

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.124 of 2023

Arising Out of PS. Case No.-101 Year-2007 Thana- SAHEBGANJ District- Muzaffarpur

Sevika Mumtaz Begum W/o Fazlur Rahman R/o- Eraji Nagar Tola Kaji Chak,
P.S.- Sahebganj, District- Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Reyaz Ahmad S/O Abdul Rauf R/o- Eraji Nagar Tola Kaji Chak, P.S.-
Sahebganj, District- Muzaffarpur
3. Mohd. Tauheed S/O Abdul Rauf R/o- Eraji Nagar Tola Kaji Chak, P.S.-
Sahebganj, District- Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sunil Kumar Pandey, Advocate

For the Respondent/s : Mr. Dilip Kumar Sinha, APP

For the Respondents No. 1 & 2: Mr. Kalyan Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-02-2024

We have heard Mr. Sunil Kumar Pandey, learned Advocate for the appellant/Sevika Mumtaz Begum and Mr. Kalyan Shankar for the two respondents, who have been since acquitted of the charges by the judgment under appeal.

2. The State has been represented by Mr. Dilip Kumar Sinha, learned APP.

3. The present appeal is against the impugned judgment and order of acquittal dated 29.11.2022 passed



by the learned Additional District and Sessions Judge-XIV, Muzaffarpur in connection with Sessions Trial No. 800 of 2008, arising out of Sahebganj P.S. Case No. 101 of 2007.

4. The two respondents faced trial for the offences under Sections 307, 148, 341 and 448 of the IPC. In fact, six persons were named as accused in the FIR lodged by the appellant; out of whom two died and the case of two others were sent to the Juvenile Justice Board for the determination of their guilt.

5. The allegation in the FIR is that on refusal of the appellant/informant to part with Rs. 1000/- as kickback for the mid-day meal to one of the accused persons, especially the husband of the President of the Committee, the accused persons assaulted her on the fateful night.

6. There is a counter version that on the complaint made by the President of the Committee, the appellant was chastised by the CDPO.

7. The allegation is that in the night, six persons entered the house of the appellant. All of them were armed



with lethal weapons. The victim/appellant was slashed through her forehead, which injury was found to be in sync with the ocular testimony.

8. However, the Trial Court after having examined seven witnesses on behalf of the prosecution and three on behalf of the defence, acquitted the respondents of the charges against them.

9. The Trial Court found that out of seven witnesses; the two were the Doctor and the I.O. and the rest five witnesses were directly related to the informant; one being her brother-in-law, the other her husband and two being her sons. The informant herself was examined as P.W. 5.

10. However, the Trial Court did not leave it at that and analyzed the deposition of all the witnesses.

11. From the evidence on record, it appeared to the Trial Court that there were many disputes between the parties, especially between the informant and the wife of respondent/Md. Tauheed. Both the parties had their own



stories to narrate with respect to the dispute regarding mid-day meal; its management; demand of Rs. 1000/- by wife of Md. Tauheed and refusal to pay-up by the informant.

12. A Partition Suit also was pending between the parties which got confirmed by the deposition of P.W. 1. The brother of P.W. 1 had filed the aforementioned Partition Suit (P.S. No. 562/2006) in which the father-in-law of respondent/Tauheed was a defendant. There was another Partition Suit pending between one Mahahool Hasan, who is the father-in-law of appellant/Md. Tauheed.

13. In this background of enmity, the Trial Court found it strange that no independent witnesses were brought to the witness-stand despite the claim of the prosecution that many villagers had assembled at the P.O. All those persons who were named in the FIR did not come up before the Trial Court to prove the case. The Trial Court appears to have been, while deciding the case, totally conscious of the fact that a witness is normally to be



considered independent unless there are identifiable reasons which would make their deposition tainted by enmity.

14. Whenever feelings run high and there is a personal cause, the tendency to drag an innocent person is not something which is unknown.

15. The Trial Court actually brushed aside all these generalizations and carefully examined the deposition of all the witnesses.

16. It could not be ascertained from the evidence on record as to how the two respondents managed to enter the house of the informant (P.W. 5), when all the witnesses were sleeping at the veranda. There was no mark of any forcible entry in the house. The eye witnesses to the occurrence, who are all directly related to P.W. 5, never came to her rescue. There was no intervention on their part. In fact, P.W. 1 only narrated to the Court what was told to him by P.W. 5.

17. Even with respect to the injuries suffered by the victim (Ext. 2), the Trial Court was in a clear doubt



whether such injury was of the recent past. There was an incised wound on the forehead of P.W. 5 of the dimension of 2"x1"x1/2", but there were signs of vomiting. The injury was though reported to be grievous, having been caused by a sharp object, but testing it on the anvil of the age of the injury, the Trial Court found the evidence to be lacking with respect to that injury being relatable to the incident reported by P.W. 5 and which led to the case being filed against the respondents and others.

18. The Trial Court had found the injuries to be anti-timed.

19. The evidence of the I.O. also did not inspire much confidence that the prosecution case was correct. He had not found any mark of violence or assault at the P.O. There was a delay of about 24 hours in dispatching the FIR.

20. The Trial Court has rightly ignored the minor discrepancies in the statement of the witnesses and has taken a view which does not appear to us to be perverse or against the weight of the evidence on record.



21. The grievance of P.W. 5 against the wife of the respondent/Tauheed and he himself appears to be the motivating force for lodging the case.

22. On testing the case from all angles, the Trial Court did not find that the case was proved by the prosecution beyond all reasonable doubts.

23. On a reading of the evidence of the witnesses, we affirm the opinion of the Trial Court, which does not require any interference.

24. There is no merit in this appeal.

25. The appeal is dismissed.

(Ashutosh Kumar, J)

(A. Abhishek Reddy, J)

krishna/-

AFR/NAFR	NAFR
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