

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.521 of 2023**

Arising Out of PS. Case No.-64 Year-2017 Thana- BAIKUNTHPUR District-
Gopalganj

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JOGINDRA RAI @ JOGINDRA YADAV @ YOGENDRA RAY Son of Late
Raghunath Ray @ Raghu Nath Yadav Resident of village - Allepur, P.S. -
Baikunthpur, Distt. - Gopalganj

... .. Appellant

Versus

1. The State of Bihar
2. Manoj Mahto Son of Jhulan Mahto @ Bhoolan Mahto Resident of village -
Allepur, P.S. - Baikunthpur, Distt. - Gopalganj

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Sachin Raj, Advocate
		Mr. Prabhat Ranjan Singh, Advocate
For the Respondent-State:		Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PRAVEEN KUMAR)

Date : 26-02-2026

Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the State.

2. The present appeal has been preferred for setting aside the judgment of acquittal dated 20.12.2022 (hereinafter referred to as the ‘impugned judgment’) passed by the learned Additional Sessions Judge-5th, Gopalganj, (hereinafter referred to as the ‘learned trial court’) in Sessions Trial No. 225 of 2018, arising out of Baikunthpur P.S. Case No. 64 of 2017. By the impugned judgment under appeal, the accused-respondent no. 2,



who was facing trial for the charges under Sections 302, 201/34 of the Indian Penal Code (in short 'IPC'), has been acquitted.

Prosecution Case

3. On the basis of the *fard-beyan* of the informant, Jogindra Rai (PW-3), Baikunthpur P.S. Case No. 64 of 2017 dated 19.03.2017, was registered at 21:30 hours, under Sections 302, 201/34 IPC. In his *fard-beyan*, the informant has alleged that he works at Faridabad and on 01.03.2017 he had gone to Faridabad from his house. On 16.03.2017, he received a phone call to come to his home as his wife was ill and he came back to his home in the evening of 18.03.2017. On reaching his home, he came to know that his younger daughter, aged about 14 years, was not at home and was missing. On enquiry from his wife, Urmila Devi, she told that their daughter is missing from house from the night of 15.03.2017, whom they were searching. On 19.03.2018, at about 05:00 PM, he heard a *hulla* that a dead body of a girl is in the well situated in the field of Ajay Singh. On getting the information, the informant went to the well and saw massive crowd gathered there and the dead body of his daughter was lying in the well. Upon seeing the dead body, the informant lost his consciousness and was brought to the village by the co-villagers. His wife told him that in course of search of their daughter, wives of Madan Rai and



Lalbabu Rai had abused her. Manoj Mahto (respondent No.2), a co-villager, used to roam around his house and he suspects that his daughter has been killed by Manoj Mahto and the wives of Madan Rai and Lalbabu Rai and the dead body was disposed of in the well.

4. On completion of the investigation, the police submitted the charge-sheet No.134 of 2017 on 27.07.2017 against Manoj Mahto for the offences punishable under Sections 302 and 201/34 IPC. Vide order dated 15.03.2018, cognizance was taken of the offences under Sections 302 and 201/34 IPC by the learned Judicial Magistrate, Gopalganj. Since the offences were exclusively triable by the Sessions court, the case was committed to the court of Sessions by order dated 13.04.2018, where Sessions Trial No. 225 of 2018 was registered on 25.04.2018.

5. Charges were read over and explained to the respondent No.2 in Hindi to which he pleaded not guilty and claimed to be tried. Accordingly, vide order dated 12.07.2018, charges were framed under Sections 302/34 and 201/34 IPC.

6. In course of trial, the prosecution examined as many as five witnesses and exhibited several documentary evidences. The names of the prosecution witnesses and the exhibits are being shown hereunder in tabular form:-



List of Prosecution Witnesses

PW-1	Pramohan Rai
PW-2	Urmila Devi
PW-3	Yogendra Rai (Informant)
PW-4	Dr. Sanjeev Kumar
PW-5	Gautam Kumar Tiwary (IO)

List of Exhibits on behalf of Prosecution

Exhibit ‘1’	Signature of PW 1 on the Inquest Report
Exhibit ‘2’	Signature of the Doctor (PW 4) on the post mortem Report
Exhibit ‘2/1’	Signature of the Dr. A.K. Chaudhary on the post mortem Report
Exhibit ‘2/2’	Signature of the Dr. R.K. Singh on the post mortem Report
Exhibit ‘3’	<i>Fard-beyan</i>
Exhibit ‘4’	FIR
Exhibit ‘5’	Signature of SI Indrajit on formal FIR
Exhibit ‘6’	Signature and handwriting of SI Indrajit on Inquest Report

7. Thereafter, the statement of the respondent no. 2 was recorded under Section 313 of the CrPC on 24.08.2021. He took a plea that he is innocent. The defence also examined one witness, namely, Rajendra Yadav (DW 1). However, no documentary evidence was adduced on behalf of the defence.



Findings of the Learned Trial Court

8. Learned trial court, upon analyzing the evidences and the depositions of the prosecution witnesses *qua* the charges levelled against respondent No. 2 and after considering all the facts and circumstances of the case, observed that the prosecution has miserably failed to prove the charges levelled against respondent no. 2 beyond all reasonable doubts and held respondent no. 2 not guilty of the charges framed against him. Accordingly, respondent No.2 was acquitted of the charges framed under Sections 302/34 and 201/34 IPC and was discharged from the liabilities of his bail bonds.

Submissions on behalf of the Informant-Appellant

9. It is submitted that the learned trial court has not properly appreciated the evidences adduced during the course of trial and thereby reached to a wrong finding and acquitted the respondent No.2. The acquittal of the respondent No. 2 is otherwise unjustified as the learned trial court has acted on the conjectures and surmises in reaching a conclusion that nothing incriminating has come on the record against the respondent No.2 and, therefore, the impugned judgment is liable to be set aside.



Submissions on behalf of the State

10. Learned Additional Public Prosecutor for the State has submitted that the learned trial court has duly considered every aspect of the matter thread bare and rightly acquitted the respondent No. 2. There is no illegality or infirmity in the impugned judgment.

Consideration

11. We have heard learned counsel for the appellant and learned Additional Public Prosecutor for the State and considered the materials on record. This Court would once again analyse the evidences available on the record.

12. PW 1, Pramohan Rai, in his examination-in-chief, has deposed that the occurrence took place nearly one and a half years ago, on 15.03.2017, at about 07:00 PM, the victim, who is her niece, went missing and on search no trace of her could be found. The father of the victim was informed, who came home on 18.03.2017 and he also searched for her. On 19.03.2017, they came to know that a dead body has been found in the well in the field of Ajay Singh, the dead body was recovered in the presence of police, which was that of her niece. Knife marks were there on the person of the dead body, the neck was severed, eyes were blindfolded and leg was broken. He has further deposed that respondent No.2, who resides in the neighborhood, used to come



to his sister-in-law, Meena Devi. He has deposed that about eight days before the occurrence, at about 08:00 PM, the victim told him that Meena Devi has illicit relation with Manoj, but he asked her to leave saying that he will look into it. He told Meena Devi to restrain herself and not to visit to the house of anybody, upon which Meena Devi said that the respondent No.2 used to meet her house-hold expenses and because of this respondent No.2, Meena Devi, Urmila Devi and Sunaina Devi killed the victim. He has deposed that the inquest report was prepared in his presence and he had put his signature on the same, which came to be marked as Exhibit-1. He identified the respondent No.2 present in the court and claimed to identify rest of the accused on seeing them.

13. In his cross-examination, PW 1 deposed that he came to know about the disappearance of the victim on the next date so also his brother came to know about the disappearance of the victim after one day. He has deposed that respondent No.2 used to come to the house of Meena Devi and he came to know about their affair through the victim. The well from where the dead body was recovered was dry one. The dead body was recovered after three days and he had informed to the police, who arrived within half an hour. He has deposed that the victim used to go out with Meena Devi and Urmila Devi, but he did not see her going on the



day she disappeared. He denied that he had given evidence on being asked by his brother and sister-in-law and they have implicated the respondent No.2 in a false case.

14. PW 2, Urmila Devi, is the mother of the victim, who has deposed in her examination-in-chief that the occurrence took place on 15.03.2017. Her daughter was talking with Nanhki Devi at about 07:00 PM and Meena Devi, Urmila Devi and Sunaina Devi were standing there. Meena Devi was having illicit relation with the respondent No.2. When she did not find her daughter in the house, she enquired from Meena Devi, upon which Meena Devi started abusing her. PW 2 told her *Devar* about it, but the victim could not be traced. She has also deposed that her husband, who resided outside, was informed and he came and also searched for the victim, but could not get any clue. Two days thereafter, she came to know that a dead body has been found in a well near the house of Uday Singh, police came and the dead body was recovered, which was that of the victim and the mouth and hands of the dead body was tied and the neck was severed. She has deposed that the occurrence has been committed by the respondent No.2, Meena Devi, Nanhki Devi and Urmila Devi since the victim had seen the illicit relation of the respondent No.2 and Meena Devi and the dead body of the victim was dumped in the well to



disappear the evidence. She identified the respondent No.2 who was present in the court.

15. In her cross-examination, PW 2 deposed that Meena Devi is her sister-in-law (*dayadin*) and their houses are separate, but the walls are joint. She deposed that Meena and Nanhki called the victim to come to which PW 2 objected, however, when PW 2 slept, they took the victim along. First of all PW 2 searched for the victim in the neighbourhood and thereafter with her *devar* for two-three days, the dead body was recovered on 19th. When the victim could not be traced, PW 2 had gone to the house of Meena Devi, who started quarreling and abused her. When the victim could not be found for two days, PW 2 informed her husband on phone, who came on 18th, who also vigorously searched for her and when they were going to the police station, in the meantime, they heard that a dead body had been found in a well. Police recovered the dead body from the well and PW 2 and her husband both became unconscious on seeing the dead body. She could not see who brought them home. She deposed that her statement was recorded on the date of recovery of the body, again, she deposed that her statement was recorded on the next date. She has deposed that she had no dispute with the respondent No.2 nor with Meena Devi,



again, she deposed that she has enmity because of the illicit relationship. She denied that she has given false evidence.

16. PW 3, Yogendra Rai, who is the informant and the father of the victim, deposed in his examination-in-chief that the occurrence took place nearly over two years back on 15.03.2017 in the night, when he was in Delhi. He had gone to Delhi nearly 15 days before the occurrence. On 16.03.2017, his wife informed that the victim was missing, whereupon he reached his home on 18.03.2017 and searched for the victim. He searched for the victim till 03:00-04:00 PM on 19.03.2017 and when she could not be found, he was going to the police station and on the way he saw large number of people gathered at the well of Ajay Singh, he too went there and saw the dead body of the victim in the well. Police was informed and on arrival they recovered the dead body, which was of his daughter. Both hands bore knife marks, finger was severed, leg was broken and eye was gouged and blindfolded and the neck was cut. He has further deposed that his wife informed her that the victim witnessed the illicit relationship between Manoj and Meena and had told Meena to mend herself else she will inform the Uncle about it. The victim had also told the respondent No.2 that why does he use to come to the house of her aunt. The wife of PW 3 informed him that on 15.03.2017 at about 07:00-



08:00 PM Nanhki Devi was talking to victim and Meena Devi was standing there, thereafter they had taken away the victim. Two days earlier to the occurrence, they had taken her away, but the victim had returned, however, when they took her away on 15.03.2017, the victim did not return. When the wife of PW 3 went to the house of Nanhki Devi and asked about the victim, then Urmila Devi, Sunaina Devi, Meena Devi and wife of Rajesh Rai abused and assaulted her and said that she had fled away. He has also deposed that the accused persons are threatening him to withdraw the case. He has deposed that the police had recorded his statement, which was read over to him and he had put his LTI on it.

17. In his cross-examination PW 3 has deposed that the occurrence did not take place in his presence, he has deposed before the Court as was disclosed to him by his wife. He denied that whatever has been told by his wife is false and that he has given false evidence in the case.

18. PW 4, Dr. Sanjeev Kumar, who was posted as Medical Officer at Sadar Hospital, Gopalganj on 20.03.2017, was the member of the medical board which had conducted the postmortem examination of the dead body of the victim. He has found following injuries on the dead body of the victim: -



“On external examination:-

I- Rigor mortis dis-appearing from all four limbs.

II-Eyes closed, mouth closed, ears and nose NAD, external genitalia NAD.

III- Skin wrinkled all over (washerman skin)

IV- Incised wound over front and side of neck 7"X3" size with trachea, oesophagus, great vessels and strap muscles of neck divided.

V. Incised wound over right head 4"X1/2"Xmuscle deep.

On dissection:-

I-Skull intact, brain pale and intact, trachea divided, great vessels divided, oesophagus divided.

II- Thoracic cage intact, lungs pale and intact, both chambers of hearts empty.

III- All abdominal viscera pale and intact, stomach contained gas, uterus normal size, non-gravid. Urinary bladder empty.

Time since death- Within 24 to 48 hours.

Cause of death- Due to shock as a result of haemorrhage caused due to incised wound on neck inflicted by sharp cutting object.”

He identified his signature on the postmortem report, which was marked as Ext-2 and the signatures of Dr. A.K.



Chaudhary and Dr. R.K. Singh, which were marked as Ext- 2/1 and 2/2.

19. In his cross-examination, PW 4 denied that he had not mentioned the cause of death. He has deposed that he mentioned the age of injury and the condition of clothing of the deceased as per inquest. He denied that the victim died by drowning.

20. PW 5, Gautam Kumar Tiwary, the IO, has deposed in his examination-in-chief that he took over the charge of investigation on registration of the FIR and recorded the re-statement of the informant in which he supported the occurrence and informed that Meena Devi, who is wife of his younger brother, was having illicit relation with Manoj Mahto and the victim saw them and told that she will tell her uncle and because of this the occurrence took place. PW 5 also deposed that he inspected the place of occurrence and had recorded the statements of Urmila Devi and Pramohan Rai who supported the illicit relation of the respondent No.2 with Meena Devi. PW 5 has deposed that he was informed by the spy that the deceased was having affair with a person of the village. He had also sent CDRs to the technical cell. Upon finding the case to be true, he submitted the charge-sheet.



21. In his cross-examination, PW 5 has deposed that he had not taken the statements of other persons except Yogendra Rai, Urmila Devi and Pramohan Rai. He could not find any independent witness near the well from where the dead body of the deceased was recovered. He could not find any detail in the CDR of any call being made to Meena Devi by the respondent No.2 or the vice-versa nor he recorded the statement of Meena Devi. He denied that the investigation was faulty.

22. The defence has also examined one witness, namely, Rajendra Yadav (DW 1), who is the husband of Meena Devi. He has mainly deposed in his examination-in-chief that the conduct of his wife Meena Devi is good and she does not have any wrong relation with Manoj Mahto. He has further deposed that because of the land dispute, his brother has implicated them in a false case to malign their image.

23. In his cross-examination DW 1 has deposed that the victim went missing on 15.03.2017 and on 19.03.2017 her dead body was recovered from the well of Ajay Singh. Pramohan Rai is his brother and denied that Pramohan Rai had told that the victim had told him about the relationship between Manoj and Meena Devi and because of which Manoj kidnapped the victim and killed



her in connivance with the other accused persons. He denied that he was giving false evidence at the behest of the accused persons.

24. It appears that the learned trial court, having considered the materials available on the record and the evidence adduced, both oral and documentary, arrived at the conclusion that the prosecution has miserably failed to prove its case against the accused beyond the shadow of doubt and acquitted respondent No.2 of the charges levelled against him.

25. We have gathered from the evidences available on the record that the whole prosecution case is based on a mere suspicion. Non one had seen the victim in the company of the accused. There is no witness to say that the accused-respondent No.2 was roaming around the house of the informant and Meena Devi. The IO has not found any mobile phone connection between Meena Devi and respondent No.2. In a case of circumstantial evidence, as it is, we are of the opinion that the chain of criminological events is not established.

26. In view of the materials on record, the discussions aforementioned and the evidence led by the prosecution witnesses and the defence witness, we are of the view that no perversity or infirmity persists in the impugned judgment warranting interference by this Court.



27. We are reminded of the judgment of the Hon'ble Supreme Court in the case of *H.D. Sundara and Ors. vs. State of Karnataka*, reported in (2023) 9 SCC 581 and *Babu Sahebagoada Rudragoudar and Ors. vs. State of Karnataka*, reported in (2024) 8 SCC 149 wherein their Lordships have laid down the principles governing an appeal against acquittal. Paragraph '8' of the judgment in the case of *H.D. Sundara* (supra) is being reproduced hereunder for a ready reference:-

“8. In this appeal, we are called upon to consider the legality and validity of the impugned judgment¹ rendered by the High Court while deciding an appeal against acquittal under Section 378 of the Code of Criminal Procedure, 1973 (for short “CrPC”). The principles which govern the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC can be summarized as follows:

8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

1. *Karnataka v. H.K. Mariyappa*, 2010 SCC OnLine Kar 5591



8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

28. The Hon’ble Supreme Court in the case of *H.D. Sundara* (supra) has categorically held that the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible. In the present case, no other conclusion is possible, other than the one taken by the learned trial court.

29. In result, we find no reason to interfere with the impugned judgment.

30. This appeal has no merit. It is accordingly dismissed.

31. We regret it is one of those cases in which the police investigation remained disappointing. The IO did not examine any independent witness to establish the circumstances leading to the



occurrence. Meena Devi was not interrogated. In the name of investigation only some formalities were done.

32. Let a copy of this judgment together with the trial court’s record be sent down to the learned trial court.

(Rajeev Ranjan Prasad, J)

(Praveen Kumar, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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