

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.383 of 2017

Arising Out of PS. Case No.-106 Year-1997 Thana- ISLAMPUR District- Nalanda

Kiran Devi wife of Ashok Yadav, Resident of Village- Sahajana, P.S.- Islampur, District- Nalanda at present residing in the Mohalla- Gaurav Nagar, Ward No.3, Islampur, Police Station- Islampur, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors null
2. Ashok Yadav, son of Lakhan Gope,
3. Gurucharan Yadav, son of Lakhan Gope,
4. Sudha Devi, wife of Gurucharan Yadav,
5. Lakhan Gope, son of Ramdhani Gope,
6. Munaki Devi, wife of Lakhan Gope,
7. Ram Bali Gope, son of Sita Ram Gope,
8. Ravindra Yadav @ Sipahi Jee, son of Chhotu Gope,
9. Rajedo Yadav, son of Baran Gope, SI. No. 2 to 9 all resident of Village- Sahajana, Police Station- Islampur, District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Adv.
For the Respondent/s : Mr. Ajay Kumar No.2, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 03-04-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

This Cr. Revision Application has been filed against
the order dated 08.02.2017 passed by Learned 2nd Addl.
Sessions Judge, Hilsa (Nalanda) by which Cr. Appeal No.
31/2013 was dismissed and order dated 19.02.2013 passed in
G.R. No. 884 of 1997/ Trial No. 395 of 2013 under Sections
498A, 494 and 34 of the I.P.C.

Learned counsel for the petitioner submits that the final order/judgment dated 19.02.2013 passed in G.R. No. 884 of 1997/ Trial No. 395 of 2013, arising out of Islampur P.S. Case No. 106 of 1997 under Sections 498A, 494 and 34 of the I.P.C., the order of acquittal has been passed being aggrieved and dissatisfied with the same Cr. Appeal of 31/2013 which was subsequently decided by Learned 2nd Addl. Sessions Judge, Hilsa (Nalanda) and the appeal was also dismissed and the order of acquittal has been affirmed.

Counsel submits that the basis of judgment for acquittal is that Exhibit-1 which is in the hand writing of Suresh Yadav with his signature could not be proved in result the Trial court has held that it is doubt of grave nature as I.O. has not been examined in this case and on this ground granting acquittal is bad in law because the other materials are on record.

Counsel for the State submits that the foundational facts/pillar of a criminal case is the F.I.R. and once the F.I.R. has not been proved or create doubts then automatically the entire prosecution shall collapse. Here in the present case, the F.I.R. has collapsed due to doubt created by the court about signature of the person who has written on F.I.R. and not supported by I.O. due to non-adducing of his evidence.

This court is of the view that *fardbeyan* is the foundational facts of the F.I.R. and when F.I.R. has not been proved, the entire case shall be collapsed. There is consistent finding of learned Sub-Divisional Judicial Magistrate, Hilsa (Nalanda) as well as Appellate Court in this matter and particularly on this point, this court is of the view that there is no legality or need of any correctness and question of propriety involve in the present revision matter.

With this observation, this Cr. Revision Application is hereby dismissed.

(Dr. Anshuman, J.)

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