

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1780 of 2021

Arising Out of PS. Case No.-97 Year-2014 Thana- SURYAGARHA District- Lakhisarai

ARCHNA DEVI @ ARCHANA KUMARI Wife of Ajit Paswan @ Ajeet Paswan Resident of Village - Tolarpur, P.S. - Manikpur Suryagadha, District - Lakhisarai.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Aditya Kumar @ Parbal Kumar Son of Nagendra Prasad Resident of Village - Tolarpur, P.S. - Manikpur Suryagadha, District - Lakhisarai.
3. Lalan Kumar Son of Kamli Paswan Resident of Village - Tolarpur, P.S. - Manikpur Suryagadha, District - Lakhisarai.
4. Anshu Kumar Son of Nagendra Prasad Resident of Village - Tolarpur, P.S. - Manikpur Suryagadha, District - Lakhisarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Binay Kumar, Adv.
For the Respondent/s : Mr.S.A. Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

4 07-11-2022 1. Heard learned counsel for the appellant and
learned counsel for the State.

2. This appeal is directed against the judgment dated 27.02.2020, whereby and whereunder the trial court has acquitted all the accused, by giving benefit of doubt, from the charges levelled against them.

3. The facts of the case, in short, is that on 11.05.2014 the informant Archana Kumari gave a written information to the Manikpur police station to the effect that her neighbour Aditya Kumar @ Prabal Kumar-respondent no. 2 has



been making call to her for the last two months with ill intention. On 09.05.2014 he called her in the night that he is coming there for sleeping with her. At about 11 'O' clock he came at her roof and started to outrage her modesty and when she resisted, he made attempt to commit rape. On the next day when the informant alongwith his brother Sanatan Kumar went to make complaint to the family members of the accused, then the accused alongwith two other co-accused persons (respondent nos. 3 and 4) assaulted them and snatched their Mangal Sutra and Mobile phone.

4. On basis of the above information, Manikpur P.S. Case No. 97 of 2014 was registered and after investigation charge-sheet was submitted against all the accused persons. Thereafter, cognizance was taken and the case was committed to the Court of Sessions. Accordingly, charges were framed against all the accused persons under sections 447/34, 376/511 and 379/34 of the Indian Penal Code.

5. The trial Court did not find the evidence of P.W. 1 Archana Devi, who is the informant and the victim herself, to be reliable on basis of the following grounds :-

This witness, in her evidence, contrary to the F.I.R., has stated that on the roof her husband and devar were also



sleeping alongwith her and on the next day they had also gone with her to make complaint when the accused persons had assaulted them also with lathi and they had also gone for their treatment. Her husband had also gone to the police station and he had also made signature on the written information but neither the husband nor the devar has been examined as witness in the present case nor their injury reports have been brought on record and contrary to the statement of the informant there is no signature of the husband on the written information. She also stated that the police had recorded the statement of her husband but he has not been made witness in the charge-sheet. She has stated that the accused was making mobile calls to her for the last few months but she did not remember his mobile number. She has also stated that a proceeding under section 144 Cr.P.C. also took place between the parties and the accused persons have also filed a case against them. This witness has no information as to what is the weight and price of the Mangalsutra and from where it has been purchased.

6. P.W. 2- Neha Kumari, who is the daughter of the informant, has even added new facts of the prosecution story. She has stated that on the next day alongwith her mother not only one Mama but all her three Mama had gone and all the



three were assaulted and they all were treated but just like the husband and devar they also have not been examined as witness nor their injury reports have been brought on record. The trial Court has not found the evidence of this witness also to be reliable and also found that considering his relation with the informant she is interested witness.

7. P.W. 3 Shyamdev Paswan and P.W. 4-Ram Naresh Paswan, who are independent witnesses, have become hostile.

8. P.W. 5-Ashok Kumar Singh, who is the Investigating Officer of the case, has stated that in the call detail he found that the number from which calls are alleged to have been made to the informant does not belong to the accused and the informant had not stated to him that the accused was harassing her from 6 months.

9. For the above reasons, the trial Court found that the prosecution has failed to prove its case beyond all reasonable doubt and therefore acquitted all the accused persons from the charges levelled against them giving the benefit of doubt.

10. Considering all the aforementioned facts, I do not find any error in the impugned judgment. The grounds made out in the appeal also has no basis. Accordingly, the appeal is



dismissed at the stage of admission itself.

(Arvind Srivastava, J)

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