

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1024 of 2018

Arising Out of PS. Case No.-231 Year-2014 Thana- GARDANIBAG District- Patna

Kameshwar Prasad S/o Late Jagat Narayan Prasad, R/o Vill.- Manpur,
Chaliskurwa, P.S.- Dhanarua, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. Rakesh Rai S/o Tuntun Rai, R/o Anishabad, P.S.- Gardanibagh, District and Town- Patna.

... .. Opposite parties.

Appearance :

For the Petitioner	:	Mr.Jai Prakash Singh, Advocate
For the State	:	Mr.Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Ravi Shankar Pankaj, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 06-09-2022 Heard learned counsel for the informant-petitioner
and learned counsel for the opposite party no. 2.

This Revision Application has been filed for setting-aside the judgment dated 21.06.2017 passed in Sessions Trial No. 1054/2014 (arising out of Gardanibagh P.S. Case No. 231 of 2014) by the learned District & Sessions Judge – VII, Patna whereby the opposite party no. 2 has been acquitted under a charge under Sections 302, 201/34 of the Indian Penal Code on the ground that the prosecution have not proved the charge beyond the reasonable doubts.

The sole contention of learned counsel for the petitioner is that in this case Dolly Kumari a seven years old daughter of the deceased was an eye witness and she had stated



before the Investigating Officer that her father and the elder aunt had pressed the neck of her mother. It is submitted that said Dolly Kumari was a charge-sheet witness but she was not examined by the prosecution.

Learned counsel submits that because of non-examination of the said eye witness the prosecution failed to prove the guilt against the opposite party no. 2.

On the other hand, learned counsel for the opposite party no. 2 submits that in this case the petitioner who was informant of the case had been examined as P.W.1. In his evidence, he never said that when he reached the house of the deceased her seven years old daughter had alleged that her father and elder aunt had killed her mother. It is submitted that the daughter of the deceased was in the custody of the petitioner – informant immediately after the death of her mother. She was living with this petitioner, therefore there was no reason why the petitioner did not produce said Dolly Kumari as a witness in this case. At no point of time he filed any application in the learned court below seeking production of Dolly Kumari and it shows that the petitioner is only trying to change his stand at this stage.

Having regard to the submissions and the materials placed before this Court, this Court finds that the conduct of the



petitioner in not stating a single line in his evidence about the information said to have been given to him by Dolly Kumari and then not producing her in course of evidence is highly doubtful and it indicates that he is now trying to make out a case against the opposite party no. 2 at a belated stage.

In it's revisional jurisdiction normally the High Court would not interfere with the judgment of acquittal unless there is any perversity in the impugned judgment. This Court is of the considered opinion that the learned court below has passed the impugned judgment on the basis of the evidences which were available on the record and no perversity may be found with the same.

This Revision Application is, thus, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

