

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1423 of 2024

Arising Out of PS. Case No.-59 Year-2019 Thana- RAMKRISHNANAGAR District- Patna

Pappu Kumar Son of Jaiyendra Roy Resident of East Subash Nagar,
Khemnichak, P.S. - Ram Krishna Nagar, District - Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Prabhat Jha Son of Inder Mohan Jha Resident of Village - Paghari, P.S. -
Barole, District - Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Md. Helal Ahmad, Advocate
For the Respondent/s	:	Mr.Sujit Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

- 3 09-05-2025 Heard Md. Helal Ahmad, learned counsel for the

appellant and Mr. Sujit Kumar Singh, learned A.P.P. for the

respondent State.

2. The present appeal has been filed under Section-
372 of the Code of Criminal Procedure Code, 1973 (hereinafter
referred to as the ‘Code’) in which the appellant/victim has
challenged the impugned judgment dated 16.08.2024 and order
dated 23.08.2024, rendered by additional Sessions Judge-VI-
cum-Special Judge, POCSO Act, Patna in Special (POCSO)
Case No. 117 of 2019, arising out of Ramkrishna Nagar P.S.



Case No. 59 of 2019, to the extent that the concerned trial court has imposed lesser sentence to the respondent/accused. Similarly, the trial court has awarded inadequate compensation to the appellant/victim.

3. Learned counsel for the appellant submits that the F.I.R., bearing Ramkrishna Nagar P.S. Case No. 59 of 2019 dated 28.01.2019 came to be lodged before Ramkrishna Nagar police station against the respondent/accused for committing offences punishable under Sections- 363, 366-A, 120B, 328 and 376 of I.P.C. and under Section-6 of POCSO Act. It is submitted that after registration of the F.I.R., the Investigating Officer carried out the investigation and filed charge-sheet against the respondents/accused. The case was committed to the Special Court where the charge against the respondent/accused came to be framed for committing the aforesaid offences.

4. It is further submitted that during the course of the trial the prosecution examined six witnesses and produced documentary evidence and after conclusion of the trial, the trial court, vide judgment dated 16.08.2024 convicted the respondent/accused for committing offences punishable under Sections- 363, 376 of I.P.C. as well as under Section-6 of POCSO Act. The trial court thereafter imposed sentence on



23.08.2024 whereby the trial court awarded sentence of R.I. for 10 years and a fine of Rs. 15,000/- for the offence punishable under Section-6 of POCSO Act and, in default of payment of fine, to further undergo S.I. for six months. Further, he has been awarded sentence of R.I. for five years and a fine of Rs. 10,000/- for the offence punishable under Section-363 of I.P.C. and, in default of payment of fine, to further undergo S.I. for three months. Both the sentences have been directed to run concurrently. No separate sentence has been awarded for committing offence punishable under Section-376 of I.P.C. The trial court has also awarded Rs. 4,00,000/- by way of compensation to the appellant/victim.

5. Learned counsel, at this stage, submits that the appellant has challenged the aforesaid judgment and order to the limited extent. It has been contended that the trial court ought to have awarded sentence of 20 years which has been prescribed under Section-6 of POCSO Act. It is also submitted that the trial court has awarded compensation of Rs. 4,00,000/-. In fact, the trial court ought to have awarded Rs. 10,00,000/- by way of compensation. Learned counsel, therefore, urged that the impugned judgment and order be modified to the aforesaid extent.



6. On the other hand, learned A.P.P. has contended that trial court has not committed any error while passing the impugned judgment and order and, therefore, no interference is required in the present appeal which has been filed under Section-372 of the Code.

7. We have perused the material placed on record and considered the submissions canvassed by the learned counsel for the appellant and learned A.P.P. From the record, it transpires that the F.I.R. in question came to be lodged on 28.01.2019 for the alleged incident which took place on 27.01.2019. The trial court has, therefore, after convicting the respondent/accused, imposed sentence of 10 years for committing the offence punishable under Section-6 of POCSO Act.

8. The main contention of learned counsel for the appellant is that under Section-6 of POCSO Act minimum sentence provided is 20 years, hence, trial court ought to have awarded sentence of 20 years. Therefore, at this stage, we would like to refer the provision of Section-6 of POCSO Act which provides as under:-

“6. Punishment for aggravated penetrative sexual assault.-- (1) Whoever commits aggravated penetrative sexual assault shall be punished



with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.

(2) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim.]”

9. At this stage, it is required to be observed that aforesaid provision came to be introduced by way of an amendment of 16.08.2019. Once again, it is required to be recalled at this stage that the occurrence in question in the present case took place on 27.01.2019 and the F.I.R. came to be lodged on 28.01.2019. Thus, the F.I.R. came to be filed prior to the amendment which was implemented on 16.08.2019 and, therefore, what was the position prior to 16.08.2019 is required to be examined. At this stage, we would like to refer the provisions contained in Section-6 of POCSO Act prior to substitution which provided as under:-

“6. Punishment for aggravated penetrative sexual assault.--Whoever commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine.”



10. Thus, from the aforesaid provision which stood before amendment of 16.08.2019, it transpires that the minimum sentence prescribed was 10 years. Thus, we are of the view that the contention raised by the learned counsel for the appellant that the trial court ought to have imposed sentence of 20 years is misconceived.

11. Alternatively, the learned counsel for the appellant contended that the trial court ought to have imposed sentence of life imprisonment in the present case and, for that purpose, the present appeal is filed. We are of the view that for the aforesaid purpose the appeal under Section-372 of the Code is not maintainable.

12. At this stage, we would like to refer Section-372 of the Code which provides as under:-

“372. No appeal to lie unless otherwise provided.-- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force:

[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]”

13. From the aforesaid provision contained in



Section-372 proviso, it can be said that the victim has a right to file an appeal under three circumstances: firstly, when the trial court has acquitted the accused; secondly, when the trial court has convicted the accused for a lesser offence; and, thirdly, when the trial court has awarded inadequate compensation.

14. Thus, under the aforesaid three circumstances victim is having a right to prefer an appeal under Section-372 of the Code. In the present case, it is not the case of the appellant/victim that the respondent/accused has been acquitted nor it is the case of the appellant/victim that the respondent/accused has been convicted for a lesser offence. Thus, the present appeal for the purpose of enhancement of sentence is not maintainable.

15. Now, the last contention of the learned counsel for the appellant is that the trial court has awarded Rs. 4,00,000/- by way of compensation whereas the trial court ought to have awarded Rs. 10,00,000/- by way of compensation to the victim.

16. However, it is required to be observed at this stage that the learned counsel for the appellant has failed to point out from the record that the compensation of Rs.4,00,000/- awarded by the trial court is inadequate, looking to the facts and



circumstances of the present case.

17. Thus, we are of the view that the trial court has not committed any error while awarding Rs. 4,00,000/- by way of compensation to the appellant/victim.

18. In view of the aforesaid facts and circumstances of the present case, we are of the view that the present appeal is misconceived and, therefore, we are not inclined to entertain the same.

19. Accordingly, the appeal stands dismissed.

(Vipul M. Pancholi, J)

(Sunil Dutta Mishra, J)

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