

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5818 of 2019

Arising Out of PS. Case No.-154 Year-2019 Thana- BAHADURPUR District- Darbhanga

BABITA DEVI Wife of Vijay Das Resident of Ward No.3, Near Pullia,
Panshiha, P.S.- Bahadurpur Patour (O.P.), District- Darbhanga, Ughra, Bihar

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Govind Sah Son of Krishna Sah Resident of Village - Panshiha, P.S.-
Bahadurpur Patour (O.P.), District- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ugranath Mallik, Adv.
For the Respondent/s : Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 14-08-2024 1. Heard learned counsels appearing for the parties.

2. The appellant have preferred the present appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the order dated 17.06.2019, passed by learned 1st Additional Sessions Judge cum Special Judge SC/ST (POA) Act, Darbhanga in Bahadurpur Case No. 154 of 2019 registered under Sections 366(A), 504, 506/34 of the I.P.C. and Section 3(1)(x) (R)(S), of the SC/ST (POA) Act.



3. As per prosecution case, the appellant Babita Devi wife of Vijay Das gave a written petition to the In-charge officer of the O.P. Pataur alleging therein that her daughter Ranjana Kumari (aged about 14 years) fell in love with Govind Sah who took her away. It is also stated that Govind Sah along with Krishna Sah, Mahavir Sah and Mangal Sah hatched conspiracy with an intent to taking her daughter away by alluring her and when the appellant went to the house of Govind Sah they all abused her and also used filthy words by using caste name.

4. It appears out of submissions and perusal of record that the victim(daughter of informant) categorically stated through her statement as recorded under Section 164 of the Cr.P.C. that she solemnized marriage with respondent no. 2, namely, Govind Sah out of her sweet will and thereafter both went to Delhi. It is specifically stated through said statement that the marriage was solemnized at Shyama Temple,



Darbhanga. She said to be aged about 19 years through her statement and same was also observed by Id. Judicial Magistrate while recording her statement under Section 164 of the Cr.P.C.. Even the allegation is not prima-facie made out for the offences under Sections 366 A of the I.P.C.

5. The legal report as available through **Sat Parkash vs. State of Haryana, (2015) 16 SCC 475 : (2015) 4 SCC (Cri) 867 : 2015 SCC OnLine SC 1310 at page 477** may be referred in this context which reads as follows:-

5. The charge with reference to Section 366-A of the Penal Code needs a closer examination. Section 366-A of the Penal Code is extracted hereunder:

"366-A.Procuration of minor girl.—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine."

A perusal of the aforesaid



section reveals that the inducing of the minor to constitute an offence under Section 366-A should have been with reference to an intent to force or seduce her . In fact, there is no mention of any other person in the sequence of allegations levelled against the appellant.

6. In the above view of the matter we are satisfied that the charge under Section 366-A IPC was also not sustainable against the appellant. For the reasons recorded hereinabove, we are of the view that the impugned order [Sarla v. State of Haryana, 2011 SCC OnLine P&H 124] passed by the High Court convicting the appellant under Section 366-A of the Penal Code is also liable to be set aside. The same is accordingly hereby set aside.

6. Heard learned Spl.PP Sadanand Paswan.

7. The impugned order dated 17.06.2019 granting bail to respondent no. 2 is well reasoned and speaking having no occasion to interfere particularly in view of above discussed fact and law.

7. Accordingly, the present appeal stands dismissed as same devoid any merit at admission stage itself.

8. Observation qua merit of the case, if any, made while disposing the present appeal shall be of no



bearing during the trial of the case.

9. Let the copy of this order be communicated
to Id. trial court concerned without any delay.

(Chandra Shekhar Jha, J)

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