
(2006) 04 JH CK 0114
In the Jharkhand High Court
Case No : Criminal Appeal No. 270 of 2000

Nand Lal Munda

APPELLANT

Vs

The State of Bihar (now Jharkhand)

RESPONDENT

Date of Decision : 13-04-2006

Acts Referred:

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

Citation : (2006) 04 JH CK 0114

Hon'ble Judges : Dhananjay Prasad Singh, J

Bench : Single Bench

Advocate : Laljee Sahay and Arun Kumar Sinha, for the Appellant; V.K. Prasad, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

D.P. Singh, J.—The sole appellant Nanda Lal Munda stands convicted u/s 354 of the Indian Penal Code and sentenced to serve rigorous imprisonment for two years by the learned 6th Additional Judicial Commissioner, Ranchi in Sessions Trial No. 13 of 1998.

2. Briefs leading to this appeal are that informant Sunita Devi, wife of Akala Lohra of village- Paharsingh, Police Station- Angara, District-Ranchi, was taking bath in village pond at about "10.00 A.M. on 25.9.1997 and putting oil on her body, then the appellant suddenly reached there. Further stated that the appellant forcibly lifted the informant and dragged her towards the bush on the bank of the pond, on which she started raising alarms. During this scuffle, two girls reached there so he fled away from the place of occurrence. The informant returned to her house and informed her husband about the incident at about 9.00 P.M. in the night.

3. On the next day, village Chowkidar informed the matter to Angara police, which arrived at the village and recorded her statement On the basis of which Angara Police Station Case No. 61 dated 26.9.1997 was registered under

Sections 376/511 of the Indian Penal Code.

4. The police investigated the case and finally submitted charge sheet against the appellant under++ Sections 376/511 of the Indian Penal Code. The case of the appellant was committed to the Court of Sessions for trial and charge was framed against the appellant under Sections 376/511 of the Indian Penal Code. The trial court after examining the witnesses found and held him guilty u/s 354 of the Indian Penal Code and sentenced him to serve rigorous imprisonment for two years.

5. This appeal has been preferred on the grounds that the learned trial court has not considered the circumstances under which this false case has been lodged. It is further asserted that the lower court has not considered the contradictory statements of P.W.I, the informant P.W. 5 Jaleshwari Kumari and the other witnesses. It further mentioned that non-examination of another girl said to be the eyewitness and absence of the Investigating Officer of this case, have not been considered by the lower court. It is also submitted that in probability of false implication of the appellant has been ignored by the lower court. Therefore, the appellant being innocent may be acquitted from the chares.

6. The learned Counsel for the appellant stressed these points before this Court and pointed out that there were contradictions in the statement of the informant and her husband. It is also suggested that the delay in lodging first information report as well as disclosure of the incident to P.W.2, husband of the informant makes the case doubtful. It has been further submitted that P.W. 2 and P.W. 4 are hearsay witnesses of the occurrence. Therefore, no reliance can be placed upon their statements. According to the learned Counsel for the appellant P.W. 5 Jaleshwary Devi was also interested witness as she was nice of the informant and she has not been examined by the police. As such, the prosecution story suffers from inherent infirmities.

7. Learned A.P.P. appearing for the State opposed these contentions on the ground that the appellant has (sic) to commit rape on the informant when she was taking bath.

8. I carefully gone through the evidence available on the records. This is a case in which the informant is said to be taking bath when the appellant lifted her forcibly with intention to commit rape. It is also apparent on the evidences of P.W, 1 and P.W. 5 that just because timely arrival of two to three girls, the informant was saved. However, from scrutiny of the admission of P.W.1 and P.W. 5 during cross-examination, it has come on record vide para-8 that the informant was grappling with the assailant when two village girls reached there. It is also apparent that she has not disclosed this fact to her husband's parents nor there was any Panchayati in the village. P.W.2, the husband of the informant admitted that the village Chowkidar was his uncle vide para-15 of the cross-examination. P.W.3 Bhola Lohra and P.W.4 Prahalad Lohra are the family members of the informant and they are hearsay witnesses of the occurrence. P.W.6 has formally

proved the handwriting on the first information report because the I.O. of the case has died.

9. I have gone through the impugned judgment dated 28.7.2000. The learned trial court has discussed the evidence available on the record and held that actually the alleged occurrence took place where the appellant has physically lifted the informant and taken towards bush. Accordingly, the learned lower court has held that the offence u/s 354 of the Indian Penal Code has been committed. I do not find any material on record to disagree with the finding of the learned lower court. The learned lower court has accordingly sentenced him to serve rigorous imprisonment for two years. From perusal of the record, it appears that the appellant was arrested on 27.9.1997 and released on bail on 17.2.1998 i.e. nearly five months. There is no material on record that the appellant has got any criminal antecedent or involvement in criminal cases earlier.

10. Having regards to the above mentioned facts and circumstances, I find that the ends of justice would be served adequately if the sentence is modified to the period already undergone by the appellant. Accordingly, I find and held that the present appeal has got no merit and is dismissed with modification in sentence. The appellant is hereby discharged from the liability of his bail bonds.