
(2011) 07 PAT CK 0154

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 198 of 1997

Ekarsi Ram @ Sunil Kumar and Chandrika Ram

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 354, 376, 511

Citation : (2011) 07 PAT CK 0154

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted under Sections 376/511 and 354 IPC and sentenced to RI for three years and a fine of Rs. 1,000/- as compensation to the complainant by the 6th Additional Sessions Judge, East Champaran, Motihari in S. Tr. No. 86 of 1993/20 of 1993 by a judgment dated 08/09.07.1997.

2. The case of the complainant Kalawati Devi is that on 03.01.1993 at about 5 P.M. when she was alone in the house the Appellants entered the same and told her to compromise a case with Krishna Ram and when she refused to do so both the Appellants fell her on the ground and attempted to rape her. She started shouting at which other persons came and the accused persons fled away.

3. During trial the prosecution in all examined five witnesses out of whom P.W. 5 is the prosecutor herself. P.W. 1, Ganesh Gosain supported the case of the prosecution in examination-in-chief but in cross-examination completely belied the same. P.W. 2, Basudeo Ram, a neighbour who had gone to the place of occurrence supported the fact that the victim had fallen to the ground while one of the Appellants was on her. P.W. 3, Ramadhari Gosai has also stated likewise. P.W. 4, Naina Devi stated that when she went to the place of occurrence she saw the Appellants were leaving the house and victim was nude. When P.W. 5,

Kalawati Devi the prosecutor was examined she did not support the case of the prosecution.

4. In view once the prosecutor herself has not supported the case of the prosecution the corroborative evidence with regard to the original prosecution case is meaningless.

5. In the result, the appeal is allowed and the judgment dated 08/09.07.1997 passed by the 6th Additional Sessions Judge, East Champaran, Motihari in S. Tr. No. 86 of 1993/20 of 1993 is, hereby, set aside. The Appellants are acquitted of the charges and discharged of the liability of their bail bonds.