

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (DB) No.805 of 2023

Arising Out of PS. Case No.-66 Year-2017 Thana- TATARPUR District- Bhagalpur

Sanjay Mandal @ Sanjay Kumar Mandal, aged about 61 years, male, Son of Late Ratan Mandal Resident of Village - Kishanpur, P.S. - Akbar Nagar, District - Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar.
 2. Braj Bhushan Kumar, Son of Lochan Mandal;
 3. Rakesh Kumar, Son of Sri Ram Chandra Sharma;
- Both are Resident of Village - Kishanpur, P.S. - Akbar Nagar, District - Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ranjan Kumar Jha, Adv.
For the State : Mr. Ajay Mishra, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 26-09-2023

Re. I.A. No. 1 of 2023 :-

The aforesaid interlocutory application has been filed seeking condonation of delay of twenty



three days in preferring this appeal.

2. For the reasons stated in the aforesaid interlocutory application, the delay in filing the present appeal is, hereby, condoned.

3. The I.A. No. 1 of 2023 stands allowed.

Re. Cr. Appeal (DB) No. 805 of 2023 :-

Heard Mr. Ranjan Kumar Jha, the learned Advocate for the appellant/informant, who is the father of the deceased, who was eighteen years of age at the time of her death, and Mr. Ajay Mishra, the learned APP for the State.

2. The appellant/informant has assailed the judgment of acquittal dated 28.03.2023 passed by the learned Addl. Sessions Judge-XV, Bhagalpur in Sessions Trial No. 754 of 2017 / T.R. No. 287 of 2022, arising out of Tatarpur P.S. Case No. 66 of 2017, whereby the Trial Court has acquitted respondent Nos. 2 and 3 from all the charges levelled against them.



3. The respondent Nos. 2 and 3 were initially not suspected for having killed the deceased. However, later, *charge-sheet* was submitted against them.

4. The informant was told by one of his sons that the Principal of T.N.B. College, Bhagalpur had informed him on telephone that the dead-body of the deceased was lying in the T.N.B. College campus. On such information, the father of the deceased, who is the informant of this case, along with his sons, who are witnesses on behalf of the prosecution, arrived at the place where the dead-body was lying. There was some delay in their reaching the place but that was only for the reason that the father of the deceased worked at *Naugachia* Civil Courts.

5. The F.I.R. was lodged by the father of the deceased alleging that somebody has killed the deceased by smashing her with a stone. He suspected none and, therefore, the F.I.R. was



registered against unknown.

6. Later, it appears from the trend of investigation report that because the respondent/Braj Bhushan Kumar and his friend respondent/Rakesh Kumar were known to the deceased and that there was some association of the deceased with Braj Bhushan Kumar (respondent No. 2), he possibly with the help of Rakesh Kumar (respondent No. 3) might have killed the deceased.

7. None of the witnesses before the Trial Court have stated anything which would even remotely point at any motive of the respondents in killing the deceased. None of the witnesses have also testified to the fact that respondent Nos. 2 and 3 were, in any way, offended by the deceased. It was only a wild speculation that respondent No. 2 had developed love relation with the deceased, but did not want to marry her because he had been gainfully employed in the Indian Navy and at the time of the



occurrence, he was posted at *Vishakhapatnam*.

8. On the other hand, the line of defence taken by the respondents was that because of the refusal of respondent No. 2 in accepting the marriage proposal of the deceased, he has been falsely implicated in this case.

9. During the trial, the brothers of the deceased stated about respondent No. 2 wearing clothes which had blood stains.

10. The was, perhaps, one of the grounds for suspecting the hands of respondent No. 2 and his friend respondent No. 3.

11. The clothes of the respondent No. 2 was seized and sent for forensic examination, the report of which came in the negative.

12. Neither the father nor the brothers of the deceased have offered any evidence to even remotely connect the respondents with the offence.

13. The police instead of investigating the



matter properly was content with recording the confession of respondent No. 2. The Trial Court has rightly not taken it into account.

14. It cannot be said the Trial Court went wrong when he did not take into account the CDR of the telephone numbers of the respondents and the deceased for the paucity of necessary formality for admitting any digital evidence under Section 65-B of the Indian Evidence Act, 1872.

15. Assuming but not admitting, the Trial Court reminded itself that even if the CDR report would have been looked into, it would have only reflected that the deceased had talked to respondent No. 2 for few seconds. The Trial Court, therefore, wondered whether this could be an evidence for connecting respondent No. 2 with the offence.

16. It is really shocking that an eighteen years old student has been killed inside the campus of the college in which she was enrolled. The murder



was carried out in a most brutal manner. However, that would not justify jumping to conclusion with respect to guilt of any person only on suspicion.

17. Mr. Ranjan Kumar Jha, the learned Advocate for the appellant/informant has submitted that the blood stained clothes of respondent No. 2 and the association of respondent No. 2 with the deceased are two clinching indicators, suggesting circumstances on which the respondent No. 2 particularly, ought to have been convicted.

18. The contention of Mr. Jha cannot be accepted as these two indicators do not form any chain, much less any complete chain, to come to any conclusion regarding the guilt of the respondents.

19. The Trial Court has gone through the deposition of all the witnesses and the submissions on behalf of the parties and has rightly come to the conclusion that there is complete want of evidence for convicting respondent Nos. 2 and 3.



20. We do not find any reason to interfere with the opinion rendered by the Trial Court in the judgment which has been impugned in this appeal.

21. The appeal fails and is, accordingly, dismissed.

(Ashutosh Kumar, J)

(Alok Kumar Pandey, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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