IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 743 of 2009

Suresh Bhuiyan, S/o Pachan Bhuiyan, R/o Belaspur, P.S.-Nagar Untari, Dist.-Garhwa **... .... Appellant**

Versus

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

For the Appellant : Mr. Umesh Kumar Kashyap, Adv.
For the Resp. State : Mr. Fahad Allam, A.P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 31.07.2026 **Pronounced on 17.09.2026**

1. Heard the arguments of learned counsel for the appellant and learned A.P.P.

2. The instant criminal appeal is directed against the Judgment of conviction dated 29th July, 2009 and order of sentence dated 30th July, 2009 passed by learned 1st Addl. Sessions Judge, Garhwa in S.T. No. 27 of 2007, whereby and whereunder, the sole appellant has been convicted for the offence under Section 376 of the I.P.C. and sentenced to undergo R.I. for 7 years along with a fine of Rs. 1,000/- with default stipulation.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that on 19.10.2006, the informant-victim girl took a bus at Varanashi for Gumla. On 20.10.2006, at about 4:00 AM, the bus reached Nagar Untari and all the passengers got down from the bus and the cleaner of the bus told the victim girl to accompany him for taking a Bus for Gumla. Thereafter, he took her towards Hillock and forest near a Bandh and started teasing. When the victim girl objected, he

thrown the victim girl on the ground and forcefully opened her pant and committed rape upon her. She cried then hearing her voice, villagers reached there and caught the cleaner and started beating him thereafter brought her (victim) to Police Station, Nagar Untari but in the meantime, the cleaner managed to flee away. The driver and conductor of the Bus disclosed the name of the Cleaner as Suresh Bhuiyan (appellant).

On the basis of fardbeyan of the victim girl, Nagar Untari P.S. Case No. 221 of 2006 was registered for the offence under Section 376 of the IPC. After completion of investigation, charge sheet was submitted against the accused for the offence under Section 376 of the I.P.C.

The case was committed to the Court of sessions, where S.T. No. 27/2007 was registered. The charge for the offence under Section 376 of the IPC has been framed and explained to the accused in Hindi to which he pleaded not guilty and claimed to be tried.

4. In the course of trial, altogether 8 (Eight) witnesses were examined by the prosecution. Apart from oral testimony of the witnesses, following documentary evidence have also been adduced by the prosecution

Ext.-1	Signature of victim on fardbeyan
Ext.-2	Signature of the driver of the Bus over the Fardbeyan of the informant
Ext.-3	Fardbeyan of the Informant
Ext.-4	Formal F.I.R.
Ext.-5	Medical Examination Report of Victim

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

6. The learned trial Court after scrutinizing the evidence available on record, arrived at conclusion of guilt of the appellant and accordingly, the learned trial court has convicted and sentenced the appellant as stated above.

Submissions on behalf of appellant: -

7. Learned counsel for the appellant assailing the impugned judgment has submitted that most of the prosecution witnesses including P.W.-2, P.W.-3 and P.W.-4 has been declared hostile and rest are the hearsay witnesses, hence the identity of the appellant is doubtful and benefit of doubt may be given to the appellant. It has further been submitted that the medical report which was prepared by the Doctor (P.W.-8) is not corroborative of fact of commission of rape. It has also been submitted that there is no independent witnesses who has corroborated the case of the prosecution. Therefore, the learned trial Court has miserably failed to appreciate the evidence available on record and wrongly convicted and sentenced the appellant as stated above.

The learned counsel for the appellant has placed reliance in the reported judgment of Hon'ble Supreme Court in the matter of **P. Sasikumar Vs. The State rep. by the Inspector of Police (2024) 8 SCC 600**.

In the alternative, it is submitted by the learned counsel for the appellant that the appellant has **remained in custody for two years one month and six days** out of seven years imprisonment as awarded by the learned trial Court and the occurrence is of the year 2006 and since then, twenty years have elapsed and the appellant is suffering from the agony of the trial. Therefore, a lenient view may be taken.

Submissions on behalf of the State

8. On the other hand, learned A.P.P. refuting the aforesaid contentions raised on behalf of the appellant has contended that the learned trial Court has very wisely and aptly apprised and appreciated the evidence available on record in the light of overall circumstances under which the offence of rape was committed with the victim. It has also been submitted that the victim has remained firm in her evidence and has proved the case of prosecution which requires no corroboration from other witnesses required under law. It has also been submitted that there is no reason to falsely implicate the appellant. Therefore, There is no illegality or infirmity in the impugned judgment calling for any interference by way of this appeal, which is devoid of merit and fit to be dismissed.

Analysis, reasons and decision:

9. I have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of

respective parties.

10. The only point for determination in this appeal is "as to whether the impugned judgment and order of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?"

11. Before embarking to decide the above point, it is pertinent to take brief resume of oral as well as documentary evidence adduced, during trial.

P.W.-1 Md. Kashim Ansari has stated that he had heard about the rape of a girl by a boy and he knows nothing more.

P.W.-2 Md. Kayamuddin Khan, P.W.-3 Md. Isha Khan and P.W.-4 Khurshid Ansari have stated that they know nothing about the occurrence hence declared hostile.

P.W.-5 is the informant-cum-victim girl who has deposed that on 20.10.2006 she boarded Sengra Bus from Varanashi to Nagar Untari and reached Nagar Untari. The bus cleaner told her to accompany him for getting the bus for Gumla and took her near a Bandh and forcefully committed rape upon her and when she cried, local villagers assembled there but the accused managed to flee away and this witness was brought to Nagar Untari Police Station where on inquiry from the Driver and Conductor of the Bus, the name of Cleaner was disclosed Suresh Bhuiyan. Thereafter, she went to Hospital at Garhwa where she was

medically examined by the Doctor. **This witness has identified the accused present behind the dock.**

In her cross-examination, nothing has been elicited to disbelieve the testimony of this witness.

P.W.-6 Sripati Yadav is the driver of the bus from which the victim girl was travelling. He has deposed that on the date of occurrence, Sheo Pujan was the conductor and Suresh was the cleaner of the bus. This witness has also identified the accused present behind the dock. This witness has further corroborated the testimony of the victim .

P.W.-7 Samir Kumar Chaudhary, I.O. of this case has deposed that on 20.10.2006, the victim girl came at the police station along with Md. Isha, Kashim Ali and others and fardbeyan was recorded and signature of victim girl and driver was taken on fardbeyan. He recorded the statement of witnesses and after finding the case true submitted charge-sheet.

P.W.-8 Dr. Pushpa Sahgal is the Doctor who had examined the victim girl on 20.10.2006 and found that victim girl was aged between 15-17 years. On internal examination, hymen of the victim girl was found not intact but no injury was found inside or outside the vagina. She also stated that no spermatozoa was seen dead or alive in vaginal swab. She opined that there was no sign of recent sexual intercourse but has admitted that there was

some stain marks found on skirts of the victim girl and that was probably vaginal discharge.

12. From the aforesaid discussions of the evidence, it appears that victim girl (P.W.-5) has categorically stated that on 19.10.2006, she boarded on Sengara Bus from Varanashi to Nagar Untari and when she reached at Nagar Untari on 20.10.2006 at about 4:00 AM, the cleaner (present appellant) told her to accompany him for getting another bus for Gumla and took her towards a Bandh near Hillock area and forcibly committed rape upon her. She has identified the appellant present behind the dock. The victim was medically examined on the same day but no recent sign of rape was found by the conducting Doctor (P.W.-8) and hymen was found not intact. It also transpires that the present appellant was involved in this case as cleaner of the Bus and the driver and the conductor of the Bus disclosed his name as Suresh Bhuiyan which also finds corroboration from P.W.-4 who happens to be driver of the Bus and also identified the accused person behind the dock. Therefore, question of identity of the accused does not appear to be disputed one. The victim girl was also in between 16-17 years as per her medical examination report. In the cross-examination of the victim, nothing has been elicited to rebut her testimony and she has remained firm and intact. Therefore, there is no reason for false implication of the

present appellant and he has rightly been convicted by the learned trial Court.

13. So far as quantum of sentence of the appellant is concerned, the occurrence is of the year 2006, more than two decades have elapsed from the date of occurrence. Both 'the appellant' and 'the victim girl' have settled in their life. No further criminal indulgence of the appellant has been brought on record. The appellant has also remained in custody for two years one month six days during trial. Hence, in the facts and circumstances of the case, it appears that the appellant has sufficiently been punished for his guilt. Therefore, R.I. for seven years awarded by the learned trial Court is hereby reduced to the period already undergone by him.

14. In result, this appeal is **dismissed on merits with modification in sentence**.

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

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 17/09/2026
Basant / **NAFR**
Uploaded On: 18/09/2026