

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (DB) No. 224 of 2019

Arising Out of PS. Case No.-15 Year-2016 Thana- MAHILA P.S. District- Nalanda

RAJBALLABH PRASAD @ RAJBALLABH YADAV Son of Late Jehal
Yadav Resident of Village - Pathra English, P.S. - Mufassil, District - Nawada.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 165 of 2019

Arising Out of PS. Case No.-15 Year-2016 Thana- MAHILA P.S. District- Nalanda

Sulekha Devi Wife of Arun Kumar Resident of Garhpar, Professor Colony,
P.S.- Bihar, District - Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 200 of 2019

Arising Out of PS. Case No.-15 Year-2016 Thana- MAHILA P.S. District- Nalanda

Radha Devi Wife of Surendra Kumar R/o village- Ramchandrapur, Shivpuri,
Talab Par, P.S- Laheri, District- Nalanda

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 218 of 2019

Arising Out of PS. Case No.-15 Year-2016 Thana- MAHILA P.S. District- Nalanda



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Sandeep Suman @ Pushpanjay Son of Sanjay Kumar Resident of Village -
Amar Singh Bigha, P.S.- Sare, District - Nalanda. At present resident of
Ranchi Road Patel Nagar, P.S.- Laheri, District - Nalanda

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

with

CRIMINAL APPEAL (DB) No. 226 of 2019

Arising Out of PS. Case No.-15 Year-2016 Thana- MAHILA P.S. District- Nalanda

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TUSI DEVI Wife of Sri Pramod Kumar Resident of Village - Ranisarai, P.S.-
Bakhtiyarpur, District - Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

with

CRIMINAL APPEAL (DB) No. 243 of 2019

Arising Out of PS. Case No.-15 Year-2016 Thana- MAHILA P.S. District- Nalanda

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CHHOTI DEVI @ AMRITA Wife of Sandeep Suman Resident of Ranchi
Road, L.I.C. Building P.S.- Laheri, District - Nalanda

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance:

(In CRIMINAL APPEAL (DB) No. 224 of 2019)

For the Appellant/s : Mr. Surendra Singh, Sr. Advocate
Mr. Rajiv Kumar Singh, Sr. Advocate
Mr. Gopal Bohra, Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Prosecutrix : Ms. Anukriti Jaipuriyar, Adv. (Amicus Curiae)

(In CRIMINAL APPEAL (DB) No. 165 of 2019)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mrs. Vaishnavi Singh, Advocate
Mr. Ritwik Thakur, Advocate



Mr. Ritwaj Raman, Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Prosecutrix : Ms. Anukriti Jaipuriyar, Adv. (Amicus Curiae)

(In CRIMINAL APPEAL (DB) No. 200 of 2019)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mrs. Vaishnavi Singh, Advocate
Mr. Ritwik Thakur, Advocate
Mr. Ritwaj Raman, Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Prosecutrix : Ms. Anukriti Jaipuriyar, Adv. (Amicus Curiae)

(In CRIMINAL APPEAL (DB) No. 218 of 2019)

For the Appellant/s : Mr. Rajesh Kumar Singh, Sr. Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Prosecutrix : Ms. Anukriti Jaipuriyar, Adv. (Amicus Curiae)

(In CRIMINAL APPEAL (DB) No. 226 of 2019)

For the Appellant/s : Mr. Aaruni Singh, Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Prosecutrix : Ms. Anukriti Jaipuriyar, Adv. (Amicus Curiae)

(In CRIMINAL APPEAL (DB) No. 243 of 2019)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Ritwaj Raman, Advocate
Mrs. Vaishnavi Singh, Advocate
Mr. Ritwik Thakur, Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Prosecutrix : Ms. Anukriti Jaipuriyar, Adv. (Amicus Curiae)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 14-08-2025

The aforesaid six appeals preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.') arise out of the same judgment of conviction



dated 15.12.2018 and order of sentence dated 21.12.2018, passed by the learned Special Judge (Elected Member of Parliament, Member of Legislative Assembly and Member of Legislative Council), Bihar, Patna (hereinafter referred to as the “Ld. Trial Judge”), in Special Case No. 145 of 2018 (arising out of Mahila (Nalanda) P.S. Case No. 15 of 2016) and therefore, these appeals have been heard together and are being disposed off by the present common judgment and order.

2. By the impugned judgment and order, the appellants have been convicted and sentenced as under:

Cr. Appeal (DB) No. 224 of 2019				
Appellant's name	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Rajballabh Prasad @ Rajballabh Yadav (herein after referred to as the Appellant No.1)	376 of the IPC	Life Imprisonment	50,000/-	Six months simple imprisonment
	4 of the Protection of Children from Sexual Offences Act, 2012 (hereafter referred to as the “POCSO Act”)	No separate sentence	X	X
	8 of the POCSO Act	Five years rigorous imprisonment	10,000/-	Three months simple imprisonment



Cr. Appeal (DB) No. 165 of 2019				
Appellant's name	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Sulekha Devi (hereinafter referred to as the Appellant No.2)	366A of the IPC	10 years rigorous imprisonment	10,000/-	3 months simple imprisonment
	376/120B of the IPC	Life imprisonment	20,000/-	3 months simple imprisonment
	4 /17 of the POCSO Act	Life imprisonment	20,000/-	3 months simple imprisonment
	8/17 of the POCSO Act	5 years rigorous imprisonment	10,000/-	3 months simple imprisonment
	4 of The Immoral Traffic (Prevention) Act, 1956 (herein after referred to as the Act, 1956)	10 years rigorous imprisonment	x	x
	5 of the Act, 1956	10 years rigorous imprisonment	x	x

Cr. Appeal (DB) No. 200 of 2019				
Appellant's name	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Radha Devi (herein after referred to as the Appellant No.3)	376/120B of the IPC	Life imprisonment	20,000/-	3 months simple imprisonment
	4 /17 of the POCSO Act	Life imprisonment	20,000/-	3 months simple imprisonment
	8 /17 of the POCSO Act	5 years rigorous imprisonment	10,000/-	3 months simple imprisonment
	4 of the Act, 1956	10 years rigorous imprisonment	x	x
	5 of the Act, 1956	10 years rigorous imprisonment	x	x



Cr. Appeal (DB) No. 218 of 2019				
Appellant's name	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Sandeep Suman @ Pushpanjay (herein after referred to as the Appellant No.4)	4 of the Act, 1956	10 years rigorous imprisonment	x	x
	5 of the Act, 1956	10 years rigorous imprisonment	x	x
	376/120B of the IPC	10 years rigorous imprisonment	10,000/-	3 months simple imprisonment

Cr. Appeal (DB) No. 226 of 2019				
Appellant's name	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Tusi Devi (herein after referred to as the Appellant No.5)	4 of the Act, 1956	10 years rigorous imprisonment	x	x
	5 of the Act, 1956	10 years rigorous imprisonment	x	x
	376/120B of the IPC	10 years rigorous imprisonment	10,000/-	3 months simple imprisonment

Cr. Appeal (DB) No. 243 of 2019				
Appellant's name	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Chhoti Devi @ Amrita (herein after referred to as the	366A of the IPC	Ten years rigorous imprisonment	10,000/-	Three months simple imprisonment .
	4 of the Act,	10 years	x	x



Appellant No.6)	1956	rigorous imprisonment		
	5 of the Act, 1956	10 years rigorous imprisonment	x	x
	376/120B of the IPC	Ten years rigorous imprisonment	10,000/-	Three months simple imprisonment

All the aforesaid sentences have been ordered to run concurrently.

3. Short facts of the case are that the prosecutrix had filed a written report on 09.02.2016 before the Officer-in-Charge, Mahila Police Station, Biharsharif, Nalanda wherein she had stated that she is aged about 15 years, she is resident of Village-Sultanpur, P.S.-Rahui, District-Nalanda and at the moment she is staying with two of her elder sisters and one younger brother in the house of Bishundeo Kumar on rent, which is situated at Garhpar, Professor Colony and there she resides and studies. She has further stated that in her neighbourhood Sulekha Devi (Appellant No.2), wife of Arun Kumar, Mohalla- Garhpar (Professor Colony), P.S.-Biharsharif, District-Nalanda is residing, with whom they had developed good acquaintance. On 06.02.2016 at about 4 o'clock in the evening, Sulekha Devi asked the prosecutrix to come along with her to a birthday party, whereafter she asked her elder sister i.e P.W.-1, then she enquired as to where she has to go, upon which she replied- near



Bharao Chowk and then her sister had given permission to go. The prosecutrix had left along with Sulekha Devi and her daughter, namely Chhoti (Appellant No.6) and then she was firstly taken to Ramchandarpur Bus Stand, from where they had caught a bus to go to Bakhtiyarpur and when the prosecutrix had asked them as to where she was being taken, Sulekha Devi (Appellant No.2) told her that she would pick her mother from Bakhtiyarpur and then they would go along with her to the party. Thereafter, they reached Bakhtiyarpur where a Bolero vehicle was parked and after staying there for some time Sulekha Devi along with her mother and the prosecutrix sat in the vehicle and then they reached Giriyak in between 11.00-11.30 P.M. The prosecutrix could not read the name of the place since it was dark, whereafter she was taken to a house which was four storied, situated at Giriyak, P.S.-Biharsharif and she was made to sit there by Sulekha Devi (Appellant No.2), who then told her that one teacher would come and ask her some questions. The prosecutrix then told her that they were to go to a birthday party but instead where she has been brought, upon which Sulekha Devi (Appellant No.2) told her that Sir is a very nice person, hence she should do whatever she is saying quietly. After some time, a person came in the house, who was around 40-50 years



old, whose name the prosecutrix does not know and he along with Sulekha Devi (Appellant No.2) started taking liquor, whereafter she was also asked to drink, but she had objected. Outside, 4-5 persons were standing, who were keeping a watch. After, consuming liquor, Sulekha Devi (Appellant No.2) had disrobed the prosecutrix, made her lie down on the bed, caught her hand and stuffed cloth in her mouth, whereafter the person who had consumed liquor raped the prosecutrix and thereafter Sulekha Devi (Appellant No.2) had taken the prosecutrix to another room. In the morning at about 10:00 A.M., Sulekha Devi (Appellant No.2) had brought the prosecutrix along with her and dropped her at her house. The prosecutrix has also stated that when she was in the other room of the aforesaid house, she heard about exchange of money. After coming back, the prosecutrix had disclosed the entire incident to her elder sister PW-1 in the evening. After hearing about the occurrence, sister of the prosecutrix had informed her father and then her father had arrived there, who heard about the entire incident and then he has brought the prosecutrix to the police station where she is submitting her written report. The prosecutrix has also stated that she can recognize the person who had committed the aforesaid incident as also those persons who were keeping vigil, upon



seeing them again. The prosecutrix has prayed for taking appropriate legal action.

4. On the basis of the written report dated 09.02.2016, a Formal FIR, bearing Mahila (Nalanda) P.S. Case No. 15 of 2016 was registered on 09.02.2016 at 10.30 A.M. for the offences under Sections 376, 420, 34 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC'), Sections 4, 6, and 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act, 2012') against Sulekha Devi (Appellant No. 2), one 40-50 years old person and 4-5 other persons. Later on, vide order dated 26.02.2016 passed by the Ld. A.D.J.-1st-cum-Special Judge, MP/MLA Court, Nalanda at Bihar Sharif, Sections 366(A)/370/370(A)/212/120(B) of the IPC and Sections 4/5/6 of the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as the 'Act, 1956') were added.

5. After investigation and finding the case to be true qua all the aforesaid six appellants, the police submitted charge-sheet No. 30 of 2016 on 20.04.2016 under Sections 366(A), 376, 370, 370(A), 212, 420, 109, 120(B) of the IPC, Sections 4, 8 and 17 of the POCSO Act and Sections 4, 5 and 6 of the Act, 1956, while keeping the investigation pending against accused Bishnu



Prasad and others. The learned Trial Court had then taken cognizance of the offences under Sections 366(A), 370, 370(A), 376, 212, 109, 420/120(B) of the IPC, Sections 4, 8 and 17 of the POCSO Act and Sections 4, 5 and 6 of the Act, 1956 against all the aforesaid six appellants vide order dated 22.04.2016. The charges were then framed by the learned Trial Court, vide order dated 06.09.2016 against the aforesaid six appellants under various provisions of law, details whereof are as under:-

Cr. Appeal (DB) No. 224 of 2019	
Appellant's name	Charges framed under Section
Rajballabh Prasad @ Rajballav Yadav	109 IPC read with Section 376, 120(B) of the IPC, Sections 4, 8, 17 of the POCSO Act, 2012 and Sections 5 and 6 of the Act, 1956

Cr. Appeal (DB) No. 165 of 2019	
Appellant's name	Charges framed under Section
Sulekha Devi	109, 212, 366A, 370, 376/ 120(B) of the IPC, Section 4, 8, 17 of the POCSO Act, 2012 and Section 4, 5 and 6 of the Act, 1956.

Cr. Appeal (DB) No. 200 of 2019	
Appellant's name	Charges framed under Section
Radha Devi	109, 212, 366A, 370, 376/ 120(B) of the IPC, Section 4, 8, 17 of the POCSO Act, 2012 and Section 4, 5 and 6 of the Act, 1956.

Cr. Appeal (DB) No. 218 of 2019	
Appellant's name	Charges framed under Section
Sandeep Suman @ Pushpanjay	109, 212, 366A, 370, 376/ 120(B) of the IPC, Section 4, 8, 17 of the POCSO Act, 2012 and Section 4, 5 and 6 of the Act, 1956.



Cr. Appeal (DB) No. 226 of 2019	
Appellant's name	Charges framed under Section
Tusi Devi	109, 212, 366A, 370, 376/ 120(B) of the IPC, Section 4, 8, 17 of the POCSO Act, 2012 and Section 4, 5 and 6 of the Act, 1956.

Cr. Appeal (DB) No. 243 of 2019	
Appellant's name	Charges framed under Section
Chhoti Devi @ Amrita	109, 212, 366A, 370, 376/ 120(B) of the IPC, Section 4, 8, 17 of the POCSO Act, 2012 and Section 4, 5 and 6 of the Act, 1956.

6. The connected case, after constitution of the Special Court in light of the notification No. 2574 dated 14.03.2018, issued by the law department, was transferred from the Ld. Court of 1st Additional District and Sessions Judge-cum-Special Judge Nalanda at Biharsharif and received by the learned Special Judge (Elected Member of Parliament, Member of Legislative Assembly and Member of Legislative Council), Bihar, Patna on 04.06.2018, whereafter the same was numbered as Special Case No. 145 of 2018. During the course of trial, 22 prosecution witnesses were examined. PW-1 is the sister of the prosecutrix, PW-2 is the prosecutrix herself (victim girl), PW-3 is the sister of the victim girl, PW- 4 is the father of the victim girl, PW-5 is Rajeshwar Ram (Assistant Sub-Inspector of Police), PW-6 is Manju Yadav (Assistant Sub-Inspector of Police), PW-7 is Gandhari Devi (Sub-Inspector of Police), PW-8 is Dr. Shailendra



Kumar (Member of the Medical Board), PW-9 is Dr. Budha Prakash (Orthopaedic surgeon and Member of Medical Board), PW-10 Dr. Akhilesh Kumar (Dental Surgeon & Member of the Medical Board), PW-11 is Dr. Kumkum Kumari (Lady Medical officer and Member of the Medical Board), PW- 12 is Dr. Ram Kumar Prasad (Pathologist and Member of the Medical Board), PW-13 is Dr. Kumari Preeti Ranjana (Lady Medical officer and Member of the Medical Board), PW-14 is Alok Kumar (Assistant posted in the residential office of Superintendent of Police in the District Information Unit, Nalanda), PW-15 is Mridula Kumari (Investigating Officer), PW-16 is Bipin Kumar Choudhary (In-charge Director, State Photo Bureau Criminal Investigation Department, Bihar, Patna), PW-17 is Raj Kumar Bharti (Posted as Government Photograph Examiner in the office of State Photo Bureau, CID, Bihar), PW- 18 is Reshma Verma (learned Sub-Judge-IV-cum-ACJM-III, Bihar Sharif, who had recorded the statements of PW-1, PW-2 and PW-3 under Section 164 of the Cr.P.C.), PW-19 is Swarn Prabhat (learned Munsif-cum-J.M. 1st Class, who had recorded the statement of PW-4 under Section 164 of the Cr.P.C.), PW-20 is Devanand Kumar (Nodal Officer of Vodaphone), PW-21 is Vimal Kumar Shrivastava (Nodal Officer of Idea Cellular Ltd.) and PW- 22 is



