IN THE HIGH COURT OFJHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 1495 of 2005

[Against the judgment of conviction and sentence dated 03.09.2005 passed by the learned Additional Dist. & Sessions Judge-Fast Track Court-7, Giridih in Sessions Trial No. 96 of 2003 arising out of Deori P.S. Case No. 48 of 2002.]

Sharma Singh, Son of Gouri Singh, Resident of Village- Purnabathan, P.S.- Deori, District- Giridih (Jharkhand).

……Appellant

Versus

The State of Jharkhand …. Respondent

For the Appellant : Mr. Kamdeo Pandey, Advocate

For the Resp.-State : Mr. Bishambhar Shastri, A.P.P.

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

CAV On: 31st August, 2026 **Pronounced On: 06/11/2026**

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 and sentence dated 03.09.2005 passed by the learned Additional Dist. & Sessions Judge-Fast Track Court-7, Giridih in Sessions Trial No. 96 of 2003 arising out of Deori P.S. Case No. 48 of 2002, whereby and whereunder, the appellant has been convicted for the offence under Section 354 of the I.P.C. and sentenced to undergo R.I. for 1 year.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that on 27.06.2002 at about 5:00 A.M. in the morning, the accused Sharma Singh was ploughing the field of Khata No. 94, (plot no. not known) of the informant, then the informant reached there and told to the accused as to

why he is ploughing her filed, upon which, it is alleged that the accused started abusing her and knocked down her on the ground by holding her hair and he also tried to commit rape upon her. In the mean time, her sister in law (gotni) (PW-1) came there and raised alarm then, the accused fled away from the place of occurrence.

On the basis of above written report of the informant, F.I.R. (Deori P.S. Case No. 48 of 2002) was registered against above named accused for the offence under Section 376/511 of the I.P.C.

4. After completion of investigation, charge-sheet was submitted against the above named accused for the offences under Sections 341, 323 & 376/511 of the I.P.C. After taking cognizance, charge was framed and the case was committed to the Court of Sessions, where S.T. No. 96 of 2003 was registered.

5. The accused denied the charges levelled against him and claimed to tried.

6. In the course of trial, altogether 8 witnesses have been examined by the prosecution.

Apart from oral testimony of the witnesses, following documentary evidence has been adduced on behalf of the prosecution:-

i. Ext.- 1 : Signature of Manjur Alam (PW-2) on the written report.
ii. Ext.-1/1: Endorsement on the fardbeyan.
iii. Ext.-2: Formal F.I.R.

7. On the other hand, defence has neither examined any witness nor adduced any documentary evidence on his behalf.

8. The case of defence is denial from the occurrence and false implication due to land dispute.

9. The learned Trial Court after scrutinizing the evidence oral as well as documentary led by the prosecution, arrived at definite conclusion that the prosecution has failed to prove the charge under Sections 323 & 376/511 of the I.P.C. but the accused thrashed the informant on ground while she was protesting against ploughing the field, hence, committed offence under Section 354 of the I.P.C. Accordingly, the learned Trial Court convicted the accused under Section 354 of the I.P.C. and sentenced him as stated above, which has been assailed in this appeal.

Submission on behalf of appellant:-

10. Assailing the impugned judgment, the learned counsel for the appellant has submitted that land dispute and pendency of litigation has been admitted by the prosecution itself. The prosecution has not filed any documentary evidence showing that the land in question belongs to the informant (prosecutrix) or her husband. Except the testimony of informant (PW-1), no other witnesses have corroborated the prosecution story. The other eye witnesses of the occurrence, namely, Baleshwar Hazra (PW-4) and Barku Singh (PW-5), who are independent witnesses, have categorically stated that when the accused was ploughing his own field, the informant (PW-7) went to protest there, in the meanwhile, wife of the accused also arrived there and a scuffle took place between female folk of both parties. These witnesses have not been declared hostile by the prosecution and these evidences has been admitted by the prosecution. Other witnesses are hearsay witnesses from the prosecutrix.

It is further submitted that the learned Trial Court has failed to properly appreciate the entire aspect of the case as projected by the prosecution itself and has ignored the factum of land dispute between the parties, which was the main cause for false implication of the appellant in this case and recorded wrong finding about guilt of the appellant even for the offence under Section 354 of the I.P.C. Therefore, conviction and sentence of the appellant is absolutely illegal and liable to be set aside and this appeal may be allowed.

Submission on behalf of State:-

11. 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 informant-cum-prosecutrix, herself, is the sole witness for proving the charge levelled against the accused for the offence under Section 354 of the I.P.C. 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:-

12. 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.

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

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

15. The most important witness in this case is the **informant-cum-prosecutris,** who has been examined as **PW-7.** According to her evidence, when she was protesting against the ploughing of her field by the accused, then the accused started abusing her and thrashed her down on the ground through her hair and also started humiliating her. Meanwhile, her gotni (sister-in-law)(PW-1) arrived there and saved her by raising alarm.

In her cross-examination, she has denied the suggestion of defence that due to land dispute with the accused, she has lodged this false case.

PW-1 Manjhli Devi is gotni (sister-in-law) of the prosecutrix (informant) who projected herself as an eye witness and she has stated that she alongwith her gotni (PW-7) went to her field, which was being ploughed by the accused. When it was protested by her gotni (PW-7), then the accused caught her and attempted to commit rape upon her. Upon raising alarm, the villagers assembled and the accused fled away.

But, on the above part of the testimony, this witness has specifically contradicted by the evidence of prosecutrix (PW-7) in her cross-examination, wherein she has specifically stated that in her statement before the police, she has stated that when she raised alarm, then her gotni (PW-1) came there and saved her.

PW-2 Manjur Alam is a hearsay witness, who was working at his own field, then in the way prosecutrix came to tell him about the occurrence of indecent and assault committed by the accused Sharma Singh with her. This witness has also scribed written report of the victim.

PW-3 Manzo Singh is the brother-in-law of the prosecutrix. He also came to know about the occurrence from his bhabhi (prosecutrix) and he is not an eye witness of the occurrence.

He has admitted in his cross-examination that prior to his incident, they were in litigating terms with the accused.

PW-4 Baleshwar Hazra & PW-5 Barku Singh have stated that when the accused was ploughing his own field, the informant (PW-7) went to protest there, in the meanwhile, wife of the accused also arrived there and a scuffle took place between female folk of both parties.

In their cross-examination, both of them have stated that there was land dispute between the parties since long time.

PW-6 Babu Singh has been declared hostile by the prosecution.

PW-8 Jaideo Raut is the formal witness and advocate clerk, who has proved endorsement on F.I.R. as Ext.-2 and endorsement on written report as Ext.-1/1.

16. On the other hand, the case of defence is denial from the occurrence and plea of innocence. No any witness has been examined on behalf of the defence.

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

18. From the aforesaid discussion of prosecution evidence, it is apparent that land dispute was existing between the parties. It is also admitted fact that land was being ploughed by the appellant at the relevant time of occurrence. The prosecutrix has not brought on record any relevant documents showing her ownership or possession over the disputed land. The prosecutrix alleged that she was abused and thrashed on ground but PW-4 and PW-5, who are the independent witnesses, have categorically stated that when the prosecutrix (PW-7) was protesting against ploughing of field by the present accused, his wife also arrived there and scuffle took place in between lady and nothing has happened at the instance of the appellant. These witnesses have not been declared hostile by the prosecution. Therefore, two views are possible in this case, first one goes in favor of appellant, showing his innocence and has committed no offence at all and another view is against the appellant. It is settled principle of law that if two views are possible, benefit shall always go to the accused.

19. The learned Trial Court has not considered over all aspects of the prosecution evidence properly and in right perspective and arrived at wrong conclusion. It is a case of land dispute between the parties and the appellant has been falsely implicated. The learned Trial Court has committed serious error of law while convicting the appellant under Section 354 of the I.P.C. Therefore, there is no reason to sustain the conviction and sentence imposed upon the appellant by the learned Trial Court.

20. In view of the above discussion and reasons, the impugned judgment of conviction and sentence passed against the appellant is hereby set aside.

21. Accordingly, this appeal is **allowed**.

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

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

24. 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: 06/11/2026
Rahul- NAFR
Uploaded On: 06/11/2026