

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.11 of 2015

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1. Meera Devi @ Mira Devi @ Mira Pandey Wife of Yagyanath Pandey @ Yoginath Pandey, resident of Gandhi Chowk, P.S.- Kishanganj in the district of Kishanganj

.... Appellant/s

Versus

1. The State of Bihar
2. Anima Rani Singh, wife of Late Rai Bahadur Singh
3. Somendra Bahadur Singh @ Somendra Bhadur Singh @ Bachchu, Son of Late Rai Bahadur Singh
4. Shobha Pal, wife of Bhajan Chandra Pal,
5. Bhajan Chandra Pal, Son of Late Gaur Mohan Pal, All are resident of Gandhi Chowk, P.S.- Kishanganj in the district of Kishanganj

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kumar

For the Respondent/s : Mr. Binod Bihari Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

6 25-08-2015

The present application under sections 378(4) of the Code of Criminal Procedure has been filed by the petitioner seeking leave to appeal against the judgment dated 03.03.2015 passed by the learned Judicial Magistrate, Ist Class, Kishanganj in Complaint Case No. 04C of 2009 corresponding to Tr. No. 908 of 2015 by which he has acquitted the O.P. no.2 to 5 of the charges under section 323, 379, 354, 384 and 452 of the Indian Penal Code.

2. The complainant Meera Devi has alleged in her complaint that on 21.12.2008 at 6 P.M. accused persons



entered into her house and assaulted her. According to her accused Bhajanchandra Pal snatched her gold chain and accused Manik Bahadur took her signature on a plain paper. She has further alleged that accused Anima and Shobha took away Rs. 10,000/- in cash and accused Shobhendra Bahadur Singh outraged her modesty by removing her clothes at the time of occurrence. The motive behind the occurrence is said to be a dispute over a piece of land which was gifted to the complainant by her father-in-law before his death in 2006. The accused persons wanted to grab the same and for that reason they humiliated and harassed the informant on the date of occurrence.

3. After examining the complainant on oath certain witnesses were examined in course of enquiry under section 202 of the Criminal Procedure Code and thereafter the accused were summoned to face the trial. Charges were framed by the learned Magistrate under sections 323, 379, 354, 384 and 452 of the Indian Penal Code to which the accused persons pleaded not guilty and claimed to be tried. Accordingly the trial commenced.

4. In course of trial four witnesses including the complainant were examined in order to prove the charges. The learned Magistrate has appreciated the evidence on record

and held vide impugned judgment dated 03.03.2015 that the complainant has failed to prove the charges beyond all reasonable doubt and therefore, the accused persons were acquitted by the trial court.

5. Learned counsel for the petitioner has submitted that the trial court has not appreciated the evidence on record in corrective perspective. According to him all the witnesses examined during trial had supported the prosecution case and in that view of the matter the trial court ought to have convicted opposite party nos. 2 to 5.

6. I have heard learned counsel for the petitioner and carefully perused the record.

7. From a bare perusal of the complaint it would appear that for an occurrence which took place on 21.12.2008, the complaint was filed on 02.01.2009. There is no explanation for the delay caused in filing the complaint. The complainant has not stated that he even approached the police for institution of the first information report under section 154 of the Code of Criminal Procedure.

8. Further, the witnesses who have been examined during the trial are all closely related to the complainant. C.W.1 is the sister of the complainant, the complainant herself has



been examined as m C.W.2 and C.W.3 is the husband of the complainant. Though it is claimed that the complainant witness no.4 is an independent witness, the trial court has found that he is not a witness of the locality where the occurrence took place and there is no explanation given by him that what was he doing at the place of occurrence when the alleged occurrence took place.

9. So far as complainant witness no.1 is concerned, he has admitted in cross-examination that he is not a witness to the occurrence and he deposed whatever he has heard from the complainant. Though C.W.2 and C.W.3 have admitted in cross examination that the place of occurrence is densely populated and there exist many shops, no independent person of the locality or the shop keeper of the market complex came before the court to support the case of the complainant.

10. As a matter of fact, it would appear from the documents filed by the complainant that the Title Suit No. 2 of 2009 was decided in favour of the accused in respect of the land in question. So far as the allegation of outraging modesty of the complainant is concerned, the complainant has not supported the allegation during the trial. There is no evidence to the effect that any hurt was caused to the complainant. When the complainant was examined in court she has stated that the complaint was filed

after 2-4 days of the occurrence whereas the fact of the matter is that the complaint was filed after ten days of the occurrence.

11. Taking all these discrepancies in evidence of the witnesses examined in support of charge the trial court has recorded the judgment of acquittal.

12. In my opinion, the trial court has rightly appreciated the evidence on record and recorded the judgment of acquittal. There is no merit in the application filed on behalf of the petitioner seeking leave to appeal against the judgment of the trial court. In that view of the matter, the application is dismissed.

(Ashwani Kumar Singh, J)

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