Neutral Citation
2026:JHHC:27000-DB

Criminal Appeal (DB) No. 589 of 2020

(*Against the judgment and order of conviction and sentence dated 23.05.2018 (sentence passed on 25.05.2018) passed by Sri Ramakant Mishra, learned Additional Sessions Judge-I cum Special Judge POCSO, West Singhbhum at Chaibasa in S.T. No. 48/2012.)*

Narayan Bahanda, S/o Late Pradhan Bahanda**,** R/o Vill- Veer Singh Hatu, P.O. & P.S.- Tonto, Dist.-West Singhbhum.

... Appellant

Versus

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

PRESENT
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Ramit Satender, Adv.
For the State : Spl. P.P.

Dated : 01/09/2026

JUDGMENT

***Per Rongon Mukhopadhyay, J.* :**

1. Heard Mr. Ramit Satender, learned counsel for the appellant and learned Spl. P.P.

2. This appeal is directed against the judgment and order of conviction and sentence dated 23-05-2018 (sentence passed on 25-05-2018) passed by Sri Ramakant Mishra, learned Additional Sessions Judge-I cum Special Judge POCSO, West Singhbhum at Chaibasa, in S.T. No. 48/2012, whereby and whereunder, the appellant has been convicted for the offence under Section 376 IPC and has been sentenced to undergo rigorous imprisonment for 10 years along with a fine of Rs. 10,000/- and in default in payment of fine to further undergo rigorous imprisonment for 01 year.

3. The prosecution case arises out of the written report of victim 'X' in which it has been stated that on 28-10-2011 at

about 08:00AM, the husband of the informant had gone to Chinivai village to attend a festival. The informant was alone in the house. It has been alleged that around 02:00PM, while the informant was sitting on the floor and was practicing writing her name, Narayan Bahanda (appellant) had entered into the house and committed rape upon her. When the accused was trying to commit rape for the second time, the husband of the informant had come and had seen the accused on top of the informant. The husband of the informant tried to catch hold of the accused, but he managed to escape. The information of rape was given to the neighbours by the informant and her husband. An information was also given to the Munda on 01-11-2011 and on the next day, a meeting was called in the village, but the accused did not attend and on 07-11-2011, the written report was given to the Police.

Based on the aforesaid allegations, Tonto P.S. Case No. 21/2011 was instituted for the offence punishable under Section 376 IPC. On completion of investigation, charge sheet was submitted and after cognizance was taken, the case was committed to the Court of Sessions where it was registered as S.T. No. 48/2012. Charge was framed against the accused under Section 376 IPC which was read over and explained to him in Hindi to which he pleaded not guilty and claimed to be tried.

4. The prosecution has examined as many as ***six*** witnesses in support of its case:

P.W.1 Victim 'X' has stated that on the date of occurrence at about 09:00-10:00PM, she was in her house sleeping when the accused came and committed rape upon her. When she raised a cry of alarm, the accused had threatened her with dire consequences. In the meantime, her husband came and saw both of them and thereafter, the accused had fled away. In the morning, she had gone to the Munda along with her maternal uncle and gave him the information regarding the incident of

rape. A meeting was called in the village, but the accused did not appear and thereafter, she had gone to the Police Station. She has proved her signature in the written report which has been marked as Exhibit-1.

In cross-examination, she has deposed that she and her husband had not disclosed about the incident to any person on the night of the occurrence. The accused belongs to her village. She had instituted the case at the behest of her husband. If the accused had attended the meeting, a compromise would have surely been arrived at.

P.W.2 Ladura Sundi is the husband of victim 'X' who has stated that he had reached home on 28-10-2011 at around 09:00-10:00PM from Chinivai and when he entered into his house, on opening the door, he had seen the accused committing rape upon victim 'X'. He had tried to catch hold of the accused but the accused pushed him and escaped. He had not gone to the house of the Munda in the night since it was at a distance of 3 kilometers from his house. A meeting was called by the Munda in the village, but the accused did not attend the meeting. He has proved the written report which has been marked as Exhibit-1/1.

In cross-examination, he has deposed that he had gone to Chinivai village on the 28th and the said village is at a distance of 10 kilometers from his house.

P.W.3 Pradhan Bahanda did not support the case of the prosecution and was declared hostile by the prosecution.

P.W.4 Dr. Praveen Minj was posted as a Medical Officer at Sadar Hospital, Chaibasa and on 08-11-2011, he had prepared the X-ray report of victim 'X' and had found the following:

> *"(I) X-ray wrist joint- secondary ossification centre at lower end of ulna and radius is completely fused. Age 22-23 years.*

(II) X-ray of elbow joint- secondary ossification centre of lower end of humerus and upper end of ulna radius are fused. Age more than 20 years.

*(III) X-ray pelvis- secondary ossification centre of iliac crest and ischial tuberosity about to fuse-age 22-23 years.***"**

The age of victim 'X' was assessed to be 22 years. He has proved his report which has been marked as Exhibit-2.

P.W.5 Gomya Sundi is the father-in-law of victim 'X' and he has stated that victim 'X' was subjected to rape by the accused Narayan Bahanda.

In cross-examination, he has deposed that the accused is from his village. He has denied that he stays separate from his son and daughter-in-law. He cannot say the date of occurrence. He has deposed that before this incident, his daughter had made allegation of rape against Pradhan Bahanda, but no case was instituted. The incident had happened in his house.

P.W.6 Ashok Ram was posted as a Sub-Inspector of Police in Tonto P.S. and he was given the charge of investigation of Tonto PS Case No. 21/2011. He has proved the written report of the victim 'X' which has been marked as Exhibit-3. The formal FIR has been proved and marked as Exhibit-4. He had recorded the re-statement of the informant and the statements of other witnesses. He had inspected the place of occurrence which is the mud-tiled house of the informant and the room where the rape was committed did not have any plank on the door. He had sent the informant for medical examination to Sadar hospital, Chaibasa and on completion of investigation, had submitted charge sheet.

In cross-examination, he has deposed that during investigation he had not seized any material objects. It had not

come in course of investigation about any land dispute existing between the informant and the accused.

5. The statement of the accused was recorded under Section 313 Cr.P.C. in which he has denied his complicity in commission of rape upon the informant.

6. It has been submitted by Mr. Ramit Satender, learned counsel for the appellant that no offence of rape is made out against the appellant. There has been a considerable delay in instituting the First Information Report and no explanation has been furnished by the prosecution with respect to such delay. It has been submitted that the evidence of P.W.1 and P.W.2 reveals that the victim had indulged in consensual sex. Mr. Ramit Satender, learned counsel has also referred to the evidence of P.W.3 who, though has been declared hostile by the prosecution, has accepted the fact that earlier the victim 'X' had alleged against him of committing rape upon her and he was fined which indicate about the victim 'X' and her husband of being involved in making false assertions for their own personal gains.

7. Learned Special P.P. has submitted that the evidence of P.W.1 and P.W.2 demonstrates the manner in which the appellant had surreptitiously entered into the house of victim 'X' and committed rape upon her when her husband was away.

8. We have heard the learned counsel for the respective parties and have also perused the trial court records.

9. The incident of rape as alleged is said to have taken place on 28-10-2011 and the First Information Report was lodged on 07-11-2011. The delay in lodging the FIR seems to be after due deliberation which itself casts a shadow of doubt of the alleged incident, particularly in the backdrop of the evidence of P.W.3 who in his cross-examination has stated about being fined for committing rape upon the informant/victim which would point the needle of suspicion upon the victim 'X' and her husband

for framing the appellant.

10. The alleged incident of rape had occurred when the husband of the victim had gone to Chinivai village for attending a function and the victim 'X' was alone in the house. The evidence of victim 'X' who has been examined as P.W.1 reveals about her husband (P.W.2) entering into the room where he had seen the appellant on top of victim 'X'. Neither P.W.1 nor P.W.2 have stated about any struggle made by victim 'X' to wriggle out from the clutches of the appellant if at all P.W.1 was being subjected to rape by the appellant. On a reading between the lines of the evidence of P.W.1 and P.W.2, it clearly transpires that P.W.1 was indulging in consensual sex with the appellant which was marred by the sudden arrival of P.W.2. We may also turn our attention to the evidence of P.W.5, who is the father-in-law of victim 'X' and though he was present in the house but his evidence is vague and does not seem to suggest that the occurrence as alleged had indeed taken place. P.W.5 has also stated about an earlier incident of rape alleged against P.W.3, but no case was instituted. The cross-examination of P.W.1 further enhances the claim of the defence that a false case has been instituted for the purposes of extraction of money from the appellant as she has stated that if the appellant had attended the meeting, a compromise would surely have been arrived at.

11. In our considered view, no case of rape is made out against the appellant and the learned Trial Court has erred in convicting the appellant for the offence under Section 376 IPC and consequently we hereby set aside the judgment and order of conviction and sentence dated 23-05-2018 (sentence passed on 25-05-2018) passed by Sri Ramakant Mishra, learned Additional Sessions Judge-I cum Special Judge POCSO, West Singhbhum at Chaibasa, in S.T. No. 48/2012.

12. This appeal is **allowed.**

13. Since it has been intimated vide letter dated 12-07-2022 issued by the Superintendent, Central Jail, Ghaghidih, Jamshedpur that the appellant has already served out his sentence, we refrain from passing any order for release in the backdrop of the contents of the said letter.

14. Pending I.A.(s), if any, stands closed.

(RONGON MUKHOPADHYAY, J.)

(ARUN KUMAR RAI, J.)

Jharkhand High Court, Ranchi
Dated the 1st Day of September, 2026.
Preet/N.A.F.R.
Uploaded on: 11 /09/2026.