

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.317 of 2020

Arising Out of PS. Case No.-69 Year-2019 Thana- PUNAURA District- Sitamarhi

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Pachu Patel aged about 25 years (male), Son of Late Kapil Patel, Resident of Village - Pamra, P.S.- Punaura, Dist.- Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 340 of 2020

Arising Out of PS. Case No.-69 Year-2019 Thana- PUNAURA District- Sitamarhi

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Pachu Patel @ Ram Kishun Patel, aged about 59 years, Son of Late Kapil Patel, Resident of Village - Pamra, P.S.- Punaura, Distt - Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 317 of 2020)

For the Appellant/s : Mr. Ashok Kumar Jha, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl. APP

(In CRIMINAL APPEAL (SJ) No. 340 of 2020)

For the Appellant/s : Ms. Madhubala Verma, Advocate

For the Respondent/s : Ms. Usha Kumari 1, Spl. APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 01-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Ashok Kumar Jha, learned counsel for the appellant in Cr. Appeal (SJ) No. 317 of 2020; Ms. Madhubala Verma, learned counsel for the appellant in Cr. Appeal (SJ) No. 340 of 2020; Mr. Binay Krishna, learned



Special Public Prosecutor (hereinafter referred to as the ‘Spl. PP’) in Cr. Appeal (SJ) No. 317 of 2020 and Ms. Usha Kumari I, learned Spl. PP in Cr. Appeal (SJ) No. 340 of 2020 for the State.

3. Despite Mr. Tribhuwan Narayan, learned counsel for the informant having been sent the link and the Court Master also having talked to him on telephone, he did not take part in the proceeding.

4. At the very outset, Ms. Madhubala Verma, learned counsel in Cr. Appeal (SJ) No. 340 of 2020 submitted that she has filed the appeal for bail in the same case by the same appellant of Cr. Appeal (SJ) No. 317 of 2020 due to lack of proper information given by the *pairvikar*, who is the wife of the appellant.

5. Mr. Ashok Kumar Jha, learned counsel for the appellant in Cr. Appeal (SJ) No. 317 of 2020 submitted that the *pairvikar* of both the cases is same, but inadvertently in the affidavit in his case, she has been shown to be the aunt, though she is the wife.

6. Be that as it may, when the name of the *pairvikar* is the same and in both cases she has filed the same identification document, i.e., copy of her Aadhar, which is the same, the



second appeal could not have been filed and if there were mistakes in the first petition, the same had to be either corrected or at best the first petition should have been withdrawn before filing a fresh case.

7. This is a serious matter. Anyway, as Ms. Madhubala Verma, learned counsel for the appellant in Cr. Appeal (SJ) No. 340 of 2020 seeks permission to withdraw the appeal, the Court would not go into that aspect.

8. Accordingly, as prayed for by learned counsel for the appellant, Cr. Appeal (SJ) No. 340 of 2020 stands disposed off as withdrawn.

9. The appellant in Cr. Appeal (SJ) No. 317 of 2020 is in custody in connection with Punaure PS Case No. 69 of 2019 dated 11.04.2019 instituted under Sections 3(i)(v)(vi) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989.

10. The allegation against the appellant is that he along with six other named and few unknown persons had forcibly administered poison to the deceased, who is the father of the informant.

11. Learned counsel for the appellant submitted that though there is delay of about one and a half months in filing of



the appeal, but due to the prevailing situation, no application for condonation of the same has been filed. In view thereof, for securing the ends of justice, the delay in filing of the appeal stands condoned.

12. Learned counsel for the appellant submitted that he has been falsely implicated for the reason that his married daughter was having extra marital relationship with the son of the deceased (not the informant) and the deceased had objected and had asked his son to end the relationship, but because the other son did not do so, out of frustration, the deceased had committed suicide by himself consuming poison. It was submitted that as per the allegation many people had come and forcibly administered the poison at 6 O' clock in the morning but there is no explanation as to why there was no attempt made to either intercept or catch the accused or why the matter was not reported to the police and only the next day FIR was lodged. It was submitted that as per the allegation the informant had taken his deceased father initially to Sitamarhi Hospital from where he was referred to Muzaffarpur Hospital and there he was asked to take him to Patna but in the night while on the way to Patna, he had passed away. It was submitted that there is no explanation as to why no FIR was lodged either Sitamarhi or at



Muzaffarpur in the Hospital where the deceased is said to have been taken by the informant. Learned counsel submitted that without having committed any crime, the appellant has been made an accused though in fact he is a victim of circumstances due to the immoral act of the other son of the deceased. Learned counsel submitted that he has no other criminal antecedent and is in custody since 31.05.2019.

13. Mr. Binay Krishna, learned Spl. PP as also Ms. Usha Kumari I, learned Spl. PP submitted that the appellant is accused of having administered poison along with others. However, they did not controvert that no motive has been assigned and that there is no explanation as to why the police was not informed for more than 24 hours and the FIR was lodged after that.

14. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Sitamarhi in Punaure PS Case No. 69 of 2019, subject to the conditions (i) that one of the bailors shall be a close relative of the appellant



and (ii) the appellant shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

15. The appeal stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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