

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.820 of 2024**

Arising Out of PS. Case No.-5 Year-2012 Thana- MAHILA PS District- Jehanabad

Md. Amjad @ Md. Ajmat Hussain S/o Md. Abdul Quddus @ Md. Quddus
R/o Village- Ekil Dhodha, PS- Makhdumpur (Tehta OP), Distt- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Paras Nath

For the Respondent/s : Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT**

Date : 28-11-2024

With the consent of both the parties heard finally.

2. This revision petition has been preferred by the petitioner being aggrieved with the order dated 23.12.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Juvenile Justice (Care and Protection of Children) Act, 2015, Jehanabad in Cr. Appeal No. 92 of 2017/06 of 2019 whereby and whereunder the learned Additional Sessions Judge allowed the appeal partly and affirmed the conviction of the applicant for the offences punishable under Sections 325 and 307 of the Indian Penal Code and also affirmed the order of sentence imposed by the Trial Court.

3. According to the case of prosecution, at the time of incident, the victim was aged about 23 years. She lodged a



report before the Jehanabad Mahila Police Station alleging therein that on 05.06.2012 at 04:00 A.M. when she went out from her house for the purpose of walking allegedly the applicant reached there caught hold her hand and committed *Mar-Pit* with her and also committed forcefully sexual intercourse with her. Due to that, she sustained injuries on her private part and other parts of the body.

4. On the basis of the said report, the case has been registered. The statements of the witnesses were recorded and after completion of investigation, charge-sheet was filed before the learned Juvenile Justice Board, Jehanabad, as at that time, the age of the applicant was below 18 years.

5. The learned Juvenile Justice Board, Jehanabad after conclusion of trial, convicted the applicant for the offences punishable under Sections 376, 307 and 323 of the Indian Penal Code and sentenced him 3 years, 2 years and 1 year respectively for the aforesaid offences. The said judgment of conviction has been assailed by the petitioner before the learned Sessions Judge. The learned Additional Sessions Judge vide its impugned judgment dated 23.12.2022 partly allowed the appeal and acquitted the applicant for the offence under Section 376 of the Indian Penal Code. However, conviction of the applicant for the



offences punishable under Sections 307 and 325 of the Indian Penal Code were affirmed and sentence were also affirmed. Hence, this revision.

6. Learned counsel for the petitioner submits that without being any sufficient and inclining evidence available on record, both the Courts below wrongly convicted the applicant for the offences punishable under Sections 307 and 325 of the Indian Penal Code. Referring to the statements of doctors, who examined the victim, it is submitted by the learned counsel that as per the medical report, only one tooth of the victim was broken and apart from that, no other injuries were found on any vital part of the body of the victim. Therefore, the conviction for the offence under Section 307 of the Indian Penal Code is not sustainable. He further submits that during trial, the applicant was remained in observation home near about 7 months 12 days and after the judgment of the Appellate Court, he is in observation home since 31.08.2024, meaning thereby, he has already completed near about one year in custody. Therefore, it is prayed if this Court affirm the conviction of the applicant for the offence under Section 325 of the Indian Penal Code, he may be sentenced already undergone by him.

7. The learned counsel for the State opposes the



above argument raised by the counsel appearing on behalf of the petitioner and submits that considering the evidence available on record, both the Court below has rightly convicted and affirmed the conviction of the applicant for the aforesaid offences and both the Court below has also rightly sentenced the applicant which is just and proper and not requires interference.

8. Heard learned counsel appearing for both the parties and perused both the impugned judgments and also gone through the evidence adduced by the prosecution before the Trial Court.

9. In her court statement victim P.W. 3 settled that at the time of incident, when she went for walking, the applicant met her and due to dispute arising there, he committed *Mar-Pit* with the victim, due to that, she sustained injuries on her mouth and other parts of the body. The medical report of the victim and the statements of the doctors, who conducted the medical examination of the victim, clearly show that she sustained only one grievous injury i.e. her one broken tooth only. Apart from that, there is no any grievous injury on any other part of her body. There is also no injury found in any vital part of the body of the victim. Therefore, in considered view of this Court, the conviction under Section 307 of the Indian Penal Code, which



has been also affirmed by the learned Appellate Court, is not sustainable.

10. With regard to the offence punishable under Section 325 of the Indian Penal Code is concerned, there is sufficient evidence available on record to convict the appellant for the offence under Section 325 of the Indian Penal Code. Therefore, the learned Trial Court has rightly convicted the applicant for the offence punishable under Section 325 of the Indian Penal Code, which has also been duly affirmed by the learned Appellate Court.

11. From the above discussion, it is clear that prosecution is unable to establish the offence punishable under Section 307 of the Indian Penal Code against the petitioner. Accordingly, the petitioner is acquitted from the said charge. However, the conviction of the applicant for the offence punishable under Section 325 of the Indian Penal Code is, hereby, affirmed.

12. With regard to the sentence is concerned, considering the fact that the applicant, as of now, is aged about 28 years, having behind her family and is already undergone about one year in this case behind the bar, I am of the view that the ends of justice would be met if, while upholding the



conviction imposed upon the appellant, the jail sentence awarded to him is reduced to the period already undergone by him.

13. Accordingly, the revision petition is partly allowed. The conviction of the appellant under the aforementioned section is, hereby affirmed and he is sentenced to the period already undergone by him.

14. The applicant-petitioner, above named, be released forthwith, if not required in any other case

15. Records of the Trial Court be sent back along with a copy of this order forthwith for information and necessary compliance.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2024
Transmission Date	03.12.2024

