CGHC010160882005 2026:CGHC:45322

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SANTOSH KUMAR SHARMA
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CRA No. 418 of 2005

Judgment reserved on 14.08.2026

Judgment delivered on 27.10.2026

1. Pitarus (Abated) As Per Hon'ble Court Order Dated 19/02/2026
2. Anjulus Khalkho S/o S/o - Alvis Khalkho Aged About 40 Years Occupation Cultivation, R/o - Haradand, P.S. - Kansabel, District - Jashpur (C.G.)

... Appellant (s)

versus

State Of Chhattisgarh, through the District Magistrate Jashpur (CG)

... Respondent(s)

For Appellant (s)	:	Mr. Shubham Tripathi, Advocate
For Respondent(s)	:	Mr. Anant Bajpai, Panel Lawyer

Hon’ble Shri Justice Narendra Kumar Vyas

C A V Judgment

1. This appeal is preferred under Section 372(2) of the Code of Criminal Procedure 1973 against judgment dated 19.04.2005 passed by Additional Sessions Judge, Jashpur, District Jashpur (CG) in Sessions Trial No. 129 of 2004, whereby the appellant has been convicted and sentenced in the following manner:-

Conviction	Sentence
201 of the IPC	RI for 3 years and fine of Rs. 1000/- in default of payment of fine to further undergo additional RI for six months.

2. During pendency of the appeal, Appellant No.1 Pitarus died on 04.12.2007 which is reflected from the order sheet dated 19.02.2026, therefore, the appeal so far as appellant No. 1 Pitarus is concerned, is abated.

3. Case of the prosecution, in brief, is that the victim was aged about 13 years of age at the time of incident and studying in class 6 lodged written complaint before Police Station alleging that on 27.01.2004, she has gone to the house of her uncle Florance Kujur to attend the marriage ceremony of her aunt's son Virendra Ekka at Harridand. It is also alleged that on 28.01.2004 at about 2.00 PM, Prakash Tirky told her that her brother called her, therefore, she rushed the house of Patrus Oraon where co-accused Prakash Tirky, Ajit Khalkho, Vipin Kerketta and Vinod were already present there. Thereafter accused Prakash took her inside the house and committed forceful sexual intercourse with her and when she tried to shout then Ajit Khalkho tied her face with handkerchief and thereafter the co-accused committed forceful sexual intercourse with her one by one, subsequently she became unconscious and thereafter someone else took her to her house. It is also alleged that the victim due to fear did not inform the incident to anyone and she remained silent there upto 29.01.2004.

4. It is also case of the prosecution that on 30.01.2004, she went to her house where she informed the incident to her grandmother that Prakash Tirky, Ajit Khakho, Vipin Kerketta and Vinod Ram had committed rape on her. On 01.02.2004 she along with her family went to village Harridand where a Panchayat meeting was held and the Panchas told them that since it is the matter of our village, therefore, pressurized the father of the victim to compromise with the accused regarding the offence committed by them, accordingly prepared a draft compromise and provided some money to father of the victim. Ultimately, on the complaint of the victim, FIR (Ex.P-1) was registered against the appellant. The victim was sent for medical examination which was conducted by Dr. R. Toppo (PW-9) who has prepared his report (Ex.P-7).Memorandum statements of witnesses were recorded. Appellants were arrested by arrest memo (Ex.P-17 to Ex.P-25).

5. After completion of the investigation, charge sheet was filed before the Court of Judicial Magistrate First Class, Jashpur, who in turn committed the case to the Court of Additional Sessions Judge Jashpur which was registered as Sessions Case No. 129 of 2004. The learned trial Court after hearing the parties has convicted the co-accused under Section 376(2)(g) of the IPC and the learned trial Court after considering the evidence has convicted the present appellant under Section 201 of the IPC for causing disappearance of the evidence with intention to screening the offenders from legal punishment.

6. The prosecution in order to prove the guilt of the appellant No.2 examined 14 witnesses victim(PW-1), Imil Kujur (PW-2), Naresh Ekka (PW-3), Heeramani Sidar (PW-4), Maluram (PW-5),Hilariyus Kerketta (PW-6), Martha Kujur (PW-7), Imil (PW-8), Dr. R. Toppo (PW-9), Dr. Y.K. Toppo (PW-10), Folorance Kujur (PW-11), Nikolas Kerketta (PW-12), R.C. Nisad (PW-13) and Shyam Lal Sharma (PW-14) and exhibited the documents from (Ex.P-1) to (Ex.P-25).Statement of the accused/appellant was recorded under Section 313 CrPC in which he denied the incriminating circumstances appearing against him in the prosecution case, pleaded innocence and false implication. The appellant in his support examined Jogitram (DW-1).

7. After hearing the parties, learned Additional Sessions Judge on the basis of material on record and upon considering the statements of the witnesses passed the judgment of conviction and order of sentence against the appellant as mentioned above. Being aggrieved with the judgment of conviction and order of sentence, appellant preferred this Criminal Appeal. During the trial, appellant remained in jail from 29.09.2004 to 24.01.2005. This Court vide order dated 09.05.2005 released the Appellant on bail, as such he remained incarceration for 7 months and 10 days.

8. Learned counsel for the Appellant would submit that the evidence of father and brother of the victim is not at all established that the appellant has caused disappearance of evidence of offence as it is quite clear that due to some village rivalry the appellant has falsely been

implicated in the aforesaid crime. He would further submit that the prosecution has failed to establish its case beyond reasonable doubt and they are unable to produce legal evidence against the appellant. He would further submit that the appellant never put any pressure on the father as well as brother of the victim to disappear the evidence with an intention of screening the offender. Thus from the appreciation of evidence, it is established that the appellant has not committed any offence under Section 201 of the IPC.

9. He would further submit that there is delay of 8 month in lodging the FIR which creates doubt on the credibility of evidence of victim as well as father and brother of the victim, looking to the fact that there is no legal evidence regarding the act performed by the appellant, therefore, his conviction under Section 201 of the IPC is not justifiable. He would further submit that the other co-accused have already been acquitted from the charges levelled against them for commission of offence under Section 376(2)(g) of the IPC by this Court on 22.03.2025 by granting benefit of doubt, as such when the main accused have already been acquitted of the main charges then conviction of the present appellant for commission of offence under Section 201 of the IPC stands wiped out and would pray for setting aside the judgment of conviction and order of sentence.

10. To substantiate his submission, he would refer to the judgments of Hon'ble Supreme Court in the case of **Dinesh Kumar Kalidas Patel vs. State of Gujarat, AIR 2018 SC (Criminal) 451, The State of**

Assam vs. Moinul Haque @ Monu reported 2026 INSC 386 and the judgments of High Courts in the case of **Kajju Lal vs. State of Rajasthan reported in 2006 CRILJ 4386, Dr. R. Jairam Iyer vs. State of Chhattisgarh in Criminal Misc Petition NO. 765 of 2010, Vijay Bahadur @ Monu vs. State in Criminal Appeal No. 1278 of 2011.**

11. On the other hand learned State counsel opposes the submission made by learned counsel for the appellant and would support that the judgment of conviction and order of sentence passed by the trial court is legal and justified as the trial court after considering the evidence of prosecution witnesses has recorded its finding that the prosecution is able to successfully prove the charges under Section 201 of the IPC against the appellant. He would further submit that the prosecution has proved its case beyond reasonable doubt and there is no material available on record to set aside the well reasoned finding recorded by the trial court and would pray for dismissal of appeal.

12. I have heard learned counsel for the parties and perused the records of the trial Court.

13. From the submissions made by the parties the points emerged for determination are;-

> (I) Whether conviction of the appellant for commission of offence under Section 201 of the IPC is sustainable irrespective of acquittal of main accused for commission of offence under Section 376(2)(g) of the IPC?
>
> (ii) Whether the prosecution is able to prove the offence under Section 201 of the IPC against the appellant beyond reasonable doubt.

Finding and discussion on point No.1.

14. The submission of the learned counsel for the appellant that the main accused are acquitted of the main offence under Section 376(2)(g) of the IPC by this Court, therefore, conviction of the appellant for incidental charges has lost its significance and on this count alone the accused deserves to be acquitted of the charges, is misconceived and deserves to be rejected as Section 201 of the IPC can be independently laid and conviction can be maintained also, in case the prosecution is able to establish beyond reasonable doubt that an offence under Section 201 of the IPC had been committed by the person charged with the offence knowingly or believing that he has caused disappearance of evidence with the intention of screening the offender from legal punishment. The view of this Court is fortified from the judgment passed by the Hon'ble Supreme Court in the case of **Dinesh Kumar Kalidas Patel v. State of Gujarat reported in 2018(3) SCC 313** wherein the Hon'ble Supreme Court in paragraph 11 and 14 has held as under:-

> 11. In Sukhram v. State of Maharastra 2007(7) SCC 502, this Court discussed Kalawati AIR 1953 SC 131, Palvinder Kaur AIR 1952 SC 354, Suleman Rehiman AIR 68, SC 829 and V.L.Tresa 2001 (3) SCC 549 among others. The essential ingredients for conviction under Section 201 of the IPC have been discussed at paragraph-18:-
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> > 18. The first paragraph of the section contains the postulates for constituting the offence while the remaining three paragraphs prescribe three different tiers of punishments depending upon the degree of offence in each situation. To (2001) 3 SCC 549 (2007) 7 SCC 502 bring home an offence under Section 201 IPC, the ingredients to be established are: (i) committal of an offence; (ii) person charged with the offence under Section 201 must have the knowledge or reason to believe that an offence has been committed; (iii) person

> charged with the said offence should have caused disappearance of evidence; and (iv) the act should have been done with the intention of screening the offender from legal punishment or with that intention he should have given information respecting the offence, which he knew or believed to be false. It is plain that the intent to screen the offender committing an offence must be the primary and sole aim of the accused. It hardly needs any emphasis that in order to bring home an offence undern Section 201 IPC, a mere suspicion is not sufficient. There must be on record cogent evidence to prove that the accused knew or had information sufficient to lead him to believe that the offence had been committed and that the accused has caused the evidence to disappear in order to screen the offender, known or unknown."

15. In light of the above legal position, this Court is of the view that even if the main accused is acquitted by this Court the offence under Section 201 of the IPC can be independently tried subject to prove the charges by the prosecution beyond reasonable doubt against the appellant. Accordingly, the point No.1 is answered against the appellant and in favour of the prosecution. Now, this Court is examining whether the prosecution is able to prove the charges levelled against the appellant for commission of offence under Section 201 of the IPC beyond reasonable doubt or not.

Finding and discussion on point No.2.

16. To appreciate the point emerged for determination, it is expedient for this Court to extract Section 201 of the IPC.

> Section 201- Causing disappearance of evidence of offence, or giving false information to screen offender.—
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> Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any

> infor-mation respecting the offence which he knows or believes to be false; if a capital offence.— shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;if punishable with imprisonment for life.— and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;if punishable with less than ten years' imprisonment.— and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.
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> Illustration A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

17. From the provisions of Section 201 of the IPC, the essential ingredients are required to be proved by the prosecution for sustaining the offence under this Section (I) offence should be committed (II) person charged with the offence under Section 201 of the IPC must have knowledge or reason to be believed that the main offence has been committed (III) person charge with the offence under Section 201 of the IPC should have caused disappearance of the evidence or should have been given false information regarding the main offence and the act should have been done with intention of screening the offender from legal punishment, therefore, now this Court is appreciating the evidence brought on record whether these ingredients have been proved by the prosecution or not beyond reasonable doubt. Accordingly, point No.2 is answered in favour of the appellant and against the prosecution.

18. Victim(PW-1) in paragraph-5 of her deposition, has deposed that a Panchayat meeting was held at village Harridand and the said meeting was attended by her father and mother only and she has not attended the meeting. Appellants Pitarus Tirkey and Anjulus Khalkho have stated that the case be buried here itself as it is a matter of concerning the village and the family and thereafter Anjulus and Pitarus Tirkey have compromised the dispute and prepared draft compromise. In para 19 of cross-examination, this witness has admitted that neither her mother nor herself has attended the panchayat meeting, as such she cannot tell what happened in the meeting and which document was prepared in the said meeting. She has also admitted that she cannot tell which villagers were present in the meeting.

19. Father of the victim Imlis Kujur (PW-2) in examination-in-chief has supported the case of the prosecution. But in the cross-examination, he has admitted that about 50 persons were present in the panchayat meeting and all the head of the villagers were present and also admitted that all the persons of the panchayat have suggested for settlement of the matter but no one has pressured for compromise. He has also stated that if Rs 50,000/- is given then only compromise can be done and also admitted that that if Rs. 15,000/- would have been given then compromise cannot be executed. He has admitted that he has done compromise after examining his interest. In the cross-examination, this witness has stated that Pitarus and Anjulus have prevented him from reporting the matter till 8 months.

20. R.C. Nishad Sub Inspector (PW-12) is the investigating officer who has duly supported the prosecution case.

21. Naresh Ekka (PW-3) is cousin brother of victim and nephew of father of victim has stated in paragraph-16 that the accused Pitrour told him (who has already died) that they will compromise the matter at Rs. 2000/- only. It has also been stated that the complainant has taken money therefore, they will expel them from the society and they have expelled them. This witness has further stated that Piturus and Anjulus have demanded Rs. 10,000/- from him again to join them in the society but we have not given money, as such they have expelled him and because of pressure built up by the accused, he has not lodged the report for 8 months. The witness was cross-examined and in paragraph -26 wherein he has admitted that Anjulus and Piturus have no relationship with the accused and have also admitted that head of the society is preacher whose advice is followed by the member of the society and in paragraph -27 he has admitted that the appellant is not the President or the Secretary of the society and even he is also not the office bearer of the society.

22. Tersa Kujur (PW-8) mother of the victim. In the cross-examination, She has admitted that the panchayat has prohibited them for lodging of the report and they have done the compromise. She has also admitted in paragraph-8, that she is not aware whether panchayat has been done or not and what happened in the panchayat is not known to her till today. She has also admitted in paragraph-10, she has never visited

village Harridand and she does not know the appellant and also admitted that their names have been informed to her at the time of lodging of the report.

23. From the analysis of the evidence, it is quite vivid that the prosecution is unable to prove the essential ingredients to attract the offence under Section 201 of the IPC, as the victim (PW-1) who can throw the light on the charges levelled against the appellants has categorically admitted that she was not present in the panchayat meeting. Similarly the father of the victim (PW-2) in paragraph-9 admitted that he has demanded Rs. 50,000/- from the accused. From further analyzing the evidence, it is quite vivid, that no one has created pressure upon him and it remained affirmed that if Rs. 50,000/- is given to him by the main accused then compromise would have done by him with them. This clearly wiped out the charges of disappearance of the evidence against the present appellant.

24. Further it is quite vivid from the evidence mother of victim (PW-8) wherein she has admitted that she has never visited the Panchayat where the alleged offense was committed and she has not heard about the appellant which clearly establishes that the prosecution has not brought any cogent evidence against the appellants to prove that the appellants have caused disappearance of evidence or should have given false information regarding the main offence and the appellants have knowledge or reason to believe that the main offence has been committed. Knowing this the appellant did the act with intention of

screening of the offender from legal punishment. In absence any cogent evidence against the appellant for commission of offence, conviction of the appellant under Section 201 of the IPC cannot be sustainable. The view of this Court is fortified by the judgment of Hon'ble Supreme Court in the case of **Sou. Vijaya Alias Baby vs State of Maharashtra reported 2003 (8) SCC 296,** wherein the Hon'ble Supreme Court has held as under:-

> 6. Section 201 IPC presents a case of accusations after the fact.
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> "An accessory after the fact" said Lord Hale, "may be, where a person knowing a felony to have been committed, receives comforts, or assists the felon. (See 1 Dale 618). Therefore, to make an accessory ex post facto it is in the first place requisite that he should know of the felony committed. In the next place, he must receive, relieve, comfort, or assist him. And, generally any assistance whatever given to a felon to hinder his being apprehended, tried or suffering punishment, makes the assister an accessory. What Section 201 requires is that the accused must have had the intention of screening the offender. To put it differently, the intention to screen the offender, must be the primary and sole object of the accused. The fact that the concealment was likely to have that effect is not sufficient, for Section 201 speaks of intention as distinct from a mere likelihood.
>
> 7. Section 201 punishes any person, who knowing that any offence has been committed, destroys the evidence of that offence or gives false information in order to screen the offender from legal punishment. Section 201 is designed to penalize "attempts to frustrate the course of justice".
> 8…….
> 9…….
> 10. On applying the aforesaid legal principles to the factual scenario it is clear that the prosecution has not established the essential ingredients. The decision relied upon i.e. V.L. Tresa (supra) by the respondent-State is really of no assistance to it. There is no quarrel with the legal principle that notwithstanding acquittal with reference to offence under Section 302 IPC, conviction under Section 201 is permissible, in a given case. In the present case in addition to the fact that the appellant A-2 has been acquitted of the charges relating to Section 302 IPC, there is no material to bring in application of Section 201 by attributing

> knowledge of the commission of the offence to her. It is rightly contended by Mr. Lalit that the charges framed were for causing disappearance of evidence. Though in a given case defective charge does not vitiate trial in terms of Section 464 of the Criminal Procedure Code 1908, (for short 'the Code') where the omission is vital and even the substance of accusations is totally different from what is sought to be established by the prosecution, and there is no evidence on record to attribute knowledge of commission of the offence by the other accused that can be an additional factor for acquitting the accused. Looked at from any angle conviction of the appellant-accused A-2 cannot be maintained and is set aside. The appeal is allowed. The bail bonds are cancelled.

25. As such finding of the learned trial Court at paragraph -65 of the judgment that the appellant knowing the fact that the offence of rape has been committed, has attempted to withhold the report by conducting a panchayat is erroneous and perverse finding as PW-2 himself admitted in the cross-examination that 50 persons were present in the Panchayat and he himself demanded money from the accused and nowhere stated that the accused has prevented them to report the matter for 8 months to the police. Thus the finding of the learned trial Court in paragraph-65 is illegal, perverse and deserves to be set aside by this court and accordingly it is set aside. The accused deserves to be acquitted from the offence for which he was punished as the prosecution is unable to prove the ingredients of offence under Section 201 of the IPC beyond reasonable doubt.

26. Accordingly, the appeal is allowed by granting benefit of doubt. The appellant is reported to be on bail, his bail bonds shall continue for further period of six months in view of Section 481 of BSNN.

27. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Narendra Kumar Vyas)
Judge

santosh