2026:JHHC:29658

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.484 of 2023

[Against the Judgment of conviction dated 15.06.2023 and Order of sentence dated 22.06.2023, passed by the learned Special Judge POCSO, Chatra in POCSO Case No.27 of 2022, arising out of Lawalong P.S. Case No.26 of 2022]

Md. Wahid @ Md. Abdul Wahid @ Abdul Wahid, aged about 35 years, Son of Md. Reyaz, resident of Shambe, P.O and P.S. Lawalong, District - Chatra. **..... Appellant**

Versus

1. The State of Jharkhand
2. The informant **..... Respondents**

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Md. Zaid Ahmad, Advocate
For the State : Mr. Md. Fahad Allam, A.P.P

Order No.20/ Dated: 05th October, 2026

1. Heard Mr. Md. Zaid Ahmad, learned counsel for the appellant and Mr. Md. Fahad Allam, learned A.P.P.

2. The present appeal is directed against the Judgment of conviction dated 15.06.2023 and order of sentence dated 22.06.2023, passed by the learned Special Judge POCSO, Chatra, in POCSO Case No.27 of 2022, arising out of Lawalong P.S Case No.26 of 2022, whereby the appellant has been convicted under Sections 341/ 342/ 323/ 324/ 307 of the Indian Penal Code (IPC), Section 8 of the POCSO Act and Sections 3 /4 of the Witch Craft Prevention Act and has been directed to undergo simple imprisonment for one month under Section 341 IPC, simple imprisonment for one year under Section 342 IPC, simple imprisonment for one

year under Section 323 IPC, rigorous imprisonment for three years under Section 324 IPC, rigorous imprisonment for six years with fine of Rs.5,000/- (Five thousand) under Section 307 IPC, rigorous imprisonment for four years with fine of Rs.5,000/- (Five thousand) under Section 8 of the POCSO Act and simple imprisonment for three months and six months under Sections 3/ 4 of Witchcraft Prevention Act respectively and in default of fine, the appellant is further directed to undergo three months rigorous imprisonment. All the sentences were directed to run concurrently.

3. The prosecution story, in short, is that the daughter of the informant, aged about 14 years, fell ill from the day of *HOLI*. On getting information about her illness, the accused Md. Wahid came to the house of informant and assured to cure the girl in two days. As the informant was afraid of the health-of-his daughter, he went to the house of Md. Wahid on 26.03.2022 . Thereafter, in the same night, the informant and his wife were asked to stay outside the room on pretext that the room is the place of *JINNAD*, and took the victim girl inside. By putting the lights switched off, the accused started torturing the girl on pretext of *JHAAR-PHOONK*. When the informant asked him to do the same in his presence, then the accused, told that *SHAITAN* of the body of the girl would ruin them. In this way, the accused on three consecutive days tortured and beat the victim girl. On Monday, the accused burned the flips, both arms and body of the victim girl with candle and incense

stick. When the girl was brought outside the room, the informant got frightened by seeing her condition. When he opposed, the accused threatened them to stab them with knife. It is further alleged that due to torturing by the accused, his daughter has lost her mental condition. The victim girl was taken to Sadar Hospital for treatment from where she was referred to Ranchi for better treatment. It is further alleged that the accused has also committed sexual assault on his daughter.

On the basis of above information of the informant, the criminal law has been put into motion by lodging an F.I.R being Lawalong P.S. Case No. 26 of 2022, dated 30.03.2022 registered against the appellant-accused under Sections 341, 342, 323,324, 307 of IPC, Section 8 of POCSO Act and Sections 3/4 of the Witch Craft Prevention Act and thereafter investigation was started.

The police, after completing the investigation, has submitted the charge-sheet on 29.05.2022 to which cognizance has been taken and finally the court has framed charge under Sections 341, 342, 323,324, 307 of IPC, Section 8 of the POCSO Act and Sections 3/4 of the Witch Craft Prevention Act. Thereafter, the case has been committed to the court of Sessions to which the appellant has pleaded innocence and claimed to be tried and accordingly, the trial has commenced.

4. To substantiate the charges, the prosecution has examined altogether 12 witnesses and their depositions, in

short, are as follows:-

5. **P.W.-1, Binod Ganjhu**, is the brother of the victim girl and he has supported the prosecution story.

In cross-examination, he has admitted that he had not seen the incident.

6. **P.W.-2, Dhiran Ganjhu**, is the informant of the case and he has supported the prosecution story.

In cross-examination, he has admitted that he has not seen the occurrence as he was away from the room along with his wife.

7. **P.W.-3, Dhaneshwari Devi**, is the mother of the victim girl. She has deposed in cross-examination that she had not seen the occurrence.

8. **P.W.-4, Jayprakash Prajapati**, is Principal of Utkramit Middle School, Sambhe, Lawalong, Chatra, and had identified the admission register of victim in which her date of birth was mentioned as 19.02.2005, which has been marked as Ext.-2.

9. **P.W.-5, Bandhu Ganjhu**, is the brother of the victim girl. He has been declared hostile on the point of identification of the accused, but in cross-examination by the prosecution, he identified the accused.

10. **P.W.-6, Baleshwar Ganjhu**, is an independent witness and driver, who had taken the victim and her parents to the place of accused on his Bolero vehicle.

In cross-examination, he has denied the incident of *Jhar-Phoonk* and any injury on the person of the victim girl.

11. **P.W.-7, Rajesh Ganjhu**, is cousin of the victim girl. In cross-examination, he has denied any *jhar phoonk* in his presence.

12. **P.W.-8, Bholanath Pramanik**, is the investigating officer of the case. He has identified the written report and formal FIR. He has recorded the statement of the informant and also visited the place of occurrence. He has stated that during course of investigation, he found burnt matchsticks and incense sticks at the place of occurrence.

In cross-examination, he remained consistent and proved the date, time and place of occurrence.

13. **P.W.-9, xxx**, is the victim girl and she has supported the prosecution story. She has deposed that the accused taken her in a room and started committing torture. He also misbehaved with her and on the next date, he burnt his face and tongue by putting incense sticks and further with the help of hard sticks put between her fingers and pressed, which caused severe pain due to which she fell unconscious. She identified the accused-appellant.

She remained consistent in cross-examination and corroborated the statement of P.W.-2.

14. **P.W.-10, Darhan Ganjhu @ Dadhu Ganjhu**, is a villager.

In cross-examination, he has stated that he had not seen the accused treating the victim girl. He has deposed that the accused does not do *jhar-phoonk* and does not even know how to do *jhar-phoonk*.

15. **P.W.-11, Adnan Aqueeb**, is a Judicial Magistrate. He has stated that he along with the member of JJ Board went to the hospital to record the statement of the victim girl, but the victim was unable to give her statement and it was told by the doctor that the victim was not capable to talk.

In cross-examination, he has deposed that the victim was unconscious.

16. **P.W.-12, Dr. Vandita**, is the medical officer who has examined the victim girl.

In cross-examination, she has stated that she did not find any sexual assault injury on the victim nor any evidence of rape.

17. The trial Court, on the basis of above materials available on record, has convicted the appellant under Sections 341/ 342/ 323/ 324/ 307 of IPC, Section 8 of the POCSO Act and Sections 3 /4 of the Witch Craft Prevention Act and sentenced him as stated above.

18. Learned counsel for the appellant has confined his prayer so far as conviction under Section 307 IPC is concerned. It has been submitted that the ingredients of Section 307 IPC is missing as neither there is any intention of causing threat to the life or any injury, which is in ordinary course sufficient to cause death.

It has further been submitted that even the trial court has not put such question to the appellant under Section 313 Cr.P.C. On that limited basis, the conviction of the appellant under Section 307 IPC has been assailed.

19. On the other hand, learned counsel for the State has supported the judgment of conviction and order of sentence, but could not point out any injury or intention attracting the offence under Section 307 IPC.

20. Having heard learned counsel for the parties and from perusal of records, it appears that the injury is there and evidence is also there to sustain the conviction of the appellant under Sections 341/ 342/ 323/ 324 IPC and Sections 3 /4 of the Witch Craft Prevention Act. In fact, Section 8 of the POCSO Act, also gets attracted, as there is bad touch, as per the victim, who is minor, aged about 14 years and as such, the conviction of the appellant under the aforesaid sections is, hereby, upheld.

So far as conviction of the appellant under Section 307 IPC is concerned, the law is settled that there must be ingredient of culpable homicide amounting to murder, but that has failed. In the present case, neither the prosecution story nor the injury caused or in any way the ingredients of 307 IPC has been even presented by the prosecution. In the absence of necessary ingredients for conviction under Section Section 307, the conviction of the appellant under Section 307 is bad in law. Accordingly, the conviction of the appellant under Section 307 IPC is, hereby, set aside.

21. Since the maximum sentence awarded to the present appellant for other Sections is four years, while he has remained in custody for more than four years, the appellant is directed to be released from custody forthwith, if not

wanted in any other case.

22. With above modifications in conviction under Section 307 IPC and the sentencing part, the present appeal is, hereby, disposed of.

23. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 05th October, 2026
Ravi-Chandan/- **NAFR**
Uploaded on 06.10.2026