

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.316 of 2024
In
CRIMINAL APPEAL (SJ) No.2605 of 2023

Arising Out of PS. Case No.-87 Year-2010 Thana- CHAKAI District- Jamui

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Lakkhi Devi W/o Suro Pandit @ Suresh Pandit R/o vill - Maharaidih, P.S. -
Chakai, Distt. - Jamui. Appellant

Versus

1. The State of Bihar
2. Sato @ Satyadev Ray S/o Late Dwarika Ray R/o vill - Maharaidih, P.S. -
Chakai, Distt. - Jamui
3. Ramdeo Ray S/o Mathura Ray R/o vill - Narodih, P.S. - Chakai, Distt. -
Jamui
4. Prakash Ray S/o Saryug Ray R/o vill- Maharaidih, P.S. - Chakai, Distt. -
jamui. Respondents

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Appearance :

For the Appellant/s : Mr. Akhauri Kamal Kishore Sahay, Advocate
For the Respondent/s : Mr. Bipin Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

11 23-03-2026 Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the State.

2. This appeal arises out of judgment of the acquittal dated 03.02.2023 passed by the learned Additional Sessions Judge-1, Jamui in Sessions Trial Case No. 144 of 2016, arising out of Chakai P.S. Case No.87 of 2010. By the impugned judgment, the learned Trial Court has been pleased to record a finding that the prosecution has failed to establish its case and based on the said finding, the learned Trial Court has acquitted all the accused persons of all the charges levelled against them.



3. We have earlier called for the records of the Trial Court and perused the same.

4. A complaint petition was filed on 21.04.2010, showing the date of occurrence as 18.04.2010, but it was sent to the Chakai Police Station for institution of a case vide order dated 18.05.2010. The complainant/informant alleged that on 18.04.2010 at 6:00 P.M. while she was busy in grazing of cow and regressing to her house, the accused persons under the influence of liquor caught hold her and put on the ground and unclothed her. The accused Satto @ Satyadeo Ray put off her cloth and committed rape, accused Ramdeo Ray pressed her mouth and accused Prakash Ray also caught hold her hands. The complainant also caused the teeth bite to the accused and when she raised alarm, the accused persons ran away from there. Thereafter, the complainant gone to her house and narrated the entire incident to her family members.

5. On going through the evidences available on the record, we find that in this case initially after eight days of the occurrence a complaint case was filed in the court of learned Chief Judicial Magistrate, Jamui through PW-3. Perusal of the said complaint petition would show that it was not supported by any affidavit and it does not place on record the copy of the written application allegedly given to the police station. The complaint



petition does not show compliance with the requirement of Section 154(3) of the Code of Criminal Procedure (as existing at the time of the occurrence), in terms of the judgment of Hon'ble Supreme Court in the case of **Priyanka Shrivastava and Another Vs. State of Uttar Pradesh and Others** reported in **(2015) 6 SCC 287**.

6. The police submitted charge-sheet bearing no.20/2014 dated 31.01.2014 for the offences under Section 376(D) of the IPC.

7. In course of trial, the prosecution examined three witnesses, namely Ramsakhi Devi (PW-1), Bhikhari Pandit (PW-2) and the victim (PW-3). The I.O. of the case has not been examined. On behalf of the defence, two documents i.e. the certified copy of the judgment in Sessions Trial No.472/2010 and a certificate issued by Eastern Cold Field have been brought on record which have been admitted without objection and marked as Exhibit 'A' and 'B' respectively.

8. On going through the deposition of PW-1, PW-2 and PW-3, the learned Trial Court has found that Triveni Rai, who is cousin brother of Satto Ray, had lodged a criminal case earlier against the husband of the victim and in connection with the said case, he had also gone behind the bars. The PW-2, Bhikhari Pandit, has admitted in his cross-examination that the distance



between his village to Chakai Police Station is about 14 Kilometers and the Jamui Civil Court is 100-120 Kilometers. He has admitted that Suro Pandit is not his co-villager and the said Suro Pandit and Laxmi Pandit were not known to him. The accused persons were also not familiar to him. This witness has stated that Suresh Pandit had brought him to the Court for deposition. He had also taken him to the police station for his deposition and the cost of journey was also paid by him. He has stated that he was not having any torch and there was no electricity light at the place of occurrence. The learned Trial Court is correct in appreciation of his evidence by holding that this person by his own deposition is not known to the accused persons at the time of the incident, therefore, he could not have named the accused persons and his statement that he had seen the accused persons namely, Satto Ray, Ramdeo Ray and Prakash Ray running away from the place of occurrence is not believable. No T.I.P. was conducted in this case for identification of the accused.

9. This Court finds that even the victim (PW-3) has stated that the occurrence had taken place in the forest area through which she was returning on 18.04.2010 at 6:00 P.M. This witness has deposed that when she raised alarm, Eitwari Pandit, Bhikhari Pandit, Choudhary and Manoj as also Ramsakhi Devi came there and, thereafter, the accused persons ran away from the



place of occurrence. She has deposed in her cross-examination that her husband had also gone to jail in the criminal case and has admitted that Triveni Rai is the cousin brother of Satto Ray, Naresh Ray and Rajo Ray. The learned Trial Court has noticed that in paragraph-11, this witness has admitted that Satto Rai is the son of Dwarka Rai. In Paragraph-12, this witness has admitted that her husband had gone to jail custody in Chakai P.S. Case No.31 of 2010, which was filed by Triveni Rai and Triveni Rai is the gotiya of Satto Rai. The witness admits that there is a dispute between her and the accused persons regarding possession of Mahua Tree. The witness has further denied any knowledge that her husband had also filed a criminal case against the accused persons or not. She denied the suggestion put by the defence that Chakai P.S. Case No.32 of 2010 was filed by her husband Suresh Pandit against Prakash Rai and Triveni Rai and when he got released from the jail custody, this false case has been lodged against the accused persons. She has deposed in paragraph-16 that this complaint case was filed by her counsel on 18.04.2010 and the witness had put her thumb impression on the same, however, her husband had put signature on it. In paragraph-21, she has deposed that her medical examination could not be conducted.

10. On perusal of the entire materials available on the record and on going through the views expressed by the learned



Trial Court, after appreciation of the evidences available on the record, we are of the considered view that the Trial Court has rightly reached to a conclusion that the prosecution in this case is not able to prove the guilt of the accused beyond all reasonable doubt.

11. Being an appellate court, we do not find any reason much less any material on the record to take a view that the accused-respondents are guilty of the offenses alleged. We keep in mind that this is an appeal against acquittal and the principles governing an appeal against acquittal are well settled. The presumption of innocence has got multiplied at this stage.

12. The appeal has no merit and is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

devendra/anand/-

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