

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4688 of 2024

Arising Out of PS. Case No.-470 Year-2001 Thana- JAHANABAD District- Jehanabad

Md. Afsar Imam S/o- Md. Akhtar Hussain R/O- Makhdumabad P.S-
Jehanabad Dist- Jehanabad.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Md. Naushad Ahmad Son of Late Tufail Ahmad Village- Irki Ps Dist-
Jehanabad.
3. Bishwanath Prasad Singh S/o- Late Uday Narayan Singh Moh- Court Area
Jehanabad Ps Dist- Jehanabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Eashita Raj, Advocate
For the Respondent/s : Mr. Mukeshwar Dayal, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 17-02-2025 Learned counsel for the appellant(s) undertake(s) to
remove the defects pointed out by the office.

2. Heard Ms. Eashita Raj learned counsel for the
appellant and Mr. Mukeshwar Dayal learned APP for the State
case.

3. The present appeal has been preferred:-

*“against the judgment of acquittal dated 24.01.2014
passed by ID.S.K. Rai J.M. 1st Class, Jehanabad, in
G.R. Case No. 2220/2001, Trail No. 60/2013
whereby learned lower court has acquitted accused
persons namely 1) Md. Naushad Ahmad, s/o Late
Tufail 2) Bishwanath Prasad Singh, S/O-Late Uday
Narayan Singh 3) Md. Aizaz Ahmad @Nawab Sahab*



for the offence U/S 420, 427, 468, 471 and 120(b) of IPC. That during trial accused no.(3) Md. Azaz Ahmad died.”

4. With the consent of the parties, the appeal has been taken up for final hearing.

5. As per the prosecution story, the informant alleged that in the year 1990, the accused persons wanted to transfer a land which he showed interest in. The informant went to the spot liked it, purchased the same as the sale deed was executed at Registry Office, Jehanabad. However, when he went on the plot year 2001 to raise the boundary wall, the Zila Parishad restrained him and told the land belongs to them. It was further endorsed by the Zila Parishad people when he went to the office. This followed the case.

6. The I.O. found the case to be mistake of fact and accordingly, final form was submitted but upon protest, cognizance was taken and summons were issued.

7. Subsequently, vide an order dated 24.01.2014, the Court having taken note of the fact that no independent witness has supported the prosecution story. It further averred that the PW-1(appellant) himself is not reliable as his deposition suffers from inherent contradictions. The appellant has deposed that he is not the member of the society whereas the sale deed clearly



shows that he has signed the document as a member of the society. Further, the independent witness PW-2 has not corroborated his case and in that background, the ingredients of cheating and dishonest inducement are not attracted and thus the accused persons were acquitted from the offences punishable under Sections- 420, 467, 468, 471 and 120(B) of the IPC.

8. Aggrieved, an appeal was preferred which came to be dismissed on 04.07.2024 by the court of learned Additional District and Sessions Judge-II, Jehanabad. The reason has been assigned in paragraph no. 24 onwards and the same is incorporated hereinbelow:-

“24. In this case no any independent witness supported the case of the prosecution. P.W 1 is informant who has supported his own case but his evidence suffers from inherent contradiction because in para 4 of his cross-examination he has deposed that he is not member of the society, wherein the sale deed Ext. 5/4 - Original Sale deed dated 16.10.1990. From perusal of the it transpires that he has purchased the alleged land in the capacity of member of the society. Therefore, he is not reliable as well as trustworthy witness. Furthermore, the evidence of P.W 1 has not corroborated with any other witness or independent witness. Furthermore, P.W 2 turned hostile and P.W 3 also not supported the case of the prosecution. Hence, the evidence of P.W 1 is not corroborated and nor reliable and not trustworthy of credit. Hence, it is not admitted. Moreover, the defence has produced documentary evidence Ext. A Certified Copy of Sale deed dated 12.10.1990. Ext. A/A - Certified



Copy of Sale deed dated 16.10.1990. Ext. B-Certified Copy of demand and Ext. C Certified Copy of Register - II shows that accused persons/ respondent has title and possession over the land in issue. Hence, they have not committed any offence by executing sale deed in favour of the complainant/ appellant of this case.”

9. Still aggrieved, the present appeal. The case of the appellant is that both the Courts erred in passing the order of acquittal and/or dismissing the appeal against the respondents. They took consideration amount in the year 1990 and admittedly, they were not the owner which belonged to the Zila Parishad and in that background, cheating/dishonesty are clearly reflected.

10. Learned APP on the other hand opposes the prayer submitting that the courts have given reason and having found the PW-1 (the appellant herein) not trustworthy and further his statement was not supported by the witness put up by him, rightly passed an order of acquittal which has been affirmed by the appellate court. The facts have been recorded, the observation also finds incorporated in the present order as also the appellate court has given reason and dismissed the appeal.

11. Having heard the parties and perusing the record, this Court finds force in the submissions of the learned Spl. P.P. The appellant failed to make out a case beyond reasonable doubt



which resulted into the trial court acquitting the respondents of the charges and appellate court dismissing the same.

12. No interference as such is required.

13. The present appeal is dismissed.

14. Before parting, this Court would like to put on record its word of appreciation for Ms. Eashita Raj learned counsel for the appellant for the assistance rendered in the matter.

(Rajiv Roy, J)

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