



CGHC010327612017



2026:CGHC:30410

NAFR

Reserved on : 02.07.2026

Delivered on : 17.07.2026

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1858 of 2017

1 - Piluram Baghel S/o Mahettar Baghel Aged About 24 Years R/o Village Chokar Manjhipara Police Station Kotwali Jagdalpur District Bastar Chhattisgarh.

... Appellant(s)

versus

1 - State Of Chhattisgarh Through The Station House Officer Police Station Kotwali Jagdalpur District Bastar Chhattisgarh.

--- Respondent(s)

For Appellant : Mr. Manoj Kumar Jaiswal, Advocate.

For State : Mr. Kalpesh Ruparel, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

CAV JUDGMENT

1. This appeal has been preferred by the appellant under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment of conviction and order of sentence dated 18.11.2016 passed by the Additional District Judge, Batar place Jagdalpur (C.G.) in Special Sessions Case No. 23/2016-CIS No. 29/2016, wherein the said court convicted and sentenced the appellant as under:-

Conviction	Sentence
U/s 354 of IPC	: R.I. for 5 years and fine of Rs. 1000/-
U/s 506-B of IPC	: R.I. for 1 year and fine of Rs. 1000/-
U/s 08 of the POCSO Act	: R.I. for 5 years and fine of Rs. 1000/-
	: Total fine Rs. 3000/- in default of payment of fine, further R.I. for 6 months.

All the sentences are directed to run concurrently.

2. The prosecution's case, in brief, is that the victim lodged the FIR (Ex.P/1) on 06.06.2016 at Police Station Kotwali, Jagdalpur, alleging that on 05.06.2016, she was at her house. At about 2:00 p.m., her maternal uncle (Mausa), the accused Piluram Baghel, came to her house and told her that his wife (the victim's maternal aunt) was unwell. Therefore, for domestic help he wanted to take the victim to his village Chokar with him for a few days. Thereafter, with the consent of her aunt, grandfather, and other family members, the victim accompanied the accused on his motorcycle towards his village. While proceeding towards the village, near the turn between Village Karmari and Village Chokar, the accused told the victim that he would do a wrongful act with her. He then stopped the motorcycle, forcibly dragged her across the road into a cashew plantation, caught hold of her hands and arms, and started pulling her clothes. In the process, her clothes were torn. The victim pushed the accused away, raised an alarm by shouting for help, and ran back onto the road. Thereafter, the accused followed her on his motorcycle and threatened her not to disclose the incident to anyone, failing which he would kill her. On the basis of the victim's report FIR was registered at Police Station

Kotwali, Jagdalpur against the accused under Sections 354 and 506 of the Indian Penal Code, and the matter was taken up for investigation. After usual investigation, the accused was arrested and since the victim was minor therefore, charge-sheet was filed before the Additional Sessions Judge (F.T.C.), Bastar place Jagdalpur Special Judge – POCSO Act, 2012 punishable under Sections 354 and 506 of the Indian Penal Code and Sections 8 and 10 of the Protection of Children from Sexual Offences (POCSO) Act. The accused denied the charges and faced trial.

3. The prosecution, in order to bring home the guilt of the accused, has examined witnesses namely Sirmati (PW-1), Sukman (PW-2), Shyamsundar (PW-3), the victim (PW-4), Jagmati (PW-5), Lakhan Singh Thakur (PW-6), Archana Dhurandhar (PW-7) Dr. Govind Singh (PW-8) and Dr. B. Durgaprasad (PW-9) & exhibited documents namely FIR (Ex. P/1), Naksa Panchanama (Ex. P/2), Seizure Memo (Ex. P/3, 4, 5), Arrest Memo (Ex. P/6), Attendance Register (Ex. P/7), Najri Naksa and Crime Detail Form (Ex. P/8), memo for medical examination of victim (Ex. P/9), Medical Report of the victim (Ex.P/9A), Information of arrest (Ex. P/10), Memo for the Kotwari Panjiyan regarding Date of birth of the victim (Ex. P/11), Memo to School for the certificate (Ex. P/12), X-ray report (Ex. P/13). After the prosecution evidence was concluded, the accused was examined under Section 313 of the Code of Criminal Procedure. He denied all the incriminating circumstances and allegations put forth by the prosecution, pleaded innocence, asserted that he had been falsely implicated, and exhibited 164 Cr.P.C. Statement of the victim as Ex.D/1.

4. The learned trial Court, after due appreciation of the evidence and material available on record, held that the appellant had committed the offences and accordingly convicted him vide judgment dated 18.11.2016 for offences punishable under Sections 354, 506B of the IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced him as stated hereinabove.
5. The learned trial Court while recording the finding of conviction against the appellant has recorded its finding that the prosecution to prove the age of the victim has conducted the X-ray and as per the cross-examination of the Radiologist (PW/8) has recorded its finding that the age of the victim is above 14 years and below 17 years, as such, she is a minor. This finding of the trial Court duly supported by the Radiologist Report (Ex.P/13) which neither suffers from any illegality accordingly it has recorded its finding that the victim is minor. The learned trial Court after appreciating the evidence of the victim who has supported the prosecution case, has convicted the appellant as aforesaid. Being aggrieved by the said judgment of conviction and order of sentence, the appellant has preferred the present appeal before this Court, primarily contending that there is contradiction and omission in the statement of the victim in Court statement and Section 161 Cr.P.C. Statement and there is no cogent or clinching evidence to show the involvement of the appellant in the instant case.
6. The record of the case would demonstrate that during the trial the appellant remained in jail from 07.06.2016 to 18.11.2016 (5 months and 11 days) and after conviction from 18.11.2016 to 06.05.2019 (2 years 5 months and 18 days) on the date when he was released on

bail by this Court in the present appeal, thus, he remained in incarceration for about 2 years and 11 months.

7. Learned counsel appearing for the appellant would submit that the impugned judgment of conviction and order of sentence passed by the learned Trial Court are contrary to law and the evidence available on record and, therefore, the same deserves to be set aside. He would further submit that the learned Trial Court has failed to appreciate the evidence in its proper perspective and has recorded the finding of conviction without there being sufficient, cogent and reliable evidence against the appellant. He would further submit that there are material contradictions and omissions between the testimony of the victim before the Court and her statement recorded under Section 161 of the Code of Criminal Procedure, which go to the root of the prosecution case and render her testimony unreliable. It has also been contended that the statement of victim is not of sterling quality and does not inspire confidence upon the prosecution case, as such, the appellant is entitled to get benefit of doubt.
8. He would further submit that the prosecution has not produced any independent witness to corroborate the allegations made by the victim, though the alleged place of occurrence was accessible to the public. He would further submit that the prosecution has failed to establish the essential ingredients of the offences punishable under Sections 354 and 506-B of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012 beyond reasonable doubt and would pray for setting aside the impugned judgment of conviction and order of sentence and acquitting the appellant of all the charges.

Alternatively, it has been submitted by the learned counsel for the appellant that as per Section 354 of the IPC minimum sentence is two years as per the State Amendment, 2015 which may extend to 7 years and for commission of offence under Section 8 of the POCSO Act the minimum sentence is 3 years which may extend to 5 years. As such, the learned trial Court without examining the proportionality of the sentence with the gravity of the offence has imposed sentence on higher side, therefore, prayed for reducing the sentence to to the period already undergone by him.

9. Learned counsel appearing for the State supported the impugned judgment of conviction and order of sentence passed by the learned Trial Court. He would further submit that the Trial Court has properly appreciated the oral as well as documentary evidence available on record and has rightly recorded the finding of guilt against the appellant. Learned State counsel would further submit that the alleged contradictions and omissions pointed out by the appellant are minor in nature which are not fatal for the prosecution case. It has been argued that such minor discrepancies are bound to occur due to lapse of time and do not affect the credibility of the victim's testimony. It was further submitted that the prosecution has proved beyond reasonable doubt that the appellant assaulted the victim with the intention of outraging her modesty and also criminally intimidated her by threatening to kill her if she disclosed the incident to anyone. He would further submit that the victim was a child at the time of the commission of offence therefore, the findings recorded by the learned Trial Court do not suffer

from any perversity, illegality or infirmity warranting interference by this Court and would pray for dismissal of the appeal.

10. I have heard learned counsel for the parties and perused the documents placed on record with utmost circumspection.

11. From perusal of records, the point to be determined by this Court is:-

“Whether the learned Trial Court has properly appreciated the oral and documentary evidence available on record, and whether the impugned judgment of conviction and order of sentence suffers from any illegality, perversity or infirmity warranting interference by this Court in the exercise of its appellate jurisdiction?”

12. To examine the issue required to be determined, it is expedient for this Court to go through the relevant sections and evidence led by the prosecution, which read as under:-

354. Assault or criminal force to woman with intent to outrage her modesty.— Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

STATE AMENDMENT (*Vide* Chhattisgarh Act 25 of 2015)

Provided that where offence is committed, under this Section by a relative, guardian or teacher or a person in a position of trust or authority towards the person assaulted, he shall be punishable with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years and shall also be liable to fine.

506. Punishment for criminal intimidation.— Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc.— And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or

imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Section 8 of the POCSO Act Punishment for sexual assault - Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.

13. **Evidence of Sirmati (PW/1) -** The witness has stated in her examination-in-chief that the accused had taken the victim along with him to his village Chokar at around 01:00 pm on the pretext that his wife was unwell. In her cross-examination she has admitted that on 05.06.2016 at about 2:00 p.m., the accused, Pilu, came to Village Chokar and informed the witness that his wife, Sonari, was unwell and that he wanted to take his niece (the victim) with him for two to four days to assist with the household work. On the same night, the witness received a telephone call from Somari, a resident of Village Chokar, informing her that the accused, Pilu, had outraged the modesty of the victim. Upon receiving the information, the witness, Sukman Nag, immediately proceeded to Village Chokar. After reaching there, he enquired from the victim, who informed her that while the accused was taking her on his motorcycle, at about 4:00 p.m., near the turn between Villages Karmari and Chokar, he stopped the motorcycle on the road, stating that he would commit a wrongful act with her. The victim further told her father, Sukman, that the accused had taken her into a cashew plantation situated near the road with an improper intention and had pulled her clothes, due to which her leggings got torn. Sukman as well as the victim narrated these facts to

the witness. The victim also informed the witness that while the accused was attempting to commit the said act, she managed to flee herself and ran towards the road, where she narrated the incident to passers-by. The accused then entered into a quarrel with the persons to whom the victim had disclosed the incident. Thereafter, the accused came on his motorcycle and threatened the victim not to disclose the incident to anyone, failing which he would kill her. In her cross-examination she has admitted that she has not heard telephone call of Somari. Sukman and the victim have informed that Somari has telephoned them. She has also admitted that she has not gone to village Chokar and also admitted that she has not seen the incident. She has also admitted that whatever Sukman and his mother have told to her, she is stating.

14. **Evidence of Sukman, father of the victim, (PW/2)** - The witness in his examination-in-chief has supported the case of the prosecution and has admitted in the cross-examination that he has not seen that the accused has taken the victim but stated remain affirmed that clothes worn by the victim were torn and also admitted that he has informed the police about the four boys who have seen the incident also admitted that the police has not recorded their evidence. He has also admitted against him also one case of rape was registered against him.
15. **Evidence of the Victim (PW/4)** – The witness in her examination-in-chief has narrated the incident taken place as mentioned in the FIR and also stated that her leggy was torn. She also stated that the accused was introducing her as girl friend to the passers-by who

objected the act of the accused. The witness was cross-examined by the defence wherein she has stated that when the accused was scuffling with her, her bangles were broken. She has also admitted that before the Magistrate Court, she has not mentioned that three boys have come at village Karmari Chowk Tarai and told them to intimate the incident to her aunt. She has also admitted that her evidence was recorded before the Magistrate where she could narrate the entire facts and also admitted that after the incident Sukman is not allowing her to meet any one.

16. Evidence of Archana Dhurandar, I.O. (PW/7) – The witness has stated in her examination-in-chief that on the basis of the victim's report dated 06.06.2016, she registered the FIR (Ex. P-1) under Section 354 and 506 of the IPC. During investigation, she prepared the spot map (Ex. P-8), sent the victim for medical examination and age determination, seized the victim's leggings (Ex. P-3), the accused's motorcycle (Ex. P-4), and the Anganwadi attendance register containing the victim's date of birth (Ex. P-5). Upon receipt of the ossification report assessing the victim's age between 14 and 17 years, she added Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012. Nothing material could be elicited in her cross-examination to discredit her testimony.

17. Evidence of Dr. Govind Singh, Radiologist (PW/8) - The witness has stated in her examination-in-chief that as per the X-ray report, looking to the ossification joints he has assessed the age of the victim between 14 to 17 years. However, in his cross-examination he has admitted that the exact age of the victim could not be determined on

the basis of X-ray report and medical examination. He clarified that the age mentioned in his report was only an estimated range of three years. He further admitted that he had not examined the victim's teeth and, therefore, neither he could state the number of her teeth nor express any opinion on age based on dental examination.

18. **Evidence of Dr. B. Durga Prasad, Medical Officer (PW/9)** – the witness in his examination-in-chief has stated that the victim complained that on 05.06.2016 at about 10:00 p.m., her relative had physically assaulted and molested her, causing pain over both sides of her chest and the front of both arms. In cross-examination, the doctor admitted that if a girl's bangles broke during a scuffle, injuries to the wrist were possible. She further admitted that she did not find any visible external injury marks on the victim's body, though mild tenderness was present at some part of the body. She also admitted that her report did not specify the duration of the pain or the time when the injuries might have been sustained.
19. Upon careful appreciation of the entire evidence available on record, this Court proceeds to determine the issues framed hereinabove. So far as the age of the victim is concerned, the prosecution has relied upon the report of the Radiologist. The learned trial Court in its paragraph 33 of the judgment has recorded its finding that the Radiologist has given the report after considering the range of three years as 14 to 17, therefore, the age of the victim was 17 year is proved, which falls under the category of child as defined in the POCSO Act. The finding of the learned trial Court with regard to the age of the victim that she is minor and a child as she is below 18 years

of age, this finding is neither perverse nor contrary to the law, accordingly, it is held that the victim was a child, therefore, trial of the appellant under the POCSO Act cannot be found faulty.

20. Further from the evidence of the victim (PW/4) it is quite vivid that the victim remained firm with regard to the allegation levelled by her upon the appellant despite extensive cross-examination wherein she has stated how the offence has been committed upon her and her clothes were torn, therefore, the finding with regard to conviction of the appellant for punishment for sexual assault under Section 354 of the IPC and under Section 8 of the POCSO Act cannot be held to be perverse or illegal.
21. Similarly, the victim has stated that the accused with intention to cause harm or compel her for such offence is sufficient to attract the offence under Section 506-B of the IPC. Thus, finding of the learned trial Court under the threat or the coercion the alleged act has been committed, deserves to be affirmed by this Court, accordingly, it is affirmed.
22. Thus, from analysis of the evidence, material on record the finding of the learned trial Court that the prosecution is able to prove the offence against the appellant for commission of offence under Sections 354, 506-B of the IPC and Section 8 of the POCSO Act is just and proper which does not suffer from any illegality or perversity warranting interference by this Court. Accordingly, the conviction of the appellant is hereby affirmed.
23. Now, this Court is examining the alternate submission of the appellant that the appellant has already undergone more than minimum

sentence prescribed under Section 354 and 506-B of the IPC, however, only one month is short for minimum sentence which can be imposed under Section 8 of the POCSO Act i.e. 3 years, therefore, learned counsel for the appellant would pray for reducing the sentence to the period already undergone by him, or minimum sentence may be imposed upon the appellant.

24. This was vehemently objected by the learned counsel for the State and he would submit that since the appellant has been convicted under the aid of the POCSO Act therefore, no leniency should be shown and maximum sentence awarded under the Statute has rightly been imposed by the learned trial Court upon the appellant and would pray for rejection of the appeal.

25. It is well settled position of law that the object of punishment is to create an effective deterrence so that the same crime/actions are prevented and mitigated in future, therefore, the punishment awarded should not be too harsh, but at the same time, it should also not be too lenient so as to undermine its deterrent effect. The Hon'ble Supreme Court in the case of **Parameshwari Vs. The State of Tamilnadu and others, [2026 INSC 164]** has examined this issue and held in paragraphs 22 and 34 as under:

“22. The objective of punishment is to create an effective deterrence so that the same crime/actions are prevented and mitigated in future. The consideration to be kept in mind while awarding punishment is to ensure that the punishment should not be too harsh, but at the same time, it should also not be too lenient so as to undermine its deterrent effect.

34. The misplaced understanding of various courts in treating compensation as a substitute of sentence is both a matter of concern and a practice which should be condemned. We have observed a trend amongst various High Courts wherein the sentences awarded to

the accused persons by the Trial Court are reduced capriciously and mechanically, without any visible application of judicial mind. Considering the gravity of the situation as thus, we have culled out certain basic factors, which are to be kept in mind by the courts while dealing with imposition of sentence, in line with the view taken by this Court in the aforementioned cases. The said factors are enunciated as below:

- A. Proportionality: Adherence to the principle of “just deserts” ought to be the primary duty of the courts. There should be proportionality between the crime committed and the punishment awarded, keeping in consideration the gravity of the offence.
- B. Consideration to Facts and Circumstances: Due consideration must be given to the facts and circumstances of the case, including the allegations, evidence and the findings of the trial court.
- C. Impact on Society: While imposing sentences, the courts shall bear in mind that crimes essentially impair the social fabric of the society (of which the victim(s) is/are an indispensable part) and erodes public trust. The sentence should be adequate to maintain the public trust in law and administration, however, caution should also be taken, and the Court shall not be swayed by the outrage or emotions of the public and must decide the question independently.
- D. Aggravating and Mitigating Factors: The courts, while deciding the sentence or modifying the sentence, must weigh the circumstances in which the crime was committed, and while doing so, the court must strike a fair balance between the aggravating and the mitigating factors.”

26. Considering the law laid down by the Hon’ble Supreme Court and also considering the fact the incident has taken place in the year 2016 and the prosecution is unable to place any material with regard to repetition of the same offence for which the appellant was convicted, and also considering that after releasing on bail by this Court on 06.05.2019, the appellant has not misused the liberty granted to him. Therefore, this Court is of the view that the sentence imposed upon the appellant be altered as under :-

Conviction	Altered Sentence
U/s 354 of IPC	: Reduced to already undergone.
U/s 506-B of IPC	: Completed by the appellant.

U/s 08 of the POCSO Act	: Reduced to 3 years and amount of fine unaltered.
----------------------------	---

27. All the substantive sentences shall run concurrently. The appellant shall be entitled to the benefit of set-off for the period of incarceration already undergone, i.e., 2 years and 11 months under Section 428 of the Code of Criminal Procedure, 1973/Section 468 of the Bhartiya Nagrik Suraksha Sanhita, 2023.
28. Since the appellant is on bail, his bail bonds shall stand cancelled. He is directed to surrender before the learned Trial Court forthwith, and in any event on or before 30th September, 2026 to serve out the remaining period of sentence punishable under Section 8 of the POCSO Act as altered by this Court. In the event of his failure to surrender within the stipulated period, the learned Trial Court shall take appropriate steps in accordance with law to secure his arrest and commit him to prison for undergoing the remaining sentence.
31. With the aforesaid modifications, the appeal is partly allowed.

Sd/-
(Narendra Kumar Vyas)
Judge

Deshmukh