

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.151 of 2019

Arising Out of PS. Case No.-94 Year-2009 Thana- COMPLAINT CASE District- Lakhisarai

1. Pramod Kumar Singh son of Late Ram Swarup Singh
2. Gopal Kumar Singh @ Gopal Kumar son of Pramod Kumar Singh, both are residents of Village- Ghosaith, P.S.Piri Bazar, District Lakhisarai

... .. Appellant/s

Versus

The State of Bihar

2. Krissna Kanhaiya Singh, S/o Pramod Kumar Singh R/village Ghosaith, P.S. Pri Bazar (Surajgarha), Lakhisarai

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Jai Prakash Singh
		Mr Anil Kumar Singh
For the State		Mrs. Anita Kumari, Singh, APP

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV JUDGMENT

Date : 10-07-2025

I have already heard the learned counsel for the parties.

2. The present memo of appeal is directed against the judgment of conviction and order of sentence dated 24.11.2018, passed in Session Trial Case No.493/2013, Trial No.291/2018, arising out of Complaint Case No.94 (C)/2009 by the learned Fast Track Court-II, Lakhisarai whereby the appellants have been convicted for the offence under Section 306/34 of I.P.C. along with other Sections 323 and 341 of I.P.C. and Sentence to R.I. for one year each under Section 323 of the IPC and one month RI under Section 341 IPC each. They were



further sentenced to undergo RI for five years each under Section 306/34 of the IPC with a fine of Rs. 5,000/- each and in default of payment whereof, was directed to undergo one month SI. All the sentences were directed to run concurrently.

3. The complainant, Krishna Kanhaiya Singh (PW4), is the brother of Gudiya Kumari (the deceased), whereas the present appellant No. 1, Pramod Kumar Singh, is the father of Guriya Kumari, and appellant No. 2, Gopal Kumar Singh, is the second son of appellant No. 1, and also the brother of the complainant and the deceased Guriya Kumari. At the time of occurrence, the informant was posted as a constable in the Bihar Military Police at Darbhanga and he was at training center in Dehri-On-Sone. He lodged Complaint Case No. 94 (C) of 2009 on 23.02.2009, which was seen by the learned Chief Judicial Magistrate, Lakhisarai on 26.02.2009.

4. The complainant made allegation that on 17.02.2009 at about 11.00 p.m., he got an information that his sister Guriya Kumari became traceless. On 18.02.2009, one Heera Devi informed him that a floating dead-body was seen in a tank. The complainant went there on 19.02.2009 and he found that it was the dead-body of his sister Guriya Kumari. His father, the appellant, and the accused persons were carrying the



dead- body to Munger and the accused persons misbehaved with the complainant. The complainant made further allegation that his father (the appellant no.1) had illicit relationship with Renu Devi, who was the aunt of the complainant. Renu Devi is also one of the accused in the present case. The complainant made further allegation that his sister Guriya Kumari was protesting the illicit relationship of the appellant no.1 with Renu Devi, and it was the reason that the accused persons started torturing Guriya Kumari. They assaulted her and she suffered injuries.

5. The complainant has also mentioned in his complaint petition that Guriya Kumari lodged Surajgarha P.S.Case No.97 of 2006 against the accused persons. The appellants ousted Guriya Kumari from their house and she was taking shelter in the house of her *Mousa*, namely Vyas Rai, and thereafter she was residing with her second *Mousa*, namely Dharnidhar Singh, PW1. It has further been mentioned in the complaint petition that, meanwhile, the complainant was selected as a Constable in B.M.P. Guriya Kumari lodged Domestic Violence Case No. 1943C of 2008 against her father, the appellant no.1, which is still pending in the court of CJM, Bhagalpur. For that reason also, the accused persons intensified the atrocities on Guriya Kumari. It has also been mentioned in



the complaint petition that, due to duress and mental and physical torture inflicted by the accused persons, Guriya Kumari committed suicide, after jumping into the tank. The accused persons are responsible for commission of suicide by Guriya Kumari.

6. After taking the statement of the complainant on solemn affirmation, and after examining the inquiry witnesses, the learned CJM took cognizance, and after taking cognizance, the case was committed to the court of sessions. On 16.02.2016, charges were framed against seven accused persons, namely Ajay Kumar Singh, Ajit Kumar Singh, Ranju Devi, Sanjeev Thakur, Soni Devi, Pramod Kumar Singh, appellant no. 1, and Gopal Kumar Singh, appellant no.2, under Sections 341, 323 and 306/120B of the IPC. Against both the appellants, the charges under Section 306/34 were also framed. The accused persons denied the charges and they pleaded not guilty.

7. In order to prove the prosecution case, four witnesses were examined by the prosecution.

8. PW 1, Dharnidha Singh is maternal uncle (*Mausa*) of the deceased. He is the person in whose house, after being ousted from her paternal house, the deceased is said to have taken shelter. This witness has stated during his deposition



that on 17.02.2009, at about 8 p.m, he was returning from Darbhanga, then he received telephonic information from his wife that Guriya Kumari disappeared from his house. At that time, she was 23-24 years of age. Even after hectic search, she could not be traced out. This witness lodged information in police station regarding disappearance of Guriya Kumari. On next day, i.e. on 18.02.2009, between 2.30 to 3.00 p.m., he came to know that a dead-body was seen in a tank. They went there and identified the dead-body of Guriya Kumari. On the basis of written information given by PW1, UD Case No. 01 of 2009 was lodged. This witness stated further that, at that time, the informant Krishna Kanhaiya was at his workplace in Dehri-on-Sone and he came on 19.02.2009. At that time, the dead body was kept at Abhaipur platform. When Krishna Kanhaiya, the informant, wanted to see the dead-body, the accused persons misbehaved with him and also assaulted him. The complainant, Krishna Kanhaiya went to the police station but the police did not register the case. Having no option, he filed complaint petition on 26.02.2009. Pramod Kumar Singh, the appellant no.1, according to the statement of this witness, had illicit relationship with Renu Devi and as Guriya Kumari was protesting their relationship, she was being tortured by the



accused persons. This witness, at the time of his deposition, identified all the accused persons, who were present in the dock.

During his cross-examination, this witness has stated that in his earlier statement, he stated that Guriya Kumari committed suicide, after jumping into the tank due to atrocities inflicted by the accused persons. He has stated that appellant no. 2 lodged Piri Bazar Case No. 288 of 2009 against this witness, but it was lodged in defense of the present case. He has stated further that he gave shelter to Guriya Kumari and her two brothers (the informant) and Gopal Kumar (appellant no. 2) but after sometimes, appellant no. 1 took appellant no. 2 with him. In para-25 of his deposition, this witness has stated that the dead-body was lying on platform from 18.02.2009 to 19.02.2009.

9. PW 2 is Rajendra Choudhury. He is brother-in-law (*saala*) of PW1. He has stated that PW1 informed him about the occurrence. The accused persons ousted the victim, the deceased, and she lodged a case against them for maintenance. That case was on the verge of its conclusion.

During cross-examination, this witness has stated that Gudiya Kumari was not permanently residing at one place as for some time she resided at the house of one relative and



thereafter she resided in the house of other relative. Five days prior to her disappearance, she had come to the house of this witness from the house of Vyasdeo Rai, who is also maternal uncle (*mausa*) of the deceased.

10. PW3 Chamaklall Choudhury is a distant relative of appellant No.1. On getting the information that a dead-body was floating in a pond, he went there and identified the dead-body of Guriya Kumari. Guriya Kumari had lodged a case for maintenance against her father. That case was on the verge of its conclusion. Meanwhile, she was murdered. The deceased was firstly residing in her maternal house (*Nanihal*). Later on, she went to the house of her *Mausa* (PW1).

During his cross-examination, this witness has stated that Gopal Singh has also lodged Surajgadha P.S. Case No. 288 of 2009. This witness was not aware whether any UD case was registered or not. In para-11 of his deposition, this witness has stated that the dispute was going on between Dharnidhar Singh, PW1, and appellant No.1 for six years. He has stated further that regarding murder of Guriya Kumari, two cases were lodged: first case was lodged by Kanhaiya Kumar against his father and second case was lodged by appellant No.2 against PW1 and other accused persons.



11. PW 4 is the complainant himself. Reiterating his earlier version, he has stated that on 17.02.2009, at about 8 p.m., he got telephonic information regarding missing of his sister, Gudiya Kumari. At that time, he was posted in Dehri-on-Sone. After taking leave, he was returning. Meanwhile, he got information that the dead-body of his sister was traced out. He came at Abhaipur railway station where the accused persons, including the appellants, misbehaved and assaulted this witness and also did not allow him to see the dead- body. The reason behind the occurrence according to this witness, is that his father had illicit relationship with his aunt, to which Guriya Kumari was protesting and it was the reason that the accused persons were inflicting atrocities upon her. Meanwhile, this witness was selected in government service and he joined his training. He has stated further that his sister lodged a case against appellant no.1 for maintenance and anticipating threat to her life from appellant no.1 and aunt Renu Devi, she was taking shelter in the house of her relatives. When the dead-body was identified, this witness went to lodge a police case, but the police refused to register the case. Having no option, he filed complaint petition in the court. This witness identified his signature on complaint petition which has been marked as



Exhibit 1.

During his cross examination, this witness has stated that on 17.02.2009, Heera Devi (*Mausi*) gave him information through telephone about disappearance of Guriya Kumari. Later on, he came to know about discovery of the dead-body of Gudiya Kumari. In para-4 of his cross-examination, this witness has stated that he did not complain to Superintendent of Police when the police refused to register the case regarding missing/abetment of suicide. This witness has stated that PW1 did not inform appellant no. 1 about missing/disappearance of his daughter. In para-5 of his cross-examination, this witness has stated that appellant no. 2 Gopal Singh is his own brother. Gopal had lodged Piri Bazar P.S. Case No. 288 of 2009 against his *Mausa* and *Mausi*. In UD Case, the investigating authorities submitted final form.

12. Some documentary evidences have also been exhibited on behalf of the prosecution.

List of Exhibits	Description
Ext.-1	Signature of complainant on complaint petition.
Ext.-2	C.C. of U/D Case No.01 of 2009 in P.S. Piri Bazar State Vs. Guriya Kumari
Ext.-3	C.C. of Surajgadha P.S. Case No. 97 of 2006



Ext.-4	C.S. of Piri Bazar P.S.Case No. 97 of 2006, GR No. 283 of 2006
Ext.-5	Order dated 20.10.2008 of CJM, Bhagalpur
Ext.-6	C.C. of Complaint Case No. 1943 of 2008
Ext.-7	C.C. of ACJM, Lakhisarai 83 of 2005

13. After conclusion of the prosecution evidences, the statements of the appellants under Section 313 of the Cr.P.C. were recorded in order to enable them to explain the incriminating material against them emerged during trial.

14. The learned counsel for the appellant assailing the judgment of conviction and order of sentence awarded to the appellants, has submitted that the post-mortem report of the deceased was not brought on the record, nor the doctor who conducted autopsy on the dead-body was examined. Due to this reason, the cause of death could not be ascertained. He has submitted further that appellant no. 1 is father and appellant no. 2 is brother of the deceased. As per the allegation, appellant no. 1 had illicit relationship with Renu Devi, the aunt of the deceased. The deceased used to protest the illicit relationship between appellant no. 1 and Renu Devi, and it was the reason that the appellants tortured her and ousted her from his house and she was taking shelter in the house of PW1, who is *mausa*



of the deceased. According to the prosecution witnesses, she was residing at the house of PW1 and on 17.02.2009, she disappeared from his house. The learned counsel has submitted further that PW1 did not lodge a case for missing of the deceased. Admittedly, she was residing in the house of PW1 at the time of her death. When she was residing in the house of her father, she didn't commit suicide due to alleged atrocities inflicted by the accused persons including the appellants.

15. The second submission of the learned counsel is that at the information given by appellant no. 2, UD case was lodged. The FIR of UD Case No. 01 of 2009 is Exhibit 2, which shows that appellant no. 2 has mentioned in his informatory petition that his sister was residing in the house of her *mousa* (PW-1), and her *mousa* used to abuse her without any reason, which was the cause of death of the deceased. He has further submitted that, although it is true that the deceased had lodged a case under Domestic Violence Act No. 1943C of 2008, against the appellant (Exhibit 6), but as a matter of fact, she lodged that case in collusion and under pressure of PW1, as there was enmity between appellants and PW1. It has next been submitted by the learned counsel that the appellants had lodged informatory petition No. 83 of 2005 in the Court of A.C.J.M.,



Lakhisarai (Ext.-7), prior to the present occurrence, in which the appellants made an allegation against P.W.1 and his wife that the appellant no.1 wanted to solemnize the marriage of his daughter Guriya Kumari in an esteemed family, but P.W. 1 and his wife had involved Guriya Kumari in immoral acts, and the appellants were apprehending that P.W. 1 may implicate them in a false and frivolous case. The informatory petition (Ext.7) was lodged prior to the present occurrence.

16. On the other hand, the learned APP for the State has submitted that the prosecution evidences fully established the guilt of the appellants. Due to the torture inflicted by the appellants, Guriya Kumari committed suicide. Prior to the commission of suicide, she had lodged a case in the Court of C.J.M., Lakhisarai

17. I have perused impugned judgment of the trial court and carefully perused the lower court records. I have also given my thoughtful consideration to the rival submissions advanced on behalf of the parties.

18. The informant (PW4) is the brother of the deceased. He lodged a complaint against the appellant on 26.02.2009, whereas he saw the dead-body on 19.02.2009. There is no cogent explanation for the delay in lodging the



complaint petition.

19. The deceased, admittedly, was residing in the house of PW1 at the time of occurrence, she became traceless on 17.02.2009 and her dead-body was found on 18.02.2009 between 2:30 to 3:00 p.m. There is no explanation as to why PW1 did not lodge a case for missing of Guriya Kumari on 17.02.2009 or afterwards. The case was lodged by the brother of the deceased on 23.02.2009. The person, in whose house the victim was taking shelter, immediately after his knowledge about the missing of the victim, should have lodged the case in respect thereof. But the departure of PW1 from lodging the case of missing, makes the prosecution case as doubtful. Prior to the death of the deceased, appellant no.1 had lodged an informatory petition in the court of ACJM, Lakhisarai (Exhibit-7), apprehending his false implication in an anticipated case at the instance of PW1, as PW1 was inimical with him. PW3, in paragraph no.11 of his deposition, has stated that a dispute was going on between PW1 and appellant no.1 for six years. The statement of PW3 and recitals of informatory petition filed by appellant No. 1 are correlating the fact that PW1 and appellant no. 1 were at inimical terms. The postmortem report was not brought on the record. The doctor who conducted autopsy was



not examined. As such, the cause of death could not be ascertained.

20. On cumulative studies of the evidences adduced by the prosecution, it appears that the prosecution has failed to establish the guilt of the appellants beyond the shadow of all reasonable doubts. Accordingly, giving the benefit of doubt to the appellants, the judgment of conviction and order of sentence dated 24.11.2018, passed in Session Trial Case No.493/2013, Trial No.291/2018, arising out of Complaint Case No.94 (C)/2009 by the learned Fast Track Court-II, Lakhisarai, are set aside. Accordingly, the appeal is allowed.

21. Since the appellants are on bail, they are discharged from the liabilities of bail bonds.

(Nawneet Kumar Pandey, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	01.07.2025
Uploading Date	11.07.2025
Transmission Date	11. 07.2025

