IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.292 of 2008

Sanoj Kumar Barik, Son of Shri Mushtik Barik, Resident of Manjhari, P.O. & P.S. Manjhari, Distt. Singhbhum (West).

… Appellant

Versus

The State of Jharkhand

… Respondent

For the Appellant : Ms. Neharika Majumdar, Adv.
Mrs. J. Majumdar, Adv.
For the State : Mr. Fahad Allam, A.P.P.

P R E S E N T
Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated- 13.12.2024

By Court:- Heard Ms. Neharika Majumdar, learned counsel appearing for the appellant as well as Mr. Fahad Allam, learned A.P.P. appearing for the State.

2. The present appeal is directed against the judgment and order of conviction and sentence dated 02.02.2008 and 04.02.2008 passed by learned Sessions Judge, West Singhbhum, Chaibasa in Sessions Trial No.214 of 2007 (corresponding to G.R. Case No.73 of 2007), whereby and whereunder the appellant was held guilty for the offence under Section 366 of the Indian Penal Code and has been sentenced to undergo rigorous imprisonment for four years

with fine of Rs.5,000/- with default stipulation. Thereafter, the appellant was released on furnishing bond of Rs.5,000/- with two sureties for a period of three years, under Section 4 of the Probation of Offenders Act, 1958.

3. Factual matrix giving rise to this appeal is that on 29.01.2007 at about 05:00 am, informant's daughter went out of the house towards the field for defecation but did not return. Despite thorough search, they were unable to find her. It is further alleged that on 02.02.2007, informant received information that his daughter has been lured and kidnapped by Sanoj Kumar Barik (appellant) and have taken to Chaibasa with the intent of marrying her.

On the basis of fardbeyan of the informant, Manjhari P.S. Case No.05 of 2007 was registered for the offences punishable under Sections 366/366A of the Indian Penal Code.

4. After completion of the investigation, charge-sheet was submitted against the appellant for the offences under Sections 366, 366A and 376 of the I.P.C. Accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions where Sessions Trial No.214 of 2007 (corresponding to G.R. Case No.73 of 2007)

was registered. Charges were framed against the accused appellant under Sections 366, 366A and 376 of the Indian Penal Code which was read over and explained to him, to which he denied and claimed to be tried.

5. After conclusion of trial, the appellant was held guilty for the offence under Section 366 of the I.P.C. and sentenced as stated above which has been assailed in this appeal.

6. Learned counsel for the appellant assailing the impugned judgment and order has submitted that the appellant was convicted in this case without any legal evidence. Admittedly, there was love affair between the appellant and victim girl who was major aged about 18-19 years on the date of occurrence as per medical examination report of the victim. The learned trial court has greatly erred in rejecting the testimony of victim girl without recording any special reason. The appellant is absolutely innocent. Hence, impugned judgment and order of conviction of the appellant is liable to be set aside and this appeal may be allowed.

7. Per contra, learned A.P.P. appearing for the State has vehemently opposed the aforesaid contentions defending the impugned judgment of conviction and sentence of the appellant has submitted that the appellant is the main person

who kidnapped the victim with an intention to solemnize marriage with her. This appellant had admitted that he has solemnized marriage with the victim girl which has been categorically supported by P.W.1 (informant) and the evidence of other witnesses has also been corroborated. There is no requirement of any other independent witness to corroborate the prosecution story. Under such circumstances, the learned trial court, taking lenient view in the matter of sentence, has granted the benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellant in compliance of which the appellant has already furnished the required bond and the period of which has also been expired as such there is no illegality or infirmity in the impugned judgment and order. Accordingly, this appeal is fit to be dismissed.

8. I have given anxious consideration to the aforesaid contentions raised on behalf of both side and also perused the impugned judgment and order along with materials available on record.

9. It appears that F.I.R. was registered as Manjhari P.S. Case No.05 of 2007 for the offences under Sections 366/366A of the Indian Penal Code on the basis of fardbeyan of one Girish Chandra Nand. As per F.I.R., allegation is that on

29.01.2007 at about 05:00 am, when informant's daughter went outside from her home for defecation, she was kidnapped by one Sanoj Kumar Barik (appellant) for the purpose of solemnizing marriage with her.

10. It appears that in the course of trial eight witnesses were examined by the prosecution out of them P.W.2 viz. Boreya Gope, P.W.3 viz. Umesh Mandal and P.W.4 viz. Dinesh Mandal have deposed in their cross-examination that they have not seen the alleged occurrence. It further appears that P.W.1 viz. Girish Chandra Nanda is the informant-cum-father of the victim in this case who has categorically deposed that during the course of search, he came to know that the victim was taken away by one Sanoj Kumar Barik (appellant) with an intention to solemnize marriage with her. It is further deposed that accused appellant made a telephonic call to his son Simant Kumar Nanda that he has taken away the victim.

P.W.5 Sindhulata Nanda is the mother of the victim girl who has also categorically corroborated the evidence of P.W.-1.

P.W.-6 is the victim of the case and daughter of the informant. She has stated in her evidence that on 29.01.2007, on anger, she fled away from the house. She has further

stated that she along with appellant solemnized marriage in a temple.

In her cross-examination, the victim has stated that her statement under Section 164 Cr.P.C. was not recorded by the Magistrate.

P.W.7 Keshav Kumar Choudhary is the Investigating Officer in this case. He has stated that near the bus stand, accused appellant was found with victim and accused was arrested.

In his cross-examination, he has stated that informant did not tell him that accused appellant had informed his son by telephone that he had taken away the girl.

P.W.-8 Dr. Balkrishna Sahani has examined the victim girl along with Dr. Meena Kalundia. They stated that no mark of violence was found on the body. She was physically and mentally normal. Hymen ruptured (fresh) bleeding on touch and no spermatozoa either alive or dead was found. According to radiological examination, she is approximately 18-19 years of age and sexual intercourse took place.

In cross-examination, she admits that she has not recorded the statement of victim girl, no semen was found. No injury on the body was found and according to her

examination, she was an adult lady.

11. In view of above discussion of evidence available on record, I do not find any legal force in the argument of learned counsel for the appellant that the conviction and sentence is based upon no legal evidence rather the prosecution has been able to prove the charge under Section 366 of the I.P.C. beyond all reasonable doubt and there appear no reason to interfere with the impugned judgment and order passed by the learned trial court, therefore, this appeal being devoid of merit is dismissed.

12. Pending I.A., if any, stands disposed of.

13. Let a copy of this judgment along with trial court record be sent back to the concerned trial court.

(Pradeep Kumar Srivastava, J.)

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