IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 800 of 2005

[Against the judgment and order of conviction and sentence dated 24.06.2005, passed by learned 1st Additional District & Sessions Judge, Pakur, in Sessions Case No. 167 of 2002]

Ratan Turi, son of Late Hari Lal Turi, resident of Village-Chandalmara, P.S.-Amrapara, District-Pakur

... ... **Appellant**

Versus

The State of Jharkhand

… … **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. S.P. Roy, Advocate
For the State : Mr. Shailesh Kumar Sinha, A.P.P.

JUDGMENT

C.A.V. on 02.07.2026 **Pronounced on 29/07/2026**

1. I have already heard the arguments of Mr. S.P. Roy, learned counsel for the appellant and Mr. Shailesh Kumar Sinha, learned A.P.P. for State.

2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 24.06.2005, passed by learned 1st Additional District & Sessions Judge, Pakur, in Sessions Case No. 167 of 2002 (arising out of Amrapara P.S. Case No. 36 of 2002 corresponding to G.R. Case No. 413 of 2002) whereby and whereunder the appellant has been convicted for the offence under Sections 448/376/511 of the I.P.C. and sentenced to undergo R.I. for six months for the offence under Section 448 of the I.P.C. and R.I. for five years along with a fine of Rs.2,000/- for the offence under Section 376/511 of the I.P.C. Both the sentences were directed to run concurrently.

Factual Matrix

3. Factual matrix giving rise to this appeal as per written report

dated 18.08.2002 is that the informant was working as Watchman in Air Force Camp at Singharsi, but deputed to work at Pakur Rest House of the camp and used to reside at Singharsi camp in Government Quarter No.52/05. It is alleged that on 18.08.2002, when the informant returned from Pakur Rest House, his wife told him that the accused who is also working in Air Force Camp, Singharsi in M.E.S. and reside in neighbouring house of the informant, entered in the house of informant on 15.08.2002 at about 05:00 P.M. in pretext of requirement of matchbox. The informant's wife went inside the kitchen to bring the matchbox, then accused also followed her towards the kitchen and forcibly caught her hand and made bodily contact. The accused was also trying to drag her but failed, then he lifted her and put on the bed and attempted to commit rape upon her. It is further alleged that upon raising alarm by the informant's wife, one neighbour came then accused left his wife and fled away. It is further alleged that in the course of scuffle, bangles of informant's wife were broken. Thereafter, the informant Siril Baskey lodged a written report on 18.08.2002 at Amrapara Police Station.

4. On the basis of which, F.I.R. was registered for the offences under Sections 448/341/354 of the I.P.C. against the accused Ratan Turi. After completion of investigation, charge-sheet was submitted for the aforesaid offences against the accused.

5. The case was committed to the Court of Sessions, where Sessions Case No.167 of 2002 was registered. The accused denied from the charges levelled against him and claimed to be tried.

6. In the course of trial, altogether 6 witnesses were examined by

prosecution, apart from documentary evidence.

7. On the other hand, the accused has adduced Exhibit-A, Order-sheet of P.C.R. Case No. 109 of 1998, Sushila Murmu versus Siril Baskey, whereby cognizance for the offence under Section 493 of the I.P.C. has been taken against the informant of this case.

8. The learned Trial Court after scrutinizing the evidence available on record arrived at definite conclusion about guilt of the appellant for the offences under Sections 448, 376/511 of the I.P.C. and passed the impugned judgment of conviction and sentence, which has been assailed in this appeal.

Submissions on behalf of appellant: -

9. Learned counsel for the appellant submits that there was dispute of quarter between the appellant and the informant of this case. The informant himself was an accused for the offence under Section 493 of the I.P.C. The manner of occurrence as depicted in the F.I.R. by the husband of the victim lady, is completely different from her testimony during trial. It is admitted by victim lady that she did not disclose about the occurrence to anyone till the arrival of her husband. On 18.08.2002, the 8 years old daughter of the victim is alleged to have been playing along with 20 others children in front of her house, but not a single neighbouring child including her daughter have seen the appellant, while entering in the house of the victim. The victim has also not claimed that she complained about the incident to any neighbouring person about the occurrence. Therefore, there is no other eye-witness of the occurrence except the victim lady whose evidence itself suffers from material contradictions, improvements, discrepancies. The F.I.R.

was also lodged after three days of occurrence without any reasonable explanation, which also caused doubt on the veracity of the prosecution case. The learned Trial Court has overlooked the material discrepancies appearing in the evidence of victim lady and other material facts showing the falsity of the case alleged by the other witnesses including the daughter of the victim. Therefore, the learned Trial Court has committed serious error of law, while passing judgment of conviction. Hence, impugned judgment is liable to be set aside and appellant deserves acquittal from the charges levelled against him, allowing this appeal.

Submissions on behalf of State: -

10. On the other hand, learned A.P.P. opposing the aforesaid contentions raised on behalf of appellant submitted that the learned Trial Court has very wisely and aptly considered the testimony of the victim lady who was helpless at the time of occurrence and there was no motive for false implication of the accused and no reason to disbelieve the testimony of the complainant. The learned Trial Court has rightly convicted the appellant on the basis of material against him, therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellant and no merits in this appeal which is fit to be dismissed.

11. I have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of both sides.

12. The only point for consideration in this appeal is that **"as to whether the impugned judgment of conviction and sentence of the**

appellant suffers from any serious error of law calling for any interference in this appeal?"

Analysis, discussions and reasons:-

13. Before delving upon to adjudicate the above point, it appears pertinent to take brief resume of evidence available on record.

The most important witness of this case is the victim lady, who has been examined as **P.W.-3.** According to her evidence, on the date of occurrence at about 05:00 P.M., the present appellant came to her house and asking a matchbox, when she went inside the kitchen to bring the matchbox, then accused caught hold of her hand and thrashed on bed, he started catching her cheeks, then she raised alarm. She has further stated that on her raising alarm one neighbour came then Ratan Turi started fleeing away. At that time, her husband was at Pakur, she informed her husband, who returned to home then she narrated about the incident to him, her husband has lodged this case.

In her cross-examination, she admits that she is acquainted with the accused Ratan Turi, since 5-6 years, prior to the occurrence, Ratan Turi was also residing in the same quarter. She further admits that in her statement before police, she has stated that on 17.03.2002, she informed her husband in Pakur Air Force Camp through telephone. She has denied any illicit relationship of her husband with one Sushila Murmu and in this regard, she has lodged a complaint before Air Force Officials, which was scribed by the accused Ratan Turi on her dictation. She further admits that after the occurrence, she did not meet with any neighbours nor she raised alarm to call for any person. She also admits that Ratan Turi was requesting to vacant the quarter allotted to him in

which she was residing earlier and the said quarter was also vacated by this witness about 6 years ago. She has denied the suggestion of defence that due to not vacating the quarter allotted to the accused, she has lodged this false case at the instance of her husband.

P.W.-4, Sunita Baskey is the 8 years old daughter of the victim lady. According to her evidence, on the date and time of occurrence, she was playing in front of her house, when she returned to home then saw her mother was weeping, when she asked for reason then her mother disclosed that Ratan Turi had come to her house with intention to do some illicit act.

In her cross-examination, she states that she does not call the accused as uncle rather she calls uncle to her father's younger brother whose name is Baski. She also admits that at the time of occurrence, her *Chacha* (uncle) was present in the house and she was playing outside the house along with 20-25 children. She states that her father has tutored about what has to be stated by her in the court. She has denied the suggestion of defence that she has given false evidence.

P.W.-1, Siril Baskey is the informant of this case. According to his evidence, he was working at Pakur Transit Camp and was posted as Watchman at Singharsi Camp. On 18.08.2002, he returned to his quarter then his wife weepingly told that on 15.08.2002 in the evening at about 05:00 P.M. Ratan Turi entered in the quarter asking a matchbox, when she went inside the kitchen then Ratan Turi also followed her and caught hold of her hand and thrashed her on the bed, then she started raising alarm. She also disclosed that several neighbours assembled on her alarm then accused Ratan Turi fled away.

He lodged a written report about this occurrence, which is proved as **Exhibit-1.**

In her cross-examination, he clearly admits that he did not go to police station along with his wife. There are eight quarters in series adjacent to his quarter. He has further admitted that when his wife raised alarm then only M.C. Thapa arrived and no other neighbor came to rescue her. He further admits that he know Sushila Murmu, who has lodged a case against him for establishing illicit relationship in pretext of marriage for the offence under Section 493 of the I.P.C. He has denied the suggestion of defence due to his absence Ratan Turi was helping his wife, which he did not like, hence lodged false case.

P.W.-2, Patras Baskey is the 13 years old son of the informant. According to his evidence, on the date of occurrence, he was also playing in the evening in front of his house near the road, when he returned to home, his mother was weeping and disclosed that Ratan Turi had come to commit some illicit act with her.

There is nothing in his cross-examination to rebut the above testimony.

P.W.-5, A.S.I., Satrughan Pandey has simply submitted charge-sheet in this case and fairly admitted that he had not conducted any investigation.

P.W.-6, S.I., Raju is the I.O. of this case. He has proved the written report of informant on the basis of which Officer-in-charge, Ved Prakash Mehta registered this case and endorsed him for investigation. He has inspected the place of occurrence and interrogated with witnesses, but due to transfer handed over further charge of

investigation to Satrughan Pandey, who has submitted charge-sheet in this case.

In his cross-examination, this witness admits that on 19.08.2002 at about 10:15 A.M., he has recorded the statement of victim. There was only one independent witness, Devi Thapa he has not seized any broken bangle from the place of occurrence.

14. After completion of prosecution evidence, the statement of accused was recorded under Section 313 Cr.P.C., wherein he has denied from the occurrence. The defence has also adduced **Exhibit-A** certified copy of order sheet dated 23.07.1998 of P.C.R. Case No. 109 of 1998, Sushila Murmu versus Siril Baskey, pending in the Court of Sri S.K. Singh, Judicial Magistrate, Pakur, wherein cognizance for the offence under Section 493 of the I.P.C. is taken against the accused Siril Baskey.

15. The F.I.R. was initially registered for the offence under Sections 448, 341 & 354 of the I.P.C. later on, offence under Sections 376/511 of the I.P.C. was added after recording the statement of victim lady.

16. On the basis of aforesaid discussion of evidence, it is crystal clear that the victim lady (P.W.-3) has simply stated that the accused followed to the kitchen, while asking matchbox caught her hand and cheeks. She has stated nothing that she raised any alarm and any of the neighbouring person arrived even her son and daughter who has been examined as P.W.-2, Patras Baskey and P.W.-4, Sunita Baskey have also not seen the accused, while entering in the house of victim at the alleged time of occurrence. The actual overt act of the accused has also not been disclosed to any person including any neighbour through out

three days till the return of her husband. It further appears that the daughter of the victim (P.W.-4) clearly admits that she was tutored by her father about what has to be stated by her in the court during evidence. The informant (P.W.-1) also admits that he went to lodge this case at Pakur Police Station alone without taking his wife and lodged the written report. It is also mentioned in the written report that at the time of occurrence, the victim lady raised alarm then one person residing in neigbour arrived namely, Devi Thapa, but not a single neighbour have been examined by the prosecution to corroborate the prosecution story. It is also admitted fact that informant is entangled with one lady Sushila Murmu who has also instituted a complaint case against him and cognizance order (Exhibit-A) was passed against him for the offence under Section 493 of the I.P.C.

17. The totality of circumstances clearly reveal that it is the informant, who was quite instrumental and want to implicate the appellant in a false case because he was helping his wife in writing complaint against him. He also tutored his daughter (P.W.-4) for giving false evidence against the appellant. It further appears that initially the F.I.R. was lodged for the offence under Sections 448, 341 and 354 of the I.P.C. which are bailable offences. The I.O. asked for non-bailable warrant of arrest against the accused then he was called upon by the concerned Magistrate and an application was filed by the I.O. for adding the offence under Sections 376/511 of the I.P.C. as per statement of the victim lady recorded by him during investigation. Therefore, the informant influences his wife also to make a serious allegation against the accused so that he may remain in custody. The victim lady (P.W.-3)

has stated nothing attracting the offence under Sections 376/511 of the I.P.C. rather simply stated that the accused caught her cheeks pulling her by hand. Since, the victim lady was all along under influence of her husband and kept mum for three days without any disclosure to any person and even at the time of occurrence raised no alarm to attract any neighbour and colourable version given by her from time to time makes the prosecution story not believable at all. It appears that the learned Trial Court has committed serious error of law in not taking into account the aforesaid material discrepancies appearing in the evidence of witnesses and the active role of the informant in influencing the course of investigation as well as influencing the witnesses to depose as per his wish.

18. In view of aforesaid discussion and reasons, I find merits in this appeal, accordingly, the impugned judgment of conviction and sentence of the appellant is hereby set aside and this appeal is **allowed**.

19. Appellant is on bail, as such he is discharged from the liability of bail bond and sureties are also discharged.

20. Pending I.A(s), if any, stands disposed of.

21. 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
Dated 29/07/2026
Arpit/ ***N. A. F. R.***
Uploaded on 30/07/2026