

Ramesh Mochi Vs. State of Bihar

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Court : Jharkhand

Decided On : Mar-29-2001

Reported in : 2001(49)BLJR1674

Judge : Deoki Nandan Prasad, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 323, 348, 376 and 448

Appeal No. : Cri. Revision No. 282 of 1999 (R)

Appellant : Ramesh Mochi

Respondent : State of Bihar

Advocate for Def. : Ashok Kumar Sinha, Additional Public Prosecutor

Advocate for Pet/Ap. : A.K. Chaturvedi and; K.K. Mishra, Adv.

Disposition : Application dismissed

Judgement :

Deoki Nandan Prasad, J.

1. This revision is directed against the judgment of conviction and sentence dated 1,7.1999 passed by the learned Sessions Judge, Gumla. in Criminal Appeal No. 32 of 1999 by which the learned appellate Court confirmed the judgment of conviction and order of sentence dated 15.4.1999 passed by the 2nd Assistant

Sessions Judge, Gumla, in Sessions Trial No. 243 of 1997 by which the learned Assistant Sessions Judge convicted the petitioner under Sections 376, 448 and 323 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for seven years under Section 376 of the Indian Penal Code, two months rigorous imprisonment under Section 448 of the Indian Penal Code and one month rigorous imprisonment under Section 323 of the Indian Penal Code. However, all the sentences were ordered to run concurrently.

2. The case of the prosecution in brief is that on 1.6.1997 at night when the informant was sleeping in the house alone, in the meantime, the petitioner came there and pounced upon her and thereafter he committed rape on her forcibly. It is also alleged that the family members of the informant had gone to the house of Ghasia Oraon to attend the feast. The informant made protest at the relevant time but the petitioner gave bhujali blow on her left fore-head and dragged her near the Dhaba where she was forcibly raped. After investigation the police submitted charge-sheet against the petitioner.

3. Witnesses were examined in the Court below. After hearing both sides and considering the evidence on record, the trial Court convicted the petitioner under Sections 376, 448 and 323 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for the period, as indicated above.

4. Against the said judgment of the trial Court, the petitioner preferred an appeal before the learned Sessions Judge, who after considering the evidence and materials available on the record, dismissed the appeal by order dated 1.7.1999. Thereafter this revision has been preferred on the ground that the learned Court below have not appreciated the evidence and the materials brought on record properly as there is much contradiction in the evidence of PW 5. It is also alleged that the victim was examined by the Medical officer but no sign of rape was found and the petitioner has been dragged falsely in this case out of land dispute.

5. The learned counsel appearing on behalf of the petitioner submitted that there is much contradiction in the evidence of the prosecution witnesses which has not been properly considered by the Court below. It is also submitted that there is a land dispute between the parties and due to which, the petitioner has been falsely

dragged in this case. The doctor who examined the informant did not find any sign of rape. At last, it is submitted that the petitioner has already been in Jail custody since June, 1997, and he has already been punished much as well as the victim was a consenting party and, as such, lenient view may be taken.

6. On the other hand, learned Additional Public Prosecutor contended before that there is overwhelming evidence against the petitioner who is the main culprit. The informant and her husband are very much consistent about the occurrence and there is no document to show about the land dispute between the parties and the learned lower Court has rightly convicted the petitioner,

7. PW 1 the informant (the victim) and PW 4, her husband are very much consistent in their evidence about the occurrence. PW 3 is the mother-in-law who had also seen the petitioner fleeing away at the relevant time. PW 6 is the doctor who examined the victim-informant and found as many as three injuries on her person including one injury on her fore-head and, according to him, the Injury No. 1 may be caused by the back portion of bhujali and the other injuries were caused by Nail. This evidence itself substantiated the allegation of the informant that on her resistance, he was also assaulted the bhujali at the relevant time. She has emphatically deposed that the petitioner raped her on the point of bhujali.

8. All the witnesses appeared to be very consistent in their evidence. It is true that the doctor, who examined the victim did not find any sign of rape but the trial Court has given cogent reasons to this effect. Moreover, there is concurrent view of both the courts below as regards to the occurrence which does not find any interference at this stage. Considering the evidence on record, it is evident that the prosecution has established the charges against the petitioner and, as such, the finding of the courts below does not require to be interfered with and the petitioner has rightly been convicted for the offences charged. The petitioner appears to be in jail custody since June, 1997 and the sentence awarded to the petitioner for the offence under Section 376 of the Indian Penal Code is not harsh which does not require to be disturbed. Moreover, all the sentences were ordered to run concurrently.

9. In the result, I do not find any merit in this application which is, accordingly, dismissed. The judgment of conviction and sentence passed by the learned Court below is confirmed.

10. Application dismissed.

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