
(2022) 12 PAT CK 0077

Patna High Court

Case No: Criminal Appeal (DB) No. 88 Of 2021

Randheer Rai

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Dec. 22, 2022

Acts Referred:

- Indian Penal Code, 1860 - Section 375, 376
- Code Of Criminal Procedure, 1973 - Section 164, 374(2)
- Prevention of Children from Sexual Offences Act, 2012 - Section 4, 8, 29

Hon'ble Judges: Chakradhari Sharan Singh, J; Chandra Prakash Singh, J

Bench: Division Bench

Advocate: Vikram Deo Singh, Pramod Kumar Singh, Pravin Kumar, Shashi Bala Verma

Final Decision: Allowed

Judgement

Convicted under Sections, Sentence,,

,Imprisonment, Fine (Rs.), In default of fine

376 of the Indian Penal Code, R.I. for 20 years, "30,000/-", "One year simple

imprisonment

4 of Protection of Children from Sexual

Offences Act", R.I. 30 years, "50,000/-", "Two years simple

imprisonment.

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or",,,

makes her to do so with him or any other person; or,,,

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,",,,

under the circumstances falling under any of the following seven descriptions ",,,

First."Against her will.,,,

Secondly."Without her consent.,,,

Thirdly."With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.",,,

Fourthly."With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another",,,

man to whom she is or believes herself to be lawfully married.,,,

Fifthly."With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him",,,

personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which",,,

she gives consent.,,,

Sixthly."With or without her consent, when she is under eighteen years of age.",,,

Seventhly."When she is unable to communicate consent.",,,

12. Even if the incident of any sexual interaction between the appellant and the said victim is taken to be correct, we do not find any evidence that the",,,

same was against her consent or will. The victim was not a child and there is no evidence of any use of force or undue inducement by the appellant.,,,

Victim herself has supported the prosecution's case.,,,

13. In such circumstance, in our view, benefit of doubt deserves to be extended to the appellant. Resultantly, the appellant's conviction for the",,,

offence punishable under Section 376 of the IPC also cannot be sustained.,,,

14. Accordingly, the impugned judgment and order dated 30.09.2020/05.10.2020 passed by the learned Additional Sessions Judge-VI cum Special",,,

Judge, POCSO Act, Samastipur in T.R. No. 131 of 2020, R.N. No. 1448 of 2018, arising out of Khanpur P.S. Case No. 162 of 2018 is hereby set",,,

aside. The appellant is acquitted of the charge of commission of the offences punishable under Section 376 of the Indian Penal Code and Section 4 of,,,

the Act.,,,

15. The appeal is allowed. The appellant is in jail. Let him be released forthwith, if not required in any other case.",,,