2026:JHHC:19698

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.350 of 2019

[Against the Judgment of conviction and Order of sentence dated 08.03.2019, passed by the learned District & Additional Sessions judge – III, Dhanbad, in Sessions Trial No.405 of 2009, arising out of Jorapokhar P.S. Case No.259 of 2008 (G.R. No.3741 of 2008)]

Gouri Shankar Das, Aged about 32 years, Son of Jatal Chandra Das, Resident of Bariadih, P.O – Barmasia, P.S. - Barmasia (Chandankiyari), District – Bokaro.

..... Appellant

Versus

The State of Jharkhand **..... Respondent**

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Shekhar Prasad Sinha, Advocate
For the State : Mr. Prabir Kr. Chatterjee, Spl.P.P

Order No.06/ Dated: 06th July, 2026

1. Heard Mr. Shekhar Prasad Sinha, learned counsel for the appellant and Mr. Prabir Kumar Chatterjee, learned counsel for the State.

2. The present appeal is directed against the judgment of conviction and order of sentence dated 08.03.2019, passed by the learned District & Additional Sessions Judge – III, Dhanbad, in Sessions Trial No.405 of 2009, arising out of Jorapokhar P.S. Case No.259 of 2008, corresponding to G.R No.3741 of 2008, whereby the appellant has been convicted for the offence under Section 366 of the Indian Penal Code (in short IPC) and has been sentenced to undergo rigorous imprisonment for six years with fine of Rs.10,000/- (Ten thousand) and in default thereof to further undergo S.I for three months.

3. The prosecution story, in brief, is based on the written application of Prahlad Choudhary (P.W.-4), stating therein that on 16.12.2008 at about 8 A.M, the informant had gone to perform his duty in Jinagora Project, BCCL. In the house there was his wife, son aged about 12 years and daughter namely, xxxxxx. Her daughter had gone to shop meanwhile, his neighbour Jatal Chandra Das who works as a Pump Operator in Patherdih Coal Washery, his sons namely, Gauri Shanker Das, Devi Lal Das and wife namely, Sheela Devi enticed away her daughter to perform marriage. It has further been alleged that prior to one year Gouri Shankar Das teased her daughter regarding which information was given to the local people whereupon threatening was given to the informant for kidnapping his daughter and then marriage of his daughter would be performed. It has further been alleged that Sanjay Rawani and some other local people have also participated in the said occurrence.

On the basis of above information of the informant, Jorapokhar P.S Case No.259 of 2008 has been registered under Sections 366A/ 34 IPC, against the present appellant and others. The police, after completing the investigation, has submitted the charge-sheet under Sections 366A/ 34 IPC and the trial court has framed the charge on 09.09.2009 under Section 366 IPC against the present appellant, while against the co-accused charge has been framed under Section 366A IPC. Thereafter, the case has committed to the court of Sessions to which the appellant

has pleaded innocence and claimed to be tried and accordingly, the trial has commenced.

4. To substantiate the charges, the prosecution has examined altogether 12 witnesses and their depositions, in short, are as follows:-

5. **P.W.-1, Nawal Kishore Sharma,** has deposed in para nos.5 & 6 that at the time of occurrence he was in the school and as such he could not see the occurrence as alleged by the informant

6. **P.W.-2, Sheela Devi,** is the wife of the informant and mother of the victim and she has supported the prosecution story. She has deposed that the accused and his family members have enticed away her daughter.

In cross-examination, she has admitted that earlier a complaint was made before the police regarding molestation by the accused . She has also admitted that her daughter wants to live in her matrimonial home with her husband. Her daughter used to meet with her parents as and when police accompanied her to meet with her father from *Nari Niketan,* which suggests that the reason of living in *Nari Niketan* was actually her love affair with the accused.

7. **P.W.-3, Ram Gopal Pathak,** is an employee of BCCL. He has deposed that some persons were surrounded the victim girl and thereafter the accused-appellant forcibly took the victim girl in the car and taken her with them to Sindri Road, Dhanbad.

In cross-examination, he has deposed that he does not know how the victim returned to her house.

8. **P.W.-4, Prahlad Choudhary,** is the informant himself. He has supported the prosecution case. He has identified the written report and his signature.

In cross-examination, he has stated that at the time of occurrence, he was in duty and he was informed by his wife regarding missing of his daughter. He approached the police on the next day of the incident. He has admitted that he had not informed the police regarding any molestation of his daughter by the accused.

9. **P.W.-5, Rajdeo Singh,** is a hearsay witness.

10. **P.W.-6, Ram Padarath Singh,** has been declared hostile

11. **P.W.-7, Prem Ranjan Kumar,** is nephew of the informant and he has supported the prosecution case. He has deposed at para – 7 that the victim was student and her date of birth has been mentioned as 25.02.1989 and the date of occurrence is 16.12.2008. He deposed that he met with the victim at Deoghar Nari Niketan.

12. **P.W.-8, Ratu Modi,** is a hearsay witness.

13. **P.W.-9, xxxxx,** is the victim herself. She has deposed in examination in chief that upon call of appellant's mother she went near the Maruti Van from where she was taken to different places. She has deposed that she went to Delhi with the accused by train where she resided at Retiring/ Waiting room for two days and after one and half month,

she was taken back to Dhanbad.

In cross-examination, she has deposed that the letters brought on record have been written by her. She has also admitted her photograph with the appellant.

14. **P.W.-10, Ashok Kumar Raut,** is school staff, who has produced the School Admission Register in which the date of birth of the prosecutrix has been mentioned as 25.02.1993

15. **P.W.-11, Dr. Shailendra Kumar,** was a member of Board, constituted for ascertaining the age of the victim and the age of the victim has been assessed as 17 years.

16. **P.W.-12, Shailendra Sharma,** is the investigating officer of the case. He has investigated the matter. He has recorded the statement of the informant at the place of occurrence. He has also recorded the statement of other witnesses and after completing the investigation submitted charge-sheet against the accused. He has taken the prosecutrix to the court for examination under Section 164 Cr.P.C.

In cross-examination, he has admitted the fact that there was delay in lodging the F.I.R.

17. The defence has also produced two witnesses, who have been examined as D.W.-1 and D.W.-2.

18. On consideration of above materials on record, the trial Court has found the appellant guilty for the offence under Sections 366 IPC and sentenced him, as stated above. The other co-accused persons have been acquitted

by the trial court for the offence under Section 366A IPC.

19. Being aggrieved by the aforesaid judgment of conviction, the appellant has preferred the present appeal.

20. It has been submitted by the learned counsel for the appellant that both the parties are major and the narration itself suggests that it was consensual for the following reasons :-

(i) she has travelled in train up to New Delhi.

(ii) she has remained for two days in the waiting room in railway station.

(iii) she has given statement under Section 164 Cr.P.C. before the Delhi Court.

(iv) she has never raised any alarm although she has so many opportunities.

It has further been submitted by the learned counsel for the appellant that the story narrated by the alleged victim has been negated by the court and accordingly, the father, mother and brother of the present appellant have been acquitted by the trial court. Further, there is no material against this appellant to convict him.

On the above basis, prayer for acquittal of the appellant has been made.

21. On the other hand, learned counsel for the State has opposed the prayer for the appellant stating that the victim has clearly stated regarding the commission of crime committed by this appellant.

22. Having heard learned counsel for the parties and

from perusal of record, it appears that :-

(a) both the parties are major.

(b) the victim has travelled at so many public places with the appellant and has remained at railway station's waiting room for two days, but never raised any alarm during that period.

(c) further, she has given statement under Section 164 Cr.P.C in Delhi Court. Otherwise also, she was present in the public places, having full opportunity to make hue and cry.

23. Thus, it appears that it is a consensual relationship and the offence under Section 366 IPC is not made out.

24. In that view of the matter, the judgment of conviction and order of sentence dated 08.03.2019, passed by the learned District & Additional Sessions Judge– III, Dhanbad, in Sessions Trial No.405 of 2009, arising out of Jorapokhar P.S. Case No.259 of 2008, corresponding to G.R No.3741 of 2008 is, hereby, quashed and set aside.

25. In the result, the appeal stands allowed and accordingly disposed of.

26. The appellant is on bail, hence, he is discharged from the liability of bail bond.

27. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 06th July, 2026
Ravi-Chandan/- **NAFR**
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