



2026:CGHC:530-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1148 of 2021

Panchram @ Maiya @ Dhanau S/o Budhari Gond Aged About 20 Years
Resident Of Kamthi, Police Station Kukdur, District Kabirdham
Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Kukdur, District Kabirdham Chhattisgarh

... Respondent

For Appellant : Mr.Sudhir Kumar Bajpai, Advocate

For Respondent : Mr.Nitansh Jaiswal, Dy.Govt.Advocate

Hon'ble Shri Justice Ramesh Sinha, Chief Justice and

Hon'ble Shri Justice Arvind Kumar Verma, Judge

Judgment on Board

Per Ramesh Sinha, CJ

6/1/2026

1. This criminal appeal arises out of the judgment of conviction and order of sentence dated 4.2.2020 passed by the Special Judge, Protection of the Children from Sexual Offences Act, 2012, Fast Track Court, Kabirdham in Special Sessions Case No.09/2019,

whereby the appellant has been convicted and sentenced in the following manner :

Sl. No.	Conviction	Sentence
1.	Under Section 363 of the IPC	RI for 5 years and fine of Rs.100/-, in default of payment of fine to further undergo RI for 1 month.
2.	Under Section 366 of the IPC	RI for 5 years and fine of Rs.100/-, in default of payment of fine to further undergo RI for 1 month.
3.	Under Section 376AB of the IPC	Life imprisonment till natural death and fine of Rs.3000/-, in default of payment of fine to further undergo RI for 3 months.

2. The prosecution story, in brief, is that on 26.01.2019 the victim's father reported to Kukdoor Police Station that he, a resident of Kamthi village, works as a farmer and laborer. On Tuesday, his wife had gone to her parents' home in Jhalari village and he went to his in-law's house to pick her up. When he returned home with his wife at around 5.30 P.M., his minor daughter, aged 8 years, studying in Class 3, was lying on the cot. His wife asked her how she was lying down. The girl started crying and told her that at around 3 P.M., while returning from the pond after answering the nature call, she had reached the road leading to Pandri Khar when Panchram @ Maiya of the village came and said, "Come, let's go, Ramdayal is calling her to the field to eat sugarcane." When the victim refused to go, he forcibly grabbed her, took her to Ramdayal's sugarcane field. After laying her down in the

sugarcane field, Panchram @ Maiya forcibly raped her, removing her underwear. The complainant's wife then examined the girl's clothes and found blood on the front pockets, bleeding from her genitals and swelling on her body. The complainant's wife asked the victim about all this and told her about it. After consulting with her family, he went to the police station with her mother to lodge a report.

3. On the basis of report lodged by the complainant, Crime No.08/19 was registered in Kukdur Police Station vide Ex.P-8. Spot map was prepared by the investigating officer vide Ex.P-1. Clothes and other article were seized from the victim vide Ex.P-2. T-shirt and underwear were seized from the appellant vide Ex.P-3. Memorandum statement of the appellant was recorded vide Ex.P-4. Frock, vaginal slides and nails of the victim were seized vide Ex.P-5. Leggings and underwear of the victim were seized vide Ex.P-6. Statement of the victim was recorded under Section 164 CrPC vide Ex.P-7. Consent for medical examination of the victim was given by her father vide Ex.P-10. Dr.Prasangina Sadhu (PW-5) examined the victim vide Ex.P-11 and internal injury is seen during vaginal examination. One slide is prepared for seen taken from post-vaginal orifice for semen and biochemical analysis. Nails of both the hands taken for analysis, but no skin evidence found. In golden frock, there are multiple marks of blood is present and hence sealed pack. After careful examination, vaginal examination it is confirm that she is suffering from the

assault of rape. Dakhil-kharij register of the victim in which date of birth of the victim has been mentioned as 13.09.2010 was seized vide Ex.P-12. Certified photocopy of dakhil-kharij register of the victim was seized vide Ex.P-13C. Patwari also prepared the spot map vide Ex.P-14. MLC of the appellant was also conducted vide Exs.P-15 and P-16 in which he was found capable to to sexual intercourse at the time of examination. The appellant was arrested on 27.01.2019 vide arrest memo Ex.P-21. Seized articles were sent for chemical examination and as per FSL report (Ex.P-27), blood was found on frock Article A seized from the victim and t-shirt Article C seized from the appellant.

4. After completion of investigation, charge-sheet was filed before the jurisdictional Court under Sections 363, 376, 377 & 506 of the IPC and Sections 4 & 6 of the POCSO Act.
5. The trial Court has framed the charges under Sections 363, 366 and 376AB of the IPC and Section of the POCSO Act against the appellant.
6. In order to establish the charge against the appellant, the prosecution examined as many as 14 witnesses and exhibited 27 documents. The statement of the appellant under Section 313 of CrPC was also recorded in which he denied the material appearing against him and stated that he is innocent and he has been falsely implicated in the case.

7. After appreciation of evidence available on record, learned trial Court has convicted and sentenced the appellant as mentioned in para 1 of the judgment. Hence, this appeal.
8. Learned counsel for the appellant submits that the impugned judgment of conviction passed by learned trial Court is against the principal of law applicable to facts and circumstances of the case. He further submits that the appellant has not committed any offence and he has falsely been implicated in the alleged offence. The findings recorded by learned trial Court is baseless, perverse, erroneous and contrary to the material evidence available on record, therefore, liable to be set-aside/quashed. He also submits that learned trial Court failed to appreciate the evidence and documents placed before it in its proper perspective. He contended that learned trial Court has failed to appreciate that there are material contradiction and omission in the case diary statement and the Court deposition of the prosecution witnesses, which cannot be relied upon and the same cannot be made basis for conviction of the appellant. As such, the criminal appeal deserves to be allowed and the impugned judgment deserves to be set aside.
9. On the other hand, learned counsel for the State opposes the submissions made by learned counsel for the appellant and submits that the trial Court has rightly convicted and sentenced the appellant, in which no interference is called for by this Court.

- 10.** We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
- 11.** The first question for consideration before this Court would be, whether the trial Court is rightly held that on the date of incident, the victim was minor?
- 12.** When a person is charged for offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredients to prove such charge and the gravity of the offence gets changed when the child is below 18 years, 12 years and more than 18 years. Section 2(d) of the POCSO Act defines the “child” which means any person below the age of eighteen years.
- 13.** In the present case, the prosecution has seized birth certificate of the victim (Ex.P-13C), on which her date of birth is mentioned as 13.09.2010 and since defence has not challenged the documentary and oral evidence presented by the prosecution regarding the victim's date of birth being 13.09.2010, it is established that the age of the victim on the date of incident i.e. 26.01.2019 is 8 years, 4 months and 13 days. Thus, at the time of the incident, the victim is a minor girl below 12 years of age.
- 14.** The next question for consideration before us is whether the appellant has committed rape on minor victim ?

15. Rape has been defined in Section 375 of the IPC as follows :

“375. Rape.-- A man is said to commit "rape" if he--

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. With or without her consent, when she is under eighteen years of age.

Seventhly. When she is unable to communicate consent.

Explanation 1. For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1. A medical procedure or intervention shall not constitute rape.

Exception 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

- 16.** The victim has been examined as PW-3. In para 3 of her statement, she has stated that it was 26th January of this year, a Saturday. She was at home with her grandmother that day. Her father had gone to Jhalari village to pick up her mother, Lalita. She went alone to the pond to answer the nature call at 2:30-3:00 in the afternoon. While returning from there, she had reached the road leading to Pandrikhar when Panchram @ Maiya of the village came and told her to come as Ramdayal was calling her to eat sugarcane. When she refused to go, he forcibly picked her up and took her towards Ramdayal's sugarcane field. In para 4 of her statement, she has stated that the accused took off the yellow leggings and slippers she was wearing and threw them away. He then forcibly had sexual intercourse with her. Her urinate began bleeding and she felt severe pain. He then inserted his penis into her mouth and began moving it back and forth. When he began to move her mouth, he threatened to kill her, cut her into pieces and throw her away. At the same time, she heard the sound coming from the direction of the canal, so she looked up and saw Titari Didi and Fekan Bai coming, then the accused left her and ran away. In para 5 of her statement, she has stated that she went to Titari Didi and Fakenbai, crying and staggering. They then took her to her grandmother, Samarin Bai. Her grandmother, seeing

the blood on her frock questioned her and she told her about the accused's misdeeds. Feeling unwell, she went to sleep at home. Her parents returned some time later, and seeing her asleep and crying, her mother questioned her and she told them about the accused's misdeeds.

17. Dr. Prasangina Sadhu (PW-5) has stated in her evidence that during the genital examination, the victim's genitals were found to be injured, the victim's swab was brought before her, it also had blood stains in several places. The swab was golden in colour and she sealed it and ordered it sent for chemical analysis. A slide was prepared from the post vaginal orifice for semen sample and sent for chemical examination of semen. She also took the fingernails of both the hands of the victim and wrote to have them sealed and sent for examination. After internal examination of vagina of the victim, she found that the victim had been raped.

18. In the Indian society refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has

sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the sine qua non for conviction in a rape case. The observations of Vivian Bose, J. in **Rameshwar v. The State of Rajasthan (AIR 1952 SC 54)** were:

“The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge...”.

19. A victim of a sex-offence cannot be put on par with an accomplice.

She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels

satisfied that it can act on the evidence of the victim. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short 'Evidence Act') similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the Court is hesitant to place implicit reliance on the testimony of the victim it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the victim must necessarily depend on the facts and circumstances of each case. But if a victim is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discloses that the victim does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

- 20.** The Supreme Court in the matter of **Ranjit Hazarika v. State of Assam, AIR 1998 SC 635** has held that the evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. It must not be overlooked that a woman or a 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.

21. The Supreme Court in the matter of **Rai Sandeep @ Deenu v.**

State of NCT of Delhi, 2012 (8) SCC 21 held as under:-

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have correlation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of

the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

22. The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand** (CRIMINAL APPEAL NO.144 OF 2022), decided on 8.2.2022 has held as under:-

"10. Keeping in mind the aforesaid objects and to achieve what has been provided under Article 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be dealt with in a stringent manner and no leniency should be shown to a person who has committed the offence under the POCSO Act. By awarding a suitable punishment commensurate with the act of sexual assault, sexual harassment, a message must be conveyed to the society at large that, if anybody

commits any offence under the POCSO Act of sexual assault, sexual harassment or use of children for pornographic purposes they shall be punished suitably and no leniency shall be shown to them. Cases of sexual assault or sexual harassment on the children are instances of perverse lust for sex where even innocent children are not spared in pursuit of such debased sexual pleasure.

Children are precious human resources of our country; they are the country's future. The hope of tomorrow rests on them. But unfortunately, in our country, a girl child is in a very vulnerable position. There are different modes of her exploitation, including sexual assault and/or sexual abuse. In our view, exploitation of children in such a manner is a crime against humanity and the society. Therefore, the children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas. As observed and held by this Court in the case of **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745**, children need special care and protection and, in such cases, responsibility on the shoulders of the Courts is more onerous so as to provide proper legal protection to these children. In the case of **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, it is observed by this Court that a minor who is subjected to sexual abuse needs to be protected even more than a major victim because a major victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crimes against minor victims are not even reported as very often, the perpetrator of the crime is a

member of the family of the victim or a close friend. Therefore, the child needs extra protection. Therefore, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a court of law.”

23. Considering the evidence of the victim (PW-3) who has specifically stated the act of the appellant, the statement of Dr. Prasangina Sadhu (PW-5), further considering the examination report of the victim (Ex.P-11), material available on record and the law laid down by the Supreme Court in the above-stated judgments, we are of the considered opinion that learned Special Judge has rightly convicted and sentenced the appellant for the above-mentioned offences. We do not find any illegality and irregularity in the findings recorded by the trial Court.

24. In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the Special Judge to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.

25. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

26. Registry is directed to send a certified copy of this judgment along with the original record of the case to the trial court concerned

forthwith for necessary information and compliance and also send a copy of this judgment to the concerned Superintendent of Jail where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court, if so advised, with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

(Arvind Kumar Verma)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Bablu