IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No.63 of 2020

(Arising out of judgment of conviction and order of sentence dated 27.11.2019 passed by learned Additional Sessions Judge-V-cum-Special Judge (POCSO), East Singhbhum, Jamshedpur, in Special POCSO Case No.3015 of 2015)

Sitaram Paswan @ Sitaram, son of Late Ramashish Paswan, resident of Domuhani, Nirmalnagar, P.O. & P.S. Sonari, District East Singhbhum. **... ... ... Appellant**

Versus

The State of Jharkhand. **... ... ... Respondent**

PRESENT : SRI ANANDA SEN, J.
: SRI PRADEEP KUMAR SRIVASTAVA, J.

For the Appellant : Mr. Dilip Kr. Karmakar, Advocate
For the State : Mr. Manoj Kr. Mishra, A.P.P.

J U D G M E N T

By Court, :
27th October, 2026

This Criminal Appeal has been preferred on behalf of the appellant, being aggrieved by the judgment of conviction and order of sentence dated 27.11.2019 passed by learned Additional Sessions Judge-V-cum-Special Judge (POCSO), East Singhbhum, Jamshedpur, in Special POCSO Case No.3015 of 2015, whereby the appellant was convicted for offences alleged to have been committed under Sections 376 (2) (i) IPC and Section 6 of Protection of Children from Sexual Offences (POCSO) Act. He was sentenced to imprisonment for life, with a fine of Rs. 20,000/-, under Section 6 of the POCSO Act, and, in default of payment of the fine, to further undergo imprisonment for six months.

2. We have heard learned counsel representing the

appellant and learned A.P.P. representing the State, at length, and have gone through the materials available on record.

3. Learned counsel representing the appellant submitted that the impugned judgment of conviction and order of sentence are liable to be set aside, as the Trial Court has failed to take into consideration that there are contradictions in the statements given in *fardbeyan*, by the prosecutrix and her deposition given in the Court as well as her statement under Section 164 Cr.P.C., thus he implored this Court to acquit the appellant from the charges.

4. Per contra, learned A.P.P. representing the State, opposed the aforesaid prayer and submitted that the appellant had rightly been convicted in this case, as the prosecutrix has fully supported the prosecution case which is evident from her *fardbeyan*, deposition before the Court and also her statement recorded under Section 164 Cr.P.C., thus the impugned judgment of conviction and order of sentence do not call for any interference.

5. The case of the prosecution on the basis of *fardbeyan* given on 14.09.2015, at M.G.M. Hospital, by the prosecutrix, aged about 08 years, is that she was a Class-III student in DBMS Liliput School, Sonari. On the date of the incident, she arrived home around 01:00 P.M., after school ended; and before dusk, she, with her classmate, went to play in the ground across the road. While they were playing, an elderly man named Sitaram Paswan (appellant herein), whom the prosecutrix knew well,

approached them, began talking to both of them, and made them sit at the edge of the field. As it began to get dark, she said that they would go home now, but the old man told them to go after a while, and then he grabbed both of them with his right hand, and while remaining seated, he unzipped the pants of the prosecutrix and committed a truly vile act with her by his hand, resulting in blood oozing out of her private part. When she tried to run away, the appellant began to fear her and told her not to tell anything to anyone and told her that if her mother and father asked, she should tell them that "you fell into some glass, which resulted in injury". She reached home with her friend after managing to get away from the old man and told her mother everything. The mother of the prosecutrix began to cry after seeing blood on her pants, and her parents took her to the Sonari Police Station. A report was filed at Sonari Police Station, from where the prosecutrix was brought to MGM Hospital for treatment.

6. On the basis of the aforesaid *fardbeyan*, F.I.R. being Sonari P.S. Case No.157 of 2015, was registered under Section 376 IPC and Section 4/6 of the POCSO Act, 2012, and after investigation, the charge-sheet was submitted against the appellant, under Section 376 IPC and Section 4/6 of the POCSO Act, 2012. Thereafter, cognisance was taken, and the case was committed to the Court of Sessions, where the case was registered as Special POCSO Case No.3015 of 2015, and the charge was framed against the appellant under Section 376 (2) (i) IPC and Section 6 of the POCSO Act, 2012, and the case

proceeded for trial.

7. To prove the prosecution case, the prosecution has examined 08 witnesses (this Court masked the name of the prosecutrix and her relative witnesses), who are as follows:-

P.W.-1	*Minor Victim (prosecutrix)*
P.W.-2	*"Z" (Sister of victim)*
P.W.-3	*"Z-1" (friend of victim)*
P.W.-4	*"Z-2" (brother of victim)*
P.W.-5	*"Z-3" (brother of victim)*
P.W.-6	*"Z-4" (father of victim)*
P.W.-7	*Dr. Nootan Dayal (Medical Officer)*
P.W.-8	*Hemkant Mishra, Police Inspector (I.O.)*

7.1. P.W.-1 is the prosecutrix/informant (minor victim). After she answered a few questions correctly, the Court, considering her a competent witness, proceeded to record her depositions. She deposed that at that time she was studying in DBMS Liliput School, Sonari, and after School ended at 02:00 P.M., she, with her friend – P.W.-3, went to her Anita Didi's house, which was not very far from her house and was across the road. She was watching television in a room, and Anita Didi went out. Thereafter, Anita Didi's father turned up the volume of the television, switched off the lights, closed the door and then he sat both the prosecutrix and her friend on his lap and began doing inappropriate things to them. P.W.-3 got herself free, opened the gate and ran off, while the appellant clamped his hand over the mouth of the prosecutrix and committed a truly vile act with his hand by disrobing her pants, resulting in blood oozing out of her private part. She then ran off to her home and

informed her mother about the incident. She deposed that the appellant threatened her not to tell anyone and told her to say that she fell onto some glass on the field and got injured. She was then taken to the Police Station and thereafter to MGM Hospital. Her signature on the *fardbeyan* was duly exhibited.

In her cross-examination, at para-22, she deposed that the police lady told her what to say and how to say. She cannot reveal the name of the police lady. At each meeting, the police lady used to talk to her for half an hour or an hour.

At para-23, she deposed that precisely because of the Police lady’s persuasion, there is a discrepancy between the statement given at the Police Station and the one given before the Magistrate.

7.2. P.W.-3 (Z-1) is the prosecutrix's classmate, who was allegedly with her at the time of the incident. Her deposition, until she escaped from the clutches of the appellant, is more or less akin to the deposition of the prosecutrix (P.W.-1). She further deposed that the prosecutrix could not flee from there. Thereafter, when the prosecutrix came, blood was oozing out of her private part.

7.3. P.W.-6 (Z-4) is the prosecutrix's father. He deposed that on the date of the incident, he had gone to attend the funeral of his friend’s mother. His son came to him and asked to go home, as something had happened to her sister, upon which he went home and when the mother of the prosecutrix asked her what had happened, she explained that she had fallen while

playing in the field and had been cut by some glass, which caused bleeding. Then they took her to the MGM Hospital, where the Doctor stated that his daughter had been ravished. Thereafter, when asked, the prosecutrix stated the vile act committed by the appellant against her.

In his cross-examination, he deposed that he had appended his signature on the seizure list prepared by the Police.

7.4. P.W.-7, namely Dr. Nootan Dayal, is the Medical Officer, who had examined the prosecutrix, after taking due consent from her mother. She had given the following findings:-

> *"Mark of Identification :-*
>
> *1. Black Mole on Right side of neck.*
>
> *2. Tiny black mole on middle of forehead near hairline.*
>
> *No injury was found on the external body parts. No secondary sex characters developed. Minarche not attained. Per abdomen soft, no abnormality detected.*
>
> *Local Examination :-*
>
> *Fourchette bruise and also torn half cm in mid-line. Hymen torn at 6 o' clock and 9 o' clock position. Bleeding present, no foreign body found. Vaginal swab taken and sent for microscopic examination for presence of spermatozoa. Investigation report by department of pathology and microbiology at MGM Medical College, Jamshedpur. LAB Reg. No.CL Patho No.91/15 of two slides of vaginal swab shows no spermatozoa. Reg. No. MG15086364/C.L. Path/62/15.*
>
> *Opinion :-*
>
> *1. Injury less than 12 hours.*
>
> *2. Rape has taken place."*

In her cross-examination, she deposed that the injuries occurred, and she cannot say whether sexual intercourse had been committed or not.

7.5. P.W.-8, namely *Kulanand Mishra*, is the Investigating Officer of this case. He proved the *fardbeyan* and the signature appended by the prosecutrix on the said *fardbeyan*, which were also duly exhibited. Accordingly, the case was lodged at Sonari Police Station, which was duly exhibited. A formal F.I.R. was also prepared and duly exhibited. He also visited MGM Hospital, and after having the appellant medically examined, they departed with him for the crime scene. He also proved other recoveries which were duly exhibited.

In his cross-examination, he stated that the victim, in her re-statement, stated that the occurrence was committed in the appellant's house.

8. The prosecutrix and P.W.-3 (Z-1), who was allegedly with the prosecutrix at the time of the incident, both in their statements recorded under Section 164 Cr.P.C., have supported the prosecution story and held the appellant liable for committing such a vile act with the prosecutrix.

9. Several documentary evidence was also produced, which are as follows:-

Ext.-1	*Fardbeyan*
Ext.-2	*Statement under Section 164 Cr.P.C.*
Ext.-3	*Statement under Section 164 Cr.P.C., of Z-1 (P.W.-3)*
Ext.-4	*Medical Report*
Ext.-01/01,	*Signature of victim in fardbeyan.*

01/02 & 01/03	*Forwarding Endorsement*
Ext.5	*Formal F.I.R.*
Ext.6	*Seizure List*
Ext.-7	*Memo of arrest*
Exts.-8 & 8/1	*SFSL reports*

10. The appellant in his statement under Section 313 Cr.P.C., had not pleaded guilty.

11. The Trial Court, after hearing both the parties, vide its judgment of conviction and order of sentence, convicted the appellant and sentenced him, as more fully delineated in the opening paragraph of this judgment, which have been challenged in this Criminal Appeal.

12. We have gone through the evidence elicited by the prosecution and materials available on record.

13. The prosecutrix, who was a minor at the time of incident, was subjected to a truly vile act by this appellant, and commission of such act also found to be corroborated by the medical evidence, which even can be said to be a very small piece of evidence in front of the evidence of the prosecutrix herself, who with full composure discontented the reprehensible act committed against her by the appellant at every stages, be it recording of *fardbeyan*, deposition before the Court or giving statement under Section 164 Cr.P.C.

14. Dealing with the contention of the appellant’s counsel alleging the conviction of the appellant to be bad, on the basis of a small contradiction in the statement of prosecutrix (P.W.-1) and

her *fardbeyan*, with regard to "place of occurrence"; we are of the opinion that the same hardly matters, as the prosecutrix herself stated everywhere, be it *fardbeyan*, deposition before the Court, statement under Section 164 Cr.P.C., about the same vile act committed by the appellant by his hand against her and also oozing out of the blood from her private part, which finds corroboration from the medical evidence of Medical Officer (P.W.-7), though the same is not a *sine-qua-non*.

15. It is a well-settled law that no independent corroboration is strictly required to convict an accused under Section 6 of the POCSO Act, if the prosecutrix/survivor/victim's sole testimony is found to be completely trustworthy, credible and of sterling quality, by the Court.

16. The Hon'ble Supreme Court in the case of ***Phool Singh Vs. State of Madhya Pradesh***, reported in ***(2022) 2 SCC 74,*** held that conviction can be based on the sole testimony of the victim when her deposition is found to be trustworthy, unblemished, credible, and of sterling quality. Further, the Court should not doubt the testimony merely on the basis of conjectures and surmises.

17. Thus, for the sake of brevity and in order to avoid prolixity, we do not want to delve any further into the matter regarding the conviction of the appellant, when the Trial Court had rightly convicted the appellant for his aforementioned reprehensible act.

18. Accordingly, the impugned judgment of conviction

dated 27.11.2019 passed by learned Additional Sessions Judge-V-cum-Special Judge (POCSO), East Singhbhum, Jamshedpur, in Special POCSO Case No.3015 of 2015, stands upheld.

19. Now, we are on the point of the sentence awarded to the appellant, which is imprisonment for life, with a fine of Rs.20,000/- under Section 6 of the POCSO Act.

20. Learned counsel representing the appellant submitted that the appellant is in custody since 15.09.2015. He submitted that the appellant has already remained in custody during trial and he is still in custody for more than eleven years; the appellant was aged about 65 years at the time of examination under Section 313 Cr.P.C., as also at the time of filing of this Criminal Appeal, and now, he is aged about 72 years. He also submitted that applications of this appellant for grant of bail after suspending his sentence during pendency of this Criminal Appeal were dismissed by this Court on three occasions i.e. vide orders dated 22.12.2021, 28.02.2023 and 01.04.2026, which is also indicative of the fact that the old age of the appellant was not taken into consideration. He also submitted that the appellant has no criminal antecedents.

21. It is imperative to note that Section 6 of the POCSO Act was amended w.e.f. 16th August, 2019 by virtue of Act 25 of 2019. Before the amendment, the minimum sentence was ten years; however, the same could extend to imprisonment for life, and the accused would also be liable to pay a fine. This, in a nutshell, is the position of law, which existed on the date on

which the offence was committed.

22. The aforesaid cumulative factors and submissions on the point of sentence and also the age of the appellant would make us show some leniency towards the appellant for the sentencing part. We are therefore inclined to convert the sentence of the appellant to the period which he has already undergone, i.e. more than eleven years.

23. Thus, the impugned order of sentence dated 27.11.2019 passed by learned Additional Sessions Judge-V-cum-Special Judge (POCSO), East Singhbhum, Jamshedpur, in Special POCSO Case No.3015 of 2015, stands modified. The above-named appellant in this Criminal Appeal is directed to be released from custody, if not required in any other case.

24. Accordingly, this Criminal Appeal stands **partly allowed.**

24.1. Pending interlocutory application, if any, stands **disposed of**.

25. Trial Court Records be transmitted back to the Court concerned.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

HIGH COURT OF JHARKHAND, RANCHI
Dated:- 27th October, 2026
Prashant

NAFR
Uploaded on 06.11.2026