

District: Gopalganj
In the Court of A.D.J.-I cum Special Judge, Gopalganj
Present: Sanjeev Kumar Singh
A.D.J.-I
Dated: 29th April 2026
Session Trial No.- 35/2025
Baikunthpur :227/18

State of Bihar (Through Sohila Devi)..... Prosecution

Versus

Suraj Kumar S/O Baliram Mahto, aged about 22 yrs.

R/O-Bakhri, P.S.-Baikunthpur, Distt.-Nalanda.....Defense

Offenses U/SS: 363,366-A & 376 IPC

Counsel for Prosecution: Sri Jai Ram Sah, Ld. A.P.P.

Counsel for Defense: Sri Raviprakash Mani Tripathi, Ld. Adv.

Judgment

1.Charge was framed on 05.02.2025. Content of allegations was explained and made the accused understood in Hindi, who in turn, denied to have played any role in commission of the alleged offenses and claimed to face trial to prove his innocence.

2.Case of the Prosecution in short is that informant's co-villagers Indradev Mahto and Balram Mahto had threatened her to kidnap her daughter in the backdrop of log run land dispute between them. Acting upon their threat, accused Suraj Kumar kidnapped her daughter Sunita at about midnight of 18.08.2018 and took her to some secret place. On 20.08.2018 accused Suraj called on her mobile that he had kept her daughter captive and threatened of dire consequences if she did not bow to their demand.

3.After investigating the matter, police submitted charge sheet against the accused and court took cognizance of the aforesaid offenses having sufficient materials to put the accused to trial. Subsequently the case was made over to this court in view of the offenses being triable by the Sessions Court.

4.As soon as accused appeared before the Court and charged, Prosecution was called upon to adduce evidence in support of its case to prove the same beyond all reasonable doubts. To arrive at a logical conclusion it is necessary to have a thorough appreciation

of the evidence available on the record.

Findings

5.It is evident from the record that Prosecution has produced and examined altogether four(4) witnesses in the course of trial who are informant Sohila Devi, Geeta Devi, Chhabila Mahto and Umashankar Manjhi. Court would examine the evidence adduced by these witnesses in order to arrive at a logical conclusion.

6.It is evident from the record that accused is put to trial for the offenses punishable u/ss 363 and 366-A IPC too apart from that u/s 376 IPC too. Section 363 IPC provides punishment for committing the offense of 'Kidnapping' which is defined vide sections 360 & 361 IPC. As per these sections, definition of 'Kidnapping' forms two parts, such as kidnapping from India and from lawful guardianship as well. Section 360 IPC provides that:-

- (i). The victim kidnapped was residing in India at the time of the offense.
- (ii).Accused committed the offense of enticing the person kidnapped.
- (iii).The kidnapping was without the consent of the victim or of someone legally authorized to give consent.

On the other hand the essential ingredients to satisfy the kidnapping u/s 361 IPC are-

- (i). The victim was a minor being below the age of 16 in case of a male, and below 18, in cases of a female.
- (ii).The victim kidnapped was in the keeping of a lawful guardian.
- (iii). Accused took or enticed away the victim from such keeping of the lawful guardian.
- (iv). Accused did so without the consent of the lawful guardian.

7.Section 366-A deals with ' Procuration of minor girl' and says, whoever, by any means whatsoever, induces any minor girl under the age of 18 years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person, shall be liable for punishment. From a bare perusal of the section, it appears that there are three essential ingredients to constitute the offence of procurement of a minor girl under section 366-A IPC. Those are:(a). The victim girl must be induced by the accused;(b). She must be a minor under the age of 18 years and(c). She must be induced by the accused person to go from a place or to do any act with intent that such girl may be or knowing that it is

likely that, she will be, forced or seduced to illicit intercourse by another person. In the entire scheme of this section, 'Inducement' is the basic requirement, that normally means the act or process of enticing or persuading another person to take a certain course of action.

8.The offense u/s 376 IPC prescribes punishment for rape. As per section 375, essential ingredients of this offense are:-

- (i).There must be sexual intercourse with a woman by a man;
- (ii).Such a sexual intercourse should be under any of the following circumstances:
 - a. against her will;
 - b. without her consent;
 - c. with consent obtained under fear of death or hurt;
 - d. with consent given under misconception of fact that the man is her husband;
 - e. consent given by reason of unsoundness of mind, intoxication or under influence of any stupefying or unwholesome substance;
 - f. with a woman under 16 years of age, with or without her consent.

9.Now, coming to the evidence available on the record P.W.1 Sohila Devi, informant and victim's mother, states that her daughter had gone somewhere with accused Suraj. When she went to inquire about the matter, Suraj's father Baliram Mahto drove her away hurling filthy abuses and told that his son had nothing to do with all that. But, in cross examination she says that her daughter left home being angry with her on some domestic issue. It is the accused Suraj who took her back to home when he saw her going alone. Suraj had never kidnapped her daughter nor he committed rape with her. She filed this case due to ongoing land dispute with parents of Suraj.

10.Victim of the case did not turn up before the court to depose. In this regard a law laid down by Hon'ble Supreme Court vide **AIR 1996 SC 1393, State of Panjab Vs. Gurmeet Singh**, particularly its paragraph 7 is worth quoting, **"The testimony of victim in cases of sexual offenses is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the court should find no difficulty to act on the testimony of a victim of sexual assault alone to convict and accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why**

should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a victim may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge leveled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offense is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the victim is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice.

11. Prosecution is bound to prove its case beyond all reasonable doubts. It is well entrenched principle of criminal jurisprudence that a charge can be said to be proved only when there is certain and explicit evidence to warrant legal conviction and no person can be held guilty on pure moral conviction. Howsoever grave the alleged offense may be, otherwise stirring the conscience of the court, suspicion alone can not take place of legal proof. The well established canon of criminal justice is *“fouler the crime higher the proof.”* Hon'ble Apex Court, in **Raj Kumar Singh@Raju@Batya Vs. State of Rajasthan, (2013)5 SCC 722** has clearly ruled that, “Suspicion, however grave it may be, can not take place of proof, and there is large difference between “may be” proved and “will be” proved. The mental distance between “may be” and “must be” is quite large and divides vague conjectures from sure conclusions.

12. In the case of **Yogesh Singh Vs. Mahaveer Singh & Ors.; AIR 2016 SC 5160** Hon'ble Supreme Court has laid down that, “It is cardinal principle of criminal jurisprudence that guilt of the accused must be proved beyond the shadow of all reasonable doubts. 'Reasonable doubt' means a fair doubt based on reason and

common sense but which is free from a zest for abstract speculation. The law cannot afford any favorite other than truth. To constitute reasonable doubt, it must be free from an overemotional response. Doubts must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt but a fair doubt based upon the reason and common sense which must grow out of the evidence in the case. Highest burden of proof in a criminal case, is placed normally on prosecution because under the common law accused is presumed innocent, his or her guilt must be proven to the entire satisfaction of the court.”

13. An adverse inference can be drawn against the accused only and only if the incriminating material stands fully established against him and he is not able to furnish any explanation for the same. Hon'ble Apex Court in **Sharad Birdhichand Sarda Vs. State of Maharashtra, AIR 1984 SC 1622** has held that when on the evidence two possibilities are available or open, one which goes in the favour of prosecution and other benefits an accused, the accused is undoubtedly entitled to the benefit of doubt.

Conclusion

14. In view of the facts and circumstances prevailed in the foregoing paragraphs Prosecution has miserably failed in proving its case beyond all reasonable doubts and this court has been left with no option other than to set the accused free.

15. Accordingly, the accused above named is hereby acquitted of the charges leveled against him for the want of evidence and also he is discharged of the liabilities of the bonds along with sureties.

Dictated and Corrected by Me

Sanjeev Kumar Singh
A.D.J.-I

Sanjeev Kumar Singh
A.D.J.-I

Judgment was pronounced, signed and dated by me in the open court before the accused.

Sanjeev Kumar Singh
A.D.J.-I
Dated: 29.04.2026