
(2011) 04 PAT CK 0225

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 91 of 1995

Baiju Paswan

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 18-04-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 376, 511

Citation : (2011) 04 PAT CK 0225

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anjana Prakash, J.—The Appellant has been convicted u/s 376 I.P.C. and sentenced to rigorous imprisonment for 5 years by the learned 2nd Additional Sessions Judge, Hajipur in Sessions Trial No. 75 of 1994 by the judgment dated 27.4.1995.

2. The case of the prosecution is that the daughter of the informant aged about 8 years was raped by two accused persons on 10.9.1992 after a minor dispute arose between them.

3. The prosecution in all examined 10 witnesses out of whom P.W. 1 has been declared hostile and P.W. 3, 4, 6 and 7 are hearsay, P.W. 8 and 9 are the doctors who examined the victim whereas P.W. 10 is the Investigating Officer, P.W. 5 is the victim herself.

4. On going through the evidence, I find that the minor girl had narrated in full particulars of the act having been committed by the accused persons and even the under garments revealed the presence of semen on them. However, the doctor has opined that there was no rupture of the hymen nor was any laceration contusion etc. on the inner wall of the vagina.

5. In view of such, I am inclined to convert the conviction of the Appellant u/s

376 I.P.C. to one under Sections 376/511 I.P.C. and his sentence to a period already undergone by him. In the result the appeal is dismissed with the modification stated above.