



2026:AHC:63168-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2581 of 2019

Sohan Pratap Dhanuk

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Ambreesh Kumar, Ghan Shyam Das,
Kamlesh Kumar Tripathi, Sonu Malik
Counsel for Respondent(s) : G.A.

Along with :

1. Criminal Appeal No. 3908 of 2019:

Satish

Versus

State of U.P.

2. Criminal Appeal No. 3903 of 2019:

Nitu Dohre @ Jitendra Singh

Versus

State of U.P.

Court No. - 42

HON'BLE SIDDHARTHA VARMA, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

1. These three appeals have been filed against a common judgment and order dated 02.3.2019 passed by the Additional Sessions Judge/Special Judge, (Protection of Children from Sexual Offences Act), Court No.01, Auraiya in Special Sessions Trial No.69P/2016 arising out of Case Crime No.214/2016 and in Sessions Trial No.71 of 2017 arising out of Case Crime No.214 of 2016 by which the appellant Sohan Pratap Dhanuk, who has filed Criminal Appeal No.2581 of 2019, was convicted and sentenced for life under sections 376, 120-B/372 and 372/511 of Indian Penal Code and under section 3/4 of POCSO Act; the appellant Satish, who has filed Criminal Appeal No.3908 of 2019, was convicted and sentenced for five years' rigorous imprisonment under sections 120-B read with section 372 and 372/511 of IPC and the appellant-Neetu Dohare, who has filed Criminal Appeal No.3903 of 2019, was convicted and sentenced for five

years' rigorous imprisonment under sections 120-B read with section 372 and 372/511 of IPC.

2. It has been alleged in the FIR that on 3.9.2016, the daughter of the first informant had gone along with her Mama Sohan Pratap Dhanuk to his village. The victim had, as per the FIR, been taken by Sohan Pratap for the purpose of religious feeding of small girls (Kanya Khilana). It has been stated in the FIR further that the victim was 14 years of age and she had gone with her Mama Sohan Pratap at 11.00 AM. At 11.00 PM in the night, another brother-in-law of the first informant one Anuj had rung up stating that the daughter was weeping and that the accused Sohan Pratap had been taking around the victim all over the place. Upon getting this information, the wife of the first informant namely Vindhya Vasini went and brought her daughter from her brother's place. After the daughter had reached her home i.e. her parents' house, then the first informant had made certain inquiries and it so transpired that Sohan Pratap, his younger brother-in-law, had taken the daughter to Satish in his village Indapamau and Satish and Sohan Pratap thereafter had gone to one Neetu in the village Kanno. He had also while making inquiries come to know that they had planned of sell off the daughter for Rs.50,000/-. He had also during the inquiry, come to know that Neetu was an expert of black magic and they had also planned to selling off the Liver of the victim. The FIR was lodged on 6.9.2016 i.e. after 3 days of the incident and the first informant had stated that the delay had occurred owing to the fact that the victim had not told the entire story immediately. In the FIR it was also stated that when Sohan Pratap had taken the victim on 3.9.2016 then at 10.00 PM in the night he had also committed offence of rape on the victim.

3. Upon the FIR being lodged, the statement of the victim was got recorded under section 164 Cr.P.C. on 7.9.2016. In the statement so recorded, she had stated that she was a girl of 14 years and she was studying in 9th standard. Thereafter she had narrated the story as the father had narrated in the FIR. The only difference was that instead of she being sold, as per the FIR, for an amount of Rs.50,000/-, in the statement under section 164 Cr.P.C. she had stated that her Mama was to sell her to Neetu for Rs.10,000/-. She had in fact stated that this money was also

paid to the Mama, though not in her presence. She had very categorically stated that her Mama Sohan Pratap had also committed the offence of rape on her. While describing the manner in which he had committed the offence, she had stated that he had taken off his clothes and thereafter committed the offence. She had then stated that she had run away from the place on a cycle and had gone to her elder Mama's place. In the statement itself, she had told that she had narrated the entire story to her Mama Aniruddh and thereafter the elder Mama had rung up her father. The statement of the victim was also recorded under section 161 Cr.P.C. On 7.9.2016 a medical examination was conducted and a report of it was submitted on the very same date. Thereafter upon the conclusion of the investigation when the police had submitted its report, the charges were framed. Vis.-a-vis. Sohan Pratap and Satish, charges were framed under sections 372, 376, 120B of Indian Penal Code and under section 3/4 of Prevention of Children from Sexual Offences Act. Vis.-a-vis. Neetu Dohare charges were framed under sections 372 and 120B of Indian Penal Code. When the accused had denied the charges, the trial commenced.

4. From the side of the prosecution, as many as, five prosecution witnesses had appeared.

5. PW-1 Brajlal was the father of the victim and the first informant. He had stated exactly what he had mentioned in the FIR. In the cross-examination, he had stated stood firm with what he had stated in the examination-in-chief. However, on 6.2.2017, the PW-1 Brajlal had stated before the Court that the accused were pressurizing him to come to a compromise. Despite that, the cross-examination had continued and he had in cross-examination answered all the questions as were put to him. He had denied the suggestion which was made to him that there was some dispute between himself and his younger brother-in-law with regard to taking and giving of money. He had stated that he was in good relation with both his brothers-in-law.

6. PW-2 is the victim herself and she had also stated what her father had stated in the FIR. In her examination-in-chief she had reiterated the entire story in the Court. In the cross-examination she had, however, stated that there was some dispute between her elder Mama and younger Mama with

regard to some buffalo that her father had purchased. She had very categorically stated that the elder Mama used to visit her house more often. However, in the concluding part of her cross-examination, she had stated that "ये कहना सही है कि सोहन प्रताप ने मेरे साथ गलत काम नहीं किया था". She had also stated in her cross-examination that when she was taken away by Sohan Pratap and they had met Neetu and Satish then no one else was present. She had also stated that she had not seen Neetu Dohare actually making any payment to her Mama. In the cross-examination, which was held on behalf of Satish on 30.1.2019, she had stated that the statement she had given before the Magistrate was correct. However, she had stated that she had never gone to her Mama alone. (मैं अकेले मामा के यहां कभी नहीं गई तथा कोई लेकर नहीं गया। घटनास्थल कहां था इसकी मुझे जानकारी नहीं है).

7. PW-3 was the Constable Aneeta Devi who had proved the chik in the Court.

8. PW-4 happened to be the Investigating Officer and he narrated the manner in which he had done the investigation.

9. PW-5 happened to be the doctor Mamta Kumar and she had on the basis of the findings arrived at on 6.9.2016 given her statement in the Court. She had very categorically stated that neither any external nor internal injury was there on the person of the victim. She also stated that no dead or alive sperm was found around the private part of the victim. She had, however, stated that the victim was around 14 years of age at the time of medical examination.

10. Thereafter the statement of the accused were got recorded under section 313 Cr.P.C. in which they had denied having committed any crime and had stated that they were implicated in the case for oblique reasons.

11. Upon the completion of the trial when the judgment and order of conviction was passed wherein the appellant Sohan Pratap Dhanuk was convicted under sections 376, 120-B/372 and 372/511 of IPC and under section 3/4 of POCSO Act; appellant Satish was convicted under sections 120-B read with section 372 and 372/511 of IPC and the appellant-Neetu Dohare was convicted under sections 120-B read with section 372 and

372/511 of IPC, three separate criminal appeals were filed which have been heard together today.

12. Criminal Appeal No.2581 of 2019 was filed by Sohan Pratap Dhanuk; Criminal Appeal No.3908 of 2019 was filed by Satish and Criminal Appeal No.3903 of 2019 was filed by Nitu Dohre @ Jitendra Singh.

13. Learned counsel for the appellants Sri Kamlesh Kumar Tripathi has submitted that the appellants were innocent and falsely implicated and raised the following submissions :-

(i) Learned counsel has submitted that essentially because of a dispute between the father of the victim and Sohan Pratap, the entire case was got reported.

(ii) Learned counsel further submitted that there were various contradictions in the statement so recorded of the PW-1 and PW-2. The PW-1 had stated that the victim had been taken on 3.9.2016 by Sohan Pratap and had been thereafter taken to Satish and both of them together had gone to Neetu. Learned counsel states that the first informant at no place has suggested as to how he came to know that the appellants Satish and Neetu wanted to purchase the victim and thereafter to sell off her liver. No person who had been a witness to the conversation among Sohan Pratap and Neetu was produced. Also Satish was never produced, either before the police or before the trial Court.

(iii) Learned counsel for the appellants further states that even though the transaction as per the father had been there for Rs.50,000/-, the victim had stated that she had heard that she had been sold for Rs.10,000/-. This was stated under section 164 Cr.P.C.

(iv) Still further, learned counsel for the appellants states that if the medical examination is seen then there was absolutely no abnormality detected on the person of the victim and, therefore, it could safely be said that the entire implication of the appellants was maliciously done.

(v) Learned counsel for the appellants further submits that the victim herself had though stated in the examination-in-chief that the offence of

rape had been committed by her uncle Sohan Pratap but in the cross-examination she had very categorically stated that it was wrong to say that Sohan Pratap had done anything wrong with her. The statement as has been made in the cross-examination since was much stressed upon by learned counsel for the appellants, the same is being reproduced here as under :-

"ये कहना सही है कि सोहन प्रताप ने मेरे साथ गलत काम नहीं किया था"

(vi) Learned counsel for the appellants still further submits that if the statement of the victim in her cross-examination, while she was being examined by the accused-Satish, is seen, it can be concluded that a wrong implication had been made. Since, learned counsel for the appellants has stressed upon the statement of the victim in her cross-examination, which is there at page 37 of the paper book, the same is being reproduced here as under :-

"मैं अकेले मामा के यहां कभी नहीं गई तथा कोई लेकर नहीं गया। घटनास्थल कहां था इसकी मुझे जानकारी नहीं है."

(vii) Learned counsel for the appellants further states that in the cross-examination the PW-2 had stated that on 3.9.2016 itself the victim had narrated the entire incident to her elder Mama but in the FIR, the first informant had stated that she had informed her mother about the incident three days later and, therefore, it was a major contradiction which had not been explained.

(viii) Learned counsel for the appellants further submitted that for the trial Court to say that there was any pressure put by the accused persons was totally wrong. He submits that there was absolutely no pressure and the medical report itself spoke in favour of the accused persons.

(ix) What is more the learned counsel for the appellants has stated that even the contradictory statements of the father of the victim and that of the victim clearly established that a false implication was being made and, therefore, the trial Court, he submits, has wrongly come to a wrong conclusion.

(x) Learned counsel for the appellants further states that for the Court to say that there was some pressure put on the PW-1 and PW-2 was also not conceivable as there was also no secondary evidence which would have gone to prove the fact that actually the offence had taken place. He submits that the primary evidence is the medical report which went to establish that no offence had taken place.

14. Learned AGA Sri C.B. Dhar Dubey has vehemently opposed the appeal and submitted that the offence of rape would not be constituted only where there was an actual penetration. He submitted that as per section 375(c) & (d) of Indian Penal Code, penetration was not the *sine qua non*. Learned AGA further submitted that if the statement of PW-2 is taken in its right perspective then the conclusion would be that the offence had been committed and, therefore, no interference be made in the appeals.

15. Having considered the submissions raised by Sri Kamlesh Kumar Tripathi, learned counsel for the appellants and Sri C.B. Dhar Dubey, learned AGA, we are of the view that the victim after she was taken by her Mama Sohan Pratap at around 11.00 AM and till such time she had reached her home i.e. at 11.00 PM, there was absolutely no evidence of any independent witness to show that she was actually taken to Satish and Neetu Dohre for being sold etc. We also find that the elder Mama Aniruddh @ Anuj had, as per the PW-2, on 3.9.2016 itself informed the mother about the incident as was narrated to him by the victim, but in the FIR, the father had stated that they had come to know about the incident three days later when the victim had told about the same to her mother. This itself shows that there was some kind of planning which was done to falsely implicate the appellants. Still further, we find that the PW--1, the first informant and the PW-2, the victim have on various occasions i.e. in the FIR and in the statements under sections 161 and 164 Cr.P.C. stated about the incident but when it came to the cross-examination, the victim had clearly stated that it was correct to say that Sohan Pratap had in fact not done anything wrong with her. She had also in her cross-examination done on behalf of the accused-Satish, stated that she had never gone alone with her younger Mama and that she had never known about the actual place of incident. We are also of the view that even though there were

statements of the victim and her father, they were not corroborated at all by the medical evidence. The medical report also clearly shows that neither was there any injury on the body of the victim nor was there any external or internal injury around her private parts. We also find that no spermatozoa was at all found by the doctor.

16. In view of the material contradictions; the absence of evidence and the possibility of false implication, we are of the view that the appeals being Criminal Appeal Nos.2581 of 2019; 3903 of 2019 and 3908 of 2019 deserve to be allowed.

17. Under such circumstances, the appeals are allowed. The judgment and order dated 2.3.2019 passed by the Additional Sessions Judge/Special Judge, (Protection of Children from Sexual Offences Act), Court No.01, Auraiya is set-aside. The appellants Sohan Pratap Dhanuk in Criminal Appeal No.2581 of 2019; Satish in Criminal Appeal No.3908 of 2019 and Neetu Dohre in Criminal Appeal No.3903 of 2019 are acquitted. The appellant-Sohan Pratap Dhanuk who is in jail be released forthwith. The appellants Satish and Neetu Dohre are on bail and since they have been acquitted, their sureties be discharged.

(Jai Krishna Upadhyay,J.) (Siddhartha Varma,J.)

March 26, 2026

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