

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No. 180 of 2015

Arising out of P. S. Case No.-30 Year - 2010 Thana - BARAULI District - GOPALGANJ

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1. Neelu Devi, W/o Suresh Prasad, Resident of village - Bharkuiya Mathia,
P.S. - Barauli, District - Gopalganj

.... Appellant

Versus

1. The State of Bihar.
2. Kanhaiya Prasad, Son of Kamal Prasad @ Kamal Mahto, Resident of
village - Bharkuiya, P.S. – Barauli, District - Gopalganj

.... Respondents

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Appearance :

For the Appellant :

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL ORDER

2 01-05-2015

Heard.

2. This appeal is directed against the judgment dated 12.09.2014 passed by the Additional District and Sessions Judge-IV, Gopalganj in Sessions Trial No. 417/10/145/14 by which the learned Court below acquitted respondent no. 2 of the charge leveled against him in connection with Barauli P.S. Case No. 30 of 2010.

3. The allegation is that the daughter of the informant was enticed away by Ritesh Das and Kanhaiya Prasad. The occurrence took place on 07.02.2010 but the complaint was filed on 10.02.2010 which was sent for lodging the First Information Report and thereafter police after investigation submitted charge-sheet, case was committed to the Court of Sessions and thereafter



the charges were framed and eight witnesses were examined on behalf of the prosecution. The trial Court considering the evidence of the witnesses, passed the order of acquittal taking into consideration that the victim has attained the age of majority and had love affairs with the appellant and she earlier had also went with the appellant and married with him and went to Punjab and did not resist so was a consenting party.

4. Learned counsel for the appellant, however, contended that the victim in her statement has not stated about the love affairs and supported the prosecution case that she was taken away and married by force.

5. Taking into consideration the fact on the basis of the evidence of the witnesses that the victim earlier also fled away with Kanhaiya Prasad with whom she is alleged to have married as also the fact that the victim has love affairs with the accused Kanhaiya Prasad and due to the love affairs the victim fled with Kanhaiya Prasad the own villager and she solemnized marriage with him and further the fact that the victim was taken to Thawa temple where marriage was solemnized and she did not resist and thereafter was taken to Punjab and there she lived with the accused for several months and did not make any protest, the trial Court acquitted the appellant.

6. The victim Dibya @ Chunnu Kumari (P.W. 4) has stated her age as 14 years in her statement recorded under Section 164 Cr.P.C. but the Court below has assessed her age as 20 years. The doctor (P.W. 5) has assessed the age of the victim as 17-18 years and in affidavit regarding her marriage at Thawe Mandir victim has stated her age as 20 years and has stated herself to be a major and to take decision at her own will. The doctor Usha Kiran Verma (P.W. 6) assessed the age of victim about more than 19 years. Hence, from the evidence, it is apparent that victim had attained the age of majority.

7. Hence, having regard to the facts and circumstances of the case and taking into consideration the finding recorded by the trial Court, I do not find it a fit case for being interfered with. Criminal Appeal is, accordingly, dismissed.

(Gopal Prasad, J.)

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