

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.468 of 2021

Arising Out of PS. Case No.-76 Year-2015 Thana- FATEHPUR District- Gaya

Ranjit Yadav @ Karu Yadav, S/O Late Dhaneshwar Yadav, R/O Village-Morve, P.S. Fatehpur, District-Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dharendra Kumar Sinha, Advocate Mr. Yaspal Yadav, Advocate Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Abhimanyu Sharma, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 08-07-2024

We have heard Mr. Dharendra Kumar Sinha, learned Advocate for the sole appellant who has been convicted under Section 302 of the Indian Penal Code; 27(1) of the Arms Act and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act vide judgment dated 30.01.2021 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Gaya in SC/ST Trial No. 140 of 2016. By order dated 05.02.2021, he has been sentenced to undergo



imprisonment for life, to pay a fine of Rs. 2500/- for the offence under Section 302 IPC; imprisonment for three years for the offence under Section 27(1) of the Arms Act and life imprisonment along with a fine of Rs. 2500/- for the offence under Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act. In default of payment of fine, the appellant has been directed to undergo further imprisonment for three months for each of the offences. The State has been represented by Mr. Abhimanyu Sharma, learned APP.

2. The sentences have been directed to run concurrently.

3. One Girija Devi is said to have been shot dead by the appellant while she along with others including the informant (her mother-in-law) had been coming back home after collecting soil. The FIR has been lodged by the mother-in-law of the deceased, viz., Kauleshri Devi (PW-1) who claims to be an eye-witness to the occurrence. She has stated in her *fardbeyan*,



which was recorded by SI Akhilesh Singh (not examined) on 18.03.2015 at about 11:45 AM, that on the same day while she along with the deceased and others, viz., Sangita Devi (PW-7), Saroti Kumari (PW-8), Punam Kumari @ Sonam Kumari (PW-2) was coming back to the village home, the appellant came from the side of the temple and caught the deceased by her hand. Thereafter, he took out his weapon from his pocket and fired at her. When Sangita Devi (PW-7) raised *hulla*, the appellant ran away.

4. On the basis of the aforementioned *fardbeyan* of PW-1, a case vide Fatehpur P.S. Case No. 76 of 2015 dated 18.03.2015 was registered for investigation under Section 302 of the IPC, 27 of the Arms Act and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

5. The police after investigation submitted charge-sheet against the appellant whereupon he was put on trial.



6. The Trial Court after examining eight witnesses on behalf of the prosecution including the Doctor and the Investigating Officer convicted and sentenced the appellant as aforesaid.

7. Mr. Dharendra Kumar Sinha, the learned Advocate for the appellant has made a short submission that all other witnesses, viz., Punam Kumari @ Sonam Kumari (PW-2), Jitendra Manjhi (PW-3), Sangita Devi (PW-7) and Saroti Kumari (PW-8) have been declared hostile. He has further submitted that the deposition of the informant/ Kauleshri Devi (PW-1) clearly reveals that she had not seen the occurrence. The deceased though was killed by the gun-shot but the prosecution could not prove as to who had killed her and for what purpose. He has further submitted that on a reading of the entire evidence on record, it would appear that the deceased, no doubt, died a homicidal death, but the name of the appellant was perhaps provided to PW-1 and, therefore, she had named him as the assailant of



the deceased.

8. Mr. Abhimanyu Sharma, learned APP, on the other hand, has submitted that it is not very unusual for persons of poor strata of society going hostile over a period of time. The informant, who is the mother-in-law of the deceased, has supported the prosecution case in its entirety. There was no reason for her to have lied before the Trial Court or in her *fardbeyan* statement. There is nothing on record to indicate any reason for the offence. Even this being so, there does not appear to be any reason for falsely implicating the appellant. The deceased died of gun-shot which is clearly attributable to the appellant. Hence, there is no necessity of interfering with the judgment and order of conviction.

9. We have examined the records of this case in detail. We have found that though the informant has alleged that the appellant caught one of the hands of the deceased and shot her dead, but from her cross-examination before the Trial Court, it appears that she



was not even present at the P.O. She has categorically stated that at the time of the occurrence, she was at her home and not at the P.O. The place where the deceased was shot at is about a mile away from her home. This, therefore, completely belies her claim of having seen the occurrence. That apart, she has not suggested any reason for the appellant to have taken this step of killing the deceased unprovoked.

10. PW-1 has named Punam Kumari @ Sonam Kumari (PW-2), Sangita Devi (PW-7) and Saroti Kumari (PW-8) as persons who were accompanying the deceased and her.

11. None of them have supported the prosecution case.

12. In fact, they have expressed their complete ignorance about any such occurrence. For this reason, they have been declared hostile. The *fardbeyan* was countersigned by one Sarju Manjhi and Saroti Kumari.

13. Aforenoted Sarju Manjhi has not been



examined at the Trial.

14. One Jitendra Manjhi (PW-3), who is related to the deceased and the informant, has also not supported the prosecution case even a wee bit. He is the nephew of PW-1.

15. Similarly, though Devanand Paswan (PW-6) has not been declared hostile but claims to have heard from his villagers that the appellant had killed the deceased. However, when specifically questioned, he did not disclose the name of the villager who had told him about the occurrence.

16. The postmortem on the dead body was conducted by Dr. Purnendu Shekhar (PW-4) who found one wound of entry on the interior abdominal wall. The projectile appears to have entered into the abdominal cavity. There was inverted irregular burnt and charred margin with surrounding burnt and charred skin all around the entry wound. This clearly spells out that the deceased was shot at from a close distance. On



dissection of the body, a partially deformed metallic bullet was found lodged in the left iliosacral joint. The abdominal cavities were found to be full of blood and blood clots. The viscera was pale and the heart also was partially filled with blood. The recovered bullet was preserved for further examination. The injuries were caused by fire-arm. The time of death was opined to be between 4 to 8 hours of the postmortem examination.

17. We have found that PW-4 has not spoken about rigor mortis.

18. It does not appear that there was any indicator on the dead body to come to a definite finding about the time of death.

19. Perforce, we have examined the deposition of the Investigator (PW-5) in some detail. He was posted at Fatehpur Police Station on 18.03.2015. After he was handed over the investigation of the case, he took the further statement of PW-1, who had supported the case in its entirety. He, thereafter, inspected the



P.O. which was somewhere near the temple in the village. When he recorded the statements of Sangita Devi, Saroti Kumari, Punam Kumari, Jitendra Manjhi, Vinod Manjhi and Devanand Paswan, they all had supported the prosecution case and the accusation against the appellant. The appellant, according to his information, had surrendered to the process of law on 24.03.2015.

20. In his cross-examination, however, he has asserted that he did not find any empty cartridge or any blood at the P.O. In fact, no incriminating substance was found by him at the P.O. No witness, however, had told him about the reason behind the appellant killing the deceased. He admitted of not having investigated the cause of occurrence from the villagers.

21. What is noticeable in his statement is that PW-1, in her further statement, had not told him that she had accompanied the deceased and that she had witnessed the occurrence herself.



22. This, therefore, takes us nowhere.

23. The Trial Court appears to have convicted the appellant on the basis of the sole testimony of PW-1, whom we have found to be not completely trustworthy. We say so for the reason that in her cross-examination she has admitted that she is of an old age and that she needs support for her daily chores. That apart, she has been candid enough to state that when the deceased had received the gun-shot, she was in her home which is about a mile away from the P.O.

24. We are also surprised to find that the Trial Court has convicted the appellant under Section 3(2)(v) of the SC/ ST (Prevention of Atrocities) Act only for the reason that the deceased belonged to Scheduled Caste community.

25. The weapon of offence also could not be recovered.

26. Thus, for all practical purposes, there is no evidence against the appellant who is languishing in jail



for the last nine years.

27. Considering the totality of the circumstances and there being no tangible evidence against the appellant except the deposition of PW-1, which we have not found to be worthy of complete reliance, we have no option but to give benefit of doubt to the appellant and set him free.

28. The appellant is thus acquitted of the charge.

29. The judgment and order of conviction and sentence is set aside.

30. The appeal is allowed.

31. Since the appellant is in jail, he is directed to be released forthwith from jail, if not required or detained in any other case.

32. Let a copy of this judgment be dispatched to the Superintendent of the concerned Jail forthwith for compliance and record.

33. The records of this case shall also be



transmitted to the Trial Court forthwith.

34. Interlocutory application/s, if any, also stand disposed off accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Rajesh/Chandan

AFR/NAFR	NAFR
CAV DATE	NA
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