

(2012) 09 PAT CK 0089

Patna High Court

Case No: Criminal Revision No. 1305 of 2008

Arun Kumar Jha

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

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**Date of Decision:** Sept. 10, 2012**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 302, 34

**Citation:** (2013) 2 PLJR 313**Hon'ble Judges:** Birendra Pd. Verma, J**Bench:** Single Bench

**Advocate:** Ravi Kumar, Priya Choubey, Rajiv Ranjan Singh and Alok, for the Appellant; Jitendra Narain Sinha, Krishan Nandan Kumar for the O.P. No. 2 and Mr. Uma Nath Mishra for the State of Bihar, for the Respondent

**Final Decision:** Dismissed

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### Judgement

@JUDGMENTTAG-ORDER

Birendra Pd. Verma, J.

After having heard the learned counsel for the petitioner, learned Additional Public Prosecutor appearing on behalf of the State and the learned counsel appearing on behalf of the opposite party no. 2, this Court does not find any good and cogent reason to interfere with the impugned judgment dated 30th July, 2008 passed in Sessions Trial No. 21 of 1998 by the learned Additional District & Sessions Judge, Fast Track Court No. IV, Samastipur, acquitting the opposite party no. 2 for the charges u/s 302/ 34 of the Indian Penal Code. It is relevant to mention here that originally two persons, namely, opposite party no. 2 and one Niranjana Jha were put on trial, but in course of the trial the aforesaid Niranjana Jha passed away and, therefore, the criminal trial against him was dropped by order dated 27.7.2006.

2. Learned counsel for the petitioner has strenuously argued the matter at great length and has submitted that though I.O., who conducted the investigation and

submitted charge-sheet, and the doctor, who conducted post-mortem examination on the dead body of the deceased, have not been examined, but eight prosecution witnesses were examined who have supported the prosecution case. According to learned counsel, even if the I.O. and the doctor have not been examined on behalf of the prosecution, yet on the basis of the materials/evidence produced by the prosecution, the opposite party no. 2 should have been held guilty and should have been convicted for the charges framed against him.

3. It is true that family members of the deceased has come forward to support the prosecution case, but in absence of the examination of the I.O. and the doctor, the place of occurrence as also the manner of occurrence have not been proved beyond all reasonable shadow of doubts. Therefore, the learned trial court has rightly given the benefit of doubts to the accused-opposite party no. 2 and acquitted him for the charges.

4. In the given facts of this case, this Court is not inclined to exercise its revisional jurisdiction for setting aside and reversing the impugned judgment of acquittal. Consequently, the application has to fail and is, accordingly dismissed.