

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.42 of 2017

Arising Out of PS. Case No.-217 Year-2005 Thana- BEGUSARAI
COMPLAINT CASE District- Begusarai

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Afrozi Khatoon, Daughter of Md. Farukh Khan, resident of Village-
Azani, P.S.- Khodawandpur, District- Begusarai.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Tamanna Khan
3. Munna Khan
4. Mobin Khan
5. Kale Khan All Sons of Qyum Khan Resident of village-Azani, P.S-
Khodawandpur, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Yogesh Kumar, Adv

For the Respondent/s : Mr. Sri Shyed Ashfaque Ahmad

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

8 20-11-2018 The present appeal has been filed by the appellant seeking leave to prefer an appeal against the judgment and order of acquittal dated 04.05.2017 passed by the learned Additional District & Sessions Judge, VI, Begusarai in Sessions Trial No. 527 of 2006.

A complaint case was instituted by the appellant against the opposite parties with respect to offences under Sections 376, 511, 149 and 380 of the Indian Penal Code in which cognizance was taken.

During trial, four witnesses were examined and the



deposition of all the four witnesses with respect to each and every aspect of the prosecution version differed in material particulars. The Trial Court has given the details of the statements made by the witnesses.

The father of the appellant has stated that after about fifteen days of the occurrence, he along with his daughter (P.W. 4) had gone to the Police Station for lodging the case but the Officer-in-charge has asked them to come back after the counting of the elections were over. Surprisingly, the victim i.e. P.W. 4 has stated that a day after the occurrence, she had gone to the Police Station to register a case which was not registered.

Similarly, with respect to the act of the accused persons of sexually assaulting the appellant is concerned, the evidence of the witnesses is highly discrepant. The victim/appellant has categorically alleged in the complaint petition that she was sitting alone in her house when the accused persons (opposite parties) had arrived. However, her father has stated that the occurrence took place in full view of many persons, some of whom even could not have



been named by the P.W. 4.

The Court below while recording the judgment of acquittal has also taken into account the fact that there had been a past enmity between the parties. The cause of the present occurrence is stated to be a dispute having arisen because of the goat of the opposite parties straying into the house of the appellant. Earlier cases lodged by the father of the appellant against the opposite parties have ended in submission of final report false.

Considering the totality of the circumstances, the Trial Court was of the view that the case could not be established beyond reasonable doubts.

No good ground has been made out by the learned counsel for the appellant to grant leave for preferring an appeal against the judgment and order of acquittal.

Leave declined.

The petition is dismissed.

(Ashutosh Kumar, J)

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