

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1041 of 2019**

Arising Out of PS. Case No.-20 Year-2007 Thana- BIHPUR District- Bhagalpur

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Kala Devi, aged about 52 years, (Gender-female), wife of Vijay Sharma @
Vijay Das Resident of Village- Narayanpur, Nagarpara Uttar, P.S.- Bihpur
(Bhawanipur), District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Chandra Deo Das @ Sharma, aged about 75 years (Male), S/O Late Ramchi Sharma Resident of Village- Narayanpur, P.S.- Bihpur (Bhawanipur), District- Bhagalpur.
3. Manoj Sharma, aged about 44 years (Male), S/o Basisth Sharma Resident of Village- Narayanpur, P.S.- Bihpur (Bhawanipur), District- Bhagalpur.
4. Tun- Tun Sharma @ Tuntun @ Thanu Sharma, aged about 48 years (Male), S/O Chandradeo Sharma Resident of Village- Narayanpur, P.S.- Bihpur (Bhawanipur), District- Bhagalpur.
5. Gouri Sharma aged about 45 years (Male), S/O Chandradeo Sharma Resident of Village- Narayanpur, P.S.- Bihpur (Bhawanipur), District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rajive Ranjan Singh
For the Respondent/s	:	Mr. Shiwesh Chandra Mishra

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 09-01-2020

Heard learned counsel for the appellant and counsel for
the respondents.

In the present case, the appellant has challenged the
order of acquittal dated 16.07.2019 passed in Sessions Trial No.
195 of 2012, C.I.S. No. 194 of 2015 arising out of Bihpur



(Bhawanipur) P.S. Case No. 20 of 2007 registered for offence under Section 364, 506/34 of the Indian Penal Code.

An allegation has been made that on the alleged day, the mother of the victim girl had gone for harvesting the maize crop. In the meantime, the respondents came to the Darwaja of the father of the victim girl and communicated that the mother of the victim girl is calling her daughter in the agriculture field, whereafter, the father of the girl instructed the girl to go to the agriculture field. After sometime, he also saw that the victim girl was going along with Manoj Sharma. Three accused persons, namely, Chandradeo Sharma, Tuntun Sharma and Gauri Sharma were also following her. In the evening, the mother of the girl returned back alone. It has been stated that for five days, the father of the victim girl searched the girl but, could not be traced out. The Informant tried to find out the girl but, when the girl could not be traced out, the Informant approached to the police but, the police did not take up the matter. Hence, a complaint case no. 349 of 2006 was filed after two years whereafter it appears that under Section 156(3) of the Cr.P.C., the Magistrate referred the matter to the police whereupon Bihpur P.S. Case No. 20 of 2007 was lodged for offence under Sections 364, 506/34 of the Indian Penal Code. Thereafter, the court took cognizance and proceeded in the matter.



In support of the allegation, the independent witness P.W.1 has stated that Chandradeo Sharma had asked the girl Nutan Kumari that her mother was calling her in the agriculture field for lifting the load, whereafter, she followed Chandradeo Sharma. P.W.2 is Vijay Paswan has been declared hostile. P.W.3 is Vijay Sharma who has stated that Manoj Sharma had come to the Angan of his house and gave information with regard to calling of Nutan Kumari by her mother in the agriculture field and, thereafter, she left for the agriculture field. In the meantime, he has seen the girl was going along with Chandradeo Sharma. Anjana Kumari is the P.W.4 who has stated that Manoj Sharma came to the house of the victim girl and communicated about calling of Nutan Kumari by her mother for bringing load from the agriculture field, whereafter, she followed Manoj Sharma and she could locate that she was going along with Manoj Sharma, Chandradeo Sharma, Gauri Sharma and Tuno Sharma and she never returned thereafter. P.W.6 is Sanjeev Kumar who has also stated that Manoj Sharma came to the house of the appellant and communicated the message of mother that the victim girl was being called for in the agriculture field. P.W.7 is Chandrashekhar Singh who is the Investigating Officer. He has investigated the case and stated that some of the independent witnesses in one voice have stated that Nutan Kumari



was married with Rajkumar Sharma and they are living together and she has gone along with Rajkumar and, thereafter, she never returned and submitted the final form. P.W.8 is Laxmi Devi who has stated that the marriage of the victim girl was solemnized with Rajkumar. P.W. 9 Fekan Sharma who has also stated that the girl was married with Rajkumar. P.W.10 Rukmani Devi has been declared hostile. P.W.11 Biranchi Sharma has also stated that the marriage of the girl has been solemnized with Rajkumar.

There are two sets of evidence and, thus, there is discrepancy in the statement of the witnesses as to who has communicated the message of mother of calling her daughter in the agriculture field as the P.W.1, an independent witness, has stated that Chandradeo Sharma had asked Nutan Kumari about calling by her mother whereas another witnesses have stated that Manoj Sharma had communicated the message of the mother of calling her in the agriculture field. So, both the statements are contradictory to each other. At the same time, the Investigating Officer has stated that the victim girl Nutan Kumari was married with Rajkumar which gets support from the statement of P.Ws. 8, 9 and 11 as all these witnesses in one voice have stated that the girl was married with Raj Kumar and she is living with him.



In that view of the matter, we do not find any error in the
impugned judgment passed by the court below.

Accordingly, this appeal stands dismissed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.01.2020
Transmission Date	14.01.2020

