

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.37 of 2014**

Arising Out of PS. Case No.-936 Year-2002 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

-
1. Raj Kumar Singh @ Bhola Singh, Son of Late Jai Krishna Singh, Resident of Village- Jakhara, Police Station- Hayaghat, District- Darbhanga
 2. Ram Kumar Singh @ Shambhu Singh, Son of Late Jai Krishna Singh, Resident of Village- Jakhara, Police Station- Hayaghat, District- Darbhanga

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Alok Kumar, Sr. Adv. Mr. Birendra Kumar Singh, Adv. Mr. Raghendra Pratap Singh, Adv. Ms. Tanya Kumari, Adv.
For the State	:	Mr. Bipin Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL JUDGMENT

Date : 31-01-2026

The instant appeal has been filed by the appellants, Raj Kumar Singh @ Bhola Singh and Ram Kumar Singh @ Shambhu Singh, against the judgment of conviction and order of sentence dated 20.12.2013, passed by the Court of the learned 1st Additional Sessions Judge, Darbhanga, in Sessions Trial Case No. 291 of 2009, arising out of Complaint Case No. 936 of 2002, whereby and whereunder the appellants have been convicted for the offences punishable under Sections 323 and 504 of the Indian Penal Code (in short, "IPC"). Appellant No. 1 has been further convicted under Section 354 of the IPC. Both the



appellants have been sentenced to undergo imprisonment for six months each under Sections 323 and 504, and Appellant No. 1 has been sentenced to undergo imprisonment for one year under Section 354 of the IPC.

Prosecution Story

2. The prosecution story as appearing from the complaint filed by the PW-5 is as follows:

On 23.08.2002 at about 5:30 A.M., the complainant along with the wife of his brother namely, Urmila Devi went to a bamboo orchard located 50 *laggis* away from their house to attend the call of nature then the accused Mukesh Singh came there and stated to his uncle that the bird had been trapped then the appellant Raj Kumar Singh @ Bhola Singh came and abused the complainant with asking them as to what they were doing there. Thereafter he caught hold of her both hands and co-accused Mukesh Singh pressed her mouth. After that the appellant no.1 tore her blouse and pushed her down and tried to commit wrong with her by lifting her saree and *petticoat* then she started struggling then her brother's wife came there and raised an alarm with asking the accused why were they committing the wrong with a pregnant lady and then both the accused started assaulting her and during that course they inflicted two or three leg blows to



her abdominal area causing severe pain to her thereafter her brother's wife tried to save her but she was also assaulted and upon hearing their cries and alarm, the witnesses rushed to the place of occurrence then both the accused managed to escape. As per the complainant, when her father and brother later went to the guardian of the said accused namely, Ram Kumar Singh @ Shambu Singh (appellant no.2), he abused them by using filthy language and also assaulted them and made them fleeing away. As per the complainant, on account of the alleged assault, her two and half months old pregnancy terminated and regarding the said occurrence, a Panchayat meeting was convened by the accused themselves but they refused to follow the Panchayat and again used the abusing language towards them and thereafter, she went to the police station after her health condition improved but the SHO of police station concerned did not take her complaint rather he ousted her from police station with rebuking her also.

3. On the basis of the above complaint, the concerned Sub-Divisional Judicial Magistrate proceeded under Section 200 of the Cr.P.C. and examined four witnesses. Thereafter, the learned Magistrate took cognizance of the alleged offences, and the case was committed to the Court of Sessions, from where it was sent to the Court of the learned 1st Additional Sessions Judge. Appellant



No. 1 and co-accused Mukesh Kumar Singh were charged with offences under Sections 313 and 316 read with Section 34 of the IPC. Appellant No. 1 was separately charged for the offence under Section 376 read with Section 511 of the IPC. Both the appellants and co-accused Mukesh Kumar Singh were jointly charged for the offences under Section 323 of the IPC and the offence under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act. The charges were read over and explained to the appellants in Hindi, to which they pleaded not guilty and claimed to be tried.

4. After the framing of charges, co-accused Mukesh Kumar Singh was found to be a juvenile on the date of the alleged occurrence. Consequently, his trial was separated and sent to the Juvenile Justice Board for trial in respect of him, and both the appellants faced trial jointly for the offences charged against them.

5. Here, it is important to mention that the trial court acquitted Appellant No. 1 of the charged offences under Sections 313, 316, and 376 read with Section 511 of the IPC, and both the appellants were also acquitted of the offence punishable under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act. The trial court convicted both the appellants for the offences under Sections 323 and 504 of the IPC, and Appellant No. 1 was separately convicted for the offence under Section 354 of the IPC.



Both the appellants were sentenced to undergo imprisonment for six months each for the offences under Sections 323 and 504 of the IPC, and Appellant No. 1 was sentenced to undergo imprisonment for one year for the offence under Section 354 of the IPC. The sentences of imprisonment were directed by the trial court to run concurrently.

6. During the trial, the prosecution examined altogether five following witnesses:

Sl. No.	Name	Relevancy
P.W.1	Ram Chandra Ram	Father of the complainant
P.W.2	Vinod Ram	Brother of the complainant
P.W.3	Sumitra Devi	Mother of the complainant
P.W.4	Urmila Devi	Wife of the complainant's brother
P.W.5	Kishmat Devi	Complainant herself

7. No documentary evidence was given by the prosecution party in addition to ocular offence.

8. After the completion of the prosecution evidence, the statements of the appellants were recorded under Section 313 of the Cr.P.C., in which they denied the main circumstances appearing against them from the prosecution evidence and claimed themselves to be innocent. However, they did not take any specific defence while recording their statements and only took the plea that they had been falsely implicated.



9. In defence, the appellants examined four following witnesses:

Sl. No.	Name
D.W.1	Gageshwar Ram
D.W.2	Shibu Ram
D.W.3	Mahesh Ram
D.W.4	Ram Kumar Singh

10. While convicting the appellants for the aforesaid offences, the trial court observed that although the prosecution failed to prove the allegation of causing miscarriage to the complainant and insulting the prosecution party, and also failed to bring home the allegation of attempting to commit rape, however at the same time, the charged offence relating to outraging the modesty of the complainant by Appellant No. 1 was believed by the trial court. While recording this finding, the learned trial court placed reliance on the testimonies of PW-1 to PW-5.

Submissions on behalf of the appellants:

11. Mr. Alok Kumar, learned senior counsel for the appellants, has argued that the complaint was filed after a delay of eight days from the commission of the alleged occurrence. He submits that if the testimonies of PW-1 to PW-5 are taken into account, PW-1, PW-2, and PW-3 do not appear to be eye-witnesses. With regard to important facts such as going to the house of Appellant No. 2, taking the complainant to the hospital,



and the presence of the complainant's family members at the concerned hospital where the complainant was treated, there are serious contradictions among the testimonies of all the prosecution witnesses. Learned senior counsel further submits that even if the prosecution story is believed some explanation could be deemed acceptable for a delay of 3-4 days in taking legal action with regard to the alleged offences; however, in the present case, a delay of eight days occurred in filing the complaint, and a major part of the delay remained unexplained. As per the testimonies of the prosecution witnesses, particularly the complainant and the wife of the complainant's brother, several villagers came to the place of occurrence upon hearing the alarm and cries, but none of them was produced or examined by the prosecution, and in this regard, no explanation has been offered. The complainant's father was examined as PW-1, who clearly stated the name of the concerned doctor where the complainant was taken and treated; however, no documentary evidence, such as medical prescriptions or any other documents relating to the said treatment, was produced before the trial court, despite the complainant having stated that she would produce the same. As per the testimony of PW-1, he and the complainant's brother, PW-2, along with others, had taken the complainant to the hospital and remained there



during the course of treatment; however, in view of the testimony of PW-2 and others, the said fact remained unproved. Regarding the period of treatment, the prosecution witnesses made contradictory statements. Learned senior counsel has further argued that, in fact, there was a dispute between the prosecution party and the appellants with respect to the appellants' bamboo orchard, which was admitted by the prosecution witnesses, and that the said dispute was the main reason for fabricating a false story and implicating the appellants with false allegations.

Submissions on behalf of the State:

12. On the other hand, Mr. Bipin Kumar, learned APP appearing for the State, submits that for proving and attracting the offences for which the appellants have been convicted, the testimonies of PW-4 and PW-5 are the most important, and the trial court has rightly placed reliance on them, as both are eyewitnesses to the commission of the alleged occurrence. However, the learned APP accepts that PW-1, PW-2, and PW-3 do not appear to be eyewitnesses of the alleged occurrence.

Consideration and analysis:

13. I have heard both sides, perused the impugned judgment, and examined the evidence adduced by both parties as



available on the trial court record, taking into account the statements of the accused/appellants.

14. The first contention raised by the appellants' counsel is the inordinate delay of eight days in taking legal action by the prosecution party in respect of the alleged occurrence. In support of this contention, learned counsel has drawn attention of this court to the statements of the prosecution witnesses PW-1 to PW-5. From a perusal of their testimonies, the main reasons stated for the delay are the complainant's treatment at Laheriyasarai by a private doctor, namely Dr. Sunita Sinha, and the convening of a Panchayat meeting between the parties. However, no convincing evidence was produced to substantiate these grounds, despite PW-1 admitting that medical documents relating to the treatment were available and could have been produced before the trial court. Further, as per the testimony of PW-1, the complainant's father, several villagers belonging to different caste were informed about the occurrence, and Panchayat meeting was convened, yet neither any of the Panches nor any of the villagers were produced or examined by the prosecution to substantiate these claims. Even if these grounds are taken to be true, a delay of 5–7 days remains unexplained, giving force to the contention regarding the inordinate delay.



15. The second contention raised by the learned counsel is the existence of major contradictions among the testimonies of all the prosecution witnesses. On examining the evidence, I find that PW-1, the father of the complainant, deposed in chief-examination that upon hearing the commotion, he rushed to the place of occurrence with villagers and claimed to be an eyewitness to the incident. However, as per the testimony of the complainant (PW-5) and her sister-in-law (PW-4), only the complainant and her sister-in-law were present at the time of the assault, and PW-4 stated in cross-examination that after the assault, she attended the complainant while the accused fled away, and her father-in-law, mother-in-law, and other villagers arrived half an hour later. This clearly belies PW-1's claim of witnessing the assault. PW-4 further stated that she remained with the complainant throughout the incident, contradicting PW-1's account. PW-1 also claimed to have informed members of the society about the incident, naming several villagers in cross-examination, yet none of them was examined by the prosecution, and no explanation was given for their non-production. PW-1 stated that during the occurrence, his son (PW-2), wife (PW-3), Pramila Devi, and 10–12 other persons were with him, but he did not disclose the names of these 10–12 persons. PW-4's testimony contradicts this, stating that the



complainant's parents and some villagers arrived later, and PW-2 was not present at the house at the relevant time and came only half an hour after the complainant was taken to the hospital. These contradictions cast serious doubt on PW-1's testimony. Regarding the period of treatment, PW-1 deposed that the complainant regained consciousness after about one and a half hours at Dr. Sunita Sinha's clinic and returned home the next morning, while PW-5 stated that she regained consciousness three days after the occurrence. This serious discrepancy affects the credibility of PW-1's testimony and raises doubt as to the reliability of the prosecution story.

16. In view of the above, I find merit in the contentions raised by the appellants. The contradictions in the prosecution witnesses' testimonies are serious, particularly in view of the admitted enmity between the prosecution party and the appellants over the cutting of bamboo from the appellants' orchard. Evidence from independent defence witnesses further supports the doubt. At this juncture, I would like to mention and of the view that when the main part of the occurrence, which attracts the major offences, is disbelieved, it is unsafe to convict the appellants for minor offences as the alleged incidents relating to major and minor offences are so interconnected that they cannot be separated. When



the material witnesses are disbelieved with respect to the major allegations, it is improper to rely on their testimony for the inseparable minor allegations.

Conclusion

17. Accordingly, in the result, the impugned judgment of conviction and order of sentence dated 20.12.2013, passed by the Court of 1st Additional Sessions Judge, Darbhanga, whereby the appellants were convicted and sentenced for the offences charged in Sessions Trial Case No. 291 of 2009, arising out of Complaint Case No. 936 of 2002, are hereby set aside.

18. The appeal is allowed.

19. The appellants are presently on bail; accordingly, their bail bonds stand cancelled forthwith, and they, as well as their sureties, are discharged from their respective liabilities.

20. Let the records of the trial court, along with a copy of this judgment, be transmitted forthwith to the trial court for compliance and necessary action.

(Shailendra Singh, J)

Rajiv/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	04.02.2026
Transmission Date	04.02.2026

