

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.425 of 2002**

Shankar Mahto, Son of Akkal Mahto, resident of Village-Bakhadda, P.S.-Sahebpur  
Kamal, District-Begusarai.

.... .... Appellant/s

Versus

The State of Bihar

.... .... Respondent/s

**Appearance :**

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate

Mr. Md.Imteyaz Ahmad, Advocate

For the State : Mrs. Abha Singh, Additional Public Prosecutor

**CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA**

ORAL JUDGMENT

**Date: 20-02-2014**

Heard learned counsels appearing on behalf of the parties.

2. The solitary appellant has preferred this appeal against his conviction for the offence punishable under Section 376 of the Indian Penal Code and sentence to undergo rigorous imprisonment for seven years and also to pay a fine of Rs. 2,000/-, in default whereof, to undergo simple imprisonment for six months, as awarded by learned Sessions Judge, Begusarai vide judgment of conviction and order of sentence respectively dated 20<sup>th</sup> & 23<sup>rd</sup> Day of July, 2002 in Sessions Case No. 169 of 1991 arising out of Sahebpur Kamal P.S.


Case No. 103 of 1990.

3. The prosecution case, in short, is based on the Fardbeyan of P.W.1 recorded on 22<sup>nd</sup> September, 1990 at 10.30 hours is that in the previous evening at about 6.00 p.m. while she was visiting her field found the appellant getting crops grazing by his animals, which was object, but bluntly refused by the appellant to get the animals out from there. However, while the prosecutrix was returning she was got hold from behind by him (appellant), who not only slapped her but also subjected to rape. She could be released only when on alarm raised other co-villager were found coming. She on returned intimated the incident to her husband (P.W.6) and, thereafter, on the following day got the case instituted.

4. At the outset, it is relevant to mention that the appellant has tried his leveled best to obstruct smooth proceeding of the trial at 3 - 4 occasions and he misused the privilege of bail for substantial period. However, the prosecution could be able to examine altogether eight witnesses besides producing following documentary evidence:-

- (i) Ext.1 :- Injury Report.
- (ii) Ext.2 :- F.I.R.
- (iii) Ext.3 :- Case diary of S. Kamal 103/90.

Out of the total eight prosecution witnesses examined, P.W.2, namely,



Umesh Sao, P.W.3, namely, Sone Lal Sah and P.W.4, namely, Prabhu Sah, were declared hostile, out of whom, P.W.3 & P.W.4 could be examined three years after examination of P.W.1 & P.W.2. P.W.5, namely, Sita Ram Yadav, at whose field the offence was committed, has come to state about the condition of crops subsequent to incident. Of course, he has heard about the incident and is not an eye-witness, but whatever he has said about the physical features that remain intact. P.W.6, namely, Rajendra Sao, is the husband of the prosecutrix, not an eye-witness, got such information through his wife (P.W.1) and denied the suggestion of false implication at the instance of one Sitaram Yadav with whom the appellant is at inimical terms. P.W.7, namely, Dr. Baidehi Kumari, has examined the prosecutrix but found no injury, proved her report, Ext.1. P.W.8, namely, Bhuneshwar Yadav, is a formal witness, proved Exts.2 & 3.

**5.** Now remains the solitary witness, the Prosecutrix, P.W.1, namely, Soni Devi, who has stated the prosecution version and from her entire statement nothing appears to disbelieve her. Her statement, stating the miseries faced by her at the hands of appellant remains intact.

**6.** In such type of incident with a female, the statement of the victim itself is sufficient to establish the guilt even without any corroboration unless and until anything strongly

otherwise is shown, but as stated, in the case in hand, there appears nothing to disbelieve her. Consequently, finding no reason to interfere with the judgment of conviction and order of sentence, as recorded by the trial court, the appeal is hereby dismissed.

7. The solitary appellant is required to serve the remaining period of sentence and the appellant is on bail, hence, his bail bond is cancelled.

8. The learned trial court will take due steps for taking the appellant into custody.

**(Akhilesh Chandra, J)**

Praveen-II/-

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