

Home › Case Briefs › **‘Victim Did Not Raise An Alarm Despite Having Opportunity To Do So’; Jharkhand High Court Set Aside Conviction And Sentence Of A Man Convicted U/S 366a, 376 Of Ipc**

‘Victim did not raise an alarm despite having opportunity to do so’; Jharkhand High Court set aside conviction and sentence of a man convicted u/s 366A, 376 of IPC

The Court opined that radiological age of the victim has been assessed to be eighteen years and from the tenor of her cross-examination, it is apparent that she has wilfully left the house of her father and accompanied appellant to various places.

Published on May 7, 2024 - By Arushi



Advertisement

LIST OF LATEST JUDGMENTS/ORDER UPDATED

WEB EDITION

Post

Jharkhand High Court: Appeal was directed against the judgment of conviction and order of sentence dated 24-09-2012 and 25-09-2012 respectively, passed by Additional Sessions Judge-VI, Dhanbad (‘the Trial Court’), whereby appellant was held guilty for the offence under Section 366-A, 376 and 511 of the Penal Code, 1860 (‘IPC’). **Ambuj Nath, J.**, opined that radiological age of the victim was assessed to be eighteen years and from the tenor of her cross-examination of the victim, it was apparent that she had wilfully left the house of her

father and had accompanied appellant to various places. The Court further noted that she had an opportunity to raise alarm at various public places, but she did not do so. Further, the Court noted that in her trial victim has stated that appellant could not sexually assault her due to his physical weakness and opined that this reflected that there were no intervening circumstances in the attempt of appellant not to commit rape upon the victim.

Thus, considering these facts, the Court held that the Trial Court had erred in holding appellant guilty of the offences under Sections 366-A, 376 and 511 of the IPC, and accordingly, set aside the judgment of conviction and order of sentence dated 24-09-2012 and 25-09-2012.

Background

On 29-11-2005, a written report was instituted based on complaint by complainant alleging that his daughter-victim aged about 16 years, went missing and suspicion was on appellant that he must have enticed his daughter with an intention to marry her.

During the trial, statement of the victim was recorded, wherein she stated that at the instance of appellant, she had accompanied him to Asansole where she was forced to sign some documents. She stated that she was kept in a hotel for four-five days and during this period, appellant had also attempted to establish forceful sexual relationship with the victim.

However, in her cross-examination, she stated that a ticket for going to Asansole was purchased by appellant and she was also standing beside the railway counter without raising any alarm. She stated that several passengers were present at platform, but she did not raise any alarm. Further she was taken to Asansole court, but she did not raise any alarm there. She clarified that she was under the influence of appellant at the time, when he was taken to police station. Victim was also medically examined and as per the witness who medically examined the victim, radiological age of the victim was eighteen years.

The Trial Court held the appellant guilty for the offence under Section 366-A, 376 and 511 of the IPC. Subsequently, appellant filed the present appeal.

Analysis, Law, and Decision

The Court opined that radiological age of the victim was assessed to be eighteen years and from the tenor of her cross-examination, it was apparent that she had wilfully left the house of her father and had accompanied appellant to various places. The Court further noted that she had an opportunity to raise alarm at various public places, but she did not do so. Being major, she was fully aware of the consequence of her act. Further, the Court noted that in her trial victim has stated that appellant could not sexually assault her due to his physical weakness and opined that this reflected that there were no intervening circumstances in the attempt of appellant not to commit rape upon the victim.

Thus, considering these facts, the Court held that the Trial Court had erred in holding appellant guilty of the offences under Sections 366-A, 376 and 511 of the IPC, and accordingly, set aside the judgment of conviction and order of sentence dated 24-09-2012 and 25-09-2012. Since, appellant was on bail, the Court discharged appellant and his bailors from the liability towards the bail bonds.

[Mohd. Sazid v. State of Jharkhand, 2024 SCC OnLine Jhar 1341, Order dated 24-04-2024]

Advocates who appeared in this case :

For the Appellant: Shadab Eqbal, Atefa Parvez, Anshuman Om, Haroon Rasheed, Advocates;

For the Respondents: Snehlika Bhagat, A.P.P.

Buy Penal Code, 1860 [HERE](#)



Tags : Jharkhand High Court | opportunity to raise alarm | procurement of minor girl | Section 366A of IPC | Section 76 of IPC | sexual assault | Victim

MOST READ

24 hours

7 days

All time