

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No.464 of 2003

(Against the judgment of conviction dated 30.01.2003 and order of sentence dated 04.02.2003 passed by the learned Additional District and Sessions Judge cum Fast Track Court No. IV, Jamshedpur in Sessions Trial No. 56 of 2001)

Sher Pratap Rana, son of Gaj Bahadur Rana, resident of Lane No. 3, Birsanagar, Jamshedpur, Police Station Birsanagar, District Singhbhum (East) ... Appellant(s).

Versus

The State of Jharkhand ... Respondent(s).

PRESENT
SRI ANANDA SEN, J.
SRI GAUTAM KUMAR CHOUDHARY, J.

For the Appellant(s) : Mr. Chandan Kumar, Advocate
For the Respondent(s) : Mr. Pankaj Kumar, PP
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JUDGMENT

05th December 2024

By Court: We have heard the learned counsel appearing for the appellant and the learned counsel for the State at length.

2. This Criminal Appeal arises out of the judgment of conviction dated 30.01.2003 and order of sentence dated 04.02.2003 passed in Sessions Trial No. 56 of 2001 whereby and whereunder learned Additional District and Sessions Judge cum Fast Track Court No. IV, Jamshedpur convicted the appellant under Section 376 of the Indian Penal Code and sentenced him to undergo RI for 10 years.

3. The learned counsel appearing on behalf of the appellant submits that there is no eye witness to the occurrence. He further submits that the doctor who examined the victim stated that no spermatozoa was found on the private part of the victim and further the doctor stated in her cross examination that such type

of injury can also be caused by fall on hard substance. He lastly submits that considering the old age of this appellant, he may be given the benefits of Section 360 Cr.PC.

4. The learned counsel for the State argues that the victim minor girl is only 3 years old and this appellant did not even spared her and ravished her causing bleeding injury on her private part. The medical evidence corroborates with the evidence of PW1 and PW2. On the aforesaid grounds, he prays that this appeal may be dismissed.

5. Based on the *fardbeyan* of the informant (PW1) who happens to be the father of the victim minor girl, FIR being TELCO (Birsanagar) PS Case No. 175 of 2000 was instituted under section 376 IPC. Allegation is, this appellant has sexually assaulted the victim who is a minor aged about 3 years.

6. After investigation, the Investigating Officer submitted chargesheet against the appellant for the offence punishable under Section 376 of the Indian Penal and the appellant was put on trial.

7. On the basis of chargesheet and materials available on record, cognizance was taken and the case was committed to Court of Sessions where charges were framed under Section 376 of the Indian Penal Code and trial proceeded.

8. To prove the prosecution case, altogether 7 witnesses were examined by the prosecution, who are as under:-

- i. PW1 :- Krishna Bishwakarma
- ii. PW2 :- Mohan Barik
- iii. PW3 :- Gita
- iv. PW4 :- Pramila Senapathi @ Pramila Barik
- v. PW5 :- Suchitra Barik
- vi. PW6 :- Dr. Saroj Saha
- vii. PW7 :- Minakshi, IO

9. Following documents have been exhibited :

- i. *Ext.1 – Signature of Krishna Bishwakarma in fardbeyan of FIR*
- ii. *Ext. 2- Signature of Krishna Bishwakarma in seizure list*
- iii. *Ext.3- Medical Report*
- iv. *Ext.4 – Fardbeyan of Krishna Bishwakarma*
- v. *Ext.5 – Endorsement of SI Minakshi on back of fardbeyan*
- vi. *Ext.6 – Signature of Thana Incharge on FIR*
- vii. *Ext.7 – Seizure list made by SI Minakshi*

10. We have gone through the evidence adduced by the prosecution. This is a case under Section 376 IPC. The allegation is that the appellant had committed rape upon the victim who is three years old girl. The informant is the father of the girl who is PW1. He had support the FIR and stated that the girl was taken by this appellant who happens to be his neighbour. After some time when his wife went to take back her daughter, her daughter told her mother that this appellant had committed wrong act with her and there was bleeding from her private parts which is not stopping. As per his evidence, we find that he had categorically stated that the minor victim girl was raped by this appellant.

11. PW3 is the mother who found bleeding from her private part. From the evidence of these two witnesses, it is quite clear that the victim was raped. We find nothing to disbelieve the statement of PW1 and PW3.

12. PW6 is the Doctor who examined the victim minor girl and found the following injuries:-.

Local examination:

Hymen injured and torn and tender. Tear of 2cm length at 7'0 clock position and tear of 1 mm length at 3'0 clock, bleeds on touch and tender. Bruises present in lower part of vestibule.

On the basis of the injuries found in the private part the doctor opined it to be a case of attempted rape. The medical report is marked as Ext.3.

13. From the doctor's report it is clear that she has supported the factum of sexual assault upon the minor girl. Thus the statement of PW1 informant being father of the victim girl and the PW3 being the mother, is corroborated by the medical evidence.

14. Considering the aforesaid evidence we find that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt. Thus we affirm the judgment of conviction dated 30.01.2003 and the order of sentence dated 04.02.2003 passed by learned Additional District and Sessions Judge-cum-Fast Track Court No. IV, Jamshedpur in Sessions Trial No.56 of 2001.

15. Considering what has been held above, we find no merit in this appeal and the same is dismissed as the judgment of the Trial Court is well reasoned and covers all aspect.

16. Since the appellant is on bail, his bail is cancelled and he is directed to surrender before the Trial Court concerned forthwith and serve rest of the sentence.

17. Let a copy of the judgment along with the Trial Court Records be sent back to the Court concerned forthwith.

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

(ANANDA SEN, J.)

(GAUTAM KUMAR CHOUDHARY, J.)

High Court of Jharkhand, Ranchi

Dated : 05/12/2024

Tanuj/

N.A.F.R.