

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.13 of 2019**

Arising Out of PS. Case No.-298 Year-2003 Thana- SASARAM NAGAR District- Rohtas

Sarita Devi @ Sarita Kunwar

... .. Appellant

Versus

The State of Bihar and Ors

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raghunandan Kumar Singh, Adv.
For the Respondent/s : Mr. Dilip Kumar Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

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

4 02-04-2019 Heard learned counsel appearing for the appellant on

I. A. No. 1 of 2019, I. A. No. 2 of 2019 as well as on the point of
admission.

I. A. No. 1 of 2019 has been filed under Section 378(3) of Code of Criminal Procedure for grant of leave to file this criminal appeal. The applicant-cum-appellant is wife of victim Mahendra Prasad Gupta @ Mahendra Sah and, therefore, she has right to file appeal against judgment of acquittal, accordingly, she is permitted to file and pursue this criminal appeal. Moreover, in view of specific provision of Code of Criminal Procedure, there is no need to seek permission for



filing appeal against judgment of acquittal. Therefore, I. A. No. 1 of 2019 stands disposed of.

I. A. No. 2 of 2019 has been filed under Section 5 of Limitation Act for condonation of delay of more than five months in filing this criminal appeal on the ground that being a lady, the appellant could not succeed to file this criminal appeal in time due to non-completion of certain necessary formalities in time. However, the delay in filing this criminal appeal is condoned and, accordingly, I. A. No. 2 of 2019 stands disposed of.

This criminal appeal has been preferred against judgment of acquittal dated 09.04.2018 passed by Presiding Officer, F.T.C.-II, Rohtas at Sasaram in S. T. No. 418 of 2009 by which and whereunder, he acquitted the respondent nos. 2 to 5 from the charges framed against them for the offences punishable under Sections 364A and 364A/120B of the Indian Penal Code, giving benefit of doubt to them.

Learned counsel appearing for the appellant submits that the learned trial court failed to appreciate the evidences available on the record in its right perspective as a result whereof the learned trial court committed an error in acquitting the respondent nos. 2 to 5. He further submitted that there were



sufficient circumstantial evidences to prove the guilt of respondent nos. 2 to 5 but learned trial court failed to take note of the aforesaid circumstantial evidences available on the record. He submitted that the prosecution witnesses, very specifically, stated that prior to alleged occurrence, respondent nos. 2 to 5 had taken huge money from victim as loan and prior to the alleged occurrence, they had gone to the house of victim to ascertain his whereabouts and, therefore, the aforesaid conduct of respondent nos. 2 to 5 clearly shows that it were respondent nos. 2 to 5, who kidnapped the victim for ransom but the learned trial court did not take note of the aforesaid evidence and passed the judgment of acquittal on flimsy grounds.

On the other hand, learned Additional Public Prosecutor supports the impugned judgment of acquittal arguing that the learned trial court has passed a well discussed and well thought judgment and there is not need to interfere into the impugned judgment of acquittal.

Admittedly, Sasaram Town P. S. Case No. 298 of 2003 was registered against unknown persons for the offence punishable under Section 364A of the Indian Penal Code on the basis of written report, given by PW-5 Ramji Sah, who averred in his written report that on 28.05.2003, the victim Mahendra



Prasad Gupta left his village Kharari to go to Sasaram in connection with his business but he did not return and in course of search, it came to light that the Motorcycle as well as Maruti car of victim were parked near Y. T. road. It also came to light that some persons kidnapped the victim Mahendra Prasad Gupta. PW-5 also claimed that the kidnappers of victim, Mahendra Prasad Gupta, were demanding ransom giving threatening. In course of investigation, the name of respondent nos. 2 to 5 came in light and, accordingly, after completion of investigation, police submitted charge-sheet against them.

Respondent nos. 2 to 5 stood charged for the offences punishable under Sections 364A and 364A/120B of the Indian Penal Code. In course of trial, altogether 10 prosecution witnesses were examined and the prosecution also got exhibited certain documents. The respondent nos. 2 to 5 also got examined, altogether, 4 defence witnesses as well as got exhibited certain documents.

However, learned trial court after evaluating the evidences available on the record came to conclusion that prosecution failed to prove its case beyond all shadow of reasonable doubt.

From perusal of impugned judgment, we find that the



learned trial court dealt with each and every aspect of the case by passing the impugned judgment of acquittal and we do not find any ground to interfere into the findings of the learned trial court. Furthermore, we also did not find any perversity, absurdity or illegality in the impugned judgment of acquittal and there is no reason to differ with the findings of the learned trial court.

Therefore, in the aforesaid circumstances, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

N.K/-

(Rajendra Kumar Mishra, J)

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