

(2011) 05 PAT CK 0089

Patna High Court**Case No:** Criminal Appeal No. 9 of 1995 (S.J.)

Naresh Rajvanshi

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision: May 3, 2011**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 365

Hon'ble Judges: Anjana Prakash, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

Anjana Prakash, J.

The Appellant has been convicted u/s 365 I.P.C. and sentenced to R.I. for three years by the 3rd Additional Sessions Judge, Aurangabad in Sessions Trial No. 157 of 1990/33 of 1992 by a judgment dated 22.12.1994.

2. The case of the Complainant (P.W. 3) is that while he had gone to earn his livelihood by pulling a rickshaw on 14.5.1988, the Appellant went to his house and reportedly told his wife that the complainant had met with an accident and took her away, where after she became traceless.

3. During trial the prosecution has examined five witnesses. Out of whom, P.W. 3, who is the Complainant, has not supported the case of the prosecution and has been declared hostile. Similarly P.W. 4 and P.W. 5, who are parents-in-law of the alleged kidnapped lady, have also been declared hostile. P.W. 2 has also been declared hostile. P.W. 1, who happened to be the son of the complainant, was aged about 10-11 years of age on the date of occurrence and he has merely stated that on the date of occurrence the Appellant had come to his house and his mother had left with him with Rs. 300/- when she had been informed that her husband had met with an accident. From the analysis of evidence it appears that the prosecution case rests on the sole evidence of P.W. 1, who was minor on the date of occurrence.

4. In the absence of any corroboration from the adult members of the family including the complainant, I am not inclined to accept the evidence of P.W. 1 as completely trustworthy.

5. In the result, the appeal is allowed and the order of conviction and sentence passed against the Appellant on 22.12.1994 by the 3rd Additional Sessions Judge, Aurangabad in Sessions Trial No. 157 of 1990/33 of 1992 is set aside. The Appellant is discharged from the liability of his bail bonds.