2026:JHHC:31522-DB

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Against the judgment of conviction dated 23.06.2018 and the order of sentence dated 26.06.2018 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Jamshedpur, District East Singhbhum in Sessions Trial No. 18 of 2015)

Criminal Appeal (D.B.) No.915 of 2018

Rohit Giri @ Rohit Kumar Giri, son of late Anil Giri, resident of Mohalla Krishna Nagar, Jojobera, near Shiv Mandir, Jamshedpur, Jojobera, PO and PS Jojobera, District East Singhbhum

… **Appellant(s).**

Versus

The State of Jharkhand … **Respondent(s).**

For the Appellant(s) : Mr. Vinay Kr. Tiwary, Advocate
Mr. Vishwanath Moon, Advocate
Mr. Piyush Pandey, Advocate

For the Respondent(s) : Mr. Saket Kumar, APP

……..

PRESENT

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

J U D G M E N T

28th October 2026

***By the Court*:** We have heard learned counsel appearing for the appellant and learned counsel for the State at length.

2. This Criminal Appeal arises out of the judgment of conviction dated 23.06.2018 and the order of sentence dated 26.06.2018 passed in Sessions Trial Case No. 18 of 2015 whereby and whereunder learned Additional Sessions Judge-1st-cum-Special Judge, Jamshedpur, District-East Singhbhum convicted the appellant under Section 376(2) of the Indian Penal Code and Section 6 of POCSO Act, 2012 and sentenced him to undergo rigorous imprisonment for 14 years with fine of Rs. 20,000/- for the offence under section 376(2) of the Indian Penal Code and in default of payment of fine he has to undergo rigorous imprisonment for one year. He was further sentenced to

undergo rigorous imprisonment for life with a fine of Rs. 20,000/- for the offence under section 6 of the POCSO Act, and in default of payment of the fine, he has to undergo further rigorous imprisonment for one year.

3. The learned counsel appearing on behalf of the appellant submits that no one had seen this appellant and victim going towards the forest. There is contradiction in the deposition of the prosecution witnesses. Hence, the order of conviction and sentence is bad in law and is fit to be set aside.

4. The learned counsel for the State opposes the prayer and submits that the victim herself, by indication, stated about committing rape upon her by the accused. Her testimony is clear and reliable. Further, witnesses corroborate her evidence. Thus, on the facts and circumstances of this case, the Trial Court has rightly convicted the appellant, and this appeal should be dismissed.

5. The prosecution case is based on the written report of the informant, Aladi Mukharjee, who is the grandmother of the victim. The prosecution case, in brief, is that on 26.09.2014 at about 12:00 noon, while the informant was taking a bath and her daughter was away at work, the accused, Rohit Kumar Giri, allegedly took her four-year-old granddaughter to a nearby forest with the intention of committing rape. After about four hours, the informant saw the accused returning with her granddaughter and noticed scratches on her face, both cheeks, stomach and back. She also noticed blood and white stains on her pants. The child indicated that the accused had raped her. On hearing the hue and cry, local people apprehended the accused and informed the police, who arrived and arrested him. Based on the aforesaid *fardbeyan,* FIR being Telco (Govindpur) PS Case No. 411 of 2014 was instituted under Section 376(F) of

the Indian Penal Code and Section 4/6 of the Protection of Children from Sexual Offences Act.

6. After investigation, the Investigating Officer submitted a chargesheet against the appellant for the offence punishable under Section 376(F) of the Indian Penal Code and Section 4/6 of the POCSO Act.

7. On the basis of the chargesheet and materials available on record, cognizance was taken, and the case was committed to the Court of Sessions, where charge was framed under Section 376(2)(i) and 376(2)(l) of the Indian Penal Code and Section 6 of the POCSO Act and trial proceeded.

8. To prove the prosecution case, altogether 9 witnesses were examined by the prosecution, who are as under:-

PW1-Renu Devi is the sister of the victim's mother. She stated that she came to know about the incident when she returned from her duty.

PW2-Seema Devi is the informant's neighbour. She stated that she saw this appellant and the victim coming from the forest. He had taken the victim in his lap, and the condition of the victim was severe, and her inner wear was smeared with blood.

PW3-is the victim of this case. She stated that the accused Rohit Giri took her into the forest and committed sexual assault upon her.

PW4-Gouri Devi is declared hostile.

PW5-Radhika Kumari is the victim's elder sister. She deposed that when she, along with her grandmother, was searching for the victim, they saw her sister coming with the accused, Rohit Giri. Her sister, after telling them that Rohit Giri had sexually assaulted her, fainted. She stated that the appellant confessed before them

PW6-Renu Mukherjee is the mother of the victim. While on duty, she was informed about the incident.

PW7-Aladi Mukherjee is the informant and the victim's grandmother in this case. She stated that when she came out after bathing, she did not find Rohit and her granddaughter, who were playing in the sand. While searching, she saw Rohit and her granddaughter coming from the forest. She saw abrasions on her back, bite marks on both her cheeks and signs of sexual assault. Her granddaughter told her that Rohit had committed sexual assault upon her.

PW8-Dr. Usha Kumari is the doctor who medically examined the victim girl and found the victim feverish, and she was crying. Her weight was 10 kg, height 90 cm and teeth: upper jaw 10 and lower jaw 10. She also found abrasions on the left cheek and the back of the victim's body. Upon examination of the private parts, she found slight bleeding from the vagina. No foreign body was found on the private parts, and no tear was found. The report of vaginal smear and swab was taken from the victim, but no spermatozoa was found. Further, based on radiological examination, her age was estimated at about 3 years ± one year. In her opinion, a sexual offence may have taken place upon the victim. Further, she opined that such type of abrasion/injury may appear when something is done forcibly with a victim of such tender age, including her sexual assault.

PW9-Bhanga Orawn is the Investigating Officer of this case. He has taken the re-statement of the prosecutrix and the statements of other witnesses. He has investigated the place of occurrence and gave a detailed description of the

same, which is a forest area surrounded by bushes. Finally, after investigation, he submitted the chargesheet.

9. Following documents have been exhibited :

i. Ext.1 – Medical report
ii. Ext. 2– Forwarding on written application
iii. Ext.2/1 –Endorsement on written application
iv. Ext.3 – Formal FIR
v. Ext. 4 – Arrest Memo.

10. We have gone through the entire records and have heard the arguments of the parties in detail. It is the case of the prosecution that a child has been sexually assaulted by the appellant in a forest area. PW3, the victim herself, has categorically stated the incident. She has clearly stated that it is this appellant who has committed rape upon her. This witness, though a child witness, is the victim of the offence. Her evidence is clear, unambiguous, and reliable.

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

12. Further, her evidence was supported by the evidence of PW2, PW5 and PW7. They have clearly stated that they saw this appellant and the victim coming from the forest. The appellant has taken the victim in his lap. They also stated that the victim stated to them about the fact of sexual assault. Further, they have stated that when the victim and appellant came, they saw her innerwear smeared with blood and the victim was crying.

13. Further, we find that the medical evidence also corroborates the evidence of the prosecution witnesses. The

doctor has opined that there are marks of violence on the body of the victim and there is slight bleeding from the vagina. He finally observed that a sexual offence had taken place upon the victim.

14. Thus, from the glaring evidence of the victim and the prosecution witnesses, which is well corroborated by the medical evidence, we are of the view that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt. Thus, we affirm the judgment of conviction dated 23.06.2018 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Jamshedpur, District East Singhbhum in Sessions Trial Case No. 18 of 2015.

15. So far as the sentence dated 26.06.2018 is concerned, we find that the appellant was punished both under section 376(2) of the Indian Penal Code and under section 6 of the POCSO Act and both the sentences were ordered to run concurrently. The Trial Court's approach, in our opinion, is erroneous. Under section 42 of the POCSO Act, when an offender is convicted under the Indian Penal Code and also under the POCSO Act, the offender shall be liable to be punished under the POCSO Act or the Indian Penal Code, whichever provides a greater punishment.

16. We find that the punishment provided under section 6 of the POCSO Act at the relevant time was “rigorous imprisonment for a term which shall not be less than 10 years, but which may extend to imprisonment for life and shall also be liable to fine”. Further, we find that at the relevant time the punishment provided under section 376(2) was “rigorous imprisonment for a term which shall not be less than 10 years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural

life, and shall also be liable to fine". Thus, in our view, as per Section 42 of the POCSO Act, the offender should have only been punished under Section 376(2) of the Indian Penal Code.

17. Further, we find that the appellant has already served sentence for more than 11 years. Thus, we sentence the appellant to rigorous imprisonment for 15 years only under section 376(2) of the Indian Penal Code.

18. Accordingly, this appeal is **dismissed** on merits with the modification in the sentence.

19. Pending I.A.s, if any, stand dismissed.

20. Let a copy of the judgment along with the Trial Court Records be sent back to the Court concerned forthwith.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

High Court of Jharkhand, Ranchi
Dated : 28/10/2026
Tanuj/

Uploaded on 06.11.2026