IN THE HIGH COURT OFJHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 969 of 2005

[Against the judgment of conviction and sentence dated 30.07.2005 & 01.08.2005 respectively passed by the learned 3rd Additional Sessions Judge, Garhwa in Sessions Trial No. 500 of 1993 corresponding to G.R. No. 12 of 1993.]

Pachhu Sao, S/o. late Jitan Sao, resident of village- Chittibishrampur, P.S.- Nagar Untari, District- Garhwa, Jharkhand.

……Appellant

Versus

The State of Jharkhand …. Respondent

For the Appellant : Mr. Jai Shankar Tripathi, Advocate

: Mr. Venkatesh Kumar, Advocate

For the Resp.-State : Mr. Manoj Kr. Mishra, A.P.P.

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

CAV On: 17th September, 2026 **Pronounced On: 30/10/2026**

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

2. Instant criminal appeal is directed against the judgment of conviction dated 30.07.2005 and order of sentence dated 01.08.2005 passed by the learned 3rd Additional Sessions, Garhwa in Sessions Trial No. 500 of 1993 corresponding to G.R. No. 12 of 1993, 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 alongwith the fine of Rs. 2,000/- with default stipulation.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that officer in-charge of Nagar Untari police station, Shri Bhuneshwar Ram (PW-14) received a confidential information about death under suspicious circumstance of a lady at village Chit Bishrampur and went for verification of the matter.

Accordingly, U.D. Case No. 06/1992 dated 30.12.1992 was registered, which was pending for viscera examination report. In the meantime, during enquiry, it was revealed that deceased Masomat Kabutari had gone to discharge natures call at Rahar field on 26.12.1992 about 4:00 P.M., where rape was committed upon her by Pachhu Sao (present appellant), which was seen by the villager Muni Ram (PW-1). It is alleged that due to shame and humiliation, Kabutri (deceased) committed suicide by consuming poison on 30.12.1992. The above fact was also corroborated by villagers Sagu Sao (PW-13), Biswanath Ram (PW-11), Bini Kumari (PW-10), Sachidanand Ram and others.

On the basis of development in the UD case, F.I.R. was registered as Nagar Untari P.S. Case No. 24 of 1993 for the offences under Sections 376/306 of the I.P.C. against above named appellant.

4. After completion of investigation, the charge-sheet was submitted against the present appellant under Sections 376 & 306 I.P.C. and after taking cognizance, the case was committed to the Court of Sessions, where S.T. No. 500 of 1993 was registered.

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

6. In the course of trial, altogether 15 witnesses were examined by the prosecution apart from following documentary evidence:

I. Exhibit-1: post-mortem report of victim (deceased).

II. Exhibit-2: Injury report of victim (deceased).

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

IV. Mark-'X' (for identification)- Inquest report of the deceased.

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 entire allegation against appellant is completely concocted and fabricated by the prosecution. The victim (deceased) was widow lady and had two female children, the family members of the victim with a view to grab the share of property laid trap of commission of rape by the accused, poisoned the victim and alleged the whole story of commission of rape against the appellant. It is further submitted that the date of occurrence is 26.12.1992 and the victim died on 30.12.1992. Here, it is apparent that till that date there was no any report or complaint lodged before the police. The police at the time of death of the victim had filed only U.D. case. It is further submitted that there are many contradictions and exaggerations in the evidence of witnesses adduced by the prosecution. PW-1 Muni Ram, who claimed to be the eye witness of the occurrence, has stated in his cross-examination that he had not heard any hulla at the place of occurrence. PW-1 also went to the house of Dasai Sao but he did not narrate about the occurrence to anyone. He also admits that villagers also did not ask from the victim about the occurrence. As such, there is no chance of any humiliation of victim for consuming poison herself. It is also submitted by the learned counsel for the appellant that there is

delay in lodging the F.I.R., the occurrence took place on 26.12.1992 but the F.I.R. was registered on 13.02.1993. The viscera report of the deceased has also not been proved. Therefore, conviction and sentence of the appellant is liable to be set aside and this appeal may be allowed.

Submission on behalf of State:-

9. Per contra; learned A.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 witnesses fully corroborates the commission of rape upon the victim (deceased). 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 15 witnesses to prove the prosecution case, which are as under:-

PW-1 Muni Ram has stated in his examination-in-chief that the occurrence took place in the day at 4:00 P.M. at rahar field of Dasisha Pandey. He was grazing his cattle there and heard hulla of victim (deceased). When he went there, he saw that the accused was committing rape upon her. He caught the accused but the accused fled away by releasing himself. The victim was widow and she had two children. He has further stated that the victim, after 3-4 days, consumed poison and died.

In his cross-examination, this witness admits that when he reached at the place of occurrence, he did not hear any hulla. He has further stated that he went there and caught the accused from behind but the accused fled away. This witness went to the house of Dasai Sao but admits that he did not narrate about the occurrence to anyone. He further admits that villagers also did not ask from the victim about the occurrence.

PW-2 Ramashray Ram has stated that the victim (deceased) was widow and she had consumed poison. She died in hospital. The accused has raped the victim due to which she consumed poison after four days. He has further stated that he and Muni Ram (PW-1) had caught the accused and brought the accused to police station but police had released him. For this agony, the victim died by consuming poison.

In his cross-examination, this witness admits that Muni Ram (PW-1) had caught the accused in the rahar field and brought to the village, where the villagers had asked about the occurrence. He has further stated that he and Muni Ram alongwith 10-15 villagers had reported to

police station. The accused and victim were also there and statement of victim was recorded at police station. She was also sent for medical examination.

PW-3 Dr. Jwala Prasad Singh has conducted autopsy on the dead body of the deceased. He has proved his signature on the post mortem report as Ext.-1. He has further stated that "No definite opinion can be given" with regard to cause of death. Viscera preserved for chemical analysis.

In his cross-examination, this witness has stated that he does not find any apparent mark of violence on the body.

PW-4 Dr. Sita Ram Gupta has stated that 30.12.1992 the deceased was admitted as suspected case of poisoning at 10:45 A.M. and on the same day at 12:45 P.M. she died during course of treatment. Some foul smelling froth came out from her mouth. He has proved injury report in his signature marked as Ext.-2.

In his cross-examination, this witness has stated that he cannot say whether it was a case of poisoning.

PW-5 Ram Dhayan Pal has only proved the formal F.I.R. marked as Ext.-3, which is in the writing of Bhuneshwar Ram (PW-14).

PW-6 Brij Raj Pandey has been declared hostile by the prosecution.

PW-7 Janak Ram is a hearsay witness and has only deposed that the victim (deceased) died by consuming poison and she was caught with the accused in the rahar field.

PW-8 Lalti Devi is the daughter of the victim (deceased). She has stated that on Wednesday, she was returning from forest and reached

near the rahar field of Dashisa Pandey, she saw her mother coming out from rahar field. She was weeping. She went to Nagar with her mother for purchasing something. Thereafter, she returned from market and slept after having dinner. She has further stated that her mother told her that the accused has raped her. Thereafter, in the morning, she took her mother to hospital, where she died.

In her cross-examination, she has deposed that on inquiry by police, she had stated that she had seen her mother coming out from rahar filed of Dashisa Pandey. Her mother had told her that she does not want to live due to humiliation and the accused had raped her.

PW-14 Bhuneshwar Ram has stated that on 30.12.1992, he received information from Ramashray Ram (PW-2) that his aunt, the victim (deceased) has died by consuming poison. He registered a U.D. Case. During investigation, he found that the deceased was raped by the accused and accordingly F.I.R. was also registered. He, himself, investigated the case and recorded his re-statement. Thereafter, he also recorded the statement of Brij Raj Pandey (PW-6), Muni Ram (PW-1), Khagedan Pandey, Ramashray Ram (PW-2) and Lalti Devi (PW-8). He further inspected the place of occurrence. On 06.05.1993, he handed over the charge of investigation to Rajeev Ranjan Prasad due to his transfer. This witness has further stated that he recorded the statement of Brij Raj Pandey (PW-6) and Brij Raj Pandey had stated before him that Muni Ram (PW-1) had seen the occurrence of rape committed by the accused.

In his cross-examination, he has stated that he recorded the statement of Ramashray Ram (PW-2), Lalti Devi (PW-8), Dashisa

Pandey, Brij Raj Pandey (PW-6), Khagedan Pandey, Nathuni Sao, Ramunath Pandey and other before F.I.R. He has further deposed that he did not find any mark of struggle at the place of occurrence. He has further deposed that Muni Ram (PW-1) has not given statement before him that he heard hull at rahar field as well as the accused fled away by releasing from him. He had prepared the inquest report of the deceased.

PW-9 Gopal Singh is the 2nd investigating officer of this case. He has investigated the case after being handed over by 1st investigating officer Bhuneshwar Ram (PW-14). He has investigated and submitted report from para-35 to 58 and after finding sufficient evidence against the accused, submitted charge-sheet against the accused.

In his cross-examination, he admits that he has not interrogated with any witness. He further admits that till submission of charge-sheet, viscera report was not received.

PW-10 Vijay Ram has stated that accused had raped the victim in the rahar field of Dashisa Pandey. Muni Ram (PW-1) had seen the occurrence. The victim (deceased) died at hospital due to her humiliation.

In his cross-examination, he has stated that the accused is his enemy and he has no friendship with him. He has further deposed that he and Muni Ram had seen the accused while committing rape upon the victim.

PW-11 Vishwanath Ram has deposed that on hulla of Muni Ram (PW-1), he went there and saw the accused running away towards southern direction and the victim was also seen coming out from rahar

field. The victim stated him that the accused has forcibly committed rape on her. At that time, he, Dashisa Pandey, Muni Ram, Saguni and other besides Vijay Ram (PW-10) were present there. He did not seen any scratch on the body of victim.

PW-12 Dashisa Nath Pandey has stated that the victim (deceased) died by consuming poison as she was seen with accused in rahar field. The accused had raped her. Muni Ram had seen the accused while committing rape upon the victim.

In his cross-examination, this witness states that after 15-20 days, he heard that the victim consumed poison due to rape committed upon her. He has no personal knowledge about the occurrence.

PW-13 Saguni Sah has stated that he heard that the accused raped the victim in rahar field and Muni Ram had seen them. The victim consumed poison due to humiliation.

In his cross-examination, he states that after 1-2 days, he came to know about the occurrence.

PW-15 Md. Zafar Khan is advocate clerk. He has identified the signature of Bhuneshwar Ram, Investigating officer (PW-14) on the inquest report, marked 'X' for identification.

14. On the other hand, no any witness has been examined on behalf of the defence and also no any documentary evidence has been adduced.

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

16. It appears that the victim, who has been allegedly raped by the accused, has died due to consuming poison. The date of occurrence of commission of rape by the accused upon her is 26.12.1992 and the

victim died on 30.12.1992 in the hospital. The evidence of witnesses goes to show that Muni Ram (PW-1) claims to be eye-witness of the occurrence, wherein he reached at the place of occurrence and saw the accused at the scene. He caught the accused but the accused fled away. PW-1 Muni Ram admits in his cross-examination that he did not narrate about the occurrence to anyone, even the villagers did not ask from the victim. However, rest of the witnesses are not the eye witness of the occurrence and their evidence appears to be exaggerated and contradictory with each other.

17. 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.

But in the instant case, the victim has died. As such, the evidence of witnesses examined during trial is the basis for proving the prosecution case. After evaluating the deposition of witnesses, it appears that witnesses have stated in exaggerated and contradictory manner. PW-3 Dr. Jwala Prasad Singh, who has conducted autopsy of the deceased (victim) and PW-4 Dr. Sita Ram Singh, who examined the victim and proved the injury report have not stated any internal or external injury on the body of victim (deceased). It further appears that PW-14 Bhuneshwar Ram and PW-9 Gopal Singh have investigated the case. The F.I.R. has been lodged on 13.02.1993 during investigation of U.D. Case of victim (deceased) but the occurrence had taken place on 26.12.1992. PW-14 Bhuneshwar Ram had also visited the place of occurrence but he had not found any mark of struggle.

18. The entire prosecution story suffers from material contradictions, improvement and discrepancies. Non-disclosure of incident of rape by victim (deceased) to any one and claim of PW-1 and PW-2 to caught hold of accused at the place of occurrence but lodging no report and narrating to any villagers, casts serious doubt on their veracity. The cause of death of the deceased has also not been proved by any authentic evidence.

19. 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, conviction of the appellant is hereby set aside.

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

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

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

23. 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