

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3525 of 2019

Arising Out of PS. Case No.-25 Year-2019 Thana- MAHILA P.S. District- Siwan

SHUBHAM KUMAR, aged about 21 years, Gender Male, son of Ram Chandra Ram, resident of village Bagaura, P.S. Daraunda, District Siwan

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bijay Prakash Singh
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

7 04-12-2019 Heard learned counsel for the appellant as well as learned A.P.P.

Victim (name withheld) filed a written report alleging, inter alia, that she happens to be aged about 19 years and has fallen in love with the appellant for the last four years but after calling her at secluded place, he committed rape. During course of returning, they both were caught hold by Bhagat Yadav, Manoj Yadav and then, they informed their friends, namely, Sachin Yadav, Vakil Yadav, Awadhesh Yadav and younger brother of Shailendra. All of them tied her as well as the appellant and then Bhagat Yadav committed rape on her. They have also prepared Video. They have also threatened that in case of lodging of a case, she alongwith her family will be eliminated.



It has been submitted at the end of the appellant that no offence under the SC/ST as well as I.T.Act is applicable against him as, there happens to be no allegation against him to have snapped the victim and further, he also belongs to the same community. Further more, it has also been submitted that from the written report itself, it is evident that the victim happens to be major and was a consenting party, more particularly when the appellant happens to be son of Phua of Bhaujai of the victim and they were carrying relationship for the last four years. It has also been submitted that the victim during course of her statement under section 164 Cr.P.C. has not pointed out finger against the appellant to have committed any illegal act with her rather, she had spoken that she had gone there to give mobile and during course of returning, she faced horrifying situation. So, considering the statement of the victim under section 164 Cr.P.C. it is a fit case wherein the appellant should be released on bail.

Learned A.P.P. opposed the same and submitted that though in the written report the victim has disclosed her age to be 19 years but from para-78 it is evident that the date of both as visualizes from the matriculation certificate is 20.2.2003, that means to say, on the alleged date of occurrence she was below the age of 18 years.



In the aforesaid facts and circumstances of the case, I
do not see any cogent reason to allow the instant appeal.
Accordingly, the instant appeal is dismissed.

However, after examination of the victim the
appellant will be at liberty to renew his prayer for bail.

(Aditya Kumar Trivedi, J)

Surendra/-

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