

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1380 of 2019

Arising Out of PS. Case No.-904 Year-1983 Thana- KADAMKUAN District- Patna

-
1. Manorma Devi aged 52 years W/o Rajendra Prasad Srivastava. Resident of Gaura, P.S.- Lilwoch Dinara, District Rohtas.
 2. Rajkapoor, aged 45 years, son of Shivkishore Prasad Verma, Resident of Ghughari Tand New Colony Road No. 3 Dandibag, P.O. - Chand Chaura, P.S. - Bishnupath, Distt.- Gaya (Bihar)

... .. Appellant/s

Versus

1. The State of Bihar
2. Kameshwar Prasad aged 76, son of Baliram Prasad Singh, resident of Rasulpur Rambag, P.S.- Maner, Distt. - Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kameshwar Singh, Advocate
For the State : Mr. Ajay Mishra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

6 20-07-2022 Heard Mr. Kameshwar Singh, learned counsel for the appellant and Mr. Ajay Mishra, learned A.P.P. for the State.

2. The present appeal has been filed by the appellants against the judgment and order of acquittal dated 04.09.2019 by which the respondent no. 2 has been acquitted from the charges punishable under Section 364 of the Indian Penal Code in Sessions Trial No. 524 of 1990 arising out of Kadamkuan P.S. Case No. 904 of 1983 passed by the learned Fast Track Court II, Patna.



3. The appellants are the daughter and son of the informant as also the person who is alleged to have been kidnapped.

4. Learned counsel for the appellants submitted that their father was taken on the pretext of measuring a land as he was an *Amin* on 06.10.1983 and thereafter did not return. It was submitted that though the local police station was informed but no action was taken and finally a formal complain was submitted to the police station resulting in institution of the criminal case. Learned counsel submitted that during deposition, it has come that the respondent no. 2 was the person, who had masterminded the kidnapping and there is every possibility that the father of the appellants has also been killed. It was submitted that without vital witnesses being examined on behalf of the prosecution as also the Investigating Officer not being called to depose, there has been miscarriage of justice. It was contended that till date neither the person nor his body has been recovered. Thus, it was submitted that the matter deserves to be remanded for examination of some of the vital witnesses including the Investigating Officer.

5. Learned A.P.P. submitted that there is no error in the judgment, much less, any perversity. It was contended that



the fact that after twenty four days, the FIR was instituted as also that the person, who is said to have called the father of the appellants, one Rajbansi, was not sent up for trial and neither the appellants nor the informant ever raised any objection during the entire trial and there being no substantive evidence to connect the incident of taking away of the father of the appellants by the respondent no. 2 having come during trial, no interference is required.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any occasion to interfere in the judgment impugned. The same is well discussed and the evidence, which has come during trial has also been taken note of which does not lead to a presumption beyond doubt with regard to the complicity of the respondent no. 2 in the crime alleged.

7. For reasons aforesaid, the appeal being devoid of merits, stands dismissed.

(Ahsanuddin Amanullah, J)

(Purnendu Singh, J)

Niraj/-

U		T	
---	--	---	--

