

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.533 of 2022

Arising Out of PS. Case No.-291 Year-2015 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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DINESH GIRI Son of Late Nirsu Giri Resident of Village - Gonhar, Nawada,
P.S.- Muffasil, District - Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Kumar Mahto Son of Bindeshwar Mahto Resident of Village - Gonhar,
P.S.- Muffasil, District - Samastipur.
3. Sonu Kumar @ Sonu Kumar Mahto Son of Bindeshwar Mahto Resident of
Village - Gonhar, P.S.- Muffasil, District - Samastipur.
4. Sunil Kumar Mahto Son of Bindeshwar Mahto Resident of Village - Gonhar,
P.S.- Muffasil, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Surendra Kumar Mishra, Advocate
		Mr. Shashi Kant, Advocate
For the Respondent/s	:	Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE CHANDRA PRAKASH

SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 10-11-2022

Heard learned counsel for the appellant and learned
Additional Public Prosecutor representing the State of Bihar.

2. This is an appeal under Section 372 of the Code of Criminal Procedure wherein the appellant has assailed a judgment and order dated 07.05.2022 passed by the learned Sessions Judge, Samastipur in Sessions Trial No. 103 of 2019, whereby the respondents No. 2, 3 and 4 have been acquitted of



the charges of commission of the offences punishable under Sections 302, 364, 120-B, 201 read with Section 34 of the Indian Penal Code. The appellant is the informant of the concerned Muffasil P.S. Case No. 291 of 2015.

3. The gist of the prosecution's case as set out in the First Information Report (FIR) was that the informant's son Rishi Shankar Giri had gone to bring biscuits from a shop on 20.09.2015 at about 09:15 P.M. As he did not return within a reasonable time, the informant and his family members started searching for him but he could not be found. Next morning at about 4:00 A.M., the dead body of the informant's son was found near an electricity transformer. Signs of burn injuries on various parts of the body of the deceased were noticed. The informant/appellant suspected that the deceased was done to death by causing assault him with iron rod and giving him electric shock. He alleged that the respondents no. 2 to 4 had grudge against the informant as he (the informant) had deposed as a witness in a case against father of the said respondents namely Bindeshwar Mahto for which they had issued threats to the informant. He further alleged that the father of respondents no. 2 to 4 had falsely got implicated the informant by setting up his aunt in Samastipur (Muffasil) P.S. Case No. 27 of 2011 for



the offences punishable under Sections 376, 511, 379, 341, 323, 504, 506 read with Section 34 of the Indian Penal Code which was found to be false.

4. The police upon completion of investigation of Muffasil P.S. Case No. 291 of 2015 submitted chargesheet against the private respondents for commission of the offences punishable under Sections 364, 302, 201, 120-B of the Indian Penal Code. After taking cognizance, the case was committed to the court of sessions for trial giving rise to Sessions Trial No. 103 of 2019. Thereafter charges were framed against the respondents 2 to 4 for commission of the offences punishable under Sections 302, 364, 120-B, 201 read with Section 34 of the Indian Penal Code. The private respondents pleaded not guilty and claimed trial.

5. During the course of trial, altogether 11 witnesses were examined on behalf of the prosecution. Out of the said 11 witnesses PWs-4, 5, 7 and 9 came to be declared hostile on the request of the prosecution. PW-6 too did not support the prosecution's case. PW-1, the informant, supported the prosecution's case as was disclosed by him in the First Information Report. PW-2, a brother of the deceased, also supported the narration as made by the informant in the First



Information Report. PW-3, the mother of the deceased, in her deposition narrated the same story as was disclosed in the First Information Report and in the evidence of PWs-1 and 2.

6. PW-10, the Doctor, in his deposition, while proving the post-mortem report, deposed that there was no injury caused by hard and blunt substance found on the dead body of the deceased during the post-mortem and that the cause of death was due to cardio respiratory failure caused by high voltage of electric current. The Investigating Officer, in his deposition as PW-11, candidly stated that there was no eye witness of the occurrence whose statement was recorded by him during the course of investigation. He also deposed that no witness had stated about assault for electric shock given to the deceased. He also deposed that there was no circumstantial evidence which had come during the course of investigation.

7. After having analysed the evidence of the prosecution's witnesses, the trial court recorded that the prosecution failed to establish the charges framed against private respondents for commission of the offences punishable under Sections 302, 364, 120-B, 201 read with Section 34 of the Indian Penal Code and accordingly acquitted them of the said charges by the impugned judgment and order dated 07.05.2022.



8. Mr. Surendra Kumar Mishra, learned counsel appearing on behalf of the appellant has submitted that the trial court has failed to appreciate the weight of the evidence of the prosecution's witnesses 1, 2 and 3 who fully supported the prosecution's case as was disclosed in the First Information which stood corroborated by the medical evidence also. He has submitted that though the prosecution was able to bring home the charges framed against the private respondents, albeit based on circumstantial evidence, the trial court has wrongly recorded the finding of acquittal.

9. We have perused the impugned judgment and order of the trial court carefully and we have thoughtfully considered the submissions made on behalf of the appellant. It is to be noted at the outset that no ground has been taken in the memo of appeal that deposition of any witness has been incorrectly recorded in the impugned judgment and order of the trial court. On perusal of the evidence of the witnesses as mentioned in the impugned judgment and order, it is evident that the deceased died of electrocution. His dead body was found near an electricity transformer. The medical evidence as noted above corroborates that the deceased died of cardio respiratory failure caused by high voltage of electric current. Further, the Doctor



has clearly stated in his deposition that no injury of hard and blunt substance was found on the dead body of the deceased. There is absolutely no evidence adduced at the trial that the private respondents were responsible for the electrocution of the deceased in any manner whatsoever. Even suspicion raised in the First Information Report and evidence of PWs.-1, 2 and 3 about involvement of respondents No. 2 to 4 appears to be wild and without any cogent basis.

10. In the light of aforesaid discussion, the view taken by the trial court while acquitting the respondents No. 2 to 4, in the Court's opinion, would have been the only possible view upon analysis of the evidence of the prosecution's witnesses.

11. In our considered opinion thus, this appeal has no merit and accordingly deserves to be dismissed at the very threshold.

12. This appeal is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Chandra Prakash Singh, J)

Rajesh/Nishant

AFR/NAFR	NA
CAV DATE	NA
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