IN THE HIGH COURT OFJHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 1208 of 2006

[Against the judgment of conviction and sentence dated 24.04.2006 & 26.04.2006 respectively passed by the learned 3rd Additional District & Sessions (F.T.C.), Dumka in Sessions Case No. 202 of 2005 arising out of Dumka (M) P.S. Case No. 78 of 2005 corresponding to G.R. No. 575 of 2005.]

Samuel Murmu, S/o. late Matal Murmu, resident of village- Khatangi, P.O.- Dumka, P.S.- Dumka (Muffasil), District- Dumka, Jharkhand.

……Appellant

Versus

The State of Jharkhand …. Respondent

For the Appellant : Mr. S. P. Roy, Advocate

For the Resp.-State : Mrs. Nehala Sharmin, Spl.P.P.

PRESENT
CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

CAV On: 16th September, 2026 **Pronounced On: 30/10/2026**

1. Heard learned counsel for the appellant as well as learned Special P.P.

2. Instant criminal appeal is directed against the judgment of conviction dated 24.04.2006 and order of sentence dated 26.04.2006 passed by the learned 3rd Additional District & Sessions (F.T.C.), Dumka in Sessions Case No. 202 of 2005 arising out of Dumka (M) P.S. Case No. 78 of 2005 corresponding to G.R. No. 575 of 2005, whereby and whereunder, the appellant has been convicted for the offence under Section 376 of the I.P.C. and sentenced to undergo R.I. for 07 years.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that on 25.05.2005, prosecutrix was returning from her maternal uncle's house in the

evening at about 5:00 P.M. and reached near Khatangi Dangal, lonely place, just some distance away to her home, in the meantime, present appellant caught hold of her and brought behind a big stone and committed rape on her. The prosecutrix tried to raise alarm but her mouth was gagged. It is alleged that after commission of rape, the accused threatened the prosecutrix of dire consequences, if she discloses the above incident to anyone. It is further alleged that prosecutrix, due to shame and fear, instead of going to her own house, went to the house of Pradhan Murmu and stayed at late night but she did not narrate the above incident to anyone there. It is further alleged that on 27.05.2005, the prosecutrix disclosed about the incident to her husband then her husband informed to village pradhan and to some villagers. A village meeting was also convened, where Samuel Murmu (present appellant) was called but he did not attend. Thereafter, prosecutrix filed a written report at Dumka (M) police station.

On the basis of above information, Dumka (M) P.S. Case No. 78 of 2005 was registered for the offence under Section 376 of the I.P.C. against the above named appellant.

4. Charge of investigation was undertaken by S.I. Pramod Kumar Sngh (PW-10). In the course of investigation, he issued requisition form for medical examination of the prosecutrix, inspected the place of occurrence, which is situated at village Khatangi near Pakka Bandh made of cement and stone. Towards north side behind a big stone rape was committed by the appellant upon the prosecutrix as narrated by her but nothing incriminating was found from the place of occurrence. The investigating officer after recording the statement of witnesses,

acquainted with the facts and also obtained medical report of the prosecutrix, arrested the accused and finding sufficient evidence submitted charge-sheet for the offence under Section 376 of the I.P.C. against the accused. After taking cognizance, the case was committed to the Court of Sessions, where Sessions Case No. 202 of 2005 was registered.

5. The appellant denied the charge levelled against him and claimed to be tried.

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

I. Exhibit-1: Medical report of victim.

II. Exhibit-2: Endorsement on the written report of informant.

III. Exhibit-3: Formal F.I.R.

7. The learned Trial Court after scrutinizing the evidence oral as well as documentary led by the prosecution, arrived at definite conclusion about the guilt of the appellant for the offence under Section 376 of the I.P.C. Accordingly, the learned Trial Court convicted and sentenced the appellant as stated above, which has been assailed in this appeal.

Submission on behalf of appellant:-

8. Assailing the impugned judgment, the learned counsel for the appellant has submitted that the prosecutrix was a married lady. She was aged about 20 years old at the time of occurrence. There was enmity between the husband of the prosecutrix and the appellant. It is further submitted that this case was instituted by the prosecutrix only at the instance of her husband when she was brutally assaulted as to where she had spent overnight. Prior to this, the alleged occurrence was not

disclosed to anyone. Even, to PW-7 (Pradhan Murmu @ Pradhan Hansda), at whose house, the prosecutrix stayed overnight instead of going to her own house, which is just adjacent to her house. The prosecutrix has not narrated the above incident to him or his family members. For the first time on 27.05.2005, when she met her husband, a false story was concocted about commission of rape. It is further submitted that the prosecutrix was assaulted by her husband by kicks and slaps but no injury was found during medical examination of the prosecutrix. The wearing clothes of the prosecutrix were also washed away and nothing was produced before the investigating officer. The factum of panchayati was also not proved by any cogent and reliable evidence. The statement of prosecutrix under Section 164 of the Cr.P.C. was also not recorded. In view of the above glaring infirmities in the prosecution case, it is not safe to convict the appellant solely on the basis of evidence of prosecutrix, which does not find any corroboration from medical report also. The prosecutrix was bound to disclose a false story implicating the present appellant when she was getting assaulted by her husband. The learned Trial Court has overlooked the above vital aspect of the case and wrongly held the appellant guilty for the offence of commission of rape. Therefore, impugned judgment of conviction and sentence of the appellant is liable to be set aside, the appellant deserves acquittal and this appeal may be allowed.

Submission on behalf of State:-

9. Per contra; learned Special P.P. has opposed the aforesaid contentions raised by learned counsel for the appellant and defending the impugned judgment has submitted that the learned Trial Court has

very wisely and aptly scrutinized the evidence adduced by the prosecution. The evidence of prosecutrix as well as witnesses fully corroborates the commission of rape upon the prosecutrix. Therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellant calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

Analysis, Reasons and Decision:-

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

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

12. Before adjudicating the above point, it is pertinent to apprise with the testimony of the witnesses examined during trial.

13. It appears that the prosecution has examined altogether 10 witnesses to prove the prosecution case, which are as under:-

PW-3 is prosecutrix herself. Accordingly to her evidence, on the date of occurrence, she was returning from her maternal uncle's home to her own village at Khatangi and while she reached near river side (bandh), in the meantime, the accused who was coming from opposite direction by cycle, stopped her and brought her towards bandh and committed rape upon her. He also threatened her of dire consequences, if she raised alarm or disclosed the incident to anyone. She has further stated that in the night, she went to the house of Pradhan Murmu instead

of her own house and on the next day, she went to her house, then her husband started assaulting her asking as to where she had been overnight, then she disclosed her husband about the incident of rape committed by the accused. Thereafter, a village panchayati was convened but the accused did not turn up. Hence, no decision was taken and F.I.R. was lodged.

PW-7 Pradhan Murmu @ Pradhan Hansda has stated that on 25.05.2005 in the night, prosecutrix came to his house and stayed overnight. She has also disclosed about commission of rape upon her by the accused in the evening of 25.05.2005 while she was returning from her maternal uncle's house.

In his cross-examination, he admits in clear terms that he came to know about the above occurrence on 27.05.2005, when panchayati was convened but the accused did not turn up and case was lodged.

PW-5 Lakhi Ram Marandi is the husband of the prosecutrix. According to his evidence, on Wednesday morning his wife had gone to maternal uncle's house and was retuning about 5:30 P.M. The accused caught hold of her and committed rape upon her towards Dangal and bandh. On Thursday morning, he asked his wife as to where she was in the night then she disclosed about the occurrence. Prior to this, he had no knowledge about the occurrence.

In his cross-examination, this witness admits that first he assaulted his wife then she disclosed about the occurrence. He also admits that his marriage was solemnized about more than twenty years ago.

PW-9 Meera Murmu is the village Manjhi, who also came to know from the prosecutrix about commission of rape upon her by the

accused. She convened a panchayati but no decision could be taken in absence of the accused, hence, case was lodged.

PW-1 Dr. Pushplata Tudu has examined the prosecutrix on 28.05.2005 at 9:40 A.M. She has found no external or internal injury on the body or private part of the prosecutrix. No spermatozoa dead or alive was also detected. Therefore, in her opinion, no definite view about commission of rape can be given. She has proved the injury report as Ext.-1.

PW-2 Lotho Hasda, PW-4 Bishu Murmu, PW-6 Ropai Marandi & PW-8 Dhani Murmu have been tendered by the prosecution and they have not supported the prosecution story.

PW-10 Pramod Kumar Singh is the investigating officer of this case. He has proved endorsement on written report and formal F.I.R. as Ext.-2 & Ext.-3 respectively. After finding sufficient evidence against the accused, he has submitted chargesheet.

In his cross-examination, he clearly admits that in the course of investigation, he has not collected any incriminating things from the place of occurrence. He has also not seized wearing cloth of the prosecutrix. He has also not found any mark of violence or struggle at the place of occurrence. He has also not verified the fact whether the prosecutrix had gone to her maternal uncle's house on the date of occurrence or not.

14. On the other hand, no any witness has been examined on behalf of the defence.

15. I have given anxious consideration to the overall aspects of the case and the evidence available on record.

16. It is trite that if the testimony of prosecutrix/victim appears to be wholly reliable and unblemished, the conviction can be made on uncorroborated testimony of the prosecutrix alone.

In the case of "**Krishan Kumar Malik vs. State of Haryana**, as 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.

17. In the instant case, the version of the prosecutrix is that while the prosecutrix was coming from her maternal uncle's house, the appellant committed rape with her on 25.05.2005 in evening time near a river bandh. Thereafter, she has stayed overnight on the alleged date of occurrence at the house of one Pradhan Murmu @ Pradhan Hansda (PW-7), which is situated adjacent to her own house. The prosecutrix has not stated about the occurrence to him or his family members, when she stayed overnight. PW-7 himself admits in his cross-examination that he came to know about the occurrence on 27.05.2005. Further, when she comes to her own house, her husband assaulted her asking where she stayed overnight. Thereafter, for the first time, she disclosed before her husband about commission of rape upon her. Thereafter, case was lodged. It further appears that PW-5 Dr. Pushplata Tudu has examined the prosecutrix and has found no internal or external injury on the body or private part of the prosecutrix. Surprisingly, in this case there is no corroborative evidence also. The very genesis of occurrence and the place of occurrence has also not been authenticated by the investigating

officer and there appears difference in the place of occurrence as disclosed in the F.I.R. and place of occurrence as depicted by the investigating officer. The prosecutrix has specifically stated that about one hour continuously, the accused committed rape upon her lying over her body. She also struggled all over the period by waiving her hand and legs but the investigating officer has not found any mark of struggle even abrasion or brushes have also not been found on the body of the prosecutrix. Therefore she cannot be branded as wholly reliable witness

18. In view of above discussion and reasons, I am of the opinion that the testimony of witnesses examined during trial does not appear to be fully corroborative to the prosecution case to hold the conviction of the appellant under Section 376 of the I.P.C. Therefore, the impugned judgment of conviction and sentence of the appellant is hereby set aside.

19. This appeal is, accordingly, **allowed**.

20. Pending I.A.(s), if any, stands disposed of.

21. The appellant is on bail. He is discharged from the liability of bail bond and sureties are also discharged.

22. Let a copy of this judgment alongwith the trial Court records be sent back immediately to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand at Ranchi
Dated: 30/10/2026
Rahul- NAFR
Uploaded On:30/10/2026