# IN THE HIGH COURT OF JHARKHAND AT RANCHI

**……..**

## Acquittal Appeal (D.B.) No. 58 of 2022

(***Arising out of judgment of acquittal dated 23.03.2020, passed by learned District & Additional Sessions Judge-II-Cum-Special Judge, Cyber Case, Giridih in Cyber Case No.167 of 2019***)

……

Fuliya Devi, aged about 44 years, W/o Hiraman Das, R/o Bedapahari, PO Birni, PS Birni, District Giridih, Jharkhand

**….. Appellant**

***Versus***

1.The State of Jharkhand

2. Mohan Ravidas, W/o Late Chottu Ravidas, R/o Bedapahari, PO Birni, PS. Birni, District Giridih, Jharkhand **…. Respondents**

**……**

For the Appellant : Mr. Anil Kumar, Advocate
For the State : Mr. Shailendra Kr. Tiwari, Spl. Public Prosecutor
For the Resp. No.2 : Mr. S.K. Murtty, Advocate

---

**PRESENT**
**Sri Ananda Sen, J.**
**Sri Pradeep Kumar Srivastava, J.**
**J U D G M E N T**

**28.10.2026**
***By Court.*:**

This acquittal appeal is preferred against the judgment of acquittal dated 23.03.2020, passed by learned District & Additional Sessions Judge-II-Cum-Special Judge, Cyber Case, Giridih in Cyber Case No.167 of 2019, whereby and whereunder respondent No.2, namely, Mohan Ravidas, has been acquitted of the charge under Section 376 of IPC and Section 67 & 67(A) of the Information Technology Act.

**2.** The prosecution case in brief is that, on 23.07.2017, the informant has given her fardbeyan alleging that on 11.07.2017 at about 11:00 PM, the informant along with her sons and daughter was sitting in her house, when one person came and knocked on her door. Thereafter, she opened the door and saw her brother-in-law (*Bhaisur*), Mohan Ravidas, who entered the house with a mobile phone. She also saw one person hidden outside her house. When her daughter, Kanchan Kumari, asked as to why they had

come in late at night, they threatened them with a knife and closed the room; after that, the accused brought the informant into another room and forcibly fed her some intoxicant, and after that Mohan Ravidas committed rape with her, and other persons recorded the entire incident on a mobile and fled away. Meanwhile, the informant's daughter raised an alarm, but no one came. The informant stated that, to defame her, the video was uploaded on WhatsApp. On the basis of the said fardbeyan, Birni P.S. Case No.79 of 2017 was registered under Section 376/284/34 of the IPC and Sections 67/67A of the I.T. Act.

**3.** The police, after investigation, submitted a chargesheet against respondent No. 2, and thereafter cognizance was taken. The case was committed to the Court of Sessions, where the Court framed charges against respondent No. 2 and the trial proceeded.

**4.** Altogether eight (08) witnesses have been examined in this case by the prosecution, who are as follows:-

(i) P.W.-1 Kanchan Kumari is the daughter of the informant.
(ii) P.W.-2 Champa Devi is declared hostile.
(iii) P.W.-3 Dhaneshwar Das
(iv) P.W.-4 is the informant herself
(v) P.W.-5 Karun Turi is declared hostile.
(vi)P.W.-6 Nishi Kant, J.M. 1st Class, Giridih, who recorded the statement of the victim under Section 164 of Cr.P.C.
(vii)P.W.-7 Kapildeo Poddar is the Investigating Officer.
(viii) P.W.-8 Dr. Farhana, who examined the victim.

**5.** The following documentary evidence was exhibited by the prosecution:-

*Exhibit-1- Signature of P.W.-1 on fardbeyan*
*Exhibit-2 Signature of P.W.-3 on fardbeyan*
*Exhibit- 3 Signature on seizure list*
*Exhibit-4 Signature on fardbeyan*
*Exhibit-5 Signature on seizure list*
*Exhibit-6 C.D. (video)*
*Exhibit-7 Signature on statement recorded under Section 164 Cr.P.C.*
*Exhibit-8 Signature of P.W.-5 on seizure list*
*Exhibit-9 CFSL report*
*Exhibit-10 Statement recorded under Section 164 Cr.P.C.*
*Exhibit-11 Endorsement on fardbeyan*

*Exhibit-12 Fardbeyan*
*Exhibit-13 Signature on formal F.I.R.*
*Exhibit- 14 Seizure list*
*Exhibit-15 Certificate given by Ranjit Kumar of Maharaja Studio*
*Exhibit-16 Injury report of the victim*

**6.** Learned counsel for the appellant submits that the Trial Court has failed to properly appreciate the evidence of the witnesses. He submits that the victim herself deposed before the Court about the occurrence and her statement was well supported by the statement of P.W.-1. He submits that the seizure list consists of C.D. having record of rape and the witnesses have also supported the prosecution case. He submits that in view of the aforesaid facts, the Trial Court should have convicted the appellant.

**7.** Learned counsel for the respondent No.2 submits that the Trial Court correctly appreciated the evidence of the prosecution witnesses and came to a conclusion that the prosecution has failed to prove its case beyond reasonable doubt. He submits that the delay in lodging the F.I.R. creates doubt about the prosecution's story. He submits that a land dispute between the parties is the root cause of this false case. Thus, on the facts and circumstances, the Trial Court has rightly convicted this appellant, and this appeal needs to be dismissed.

**8.** Heard learned counsel for the appellant, learned counsel for the State and learned counsel for the respondent, and we have gone through the impugned judgment and records.

**9.** The law dealing with the challenge thrown to the judgment of acquittal has been settled by the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of ***Bhupatbhai Bachubhai Chavda and Another vs State of Gujarat,*** reported in ***2024 SCC OnLine SC 523*** at para 6, has held as under:-

> *"6. It is true that while deciding an appeal against acquittal, the Appellate Court has to re-appreciate the evidence. After re-appreciating the evidence, the first question that needs to be answered by the Appellate Court is whether the view taken by the Trial Court was a plausible view that could have been taken based on evidence on*

*record. Perusal of the impugned judgment of the High Court shows that this question has not been adverted to. Appellate Court can interfere with the order of acquittal only if it is satisfied after reappreciating the evidence that the only possible conclusion was that the guilt of the accused had been established beyond a reasonable doubt. The Appellate Court cannot overturn order of acquittal only on the ground that another view is possible. In other words, the judgment of acquittal must be found to be perverse. Unless the Appellate Court records such a finding, no interference can be made with the order of acquittal. The High Court has ignored the well-settled principle that an order of acquittal further strengthens the presumption of innocence of the accused. After having perused the judgment, we find that the High Court has not addressed itself on the main question."*

**10**. Further, the Hon'ble Supreme Court in the case of ***Mallappa v. State of Karnataka,*** reported in ***(2024) 3 SCC 544*** at paras 26 & 27 has held as under:-

*"**26.** No doubt, an order of acquittal is open to appeal and there is no quarrel about that. It is also beyond doubt that in the exercise of appellate powers, there is no inhibition on the High Court to reappreciate or re-visit the evidence on record. However, the power of the High Court to reappreciate the evidence is a qualified power, especially when the order under challenge is of acquittal. The first and foremost question to be asked is whether the trial court thoroughly appreciated the evidence on record and gave due consideration to all material pieces of evidence. The second point for consideration is whether the finding of the trial court is illegal or affected by an error of law or fact. If not, the third consideration is whether the view taken by the trial court is a fairly possible view. A decision of acquittal is not meant to be reversed on a mere difference of opinion. What is required is an illegality or perversity.*

***27.** It may be noted that the possibility of two views in a criminal case is not an extraordinary phenomenon. The "two-views theory" has been judicially recognised by the courts and it comes into play when the appreciation of evidence results into two equally plausible views. However, the controversy is to be resolved in favour of the accused. For, the very existence of an equally plausible view in favour of innocence of the accused is in itself a reasonable doubt in the case of the prosecution. Moreover, it reinforces the presumption of innocence. And therefore, when two views are possible, following the one in favour of innocence of the accused is the safest course of action. Furthermore, it is also settled that if the view of the trial court, in a case of acquittal, is a plausible view, it is not open for the High Court to convict the accused by reappreciating the evidence. If such a course is permissible, it would make it practically impossible to settle the rights and liabilities in the eye of the law."*

**11**. Further, the Hon'ble Supreme Court in the case of ***Girish Singh v. State of Uttarakhand,*** reported in ***(2020) 18 SCC*** at paras 29, 30, 31 & 32 has held as under:-

*"**29.** We have referred to the entire evidence. The trial court acquitted the accused. The jurisdiction of the appellate court, when it deals with*

> *such an order, is no longer res integra and is subject-matter of a catena of decisions of this Court.*
> ***30.*** *In Upendra Pradhan v. State of Orissa [Upendra Pradhan v. State of Orissa, (2015) 11 SCC 124 : (2015) 4 SCC (Cri) 309] , this Court took the view that if there is benefit of doubt, it must go to the accused, and in case of two views, the view that favours the accused, should be taken, which was more so where the trial court's decision was not manifestly illegal, perverse and did not cause miscarriage of justice.*
> ***31.*** *In Dilawar Singh v. State of Haryana [Dilawar Singh v. State of Haryana, (2015) 1 SCC 737 : (2015) 1 SCC (Cri) 759] , this Court took the view that the Court will not interfere with the verdict of acquittal merely because on evaluation of evidence, a different plausible view may arise. Very substantial and compelling reasons must exist with the appellate court to interfere with an acquittal.*
> ***32.*** *In Gamini Bala Koteswara Rao v. State of A.P. [Gamini Bala Koteswara Rao v. State of A.P., (2009) 10 SCC 636: (2010) 1 SCC (Cri) 372: AIR 2010 SC 589], this Court accepted the contention of the appellant that interference in an appeal against acquittal should be rare and in exceptional circumstance. It was further held that it is open to the High Court to reappraise the evidence and conclusions arrived at by the trial court. However, it is limited to those cases where the judgment of the trial court was perverse. This Court went on to declare that the word "perverse", as understood in law, has been understood to mean, "against the weight of evidence". If there are two views and the trial court has taken one of the views merely because another view is plausible, the appellate court will not be justified in interfering with the verdict of acquittal (see K. Prakashan v. P.K. Surenderan [K. Prakashan v. P.K. Surenderan, (2008) 1 SCC 258 : (2008) 1 SCC (Civ) 182 : (2008) 1 SCC (Cri) 200])."*

**12**. Further, the Hon'ble Supreme Court in the case of ***State of Odisha v. Banabihari Mohapatra,*** reported in ***(2021) 15 SCC 268 at*** para 32 has held as under:-

> ***"32.*** *As held by this Court in Sadhu Saran Singh v. State of U.P. [Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357 : (2016) 2 SCC (Cri) 275], an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity. In this case, it cannot be said that the reasons given by the High Court [State of Odisha v. Banabihari Mohapatra, 2020 SCC OnLine Ori 936] to reverse the conviction of the accused are flimsy, untenable or bordering on perverse appreciation of evidence."*

**13.** Considering the judgment of Hon'ble Supreme Court cited above, we are appreciating the evidence. The occurrence happened on 11.07.2017; however, the F.I.R. was lodged on 23.07.2017. A significant gap exists between these two dates. We find that the prosecution has not satisfied this Court as to why the delay occurred. The victim stated in her fardbeyan that the offence

was committed on 11.07.2017 and she was admitted to hospital on 21.07.2017, meaning that she remained in hospital till 23.07.2017, after which the F.I.R. was lodged. This inordinate delay, without any explanation, casts a cloud of suspicion on the prosecution case.

**14**. Further, from the facts of this case, it appears that at the time of occurrence, except P.W.-1, other sons and daughters of the victim were present, but their statements have not been taken, and neither they came before the Court to depose. This also places suspicion in the mind of this Court. Further, we find that the victim in her fardbeyan has stated that when respondent No.2 was committing rape and till he fled, P.W.-1 was raising an alarm. It is quite suspicious as to why no one reacted to that alarm and reached the place of occurrence either at the time of commission of rape till the accused fled, when there are many houses nearby. This also raises a suspicion in the mind of this Court.

**15.** We find that Exhibit- 6 is the C.D. in which the whole incident of rape was recorded. The police seized the C.D. and prepared the seizure list, which bears the victim's signature and is marked as Exhibit-5. The Trial Court, after seeing the aforesaid C.D. at para 15 of the impugned judgment, has observed that, on displaying the C.D., it is clearly apparent that the victim is the consenting party in this matter, as she is engaging in physical relations with her own consent.

**16.** Further, we find that the prosecution has not placed any sufficient evidence to substantiate that it is respondent No.2 who got the video uploaded on WhatsApp.

**17.** It has also been observed that the rape has been committed on 11.07.2017, but the victim was not examined medically till the lodging of the F.I.R., and only on 08.08.2017, she was examined by the doctor, who naturally found no sign of injury or sign of spermatozoa.

**18.** Further, we find that there is a land dispute between the parties. This fact has been substantiated by the deposition of P.W.-1. Thus, it is quite possible that in that grudge a false case has been lodged against the respondent No.2.

**19.** Considering what has been held above, we are of the opinion that the Trial Court has rightly acquitted the respondent No.2 from the charges.

**20.** Thus, we find no merit in this case; accordingly, this appeal filed by the informant is **dismissed**.

**21.** Let the Trial Court Record be transmitted to the Court concerned along with a copy of this judgment.

**(Ananda Sen, J.)**

**(Pradeep Kumar Srivastava, J.)**

High Court of Jharkhand, Ranchi
Dated 28/10/2026
R.S./S.K.D. Cp 03.
Uploaded on 06/11/2026