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Vishwa Ranjan Kumar Vs The State of Bihar and Others

SLA No. 43 of 2007

Court: Patna High Court

Date of Decision: July 23, 2008

Citation: (2009) 1 PLJR 100

Hon'ble Judges: S.P. Singh, J

Bench: Single Bench

Advocate: Indu Shekhar Prasad Sinha and Shashi Nath Jha, for the Appellant; Ganesh Prasad

Singh and Hari Kishore Thakur for Opp. Party No. 2, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.P. Singh, J.

Heard learned counsel for the petitioner and learned counsel for the State. The instant appeal has been filed against the

order of acquittal dated 17.4.2007 passed by Sub-Divisional Judicial Magistrate, Muzaffarpur (East), in Complaint Case No. 1273 of 2001/Trial

No. 243 of 2007 against the opposite parties, who are father-in-law and brother-in-law of the complainant's daughter namely Smt. Vijayshree.

However, the trial court has convicted the husband and mother-in-law of the complainant"s daughter.

2. Learned counsel for the applicant submits that the trial court has committed error in holding that the witnesses have not made any allegation

against the father-in-law and brother-in-law of Smt. Vijayshree. Learned counsel by referring to the decision of the Apex Court in the case of

Suchand Pal vs. Phani Pal and Another reported in AIR 2003 SCW 6573 and in the case of Bihari Nath Goswami vs. Shiv Kumar Singh & Ors.

reported in 2004(3) PLJR (SC)202 submits that this Court can interfere in judgment of acquittal where relevant material in the evidence has been

ignored. Learned counsel appearing for respondent Nos. 2 & 3 submits that it could appear from the complaint petition that the main allegation is

against both the husband and the mother-in-law who are convicted. He submits that evidence against the brother-in-law was weak and most of the

time he used to stay away from the place of occurrence. He submits that the father-in-law is a Headmaster of a school and there was no evidence

of his involvement in the commission of the offence. He submits that it would appear from the evidence that there are omnibus allegations against

the opposite party Nos. 2 & 3. He also submits that courts have observed in many matrimonial cases, that there is a growing tendency of

implicating other family members in the case.

3. In any view of the matter, I cannot fully agree with the trial court that there is no material against the opposite parties but on perusal of the

material on record this Court finds that allegation against them are vague and has not been proved with the same degree of certainty as that of the

husband and mother-in-law who have been convicted. As such, this Court finds no cogent material to interfere with the judgment of acquittal of the

trial court. Accordingly, the special leave to appeal is dismissed.