IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 989 of 2005

[Against the judgment of conviction dated 25.07.2005 and sentence dated 27.07.2005 passed in Sessions Trial No. 76 of 2002 by the learned Addl. Sessions Judge, Ghatsila.]

Sk. Jamiruddin, S/o. Sk. Jamalluddin, R/o. Naugram, P.O. & P.S.- Dumaria, Dist.- Singhbhum (East).

... ... **Appellant**

Versus

1. The State of Jharkhand
2. Victim

…… **Respondents**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Rajendra Pd. Gupta, Advocate
For the State : Mr. Bishambhar Shastri, A.P.P.
For the Resp. No.2 : Mr. Venkatesh Kumar, Advocate

J U D G M E N T

Dated: 06th May, 2026

1. Heard Mr. Rajendra Pd. Gupta, learned counsel for the appellant and Mr. Bishambhar Shastri, learned A.P.P. as well learned counsel for the respondent no. 2

2. This criminal appeal is directed against the judgment of conviction dated 25.07.2005 and sentence dated 27.07.2005 passed in Sessions Trial No. 76 of 2002 by the learned Addl. Sessions Judge, Ghatsila, whereby and whereunder, the appellant has been convicted under Sections 376 & 493 of the I.P.C. and sentenced to undergo R.I. for seven years for the offence under Sections 376 of the I.P.C and R.I. for three years for the offence under Section 493 of the I.P.C. All the sentences were directed to run concurrently.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that on 15.08.1999 at about 7:00 P.M., when the victim had gone to field to attend the call of nature, she was suddenly overpowered by the appellant, who was armed with knife and victim surrendered before the appellant out of fear, where the appellant committed

rape upon her. After committing rape, the appellant threatened the victim not to disclose the fact, otherwise she would be done to death. The appellant further assured her that he would marry her soon after obtaining consent from his guardian. On 20.08.1999 in the evening, the appellant met the victim and told her in the name of "allah" that he has accepted the victim as his wife and formal "Nikah" would be performed after rainy season with good social ceremony. It is alleged that the appellant committed rape upon victim on several occasions due to which she became pregnant. When victim and her guardian requested the appellant to perform "Nikah", he entered into an agreement that after delivery of child, the "Nikah" would be performed within 3 months 13 days according to Muslim rituals but violating the agreement, the appellant married with another girl.

4. On the basis of above, a complaint case was filed in the Court as C/1 Case No. 54/200, which was sent to the Officer-in-Charge, Dumaria P.S. under Section 156(iii) of the Cr.P.C., on which police registered the case as Dumaria P.S. Case No. 21/2000 dated 26.09.2000 for the offence under Sections 376, 493, 120(B)/34 of the I.P.C. against the present appellant including co-accused persons.

5. After completion of investigation, the charge-sheet was submitted against the above named accused and after taking cognizance, the case was committed to the court of Sessions, where Sessions Trial No. 76 of 2002 was registered. The accused persons denied the charges levelled against them and claimed to be tried.

6. It appears that altogether six witnesses have been examined by the prosecution: -

P.W.-1 Sheikh Ibrahim

P.W.-2 Sheikh Samsuddin

P.W.-3 Sheikh Liyakat

P.W.-4 Sheikh Sultan

P.W.-5 Victim

P.W.-6 Bindhyachal Singh (investigating officer)

Apart from the oral evidences, following documentary evidences have also been adduced on behalf of the prosecution, i.e.:-

(i) Exhibit-1: Endorsement of Ramshankar Prasad O/C Dumaria P.S. on the copy of complaint petition.

(ii) Exhibit-2: Formal F.I.R.

On the other hand, no oral or documentary evidence has been adduced on behalf of defence.

7. After conclusion of trial, the learned Trial Court convicted the appellant for the offences under Sections 376 & 493 of the I.P.C., while acquitted the other accused persons from the charges of offence under Section 493/109 of the I.P.C.

Submissions on behalf of the appellant:-

8. Learned counsel for the appellant has submitted that both the prosecutrix and appellant belong to same family and intimacy developed between them. The complaint case was lodged for the occurrence on 15.08.1999 and due to intervention of well-wishers, a Panchayati was convened and it was agreed on 25.04.2000 that after birth of child, the appellant would marry with the victim, which could not be materialized. Therefore, offence under Section 376 of the I.P.C. is not attracted. It is further submitted that for the occurrence, the appellant has given Rs. 50,000/- to the victim as compensation. The F.I.R. was registered as Dumaria P.S. Case No. 21/2000 dated 26.09.2000 as per order passed by the learned Judicial Magistrate under Section 156(iii) of Cr.P.C. It is further submitted that the appellant has been held guilty for the offences under Sections 376 and 493 of the I.P.C. and sentenced to undergo R.I. for 7 years and 3 years respectively. The maximum sentence awarded to the appellant is 7 years out of which, he has remained in custody for about two and half years (2 ½ years). The incident is of the years 1999 and more than two decades has been elapsed and both the parties have solemnized their marriage and peacefully leading their conjugal life. The appellant has sufficiently been

punished for his guilt. Therefore, sentence passed against the appellant may be reduced to the extent of the imprisonment already undergone by him, instead of the sentence of seven years awarded by the learned Trial Court.

Submissions on behalf of the Respondents:-

9. On the other hand, learned A.P.P. and learned counsel for the Respondent No. 2 has defended the impugned judgment on merits and has submitted that initially the rape was committed upon the victim and she became pregnant and it was decided in the panchayati that after birth of child, the appellant would solemnize marriage with the victim but the appellant solemnized his marriage elsewhere with another girl. It is further submitted that victim gave birth to a female child and she married with another person. Hence, this appeal is fit to be dismissed on merits.

Analysis, discussions and reasons: -

10. From perusal of the impugned judgment of conviction and sentence and considering the factual aspect of the case, it appears that the learned Trial Court while convicting the appellant for the offence under Section 376 of the I.P.C. has relied upon the judgment of Hon'ble High Court of Jharkhand in the case of ***Pinki Kumari Vs. State of Jharkhand and Anr.*** as reported in **(2003) 3 JCR 220 (Jhr)** and has rightly held the appellant guilty for the offence under Section 376 of the I.P.C. and the appellant has also been found guilty for the offence under Section 493 of the I.P.C. as he sworn in the name of "Allah" and continued sexual relationship creating belief in the mind of victim that they are lawfully married, on false assurance of solemnizing marriage with victim**.** The learned counsel for the appellant has also not objected the merits of the judgment of conviction of the appellant, rather confined himself only on the point of sentence. Therefore, the conviction of the appellant for the offence under Sections 376 & 493 of the I.P.C. is upheld.

11. So far as the quantum of sentence is concerned, it appears on consideration of the overall background of the case, present scenario that appellant has remained in custody for almost two and half years and had given Rs. 50,000/- to the victim as compensation, the occurrence is of the year 1999 and more than two decades have been elapsed, I am of the view that the appellant has sufficiently been punished for his guilt. Accordingly, in ends of justice, altering/modifying the sentence of the appellant, he is awarded the sentence of imprisonment already undergone by him as against the sentence awarded by the learned Trial Court.

12. Accordingly, this appeal is **dismissed on merits with modification in sentence** to the extent as mentioned above.

13. The appellant is on bail. As such, he is discharged from the liability of bail bond and sureties are also discharged.

14. Pending I.A(s), if any, is also disposed of accordingly.

15. Let a copy of this judgment along with Trial Court Record be sent back immediately to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated: 06.05.2026
Rahul/NAFR
Uploaded on 11/05/2026