

03.08. 2022
item No.72
n.b.
ct. no. 34

CRR 2152 of 2009

**Tahamina Bibi
Vs.
State of West Bengal & Ors.**

Mr. Ranadeb Sengupta,
.....for the Petitioner

Mr. Ranabir Roychoudhury,
Mr. Sandip Chakraborty,
.....for the State

The revisional application related to an order of acquittal passed in the judgment delivered on 29.4.2009 by the Learned Additional District and Sessions Judge, Third Fast Track Court, Jangipur, Murshidabad in connection with Sessions Serial No.79/08(Sessions Trial No.11th /June/2008) arising out of Farakka Police Station Case No.84 of 1999 dated 14.7.1999.

Mr. Sengupta, learned advocate appearing on behalf of the petitioner submits that the learned Trial Court while arriving at its conclusion acquitted the accused by misreading the evidence and arrived at a perverse finding. According to the Learned Advocate there were eye-witness to the incident particularly P.W. 10 which was disbelieved by the learned Trial Court. It has also been submitted that the Trial Court ought to have appreciated the fact that the Investigating Officer of the case died. Quality of the evidence was to be appreciated in the background of the same.

The learned advocate also submits that the reasons so assigned are not acceptable to the present petitioner for acquitting the accused/opposite parties and as such this Court should interfere with the judgment and order passed by the Learned Trial Court.

Mr. Roychoudhury, learned advocate appearing for the State opposed such contentions and submits that there are contradictory materials and the Learned Trial Court on a scrutiny of the evidence arrived at its finding. It has also been submitted that there are subjective contradictions in the evidence which deterred the Learned Trial Court to come to a finding of guilt, so far as the accused persons are concerned.

Ordinarily in a revisional application against an order of acquittal the Higher Court is reluctant to enter into evidence until and unless there is manifest error in the records. From the records of this case, Learned advocate appearing for the petitioner drew the attention of the Court to the evidence of P.W. 10 as also some of the other witnesses. The evidence of P.W. 10 and P.W. 8 happened to be of the son and widow of the deceased. In their deposition before the Trial Court in respect of the principal assailant each of them stated different persons.

The Learned Trial Court while passing his judgment observed that the evidence of the vital witness are contradicting with each other. In a criminal case, the duty of the prosecution is to prove its case beyond reasonable doubt. The Learned Trial Court on an assessment of the deposition of the witnesses arrived at its finding.

Having regard to the reasons so assigned by the Learned Trial Court, I am of the opinion that the approach of the Learned Trial Court in respect of the scrutiny and analysis of the evidence do not suffer from any illegality calling upon this Court to interfere with the impugned judgment and order of acquittal. As such no interference is called for.

Accordingly, CRR 2152 of 2009 is dismissed.

All pending connected applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)