
(2006) 07 JH CK 0041
Jharkhand High Court
Case No: None

Charka Turi

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: July 3, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 363, 366, 376

Citation: (2007) 1 JCR 117

Hon'ble Judges: Dhananjay Prasad Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

D.P. Singh, J.

The sole appellant Charka Turi stands convicted for the offence under Sections 366 and 376 of the Indian Penal Code and sentenced to serve rigorous imprisonment for seven years and eight years respectively along with fines, by the Additional Sessions Judge-cum-Fast Track Court-VIII, Giridih in Sessions Trial No. 195 of 2001.

2. The prosecution case, in brief, is that in the morning of 4th August, 2000, victim Usha Kumari left her house to go to her school. She failed to return to her house. Her family members tried to search her out, after which her father Jagdish Das reported the matter to Muffasil Police Station, Giridih on 6.8.2000 suspected that the appellant along with two others may have kidnapped the girl because the appellant has threatened him to ruin only one month earlier.

3. The police registered Giridih (Muffasil) Police Station Case No. 206 of 2000 and started investigation of the case and finally girl was recovered from the house of the appellant. The appellant was charge sheeted for the offence under Sections 363 and 366 of the Indian Penal Code. The case was committed for trial by the Court of Sessions where charges were framed against him under Sections 366 and 376 of the Indian Penal Code. The appellant pleaded not guilty and claimed false prosecution.

The trial Court after examining the witnesses found and held the appellant guilty of the offences alleged and sentenced him as stated above.

4. The present appeal has been preferred on the grounds that the appellant has got no hand in the alleged kidnapping and commission of rape. It is further asserted that the appellant has kept Dumari Devi, the elder sister of the informant against his wishes, which has resulted in lodging the false case. According to the defence, the victim Usha Kumari was never kidnapped or kept confined as well as subjected to any sexual offence. The memo of appeal further mentions that Dumari Devi has examined herself in the Court below to assert that because of ill feeling for her keeping by the appellant with him, this false case has been implicated. It is also asserted that the witnesses have contradicted each other on material points and the doctor has not supported the story of prosecution. Therefore, in absence of Investigating Officer, the appellant may be acquitted under the charges, Learned Counsel further pointed out that the appellant has remained in custody throughout the trial and the present appeal.

5. The prosecution case depends upon the evidence of victim Usha Kumari and the informant. The victim Usha Kumari has been supported by her mother (P.W. 1 Amiya Devi), her sister (P.W. 2 Hemapati "Devi), her father (P.W. 3 Ruplal Das) and her brother (P.W. 4 Jagdish Das) i.e. the informant. P.W. 7 Jagdeo Das to have supported the prosecution case that Usha Kumari has gone to school on 4th August, 2000 and did not return. P.W. 1 has further asserted that she has given the details of the manner in which kidnapping was done and she was confined and subjected to rape by the appellant. They have denied that D.W. 1 Dumari Devi was related with them. P.W. 3 has denied that Dumari Devi was his daughter and further that any criminal case was pending with the father of the appellant. P.W. 4 has asserted that the victim was recovered at Loyabad, District Dhanbad from possession of the appellant, who informed him that she was subjected to rape by the appellant. Much stress has been made on the fact that he has admitted that the informant has got dispute with the appellant. P.W. 7 Jagdeo Das, who has supported the prosecution case. This witness had stood on test of cross-examination. P.W. 5 has supported the story of threatening by the appellant to the informant.

6. The victim herself as P.W. 6 has stated specifically that she was kidnapped by the appellant on a Maruti car and moved to Asansol where she was confined in the house of one Bahadur Tun said to be the brother-in-law of the appellant. She further asserted that she was subjected to rape repeatedly for eight days. She has further asserted that she could get an opportunity to inform the neighbour, who brought the police and thereafter she was rescued. She has been suggested that she has remained at the house of her fufa and made this false complaint at the instance of her father and brother. P.W. 8 is the doctor, who has examined this witness on 15.8.2000. She has opined that the girl was aged about 16 years. As against this, defence witness Dumari Devi has tried to assert that the appellant who was her

defender has been involved in this case falsely. She has admitted during cross-examination that she was living with the appellant as his concubine though he has got wife and two issues. The suggestion made by the defence that just because the appellant was keeping so-called Dumari Devi with him, the prosecution brought this false case against him involving the virginity of the victim.

7. The fact remains that Usha Kumari was recovered by the police at Loyabad from possession of appellant where he was also arrested after ten days. During this period, Usha Kumari has asserted that she was subjected to rape. There is no supporting evidence except that she was missing after 4th August, 2000 and before her recovery on 13th August, 2000 in that circumstance whatever Usha Kumari had asserted, have to be taken true on its own. I do not find any reason why the victim girl would assert wrongly that she was confined and subjected to rape. All other witnesses examined by the prosecution have stood with their test examination and nothing material would come out of the prosecution to help the defence".

8. Having regard to the facts and circumstances of the case. I find that the prosecution in the present facts has been able to bring home the charges against the appellant under Sections 366 and 376 of the Indian Penal Code beyond all reasonable doubts. Accordingly. I find and held that the present appeal is without merit.

9. In the result, conviction of the appellant is affirmed and the appeal is dismissed. Let the lower Court records alongwith a copy of this order be sent to the lower Court for information and needful.