

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.303 of 2014**

Arising Out of PS. Case No.-122 Year-2012 Thana- MANSI District- Khagaria

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Amit Kumar Mandal @ Amit Kumar @ Amit Mandal, Son of Laxman Mandal, Resident of village- Bhramarpur Satiyana tola P.S.- Bihpur, Distt. Bhagalpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhas Chandra, Amicus Curiae
For the State : Mr. Bipin Kumar, Addl. P.P.

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**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT**

Date : 12-02-2026

No one appears on behalf of the appellant and the instant appeal is old one.

2. Considering the aforesaid aspect, Mr. Abhas Chandra, learned Advocate, who is present in Court, is requested to assist this Court in this matter as *Amicus Curiae*. The trial court records are handed over to him for perusal of the relevant materials.

3. After some time, the matter is taken up again. Mr. Abhas Chandra, learned *Amicus Curiae*, and Mr. Bipin Kumar, learned Additional Public Prosecutor for the State, are heard at length.



4. The instant appeal has been preferred against the judgment of conviction dated 05.04.2014 and the order of sentence dated 15.04.2014 passed by the learned IIIrd Ad hoc Additional Sessions Judge, Khagaria, in Sessions Case No. 379 of 2012 arising out of Mansi P.S. Case No. 122 of 2012, corresponding to G.R. No. 1195 of 2012, whereby and whereunder the appellant has been convicted for the offence punishable under Section 366 of the Indian Penal Code (in short, "IPC") and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 5,000/-. In default of payment of fine, he has further been directed to undergo simple imprisonment for a period of one year.

Prosecution Story:-

5. The crux of the prosecution case is that the informant's minor daughter, aged about fifteen years, went missing on 03.06.2012. On the morning of the said day, she allegedly fled away from her house taking with her several ornaments, as detailed in the F.I.R. Thereafter, efforts were made to trace her whereabouts. Ultimately, on 16.06.2012, Shivaji Mandal, the uncle of the informant, came to her house and informed her that the victim had been seen at the house of the appellant. According to the said Shivaji Mandal, the appellant was his co-villager. The informant has alleged in the F.I.R. that the appellant, who was



having criminal antecedents at the time of the alleged occurrence, had kidnapped her minor daughter.

6. The appellant was charged for the offence punishable under Section 366A of the Indian Penal Code.

7. During trial, altogether nine prosecution witnesses were examined on behalf of the prosecution, who are as follows:–

Sl. No.	Name	Relevancy
PW-1	Shivaji Mandal	Relative witness
PW-2	Ajanasiya Devi	Relative witness
PW-3	Sharwan Mandal	Relative witness
PW-4	xxxxxx	Father of the victim
PW-5	xxxxxx	Victim
PW-6	xxxxxx	Mother of the victim, informant
PW-7	Dr. Jyotsana Kumari Sinha	Doctor who examined the victim
PW-8	Abhinandan Kumar Singh	Investigating officer
PW-9	Dr. Yogendra Singh Priyasi	Doctor who examined the victim

8. In documentary evidence, the statement of the victim recorded under Section 164 of the Cr.P.C., the written report submitted by the informant on the basis of which the formal F.I.R. was instituted, the injury report of the victim and her supplementary injury report, including the report of the Medical Board which examined her, were brought on record and exhibited. Besides the aforesaid documents, the formal F.I.R. of the present



case, bearing Mansi P.S. Case No. 122 of 2012, was also exhibited and marked as Exhibit-5.

Submission by learned Amicus Curiae:-

9. Mr. Abhas Chandra, learned *Amicus Curiae*, submits that in view of the evidence of the victim herself, the present case pertains to an elopement and a consensual marriage between the victim and the appellant. It is further submitted that though the age of the victim was mentioned as 15 years in the F.I.R., the Medical Board assessed her age to be between 15 and 17 years. If a margin of two years is added to the upper side of the age assessed by the Medical Board, the victim may be treated as having attained majority at the time of the alleged occurrence. Learned *Amicus Curiae* further submits that the victim has not supported the prosecution case in its entirety before the trial court and has not remained consistent with the allegations levelled in the F.I.R. In this regard, her statement recorded under Section 164 of the Cr.P.C. as well as her deposition before the trial court may be perused.

Submission by learned Additional Public Prosecutor

10. Learned APP also accepts the submission advanced by the learned *Amicus Curiae*.



Consideration and Analysis:-

11. After hearing learned counsel for the parties and upon perusal of the relevant materials available on the record of the trial court, as also the evidence discussed in the impugned judgment, this Court is of the considered opinion that, in view of the statements made by the informant's daughter, who is said to be the victim, the essential ingredients of Section 366 of the IPC, for which the appellant has been convicted, are not attracted. The victim has deposed in her cross-examination that she was a major at the time of the alleged occurrence and that her parents had incorrectly mentioned her date of birth in her matriculation certificate as they intended to solemnize her marriage with some other person against her wishes. She has further stated that, for the said reason, she left her parental house of her own volition and subsequently solemnized marriage with the appellant in a temple out of her free will. She has also admitted in her cross-examination that the physical relationship between her and the appellant was consensual and that she was leading a conjugal life with him, treating him as her husband. She further stated that her statement before the police was made under pressure. The victim also deposed that she had come from her matrimonial home (Sasural)



along with her mother-in-law and sister-in-law and expressed her desire to return to her Sasural with them.

Conclusion:-

12. In view of the aforesaid statements made by the victim in her cross-examination, coupled with the material contradictions between her deposition in court, and her statement recorded under Section 164 of the Cr.P.C. before the learned Judicial Magistrate, and her statements made in examination-in-chief, the prosecution case, as set out in the F.I.R., does not inspire confidence. The approach of the trial court in recording conviction of the appellant, therefore, does not appear to be proper. Accordingly, the impugned judgment of conviction dated 05.04.2014 and the order of sentence dated 15.04.2014 passed by the learned IIIrd Adhoc Additional Sessions Judge, Khagaria, in Sessions Case No. 379 of 2012 arising out of Mansi P.S. Case No. 122 of 2012, corresponding to G.R. No. 1195 of 2012, convicting and sentencing the appellant under Section 366 of the IPC, are hereby set aside.

13. The appeal is allowed.

14. The appellant is on bail. Accordingly, his bail bonds stand cancelled forthwith, and he, along with his sureties, is hereby discharged from their respective liabilities.



15. Let the records of the trial court, along with a copy of this judgment, be transmitted forthwith to the concerned court for compliance and for taking necessary action.

16. Mr. Abhas Chandra, learned *Amicus Curiae*, shall be entitled to remuneration in terms of the Notification dated 18.05.2017 issued by the State Government. The said remuneration shall be paid by the Patna High Court Legal Services Committee for the assistance rendered by him to this Court as *Amicus Curiae*.

(Shailendra Singh, J)

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AFR/NAFR	
CAV DATE	NA
Uploading Date	18.02.2026
Transmission Date	18.02.2026

