

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.767 of 2021

Arising Out of PS. Case No.-14 Year-2020 Thana- AAYAR District- Bhojpur

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Pintu Baitha @ Pintu Kumar Son of Lal Bachan Ram, Resident of Village -
Baligaon, P.S.- Ayar, District - Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Kesho Prasad Yadav Son of Late Dev Saran Yadav, Resident of Village -
Baligaon, P.S.- Ayar, District - Bhojpur
3. Rinku Devi Wife of Anil Kumar Yadav, Resident of Village - Baligaon, P.S.-
Ayar, District - Bhojpur
4. Manju Devi Wife of Dhanji Yadav, Resident of Village - Baligaon, P.S.-
Ayar, District - Bhojpur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ramchandra Pd. Bharti, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE A. M. BADAR)
Date : 23-03-2023

This is an appeal by First Informant – Pintu Baitha, challenging acquittal of respondent Nos.2 to 4 (original accused Nos.4 to 6) of offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, 120(B) of the Indian Penal Code as well as under Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.



2. According to the prosecution case, deceased Ankit Kumar @ Jhunjhun who was a young boy aged about 15 years, came to be murdered by the accused persons including respondent Nos.2 to 4. By the impugned judgment, these respondents came to be acquitted by the learned Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Bhojpur, Arrah, in SC/ST Case No.35 of 2020, arising out of Ayar P.S. Case No.14 of 2020, whereas rest of the accused persons came to be convicted of the offences alleged against them.

3. We have heard the learned counsel appearing for the appellant/First Informant at sufficient length of time. He drew our attention to confessional statement of accused Anil Kumar Yadav and that of one Nikki Kumari. Confessional statements made by other accused before the police were also relied. The learned counsel for the appellant submits that as dead body came to be recovered on the basis of confessional statement, whatever has been stated in the body of confession has to be treated as evidence and as such the story reflected in the confessional statement regarding commission of murder should be



considered as evidence against these acquitted accused persons.

4. We have considered the submission so advanced. We have also perused the impugned judgment and order.

5. It is well settled that as per provisions of Section 27 of the Evidence Act, only that part of confessional statement which results in recovery or discovery of fact can be considered and no other part of confessional statement can be admitted as evidence against the accused persons. Therefore, we cannot consider the story given by the accused persons in their confessional statement as evidence against the accused persons. Similarly, case against respondent Nos.2 to 4 has already been dealt with by the learned Trial Court in the impugned judgment and they came to be acquitted of the offences alleged against them in the light of the fact that evidence against them is only in the nature of confessional statement of co-accused Anil Yadav and Dhanji Yadav. The learned Trial Court has categorically held that no other circumstance appear against these accused persons other



than the confessional statement of the co-accused.

6. We find no perversity or illegality in the approach adopted by the learned Trial Court resulting in acquittal of the respondent Nos.2 to 4. Hence, the appeal is devoid of merit and the same is accordingly rejected.

(A. M. Badar, J)

(Chandra Shekhar Jha, J)

Saurabhkrsinha/
Mkr/-

AFR/NAFR	NAFR
CAV DATE	None
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