

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.64 of 2017

Arising Out of Complaint Case No.-2226 Year-2006 District- Muzaffarpur

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Sajda Mahjabi D/o Md. Asir, R/o Vill.- Benibad, P.S.- Gayghat, District-
Muzaffarpur. Appellant/s

Versus

1. The State of Bihar.
 2. Fajle Kibriya @ Md. Munna @ Munna, S/o Shabbir Ahamad @ Md. Gulab,
R/o Village- Benibad, P.S.- Gayghat, District- Muzaffarpur.
... .. Respondent/s
- =====

Appearance :

For the Appellant/s : Mr. Sanjay Kumar @ S.K.
For the Respondent/s : Mr. Binod Bihari Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 20-11-2018 The petitioner (proposed appellant) seeks grant of

leave for preferring an appeal against the judgement and

order of acquittal dated 14th of September, 2017 passed by

the 1st Additional Sessions Judge, Muzaffarpur in Complaint

Case No. 2226 of 2006.

The petitioner (complainant) has alleged that on

06.02.2006 while she was at her school, one of the accused

persons, whose prosecution was later dropped, took her out

of the school by telling that her father has fallen down from

a tree and is seriously ill. While she was coming along with

the aforesaid accused person and reached near a maize field,

many of the accused persons came out and with their

support, the opposite party (accused) committed rape on



her. Later, she was promised that opposite party would marry her. As the allegations in the complaint petition stand, because of the assurance of marriage, the petitioner did not complain about the incidence to anybody including her parents. Later, she found out that she had become pregnant. It was only on that stage that she communicated about the incidence to others. A panchayati was also alleged to have held where despite the opposite party having admitted that he had fathered the child, failed to keep his promise to marry the petitioner. Hence the complaint petition.

Eight witnesses have been examined on behalf of the prosecution including the petitioner. Except for the petitioner, none-else was an eye-witness to the occurrence. However the aforesaid witnesses have, all in unison, have stated that when marriage could not be performed between the petitioner and the opposite party, the case was lodged.

From the narration of events by the complainant as also the deposition of witnesses, it appeared to the trial court that the purpose of preferring the complaint was different and not for redressing her grievance that she was physically



and sexually tormented.

Even during the course of argument, a statement was made on behalf of the petitioner that the matter has been settled and the aforesaid statement was affirmed by the complainant (petitioner), who was present in the court room.

Considering the aforesaid facts, the trial court acquitted the opposite party. While doing so, the trial court also took note of the fact that the prosecution of the other accused persons, who were also arraigned in complaint, has been dropped midway.

No good ground has been made out by the learned counsel for the petitioner for differing with the finding of the learned trial court.

The view taken by the trial court does not appear to be perverse or without any logic.

Leave declined. The petition is dismissed.

(Ashutosh Kumar, J)

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