IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.949 of 2019

Arising Out of PS. Case No.-102 Year-2011 Thana- SAHAR District- Bhojpur

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BALMIKI RAI Son of Dinesh Rai Resident of Village-Baruhi, P.S.-Sahar, District-Bhojpur.

... ... Appellant/s

Versus

THE STATE OF BIHAR

... ... Respondent/s

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with

CRIMINAL APPEAL (DB) No. 597 of 2019

Arising Out of PS. Case No.-102 Year-2011 Thana- SAHAR District- Bhojpur

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RAM BHUSHAN RAY@RAM BHUSHAN RAI Son of Surendra Ray Resident of Village - Baruhi, P.S.- Sahar, Distt - Bhojpur.

... ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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with

CRIMINAL APPEAL (DB) No. 806 of 2019

Arising Out of PS. Case No.-102 Year-2011 Thana- SAHAR District- Bhojpur

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DINESH RAI Son of Pratap Rai Resident of Village - Baruhi, P.S.- Sahar, Distt - Bhojpur.

... ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :

(In CRIMINAL APPEAL (DB) No. 949 of 2019)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Shivam, Advocate
Ms. Sushmita Mishra, Advocate
Mr. Purushottam Kumar, Advocate
Mr. Ravindra Kumar, Advocate

For the Respondent/s : Mr. Sujit Kumar Singh, APP

(In CRIMINAL APPEAL (DB) No. 597 of 2019)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Shivam, Advocate
Ms. Sushmita Mishra, Advocate

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Mr. Purushottam Kumar, Advocate
Mr. Ravindra Kumar, Advocate
For the Respondent/s : Mr.Satya Narayan Prasad, APP
(In CRIMINAL APPEAL (DB) No. 806 of 2019)
For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Shivam, Advocate
Ms. Sushmita Mishra, Advocate
Mr. Purushottam Kumar, Advocate
Mr. Ravindra Kumar, Advocate
For the Respondent/s : Mr.Dilip Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date : 12-08-2026

1. Against a common judgement and order of conviction passed in Sessions Trial No. 264 of 2013, arising out of Sahar P.S. Case No. 102 of 2011, whereby and whereunder, the learned Additional Sessions Judge-VII Court, Bhojpur at Arrah, convicted the appellants, Balmiki Rai and Dinesh Rai for the offence punishable under Section 302/34 and Section 201 of the Indian Penal Code and sentenced them to suffer imprisonment for life as well as rigorous imprisonment for four year with fine and default clause for the offence punishable under Section 201 of the I.P.C. and in the same trial, the appellant Ram Bhushan Ray @ Ram Bhushan Rai was convicted and sentenced to suffer rigorous imprisonment for four years with fine and default cause for the offence punishable under Section 201 of the I.P.C., the above-named appellants have filed separate appeals stated

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hereinabove.

2. Since the said appeals assailed the common judgement and order of conviction and sentence, we propose to hear out and dispose of the appeals by passing the following judgement.

3. One Baleshwar Rai of village-Muzffarpur, Police Station-Sahar, District-Bhojpur has made a statement before SHO, Sahar Police Station on 8th of December, 2011 at about 01.30 P.M., stating, inter alia, that marriage of his daughter, Guria Devi was solemnized in the year 2002 with Balmiki Rai, son of Dinesh Rai of Baruhi within Police Station-Sahar. After marriage, his daughter led a peaceful life in her matrimonial house with her husband and matrimonial relations. Thereafter, her husband and father-in-law started to abuse her as she could not bear any child. The informant came to know about the incident from his daughter, when she used to come to her maternal home.

4. On 8th of December, 2011, during morning hours, the informant received an information that the matrimonial relations of his daughter Guriya committed murder and caused her body to disappear for concealing the evidence of death. Hearing the said news, he, his cousin brother Mohan Rai and

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Om Prakash Rai went to village-Baruhi, but they did not find any of her matrimonial relations. The local people told them that his daughter was murdered by the accused persons, namely, Balmiki Rai and Dinesh Rai, and with the help of Ram Bhushan Rai disappeared the body of the deceased.

5. The SHO of Sahar Police Station instructed Ram Naresh Prasad, Sub-Inspector of Police to take up the investigation of the case.

6. During investigation, the IO examined the witnesses and recorded their statement and submitted charge-sheet against above-named three accused persons under Sections 302, 201 read with Section 34 of the I.P.C. The lower court record shows that on 8th of July, 2013, the case was committed to the Court of Sessions by the learned Judicial Magistrate, Ara and subsequently the case was transferred for trial and disposal to the Court of VIIth Additional Sessions Judge, Bhojpur at Arrah. The Lower Court Record further suggests that in order to bring home the charge against the accused persons, prosecution examined seven witnesses. Amongst them, P.W. 2 Balwwhwar Rai is the informant. P.W. 1 Mohan Rai is a resident of village-Bahi. He is the brother of the informant. P.W. 3 Kashinath Rai is the uncle of the

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informant. P.W. 4, Om Prakash Rai declared hostile by the prosecution. P.W. 5 Gupteshwar Rai disclosed his ignorance about the incident. He was also declared hostile by the prosecution. P.W. 6 Saraswati Devi is the mother of the deceased. P.W. 7 is the younger brother of the deceased.

7. On perusal of the evidence adduced by P.W. 1, P.W. 2, P.W. 3, P.W. 6 and P.W. 7, it is ascertained that marriage of the daughter of the informant was solemnized in the year 2002. They were happily leading their family life for about four years. However, she could not give birth to any child during the said period. Over the said issue, dispute cropped up between the deceased, her husband and father-in-law. It is clearly stated in the statement made by P.W. 2, which was treated as Fard Beyan that the victim was tortured as she failed to give birth to any child.

8. On 8th of December, 2011, i.e., after about 9 years of her marriage, the informant got a news that his daughter was murdered by her husband and father-in-law. There is absolutely no evidence how the victim was allegedly murdered. None of the witnesses are the eye-witness of the occurrence. Not a single villager of the matrimonial home of the deceased was made a witness to ascertain as to how the

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victim had met with an unnatural death. The body of the victim was missing. It is stated by the witnesses that accused Balmiki Rai, Dinesh Rai and Ram Bhushan Rai concealed the dead-body of the deceased to cause any evidence of the commission of the offence of murder to disappear with the intention of screening the offender from legal punishment in the absence of any such evidence. The learned Trial Judge held the appellants guilty on the strength of special knowledge of the accused persons under Section 106 of the Indian Evidence Act. It is needless to say that Section 106 comes into play only when any fact is especially within the knowledge of any person. It has not been proved as to whether the daughter of the informant was murdered or she committed suicide at her matrimonial home or she disappeared. Only because she was not found, the Court cannot presume by placing burden upon the husband, father-in-law and a co-villager that the deceased was murdered and her dead-body was concealed to cause disappearance of evidence.

9. The learned Trial Judge placed reliance on the judgement passed by the Hon'ble Supreme Court in the case of State of Punjab v. Karnail Singh, reported in (2003) 11 SCC 271. It is held in the said judgement that if an offence takes

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place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it would be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence is insisted upon by the Court. A Judge does not preside over a criminal trial merely to see that no innocent man is punished. He also presides to see that a guilty man does not escape. Both are public duties."

10. Even if an offence is committed within the four corners of a house and such offence is an offence of murder, the neighbouring people must have the opportunity to know about the incident. The Investigating Officer did not think it necessary to even examine any neighbouring people to ascertain the factual circumstances that allegedly took place in the night of 8th of December, 2011.

11. It is the case of the prosecution that the daughter of P.W. 2 was physically and mentally tortured as she failed to give birth to a child. Such incident of torture went on for a long period of five years. During this period, neither the victim nor his father or other family members took any legal step against her husband and other matrimonial relations but

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remain silent till her disappearance. It is also the case of the prosecution that the informant and the relatives of the victim came to know that the body of the victim was taken to some unknown place by the accused persons. None of the said villagers come to depose in support of the prosecution case.

12. Thus, there is absolutely no evidence against the accused persons and they were wrongly convicted and sentenced by the Trial Court.

13. Thus, the judgement of conviction and order of sentence, passed by the learned Additional Sessions Judge-VII Court, Bhojpur at Arrah, in Sessions Trial No. 264 of 2013, arising out of Sahar P.S. Case No. 102 of 2011, is set aside.

14. The instant appeal is allowed on contest.

15. However, there shall be no order as to costs.

16. The appellant, namely, Balmiki Rai, in Criminal Appeal (DB) No. 949 of 2019, be released forthwith, if not required in any other case.

17. The appellants, namely, Ram Bhusuan Ray @ Ram Bhushan Rai, in Criminal Appeal (DB) No. 597 of 2019 and Dinesh Rai, in Criminal Appeal (DB) No. 806 of 2019, are acquitted of all the charges levelled against them. Since they are on bail, they are discharged from their bail bonds.

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The sureties are also discharged from their liabilities under the bail bonds.

(Bibek Chaudhuri, J)

Rana Vikram Singh, J.: I agree.

(Rana Vikram Singh, J)

skm/-

AFR/NAFR	NAFR
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