
(2011) 09 PAT CK 0010

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 73 of 1997

Naro Mandal @ Narendra Mandal @ Satendra Mandal

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 12-09-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 376

Citation : (2011) 09 PAT CK 0010

Hon'ble Judges : Gopal Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Gopal Prasad, J.—Heard learned counsel for the appellant and learned counsel for the State.

2. The appellant has been convicted u/s 376 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for seven years.

3. The learned counsel for the appellant, however, does not challenge the order of conviction recorded by the learned lower court on merits.

4. The learned counsel for the appellant, however, contended that the rape alleged to have been committed on 30.10.1990 and the victim was examined on 31.10.1990 by the doctor P. W. 6 but she did not find any mark of external injury or any injury on valve either on labia majora and labia minora. However, he does not challenge the order on conviction and submit that the appellant has remained in jail for about 3 1/2 years.

5. The occurrence is of the year 1990 and 21 years have already elapsed and the appellant is leading a married life and is only bread earner to his family and his old mother. Hence, a lenient view may be taken as he had lost the prospect of life and prestige due to protruded litigation and conviction.

6. Hence, in view of the submissions the only question to be considered about

the sentence. However, the appellant has been convicted u/s 376 of the Indian Penal Code. However, the special circumstance is that at the time of occurrence the appellant was a student aged about 19-20 years old and due to conviction he lost the prospect of good job. The appellant suffered great humiliation in society and more than 20 years have already elapsed and has remained in jail for 3 1/2 years. Hence, under the fact and circumstance the ends of justice shall meet by sentencing the period already undergone. Hence, with the modification in sentence this appeal is dismissed.