

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.528 of 2018

Arising Out of PS. Case No.-48 Year-2016 Thana- MAHILA P.S. District- Sheikhpura

Sujit Saw wife of Late Sunil Saw, resident of Village- Chordargah, P.S.-
Ariari, District- Sheikhpura.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur with Ms. Swati Sinha, Advocates
For the State	:	Nilesh Kumar Mr. Abhay Kumar – 1, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 19-07-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. The present application has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 against the judgment and order dated 11.04.2018 passed by the Additional District and Sessions Judge 1st, Sheikhpura in Cr. Appeal No. 01 of 2018 by which the judgment and order of conviction and sentence passed by the Juvenile Justice Board, Sheikhpura against the petitioner has been upheld and the appeal dismissed.

3. The petitioner along with another accused was charged of having committed rape of the daughter of the informant for which Mahila (Sheikhpura) P. S. Case No. 48 of 2016 dated



03.10.2016 was lodged. Upon inquiry, the petitioner was declared as juvenile being aged between 16 to 17 years. Upon enquiry, the Juvenile Justice Board, Sheikhpura convicted the petitioner and another accused under Sections 376/511 of the Indian Penal Code and Section 8 of The Protection of Children from Sexual Offences Act, 2012 and sentenced them to three years in the Special Home and to pay compensation of Rs. 10,000/- to the victim. Challenge to the same in Cr. Appeal No. 01 of 2018 was also rejected.

4. Learned counsel for the petitioner submitted that the FIR has been lodged by the mother of the victim, after three days of the alleged incident, for which, in the FIR there is no explanation why delay had occurred. Learned counsel submitted that the medical report of the so-called victim does not show any sign of rape or sexual assault and no external or internal injury has been found either on her body or on the private parts. Learned counsel submitted that the Deputy Superintendent of Police as well as the Investigating Officer had opined that the case was not true but in the supervision, the case was held to be true and charge sheet submitted. Learned counsel submitted that no independent witness to the incident has been examined and further that if the incident as alleged had taken place in the village, it is unbelievable



that the girl would not raise any alarm so as to call the people for her help.

5. Learned APP, upon going through the case records, submitted that in the deposition, the informant has explained that she has made the complaint to the grand father of the petitioner and as there is no dire consequences and only upon return of the male neighbour, she has lodged the case in the police. However, on a direct query of the Court with regard to the medical examination report and contentions of learned counsel for the petitioner, learned APP was not in a position to controvert the same.

6. Having considered the facts and circumstances of the case and submissions of the learned counsel for the parties, the Court finds that the order of the Court below cannot be sustained.

7. First and foremost, the petitioner has been held to be a juvenile; thus, the law would be lenient in his favour. In the present case, learned counsel for the petitioner has been able to demonstrate to the Court sufficient circumstances that raise doubt with regard to the petitioner committing the crime. Criminal Jurisprudence is clear on the point that for conviction of the accused the guilt has to be proved beyond all reasonable doubts. In the present case, as the Court finds that such onus of the prosecution has not been discharged, coupled with the fact that the



petitioner, on the date of occurrence, was a juvenile, the Court finds that the benefit of doubt was required to be given to him.

8. Accordingly, the application is allowed.

9. The judgment and order dated 22.12.2017 passed by the Juvenile Justice Board, Sheikhpura in G.R/POCSO No.-23/16/T.R. No.-163/17 as well as the order dated 11.04.2018 passed by the Additional District and Sessions Judge 1st, Sheikhpura in Criminal Appeal No. 01 of 2018 stand quashed.

(Ahsanuddin Amanullah, J)

Ranjeet/Rajeev/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	
Transmission Date	

