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**(2019) 08 PAT CK 0095**

**In the Patna High Court**

**Case No : Criminal Appeal (Db) No. 512 Of 2019**

Deepak Chaubey @ Deepak Kumar Chaubey

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

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**Date of Decision : 05-08-2019**

**Acts Referred:**

Indian Penal Code, 1860 — Section 34, 302  
Arms Act, 1959 — Section 27

**Citation : (2019) 4 PLJR 216**

**Hon'ble Judges :** Hemant Kumar Srivastava, J;Prabhat Kumar Singh, J

**Bench :** Division Bench

**Advocate :** Ashok Kumar Garg, Abhimanyu Sharma

**Final Decision :** Dismissed

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## **Judgement**

1. Heard learned counsel appearing for appellant as well as learned Additional Public Prosecutor for State on the point of admission. In our view, this criminal appeal can be disposed of on admission stage itself.

2. The appellant has challenged the order dated 13.03.2019 passed by Fast Track Court No. 1, Kaimur at Bhabua in Sessions Trial No. 33 of 2012 by

which and whereunder learned Presiding Officer Fast Track Court acquitted the respondent nos. 2, 3 and 4 from the charge framed against them for

the offences punishable under Section 302/34 of the Indian Penal Code and section 27 of the Arms Act.

3. Learned counsel appearing on behalf of appellant submits that in course of trial, appellant as well as some prosecution witnesses claimed

themselves to be eye-witness of the alleged occurrence, and, they specifically stated that it were respondent nos. 2, 3 and 4 who committed the

murder of the deceased.

Learned counsel of the appellant further submitted that no doubt, Durgawati P.S. Case No. 62 of 2011 was registered against unknown, but as a

matter of fact, the police took thumb impression and signature of appellant as well as witness on plain paper and subsequently, prepared written report

on its own level, and, when the aforesaid fact came to the notice of appellant, he immediately filed petition before the Superintendent of Police,

Kaimur at Bhabua. He, next, submitted that there was sufficient material to prove the guilt of respondent nos. 2, 3 and 4, but the learned trial court

without taking note of the materials available on record, passed the judgment of acquittal.

4. On the other hand, learned Additional Public Prosecutor supported the impugned judgment of acquittal submitting that the learned trial court has

passed a well discussed judgment and before acquitting the respondent nos. 2, 3 and 4, the learned trial court has taken note of all the evidences

available on record.

5. Having heard the contentions of both the parties, we went through the impugned judgment. The perusal of impugned judgment goes to show that

initially Durgawati P.S. Case No. 62 of 2011 was registered against unknown person in respect of murder of deceased Anmol Chaubey. The above

stated Durgawati P.S. Case No. 62 of 2011 was registered on the basis of written report of appellant. Subsequently, in course of investigation, the

appellant as well as some prosecution witnesses claimed themselves to be eye-witness and they repeated their statements in course of trial. However,

the learned trial court noticed that the prosecution witnesses made contradictory statements, not only on the point of manner of occurrence, but also on

the point of place of occurrence, as some prosecution witnesses claimed that deceased was killed at his door whereas, some prosecution witnesses

claimed that deceased was killed when he had gone to perform Tilak ceremony. Moreover, the learned trial court also noted that the prosecution

improved its case during course of investigation as well as during trial. Furthermore, the learned trial court also noticed that one of the important

witnesses, Investigating Officer was not examined by the prosecution and non-examination of the aforesaid Investigating Officer caused serious

prejudice to investigation. We do not find any perversity or absurdity in the impugned judgment, therefore, in our view, this appeal is liable to be

dismissed on admission stage itself.

6. Accordingly, this criminal appeal stands dismissed on admission stage itself.