IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No. 150 of 2018

[AGAINST THE JUDGMENT OF CONVICTION DATED 07.12.2017 AND ORDER OF SENTENCE DATED 12.12.2017 PASSED BY THE LEARNED ADDL. SESSIONS JUDGE-I, KODERMA IN G.R. No. 429/2017 {SPL. (POSCO) CASE NO. 21/2017}].

Sakindar Singh, son of Sri Munish Singh, resident of village Biragada/Tola- Bona Badkitand, P.O- Gujhandi, P.S. Chandwara, District- Koderma. .....APPELLANT(s)

Versus

The State of Jharkhand. ……RESPONDENT

PRESENT

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

For the Appellant(s) : Mr. Sarvendra Kumar, Advocate.
For the State : Mrs. Priya Shrestha, Spl.P.P.

Dated: 30.09.2026:
By Court: This criminal appeal is directed against the Judgment of conviction dated 07.12.2017 and order of sentence dated 12.12.2017 passed by the learned Addl. Sessions Judge-I, Koderma in G.R. No. 429 of 2017 [Spl. (POSCO) Case No. 21/2017], whereby and whereunder, the appellant having been found guilty of charge under Section 6 r/w Section 5(m) of POSCO Act and Section 450 of the Indian Penal Code and has been sentenced to undergo imprisonment for life and fine of Rs.10,000/- and in default of payment of fine, further S.I. for one year for the charges under Section 6 of POSCO Act and further he has been sentenced to undergo R.I. for a period of three years with fine of Rs.2,000/- and in default of payment of fine, further S.I. for three months for the offence under Section 450 IPC.

2. The learned counsel for the appellant submits that there is no witness in this case, except alleged victim. He further submits that the

appellant is a neighbour of the victim and he has falsely been implicated due to long standing dispute between the parties. He further submits that there are great contradictions in the deposition of the victim and other prosecution witnesses. He also submits that the prosecution has not been able to prove its case beyond the shadow of reasonable doubt. On these grounds, he prays for acquittal of the appellant.

3. Learned counsel representing the State submits that the prosecution witnesses have supported the case of the prosecution and there are sufficient materials available on record to convict the appellant. She further submits that victim (aged about 10 years on the date of occurrence) as well as other witnesses have clearly deposed that on 28.4.2017 at about 11:00 a.m, the victim was cooking meal, all of sudden, this appellant entered into the house of the victim, caught hold of her and put cloth in her mouth and tied her hands and legs, committed sexual assault upon her, as a result of which, she became unconscious. When her mother came after washing cloth, she saw the condition of her daughter and sprinkled water on her face, she came in conscious position and narrated the whole story to her mother. She also argued that this fact has been supported by all other prosecution witnesses. She further adds that the injury report also corroborates with the evidence of the victim as well as other witnesses. She also submits that the appellant had failed to produce any document in support of his age, as a petition dated 23.8.2017 has been filed before the Court to declare him juvenile but the said petition was rejected as not pressed.

4. The facts of this case are based upon the written report of the mother of the victim given to Officer-in-Charge, Chandwara Police Station on 28.04.2017, stating therein that on that day at about 8:00 a.m., she had gone to river for washing cloth and returned to her house at 11:00 a.m when she saw her daughter i.e. the victim, aged about 8 years, was lying on the ground in unconscious position. Her pant was stained with blood. After sprinkling water on her face, the victim came in conscious position and stated that Sakindar entered into the house,

caught hold of her and put cloth in her mouth as well as tied her hands and legs, committed sexual assault upon her.

On the aforesaid written report, Chandwara P.S. Case No. 23 of 2017 dated 28.4.2017 was registered under Section 376 IPC and Section 4/18/12 of the POCSO Act. After investigation, the police submitted chargesheet under Section 450 IPC and Section 46 of the POCSO Act. Accordingly, cognizance for the offence was taken and the case was committed to the Court of Sessions for trial. Charges were framed against the appellant under Section 450 of the Indian Penal Code and Sections 4/6 of the POCSO Act. As the appellant pleaded not guilty, he was put on trial.

5. In order to prove the charges against the appellant, the prosecution had examined altogether 8 witnesses, who are as follows:-

P.W.1- Lakhan Singh,
P.W.2- Victim,
P.W.3- Mother of the victim
P.W.4- Shanti Devi,
P.W.5- Dr. Shradha (Medical Officer)
P.W.6- Shivji Singh (Investigating Officer)
P.W.7- Sikandar Yadav, and
P.W.8- Dr. Ranjan Kumar (Medical Officer).

6. Several documents were also exhibited, which are as follows:-

Ext.-1: Signature of Lakhan Singh on Memo of Arrest. .
Ext.-2: Signature of the victim on statement under Section 164 Cr.P.C.
Ext.-3: Medical Report of the victim.
Ext.-4: Endorsement on written application.
Ext.-5: Memo of Arrest.
Ext.-6: Formal FIR
Ext.-7: Written Application, and
Ext.-8: Medical report of determination of age.

7. After completion of prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C. No evidence was adduced in support of the defence by the appellant.

8. The Trial Court thereafter considering the evidences had convicted the appellant for committing the offence as aforesaid.

9. After hearing the parties and going through the materials

available on record well as evidences, we find that the entire case is based on the evidence of **P.W.2 (the victim)**. She has deposed that about seven months ago on Friday at about 9:00 a.m, she was cooking in her house and at that time, she was alone. At that time, this appellant entered into the house of the victim, caught hold of her and put cloth in her mouth and tied her hands and legs, committed sexual assault upon her, as a result of which, she became unconscious. When her mother came after washing cloth from river, she saw the condition of her daughter and sprinkled water on her face, she came in conscious position and narrated the whole story to her mother. She also deposed that she has also given her statement under Section 164 Cr.P.C and she has been medically examined by the Doctor at Sadar Hospital, Koderma. In cross-examination, she has clearly denied the suggestion given by the defence counsel that nothing has happened with her and this appellant has falsely been implicated in this case due to previous enmity between both parties.

P.W. 3 is the mother of the victim. She has fully supported the manner of the occurrence and stated the same as stated in the written report. In cross-examination, she admitted that the occurrence did not take place in her presence but she reached at her house first of all after this occurrence and she learnt about this occurrence from the victim.

P.W. 4 (Shanti Devi) also deposed that she learnt about this occurrence from the mother of the victim and she saw blood was oozing out from private part of the victim. She asked about the occurrence from victim's mother who narrated about the manner of this occurrence.

P.W.5 (Dr. Shradha) deposed that on 29.4.2017 she was posted at Sadar Hospital, Koderma as a Medical Officer (Gynecologist). On that day at 2:30 p.m., she had examined the victim, aged about 8 years. On examination of the victim, she found the following:-

> *(A) on general examination, there was no external injury.*
> *(B) On examination of private part hymen was torn, vagina was bruised and there were multiple small mucosal tears in vulval reason. There was also vaginal bleeding. Vaginal smear was*

taken and sent for examination.
(C) Report shows numerous red blood cell. Few epithelial cell and no spermatozoa.
(D) She appeared to be around 8-9 years of age.
(E) MOI- mole on left lower abdomen below umbilicus and old cut mark on both knees.
(F) She has not attended menarche yet.
(G) Opinion:- There is evidence of sexual act, hence it is a rape case (marked as Ext.-3).

P.W.6 Shivji Singh is the Investigating Officer of this case. According to this witness on 28.4.2017 he was posted at Chandwara Police Station as ASI). On that day, the victim of this case along with her mother came at police station and gave a written report about this occurrence. He deposed that after receiving the charge of investigation, he recorded the re-statement of the informant and statement of the victim. He deposed that he also went to the place of occurrence. He further deposed that he recorded the statement of the witnesses namely Lakhan Singh and Shanti Devi and they have clearly supported the case of the prosecution. Thereafter the accused was apprehended by him. The statement of the victim under Section 164 Cr.P.C. was also recorded. He also deposed that on the basis of his identification, endorsement on written report, memo of arrest and formal FIR have been marked as Ext.-4, 5 and 6 respectively.

P.W. 7, Sikander Yadav, has also deposed that the written report has been written by him on the instruction of the informant, thereafter the informant had put her LTI besides this, he has no knowledge about this occurrence. On the basis of his identification, written information report has been marked as Ext.-7.

P.W.8 is Dr. Ranjan Kumar. He deposed that on 3.5.2017 he was posted at Sadar Hospital, Koderma as a Medical officer. On that day, a medical Board was constituted for the age determination of the victim and the Board examined the victim and opined that the age of victim was 9-10 years at the time of occurrence. The Board further found a cut mark over left lower limb. The report was marked as Ext.-8.

10. Admittedly, the victim girl was aged about 9-10 years at the

time of occurrence. P.W. 5 is the doctor, who examined the victim after the FIR was registered. The doctor assessed the age of the victim to be 8-9 years. The doctor opined that there is evidence of sexual act, hence, it is a rape case.

11. The girl was aged about 8-10 years on the date of occurrence and the allegation is of rape. Ext. 3 is report of the Doctor which clearly suggests that the prosecution has been able to prove that the victim was sexually assaulted.

12. The victim girl is P.W.2, who clearly stated that about seven months ago on Friday at about 9:00 a.m, she was cooking in her house and at that time, she was alone. At that time, this appellant entered into the house of the victim, caught hold of her and put cloth in her mouth and tied her hands and legs, committed sexual assault upon her, as a result of which, she became unconscious. When her mother came after washing cloth from river, she saw the condition of her daughter and sprinkled water on her face, she came in conscious position and narrated the whole story to her mother.

13. P.W.3 is the mother of the victim, who fully deposed the same as stated by the victim. There is nothing in the entire evidence to disbelieve this witness. We find no element even to remotely conclude that there was enmity between the parties. Thus, we conclude that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubts. The Hon'ble Supreme Court in the case of **Phool Singh Vs. State of M.P.** reported in **(2022) 2 SCC 74** has held that even the sole testimony of the prosecution witness is sufficient to prove the guilt of the accused, if the deposition of the victim is trustworthy. There is nothing in the evidence to doubt the testimony of the victim.

14. In this case, the appellant has been convicted and sentenced for committing the offence under Sections 4 and 6 of the POCSO Act. Section 4 of the POCSO Act provides for punishment for penetrative sexual assault. In this case the allegation is that the appellant had committed sexual assault. Since the victim is below the age of 16 years, the punishment would be in terms of Section 4(2) of the POCSO

Act, which provides imprisonment for a term, which shall not be less than 20 years, which may extend to imprisonment for life. The life means the remainder of natural life. Accused shall be liable to pay fine also.

15. Section 6 of the POCSO Act provides the punishment for aggravated penetrative sexual assault. As per this section, the punishment shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death. As per Section 5(m) of the Act, whoever commits penetrative sexual assault on a child below twelve years, it will be aggravated penetrative sexual assault. In this case the victim girl was definitely below the age of 12 years at the time of occurrence.

16. In this case, the punishment imposed upon the appellant is life which as per the provision of law is for rest of his natural life. The application of the appellant for declaring him as juvenile was rejected as not pressed, thus it is clear that the appellant was not juvenile at the time of occurrence, which is evident from the impugned judgment. In that view, we are of the opinion that the judgment of conviction and order of sentence passed by the learned trial Court should not be interfered with.

17. Considering what has been held above, this appeal is, accordingly, **dismissed.** Pending interlocutory application, if any, also stands disposed of.

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

(**ANANDA SEN, J.)**

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court, Ranchi.
Dated: the 30th September, 2026.
NAFR/Anu/Cp.-3.
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