

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No 1018 of 2016

Arising Out of PS.Case No. -47 Year- 2013 Thana -SANHOLA District- BHAGALPUR

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Anisa Khatoon wife of Late Kamruddin Quazi Resident of Village- Kamalpur,
Police Station- Sanhaura, District- Bhagalpur.

.... Appellant/s

Versus

1. The State of Bihar
2. Md. Haleem Quazi @ Md Haleem , son of Ameer Quazi
3. Md Jameel Quazi @ Jameel Quazi Son of Ameer Quazi
4. Abul Quazi Son of Late Zameruddin Quazi All serial Nos. 2 to 4 are residents of Village- Kamalpur, Police Station- Sanhaura, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Satish Chandra Mishra & Md Nurul Hoda, Advs
For the Respondent/s : Ms Shashi Bala Verma, APP

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE MR JUSTICE SANJAY PRIYA

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 13-12-2016

Heard learned counsel for the appellant.

2 This is an appeal against acquittal under Section 372 of the Code of Criminal Procedure by the mother of the victim girl. The private respondents were alleged to have ravished PW 1, the daughter of the informant. Upon charge sheet being submitted, the case was committed to the Court of Session for trial. Two of the private respondents are brother and the other is a close relative. They pleaded not guilty. In course of trial, four prosecution witnesses were



examined. PW 1 is the victim girl who is minor. She stated that in the night when she was sleeping with her mother and brother, the three accused persons forcibly entered the house, one laid the pistol on the younger brother whereas Jamil Miyan dragged her to the courtyard and raped her. Upon protest and shouts when the neighbours came, the accused persons escaped. She named the neighbours but admits that the neighbours do not disclose that they have ever been informed of the incident. She admits that the three accused persons are close agnates and there is family dispute between the parties. She admits that she was sent for medical examination in the morning itself.

3 PW 2 is the informant, mother of the victim girl and the appellant. She also similarly deposes but admits that the accused persons are close agnates with whom there are several litigations in Court to share in property. She also admits that upon shouts and protests, neighbours had assembled seeing whom the accused persons escaped. She had accompanied the victim to the Hospital next morning for medical examination after the case was instituted.

4 PW 3 is the lady doctor of the Bhagalpur Medical College & Hospital who examined the victim girl. In her statement, she stated that in fact the victim girl had been brought for pregnancy test. She was also examined for alleged rape. She found no sign of



rape, no injury anywhere on the body of the girl who was found to be minor. Upon pathological examination of the swab, there were no spermatozoa found.

5 PW 4 is Station House Officer, not the Investigating Officer who has been examined. He admits that, simultaneously to the present case, another case was instituted by one of the accused persons Jamil Quazi as against the son of the informant being the brother of the victim girl alleging that on the same night, he had come and committed rape on his wife. That case was also investigated and charge sheet was submitted and is pending trial. He also admits that there are other criminal cases as between the parties for disputes relating to property. The learned trial Court, upon discussing the evidences, held that the allegations do not inspire confidence. We see no reason to disagree.

6 Both the prosecution witnesses (PWs 1 and 2) admit that upon shouts, protests, neighbours turned up on seeing whom, the accused persons escaped. No neighbour is at all examined rather it appears that in course of investigation, neighbours have denied having knowledge of such an incident. The son, who was also present and who was restrained by threat of pistol, has not been examined. The doctor clearly opined that there was no visible sign of rape or any injury whatsoever on the person of the victim. It is admitted by the



victim and the informant that there are cases and counter cases including a case under Section 376 of Indian Penal Code on the same night against the brother of the victim being son of the informant. These facts clearly show that the parties are close agnates and there is dispute with regard to partition of property. These facts clearly show that there is probability that it is a case of false implication. That being so, the trial Court rightly held that the case was not proved beyond reasonable doubt and as a consequence thereof, the benefit of doubt was rightly given to the accused persons.

7 We, thus, find no merit in this appeal. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Sanjay Priya, J)

M.E.H./-

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