

Ganga Dayal Singh

Vs

State of Bihar

Criminal Appeal No. 564 of 1980

(K. Ramaswamy, S. Mohan JJ)

31.01.1992

JUDGMENT

1. The appellant was charged for the offence u/ S. 366, I.P.C. and was convicted by the Assistant Sessions Judge for kidnapping a minor girl Asha Kumari aged 15 years on September 12, 1969 from Mohalla Maripur in Muzaffarpur town. He was sentenced to 7 years' rigorous imprisonment and also to pay fine of Rs. 1,000/- and in default to undergo the rigorous imprisonment for one year. Both the sentences were directed to run concurrently. The High Court confirmed the same. Thus this appeal by special leave under Art. 136.

2. The narrative of the prosecution case is as follows :-

P.W. 4 Hardeo Thakur is the father of the minor girl. He and the appellant were doing, potato business. On the previous night, namely, intervening night on 11th and 12th September, 1969, the appellant came to the house of P.W. 4 and the next morning he abducted the minor girl. She was seen being taken away by one of the witnesses whose evidence was recorded in the Committal Court. But before the trial was taken up, he died. Therefore, his evidence was brought on record u/S. 288 of the old Cr.P.C. Apart from that other witnesses have been examined to establish the circumstance. Five circumstances have been established as against the appellant. The appellant and the complainant P.W. 4 were together doing potato business; the accused used to go to the house of the complainant; in the eventful night, the appellant stayed at the house of the complainant; in the morning the appellant was seen taking the minor girl and thereafter the minor girl disappeared and her whereabouts are not known.

3. These circumstances have been established conclusively from the evidence record. It is contended by the learned counsel for the appellant that the appellant being aged about 55 years would not have developed fancy for a minor girl and, therefore, it is a false Story that was concocted that he had abducted the minor girl. The self-same theory was put forth before the Sessions Court and the High Court and both the Courts, in our view quite appreciatively, have negated the contention as fanciful defence set up by the appellant. Thus we do not find any compelling circumstances warranting interference in the conviction and sentence of the appellant. The appeal is dismissed. The bail bonds are cancelled and the appellant is directed to surrender to undergo the remaining part of his sentence. Appeal dismissed.

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