

Savitri Devi Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Feb-28-2017

Appellant : Savitri Devi

Respondent : The State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. A (D.B) No. 362 of 2014
Savitri Devi Appellant Versus 1. State of Jharkhand 2. Sita Ram Singh Choudhary 3. Anadi Singh Choudhary Respondents ----- CORAM : HONBLE MR. JUSTICE H. C. MISHRA HONBLE MR. JUSTICE Dr. S.N. PATHAK ----- For the Appellant : Mr. Pankaj Kumar, Advocate For the State : APP. For private O.Ps. : Mr. Onkar Nath Tewary, Mr. Gautam Rakesh, Advocates ----- 23/ 28.2.2017
Heard learned counsel for the appellant and learned counsel for the State as also learned counsel for Private Opposite Parties in the admission stage itself.

2. The appellant, who is widow of the deceased, is aggrieved by the Judgment of acquittal dated 3rd January, 2014, passed by the learned Sessions Judge, Bokaro, in S.T. No. 99 of 2012, whereby the accused opposite parties Nos. 2 and 3, who were facing trial for the offence under Sections 302 / 34 and 120-B of the IPC, have been acquitted of the charge.

3. The impugned Judgment shows that one Pindrajora P.S. Case No. 11 of 2010 was registered on 24.01.2010 under Sections 279/337/338/304-A of the IPC, against the deceased driver of a motor bike, on the basis of the fardbayan of Sita

Ram Singh Choudhary, who is the opposite party No.2 in this appeal, with respect to a road accident in which one Sunil Mahatha had died due to rash and negligent driving of the bike. Upon investigation the police found it to be a case of rash and neglect driving against the deceased Sunil Mahatha and submitted the report accordingly. Appellant is the wife of the deceased Sunil Mahatha.

4. According to the appellant's case, for the same incident, a C.P. Case No. 148 of 2010 was filed by Amin Mahatha, the father of the deceased Sunil Mahatha, which was sent for institution of the police case, on the basis of which, Pindrajora P.S. Case No. 31 of 2010 was instituted for the offence under Sections 302/120-B/34 of the IPC, against the accused opposite parties Nos. 2 and 3, Sita Ram Singh Choudhary and Anadi Singh Choudhary, alleging that they had committed the murder of the deceased Sunil Mahatha. -2- 5. Upon investigation, the police submitted the final report in said Pindrajora P.S. Case No. 31 of 2010 stating that it was a case of accident, and accordingly, a protest petition was also filed by the complainant father of the deceased, on the basis of which C.P. Case No. 781 of 2010 was instituted. Upon enquiry a prima-facie case was found against opposite parties Nos. 2 and 3 and they were put on trial.

6. The impugned Judgment shows that in course of trial evidences were adduced by both the sides both oral and documentary. The important documentary evidence, as mentioned in the Judgment are Exts. D and D/1, which are confidential report (Form No. 3788) and statement of claimant (Form No. 3783). It finds mentioned in the impugned judgment that the widow of the deceased, (i.e., the appellant), had made the claim in Form No.

3783. The LIC agent was examined as D.W.7, who had proved the confidential report submitted by him to the insurance company (Form No. 3788), and from these documents it was apparent that the widow of the deceased, i.e., this appellant had made a claim for insurance money, attributing the death of her deceased husband to be an accidental death.

7. The appellant, being the widow of the deceased, has filed this appeal against acquittal, but it is apparent from the perusal of the impugned Judgment that she did not examine herself in the court below. On the basis of the evidence on record

the Court below found that the death of the deceased was an accidental death and accordingly, held that prosecution had failed to bring home the charge against the opposite parties Nos. 2 and 3 and both these opposite parties were acquitted of the charge.

8. Learned counsel for the appellant has submitted that the impugned judgment passed by the Court below cannot be sustained in the eyes of law, in view of the fact that on the basis of the evidence brought on record, the complainant had been able to prove the charge against the accused.

9. Learned counsel for the State as also learned counsel for opposite parties Nos. 2 and 3 have placed reliance upon Exts. D and D/1 discussed in the impugned Judgment, and submitted that the appellant herself had filed the insurance claim, stating that the death of her husband was an accidental death. It is also submitted that the appellant had neither filed the complaint, nor did she examined herself in the Court below, and as such this appeal cannot be entertained. -3- 10. Having heard the learned counsel for the parties and upon going through the record, we find that on the one hand the appellant had claimed the insurance money claiming the death of her husband to be an accidental death, on the other hand she has filed this appeal against the impugned Judgment stating that it was a culpable homicide amounting to murder, caused by the opposite parties Nos 2 and 3. Indeed though the appellant is alleging before us as above, but she had neither filed the complaint petition, nor she had examined herself in the Court below as a witness, presumably because she had herself claimed the money of insurance stating that the death of her husband was due to accident. In the facts of this case we are of the considered view that the Court below had come to the right conclusion finding the death of the deceased to be an accidental death and has acquitted the opposite parties Nos. 2 and 3, who were facing the trial.

11. We do not find any illegality in the impugned Judgment of acquittal, dated 3rd January, 2014, passed by the learned Sessions Judge, Bokaro, in S.T. Case No. 99 of 2012.

12. There is no merit in this appeal and the same is accordingly, dismissed in limine. (H. C. Mishra, J.) (Dr. S.N. Pathak, J.) P.K.S/ Anjali

