IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 786 of 2009

[*Against the Judgment of conviction dated 20.06.2009 and Order of sentence dated 23.06.2009, passed by learned 2nd Additional Sessions Judge, Dumka in Sessions Case No. 22 of 2008 / 103 of 2008*].

Govind Yadav, son of Late Bodhi Yadav, resident of Village – Hethteenghara, P.S. – Taljhari, District - Dumka.
... ... **Appellant**

Versus

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

.....

For the Appellant : Mr. Arvind Kr. Choudhary, Advocate.
Ms. Vinita Prakash, Advocate.
Mr. Prathik, Advocate.
Mr. Pratik Singh, Advocate.
Mr. Ritu Raj, Advocate.

For the Respondent : Mr. Azimuddin, A.P.P.

.....

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 30.06.2026 Pronounced on 29.07.2026

1. Heard learned counsel for the parties.

2. The present appeal is directed against the judgment of conviction dated 20.06.2009 and order of sentence dated 23.06.2009 passed by learned 2nd Additional Sessions Judge, Dumka in Sessions Case No. 22 of 2008 / 103 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.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on

25.12.2006 in the night, the prosecutrix was sleeping in her room along with her 09 years brother-in-law Ranjit Yadav. Her husband had gone to Deoghar to work in a hotel. Mother-in-law of the prosecutrix and father-in-law were also not present in the house. It is alleged that at about 12 O' Clock in the night her cousin father-in-law Govind Yadav, aged about 45 years entered in the room of the prosecutrix and forcibly gaged her mouth and committed rape on her. It is alleged that informant's brother-in-law woke up and went out and raised alarm, then villagers assembled, but the accused fled away. It is alleged that in the next day morning, informant's mother-in-law Sarswati Devi returned to home at about 10:00 A.M. and her husband also came from his duty and she narrated the above incident to them. Thereafter, she along with her husband was proceeding to police station for lodging case, but the villagers advised to wait for her father-in-law for taking proper decision. It is alleged that father-in-law of the informant returned the house on 02.01.2007 at about 4:00 P.M. Thereafter, she along with her father-in-law went at police station on 03.01.2007 for lodging report. She has also stated that her wearing cloths have been washed away.

4. On the basis of above information, Jarmundi (Taljhari) P.S. Case No. 02 of 2007 was registered for the offence under Section 376 of the I.P.C.

5. After completion of investigation, charge sheet was submitted for the aforesaid offence against sole accused. After taking cognizance, the case was committed to the court of Sessions, where Sessions Case was registered. The accused denied the charges leveled against him and claimed to be tried.

6. In course of trial, altogether 10 witnesses were examined by the prosecution apart from documentary evidences.

7. On the other hand, the case of defence is denial from occurrence and of false implication. However, no oral evidence has been examined by the defence, rather documentary evidence Exhibit-A - C.C. of order sheet of different dates passed in Rev. Misc. Case No. 318/1987-88 and Exhibit-B - C.C. of order passed by D.C., Dumka in R.M. Case No. 108/1989-90 between Jai Narayan Mahto Vs. Sudama Mahto and others have been filed showing land dispute between the parties, which has occurred in false implication. Further, defence through cross-examination of witnesses is that the accused is cousin father-in-law of the prosecutrix, who is married lady having

children and the accused is also married person, having three children. There was no occasion to enter into the room of prosecutrix at dead night while she was sleeping without closing the door.

8. The learned trial court, after scrutinizing the evidence available on record, recorded findings about guilt of the appellant for the offence under Section 376 of I.P.C. and sentenced him to undergo R.I. of 07 years, which has been assailed in this appeal.

9. Learned counsel for the appellant has vehemently argued that the learned trial court has miserably failed to properly appreciate the evidence of witnesses in right perspective and arrived at wrong conclusion. It is further submitted that there was inordinate delay of 08 days in lodging the F.I.R. without offering any reasonable explanation, which also makes the prosecution story palpably false, concocted and unreliable. The prosecutrix herself has made self-contradictory evidence, which does not find corroboration from other witnesses, who happens to be husband and in-laws. She was projected by her husband to lodge the case and after lodging this case, she has been abandoned by her husband and the husband himself has become hostile. Therefore, after investigation, the police did not find the case true

against the appellant and submitted final form showing the case to be false. Thereafter, protest-cum-compliant was filed and supplementary charge sheet was submitted. The appellant himself is an aged person having three major sons and two major daughters. The false implication of the appellant due to land dispute has been brought on record, which could not be overruled. The prosecutrix does not appear to be absolutely reliable witness and her testimony does not find corroboration from any independent source, as such, conviction and sentence of the appellant is fit to be set aside and this appeal may be allowed.

10. On the other hand, learned APP appearing for the State has vehemently opposed the aforesaid contentions raised on behalf of the appellant and submitted that the prosecutrix has categorically proved the commission of rape in the dead night by the present appellant which find corroboration from other evidence available on record. There is no valid reason to interfere with the impugned judgment of conviction and order of sentence of the appellant. This appeal is devoid of merits and is fit to be dismissed.

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

12. The only point for consideration of this appeal is, as to whether the impugned judgment of conviction and sentence suffers from any serious error or law calling for any interference in this appeal or not?

13. Before imparting my verdict on the above point, it is pertinent to apprise with the testimony of the witnesses examined during trial.

14. The most important witness of this case is **prosecutrix**, who is examined as **P.W.-7**. According to her evidence, on the date of occurrence, after taking dinner, she was sleeping along with her minor brother-in-law and sister-in-law namely, Ranjit Yadav and Soni Kumari on the earth in her room spreading paddy strips on floor. At about 12:00 hours in night, her cousin father-in-law Govind Yadav entered into the room, lifted her cloths and forcibly committed rape on her. She was protesting her by waving her legs, then her brother-in-law Ranjit Yadav woke up and went into courtyard raising alarm, then Ranjit Yadav flashed the torch and accused was identified. In the meantime, villagers assembled and the accused scratching this witness on her neck and assaulted by fist and fled away. She has further stated that about 08 days of the occurrence, her father-in-law Jai Narayan Yadav returned to home, then she went to police station and lodged this case.

In her cross-examination, she admits that her marriage was solemnized 10 years prior to occurrence and after 03 years of marriage, *gauna* was performed. She also admits that eldest son of the accused is married. Three sons and one daughter of the accused have been married. She also admits in her cross-examination that the occurrence took place in winter season. There is no door and window in her house, electricity supply facility is also not available in her village. She also reiterates that when she felt, while sleeping, that someone has sleep over her body, then she woke up. Her mouth was gaged by cloths. Rape was committed for about 10 minutes. Her clothes were stained with blood. She has expressed her no knowledge about any land dispute between the accused and her father-in-law.

She has denied the suggestion of defence that she has lodged this false case at the instance of her father-in-law with a view that the accused might waive his claim over the disputed land.

15. **P.W.-1 Jai Narayan Yadav** is the father-in-law of the prosecutrix. According to his evidence, on the date of occurrence, he was not present in his house, rather, he has gone to attend Kirtan party in another village. He returned after 06 days, then his wife narrated him

about the occurrence of rape happened with his daughter-in-law (P.W.-7). Thereafter, he along with his daughter-in-law went to the Taljhari police station, where written report of the occurrence was scribed by Sukhdeo Yadav and presented at the police station which also bears his signature as witness marked as Exhibit-1.

In his cross-examination, he admits that accused Govind Yadav is his cousin. He also admits that about 25 years ago, he has lodged a case of theft of paddy crops against Govind Yadav and others, which was disposed of on the basis of compromise between the parties.

He has denied the suggestion of defence that due to land dispute, he has lodged false case projecting his daughter-in-law.

16. **P.W.-2 Chinta Mani Yadav** has also deposed that at about 12:00 hours in the night, he heard hulla while he was watching T.V. at the house of Sarvan Yadav, then he came out and saw that Ranjit Yadav was flashing light and raising alarm. In the torch light, he saw Govind Yadav was entering into his own house. Thereafter, Ranjit Yadav disclosed that Govind Yadav has committed rape with his sister-in-law.

17. **P.W.-3 Tarni Yadav**. She also woke up hearing hulla raised by Ranjit Yadav and bearing a torch went to

the house of Jai Narayan Yadav (P.W.-1). It was disclosed by Ranjit Yadav that Govind Yadav has committed rape with his sister-in-law. Several villagers also assembled, then victim lady also disclosed about commission of rape by Govind Yadav and a bedsheet of the Govind Yadav is also left in her house. Thereafter, this case was lodged. He has also signed over written statement. His signature was marked as Exhibit-1/1. There is nothing material in his cross-examination as regards aforesaid occurrence.

18. **P.W.-4 Sarvan Yadav** also came out from his house in between 12:00 – 1:00 hours in the night after hearing hulla, which was coming out from the house of Jai Narayan Yadav. He also saw in torch light that Govind Yadav was fleeing away. He came to know about occurrence from Ranjit Yadav that the accused has committed rape with his sister-in-law. There is nothing in his cross-examination to rebut the above testimony.

19. **P.W.-5 Maheshwar Yadav** who was enjoying Cinema in the night, at about 12 hours, heard hulla coming from the house of Ranjit Yadav and went there, then he saw accused Govind Yadav entering into his house and on enquiry, Ranjit disclosed that Govind Yadav

has committed rape with his sister-in-law. This witness is full brother of Jai Narayan Yadav and accused Govind Yadav is his cousin brother.

He has denied the suggestion of defence that since he is full brother of the informant's father-in-law Jai Narayan Yadav and there is dispute and enmity between the accused and the father-in-law of the informant, hence, he is giving false evidence.

20. **P.W.-6 Ranjit Yadav** is the eye-witness of the occurrence. According to his evidence, he along with his sister-in-law and other minor sister was sleeping in the night then Govind Yadav entered into the room and committed rape with his sister-in-law then he raised alarm coming out in the courtyard, then several neighbouring persons assembled and accused fled away from his house.

In his cross-examination, he admits that they were sleeping on earth, but door was opened. He woke up at about 12:30 A.M. hearing some sound of his sister-in-law and saw that Govind Yadav was sleeping over his sister-in-law. He came out from room and raised alarm, then villagers assembled. There is nothing else in his cross-examination to rebut his aforesaid evidence.

21. **P.W.-8 Parmeshwar Yadav** also came out from his house after hearing hulla from the house of Jai

Narayan Yadav and came to know that Govind Yadav has committed indecent assault with daughter-in-law of Jai Narayan Yadav. He has stated nothing else.

22. **P.W.-9 Dr. Aruna Chatarjee** is the doctor, who has examined the victim and found followings:-

Height – 4' 9½", Weight – 86 lb., Teeth upper 14 and lower – 14, auxiliary hair scanty, pubic hair thick and black, Breast developed. No external injury over her body, externally. No internal injury over her private parts. Hymen shows old ruptured, vaginal swab was taken and sent to Pathology for microscopic examination for preserved of spermatozoa. Pathological report shows spermatozoa not found. Pathological report given by Dr. A.K. Singh, I/C Pathological, Sadar Hospital, Dumka. X-ray both knee joints, both hip joints and both wrist joint are advised. X-ray plate opinion was given by Dr. S.N. Jha, I/C Orthopedic Surgeon Sadar Hospital, Dumka, who gave his opinion on the same day as follows:-

X-ray both knee joints shows upper epiphysis of both Tibra and fibula united. X-ray both wrist joints shows lower epiphysis of both radius united and union and lower epiphysis of both ulna bone in progress, X-ray both hip bones plate shows union of crests of both ilium bone in progress. According to

above findings, no definite opinion could be given whether the victim was raped or not. According to above findings, age of the victim is between 17 and 18 years. This report is in her writing and bears her signature which has been marked as Exhibit-3. There was no sign of recent inter-course on the victim.

23. **P.W.-10 Someshwar Mahto** is a formal witness. He has proved the formal F.I.R. as Exhibit-4.

24. From the aforesaid discussion of ocular testimony of witnesses, it is crystal clear that the prosecutrix (P.W.-7) has categorically stated about commission of rape by the appellant with her at 12:00 hours of night while she was sleeping along with her brother-in-law, aged about 11 years (P.W.-6), who has also corroborated the factum of commission of rape by the accused appellant with his sister-in-law in the night. He felt while sleeping that someone has slept over his sister-in-law and also heard some noise then came out from the room to his courtyard and raised alarm. His sister-in-law has disclosed about commission of rape with her. When alarm was raised by Ranjit Yadav (P.W.-6), P.W.-2 namely, Chinta Mani Yadav and P.W.4 namely, Sarvan Yadav also went at the place of occurrence hearing hulla and saw the accused appellant fleeing away and entering into his own

house, which is adjacent to the place of occurrence. There is no reason to disbelieve the testimony of P.W.-6 and P.W.-7, who are eye-witnesses of the occurrence and also finds corroboration from evidence of P.W.-2 and P.W.-4, who saw the accused while entering into his house after the occurrence. The sole defence of appellant is land dispute with the father-in-law of the prosecutrix, but no concrete evidence has been brought on record in this regard, rather it is simply a suggestion to witness that about 25 years prior to this occurrence, the appellant was prosecuted for the offence of committing theft of paddy crops by the father-in-law of the informant. Above suggested ground of enmity cannot be entertained being quite stale one story. Non-production of seized material and other corroborative evidence does not create any doubt in the prosecution story. It is settled principle of law that conviction of the accused can be based on the solitary testimony of prosecutrix when she is absolutely reliable. There is no requirement of any corroboration from independent source. Even medical report is corroborative piece of evidence and it cannot take place of substantive evidence.

25. It is trite that if 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.

26. In the instant case, there is no reason to disbelieve the prosecution story as depicted by prosecutrix and also corroborated by eye-witness (P.W.-6), her own brother-in-law.

27. In view of the above discussion and reasons, I find that the impugned judgment of conviction and sentence of the appellant does not suffer from any error of law calling for any interference in this appeal. I do not find any merit in this appeal, which is hereby **dismissed**.

28. The appellant is on bail. His bail bond is hereby cancelled.

29. The appellant is directed to surrender before the concerned Trial Court within two months from the date of this judgment and receive the remaining period of 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.

30. Pending I.A., if any, stand disposed of.

31. 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 29th July, 2026.
Sunil /**N.A.F.R.**
Uploaded on 30/07/2026