
(2008) 01 JH CK 0028
In the Jharkhand High Court

State of Bihar (Now Jharkhand)

APPELLANT

Vs

Ajit Kumar and Others
 Prabha Sharma Vs State of
Bihar (Now Jharkhand) and Others

RESPONDENT

Date of Decision : 03-01-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 148, 149, 323, 342

Citation : (2008) 1 JCR 604

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Govt. Appeal (S.J.) No. 12 of 1989 (R) and Cr. Revision No. 242 of 1989 (R) arise of the same impugned judgment of acquittal, as such, both have been heard together and are being disposed of by this common judgment.

2. All the sixteen respondents, who are all police personnel, chaukidar, and members of home guards, were charged for the offence under Sections 376(2) (g), 120B, 148, 380, 342, 452, 452, 427 and 323/149 of the Indian Penal Code for committing gang rape on the five ladies of village Pararia and assaulting the villager, wrongfully confining some other villagers of that village and for committing mischief. The learned trial Court by the impugned judgment dated 13.3.1989 acquitted all the accused persons for the charges under Sections 376(2)(g), 120B, 148, 380, 342, and 427 of the Indian Penal Code. Further the trial Court has also acquitted Ajit Kumar (Respondent No. 1), Raj Kumar Yadav (Respondent No. 6), Kistu Turi (Respondent No. 11), Mannu Paswan (Respondent No. 12), Sita Ram Hazra (Respondent No. 13), Rewa Mirdha (Respondent No. 14), Baiju Paswan (Respondent No. 15) and Feku Rout (Respondent No. 16) for the charges under Sections 323, 342, and 452 of the Indian Penal Code. However, the trial Court guilty held Ramanand Harijan (Respondent No. 2), Ram Kripal Sharma (respondent No. 3), Awadh Kishore Rai

(Respondent No. 4), Janardan Mandal (Respondent No. 5), Jeetendra Kumar Sharma (Respondent No. 7), Godawari Mandal (Respondent No. 8), Nunu Ram Yadav (Respondent No. 9) and Bhuneshwar Mandal (Respondent No. 10) for the offence under Sections 323, 342, 448 read with Section 149 of the Indian Penal Code and all of them were sentenced to undergo R.I. for a period of one year for each of the offences under Sections 323, 342, 448 read with Section 149 of the Indian Penal Code. However, the sentences have been ordered to run concurrently.

3. In short, the prosecution case is that in the mid night of 18/19.2.1988 the informant Radhya Devi (PW 5) was sleeping in her house, she heard sound of knocking at the door. The persons standing at her door were abusing her and they were also asking her to open the door, but she did not open the door. Thereafter, six persons climbed on the tiled roof of her house and thereafter by removing the tiles they entered into her house. They caught hold her hands threw her on the ground, gagged her mouth and thereafter raped her. They also took out a silver Pahuchi and Rs. 500/- cash from a box. It is also alleged that the house of Arjun Mahto standing in the same courtyard was also broken open house of Arjun Mahto standing in the same courtyard was also broke open by the accused persons. They entered in his house and assaulted Juniya Devi by means of lathi. Thereafter, they entered into the house of Lilo Mahto and assaulted him and his wife by means of slaps and took away one transistor and one watch. They also committed rape on his wife Dariya Devi (PW 3), Suma Devi (PW 1). In course of occurrence they snatched away the ornaments of other villagers of village Pararia.

3.1 The police after investigation submitted charge sheet under the above Sections and, thereafter, the case was committed to the Court of Sessions.

3.2 That in order to establish the charges altogether 25 PWs have been examined on behalf of the prosecution; out of whom PWs 1, 2, 3, 4 and 5 are the victim ladies upon whom the rape was committed by the accused persons.

3.3 Apart from the oral evidence several documentary evidences were also produced.

4. On behalf of the defence 7 witnesses were examined and some documents were also brought on record.

5. From the records of the case it appears that none of accused who were charged sheeted, were named in the FIR nor any of them was put on T.I. parade.

6. From the evidence of the doctors, who had examined the victim ladies, it appears that no definite opinion regarding rape was found by them.

7. The learned trial Court after discussing in details the evidence of the prosecution witnesses as well as defence both oral as well as documentary, has come to the finding that the prosecution has not been able to establish the charge under Sections 376(2)(g), 120B, 148, 380, 342, and 427 of the Indian

Penal Code and, accordingly, acquitted all the accused persons for the aforesaid charges.

8. After going through the reasonings given by the learned trial Court I am of the view that the learned trial Court has rightly acquitted the accused persons from the aforesaid charges for the offences under Sections 376(2)(g), 120B, 148, 380, 342, and 427 of the Indian Penal Code. I do not find any ground to interfere with the impugned judgment and order of acquittal. Accordingly, the appeal as well as criminal revision are dismissed.