

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (DB) No.31 of 2016

1. The State of Bihar

.... Appellant/s

Versus

1. Md. Papit @ Rizwan, son of Farid Khan.

2. Md. Sahazada, son of Md. Baso.

3. Md. Sonu, son of late Mannan Khan.

All resident of village- Katan, P.S.- Gogari, District- Khagaria.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Dilip Kumar Sinha, APP

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
&
HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

3/ 15-12-2016

This Govt. Appeal under Section 378(1) & (3) of the Code of Criminal Procedure has been preferred by the State of Bihar against the acquittal of the respondents in POCSO case No.01 of 2015 arising out of Gogari P.S. Case No.64 of 2015 by the 1st Additional Sessions Judge, Khagaria, vide judgment dated 19.03.2016.

Heard learned counsel for the State.

We are surprised as to why such frivolous appeal is filed. The trial Court, in our view, has rightly acquitted the accused persons. They were charged under Section 376-G, 302, 120-B/34 of the Indian Penal Code and Section 34 of the POCSO Act.



A young girl of 12 years old was found throttled to death allegedly with signs of rape from a maize field. The maize plants had grown up to the height of 5½ feet. It is alleged by her mother that she had gone to cut grass but having not returned for several hours, she was searched and her body was found. It is alleged that few weeks ago there was some dispute with the accused persons, who had threatened to take revenge.

Upon investigation charge-sheet having been filed, the accused persons were tried. The trial Court has noticed the evidence of the prosecution witnesses. Most of the prosecution witnesses including the informant being mother of the deceased stated that they had heard rumours that the girl was killed by one Jhuma Devi as the deceased girl had seen the Jhuma Devi in compromising position with another person as extra-marital affair. Some of the witnesses have gone to the extent of saying that the girl having been killed by Jhuma Devi at her house, her dead body was thrown in the maize field. The doctor has been examined, who has clearly opined that it was not a case of rape. She had been throttled to death.

What we find surprising is that none of the prosecution witnesses were declared hostile and no steps were taken for prosecuting Jhuma Devi, rather, the accused persons



were charged and had to face the trial.

For the reasons aforesaid, just on mere suspicion and just because some of the prosecution witnesses said that they apprehended that the accused persons might have committed crime, conviction cannot be recorded. The learned trial Court has rightly dismissed the prosecution case and acquitted the accused persons.

We find no reason to interfere with the judgment of acquittal.

The appeal is dismissed.

(Navaniti Prasad Singh, J)

(Sanjay Priya, J)

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