

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.29 of 2019

Arising Out of PS. Case No.-1206 Year-2013 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

RAJESHWARI DEVI, aged about 56 years, Female, W/o Ram Padarath
Sharma, Resident of Village and P.O-Bara Kharauni, P.S.-Bihiya, District-
Bhojpur ... Appellant

Versus

1. The State of Bihar
2. Sheetal Prasad @ Chhotak Kalwar, aged about 56 years, Male, Son of Late
Shonarayan Prasad, Resident of Village and P.O.-Bara Kharauni, P.S.-
Bihiya, District-Bhojpur ... Respondents

Appearance :

For the Appellant : Mr. Ashok Kumar Singh, Adv.
For the Respondents : Mr. Abhay Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

- 3 29-08-2019 Heard learned counsel for the petitioner and the
learned counsel for the respondents.

This application, under Section 378(4) of the Criminal Procedure Code, has been filed on behalf of the petitioner seeking leave to appeal against the judgment, dated 29th January, 2019, passed in Sessions Case No. 196 of 2015 (arising out of Complaint Case No. 1206C of 2013/Bihiya P.S. Case No. 40 of 2013) whereby and whereunder learned Presiding Officer, Fast Track Court, I, Bhojpur at Ara, acquitted the respondent no. 2, Sheetal Prasad @ Chhotak Kalwar, against all the charges under Sections 376/511 and 456 of the Indian Penal Code.

It appears that initially appellant filed the Complaint



Case No. 1206/C of 2013 against respondent no. 2, Sheetal Prasad @ Chhotak Kalwar, in the Court of the Chief Judicial Magistrate, Bhojpur at Ara, which was sent under Section 156(3) of the Criminal Procedure Code at Bihiya Police Station for investigation. Accordingly, Bihiya P.S. Case No. 40 of 2013 was instituted on 05.03.2013 for offences under Sections 456 and 376/511 of the Indian Penal Code against respondent no. 2. On investigation the police submitted the final form, finding the case false. Thereafter, protest petition filed by the appellant, was treated as Complaint Case No. 1206C of 2013 in which appellant alleged that on 02.02.2013 after taking the dinner she slept in her room. At about 11.30 p.m., respondent no. 2 laid on her, then, she woke up, in the meantime, respondent no. 2 unfolded her saree and tried to commit rape, but, on raising alarm her daughter woke up and tried to caught hold to respondent no. 2, but, he succeeded to flee away. After enquiry under Section 202 of the Criminal Procedure Code, the case was committed to the Court of Sessions where five witnesses, including the complainant, Rajeshwari Devi, as P.W. 5, were examined. The learned Presiding Officer, Fast Track Court, I, Bhojpur at Ara, has discussed the evidence in detail in judgment, dated 29.01.2019, and arrived at the conclusion that



prosecution has not been able to prove the charges of offence under Sections 376/511 and 456 of the Indian Penal Code and, accordingly, acquitted respondent no. 2 of the charges.

I find no reason to entertain this application seeking leave to appeal.

Accordingly, this application stands **dismissed**.

(Rajendra Kumar Mishra, J)

Shamshad/-

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