

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.843 of 2016

Arising Out of PS.Case No. -356 Year- 2013 Thana -PIRBAHOR District- PATNA

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Shafquat Jabeen, Daughter of Late Md. Anwarul Haque, Resident of
Village- Baneulia, P.S.- Biharsharif, District- Nalanda, presently Resident
of C/o Aaiyaj Kamar, P.S.- Pirbahore, District- Patna.

.... Appellant

Versus

1. The State of Bihar.
2. Azimushshan Ali, son of Tauhid Akhtate, Resident of village- Bagkalu
Khan, P.S.- Khajekala, P.S.- Patna.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Kumar Rajeev, Advocate
Mr. Pranay Kumar Singh, Advocate

For the Respondent/s : Mr. Shivesh Chandra Mishra, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**

and

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP
SINGH)**

3 30-08-2016 The instant appeal is directed against the judgment of

acquittal, dated 24.06.2016, passed by 7th Additional Sessions
Judge, Patna in Sessions Trial No. 681 of 2014, arising out of
Pirbahore P.S. Case No. 356 of 2013, by which he has acquitted
respondent No.2, Azimushshan Ali, of the charge under Sections
376/511 of the Indian Penal Code.

The informant stated that after completing her MBA,
she was working as M.R. in Manisha Health Care, Kankarbagh,
Patna and was living with her sister Hunlaka Khatoon at Ramna
Road, Patna in the house of Ayaiz Kamar. In course of job, she



developed friendship with respondent no.2, who subsequently promised to marry her. In course of friendship, respondent no.2 tried to develop physical relationship, but she resisted stating that she would consent to the same only after marriage. On 22.08.2013, at about 11.00 P.M., when her sister went to her maternal house, the respondent no.2 taking advantage of her absence tried to establish physical relationship with her forcibly with the help of sharp cutting weapon. He also tried to press her neck and struck her, causing injury on her fingers. In course of assault, respondent no.2 also sustained injury on his penis.

On the basis of the fardbeyann of the appellant, Pirbahore P.S. Case No. 356 of 2013 was instituted under Sections 376, 511 and 420 of the Indian Penal Code.

Learned counsel submits that the informant-appellant has supported the prosecution case in her evidence, but the trial court illegally acquitted respondent no.2 of the charge under Sections 376/511 of the Indian Penal Code.

We have heard learned counsel for the parties and also perused the materials on record. It would appear from the evidence adduced that the informant-appellant called respondent no.2, as many as 28 times on his mobile, on the date of occurrence, as her sister, who used to stay in a rented premises,

had gone out. It would further appear that the informant-appellant in course of evidence stated that she was raped by respondent no.2 earlier also, but the aforesaid fact is not mentioned in the fardbeyan lodged by her. It would also appear that none of the persons, who lived in the building of the hostel, has come out to support the prosecution case. Thus, we do not find any reason to interfere with the order of the learned trial court acquitting the respondent no.2 of charge under Sections 376/511 of the Indian Penal Code.

The instant appeal stands dismissed.

(Samarendra Pratap Singh, J.)

(Rajendra Kumar Mishra, J.)

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