

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 970 of 2017

Arising Out of PS. Case No.-1182 Year-2004 Thana- West Champaran Complaint District-
West Champaran

=====

Samiun Nisha, wife of Mojibur Rahman, Resident of village - Bhogari,
Police Station - Majhauria, District - West Champaran at Bettiah.

... .. Appellant

Versus

1. The State of Bihar
2. Noor Hoda @ Nurul Hoda, Son of Late Abdur Rahman, Resident of
village - Gurchurwa, Police Station - Majhauria, District - West Champaran
at Bettiah.

... .. Respondents

=====

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur
		Mr. Md.Imteyaz Ahmad
For the Respondent/s	:	Mr. Dilip Kumar Sinha

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

4. 04-10-2017 Heard Sri Ajay Thakur, learned counsel assisted by

Mr. Md. Imteyaz Ahmad, learned counsel for the appellant and

Sri Dilip Kumar Sinha, learned Addl. Public Prosecutor.

2. The present appeal has been preferred against
judgment of acquittal dated 30-05-2017 passed by Sri Om
Prakash, learned Additional Sessions Judge, Fast Track Court -
II, Bettiah (hereinafter referred to as the 'Trial Judge') in
Sessions Trial No. 93 of 2009, arising out of Complaint Case
No. 1182C of 2004. By the said judgment, learned Trial Judge
has acquitted respondent no. 2 from the charge under Section



376 of the Indian Penal Code.

3. Short fact of the case is that initially, on the basis of *fardbeyan* of the appellant, an F.I.R., vide Majhauria P.S. Case No. 284 of 2003, was lodged for offence under Section 376 of the Indian Penal Code, in which, it was alleged that while she was going with younger brother of her husband, she was intercepted by the respondent no. 2 and other two accused persons and forcibly, he committed rape. Besides alleging that she was raped by respondent no. 2, she had alleged that she was also raped by other two accused persons.

4. After investigation, police found the case as false and submitted final report. In the meanwhile, a protest petition was filed, which was treated as complaint case and thereafter, it was numbered as Complaint Case No. 1182C of 2004.

5. On going through the impugned judgment, it is evident that learned Trial Judge had noticed that the appellant/complainant was second wife of one Mojibur Rahman, with whom earlier daughter of respondent no. 2 was married and thereafter, Mojibur Rahman solemnised marriage with the appellant Samiun Nisha. After examining the evidence, it was noticed by the learned Trial Judge that the present proceeding was falsely initiated against respondent no. 2 and



after discussing entire evidence, the learned Trial Judge has passed the impugned judgment.

6. Though, learned counsel for the appellant tried to persuade the Court that judgment impugned is liable to be interfered with, however; on examination of the impugned judgment and materials available on record, we do not find any apparent perversity in the judgment requiring interference.

7. Accordingly, there is no ground for entertaining the leave petition i.e. I.A. No. 1736 of 2017, which has been filed under Section 378(3) of the Code of Criminal Procedure, 1973, and it stands dismissed. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

anay

U		T	
---	--	---	--

