

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.86 of 2024

In
CRIMINAL APPEAL (SJ) No.4848 of 2023

Arising Out of PS. Case No.-15 Year-2003 Thana- JANTA BAZAR District- Saran

Rohila Devi @ Sushila Devi, W/o Late Tarkeshwar Manjhi, R/o village -
Kateyan, P.S. - Janta Bazar, Distt.- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Manoj Sah
3. Shardha Sah
Both are Sons of Shri Damodar Sah R/o village - Kateyan, PSs. - Janta
Bazar, District – Saran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Sinha, Advocate Mr. Shrinath Manjhi, Advocate
For the Respondent/s	:	Mr. Sujit Kumar Singh, APP Mr. A.K. Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 12-08-2025

Heard learned counsel for the parties.

2. The present criminal appeal is preferred by the appellant, who is the wife of the deceased informant, directed against the judgment dated 09.06.2023 passed by the learned Additional District & Sessions Judge- IX, Saran, Chapra in Sessions Trial No. 304/2005 (Registration No. 1700/2014) arising out of Janta Bazar P.S. Case No. 15/2003 whereby



respondent Nos. 2 and 3 have been acquitted under Section 302/34 of the Indian Penal Code.

3. Vide order dated 27.03.2025, notices were issued to the Respondent Nos. 2 to 3, upon which they appeared by filing Vakalatnama through learned Advocate, Mr Brajesh Kumar Singh. Further, vide order dated 13.05.2025, Trial Court Records were called for, which were already received on 01.08.2023 in Cr. Appeal (SJ) No. 2885 of 2023.

4. The prosecution case, in brief, is that on 27.03.2003 at about 9:00 PM, when the deceased informant was sitting in front of his house besides the road along with others, Manoj Sah and Sharda Sah came abusing the informant, and Sharda Sah caught hold of informant's hand and, having instigated his brother Manoj Sah, said "*what are you doing, stab the knife*". Upon this, Manoj Sah stabbed the knife repeatedly in the stomach of the informant. When informant was trying to save himself, he got injury on his hand and fell down. He raised alarm on which nearby people Mogal Ram, Tasaur Dhobi and others came and then accused persons fled away. With the help of villagers, he was taken to Sadar Hospital's emergency ward where his treatment was undergone.

5. On the basis of fardbeyan of the informant, Janta



Bazar P.S. Case No. 15/2003 was initially instituted under Sections 323, 324, 341 and 307/34 of the I.P.C. and subsequently, during investigation, Section 302/34 of the IPC was added by the police. The police, after investigation, submitted charge-sheet against Respondent Nos. 2 to 3 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.

6. During the trial, the prosecution examined altogether 11 witnesses i.e. PW1 Ranjit Kumar Manjhi, PW2 Mogal Ram, PW3 Rangi Manjhi, PW4 Rohila Devi, PW5 Bhageshwar Manjhi, PW6 Sakaldev Mahto, PW7 Kuldeep Manjhi, PW8 Raghunath Manjhi, PW9 Susthir Kumar Sinha, PW10 Dr. Ram Naresh Yadav and PW11 Keshav Prasad. The prosecution has also produced certain exhibits, *i.e.*, signature of Tarkeshwar Manjhi identified on Fardbeyan, signature of Kuldeep Manjhi identified on Fardbeyan, signature of the Medical Officer identified on injury report, signature of the Medical Officer identified on supplementary report, signature of medical officer identified on the injury report, signature of I.O. identified on FIR, signature of Upendra Singh/Jha identified on



Fardbeyan. The defence has also examined four witnesses viz. DW1 Jyotish Mahto, DW2 Gogeshwar Mahto, DW3 Mithun Sah and DW4 Satyendra Singh. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, learned trial court has acquitted the accused persons under Section 302/34 of the IPC and awarded sentence under Section 324/34 of the IPC.

7. The learned counsel for the appellant submitted that the impugned judgment is bad in law as well as on facts. The learned trial court has overlooked the fact that PW1 to PW6 are the eyewitnesses of alleged offence, i.e., stabbing the informant and had also supported the prosecution case during examination-in-chief. The Investigating Officer has not been examined causing great prejudice to the appellant. There was presence of blood stain at the place of occurrence, which was duly established by the prosecution and defence has failed to contradict this fact in any manner.

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

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



any interference by this Court.

10. Upon meticulous examination of the evidence available on record, it emerges that the present case was initially instituted on the basis of the fardbeyan of the informant in respect of an occurrence dated 27.03.2003, alleging commission of offences punishable under Sections 341, 323, 324 and 307/34 of the IPC. Subsequently, the informant expired after a lapse of approximately two months, whereupon Section 302/34 of the IPC was added to the list of offences in the charge-sheet dated 17.07.2003.

11. In this context, it is pertinent to note that immediately after the occurrence on 27.03.2003, the informant was admitted to the Emergency Ward of Sadar Hospital, Chapra, where he was attended by Dr. Susithar Kumar Sinha (PW9). In his examination-in-chief, PW9 deposed that upon medical examination, the following injuries were noted as per the injury report (Exhibits 2 & 2/1):

- I. Penetrating wound over the abdomen towards the right, above the navel.
- II. Incised wound on the palm of the left hand.
- III. Incised wound on the middle finger of the right hand.



12. The doctor opined that injuries Nos. II and III were simple in nature, caused by a sharp cutting instrument, whereas injury No. I was grievous in nature, caused by a sharp penetrating instrument. On the following day, the informant was referred to P.M.C.H., Patna, where, after receiving treatment, the attending doctors advised him to be discharged as he had recovered.

13. It is the prosecution case that later, due to abdominal pain, the informant went to Delhi for further treatment, during the course of which he passed away on 23.05.2003, and was cremated in Delhi. It is an admitted fact that no post-mortem examination was conducted.

14. In view of the above, it stands unproved that the death of the informant was directly attributable to the injuries allegedly sustained in the occurrence dated 27.03.2003. The demise having occurred after a gap of two months, during medical treatment, without any medical evidence linking the cause of death to the primary injury, the prosecution has failed to establish the essential nexus between the alleged act of the accused and the death. On the contrary, the material on record suggests that the cause of death was not due to the primary injury, but rather a subsequent, unrelated medical complication.



Therefore, prosecution under Section 302 of I.P.C. is wholly unsustainable.

15. We find that the findings recorded by the learned trial court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt of the accused beyond the shadow of a reasonable doubt. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

16. In a 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 v 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....."

17. In the case of ***Ghurey Lal versus State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in paragraph 75, the Hon'ble Supreme Court reiterated the said view and observed as under:

"75. 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."



18. 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.

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

20. Accordingly, the present appeal is dismissed.

(Sudhir Singh, J)

(Ramesh Chand Malviya, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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