

SUPR EME COUR T OF I N D I A  
RECORD OF PROCEEDINGS  
CRIMINAL APPEAL NO(s). 981 OF 2007

LAKHU MANJHI Appellant (s)

VERSUS

STATE OF BIHAR (NOW STATE OF JHARKHAND) Respondent(s)  
(With office report )

Date: 23/07/2009 This Appeal was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE HARJIT SINGH BEDI  
HON'BLE DR. JUSTICE B.S. CHAUHAN

For Appellant(s) Mr. Pijush K. Roy,Adv.  
Mr. G. Ramakrishna Prasad,Adv.

For Respondent(s) Mr. Ratan Kumar Choudhuri,Adv.

UPON hearing counsel the Court made the following  
ORDER

The appeal is dismissed in terms of the  
signed order.

(Arvind)  
Sr.PA

(Vinod Kulvi)  
Court Master

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NOS. 981 OF 2007.

LAKHU MANJHI ..APPELLANT

VERSUS

STATE OF BIHAR ..RESPONDENT  
(NOW STATE OF JHARKHAND)

ORDER

We have heard learned counsel for the parties.

The appellant was accused of having committed an offence  
punishable under section 376 I.P.C. and was sentenced to seven  
years' rigorous imprisonment by the trial court. The judgment

passed by the trial court has been confirmed by the High Court in appeal.

As per the prosecution story, the prosecutrix, had gone to take a bath in a rivulet on 8<sup>th</sup> July, 1997 and while on her way she came across the sister of the appellant, namely, Malti Manjhian. The prosecutrix asked her as to why she was entangled with her husband leading to an altercation and abuses between them. The prosecutrix immediately returned home where her father-in-law advised her not to press the matter any further. The prosecutrix again left home at 12 noon to go to the river for a bath and after having a bath as she was returning home at about 2.00 p.m., she came across Lakhu ..2..

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Manjhi, the appellant herein, who scolded her and threatened that she would pay for having insulted his sister. He thereafter caught her by the neck and dragged her to a nearby forest and raped her. He also threatened her with dire consequences should she reveal the story to anyone. The prosecutrix raised an alarm but as there was no one closeby, none came to rescue her. She again returned to the river for a bath and narrated the incident to her relative Pano Devi - PW 4 and on returning home also narrated the story to her husband, family members and her neighbours. A Panchayat was thereafter called. The appellant too appeared and was interrogated but observing his aggressive and unrepentant attitude, the Panchayat advised the prosecutrix to lodge a report with the police. The investigation was thereupon set in motion and on its completion the appellant was brought to trial.

The Trial Court relying on the evidence of the prosecutrix herself, the doctor PW 10, who had conducted the medical examination, PW.4 Pano Devi and members of the Panchayat, PWs. 1, 2, 5 & 6 Jitu Mallick, Santosh Mallick, Surendra Mallick and Panchu Mallick, respectively as also the I.O. P.W. 9 Nisar Ahmad Khan, who had visited the place of occurrence and found that plants had been crushed at the site convicted the appellant

for the aforesaid offence. The High Court confirmed the conviction and sentence in appeal.

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We have heard learned counsel and gone through the record. The learned counsel for the appellant argued that the fact that there was no evidence of rape as found by the Doctor and the fact that relations between the prosecutrix and her family were strained had resulted in false implication. The learned State counsel has however submitted that the evidence found by the two courts below was unimpeachable and the prosecution had proved the case beyond doubt.

We find that the primary stand of the appellant's counsel is that this was a case of false implication and the suggestion is that Malti Manjhian, sister of the appellant, was involved in an extra marital affairs with the husband of the prosecutrix which had led to the quarrel between them on 8<sup>th</sup> July, 1997, before the alleged rape. However, in the course of the cross examination the position has been totally altered and the suggestion is that the appellant had been falsely implicated, on account of the fact that he was the author of certain scurrilous rumours about the husband of the prosecutrix. It is true that the lady Doctor found no evidence of rape but she explained that in the case of a married woman who had borne a child and as the prosecutrix had been examined after about 30 hours of the incident, the signs of rape need not necessarily be present. We also find full corroboration of the prosecutrix's statement from the

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evidence of PW-4, and the members of the Panchayat PWs. 1,2,5 and 6 as also from the fact that the I.O. P.W.9 found that the plants had been crushed at the site of the rape.

The learned counsel for the appellant has finally submitted that the appellant was 21 years of age at the time of incident and had undergone about 4-1/2 years of the sentence and it was

perhaps a proper case where the sentence of 7 years should be reduced. We find no merit in this submission. The facts do not make out any exceptional case for bringing the sentence below seven years. The appeal is accordingly dismissed.

.....J  
(HARJIT SINGH BEDI)

.....J  
(Dr. B.S. CHAUHAN)

New Delhi.  
July 23, 2009.