

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.945 of 2017

Arising Out of PS. Case No.-66 Year-2014 Thana- DEHRI TOWN District- Rohtas

Manoj Kumar, son of Yamuna Singh, Resident of Village-Jhakar Bigha, P.S.-
Kachhawan, District-Rohtas.

... .. Petitioner

Versus

1. The State of Bihar
2. (XXX), Son of Rajendra Singh, Resident of Village-Jhakar Bigha, P.S. -
Kachhawan, District-Rohtas.

... .. Opposite parties

Appearance :

For the Petitioner	:	Mr. Sudama Singh, Advocate Mr. Surendra Kumar Mishra, Advocate
For the State	:	Mr. Dilip Kumar No. 1, APP
For the OP. No. 2	:	Mr. Arvind Prasad Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

11 23-11-2023 Heard Mr. Sudama Singh, learned counsel for the
petitioner, Mr. Arvind Prasad Singh, learned counsel for the
Opposite Party No. 2 as also Mr. Dilip Kumar no. 1, learned
APP for the State.

2. The present revision application has been filed for
setting aside of the order dated 03.06.2017 in G.R. Case No. 119
of 2014/ JJB No. 141 of 2014 read with Dehri (Dalmia Nagar)
P.S. Case No. 66 of 2014 whereby and whereunder the learned
Juvenile Justice Board, Rohtas (hereinafter referred to as the
'Board') has been pleased to acquit the opposite party no. 2
from the charges under Sections 302/120B/34 of the Indian
Penal Code.

3. It appears on perusal of the impugned order that as



per the prosecution story, which is based on the fardbyan of the informant Manoj Kumar, his deceased brother Saroj Kumar was working in Railways as Driver at Mughalsarai Junction, he was living on rent with two other boys of the village in the same house at Mathurapur colony, Dalmia Nagar. On 09.02.2014 at 06:30 A.M., Bhola Kumar called him. Later on, he was informed from the mobile phone of his brother Saroj Kumar saying that Saroj had got brain hemorrhage. The informant alleged that when he went there at about 07:45 P.M., he found that his brother was shot dead and gun shot was visible on his forehead. It is alleged that a day before the occurrence, on 08.02.2014, Mantu Kumar who is the brother of Dharmendra Kumar and was living together with the deceased brother of the informant came at the house of the informant and asked for the ATM and passbook of the deceased Saroj Kumar. The informant claims that believing them, he had given the ATM and the passbook of the SBI Account of the deceased Saroj Kumar.

4. On behalf of the prosecution, altogether 11 witnesses were examined, however, there is no eye witness to the alleged occurrence. The medical expert Dr. Ashok Kumar Gupta (PW-6) was examined who proved the post-mortem report and stated that the death was caused due to shock and



hemorrhage and the nature of weapon was hard and blunt substance.

5. Considering the fact that there is no eye witness and there was no other cogent material on the record by way of evidence to connect the opposite party no. 2 with the alleged occurrence, the learned Board has been pleased to acquit the opposite party no. 2.

6. Mr. Sudama Singh, learned counsel for the petitioner has while assailing the impugned order submitted that there is a strong circumstantial evidence on the record to hold and declare that the opposite party no. 2 is guilty of the offence under Section 302, 120B/34 of the Indian Penal Code. According to him, the learned Board has failed to appreciate the evidences available on the record which has resulted in the acquittal of the opposite party no. 2.

7. Learned counsel for the opposite party no. 2 has opposed this application. He submitted that on a bare perusal of the evidences which are available on the record, it would appear that it is a case of no evidence. The prosecution has failed to prove any motive and the plea of the petitioner that there are strong circumstantial evidences is liable to be rejected as there is no iota of evidence to support any connection of the opposite



party no. 2 with the death of the brother of the informant. It is submitted that according to the informant, his brother was shot dead and he had noticed gun shot injury but the post-mortem report does not support the same and PW-6 has specifically stated that the injuries spotted on the body of the deceased has been caused by hard and blunt substance.

8. This Court has heard learned counsel for the parties and perused the records. In course of submission, Mr. Singh, learned counsel for the petitioner has mainly referred the evidence of PW-1 and PW-9, however, after going through the evidences which are available on the record, it is crystal clear that PW-1 is not an eye witness. His testimony does not provide any circumstance so as to connect the petitioner with the alleged occurrence. PW-9 is the police officer who was incharge of the outpost at Dalmia Nagar on the alleged date of occurrence and he has stated that after registering the case, the investigation of the case was handed over to one Virendra Kumar Singh, the Sub-Inspector of Police. He has proved the FIR. In paragraph '10' of his examination-in-chief, PW-9 has stated that he had arrested Dharmendra Kumar and Mantu Kumar on 10.02.2014 and thereafter he had obtained the mobile calls details of the two persons and the mobile calls details of the deceased. He has



stated that the mobile location of the deceased and the opposite party no. 2 were found at the same place. In his cross-examination, PW-9 has stated that another police officer had inspected the place of occurrence, however, the date and time of inspection of place of occurrence has not been noted in the case diary. He had not recorded the statements of the residents of the quarter no. 9 and quarter no. 10. This witness has not proved any electronic evidence such as the call detail report, if any, provided by the service provider.

9. In the totality of the circumstances, this Court finds no reason to interfere with the impugned order.

10. This revision application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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