

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1040 of 2016

Arising Out of PS. Case No.-145 Year-2012 Thana- FATUA District- Patna

Akhilesh Kumar Chaurasiya Son of Sri Shiv Prasad Chaurasiya @ Shiv Kumar Chaurasiya Resident of Village - Govindpur, P.S. - Fatuha, District - Patna.

... .. Appellant.

Versus

The State of Bihar

... .. Respondent.

Appearance :

For the Appellant	:	None.
For the State	:	Mr. Syed Ashfaque Ahmad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL JUDGMENT

Date : 12-09-2022

By this appeal, the appellant/accused is challenging the Judgment and Order dated 30.09.2016 and 17.10.2016 respectively passed by the learned 3rd Additional Sessions Judge, Patna Ciy, Patna, in Sessions Case No.1275 of 2012, thereby convicting him of the offence punishable under Section 376 of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for ten years apart from imposition of fine of Rs.10,000/- and in default, directing him to undergo imprisonment for six months. For the sake of convenience, the appellant shall be referred to in his original capacity as “an accused”.

2. Facts in brief leading to the prosecution of the accused gathered from the police report can be summarized



thus:

(a). The victim of the crime in question is Ms. K (identity withheld), who at the relevant time was a minor female child aged about 10 years. The incident in question took place on 16.06.2012. According to the prosecution case, on that day, the victim female child P.W.3 Ms. K, who was resident of Chhoti Pahari, Police Station-Sohsarai in Nalanda District, went to the house of First Informant Naumi Prasad Chaurasiya, resident of Govindpur, Police Station-Fatuha, District-Patna. From there at about 05.00 P.M. of 16.06.2012, the victim female child P.W.3 Ms. K went to the house of her sister Mrs. S at Samaspur in Fatuha. At about 07.30 P.M. of that day, the accused, who is her relative, had taken up the task of reaching her from Samaspur to the house of First Informant Naumi Prasad Chaurasiya at village-Govindpur. However, on the way, the accused had committed rape on the victim female child P.W.3 Ms. K.

(b). After commission of rape on her, P.W.3 Ms. K, while crying, went to the house of P.W.5 Bimla Devi and disclosed the incident to her. Thereafter, she was reached to the house of First Informant Naumi Prasad Chaurasiya, who lodged report of the incident to Police Station-Fatuha on 16.06.2012



itself, which has resulted in registration of Crime No.145 of 2012 for the offence punishable under Section 376 of the Indian Penal Code.

(c). The victim female child P.W.3 Ms. K was then sent to Gurugovind Singh Hospital, Patna City, Patna, for medical examination where she was medically examined by P.W.4 Dr. Arti Kumari. Routine Investigation followed. Statements of the witnesses came to be recorded and on completion of investigation by P.W.6 Ajay Kumar, the accused came to be chargesheeted.

(d). The learned trial court framed charge for the the offence punishable under Section 376 of the Indian Penal Code against the accused. The accused pleaded not guilty and claimed trial.

(e). In order to bring home the guilt to the accused, the prosecution has examined in all six witnesses. The defence of the accused was that of total denial. However, he did not enter into the defence.

(f). After hearing the parties, the learned trial court was pleased to convict and sentence the appellant/accused, as indicated in the opening paragraph of this Judgment.

3. Despite grant of sufficient chances to the



appellant/accused, none appeared for him to workout the appeal.

4. Heard the learned A.P.P. appearing for the State. He supported the impugned Judgment and Order by contending that the victim of the crime in question has categorically named the accused as perpetrator of the crime and her evidence is corroborated by the medical evidence.

5. I have carefully considered the submissions so advanced and I have also gone through the records and proceedings including oral as well as documentary evidence adduced by the prosecution.

6. In the case in hand, the prosecution is alleging that the accused had committed rape on ten years old female child. She is examined by the prosecution as P.W. 3. This victim of the crime in question, who is being referred to as Ms. K, has categorically deposed that on the day of the incident, initially, she had gone to the house of her sister P.W. 1 Mrs. G at village Govindpur in Fatuha area and then on the same day at about 04:00 P.M., she went to the house of P.W. 2 Mrs. S to whom she has referred as 'Mausi'. The victim female child further deposed that at about 07:00 P.M. of that day, she started her return journey with the accused. It is not in dispute that the accused is relative of the victim of the crime in question. As per version of



the victim female child on the way back, near one temple, the accused had committed rape on her. Being a child of tender age, the victim female child has referred this act as “Galat Kaam”, but further described that because of the act of the accused, blood started oozing out of her vagina. She further deposed that she sustained injury to her arm because of act of the accused. The victim female child P.W.3 Ms. K further deposed that then she was taken to Gurugovind Singh Hospital for medical treatment and her statement was recorded by the police at that hospital.

7. In cross examination of the victim female child, it is brought on record that it was the accused who had reached to the house of her Mausi P.W.2 Mrs. S and on the very same day at about 07.00 P.M., the accused took her for undertaking return journey. In her cross examination, it is brought on record that the accused took her near the temple and she did not shout because she was not knowing the intention of the accused. Suffice to state that there is nothing in cross examination of the victim female child to disbelieve her version about the incident. Evidence of the victim female child P.W. 3 Ms. K does not show that she had been tutored to depose a lie against the accused. There is nothing in her evidence to show that she had any reason



to falsely implicate the accused in the crime in question.

8. Evidence of the victim of the crime in question is fully corroborated by the medical evidence adduced on record by the prosecution. P.W.4 Dr. Arti Kumari, Medical Officer of Gurugovind Singh Hospital, Patna City, Patna had medically examined P.W. 3 Ms. K on 17.06.2012, i.e., on the very next day of the incident in question. It has come in the evidence of this Medical Officer that upon medical examination of the victim female child she had noticed that the victim female child had suffered fresh lacerated wound in vagina and active bleeding was present from that wound. This Medical Officer, as seen from her evidence, has found tear and laceration in posterior vaginal wall of P.W.3 Ms. K. On the basis of radiological examination so also the dental examination of the victim, P.W.4 Dr. Arti Kumari has deposed that age of P.W. 3 Ms. K was 8 to 10 years. This witness has also proved her report of the medical examination of P.W.3 Ms. K which is at Ext.2. In cross examination of this Medical Officer, the defence has brought on record that the victim had complained about pain in abdominal region as well as bleeding from vagina.

9. Over all scrutiny of medical evidence coming on record from mouth of P.W.4 Dr. Arti Kumari makes it clear that



the victim of the crime in question had suffered extensive damage to her private part including tear and laceration at vagina apart from active bleeding in the incident in question. This finding recorded by P.W.4 Dr. Arti Kumari upon medical examination of the victim on the very next day of the incident fully corroborates version of the victim female child in respect of commission of rape on her.

10. P.W.1 Mrs. G is sister of the victim female child. Her evidence is of no assistance to the prosecution because she has deposed about what she heard in respect of the incident.

11. P.W. 2 Mrs. S has corroborated the version of the victim female child by stating that on the day of the incident, P.W. 3 Ms. K had been to her house and she left the house with the accused.

12. P.W.5 Bimla Devi to whom the victim female child Ms. K had approached firstly after the incident of commission of rape, has failed to support the prosecution.

13. P.W.6 Ajay Kumar, the Investigating Officer has explained the line of investigation conducted by him.

14. Careful scrutiny of evidence of P.W.3 Ms. K coupled with evidence of P.W.4 Dr. Arti Kumari thus makes it clear that the prosecution has established its case of commission



of rape on the victim female child by the accused. In this view of the matter, the impugned Judgment and Order of conviction and resultant sentence requires no interference at the hands of this Court. The appeal is devoid of merit and the same is, accordingly, dismissed.

(A. M. Badar, J)

P.S./-

AFR/NAFR	NAFR
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