

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.807 of 2016

Arising Out of PS.Case No. -212 Year- 2011 Thana -PANCHRUKHI District- SIWAN

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1. Sandeep Kumar Ojha son of Sudhakar Ojha Resident of Village-
Gamhariya, P.S.- Pachrukhi, District- Siwan.... Appellant

Versus

1. The State of Bihar.

2. Abhishek Kumar Ojha @ Sonu Son of Nagendra Ojha Resident of
Village- Gamhariya, P.S.- Pachrukhi, District- Siwan... Respondent

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Appearance :

For the Appellant/s : Mr. Ajay Kumar, Advocate
Mr. Rajendra Kumar Dubey, Advocate
Mr. Arbind Kumar, Advocate

For the Respondent/s : Mr. Sri Ajay Mishra, APP

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD
SINGH**

and

**HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

2 23-11-2016 Heard learned counsel for the appellant and learned APP
for the State.

This is an appeal against acquittal. The sole respondent in
this appeal was charged for an offence punishable under Sections
366A,/34, 376/34 and 120B of the Indian Penal Code has been
acquitted vide judgment dated 29th June, 2016 passed in Sessions
Trial No. 432 of 2012 by learned 2nd Additional Sessions Judge,
Siwan.

Learned counsel for the appellant submits that the victim
girl had made statement merely stating that she had been
kidnapped and ravished by other including the private respondent.

We have gone through the judgment and seeing the deposition of the prosecutrix, we find that the learned counsel is not correct. So far as the story of kidnapping is concerned, the court has rightly disbelieved because the sequence of event is the girl was sleeping with the parents at night in her house, the allegation that the accused persons came and carried her out has not been believed and cannot be believed when she was sleeping with her parents. So far as the rape is concerned, she, in her examination-in-chief, does not name the private respondent. In the cross-examination, there is nothing against the private respondent. She is then, recalled for re-examination-in-chief (probably in terms of Section 138 of Evidence Act). Here, she named the private respondent but in the same breath states that he had not ravished her. Therefore, when the girl herself says that she was not ravished by the sole private respondent, we see no reason to entertain this appeal against acquittal.

This appeal is accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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