

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.541 of 2024

Arising Out of PS. Case No.-21 Year-2020 Thana- MAKHDUMPUR District- Jehanabad

Bintu Yadav @ Bindu Yadav, S/o Late Baleshwar Prasad, Resident of Village-
Jamalpur, P.S. -Makhdumpur, District -Jehanabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Krishan Murari, S/o Late Akalu Singh R/o vill - Bajitpur, P.S. - Ghoshi,
Distt. - Jehanabad
3. Shlok Yadav, S/o Late Dev Narayan Yadav, R/o vill - Bishunpur, P.S. -
Hulasganj, Distt. - Jehanabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Paras Nath, Adv.
For the State	:	Mr. Binod Bihari Singh, APP
For the Resp. Nos. 2 & 3:	:	Mr. Abhishek Anand, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHAILENDRA SINGH)

Date : 31-07-2025

The instant appeal has been preferred by the appellant, namely, Bintu Yadav @ Bindu Yadav against the judgment of acquittal dated 05.03.2024 passed in Sessions Trial Case No. 27 of 2021 arising out of Makhdumpur P.S. Case No. 21 of 2020, whereby and whereunder the learned Additional District & Sessions Judge-II, Jehanabad, ('trial court') acquitted the FIR named accused Krishan Murari ('respondent No. 2') and Shlok



Yadav ('respondent No. 3') of the offences for which the respondents were charged.

2. Heard Mr. Paras Nath, learned counsel for the appellant, Mr. Binod Bihari Singh, learned Additional Public Prosecutor for the State and Mr. Abhishek Anand, learned counsel for the respondent Nos. 2 and 3.

Prosecution story :-

3. The substance of the prosecution story is as follows :-

As per the informant, namely, Bindu Yadav, the marriage of his daughter, namely, Priti Kumari was solemnized with Krishan Murari (respondent No. 2) in the year 2019 and at the time of marriage, he gifted a motorcycle, a gold chain, furniture, etc. The informant alleged that the behaviour of his daughter's in-laws with his daughter remained well only for one month but after that the respondent No. 2, his parents and his brother, namely, Kishor Kumar started demanding freeze, cooler and cash amount from his daughter, which could not be fulfilled by his daughter on account of her father's financial difficulties. In the meantime, his daughter was ousted by her in-laws after snatching the ornaments from her. It has been further alleged that on 13.01.2020, the respondent No. 2, son-in-law of the informant, came to the informant's house and stayed there with the victim after taking



meal and both slept in the same room but after midnight at 3:00 A.M., the respondent No. 2 came and told him that his daughter was not there and went missing. Thereafter, a search for the victim was started in the nearby places but they did not find any clue. The informant further alleged that during the course of search, the respondent No. 2 came at Mukhdumpur with his son, namely, Vineet Kumar, aged about 9 years at that time, and on the way, the respondent informed the informant's second daughter, namely, Kanchan Kumari about the incident of missing of the victim and he suggested the informant's daughter, Kanchan Kumari, to search the victim near Makhdumpur railway station. The informant further alleged that in the morning at about 6:00 A.M., the respondent No. 2 also reached at Makhdumpur railway station and took his daughter Kanchan Kumari and his son Vineet Kumar on a motorcycle towards the railway line and showed the informant's daughter, the dead body of the victim lying in the bushes. Then the victim's dead body was seen by the informant's second daughter and several stab injuries were found on the body. The informant further alleged in his FIR that he has full belief that his daughter was murdered by the respondent Nos. 2 and 3 with the help of their family members in furtherance of their conspiracy and after



killing, they disposed of the dead body near the railway line in the bushes.

4. The informant/appellant filed a written application (Ext.-P-2) describing the aforesaid prosecution story, upon that basis, the formal FIR bearing Makhdumpur P.S. Case No. 21 of 2020 was registered under sections 304B and 120B of the Indian Penal Code (in short ‘IPC’) against the respondent Nos. 2, 3 and others.

5. After completion of the investigation, the police chargesheeted the respondent Nos. 2 and 3 for the offences under sections 302 and 201 of IPC read with section 34 of IPC and also under sections 3/4 of the Dowry Prohibition Act (in short ‘DP Act’) vide chargesheet No. 116 of 2020 dated 25.03.2020 and the investigation was kept pending in respect of other named accused.

6. The respondent Nos. 2 and 3 stood charged for the offences under sections 302/34 and 201/34 of IPC and also charged under sections 3/4 of DP Act. The charges were read over and explained to the respondents in Hindi, to which they pleaded not guilty and claimed to be tried.

7. The prosecution examined the following witnesses :-

PW-1	Umesh Rai	Hearsay witness
PW-2	Birendra Kumar	Relative witness
PW-3	Bintu Yadav	Informant
PW-4	Awadhesh Chaudhary	Investigating Officer



PW-5	Dr. Md. Ali	Medical Officer
PW-6	Kanchan Kumari	Relative witness
PW-7	Akhilesh Kumar	Police official

8. In documentary evidence, the prosecution exhibited the following documents :-

Ext. P1	Signature of witness Umesh Rai (PW-1) on fardbeyan
Ext. P-2	Whole written statement
Ext. I (with objection)	Print out of Whatsapp message
Ext. II(with objection)	Photo of dead body of Prity Kumari
Ext. P-3	Signature of I.O.-cum-A.SHO on FIR
Ext. P-3/1	Signature of I.O.-cum-A.SHO on last page of FIR
Ext. P-4	Chargesheet
Ext. P-5	Postmortem report

9. After completion of the prosecution’s evidence, statements of the respondents were recorded in which they denied the main circumstances appearing against them from the prosecution’s evidences and they claimed themselves to be innocent, however, they did not take any specific defence in their statements.

10. The respondent No. 2 himself appeared as a defence witness and he was examined as DW-1. No other evidence was given by the respondent Nos. 2 and 3 in their defence.

Findings of trial court :

11. While acquitting the respondent Nos. 2 and 3 of the charged offences, the learned trial court has observed that the



prosecution has miserably failed to prove its case beyond reasonable doubt against the respondent Nos. 2 and 3 and the prosecution's case is totally based upon circumstantial evidences but there is not even a single circumstance proving the involvement of the respondents in the alleged occurrence and the entire chain of circumstances is missing, which is totally due to the faulty investigation done by the investigating officer. The learned trial court has further observed that the prosecution failed to prove the alleged call details record (CDR) as no certificate under section 65B of the Indian Evidence Act was given. The learned trial court finally concluded that both the respondents were entitled to be given the benefit of doubt.

Submissions on behalf of appellant : -

12. Mr. Paras Nath, learned counsel appearing for the appellant submits that though in the present matter there is no direct evidence, however, the circumstances which have been established by the prosecution before the trial court clearly suggest the involvement of the respondent Nos. 2 and 3 in the commission of the murder of the victim and the alleged circumstances are of conclusive in nature and there is no scope of hypothesis of any presumption favouring the respondents' claim as to they being innocent. The respondents' location at or near the place of



occurrence during the relevant period of time was technically examined by the investigating officer on the basis of their phones' tower location, which confirms their presence at the alleged place with the victim and in this regard, the evidence of the investigating officer is relevant. It is further submitted that the respondent No. 2 used to torture the victim for the demand of household articles and when his demand could not be fulfilled, he hatched up a plan and took the victim in the midnight from her parental home when she was with him in a room where both slept together and thereafter, he killed her with the help of respondent No. 3 by stabbing her and threw her body near the railway track to conceal the material evidence. As per the evidence of Kanchan Kumari (PW-6), the respondent No. 2, himself, told her about the location of the dead body when she and the said respondent were searching for the victim and this conduct of the respondent No. 2 completely goes against him and confirms his involvement in the alleged crime and murder. All these materials and circumstances were not properly appreciated by the trial court in right perspective and both the respondents were wrongly acquitted of the charged offences.

13. On the other hand, Mr. Abhishek Anand, learned counsel appearing for the respondent Nos. 2 and 3 submits that admittedly the prosecution has based its case on circumstantial



evidences but the circumstances so alleged are not sufficient to show and prove the involvement of the respondent Nos. 2 and 3 in the commission of the alleged murder. Simply on account of the respondent No. 2 having suggested the victim's brother and sister about the location of the dead body of the deceased, as alleged, it can not be deemed that the said respondent had killed the victim and further, the said allegation as levelled by the victim's sister, is completely unbelievable, as, it can not be expected or believed from one to reveal the location of the dead body of the victim, who himself had disposed of the body at the disclosed place secretly, to the family members of the said victim. Further, it came in the evidence of prosecution witnesses that the respondent No. 2 himself joined the search and brought the victim's dead body from the alleged place, where the dead body was found, to the victim's father's house. It is further submitted that it is not a case of last seen and none of the prosecution witnesses claimed to have seen the respondent Nos. 2 and 3 being with the victim during her last moment or last hours. Further, it is completely unbelievable that the respondent No. 2 had succeeded in taking the victim from her parents' house when she was in sleeping condition and her parental family members were also present in the same house, during the midnight time. As such, the circumstances as alleged by the



prosecution, are not conclusive to indicate the involvement of the respondent Nos. 2 and 3 in the alleged crime and there is much scope of creating doubts in the prosecutions' allegation with regard to the alleged involvement of respondent Nos. 2 and 3 in the alleged occurrence. As such, the learned trial court appreciated the evidences of the prosecution in right perspective and the appellant has not made out a case to interfere in the trial court's conclusion and there is no merit in this appeal, so, it is liable to be dismissed.

Consideration and analysis :-

14. The present matter relates to unnatural death and killing of the informant's daughter (hereinafter referred to as 'victim'), who was the wife of the respondent No. 2. The deceased was married to the respondent No. 2 in the year 2019. The police chargesheeted the respondent Nos. 2 and 3 (maternal father-in-law of the deceased) under sections 302, 201/34 of the IPC and also under sections 3/4 of DP Act, though the FIR was registered under sections 304(B)/120(B) of IPC. Consequently, the respondent Nos. 2 and 3 stood charged for the said offences for which they were chargesheeted. As per the main allegation relating to murder of the deceased and disposing of the dead body near Makhdumpur railway station in north side. The case of the prosecution is not based on direct evidence as none of the prosecution witnesses



claimed to have witnessed the commission of the alleged murder and also in the FIR, the informant did not claim himself to have witnessed the commission of the murder, though he alleged that his daughter (victim) had been killed by her husband with the help of his father, uncle (Respondent No. 2) and brother Kishor Yadav. In this way, the prosecution's case is based on the circumstantial evidence.

15. Now, we come to the prosecution story. As per the prosecution, on 13.01.2020, respondent No. 2, Krishan Murari, came to his sasuraal and stayed there in the night. After taking dinner, he slept with his wife in a room and in the night at about 3:00 AM, he informed the informant that the victim was not in the house and then, search was started to find out the victim but she could not be found and in the meantime, respondent No. 2 went towards Makhdumpur railway station along with Vineet Kumar, son of the informant. During that course, in the morning at about 6:00 A.M., the respondent No. 2 informed one Kanchan Kumari (informant's second daughter), who was staying in the house of her maternal grandmother at that time, that the victim was traceless and not present in the house and also said to her that the victim should be searched near Makhdumpur railway station. The informant further alleged that in the meantime, the respondent No.



2 also reached near Makhdumpur railway station and then he himself showed the victim's dead body being thrown in the bushes near railway line, which was identified by the informant's second daughter Kanchan Kumari. On the dead body of the victim, several stabbing injuries were found. The informant suspected both the respondents, father and brother of the respondent No. 2 to be involved in killing of his daughter in furtherance of their conspiracy, in which the mother-in-law of the deceased was also involved.

16. From the above prosecution story, one thing is quite clear that the informant simply suspected the respondent Nos. 2, 3 and others to be involved in killing of the deceased and for raising this suspicion, the main circumstances were, as per the prosecution story, a suggestion made by respondent No.2 during the course of search about the availability of the deceased near the Makhdumpur railway station and thereafter, he himself led the informant and others to the place where the dead body was found and regarding these two circumstances, we have gone through the prosecution evidences to find out whether these two alleged circumstances are sufficient to establish the guilt of the respondents in the alleged murder.



17. The prosecution witness Umesh Rai (PW-1), who is an uncle of the deceased, deposed in the cross-examination that he along with Bindu Yadav went to nearby places in search of the victim (deceased). They covered about two kilometer distance towards the western side of the village of the deceased but they did not find the victim and then they returned to their house at about 5.30 AM and thereafter, they again proceeded to search for the victim and went to Makhdumpur railway station. During that course, they reached at *Kansara More* at about 7:00 AM and sat there on account of being hopeless and after 5-10 minutes, they returned back at about 8:00 AM. This witness did not say anything about the aforesaid two incriminating circumstances rather according to him, till 7:00 AM the dead body of the victim was not found. The witness further stated in his cross-examination that both the respondents went to the police station along with the prosecution party. This said conduct of the respondents is relevant as afterwards the commission of the alleged occurrence, none of them tried to escape rather they helped the victim's father and others in tracing out the victim's body and also went to the police station for initiating a legal action.

18. The prosecution witness Shambhu Prasad Yadav (PW-2), who is the brother of the informant and uncle of the



victim, deposed similar evidence like Umesh Rai (PW-1). He stated in his cross-examination that regarding the missing of the victim, his brother told him at about 4.45 AM and at that time, the informant was alone, whereafter, he and his brother (informant) proceeded to search for the victim and went here and there in the village up to 3-4 kilometers in all sides and then returned back. Thereafter, he, the informant and Umesh Rai (PW-1) again proceeded to search the victim and went towards Makhdumpur and reached at *Kansara More* and stayed there for some minutes. After 5 to 7 minutes, Kanchan Kumari (second daughter of the informant) phoned the informant on his mobile phone giving the information that the victim's dead body had been thrown in the bushes near Mukhdumpur railway station in western side at the distance of half a kilometer from the railway station and then they all reached there at 7:45 A.M. and found the dead body of the victim lying in the bushes. These facts, as stated by this witness, are not sufficient to prove the aforesaid alleged circumstances upon that basis the respondent Nos. 2 and 3 were mainly suspected by the prosecution as being involved in killing of the victim.

19. Now, we come to the evidence of the informant (PW-3), who is father of the victim (deceased). The witness stated in his cross-examination that the respondent No. 2 proceeded to



search for the victim along with his son Vineet Kumar on a motorcycle. He and his brother also proceeded to search for the victim at about 4:00 A.M. He further stated that his brother, his co-villagers, namely, Pramod Yadav and Jagdish Yadav and his wife were also with him during the course of searching of the victim and they reached near a river situated close to Munshi village, at about 5:00 A.M. during search. He further deposed that they reached the bushes at 6:00 A.M. where the dead body was found. He further stated that he did not say the fact to the police that the accused (respondent Nos. 2, 3 and others) had taken away the dead body from the bushes before they reached at that place. But in contrary, he stated in his examination-in-chief that after getting the information when he along with others reached near the bushes, he found his daughter Kanchan Kumari and son Vineet Kumar in weeping condition, who told him that the respondents had taken away the dead body of the victim and then they returned back to their house and found the dead body of the victim lying at the door-step of their house and the villagers revealed that the respondents brought the dead body and were trying to flee but they were not allowed by the villagers. Here, it is important to mention that in the written FIR, this witness did not say any fact regarding the subsequent conduct of the respondents with regard to the said



allegation as to taking away the dead body and keeping it at the door step of the informant's house while the written FIR was lodged on 14.01.2020 after the recovery of the dead body of the victim, hence, the evidence of the informant is also not reliable to prove the aforesaid alleged incriminating circumstances.

20. The prosecution witness PW-4 is the investigating officer. He deposed in his examination-in-chief that he inspected the place of occurrence where the dead body was found. He stated that at the alleged place, blood stained grass and a coconut rope were found but the body was not there. He further stated that he got the call details record (in short 'CDR') in respect of the location of the mobile phones of the respondent Nos. 2 and 3. He found the tower location of respondent No. 2 near the place of occurrence whereas the tower location of the mobile phone of respondent No. 3 was found at Sukiyawan village. He further stated that on the mobile number of respondent No. 2 i.e. 9123139595, some calls were made from another mobile number 7563843440 between 21:09 and 21:10 hours and during the period of that time, the location of the mobile phone of respondent No. 2 remained near the place of occurrence. The learned trial court placed reliance on this technical evidence but the prosecution failed to prove the said CDR in documentary evidence and further,



the alleged place relating to the recovery of the dead body of the deceased was situated near the village of the informant and during relevant time, the respondent No. 2 was present in the house of the informant till the disappearance of the victim and the said technical evidence relating to the tower location of the mobile phone of the respondent No. 2, as stated by this witness, does not conclusively prove the presence of the respondent No. 2 at the alleged place during the relevant time of the commission of the alleged murder and disposing of the body and further, the tower location of the respondent No. 3 was found at other village as per the evidence of this witness. Here, it is important to mention that the informant is a resident of Jamalpur village and this witness (PW-4) in his cross-examination stated that the tower location of the mobile phone of the respondent No. 3 was found at Sukiyawan village on 13.01.2020 while the tower location of the respondent No. 2 was found at Chhariyari village and both the said villages are different from the informant's village. He further stated in his cross-examination that he had not seized the mobile phones of the victim, of the informant and accused. As such, the learned trial court erred in placing reliance upon the evidence of this witness as regards to the tower location of the respondent Nos. 2 and 3 as claimed by the investigating officer (PW-4).



21. Now, we have to see whether the respondent No. 2 had strong motive to kill his wife. As per the prosecution story narrated in the FIR, the victim was married to the said respondent in the month of May 2019. After marriage, the respondent and his family members allegedly started demanding freeze, cooler and cash amount in dowry from the victim and when their demand could not be fulfilled, they ousted the victim from their house after snatching the victim's ornaments. Regarding these allegations, Umesh Rai (PW-1) stated in his cross-examination that neither any case nor a complaint had been lodged against the accused in respect of the alleged dowry demand and cruelty allegedly meted out with the victim by the accused before the commission of the murder of the victim nor any complaint was made in this regard to *mukhiya* or any public representative. He also stated that the respondent No. 2 used to come at his sasuraal. Similar evidence was given by the informant (PW-3) and his brother Shambhu Prasad Yadav (PW-2). The police too did not find substance in the allegation of dowry death and therefore, chargesheet was not submitted against the accused under section 304B of IPC and the learned trial court also did not take cognizance of the said offence. It is an admitted position that the victim went missing in the midnight of 13.01.2020 from her own parental house and on that



day, in day time the respondent No. 2 had come at his sasuraal and stayed with his wife and both slept together in one room. From this fact, it is here evident that till that time, the relation between the respondent No. 2 and the victim had not deteriorated so much that it can be presumed that the respondent had developed an intention to kill his wife. The most important thing is that when the victim went missing in the midnight, her parental family members were present at her parental home but neither any of them nor any co-villager of the informant noticed the victim's going with the respondent No. 2 during midnight or taking of the victim by the respondent No. 2 in the midnight through the village towards Makhdumpur railway station where the victim's dead body was later found and the said circumstance goes against the prosecution's allegation and it is hard to believe that the respondent silently took the victim with him in the midnight of 13.01.2020 and the alleged activity of this respondent was not noticed by the victim's parental family members and the co-villagers of the informant. Prosecution witness Kanchan Kumari (PW-6), the sister of the victim, alleged that the respondent No. 2 firstly phoned and informed her about the missing of the victim and thereafter, he suggested her (PW-6) to search the victim at or near Makhdumpur railway station and when PW-6 arrived at



Makhdumpur railway station, the respondent also came there with the brother of the victim on a motorcycle and took the said witness towards the North direction from the station and told this witness that the dead body of the victim was lying in the bushes and then PW-6 went to bushes and found the dead body. The said allegation does not seem reliable, as, one who had murdered a person and disposed of the body at an isolated place then in normal course he himself would not reveal the location of the dead body to the relatives of the deceased and further, as per the evidence of this witness, the respondent took a tempo and brought the dead body and PW-6 to the informant's village. This subsequent conduct of the respondent also goes against the prosecution's allegation.

22. When the prosecution relies on circumstantial evidences, it has to be proved that the facts so established are consistent only with the hypothesis of the guilt of the accused and all the alleged circumstances should be of a conclusive nature excluding every possible hypothesis of innocence of the accused. In this regard, the Hon'ble Apex Court in its landmark judgment in the case of **Sharad Birdhichand Sarda vs. State of Maharashtra** reported in **AIR 1984 SC 1622** has settled law and the five golden principles laid down by the Hon'ble Apex Court in the said case, are as under :-



“(i) The circumstances from which the conclusion of guilt is to be drawn should be fully established;

(ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(iii) the circumstances should be of a conclusive nature and tendency;

(iv) they should exclude every possible hypothesis except the one to be proved; and

(v) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

23. It is a settled proposition of law that in the cases of acquittal by trial court, the appellate court can interfere only when there are substantial and compelling reasons and the trial court's decision appears to be perverse or based on misreading of evidences but the appellate court should not lightly interfere with an acquittal as the accused enjoys a presumption of innocence which is further strengthened by the trial court's acquittal. In this regard, we would like to refer the observations made by the Hon'ble Apex Court in the following cases :-

(i) Susheela Yogish Bungle & Anr. vs. M/S V.T. Impex Ltd. & Anr in Cr. APP. No(s). 3351-3352 of 2024 (arising out of S.L.P. (Criminal) No(s). 12862-12863/2022) and the relevant



paragraph Nos. 5 and 6 of this order, are reproduced for ready reference : -

“5. The law relating to interference in an appeal against acquittal is well-settled. The Appellate Court cannot reverse the order of acquittal only because another view could have been possibly taken based on the evidence on record. It is open for the Appellate Court to interfere with an order of acquittal only if, after re-appreciation of evidence, the Appellate Court concludes that the only possible finding which could be arrived at is that the guilt of the accused was established beyond a reasonable doubt.

6. After having perused the findings recorded by the High Court, firstly, we find that there is no categorical finding recorded that the High Court was satisfied that after appreciating the evidence, the only possible finding could be that the guilt of the accused has been proved beyond a reasonable doubt. At the highest, the High Court's findings suggest that another view was possible, which could have been taken based on the evidence on record. That is no ground to interfere with the order of acquittal as an order of acquittal further strengthens the presumption of innocence.”

(ii) Brijesh Singh vs. State of U.P. & Ors. in Special Leave to Appeal (Crl.) Dy. 23115/2025 and the relevant portion of the paragraph No. 2 of this order, is reproduced for ready reference : -

“2. This special leave petition

Law is well settled that interference in an appeal against acquittal should be made only if the view taken by the Court/s below is perverse or if no two views are possible and the only logical conclusion from the evidence is to record the guilt of the accused.....”

Conclusion :-

24. After having analyzed the evidences, we are of the considered opinion that the prosecution did not succeed to establish the guilt of the respondent Nos. 2 and 3 in the



commission of the alleged murder and the alleged two circumstances, as discussed above, upon which the case of the prosecution is based, though they were not proved by cogent evidence, however, they can not be deemed to be so strong for compelling this Court to draw the presumption of the respondents’ involvement in killing of the deceased and further, the prosecution’s evidences do not inspire our confidence to exclude the possible hypothesis of the innocence of the respondents in the commission of the alleged murder. Accordingly, we find the trial court’s judgment to be well reasoned and there is no perversity in the same and we find no reason to interfere in the trial court’s conclusion of the acquitting the respondent Nos. 2 and 3 of the charged offences. The instant appeal lacks of merit, so, it stands dismissed.

25. Let the lower court’s records be sent back to the trial court for needful.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

annu/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	06.08.2025
Transmission Date	06.08.2025

