

Jadu Oraon Vs. State

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Court : Jharkhand

Decided On : Jul-11-2001

Reported in : 2001(3)BLJR2080

Judge : Deoki Nandan Prasad, J.

Appeal No. : Criminal Appeal No. 345 of 1998 (R)

Appellant : Jadu Oraon

Respondent : State

Disposition : Appeal Dismissed

Judgement :

Deoki Nandan Prasad, J.

1. The sole appellant preferred this appeal against the judgment of conviction and sentence dated 12-11-1998 passed in ST. No. 685 of 1995 by Shri Rakesh Ranjan Verma, 5th Additional Judicial Commissioner, Ranchi whereby and whereunder the learned Additional Judicial Commissioner convicted the appellant for the offence under Sections 363/376 of the Indian Penal Code and sentenced him to undergo R.I. for three years for the offence under Section 363, I.P.C. and for a period of 10 years for the offence under Section 376 of the I.P.C. However, the sentences are ordered to run concurrently.

2. The prosecution case in brief as stated is that the minor girl of the informant father namely Sushila Kumari was kidnapped by the appellant. The informant started searching his daughter at many places but she could not be treated. The villager Gander Oraon has been the appellant taking away Sushila Kumari towards western side of the village. On the basis of the written report submitted by the informant, the First Information Report was registered against the appellant for the offence under Sections 363/366, I.P.C. the police investigated the case and submitted charge-sheet for the offence under Section 376 of the Indian Penal Code as well.

3. The appellant appeared in the Court below during trial, The charges for the offence under Sections 363 and 376 I.P.C. was framed against the appellant. The witnesses were examined from both the sides. After having heard both the sides, the Court below convicted and sentenced the appellant in the manner as stated above hence this appeal.

4. The learned Counsel, Mr. P.S, Dayal submitted that there is much contraction in the evidence of the witnesses and the doctor who had examined the victim did not find any injury on the person of the victim girl. It is also submitted that the victim girl was examined under Section 164, Cr.P.C. but she had not supported the prosecution case and the appellant has been dragged falsely in this case out of grudge. It is also argued that there was a delay in lodging the First Information Report of which there is no cogent explanation assigned.

5. On the other hand, the learned Counsel Shri P.K. Sahay contained before me that there is no illegality in the order impugned as the victim girl was examined in the Court below and she had given vivid picture of the incident which also finds support from the medical evidence as well as the victim girl was found to be aged in between 12 and 14 years.

6. Before appreciating the contention of the learned Counsel it will be appropriate to indicate the medical report as the victim was examined by the Doctor and she found the following injury on the person of the victim girl.

(i) Swelling on right hand,

(ii) Hymen ruptured fresh,

(iii) Vagina red and tender,

The Doctor, P.W. 6 opined that as per fresh ruptured of hymen and pathological report of vagina, either intercourse had been done or injury caused due to hard and blunt object. The doctor further stated that if the intercourse with force is done with a girl of tender age, this type of injury is possible. She also stated in her cross-examination that there was tenderness on her private part and when it was being touched, there was pain and she felt the pain. Obviously, the girl/victim was minor at the time of episode. The victim is very specific in her deposition that she was ravished thrice forcibly by the appellant at the point of chhura. According to her, she had gone to fetch water at the relevant time when the appellant forcibly caught her and committed rape.

7. P.W. 1, the father of the girl stated that she had gone to fetch water and thereafter she could not be traced out. One Gandur Oraon had seen the appellant taking away the victim girl in the western side. Accordingly, he lodged the First Information Report Ext. 1. He stated in his cross-examination that the appellant is also residing at a distance of one acre from his house.

8. P.W. 2, Gandur Oraon clearly stated that he had seen the appellant Jadu Oraon and Sushila Kumari going towards western side and he had informed the same to the father and mother of the victim girl. There is no reason as to why this witness would depose falsely against the appellant. He can be said to be an independent witness.

9. P.W. 4 is the mother of the victim girl she also stated that her daughter had gone to fetch water by hand pipe but she could not return and thereafter she started searching her she could not be traced out. Thereafter, her husband went to the police station and lodged the First Information Report. Nothing cogent has been elicited in her cross-examination.

10. P.W. 5 is the Investigating Officer. According to him, he considered the statements of the witnesses and finding the case true, submitted the charge-sheet.

11. Two witnesses have also been examined from the side of the defence. According to them, there was a panchaity held in the village. According to them, the father of the victim girl was demanding 10 to 15 thousand but it could not be fulfilled and due to which this false case has been filed. But such evidence cannot be believed at this belated stage as they have not stated anything before the investigating officer.

12. The victim girl, P.W. 3, is quite consistent in her evidence about the kidnapping and also committing rape on her forcibly by the appellant. P.W. 2 being the independent witness as also corroborated the story of kidnapping of the victim girl. The medical evidence further proves about committing rape as hymen was found ruptured fresh vagina was found red and tender. According to the doctor, such type of injury is possible if intercourse is done with force with a girl of tender age. Thus, it is quite evident that the victim girl, Sushila Kumari was enticed away by the appellant and thereafter, she was raped forcibly.

13. From the evidence collected above, there is no doubt to come to a conclusion that the prosecution has established the case against the appellant beyond all reasonable doubts and the learned trial Court has rightly convicted the appellant for the offence under Sections 363/376 of the Indian Penal Code.

14. At last, the learned Counsel argued that the appellant has already been in Jail custody for about six years and so the order of sentence may be reduced to undergone. But it appears that the appellant has been sentenced for three years' R.I. under Section 363 of the Indian Penal Code and ten years' R.I. under Section 376 of the Indian Penal Code. However, the sentences are ordered to run concurrently. a minor girl has been ravished forcibly and as such I do not feel to reduce the sentence of the appellant and the Court below has rightly passed the order of sentence in this case. In the result, there is no merit in this appeal which is dismissed. The judgment of conviction and sentence is affirmed.