

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4257 of 2024

Arising Out of PS. Case No.-70 Year-2018 Thana- BAGHA District- West Champaran

Lalchuni Kumari D/O Sukhal Sah R/O Village- Chhotaki Patti Bargavan, P.S-
Bagaha, Dist- West Champaran Appellant/s

Versus

1. The State of Bihar
2. Ramayan Yadav S/O Late Naga Yadav R/O Village- Chhotaki Patti, Bargavan, P.S- Bagaha, Distt.- West Champaran.
3. Rakesh Yadav S/O Ramayan Yadav R/O Village- Chhotaki Patti, Bargavan, P.S- Bagaha, Distt.- West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anand Kishore Choudhary, Advocate
For the Respondent/s : Mr.Syed Ashfaque Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 12-02-2025 Heard the parties.

2. The present memo of appeal has been preferred against the order and judgment dated 28.05.2024 passed by learned Additional District & Sessions Judge- VIIth cum Special Judge POCSO, West Champaran, Bettiah in connection with Bagaha P.S. Case No. 70 of 2018 (C.I.S. Criminal Case POCSO 24 of 2019) for the offence under sections 341, 323, 354, 504, 506, 34 of Indian Penal Code and Section 8 of POCSO Act whereby Respondent No. 2 and 3 were acquitted from the charges levelled against them without applying his judicial mind and without appreciating the evidence which is illegal, unjustified and not in accordance with law.

3. As per the prosecution story, the informant



alleged that while she was cooking tea and breakfast at her shop, accused, Rakesh Yadav caught hold of her and tried to establish physical relationship. In the process, her clothes were torn, she was also assaulted. As she shouted, the family members came whereafter, they made complained to the house of the accused but was assaulted by them. She was medically examined and as the Mahila Police Station, Bagaha failed to take action, gave written complaint to Officer-in-charge, Bagaha Police Station. This led to the FIR.

4. The Police investigated the matter, submitted charge-sheet on 30.05.2018 cognizance was taken on 07.03.2019 whereafter charges were framed on 09.01.2021. This led to commencement of trial.

5. The Trial Court vide an order dated 28.05.2024, came to the conclusion that the prosecution has failed to prove beyond doubt the allegation levelled and as such exonerated the accused of the charges under sections 341, 323, 354, 504, 506, 34 of the Indian Penal Code and section 8 of the POCSO Act.

6. Aggrieved, the present appeal.

7. It is the case of the appellant that the learned Trial Court instead of overlooking the minor discrepancies, took it threadbare and exonerated the accused of all the charges. He



submits that allegation is of trying to make relationship and in the process, her clothe was also torn, subsequently, the family members upon approaching them were also assaulted. All these facts were ignored while exonerating them of the trial.

8. The learned APP, Mr. Mr.Syed Ashfaque Ahmad on the other hand has taken this Court to the finding of the learned Trial Court where it has been recorded as follows:

(i) in the Court, the victim narrated that at the time of occurrence, the customers were there but they left after some time, the accused Rakesh Yadav had tea there prepared by the victim and when he took hold of the tea, it fell down;

(ii) there was no injury on the body of the lady though assault theory has been assigned;

(iii) It was specifically alleged that the clothes were torn but same were not made Exhibit or produced before the Court;

(iv) the Doctor in its deposition clearly



*stated that he did not find any injury on
the body of the victim girl.*

9. He submits that the aforesaid finding clearly show that in civil dispute, the appellant has resorted to criminal remedy and in that background, the Court has rightly acquitted the accused from the charges.

10. Having gone through the facts and of the case and the submissions of the parties, this Court has also taken note of the finding of the learned Trial Court, the clear observation is there. Both the Investigating Officer and the Medical Officer were examined. So far as the I.O. is concerned, he narrated that no injury was found on the person of the victim nor he put the clothe as an Exhibit before the Trial Court. Again, the Medical Officer in his deposition stated that he did not find any injury on the person of the girl.

11. In that background, the Court concerned was fully justified in passing the order in question.

12. No interference is required. The appeal stands dismissed.

(Rajiv Roy, J)

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