

(2008) 07 PAT CK 0190**Patna High Court****Case No:** SLA No. 43 of 2007

Vishwa Ranjan Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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.