

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.69 of 2024

Arising Out of PS. Case No.-30 Year-2021 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Ranjeet Singh S/o Mahendra Pratap Singh R/o Vill - Sarai, P.S. - Ramgarh,
Dist. - Kaimur

... .. Appellant/s

Versus

1. The State of Bihar
2. Aniket Singh @ Golu S/o Shivji Singh R/o Vill - Masarhi, P.S. - Ramgarh,
Dist. - Kaimur
3. Dhiraj Singh @ Pinku S/o Arvind Singh R/o Vill - Sarai, P.S. - Ramgarh,
Dist. - Kaimur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Jitendra Prasad Singh, Advocate
For the Respondent/s : Mr. Binod Bihari Singh, Spl PP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 10-10-2025

The present criminal appeal has been preferred under
Section 372 of the Code of Criminal Procedure, 1973 against
judgment of acquittal dated 08.12.2023 passed by the learned
Special Judge, Exclusive POCSO Court-cum-Additional District



and Sessions Judge VI, Kaimur at Bhabhua in POCSO Case No. 16 of 2021, arising out of Mahila P.S. Case No. 30 of 2021 whereby Respondent Nos. 2 and 3 have been acquitted by the learned trial Court from the charge of Sections 363/34, 341/34, 323/34, 376D of Indian Penal Code and Section 6 of the POCSO Act.

2. The prosecution case, in brief, is that the victim girl has alleged that she is 17 years old and is resident of Sarai, Ramgarh. Further, it is stated that on May 14, 2021, at 8:00 am, her friend Khusbhoo Kumari called her near the Daitra Baba tree outside the village and she went there to meet her and was talking to her friend. Suddenly, a four-wheeler car came there and the people sitting in it forcibly made her sit in the car. No one could hear her voice as the glass of the car was closed. When she looked inside the car, Aniket Singh alias Golu and Dhiraj Singh alias Pinku were sitting in it. They took her to a secluded place around the Kudra petrol pump and raped her and asked her not to tell anyone. Somehow, on 15 May 2021, she escaped from the grip of these people and went to the petrol pump located at Kudra Bypass. Her family members who had been searching for her reached there. In the meantime, Aniket and Dhiraj also followed her to the petrol pump. From there, her



family members caught them (both accused) and brought them to Ramgarh police station, but Dhiraj managed to escape.

3. On the basis of written statement of the informant, Mahila P.S. Case No. 30 of 2021 was instituted under Sections 323, 341, 363, 376/34 of Indian Penal Code and Section 4 of the POCSO Act and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 and 3, accordingly, cognizance was taken. Thereafter the case was committed to the Court of Sessions. Charges were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether ten prosecution witnesses i.e. PW1- Ranjeet Singh, PW2- the victim herself, PW3- Nitu Devi, PW4- Pinki Devi, PW5- Ajay Kumar Singh, PW6- Pramod Singh, PW7- Deepak Kumar and PW8- Pankaj Kumar Choudhary, PW9- Dr. Madhu Yadav and PW10- Punam Kumari (I.O.). The prosecution has also produced certain documents which were marked as 'Exhibits' i.e., Ext. P1- Written information, Ext. P2- Signature of victim on her statement u/s 164 Cr.P.C, Ext. P3- Signature of Pinki Devi on the medical report of the victim, Ext. P4- Signature of PW6 Pramod Singh on seizure list, Ext. P4/1-



Signature of PW7 Deepak Kumar on seizure list, Ext. P4/2-
Signature of PW8 Pankaj Kumar Choudhary on seizure list, Ext.
P5- Medical Report of the victim, Ext. P6- Signature of Dr.
Madhu Yadav on the age determination report, Ext. P7- Seizure
List, Ext. P8- Endorsement on written application, Ext. P9-
Formal FIR, Ext. P10- Provisional Certificate of the victim, Ext.
P11- Marksheet of the victim, Ext. P12- Statements of the
victim u/s 164 Cr.P.C., Ext. P13- FSL report. The defence has
also examined three witnesses i.e., DW1- Heeralal, DW2-
Chinta Devi, DW3- Jitendra Singh. The defence has also
produced certain documents which were marked as 'Exhibits'
i.e., Ext. D1- Entries on the admission register of Utkramit
Madhya Vidyalay, Sarai, Ext. D2- Signature of the then principal
on Exhibit D1/DW1. The prosecution has also examined four
court witnesses i.e., CW1- Upendra Singh, the Principal of
Brilliant Public School, Dewhaliya, CW2- Heeralal, I/C
Headmaster of Utkramit Madhya Vidyalay, Sarai, CW3- Dr.
Avinash Bahadur and CW4- Dr. Rajnikant Ranjan. The court
witnesses have also produced certain documents which were
marked as 'Exhibits' i.e., Ext. C1- Entries in Admission Register
related to admission of victim in Brilliant Public School on
03.05.2013, Ext. C2 to Ext. C2/15- Attendance Registers of



Brilliant Public School, Ext. C3 to Ext. C3/5- Fee Registers of Brilliant Public School related to the victim, Ext. C4 to Ext. C4/3- Attendance Registers of Utkramit Madhya Vidyalay, Sarai, Ext. C5- Signature of Dr. Avinash Bahdur on age determination report and Ext. C6- Age determination report of the victim. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, learned trial Court has acquitted the accused persons.

5. The learned trial Court on the basis of the materials available on record, and the evidence produced before the Court, acquitted the accused persons observing that there is no evidence at all against the accused persons to prove the charge framed u/s 341 and 323 IPC. Likewise the charges u/s 363 would also not be applicable as the prosecution has failed to prove that the victim is below 18 years at the time of occurrence, hence POCSO would also not be applicable. The trial Court also observed that the elopement of the victim is voluntary, and even presuming the culpability of the accused persons in it, the facts of forceful compulsion or inducement by any deceitful means have not been proved.

6. Learned counsel for the appellant has submitted



that the learned trial Court has miserably failed to scrutinize the evidence of interested defence witnesses and court witnesses with care and circumspection and it is pertinent to state that the conclusion arrived by the learned trial Court is perverse and against the evidence on record.

7. The learned counsel for the State has submitted that there is no perversity in the judgment of the learned trial Court, and the prosecution has failed to prove the guilt of the accused before the learned trial Court. Therefore, the order of the learned trial Court requires no interference in the present case.

8. We have heard learned counsel for the appellant and the State and have also gone through the records of the case.

9. The sole question that requires consideration by this Court is whether the impugned judgment requires any interference by this Court.

10. After a meticulous evaluation of the oral and documentary evidence adduced by the prosecution and the defence, this Court finds several material deficiencies that cast serious doubt on the prosecution's version of events.

11. It is revealed from the testimony of the Investigating Officer (PW10) that the place of occurrence could not be established with certainty. No independent witness has



corroborated the prosecution's claim regarding the alleged site of the incident. The law is well-settled that failure to establish the exact place of occurrence creates a fatal gap in the chain of circumstances. In this regard, reliance may be placed on the judgment of the Hon'ble Supreme Court in ***Syed Ibrahim vs. State of Andhra Pradesh*** reported in (2006) 10 SCC 601, wherein it was held in Paragraph No. 11 as under:

“11.....But there is another significant factor which completely destroys the prosecution version and the credibility of PW 1 as a witness. He has indicated four different places to be the place of occurrence. In his examination-in-chief he stated that the occurrence took place in his house. In the cross-examination he stated that the incident took place at the house of his wife, the deceased's mother. This is a very important factor considering the undisputed position and in fact the admission of PW 1 that he and his wife were separated nearly two decades ago, and that he was not on visiting terms with his wife. Then the question would automatically arise as to how in spite of strained relationship he could have seen the occurrence as alleged in the house of his wife. That is not the end of the matter. In his cross-examination he further stated that the incident happened in the small lane in front of the house of his wife. This is at clear variance with the statement that the occurrence took place inside the house where allegedly he, the deceased, his son, PW 2 and daughters, PWs 3 and 6 were present. That is not the final say of the witness. He accepted that in the FIR (Ext. P-1) he had stated the place of occurrence to be the house of the deceased. Though the FIR is not a substantive evidence yet, the same can be used to test the veracity of the witness. PW 1 accepted that what was stated in the FIR was correct. When the place of occurrence itself has not been established



it would not be proper to accept the prosecution version.”

12. Further, no incriminating material was recovered from the alleged spot. Neither any torn clothing, semen stain, nor sign of struggle was found. In ***Kali Ram vs. State of Himachal Pradesh*** reported in (1973) 2 SCC 808 , the Supreme Court reiterated that where two views are possible, the one favouring the accused must be adopted, especially when corroborative evidence is lacking, as observed in Paragraph No. 25 of the judgment which reads as under :

“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the



benefit of doubt also does not warrant acquittal of the accused by report to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of State of Punjab v. Jagir Singh [(1974) 3 SCC 227 : 1973 SCC (Cri) 886] a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures."

13. The medical examination report prepared by PW9, categorically states that no signs of recent sexual intercourse or physical assault were found. The doctor opined that there was no external or internal injury on the body of the victim.

14. Additionally, the mobile location records produced by the Investigating Officer indicate that the prosecutrix was in contact with the accused prior to the alleged occurrence. Such evidence introduces an element of consent and weakens the prosecution's claim of forcible intercourse. The Supreme Court in **Deepak Gulati vs. State of Haryana** reported in (2013) 7



SCC 675 observed that a prior relationship and continuous contact between the prosecutrix and the accused are significant factors in determining the genuineness of allegations, as observed in Paragraph No. 21 of the judgment which reads as under:

“21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.”

15. In view of these infirmities namely; non-recovery



of incriminating material, negative medical report, inconsistency regarding the place of occurrence, and evidence of prior contact between the parties, this Court is of the considered opinion that the prosecution has failed to establish the charge beyond reasonable doubt. Accordingly, the accused is entitled to the benefit of doubt.

16. We find that the findings recorded by the learned trial Court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt of the accused beyond the shadow of a reasonable doubt. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

17. In criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned Court below is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based is not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of *Mrinal Das vs. State of Tripura* reported in



(2011) 9 SCC 479, Paragraph Nos. 13 & 14 of which read as under:

"13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal



is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.....”

18. In the case of ***Ghurey Lal vs. State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in Paragraph No. 75, the Hon’ble Supreme Court reiterated the said view and observed as under:

“75. The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”

19. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case if the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

20. In view of the above, we do not find any illegality



and perversity in the findings recorded by the Trial Court.

21. Accordingly, the present appeal is dismissed.

22. Pending application(s), if any, shall stand disposed
of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Anushka/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.10.2025
Transmission Date	

