

IN THE COURT OF RAJ NARAYAN NIGAM, DISTRICT & ADDL. SESSIONS JUDGE-I
BHAGALPUR.

ST No 35 of 2025

T.R. No. 06/2025

(Arising out of Bihpur P.S. Case No. 126/2024 registered U/s 376 IPC.)

In the matter of:-

State of Bihar

----- Prosecution

Versus

**Dilbar Baitha @ Dillu, aged about 21 yrs, S/o- Md. Makbool,
R/o- Karahru, P.S.-Bihpur, District-Banka.**

----- Accused Person

Appearance:

Sri Vijay Kumar Singh, Ld. A.P.P

- For the prosecution.

Sri. Gopal Prasad Mandal, Ld. Adv.

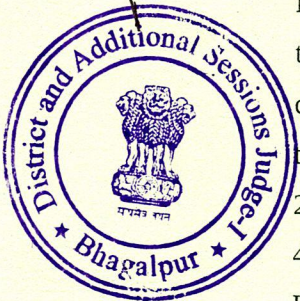
- For the Defence

Present: Raj Narayan Nigam,
1st Distt & Addl. Sessions Judge,
Bhagalpur.

Judgment passed on : 26-05-2026

J U D G M E N T

1. The accused person namely **Dilbar Baitha @ Dillu** stands charged for having committed offence punishable U/s 376 IPC. The charges were read over and explained the same to the accused person in hindi version to which he pleaded not guilty and claimed to be tried.
2. The prosecution case, as written application of informant-cum-victim Nitu Kumari, in brief, is that on 13-03-2024, while she was going to Bandhan Bank, two boys forcefully made her seat on their bike and took her towards *kacchi* road near Dhala. Thereafter, one person went from there and other person Md. Dilbar Baitha forcefully raped her. On hearing her scream nearby villagers came there and caught the accused at the spot.
3. The Bihpur P.S. Case No. 126/2024 registered U/s 341, 342, 376/34 of IPC on the basis of the written application of the informant-cum-victim Nitu Kumari against Md. Dilbar Baitha and one unknown person, the IO of this case after investigation submitted charge-sheet U/s 341, 342, 376/34 of IPC against accused person namely Md. Dilbar Baitha and on the basis of the charge-sheet, Ld. ACJM-I, Naugachia has taken cognizance against the above named accused on 18-06-2024, U/s 376 IPC and committed to the Court of Sessions, Bhagalpur on dated 23-12-2024 and received to this court by the order of Ld. District and Sessions Judge, Bhagalpur on dated 09-01-2025 for trial and disposal.
4. The prosecution has produced and examined only three witnesses namely PW1- Phul Kumari, PW2- Rekha Devi and PW3- NK(The real name of the witness has been withheld to protect her identity). Prosecution evidence was closed on 23-05-2026.
5. On behalf of defence no any oral as well as documentary evidence has been adduced.
6. The statements of the accused person under Section 313 of the Cr.P.C. has been



taken on 26-05-2026 in which he pleaded not guilty and committed no offence and praying for total denial of prosecution case and falsely been implicated in this case.

7. Now, it has to be considered whether the prosecution has been able to prove his case against the accused persons beyond all reasonable doubts?

FINDINGS

8. The prosecution has produced and examined altogether 3 witnesses namely- PW1- Phul Kumari, PW2- Rekha Devi and PW3- NK(The real name of the witness has been withheld to protect her identity).

On behalf of the prosecution following documentary evidence has been adduced on the record:-

(i)Exhibit P-1/ PW-3 Written application.

(ii)Exhibit P-2/ PW-3 Signature of victim on her statement U/s 164 BNS.

(iii)Exhibit P-3/ PW-3 Signature of victim on her statement U/s 161 BNS.

9. It is evident that during the trial on behalf of the defence no any oral as well as documentary evidence has been adduced on the record.

10. **PW-1 Phul Kumari & PW-2 Rekha Devi** have been declared hostile by the prosecution and prosecution failed to bring any important material from this witness.

11. **PW3- NK**(The real name of the witness has been withheld to protect her identity), **who is victim of this case** stated her examination-in-chief that the incident took place about a year ago. An unknown person used to repeatedly call her and used to pressure on her to talk with him. On the date 13.03.2024, at about 2:30 PM, when she was going to Bandhan Bank then suddenly, two boys came there, out of whom one boy grabbed her hand and both the boys forcefully caught her, made her sit on a motorcycle, and took her to a *dhala* near a *kacchi rasta*. Thereafter, one boy left from there and the other one, Md. Dilwar Baitha committed rape with her. When she screamed loudly, nearby people came and caught the boy at the spot and they called her family members. Thereafter, she went to Bihpur Police Station and gave a written application. The written application was written by the police, upon which she put her signature which she identifies. The entire written application is marked as Exhibit P-1/PW-3. Thereafter, she gave her statement under Section 164 CrPC and she signed on her statement under Section 164 CrPC which she identifies and the same is marked as Exhibit P-2/PW-3. She also gave her statement before the police and under Section 161 CrPC and she signed on her statement under Section 161 CrPC which she identifies and the same is marked as Exhibit P-3/PW-3. She identified the accused Dilwar Baitha present in the court.

In her cross-examination she stated that she gave the written application, her statement under Section 164 CrPC, and her statement before the police on the instigation of the villagers whereas no such incident had actually taken place. She further stated that while she was going to Bandhan Bank, she got hit by a motorcycle and got conscious and nearby people told that Dilwar Baitha had hit her. Later, when Dilwar Baitha was asked for the expenses of the treatment he refused and on the instigation of the people, she filed this false case whereas no such wrong incident has happened to her.

12. Heard both parties and perused the entire evidence led by prosecution for proving his case and on analysis I found that PW-1 Phul Kumari and PW-2 Rekha Devi



have been declared hostile by the prosecution. PW-3 NK(The real name of the witness has been withheld to protect her identity), who is victim of this case has supported the case in examination-in-chief but during cross-examination she stated that she gave the written application, her statement under Section 164 CrPC and her statement before the police on the instigation of the villagers whereas no such incident had actually taken place. She also stated that while she was going to Bandhan Bank, she got hit by a motorcycle and got conscious and nearby people told that Dilwar Baitha had hit her. Later, when Dilwar Baitha was asked for the expenses of the treatment he refused to bear the expense and on the instigation of the people, she filed this false case but no such wrong incident has happened to her. Victim of this case has supported the case in her statement given U/S 164 BNS and U/s 161 BNS and in her examination-in-chief but she has given contradictory statement, so the evidence of victim is not reliable and relevant. Thus, the court has reached to the conclusion that the case of the prosecution becomes doubtful and the prosecution has been unable to prove its case beyond reasonable doubt, accordingly order is passed.

ORDER

13. The accused person namely accused person namely **Dilbar Baitha @ Dillu** have been acquitted from the charges U/s 376 of IPC leveled upon him on the basis of **"benefit of doubt"**. As the accused person is on bail, he and his sureties are discharged from all the liabilities of their respective bail bonds. The office is also directed to deposit the record in the D.R.R. Bhagalpur.

14. Judgment is delivered in the open court under my signature and seal on this 26th May, 2026 at Bhagalpur.

Dictated and corrected

(Raj Narayan Nigam)
Additional Sessions Judge-I
Bhagalpur,
Dated : 26.05.2026

Dictated

(Raj Narayan Nigam)
Additional Sessions Judge-I
Bhagalpur,
Dated : 26.05.2026

Date of Judgment / Order	26.05.2026
Date of Reserving Judgment / Order	26.05.2026
Uploading Date	30.05.2026
Uploaded by	Smt. Neelam Kumari DEO

