

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.571 of 2022

Arising Out of PS. Case No.-103 Year-2018 Thana- BIKRAM District- Patna

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KUMAR RAHUL S/o Late Dr. Kumar Birendra Nath R/o village- Dativana,
P.S.- Vikram, District- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. SHARAD KUMAR S/o Late Rambhawan Singh R/o village- Dativana, P.S.-
Vikram, District- Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashank Shekhar, Advocate
For the Respondent/s : Mr. Satya Narayan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

5 18-05-2023 The present appeal under the proviso to Section 372 of the CrPC has been filed against the judgment of acquittal dated 20.06.2022, passed by the learned Additional District Sessions Judge-III, Danapur (Patna) in Sessions Trial No. 119 of 2020, whereby respondent No. 2 has been acquitted of the charge of commission of offence punishable under Section 302 read with Section 34 of the IPC. Briefly narrated, it is the prosecution's case that on 11.04.2018 at about 6:00 am, the victim had gone to pluck vegetables near his pond. As he did not return till 10:00 am, the informant, his son (P.W. 2) proceeded



for searching him and subsequently, he saw the dead body of his father lying in the pond. According to the informant, blood was seen oozing from the mouth and the ears of the deceased but no external injury was found. The FIR was registered against unknown. The name of respondent No. 2 emerged during the course of investigation based on suspicion. Charge sheet was submitted thereafter and after cognizance having being taken, the case was committed to the court of Sessions. Respondent No. 2 was put on trial after framing of the charge as he denied the charge of commission of offence punishable under Section 302 read with Section 34 of the IPC.

At the trial, altogether, eight witnesses were examined including the doctor(P.W. 5) who had conducted the post-mortem, two Investigating Officers(P.W. 6 and P.W. 7). The informant was examined as P.W. 2, whereas son and wife of the deceased were examined as P.W. 3 and P.W. 4 respectively. The doctor deposed at the trial that the cause of death was combined effect of traumatic asphyxia and internal chest injury with hemorrhage and shock by compression over chest caused by the blunt forced impact. The fact remains that there was no eyewitness to the occurrence. The prosecution attempted to establish the charge against respondent No. 2 based on



circumstantial evidence including the evidence of P.W. 1 to the effect that respondent No. 2 was seen coming from the side of the pond.

Learned trial court after having evaluated the evidence adduced at the trial reached a conclusion that the prosecution could not prove complete chain of circumstances to establish conclusively that commission of murder by respondent No. 2 was the only hypothesis possible based on the evidence on record.

Learned counsel appearing on behalf of the appellant has submitted that there were overwhelming circumstances emerging from the evidence of the prosecution's witnesses to connect respondent No. 2 with the commission of the offence. He has submitted that there was land dispute between the deceased and respondent no. 2 and respondent no. 2 had once threatened the deceased of killing him in the same pond. He has also submitted that P.W. 4, in her deposition at the trial, testified that respondent No. 2 had assaulted the deceased one day before the date of occurrence.

We have carefully gone through the impugned judgment of the trial court and we have considered the submissions advanced on behalf of the appellant. We do not find



any legal infirmity in the finding recorded by the trial court which is based on appreciation of evidence adduced at the trial. It is to be kept in mind that a trial court had the advantage of seeing the demeanor of the witnesses at the trial. Finding of acquittal of a person put on trial re-affirms the presumption of innocence in favour of a person put on trial. Unless a finding of acquittal recorded by the trial court appears to be patently erroneous ignoring cogent evidence adduced at the trial, the Appellate Court is not required to interfere with the finding of acquittal more so in a case based on circumstantial evidence.

We do not find it to be fit case for interference. This appeal is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Rajiv Roy, J)

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