned trial court at paragraph 32 of the impugned judgment, specifically, mentioned that there was no specific material to show that the respondent Nos. 2, 3 and 4 had made any demand or had put the deceased in cruelty.



10. The perusal of Lower Court Records as well as impugned judgment go to show that the death of deceased was unnatural as in forensic report, Aluminium Phosphide (Celphos) was found in viscera of the dead-body. Furthermore, we find that in postmortem examination, no apparent injury was found on the person of the deceased. Moreover, we also find that the prosecution witnesses have not made specific statement regarding demand of dowry as well as torturing against the respondent Nos. 2, 3 and 4. It is an admitted position that the appellant got information about the death of his daughter from respondent no. 3 as well as co-accused Laxman Singh and having got the aforesaid information, he went to the house of respondent Nos. 2 and 3 and, thereafter, lodged the present case.

11. We find that learned trial court has discussed all the prosecution evidence and taking note of prosecution evidence as well as other circumstances, he acquitted the respondent Nos. 2, 3 and 4 and, in our view, there is no need to interfere into findings of the learned trial court.

12. On the basis of aforesaid discussions as well as taking note of the submission of the parties, we do not find any merit in this criminal appeal and, accordingly this criminal



appeal stands dismissed at the admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.2019
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