

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.164 of 2025

Arising Out of PS. Case No.-73 Year-2020 Thana- SARAI District- Vaishali

Alakh Roy, aged about 51 years, S/o Brahamdev Ray, R/o Village - Paura,
Paura Madan Singh, P.S. - Sarai, District- Vaishali, Bihar-844117.

... .. Appellant/s

Versus

1. The State of Bihar
2. Pati Ram Singh, aged about 54 years, S/o Ram Ishwar Singh
3. Milli Devi, aged about 49 years, W/o Pati Ram Singh
4. Karan Kumar, aged about 25 years, S/o Pati Ram Singh
5. Ram Ishwar Singh, aged about 74 years, S/o Not Known
All resident of village- Sheetal Bhakulpur, P.S.- Sarai, Dist.- Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amit Pandey, Advocate Mr. Ashok Kumar Yadav, Advocate
For the Respondent/s	:	Mr. Abhimanyu Sharma, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 08-09-2025

The present criminal appeal has been preferred under Section 413 of the *Bhartiya Nagrik Suraksha Sanhita, 2023* against the judgment of acquittal dated 23.10.2024 passed by the learned Additional District & Sessions Judge-VII, Vaishali at Hajipur in Sessions Trial No. 132 of 2020, arising out of Sarai P.S. Case No. 73 of 2020, whereby Respondent Nos. 2 to 5 have been acquitted from the charge of Sections 306/34 of the Indian Penal Code.



2. The prosecution case, in brief, is that on 07.04.2020, the informant's son Sonu Kumar, aged about 17 years and a student of Matric, after taking dinner went to sleep in the dalan. At about 11:00 p.m., Respondent No. 2 along with Respondent No. 4 came on a motorcycle and took away Sonu Kumar on the pretext of some urgent work, despite objection from the informant's father who was assured that Sonu Kumar would be returned shortly. On the next morning, when Sonu Kumar was not found on his bed, the family members started searching for him and came to know that Respondent No. 2, along with his family members and some unknown persons, had murdered Sonu Kumar and Manisha Kumari, daughter of Respondent No. 2, and that their dead bodies were found in the house of Respondent No. 2. The alleged motive behind the occurrence is that both Sonu Kumar and Manisha Kumari, being classmates in Matric, were suspected of having a love affair, and on account of such suspicion, the murders were committed.

3. On the basis of the written complaint of the informant, Sarai P.S. Case No. 73 of 2020 was instituted under Section 302/34 of the I.P.C. and investigation was taken up by the police. The police after completion of investigation submitted charge-sheet under Section 306/34 of the I.P.C.



against Respondent Nos. 2 to 5 and, accordingly, cognizance was taken. Thereafter, the case was committed to the Court of Sessions. Charges were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined altogether 04 witnesses, namely PW1- Kripa Nath Singh, PW2- Pankaj Kumar, PW3- Karan Kumar and PW4- Alakh Ray. The prosecution also produced certain document, which was marked as Exhibits; Ext.1- the signature of the informant on the written application. On behalf of the defence, no witness was examined. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and upon conclusion of trial, learned trial court acquitted the accused persons from the charge of Section 306/34 of the I.P.C.

5. Learned counsel for the appellant has submitted that the prosecution ought to have examined the main witnesses during the trial i.e. the Investigating Officer and the Medical Officer and, therefore, in absence of their evidence, the impugned judgment of acquittal is erroneous and unsustainable in law. It is contended that the learned trial court passed the impugned judgment in a routine manner by holding that the prosecution failed to prove the charges against the accused



persons beyond reasonable doubt. He further urged that the impugned judgment and order is based on conjectures and surmises and, therefore, the same is liable to be set aside.

6. We have heard learned counsel for the appellant and have also gone through the records of the case.

7. The sole question that requires consideration by this Court is whether the impugned judgment of acquittal requires any interference by this Court.

8. On scrutiny of the materials available on record, it is evident that the prosecution has failed to prove the charge beyond reasonable doubt. Neither the Investigating Officer nor the doctor has been examined in the present case. The absence of their evidence has caused a serious gap in the prosecution case, as the Court has been deprived of knowing the manner in which the investigation was conducted and the medical findings relating to the death of the deceased. These are material witnesses whose examination was necessary to unfold the true facts of the case.

9. It is further noticed that PW-1 and PW-2, who were examined as witnesses to the occurrence, have been declared hostile. Their evidence does not advance the prosecution case in any manner. In addition to this, no independent witness has been



examined to corroborate the prosecution case. This creates further doubt about the reliability of the case as stated by prosecution.

10. Further, PW-3, however, has supported the prosecution version in his examination-in-chief, but in cross-examination he has stated that the deceased committed suicide after writing a suicidal note and that no one had given any provocation or persuasion to commit suicide.

11. PW-4, who is the father of the deceased, in his cross-examination, has clearly admitted that the deceased committed suicide after writing a suicidal note and that nobody was responsible for the same. He has further submitted that there was no prior enmity between his family and the accused persons. Thus, the evidence of PW-3 and PW-4, instead of supporting the prosecution, has rather strengthened the point that the deceased committed suicide along with the daughter of Respondent No.2.

12. In criminal jurisprudence, it is well settled that the burden lies upon the prosecution to prove the charge beyond reasonable doubt, and any lacuna or weakness in the prosecution case cannot be filled up by conjectures or suspicion. Where the evidence suffers from serious infirmities and does not inspire



confidence, the benefit must go to the accused.

13. The trial court, on appreciation of the evidence available on record, has taken the view that the prosecution has not proved its case and has accordingly acquitted the accused. It is equally well settled that in an appeal against acquittal, if two views are possible, the appellate court should not substitute its own view unless the finding of the trial court is perverse or wholly unsustainable. In the present case, the view taken by the trial court is a plausible view based on the evidence on record, and we find no reason to take a different view.

14. In a criminal case, the identity of the accused is to be established, so as to prove his guilt beyond the shadow of all reasonable doubts. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

15. In criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned court below is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based are not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is



imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Mrinal Das vs. State of Tripura*** reported in ***(2011) 9 SCC 479***, paragraphs 13 & 14 of which read as under:

"13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be



interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.....”

16. In the case of ***Ghurey Lal v. State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in paragraph 75, the Hon’ble Supreme Court has observed as under:

“75. On a careful analysis of the entire evidence on record, we are of the view that the reasons given by the High Court for reversing the judgment of acquittal is unsustainable and contrary to settled principles of law. The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”

17. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case if the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.



18. In view of the above, we do not find any illegality and perversity in the findings recorded by the trial court.

19. Accordingly, the present appeal is dismissed.

20. Pending application(s), is any, shall stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
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