

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.21 of 2016

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1. Kanchan Devi wife of Yogendra Yadav R/o Village- Laukahi, P.S.-
Barhara, District- Purnea.

.... Appellant/s

Versus

1. The State of Bihar.
2. Shambhu Yadav son of Mahavir Yadav R/o Village- Laukahi, P.S.-
Barhara, District- Purnea.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. N.K. Agrawal, Sr. Adv.
With Dr. Bidhu Ranjan

For the Respondent/s : Mr. D.K.Sinha(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 06-12-2016 Heard the learned counsel for the parties.

2. This is an application for leave to appeal against the judgment and order of acquittal, dated 28.05.2015 passed in Sessions Trial No. 1317 of 2010 arising out of Complaint Case No. 1370 of 2008, whereby Respondent No.2 stands acquitted of the charge of offence punishable under Section 376 of the Indian Penal Code, preferred by the complainant.

3. From the materials on record, it appears that for an occurrence, which had taken place on 12.04.2008, the petitioner had filed a complaint case making allegation of commission of rape against the Respondent No.2. Allegedly, the Respondent No.2 intercepted her when she had gone to



cut *sunflower* in his *field* (Respondent No.2) and thereafter ravished her.

4. It is the case of the prosecution that though several attempts were taken to lodge an F.I.R. but the police refused to register any F.I.R to this effect. The petitioner was, thereafter, compelled to file the complaint petition on 03.06.2008, since her effort to get the police case registered even by filing a representation before the Superintendent of Police, Purnea, failed.

5. Learned Senior Counsel appearing on behalf of the petitioner has submitted that the prosecutrix had fully supported the case of the prosecution but the learned trial Court took into account certain irrelevant facts and recorded acquittal of the Respondent No.2. According to him, delay in lodging of the complaint case, in the facts and circumstances of the case should not have been the reason for the trial court to disbelieve the case of the prosecution. He has secondly, submitted that learned trial Court wrongly disbelieved the case of the prosecution that attempts were made to get an FIR registered.

6. I have perused the impugned judgment and order. There is no dispute that apart from the evidence of the prosecutrix, there was absolutely no evidence before the trial Court in support of the case of the prosecution. Learned



trial Court took into account that the parties were on litigating terms and in the Month of April case and counter case were filed by both the sides.

7. Medical evidence also did not support the case of the prosecution. After having taken into account such circumstances in the background of inordinate delay in filing of the complaint case, if the learned trial Court has recorded acquittal giving the respondent No.2 benefit of doubt, the finding cannot be said to be perverse. The view taken by the trial Court on the basis of evidence adduced at the trial cannot be said to be not a reasonably possible view requiring this court to interfere, in an appeal against acquittal. No case for grant of leave to appeal is made out.

8. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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