

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.820 of 2019

Arising Out of P.S. Case No.-214 Year-2014 Thana- AGAMKUAN District- Patna

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AJIT KUMAR, aged about 25 years, Male, Son of Late Shyam Babu Singh
Resident of Village and P.O.- Bari Pahari, P.S.- Agamkuan, District- Patna

... .. Appellant

Versus

1. The State of Bihar
2. Pathal Mahto, aged about 40 years (Male), Son of Late Krishna Mahto
Resident of Village and P.O. - Bari Pahari, P.S.- Agamkuan, District- Patna
3. Tuntun Mahto, aged about 38 years (Male), Son of Dasai Mahto Resident of
Village - Choti Pahari, P.S.- Agamkuan, District- Patna

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Bibhakar Tiwary, Advocate
	:	Mr. Suresh Kumar Singh, Advocate
For the Respondents	:	Mr. Satya Narayan Prasad, APP

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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)

2 07-08-2019 Heard learned counsel appearing for the appellant as

well as learned Additional Public Prosecutor for the State on the

point of admission and in our view, this criminal appeal can be

disposed of on admission stage itself.

2. Agamkuan P.S.Case No.214 of 2014 was registered
against respondent no.2 Pathal Mahto for the offence punishable
under Sections 302, 201 and 120B/34 of the Indian Penal Code.
In course of investigation, the name of respondent no.3 Tuntun
Mahto also surfaced. However, after investigation, police
submitted chargesheet against respondent nos.2 and 3 for the
above stated offences.



3. The appellant was informant of Agamkuan P.S.Case No.214 of 2014 and claimed that his younger brother had gone to cut the gross but did not return till late evening. Appellant further claimed that when he as well as others went in search of his younger brother, they saw the respondent no.2 (Pathal Mahto) sitting near the place of occurrence and at that time, the respondent no.2 was holding *hasua* in his hand. However, appellant further claimed that subsequently, headless dead body of his younger brother was recovered.

4. In course of investigation, the respondent no.3 (Tuntun Mahto) was arrested and, allegedly, he made his confessional statement leading to recovery of a *hasua* from his house.

5. The prosecution sought the conviction of respondent nos.2 and 3, namely, Pathal Mahto and Tuntun Mahto respectively on the basis of above stated circumstantial evidences. However, learned trial Court after evaluating the evidences available on the record, came to the conclusion that the above stated circumstances were not sufficient to hold guilty to respondent nos.2 and 3.

6. Learned counsel appearing for the appellant assailed the impugned judgment of acquittal submitting that the



learned trial Court failed to appreciate the prosecution evidence in right perspective and further, he, submitted, that the prosecution established that *hasua* was recovered from the house of respondent no.3 (Tuntun Mahto) on the basis of his confessional statement and the aforesaid circumstance was sufficient to prove the guilt of respondent no.2 (Pathal Mahto) and respondent no.3 (Tuntun Mahto).

7. On the other hand, learned Additional Public Prosecutor submits that the learned trial Court has passed a well discussed judgment of acquittal and there is no need to interfere into the findings of learned trial Court.

8. Admittedly, the respondent nos.2 and 3 were put to trial before the learned trial Court in Sessions Trial No.1059 of 2014 and they stood charged for the offences punishable under Sections 302/34 and 201 of the Indian Penal Code but after full-fledged trial, the learned trial Court acquitted them from the above stated charges. It is also admitted position that none had seen the actual killing of deceased and entire prosecution case was based upon the circumstantial evidence. The prosecution brought the circumstances as we have already stated in this order and on the basis of aforesaid circumstances, prosecution sought conviction of respondent nos.2 and 3 but the



learned trial Court dealt with each and every circumstances brought on the record and after that came to the conclusion that the aforesaid circumstances were not sufficient to hold the respondent nos.2 and 3 ((Pathal Mahto and Tuntun Mahto) guilty of charges framed against them.

9. Innocence of an accused is presumed unless the accused is convicted and the aforesaid presumption of innocence becomes more stronger, if the accused gets judgment of acquittal. In the present case, the learned trial Court has dealt with all the evidences available on the record and after that came to a conclusion, that the circumstances, which were brought by the prosecution were not sufficient to hold the respondents guilty of the charges. We do not find any perversity or absurdity in the impugned judgment and in our view, it would not be proper to interfere into the findings of learned trial Court. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Brajesh Kr./-

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