

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.170 of 2019

Arising Out of PS. Case No.-79 Year-2009 Thana- BIHRA District- Saharsa

Nutan Devi, female, aged about 46 years, W/o Late Jay Narayan Chaudhary
Resident of village-Lalganj, P.S-Bihra, District-Saharsa.

... .. Appellant

Versus

1. The State of Bihar
2. Shiv Narayan Chaudhary S/o Ram Kumar Chaudhary Resident of village-Lalganj,P.S-Bihra, District-Saharsa

... .. Respondents

Appearance :

For the Appellant/s : Mr. Ashwani Kumar Tiwary, Adv.
For the Respondent/s : Mr. Satya Narayan Prasad

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 24-04-2019

1. Heard learned counsel appearing for the appellant as well as learned Additional Public Prosecutor for the State on the point of admission and in our view, this criminal appeal can be disposed of on admission stage itself.

2. This criminal appeal has been preferred against the impugned judgment of acquittal dated 06.12.2018 passed by learned Presiding Officer, F.T.C., Saharsa in Sessions Trial No. 97 of 2011/ 1616 of 2014 arising out of Bihra P.S. Case No. 79 of 2009 by which and whereunder he acquitted the respondent no. 2



from the charge framed against him for the offence punishable under Section 376 of the I.P.C.

3. The perusal of impugned judgment goes to show that the learned trial court based his finding of acquittal mainly on the ground of delay in lodging the case as well as taking note of previous litigation between the parties.

4. Learned counsel appearing for the appellant submits that the learned trial court failed to take note of this fact that the victim (informant) as well as other witnesses supported the factum of rape and specifically stated that the victim (informant) tried to settle the matter by lodging complain before the *Panches* but when she did not get justice from the *Panches*, she filed complaint case which was converted into police case.

5. On the other hand, learned Additional Public Prosecutor supported the impugned judgment submitting that the learned trial court has given sound reasoning for acquittal of respondent no. 2.

6. Having heard the contentions of the parties, we went through the record. It is admitted case of the prosecution that the appellant (informant) filed complaint case bearing Complaint Case No. 863 C of 2009 after thirteen days of the alleged occurrence and the aforesaid complaint case was converted into police case.



Furthermore, perusal of impugned judgment goes to show that the learned trial court has taken note of the aforesaid delay and gave sound reasoning for disbelieving the prosecution case. No doubt, it is settled principle of law that judgment of conviction in rape case can be passed only on the solitary statement of victim, if the statement of victim inspires confidence to the court. However, in the present case, the learned trial court noticed that there was previous litigation between the parties and both sides had lodged cases against each others. Furthermore, the learned trial court noticed that just after the occurrence, victim did not take any step to inform the police nor she took any step to get her medically examined. In our view, the learned trial court has passed well discussed judgment and there is no need to interfere into the impugned judgment.

7. Accordingly, this criminal appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

shahzad/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	25.04.2019
Transmission Date	25.04.2019

