

Mira Devi Vs. the State of Bihar

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Court : Patna

Decided On : Aug-09-2011

Judge : Amaresh Kumar Lal, J.

Acts : Indian Penal Code (IPC) - Sections 363, 342

Appeal No. : Criminal Revision No.190 of 2002

Appellant : Mira Devi

Respondent : The State of Bihar

Judgement :

1. The accused-petitioner has preferred this revision application against the judgment and order dated 24.9.2001 passed by the learned 4th Additional Sessions Judge, Begusarai in Cr. Appeal No. 127 of 1995 by which the judgment of conviction and order of sentence dated 4.11.1995 passed by learned Judicial Magistrate, 1st Class, Begusarai in G. R. No.268 of 1990, Trial No. 181 of 1995 arising out of Matihani P. S. Case No. 106 of 1990 has been set aside so far the case of other two appellants are concerned and judgment of conviction and order of sentence passed against the petitioner has been confirmed.

2. The prosecution case, in brief, is that Seema Kumari, aged about 10 years, the cousin sister of the informant used to go to the teacher, Lalan Singh for tuition. On 24.11.1990 at about 10 a.m. Mira Devi (petitioner), Indu Devi and Nityanand Singh (appellants) kidnapped her. When Mira Devi returned, she stated that Seema

Kumari was enticed away by the accused appellant to Jasidih. On the information of the informant, Uttam Kumar, Matihani P. S. Case No. 106 of 1990 was instituted against accused appellants for the offence punishable under Section 363 and 342 I.P.C.. After investigation charge- sheet was submitted against all the three accused. After trial, all the three accused were convicted for the offence punishable under Section 363 and 342 I.P.C. and they were sentenced to rigorous imprisonment for three years under Section 363 I.P. C. and rigorous imprisonment for one year under Section 342 I.P.C. and both the sentences are directed to run concurrently. Thereafter, the petitioner and two others Indu Devi and Nityanand Singh preferred Cr. Appeal No. 127 of 1995. After hearing both the parties the conviction and sentence of other two accused has been set aside and the judgment of conviction and order of sentence passed against the petitioner by the learned trial court has been upheld by 4th Additional Sessions Judge vide impugned order.

3. Learned counsel for the petitioner has submitted that judgment and order passed by the appellate court as well as the trial court cannot be sustained which are based on testimony of only related and interested witnesses. Learned courts below have failed to appreciate the contradictory evidence of the witnesses examined by the learned trial court. There is also a delay in lodging the FIR.

4. Learned A.P.P. for the State has submitted that the appellate Court has considered the evidence adduced before the learned trial court and after careful scrutiny of prosecution witnesses has found and held that accused Indu Devi and Nityanand Singh are innocent and the petitioner, Mira Devi is the real culprit and her conviction and sentence has been upheld by the lower appellate court and no interference in the impugned order is required by this Court.

5. After hearing learned counsel for both the parties and on perusal of lower court records as well as the impugned order, it appears that lower court has considered the evidence of the prosecution witnesses carefully. From perusal of the impugned order it appears that the lower appellate court has considered the evidence of the prosecution witnesses and has found that the prosecution witness nos. 1, 2, 3, 4 and 6 have stated that victim minor girl, Seema Kumari did not return to her house

after taking tuition and on the next day when they went to the house of petitioner, the petitioner told them that she took the victim, Seema Kumari to Bardhman and also got her returned. Learned trial court has not found any material contradiction in the evidence of those witnesses. P. W. 5, Veena Kumari is aged about 8 years and P. W. 7, Seema Kumar (victim) is aged about 12 years. Their evidence is also convincing and has rightly been believed. It appears from the evidence of P. W. 5 that the petitioner, Mira Devi took the victim, Seema Kumari with her. The victim girl P. W. 7 has also stated that Mira Devi gave her some article and asked her to take it to Paspura Dhala and took her there and got her boarded in the bus. P. W. 2 has also stated that Mira Devi told her that victim is at Bardhwan. P. W. 4 has also stated that when she asked Mira Devi about Seema Kumari, she told her that she has left her in Bardhwan. Mira Devi also accepted her guilt before P.Ws. 1 to 6. From all these materials learned appellate court has found and held that it is Mira Devi who is the real culprit in this case. After considering the evidence learned appellate court has found and held that Mira Devi is an accused for the offence punishable under Sections 363 and 342 I.P.C. and the judgment passed by learned trial court has been affirmed so for the conviction and sentence of Mira Devi (petitioner) is concerned.

6. Considering the facts and circumstances stated above, I do not find any ground to interfere with the impugned order.

7. In the result, this revision application is dismissed. The bail bonds of petitioner, Mira Devi is cancelled and she is directed to surrender before the learned trial court within a period of three weeks, failing which the learned trial court will take steps for her arrest to serve out the remaining part of her sentence.

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