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Somra Oraon Vs State of Bihar (Now Jharkhand)

Criminal Appeal No. 25 of 1999 (R)

Court: Jharkhand High Court

Date of Decision: April 21, 2003

Acts Referred:

Penal Code, 1860 (IPC) â€" Section 376

Citation: (2003) CriLJ 3093: (2003) 2 JCR 648

Hon'ble Judges: D.N. Prasad, J

Bench: Single Bench

Advocate: T. Mishra, for the Appellant; K.K. Singh, Addittional Public Prosecutor, for the

Respondent

Final Decision: Dismissed

Judgement

Deoki Nandan Prasad, J.

This criminal appeal is directed against the judgment of conviction and sentence dated 21.12.1998 passed by

Shri Tarkeshwar Prasad, Sessions Judge, Gumla in S.T. No 181 of 1997, whereby and whereunder, the learned Sessions Judge convicted the

appellant u/s 376 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for ten years.

2. The case of the prosecution in brief is that the victim Sabita Lakra aged about twelve years lodged a first information report alleging therein that

she had gone to collect fire wood when the accused/appellant came there and caught hold her and got her down in the field and thereafter

committed rape on her forcibly. She cried and weeped and also raised alarm but none has come for her rescue. Thereafter the accused/appellant

threatened her for dire consequence and directed to keep mum about the incident otherwise she would be killed. She returned to her house but

could not narrate the incident out of fear. It is further alleged that after 8 to 10 days again she had gone to the village side for collecting dried leaves

and again the appellant came there and caught hold her and committed rape on her forcibly for about half an hour and thereafter he threatened her

to keep mum. It is further claimed that in the last December, 1997 she had gone to Tanr area where the appellant again came there and caught

hold her and thrown her on the ground and forcibly committed rape on her twice. Thereafter the victim came to the house and narrated the incident

to her mother who told to wait for her father to return from Himachal Pradesh who had gone for livelihood and when her father came back from

there, she narrated the incident and thereafter the victim along with her father went to the police station and lodged a first information report.

3. The police investigated into the case and submitted charge sheet against the accused/appellant. The case was committed to the Court of session.

Accordingly, the appellant appeared before the leaned Sessions Judge. The charge was framed u/s 376 of the Indian Penal Code which the

appellant denied his allegation.

4. The witnesses were examined in the Court below and after hearing both sides, considering the evidence on record, the learned Session Judge

passed the order of conviction and sentence by the judgment impugned, hence this appeal.

5. Altogether eight witnesses have been examined in support of the case of the prosecution. PW 5 (Sabita Kumari), the victim aged about 14

years, stated that the appellant had first committed rape on her forcibly in the month of Chait but she could not narrate the incident to any other

person because of fearness and again the appellant committed rape on her and third time when she was subjected to physical assault by the

appellant, she narrated the incident to her mother and after coming back to his father from Himachal Pradesh lodged a first information report. She

was also examined by the doctor at the relevant time. She narrated the incident in detail as to how the appellant was committing rape forcibly on

her after putting threat. This fact has also been admitted by PWs 1 and 2, Mukhiaya and Sarapanch who can said to be the independent witnesses

on the point. They claimed to have visited the police station as well at the time of lodging the first information report with the victim who had gave

out the entire episode to them as well PW 3, the father and PW 4, the mother of Sabita Kumari also stated about the incident and because of

fearness, the matter could not be reported earlier to the police station and they waited for arrival of the victim"s father from Himachal Pradesh for

lodging the first information report. She was also examined u/s 164 of the Code of Criminal Procedure, which has been proved by PW 6 who had

recorded her statement, PW 7 is the Doctor, who found the victim aged about 14 to 15 years and opined that the victim was admittedly minor at

the relevant time. It is true that the doctor did not find any sign of sexual intercourse, but in view of the evidence of PW 5 corroborating the

evidence by other witnesses including the independent witnesses, namely, PWs 1 and 2, which is overwhelming at this stage to establish that the

appellant committed rape forcibly on her and the Court below rightly passed Judgment finding the appellant guilty for the offence charged. The

testimony of the victim is quite convincing and truthful and, as such, even on the basis of the sole evidence, the prosecution has been able to

establish the charge for committing rape attracting the offence u/s 376 of the Indian Penal Code.

- 6. In the result. I find that the Court below has rightly convicted the appellant for the offence charged which is, accordingly confirmed.
- 7. So far the sentence is concerned, it is apparent that the appellant has already been in custody since 9.2.1992 and, as such, in my view and for

the ends of justice, the appellant has sufficiently been punished and the period already undergone by him in jail custody will suffice the sentence for

the offence charged.

8. Thus with this modification in the sentence i.e. the period already undergone by the appellant in jail custody, this criminal appeal is dismissed.

The appellant, namely, Somra Oraon has already been in custody. He is directed to be released forthwith, if not wanted in any other case.