

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 381 of 2009

[Against the Judgment of conviction dated 21.04.2009 and Order of sentence dated 22.04.2009, passed by learned 2nd Additional Sessions Judge, Godda in Sessions Case No. 18 of 2008 / 152 of 2008].

Ramjan Ansari, S/o Md. Zamiruddin Ansari, R/o Village –
Baghmara, P.S. – Deodanr, District - Godda.

... .. **Appellant**

Versus

The State of Jharkhand **Respondent**

.....

For the Appellant : Mrs. Rajni Singh, Advocate.
Mr. P.K. Verma, Advocate.

For the Respondent : Mr. Bishambhar Shastri, A.P.P.

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P R E S E N T
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

C.A.V. on 17.06.2026 Pronounced on 30.06.2026

- 1.** Heard learned counsel for the parties.
- 2.** The present appeal is directed against the judgment of conviction dated 21.04.2009 and order of sentence dated 22.04.2009 passed by learned 2nd Additional Sessions Judge, Godda in Sessions Case No. 18 of 2008 / 152 of 2008, whereby and whereunder the appellant has been held guilty for the offence under Section 376 of the I.P.C. and sentenced to undergo R.I. of seven years along with fine of Rs. 3,000/- with default stipulation.

FACTUAL MATRIX

- 3.** The factual matrix giving rise to this appeal is that on 12.08.2007 at about 7:00 P.M. the prosecutrix, aged

about 12 years was going to discharge nature's call towards north side of her Village. Suddenly, near the Sharifa (Custard Apple) tree, the present appellant met her and allured to give Rs. 10/- and come with him, but she declined then present appellant caught hold of her hand and pulling her brought under Sharifa tree, untied under pant and lying down on earth, gaged her mouth by her pant and committed rape on her. The prosecutrix became unconscious, then accused went away when her mother was shouting to call her, but after regaining consciousness, she returned to home and narrated about the above occurrence to her mother. It is alleged that the informant's mother was going to police station, but the Villagers forbade her in the name of convening a Panchayati. Since no Panchayati was convened till two days, then she lodged this case at the police station, where fardbeyan was recorded by S.I. Ajay Kumar Thakur of Deodanr Police Station, District – Godda on 14.08.2007 at 16:00 hours. Accordingly, F.I.R. was registered as Deodanr (Poraiyahat) P.S. Case No. 134 of 2007 dated 15.08.2007 for the offence under Section 376 of the I.P.C. against the above named sole accused.

- 4.** After completion of investigation, charge sheet was submitted for the aforesaid offence against accused.

After taking cognizance, the case was committed to the court of Sessions, where Sessions Case No. 18 of 2008 / 152 of 2008 was registered. The defence has denied the charges leveled against him and claimed to be tried.

5. In course of trial, altogether 07 witnesses were examined by the prosecution apart from documentary evidences.
6. On the other hand, the case of defence is denial from occurrence and of false implication. However, one defence witness namely, Jamiruddin Ansari @ Budhu Ansari has been examined by defence, who happens to be father of the accused. According to his evidence, there is long drawn dispute with the father of the prosecutrix regarding drainage of water from the roof of their house, which are adjacent to each other. He was threatened several times by the father of the prosecutrix. He has further deposed that several times Panchayati was convened in respect to drainage of water with the father of prosecutrix. Hence, his son has been falsely implicated in this case.

In his cross-examination, he admits that the dispute of drainage with the father of the prosecutrix, he has lodged no case or any Sanha before the competent authority and has denied the suggestion of prosecution that he has given false evidence.

7. The trial court, after appreciating the evidence available on record, has held the appellant guilty for the charge leveled against him and sentenced as stated above.
8. Learned counsel for the appellant assailing the impugned judgment of conviction of the appellant has vehemently argued that except the prosecutrix, there is no eye-witness of the occurrence. The maternal grandmother and mother of the victim were declared hostile and the father of the victim is a hearsay witness. There is vital contradictions in the fardbeyan of the victim and in her statement recorded under Section 164 Cr.P.C. Medical report (Exhibit-4) also not corroborated that rape was committed and there was no external injury on the private part, no redness, no tenderness, no bleeding, hymen - no tear at margin of vagina.
9. It is further submitted that the appellant has been falsely implicated in this case due to previous enmity between father of the victim and the appellants' family with respect to drainage of water. Therefore, conviction and sentence of the appellant is liable to be set aside and this appeal may be allowed.
10. In alternative, it is argued that the occurrence is of the year 2007 and near about two decades have elapsed. Out of sentence of R.I. of seven years, the

appellant has remained in custody for about 1½ years. Therefore, sending the appellant for serving the remaining period of sentence would serve no useful purpose, as such, considering the attending circumstances of the case, the period of imprisonment already undergone by the appellant during trial and post-conviction would meet the ends of justice in this case. Therefore, the sentence of R.I. of seven years awarded by learned Trial Court may be reduced to the imprisonment already undergone by him.

- 11.** Per contra, learned APP appearing for the State has vehemently opposed the aforesaid contentions raised on behalf of the appellant and submitted that the prosecution has proved its case beyond all reasonable doubt. Learned trial court has very meticulously examined the evidence adduced by the prosecution as well as defence. It appears that although the medical examination of the victim was conducted after one week, therefore, no sign of rape has been found, that is immaterial. There is no illegality or infirmity in the impugned judgment of conviction and order of sentence of the appellant and there is no merit in this appeal, which is fit to be dismissed.
- 12.** I have gone through the record the case along with impugned judgment in the light of contentions raised on behalf of both side.

- 13.** The only point for consideration in this appeal is, as to whether the impugned judgment of conviction and sentence suffers from any serious error of law calling for any interference in this appeal or not?
- 14.** Before adjudicating the above point, it is pertinent to apprise with the testimony of the witnesses examined during trial.
- 15. P.W.-1** is a rickshaw puller by profession and happens to be **father of the victim girl**. He has disclosed the age of his victim daughter as 10 years. He has also deposed that while he was present at Dumka, then he got information that Ramjan Ansari has committed rape with his daughter on allurement of giving Rs. 10/- to her. Admittedly, this witness is not an eye-witness of the occurrence, rather hearsay witness.

In his cross-examination by defence, he admits that there is no dispute of any kind with the accused or his father and never any Panchayati was convened for resolving any dispute. He came to know about the above occurrence from his wife. He has also denied any scuffle with the father of accused regarding drainage of water from their houses.

- 16. P.W.-2 is the maternal grandmother of the victim girl.** She came to know about the occurrence and heard that a case has been lodged, but she can't tell

what nature of case has been lodged against the accused, as such she has been declared hostile by prosecution.

17. P.W.-3 is the mother of the victim girl. She has also deposed that about 08 months ago, her daughter was raped and she returned and disclosed about the occurrence and also stated that she could not identify any miscreant, but she specifically disclosed that rape was committed with her. This witness has also been declared hostile by the prosecution.

18. P.W.-4 is the prosecutrix. In her evidence, she has categorically states that she went to police station along with her maternal grandmother (P.W.-2), where her fardbeyan was written by police and she signed over it, which was marked Exhibit-1. Her statement under Section 164 of Cr.P.C. was also recorded by Magistrate and she proved her signature as Exhibit-2. She has also claimed to identify the accused Ramjan Ansari present behind the dock. This witness has further stated that on the date of occurrence, it was going to start night and she had gone to *bari* for discharging nature's call, where Ramjan Ansari committed rape with her forcibly. She has further described that her pant was untied. Thereafter, rape was committed with her. The accused has also given allurement of Rs. 10/- to her. The accused has also

threatened her not to disclose above incident to anyone, but she disclosed the above story to her mother. She has also undergone medical examination and she has also disclosed about commission of rape with her while recording of her statement under Section 164 Cr.P.C. by the Magistrate. She also states that the accused has not given Rs. 10/- to her nor she received the same. She has identified the accused present behind the dock.

In her cross-examination, she admits that the accused Ramjan Ansari is her neighbour and the roof of their houses is at a distance of 10 ft. She also admits that the house of Ramjan Ansari is situated just adjacent to her house by purchasing some land. She also admits about drainage of water at the time of rainy season from their roof. She also admits dispute of drainage prior to the occurrence, but no case was lodged by any party. She also admits that place of occurrence is situated at a distance of 10-15 ft. from her house.

In Court question also, she has clearly deposed that she has identified the accused Ramjan Ansari, who committed rape with her. Since her mouth was gaged by her pant, hence, she could not raise any alarm. She was dragged towards Sharifa tree by the accused for commission of rape. She has given vivid

description about of manner of commission of rape with her. Thereafter, she became unconscious and on attaining consciousness, she, at first, went to the house of her maternal grandmother and disclosed about the incident. She went to police station along with her maternal grandmother and mother for lodging the case.

She has denied the suggestion of defence that due to dispute about drainage of rain water with her father, she has lodged this false case.

19. P.W.-5 Sanjeev Jha is the Judicial Magistrate, 1st Class, Godda, who has proved the statement of the victim recorded under Section 164 CrPC as Exhibit-3.

20. P.W.-6 Dr. Vandebi Jha has conducted the medical examination of the victim while posted at Sadar Hospital, Godda on 18.08.2007 and found following:-

Height 130 cm, Weight – 26 Kg.

Teeth 14/14 total 28.

Age about 13 years for confirmation of age radiological and dental opinion needed. Breast not grown auxiliary hairs absent.

External examination – Walking normally, no injury anywhere over body.

Internal examination

Pubic hair not grown. No injury at around private part. No redness no tenderness no bleeding hymen no

tear at margin extending up to vagina present opening admit little finger deep only. Microscopical examination of vaginal swab spermatozoa not found appthelious found not seen.

Opinion.

The age of victim is about 13 years, no definite opinion can be given regarding sexual contact.

This witness has identified the injury report, which is in his handwriting and bears his signature, marked as Exhibit-4.

21. P.W.-7 ASI Ajay Kumar Thakur is the Investigating Officer of this case. He has proved the fardbeyan of the prosecutrix as Exhibit-1 and overall contents of fardbeyan as Exhibit-1/1, endorsement on the fardbeyan as Exhibit-1/2 and endorsement on the fardbeyan by the Officer-in-Charge of Poraiyahat Police Station as Exhibit-1/3, Formal F.I.R. as Exhibit-5. He recorded re-statement of the victim girl. He has visited the place of occurrence and inspected the same. The place of occurrence of the case is situated in Village-Baghmara, Pradhan Tola towards 50 yards southern side from the house of victim, where Sharifa and Taal tree and bushes were found, where victim girl was raped by the accused. He has also recorded the statement of witnesses Demanti Devi and Kalawati Devi.

His attention has been drawn towards the statement recorded under Section 161 Cr.P.C. of P.W.-2 and P.W.-3, who have disclosed before him that the victim narrated to them about the occurrence just after she returned from the place of occurrence after commission of rape with her. He has also disclosed that due to convening of Panchayati, there was delay in lodging the F.I.R. He also sent the victim for medical examination and obtained her medical examination report and finding sufficient evidence, submitted charge sheet against the accused for the offence under Section 376 of the I.P.C.

In his cross-examination, he admits that no independent villagers were desirous to give statement before him nor anyone appear. Therefore, he has not interrogated about the occurrence with them. He also admits that for the first time, the victim declined for undergoing the medical examination, but again she consented and her medical examination was conducted on 18.08.2007.

He has denied the suggestion of defence that his investigation is perfunctory and defective and without sufficient evidence, he has submitted charge sheet against the accused.

22. From discussion of evidence of above witnesses, it appears that the prosecutrix has fully supported her

case. Her solitary evidence is sufficient to convict the appellant. It further appears that although her medical examination was conducted after one week, therefore, no sign of rape has been found. But from the evidence of the victim, it is crystal clear that she has fully corroborated the version of the prosecution case as well as her statement recorded under Section 164 Cr.P.C.

23. It is trite that the testimony of prosecutrix appears to be wholly reliable and unblemished. The conviction can be made on uncorroborated testimony of the prosecutrix. In the case of **Krishan Kumar Malik vs. State of Haryana**, reported in **(2011) 7 SCC 130**, the Hon'ble Apex Court held that to hold an accused guilty for commission of an offence of rape, the solitary evidence of prosecutrix is sufficient, provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.
24. In the instance case, after evaluating the deposition of victim, I am of the opinion that victim is absolutely trustworthy and unblemished.
25. In view of the above discussion and reasons, I do not find any legal substance in the point of arguments raised on behalf of the appellant and no merits in this appeal to take a different view and interfere with the

impugned judgment. As such, conviction of the appellant passed by the learned Trial Court is hereby upheld and confirmed.

26. So far as the submission advanced by the learned counsel for the appellant with respect to reduction of sentence on the ground of long pendency of case and period of imprisonment undergone by the appellant is concerned, this Court has to see as to whether the sentence awarded to the appellant may be reduced or not?

27. The Hon'ble Apex Court in the case of **Anversinh @ Kiransinh Fatesinh Zala versus State of Gujarat** reported in **(2021) 3 SCC 12**, dealing with a situation similar to the facts and circumstances of the present case, has expressed its opinion that the need of proportionality during sentencing must be re-emphasized as earlier held by this Court in **State of M.P. versus Surendra Singh** reported in **(2015) 1 SCC 222** as under:-

“13. We again reiterate in this case that undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law. It is the duty of every court to award proper sentence having regard to the nature of the offence and the

manner in which it was executed or committed. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. The court must not only keep in view the rights of the victim of the crime, but also the society at large while considering the imposition of appropriate punishment. Meagre sentence imposed solely on account of lapse of time without considering the degree of the offence will be counterproductive in the long run and against the interest of the society.”

- 28.** Considering the facts and circumstances of this case in the light of Apex Court judgment, the heinous nature of offence committed by the appellant and in the interest of society at large, I find that there cannot be any mechanical reduction of sentence. Mere undergoing custody for some time or long pendency of the case does not create the right of the accused to release him for the period already undergone.
- 29.** In view of the aforesaid, this appeal is **dismissed**.
- 30.** The appellant is on bail. His bail bond is hereby cancelled.

- 31.** The appellant is directed to surrender before the concerned Trial Court within two months from the date of this judgment and receive the remaining sentence awarded by the learned Trial Court and undergo the remaining period of imprisonment, failing which, the learned Trial Court shall take all coercive steps in securing the attendance of the appellant and sending him under proper conviction warrant to jail custody for undergoing the remaining period of sentence awarded to him.
- 32.** Pending I.A., if any, stand disposed of.
- 33.** Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated, the 30th June, 2026.
Sunil / **N.A.F.R.**
Uploaded on 30/06/2026