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Court : Patna

Decided On : Aug-21-1998

Judge : M.Y. Eqbal, J.

Appeal No. : Criminal Revision No. 87 of 1991

Appellant : Sona Devi

Respondent : Rajendra Prasad and ors.

Disposition : Application Dismissed

Judgement :

M.Y. Eqbal, J.

1. This criminal revision is directed against the judgment, dated 16.11.1990 passed by the 5th Addl. Sessions Judge, Munger acquitting the opposite parties from the charges levelled against them under Sections 302/34, 120B and 364 of the Indian Penal Code.

2. It appears that all the accused persons (opposite parties) charged and tried under the aforesaid sections and they pleaded not guilty of all the charges levelled against them.

3. The prosecution story, in short, is that the accused persons came at the house of the informant Sona Devi on 24.11.1985 at about 8 a.m. and informed her that

her elder daughter, namely, Sabitri Devi is seriously ill and requested her and her husband to go to her daughter's place to look after her. Her husband showed his inability to go to his elder daughter's place in view of illness of the informant. But he was persuaded by the accused Rajendra Prasad and Bindeshwari Mandal to do so and he went his home with them for Kiranpur. When he had not returned till 12.12.1985, the informant sent one Indradeo Mahto to village Kiranpur, where her elder daughter resides in search of her husband. On return from Kiranpur Indradeo Mahto informed her that her son-in-law Jageshwar Mandal and her elder daughter Sabitri Devi told him that her husband had left their place one week ago. The further case of the prosecution is that the informant subsequently came to know that her husband has been murdered by the accused persons after getting a registered deed of transfer of his property executed by him in favour of her elder daughter. The informant accordingly lodged written information with Ariari police station on 14.12.1985. The police investigated the case and submitted charge-sheet against the accused persons and the case was ultimately committed to the Court of Sessions. The defence version is that the husband of the informant was very old and was ill at village. Kiranpur. He was under the treatment of Dr. Rajendra Kumar and his death was natural death due to old age and illness. The further stand of the defence is that they have been implicated in this case, only, because Gurucharan gave all his property to his elder daughter namely accused Sabitri Devi out of love and affection because she used to look after him during his illness and old age.

4. The prosecution examined 10 witnesses and the defence also examined 3 witnesses on the point of illness of the deceased and his treatment by the Dr. Rajendra Kumar and also on the point of natural death. The learned trial Court after examining the entire facts of the case and after appreciating the evidence adduced by the parties came to the conclusion that the prosecution failed to establish the charges levelled against the accused persons beyond all reasonable doubt and as such they have been acquitted by the impugned judgment. Hence, this revision application has been filed by the petitioner informant.

5. Learned Counsel appearing for the petitioner assailed the impugned judgment as being illegal and wholly without jurisdiction. Learned Counsel submitted that the

witnesses examined on behalf of the prosecution has fully supported the prosecution case, but the learned trial Court has not appreciated the evidence in its right perspective. The learned Counsel further submitted that the very fact that the informant had not been intimated about the death of her husband itself shows that there was conspiracy to kill the deceased after sale deed is executed.

6. I have gone through the record of the case and the impugned judgment passed by the Court below. It appears that out of seven witnesses named in the FIR only the informant, her daughter and her son-in-law have supported the prosecution case. The other named witnesses examined by the prosecution have not supported the case of the prosecution. Some of the witnesses named in the FIR were not even examined. It further appears that during the trial a petition was filed by the prosecution to the effect that some of the witnesses, though filed attendance in Court but the prosecution refused to examine him. Moreover there are several contradictions in the evidence of witnesses including the informant. The learned trial Court has taken note of the fact that according to the prosecution case, the informant sent one Indradeo Mahto on 12.12.1985 in search of her husband to Kiranpur, and when he informed her that her husband is not at Kiranpur, she sent her daughter Janki, but in her deposition she has said that first of all, she had sent her younger daughter to Kiranpur. Her younger daughter, who has been examined as PW 2 has stated that she had been at Kiranpur where she met her father and asked him to return back to her house but her father did not come with her. The trial Court, therefore, took the view that in view of the evidence of the informant and her daughter no charge has been made out against the accused persons for committing murder of the deceased. The trial Court further scrutinised and discussed meticulously all the evidence and came to a positive finding about the innocence of the accused persons. The learned Counsel could not point (sic) gross error of law or error of record committed by the trial Court in arriving at such finding. I also examined the matter and gone through the trial Court judgment, but I do not find any gross error or mistake in the judgment.

7. Having regard to the facts and circumstances of the case, I do not find any reason to differ with the finding of the trial Court. This application has, therefore, no merit. It is, accordingly, dismissed.

