

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.707 of 2023

Arising Out of PS. Case No.-449 Year-2018 Thana- NAUBATPUR District- Patna

PANKAJ KUMAR SON OF RADHEYSHYAM RESIDENT OF VILLAGE -
JINPURA, DHOBIAKALAPUR, P.S. - BIHTA, DISTRICT - PATNA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR PATNA, BIHAR
2. BABLU KUMAR @ KALLU SON OF SUMANGLA GANDHI
RESIDENT OF VILLAGE - SHAHPUR, P.S. - SHAHPUR, DISTRICT -
PATNA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ram Niwas Prasad
For the Respondent/s	:	Mr. Ajay Mishra, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA)

Date : 12-12-2023

1. Heard learned counsel for the appellant and
learned Additional Public Prosecutor appearing on behalf of the
State.

2. This appeal has been filed against the judgment
of acquittal dated 30.05.2023 passed by the learned Additional
Sessions Judge-VI, Danapur, Patna in Sessions Trial No. 749 of
2019 arising out of Naubatpur P.S. Case No. 449 of 2018,
whereby and whereunder the respondent nos. 2 has been
acquitted from the charges leveled against him under Sections



302/120(B) of the Indian Penal Code and Section 27 of the Arms Act.

3. The prosecution case, in brief, is that on 21.09.2018 at 07:00 AM. in the morning one boy of the village of the informant informed him that the dead body of his son Rohit Kumar was recovered from near village Sonachak lying under Naubatpur Police Station. The informant further alleged that on such information, he after intimating his entire relatives and then accompanying with them reached at Naubatpur Police Station where he came to know that his son has been killed by gunshot and his dead body has been sent to Danapur Sub-Divisional Hospital for Postmortem. The informant, on the basis of suspicion, further alleged that his son was killed after hatching conspiracy by Bablu @ Kallu and Chhotu son of Balo Singh because they had called informant's son from the home yesterday, thereafter the informant's son did not return home.

4. Learned counsel for the appellant submits that the learned Trial Court has failed to properly consider the evidence of prosecution witnesses as also the crime committed by the respondent who had come to the house of the informant and taken away the son of the informant from his house and thereafter, the son of the informant was found dead.



5. Learned Additional Public Prosecutor appearing on behalf of the State submits that the First Information Report was lodged on the basis of suspicion by the father of the deceased. According to him, except the official witnesses, all the witnesses are interested witnesses. He further contended that there is no eye witness to the alleged occurrence and the basis of the F.I.R. is circumstances which have not been explained properly. It is further submitted that the prosecution has failed to explain the motive of occurrence. From the evidence, at most the suspicion may be gathered that Kallu @ Bablu might have killed Rohit Kumar but mere suspicion cannot arrogate or substitute the necessity of 'proof beyond reasonable doubt' the golden standard for convicting any accused. The chain of circumstances is not proved by the prosecution. Between the calling by the accused to the deceased and the deceased being killed, there are many missing links. Prosecution is silent as to what witness including parents and grand-parents (P.W.1 to P.W.4) were doing when the deceased did not return home in the night. Why no missing reports were lodged? Allegedly, dead body of the deceased was found in the morning. How and when murder took place, prosecution has failed to explain. There are complete missing links between the alleged death and alleged



calling of deceased by the accused. More importantly, prosecution could not exclude the possibility of any other person killing the deceased. Therefore, the chain of the evidence is not complete. When the chain is not complete, there is no need to dwell into medical evidence. Other evidences are inconsequential.

6. Considering the facts and circumstances of the case and the submissions advanced on behalf of the parties, we do not find any perversity in the impugned judgment passed by the learned Trial Court. The appeal is, accordingly, dismissed being devoid of any merit, at the stage of admission itself.

(Arvind Srivastava, J)

(Sunil Dutta Mishra, J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2023
Transmission Date	19.12.2023

