

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.279 of 2023

Arising Out of PS. Case No.-87 Year-2011 Thana- ARIYARI District- Sheikhpura

Prabhu Yadav, Son of Late Shivnarayan Yadav, R/V- Latkana, PS- Ariyari
Dist- Sheikhpura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Prakash Yadav, Son of Munna Yadav, R/V- Karauta, P.S- and Dist-
Lakhisarai.
3. Upendra Yadav, Son of Prakash Yadav, R/V- Karauta, P.S- and Dist-
Lakhisarai.
4. Kanti Devi, Wife of Late Gorelal Yadav, R/V- Latkana PS- Ariyari Dist-
Sheikhpura.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pankaj Kumar, Advocate
For the State	:	Mr. Manish Kumar No2, APP
For Respondent Nos. 2, 3 & 4	:	Mr. Amrit Abhijat, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 06-05-2024

We have heard Mr. Pankaj Kumar, the learned
Advocate for the appellant who is aggrieved by the
judgment of acquittal of respondent Nos. 2, 3 and 4 and
Mr. Amrit Abhijat, learned Advocate for respondent Nos.
2, 3 and 4.



2. By the impugned judgment dated 12.01.2023, passed by the learned District & Sessions Judge, Sheikhpura in Sessions Trial No. 13 of 2016, arising out of Ariyari (Kasar) P.S. Case No. 87 of 2011, respondent Nos. 2 to 4 have been acquitted of all the charges levelled against them.

3. One Babloo Yadav is said to have been killed in the house of the respondents. Respondent No. 4/Kanti Devi is the own aunt of the deceased, whereas respondent Nos. 1 and 2 are related to Kanti Devi.

4. According to Prabhu Yadav/father of the deceased (P.W. 10), he heard a sound of firing coming from the house of the respondents which is situated next to his house. When he went there, he found that the deceased had received bullet injuries in his chest. At that time, respondent No. 4/Kanti Devi and her son/Ajit (not put on trial) were there. The informant became unconscious. Later, when he regained his consciousness, he found the respondents and others near the dead-



body. The deceased was cremated. This had happened on 11.06.2010. The FIR was lodged on 20.06.2011, *i.e.*, after about one year of the occurrence.

5. During the course of investigation, most of the relatives of the deceased and the informant have only stated that they learnt about the killing of the deceased in the house of respondent No. 4 from others.

6. The respondents were put on trial and the Trial Court, after having examined ten witnesses on behalf of the prosecution, acquitted the respondents of all the charges.

7. The I.O. and the Doctor have not been examined.

8. The defence of the respondents is that the husband of Kanti Devi had died long time ago and she only had reared up the deceased in her own house as her own son. Later, she got him married to the daughter of his sister. This was not liked by the parents of the deceased. In fact, when the wife of the deceased came



to her matrimonial home, instead of residing with the parents of the deceased, she chose to reside with the respondents. In fact, the deceased also had been residing with the respondents. During the course of trial, the witnesses have revealed that Kanti Devi was asked to part with some landed property which was refused by her. None of the witnesses had seen the occurrence. In fact, all of them only stated that the deceased had received gun-shot injuries and was taken to hospital at the instance of the respondents. No Doctor was examined for the reason that the dead body had been cremated a year ago. Even the investigator of this case has not been examined and no plausible explanation has been offered for his non-examination.

9. The Trial Court has acquitted the respondents primarily on the ground of the delay of one year in lodging the case when most of the witnesses claimed to know about the occurrence. He has relied upon ***Thulia Kali vs. State of Tamil Nadu (1972) 3***



SCC 393 and Lalita Kumari vs. U.P. Writ Petition

Criminal No. 68/2008 and has held that with such delayed lodging of the FIR, no information regarding the circumstances in which the crime was committed could be collected.

10. The case, therefore, was only an afterthought and especially when respondent/Kanti Devi refused to part with her landed property for the benefit of the deceased and his family. In fact, the parents of the deceased (P.W. 10 and P.W. 1 respectively) did not have any concern with the deceased. The houses of the respondents and of P.Ws. 10 and 1 are situated next doors. Had the occurrence been true, the parents of the deceased would not have let it go like that.

11. That the FIR was lodged after one year of the occurrence speaks volumes about the mendacity of the prosecution at the hands of the parents of the deceased. This very fact makes the prosecution case absolutely doubtful.



12. We have no reasons to interfere with judgment and order of acquittal.

13. There is no merit in this case and hence it is dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Sauravkrsinha/
Krishna-

AFR/NAFR	NAFR
CAV DATE	NA
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