

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1537 of 2024**

Arising Out of PS. Case No.-658 Year-2017 Thana- NAGAR District- Vaishali

Rinki Devi, W/o- Murli Manohar Prasad, Resident of Village- Tengaul Sanchi
Patti PS- Town, District- Vaishali

... .. Appellant/s

Versus

1. The State of Bihar
2. Arjun Kumar, S/o- Ramchandra Sah, resident of Village- Mahmmadpur, PS- Mahnar District- Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Murli Manohar Prasad, Advocate Mr. Raju Kumar, Advocate
For the Respondent/s	:	Mr. Abhimanyu Sharma, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 01-09-2025

The present criminal appeal has been preferred under Section 372 of the Code of Criminal Procedure against the judgment of acquittal dated 16.11.2024 passed by the learned District & Additional Sessions Judge-I-cum-Special Judge, Vaishali at Hajipur in Sessions Trial No. 48 of 2024, arising out of Hajipur P.S. Case No. 658 of 2017, whereby Respondent No. 2 has been acquitted from the charge of Sections 366 and 376 of the Indian Penal Code.

2. The prosecution case, in brief, is that the informant Rinki Devi initially filed a Complaint Case No. 2002/2017 in



the court of the learned Chief Judicial Magistrate, Vaishali, alleging therein that on the date of occurrence i.e. on 04.05.2017, her sister Rani Kumari, aged about 20 years, had gone to Chaurasiya College, but did not return. The complainant searched but could not find her. She lodged *Sanha* on 10.05.2017. During search, it came into knowledge that the accused persons, namely, Arjun Kumar, Ranjay Sah, Sanjay Sah, Ranjan Sah, Ramchandra Sah, Mahasundar Devi, Kunti Devi, Shanti Devi and Soni Devi, under conspiracy with the purpose of committing rape, had kidnapped her sister with wrong intention. The accused persons were later found absconding.

3. On the basis of aforesaid complaint case, Hajipur P.S. Case No. 658 of 2017 was instituted under Sections 365 and 366/34 of the I.P.C. and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 and, accordingly, cognizance was taken. Thereafter the case was committed to the Court of Sessions. Charges were framed against Respondent Nos. 2, to which he pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined altogether three witnesses i.e. PW1- Chandrama Singh, PW2- Shri



Bhagwan Rai and PW3- Navin Kumar Singh. No witness has been examined on behalf of the defence. After closure of prosecution evidence, the statement of the Respondent No. 2 was recorded under Section 313 Cr.P.C. and after conclusion of trial, the learned trial court acquitted Respondent No. 2.

5. Learned counsel for the appellant has submitted that the learned trial court has passed the impugned judgment on mere conjectures and surmises. The learned trial court failed to consider that non-examination of the Investigating Officer and the victim is fatal to the prosecution.

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

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

8. Upon scrutiny of the evidence on record and the impugned judgment of the trial court, it is evident that the prosecution has failed to discharge the burden of proving the charge beyond reasonable doubt. The trial court has rightly noticed the major lapses in the prosecution case, and this Court finds no infirmity in such findings.

9. It is evident from the records of the case and



impugned judgment that the informant has not been examined. The non-examination of the informant fails the prosecution to establish the origin and foundation of the case. In criminal trial, the testimony of the informant is material to unfold the genesis of the occurrence and to support the allegations made in the First Information Report. In its absence, the prosecution version remains unproved.

10. Further, the victim herself has not been examined. It is settled principle of law that the evidence of the victim is of prime importance, being the most direct and substantive testimony. Without her testimony, the case of the prosecution is left uncorroborated. The non-examination of the victim, therefore, creates a serious doubt regarding the truth of the allegations and severely weakens the prosecution case.

11. Moreover, neither the Investigating Officer, nor the doctor who had treated the victim has been examined. The examination of the Investigating Officer is crucial to prove the manner of investigation, the seizure of articles, and to establish the chain of circumstances relied upon by the prosecution. Similarly, the doctor's testimony was necessary to prove the medical report and the nature of injuries, if any. Their absence leaves a major gap in the chain of evidence.



12. The learned trial court, while appreciating these lapses, rightly came to the conclusion that the prosecution failed to prove its case beyond reasonable doubt. On careful reappraisal, we find ourselves in agreement with such conclusion. The view taken by the trial court is a plausible one and does not call for any interference. 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.

13. In a 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 ***Surajpal Singh v. State***, reported in **1951 SCC 1207**:

“13. It is well established that in an appeal under Section 417 of the Criminal Procedure



Code, the High Court has full power to review the evidence upon which the order of acquittal was founded, but it is equally well settled that the presumption of innocence of the accused is further reinforced by his acquittal by the trial court, and the findings of the trial court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons.”

14. In the case of ***Ghurey Lal v. State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in paragraph 75, the Hon’ble Supreme Court has observed as under:

“75. On careful analysis of the entire evidence on record, we are of the view that the reasons given by the High Court for reversing the judgment of acquittal is unsustainable and contrary to settled principles of law. 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.”

15. 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.

16. In view of the above, we do not find any illegality and perversity in the findings recorded by the trial court.

17. Accordingly, the present appeal is dismissed.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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