

CRR 1005 of 2005

In the matter of : Astami Gope

Mr. Himanshu De
Mr. Navanil De
Mr. Rajeshwar Chakraborty
Mr. Srijan Ghosh
Mr. Subhrajit Dey
Ms. Monami Mukherjee ... for the petitioner

Mr. Narayan Prasad Agarwala
Mr. Pratick Bose ... for the State

This revisional application challenges the judgment and order of acquittal passed by the learned Additional Sessions Judge, 2nd Court, Purulia in Sessions case No. 157 of 2003. By the impugned judgment learned Trial Court after taking into consideration the evidence on record did not find any ingredient of offence within the meaning of Sections 376/109 of the Indian Penal Code and recorded an order of acquittal.

Briefly stated that the victim girl at the relevant point of time was 17 years old who made a statement before the Sub-Inspector of Police A. N. Panda of Arsha Police Station, District Purulia which was recorded in writing. In her statement the victim girl disclosed that she came to know one Santosh Gope of her village and they were in love. The man had sexual intercourse with the victim girl in absence of her mother on the assurance of marriage. Santosh Gope one day in absence of the mother of the victim girl came and put even vermilion on her forehead forcibly and ignoring

the reluctance of the victim girl had sexual intercourse with her but ultimately the man did not keep his promise. The victim girl was threatened and abused by Chandra Mohan Gope and Bijoy Gope. The Police authority having found ingredient of offence cognizable in nature registered Arsha Police Station Case No. 29 Of 2000 dated 19th April, 2000 and took up investigation. Charge sheet was submitted against the accused persons who stood the trial, pleading innocence.

The prosecution in order to crown success, examined 14 witnesses including the victim girl who abused evidence as P.W. 1. In her oral testimony the victim girl as P.W. 1 stated the following :

“Since the month of Pous Santosh Gope used to visit their house off and on. He used to visit their house sometimes twice or thrice in a month or more than twice or thrice in a month and requested her to cohabit with him undertaking to marry her and that position is continuing since Pous, 2000 and lastly in the month of Falgun he has given undertaking to marry her on 5th Baisakh, 2000. On 5th Baisakh her mother went to attend a ceremony in their village keeping her alone in the house. She was in the room alone. At that time at about 1 a.m. Santosh Gope came to her house and wanted to have a sexual intercourse with her but she forbade him not to cohabit with her as she was suffering from menstruation on that date but he did not pay any heed to her request and he forcibly committed sexual intercourse with her. She told Santosh Gope to marry her but he (the accused Santosh Gope) expressed his willingness to cohabit

with her and told her to marry her and accordingly he (the accused) has put vermilion on her forehead. Thereafter, he (Santosh Gope) removed all her clothings apparel and at that time she asked him not to commit sexual intercourse with her as she was suffering from menstruation but he did not pay any response to her said request and he (Santosh Gope) committed sexual intercourse with her (Astami Gope).”

At the time of the incident, admittedly the victim girl had attained the age of discretion and she had her consent in sexual union. Therefore, by no stretch of imagination it can be said that any offence within the meaning of Section 376 of the Indian Penal Code was committed by the accused persons. The impugned judgment does not warrant any interference.

This revisional application thus stands dismissed being bereft of merits.

Let a copy of the order be sent to learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)