IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 641 of 2009

[*Against the Judgment of conviction dated 19.06.2009 and Order of sentence dated 20.06.2009, passed by learned Additional Judicial Commissioner-XVIth, Ranchi in Sessions Trial No. 03 of 2005*].

Rajesh Kumar Paswan, S/o Sri Deo Prasad Paswan, resident of Village – Beala Warah, P.S. – Punpun, District – Gaya (Bihar), at present resident of Kailash Nagar, P.O. & P.S. – Chota Govindpur, Jamshedpur, District – East Singhbhum.

... ... **Appellant**

Versus

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

.....

For the Appellant : Mr. Vishnu Prabhakar Pathak, Advocate
Ms. Apurva, Advocate.
Ms. Manisha Kumari, Advocate.

For the Respondent : Mrs. Nehala Sharmin, Spl.P.P.

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P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 11.08.2026 Pronounced on 05.10.2026

1. Heard learned counsel for the appellant as well as learned Spl.P.P. for the State.

2. The present appeal is directed against the judgment of conviction dated 19.06.2009 and order of sentence dated 20.06.2009 passed by learned Additional Judicial Commissioner-XVIth, Ranchi in Sessions Trial No. 3 of 2005, whereby and whereunder the appellant has been held guilty for the offence under Section 376 of the I.P.C. and sentenced to undergo R.I. of seven years along with fine of Rs. 5,000/- with default stipulation.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal, as disclosed in the written report submitted by Victim No. 1 before the Officer-in-Charge of Chutia Police Station on 19.02.2004 at about 10:30 p.m., is that in September, 2003, on a Sunday, Victim No. 1 came to Ranchi from her native village, Dato Khurd Mission Tola, P.S. Katkamsandi, District Hazaribagh, without informing her parents. She alighted at Ratu Road Bus Stand and proceeded towards Ratu Chowk in search of employment. There, she met a person to whom she disclosed that she was looking for a job. The said person took her to a three-storied house situated near Pahari and introduced her to the landlady, stating that the girl was seeking employment. The landlady informed her that she required a domestic help and took Victim No. 1 inside the house. It is alleged that on the following day, the landlady gave Victim No. 1 a sum of Rs.50/- and asked her to return with her clothes. Victim No. 1 accordingly returned to Hazaribagh on the same day. However, instead of going to her parental home, she went to the house of her friend, Victim No. 2, and stayed there.

On the following day, i.e. Tuesday, Victim No. 1 left the house of Victim No. 2. Her friend accompanied her initially towards Hazaribagh and thereafter

travelled with her by bus to Ranchi. Upon reaching Ratu Road Bus Stand, Victim Nos. 1 and 2 attempted to locate the house of the landlady whom Victim No. 1 had met earlier, but were unable to find the place. At that point, a young man approached them. Upon being informed that they were looking for employment, he offered to arrange employment for them, took them to Firayalal Chowk and left them there. While they were searching for the said person, two other young men approached them, caught hold of them and took them towards a tank. It is alleged that, at that place, in the darkness, both the victims were forcibly subjected to sexual intercourse under threat. Thereafter, the two victims returned to Firayalal Chowk in a distressed condition. At about 8:30–9:00 p.m., a Commander Jeep driver noticed them and upon making enquiries, allowed them to board his vehicle. He took them to the office of Ranchi Express. After collecting bundles of newspapers from the Press, he proceeded towards Tata and subsequently returned to Ranchi. During the journey, the driver disclosed his name as Rajesh Kongari and enquired about the purpose of their visit to Ranchi. On being informed that they had come in search of employment, Rajesh Kongari took them to a vacant house near Pahari, stating that it belonged to his

friend and left them there while he proceeded towards the Press.

It is further alleged that Rajesh Kongari subsequently returned and attempted to forcibly subject Victim No. 1 to sexual intercourse. When she resisted, he left her. On the following day, Rajesh Kongari returned along with his friend, who disclosed his name as Ajay Kumar Choudhary and stated that he also operated a vehicle. It is alleged that Rajesh Kongari thereafter subjected Victim No. 1 to rape, while Ajay Kumar Choudhary subjected Victim No. 2 to rape, both acts allegedly having been committed by putting the victims under threat and despite their resistance. On the same day, at about 1:00 p.m., Rajesh Kongari took the two victims to Khadgarha Bus Stand, purchased their bus tickets, gave them Rs.300/- in cash and put them on a bus boarding for Hazaribagh. Subsequently, Victim No. 1 came to know that the place where they had been kept was in Harmu and not at Pahari, as represented by Rajesh Kongari.

After reaching Hazaribagh, Victim Nos. 1 and 2 did not return to their respective homes apprehending that their parents would scold them and they again boarded on a bus heading to Ranchi. Before boarding the bus, Victim No. 1 contacted Ajay Kumar

Choudhary on the telephone number given by him. Ajay Kumar Choudhary asked them to come to Tata. Accordingly, after reaching Ranchi, they boarded a bus for Tata. However, they were unable to locate the place indicated by him and therefore returned to Ranchi and went to the Ranchi Express Press, where Rajesh Kongari met them. Rajesh Kongari thereafter took them to Amrawati Colony and kept them in the house of one Bindeshwar Rai, representing that the house belonged to his friend, Sonu Kumar Pandey. On the following morning, Rajesh Kongari came to the house with food. After the victims had taken their meals, it is alleged that Rajesh Kongari forcibly subjected both of them to rape one after another and thereafter left for his duty. According to Victim No. 1, this conduct continued for two days. On the third day, another person came to the house and disclosed his name as Sonu, claiming to be a friend of Rajesh Kongari. Victim No. 1 went to the roof of the house and upon returning in the evening, she was informed by Victim No. 2 that Sonu had also forcibly subjected her to rape.

When Rajesh Kongari subsequently returned, both victims questioned him as to whether they had been brought to Ranchi merely for the purpose of sexual exploitation or whether he genuinely intended

to secure employment for them. It is alleged that, despite their protest, Rajesh Kongari continued to sexually exploit them on the pretext of providing them employment.

After about a fortnight, Rajesh Kongari took the two victims to the Ranchi Express Press and sent Victim No. 2 to Kolkata to stay with a relative of the mistress of the Press. Victim No. 1, however, was again taken to the residence at Amrawati Colony, where she remained till 03.10.2003. During this period, it is alleged that Rajesh Kongari repeatedly subjected her to sexual exploitation on the false promise of securing employment and also assaulted her. While visiting the market, Victim No. 1 became acquainted with a boy from Krishnapuri Colony. On 06.10.2003, Rajesh Kongari took a rented quarter at Krishnapuri Road in the house of one Ram Narayan Singh. It is alleged that, even there, Rajesh Kongari continued to subject Victim No. 1 to rape under threat and on the false promise of providing her employment.

Thereafter, on 08.02.2004, when Rajesh Kongari was not present, Victim No. 1 spoke to accused Om Prakash Gupta. According to her, Om Prakash Gupta represented that since they had fallen in love, they should marry each other. Thereafter,

both of them went to Rajrappa Temple, where they are stated to have solemnized their marriage and returned to Ranchi in the same evening. Om Prakash Gupta took her to the house of one of his friends at Kantatoli, where, according to the allegation, he subjected her to rape during the night.

4. On the fifth day, one Prabhat, stated to be a friend of Om Prakash Gupta, came to the said house and informed them that members of Om Prakash Gupta's family wished to meet them. Victim No. 1 and Om Prakash Gupta, accompanied by Prabhat, accordingly proceeded to Ranchi Railway Station, where the father and younger brother of Om Prakash Gupta and another person were present. They took the couple to their house, where Victim No. 1 stayed for the night.

It is further alleged that on the following day, Om Prakash Gupta told Victim No. 1 that he would drop her at her parental house. He took her to Hazaribagh in a red Maruti van left her there, stating that he had some work and would return within three or four days. Victim No. 1 thereafter went to her parental home and narrated to her family members the events that had allegedly occurred. She also informed them that her friend, Victim No. 2, had obtained employment at Kolkata.

It is further alleged that the parents of Victim

No. 1 thereafter approached Sushil Boriya, the President of the Hazaribagh Adivasi Chatra Sangh and narrated the entire incident to him and along with Sushil Boriya and other family members, they came to Ranchi and proceeded to the Adivasi P.G. Hostel, where they met Sushil Minz, the spokesperson-cum-treasurer, as well as Mahendra Ekka, and apprised them of the allegations. They thereafter approached the Senior Superintendent of Police, Ranchi. Pursuant to the directions of the Senior Superintendent of Police, Ranchi, the police traced Victim No. 2 and brought her back from Kolkata. Accused Rajesh Kongari was also arrested.

The aforesaid events ultimately culminated in the registration of Chutia P.S. Case No. 11 of 2004 for the offence under Section 376 of the I.P.C. against four accused persons. S.I. Shiv Chander Prasad took up the initial investigation of the case. S.I. Kapildeo Poddar took up further investigation of the case from the previous I.O. and on conclusion of the investigation, submitted charge sheet against the accused persons against three accused persons.

5. After taking cognizance, the case was committed to the court of Sessions, where Sessions Case was registered. The accused persons denied the charges leveled against them and claimed to be tried.

6. In course of trial, altogether 08 witnesses were examined by the prosecution apart from documentary evidences.

7. On the other hand, the case of defence is denial from occurrence and of false implication. However, no oral evidence has been examined by the defence, rather documentary evidence Exhibit-A and A/1 respectively i.e. signature of P.W.-1 and one Sudhir Tirkey over the beyan of the informant.

8. The learned trial court, after scrutinizing the evidence available on record, recorded findings about guilt of the appellant for the offence under Section 376 of I.P.C. and sentenced him to undergo R.I. of 07 years, which has been assailed in this appeal.

Submission on behalf of the appellant

9. Learned counsel for the appellant has vehemently argued that the learned trial court has miserably failed to properly appreciate the evidence of witnesses in right perspective and arrived at wrong conclusion. It is further submitted that the occurrence was alleged to be happened in the month of September, 2003, but the F.I.R. was lodged on 19.02.2004 i.e. after delay of about six months without offering any reasonable explanation, which also makes the prosecution story palpably false, concocted and unreliable. Though there are two victims in this case,

but the version of both the victim is contradictory. Rest witnesses in this case are interested witnesses. The victim girls have every occasion to narrate the incident to any person, but they choose to keep mum and continued to live with the accused at different places, which goes to show that they were not forcibly raped by the accused, rather there was consensual relationship between them, but the learned trial court has sentenced the appellant for maximum period of seven years. The prosecutrix does not appear to be absolutely reliable witness and her testimony does not find corroboration from any independent source, as such, conviction and sentence of the appellant is fit to be set aside and this appeal may be allowed.

10. To buttress his argument, learned counsel for the appellant has relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Manak Chand @ Mani Vs. The State of Haryana*** reported in (2024) 20 SCC 561.

11. In alternative, it is submitted that the appellant has already undergone custody for about 01 year 04 months, out of seven years R.I. imposed upon him. It is further submitted that the occurrence is of the year 2003 and more than two decades have elapsed. Therefore, appellant has been sufficiently punished for the guilt and his sentence may be reduced to the

extent of imprisonment already undergone by him

Submission on behalf of State

12. On the other hand, learned Spl.P.P. appearing for the State has vehemently opposed the aforesaid contentions raised on behalf of the appellant and submitted that both the prosecutrix has categorically proved the commission of rape by the present appellant which find corroboration from other evidence available on record. There is no valid reason to interfere with the impugned judgment of conviction and order of sentence of the appellant. This appeal is devoid of merits and is fit to be dismissed.

Analysis, discussions and reasons

13. I have gone through the record the case along with impugned judgment in the light of contentions raised on behalf of both side.

14. The only point for consideration of this appeal is, as to "whether the impugned judgment of conviction and sentence suffers from any serious error or law calling for any interference in this appeal or not?"

15. Before imparting my verdict on the above point, it is pertinent to apprise with the testimony of the witnesses examined during trial.

16. **P.W.-1** is one of the victims of the case. According to her evidence, in the month of September 2003, she had come along with victim-1 (P.W.-2), the other

victim to Ratu Road, Ranchi from Hazaribagh on a bus. She further deposed that near the bus stand a person met them and he enquired from them where they have to go and she told him that she will go to Ranchi. She further deposed that while they were weeping there a boy met them and she told him that they wanted to go Ranchi Pahari but he took them to Patna and lodged them at the house of his friend accused Sanjay Kumar Choudhary. She has further deposed that accused Rajesh committed rape on her as well as on victim-1 (P.W.-2) and then brought her to Ranchi Express from Patna for providing them à job. She further deposed that landlord of accused Rajesh sent her to Kolkata where she worked in the house of sister of one Alpana and victim-1 (P.W.-2) was kept by accused Rajesh. She has further deposed that when her friend victim-1 (P.W.-2) returned to her village, her parents enquired from her and then she was informed and she came to Chutia P.S. at Ránchi. She has further deposed that victim-1 (P.W.-2) gave her statement to the police officer on which she had also put her signature (Ext-1).

17. **P.W.-2** is another victim and the informant of the case. She has deposed that she had come to Ranchi in the month of September, 2004 from Hazaribagh in a bus and got down at Ratu Road Bus Stand and there

she met one person whom she told that she had come to seek job and the person took her near a house at Pahari Mandir and introduced her with the lady of the house who agreed to keep her and after staying there for a day, she sent her to Hazaribagh to bring her belongings and accordingly, she came back to Hazaribagh and returned from there on the following day, but could not find the location of Pahari Mandir and then a young person met her who volunteered to drop her at Pahari Mandir, but left her at Firayalal. She further deposed that the young person committed rape with her taking advantage of the darkness. She further deposed that while she was weeping there, a jeep driver stopped his vehicle and asked them why they are weeping and when she told him that they have been dumped here by a person, then he brought her to Ranchi Express and after collecting paper bundles, he took them to Tata in a jeep and after returning from Tata, he took them to the house of his friend at Pahari and there, he committed rape with her as also with her friend Victim-2 (P.W.-1). She has further deposed that both of them were also assaulted by accused Rajesh and on the following day, he sent both of them to Hazaribagh advising that they should return as early as possible and he would provide them with a job. She has further deposed that she along

with her friend went to Hazaribagh and again returned to Ranchi and met accused Rajesh who took them to Tata and after returning from Tata he took them to Amrawati Colony in the house of his friend Sonu and continued to sexually exploit them on the promise of providing job to them. She has also stated that they used to stop the accused Rajesh from having sexual intercourse with them but he never used to pay heed to their request. She has also deposed that accused Rajesh took her friend victim – 2 (P.W.-1) to the Press and from there she was sent to Kolkata, but she was again brought back to the house of accused Rajesh and he continued to have forcible sex with her on the pretext of providing job to her. She has also deposed that accused Rajesh then brought her to Krishnapuri where he had rented a house and continued to have forcible sex with her. She has also stated that in Krishnapuri mohalla she met with one Om Prasad Gupta, who forcibly took her to Rajrappa and got married with her and then he brought her from Rajrappa to Kantatoli to the house of his friend where accused Om Prasad Gupta also forcibly raped with her. She has also deposed that accused Om Prasad Gupta then brought her to his residence at Krishnapuri and then she told him that she wished to visit her home and then he dropped her at Hazaribagh

and she narrated the entire incident to her parents who brought them to Ranchi and then to the police station where she gave out her statement to the police officer. She has identified her signature on the statement given to the police. She has further identified the signature of her mother over her statement.

18. **P.W.-3** is the mother of the victim informant (P.W.-2), Victim-1. She has deposed that her daughter returned on 14.2.2004 and then she enquired from her as to where she and victim-2 (P.W.-1) had been and then she disclosed that victim-2 (P.W.-1) had gone to Kolkata and she had stayed at Ranchi. She has further disclosed that accused Rajesh, who used to ply trekker, had kept her on false promise and used to bring her to the house of his friends Sanjay, Sonu and Om Prakash and he committed rape with her on the false promise of providing her a job. She has also stated that her daughter disclosed that accused Om Prakash had allured her and married with her and then she brought her daughter to Ranchi and met the Sr. S.P., Ranchi and then her statement was recorded by the police officer, over which she had put her signature (Ext.1/2).

19. **P.W.-4 Sushil Orieya** is the President of Hazaribagh District Aadibasi Chhatra Sangh. He has deposed that

on 24.11.2003 the father of informant, victim-1 (P.W.-2) submitted a written information about the missing of victim-2 (P.W.-1) and on getting this information, he started searching for the missing girl and then on 14.2.2004 uncle of victim-1 (P.W.-2) came to his hostel and told that victim-1 (P.W.-2) has arrived at her house and then he met victim-1 (P.W.-2) and she disclosed that accused Rajesh Kumar Paswan had called her at Ranchi for giving her a job and on that pretext, he kept her and her friend Victim-2 (P.W.-1) for several days at his house and accused Rajesh and his accomplices Sanjay Kumar Choudhary, Sonu Kumar Pandey committed rape on them and then victim-2 (P.W.-1) was sent to Kolkata but victim-1 (P.W.-2) was kept by accused Rajesh for several days and thereafter accused Om Prasad Gupta committed rape with her and also married with her by putting her under threat. He has also deposed that on 15.2.2004 he along with guardian of Victim-1 (P.W.-2) came to Aadibasi P.G. Hostel, Ranchi and met Sushil Minz and Mahendra Ekka and along with them took victim-1 (P.W.-2) to the Sr. S.P., Ranchi, who sent them to Sukhdeo Nagar P.S. where the F.I.R. was lodged. He has also identified his signature on the statement of Victim-1 (P.W.-2) which has been marked Ext. A/1.

20. **P.W.-5** is the mother of Victim-2 (P.W.-1). She has deposed that her daughter along with victim-1 (P.W.-2) had gone to Ranchi where they were kept by accused Rajesh, Sanjay and Sonu and they sexually exploited her by keeping them under threat and duress. She has further stated that victim-2 (P.W.-1) was sent to Kolkata and when she was brought from Kolkata, she told her that no untoward incident took place with her at Kolkata. She has also stated that she had also put her right thumb impression on the statement which had given by the victim-1 to the police.

21. **P.W.-6** is one of the I.O. of the case. It appears from his deposition that he had only collected the medical report of the victim girls from the Sadar Hospital, Ranchi and submitted charge-sheet in the case.

22. **P.W.-7** is the main I.O. of this case. He has stated that on 19.2.2004, while he was posted at Chutia P.S. as Officer-in-Charge, the victim-1 (P.W.-2) had come to the police station and gave their oral statement, which he recorded and then read over and explained the same to the Informant and she put her signature over the same and he also put his Signature (Ext. 1/3). He has further proved the formal F.I.R. (Ext.2). He has further stated that during investigation accused Rajesh Kr. Paswan was produced by

Sukhdeonagar P.S. and he was arrested in this case and later on, he recorded the statements of witnesses. He has further deposed that he had inspected the places of occurrence, which are the house of one Bindeshwar Ram in Amrawati Colony and the house of Ram Narayan Singh at Krishnapuri. He has further deposed that he had sent the victim girls for their medical check-up to Sadar Hospital, Ranchi and on 23.3.2004 handed over the further investigation to the then O/C of Chutia P.S.

23. **P.W.-8** is the doctor, who had examined the victim girls on 20.02.2004 at Sadar Hospital, Ranchi. She has deposed that on examination of the victim girl victim-2 (P.W.-1) she found no evidence of sexual intercourse at the time of examination. She has further opined that on the basis of radiological test, victim-2 (P.W.-1) was found to be aged about between 15 to 16 years. She has further deposed that she examined victim-1 (P.W.-2) and also got her pathological and radiological report. She has opined that the victim-1 (P.W.-2) was aged about 16 to 17 years and there was no evidence of sexual intercourse at the time of examination. She has proved the reports which have been marked Ext. 3 & 3/1.

24. So far, the judgment relied upon by the learned counsel for the appellant is concerned, the same does

not help the appellant, as in rape cases the sole testimony of victim is sufficient to convict the accused, if she is found to be reliable and trustworthy.

25. From the aforesaid discussion of ocular testimony of witnesses, it is crystal clear that the prosecutrix (P.W.-1 & P.W.-2) have categorically stated about commission of rape by the appellant for a period of six months on the allurement of providing job. The medical report shows that the age of the victim-1 (P.W.-2) was between 16 to 17 years and the age of the victim-2 (P.W.1) was between 15 to 16 years, therefore, there is no reason to take different view with the findings recorded by the learned trial court. Accordingly, the judgment of conviction of the appellant passed by the learned trial court is hereby affirmed.

26. So far sentence is concerned, it appears that the case is of the year 2003 and more than two decades have elapsed. The appellant is in custody for about one year four months, out of seven years of sentence. Therefore, further custodial sentence of the appellant is not required at this stage, as no useful purpose would be served to send the appellant again in jail. Therefore, imprisonment already undergone by the appellant would meet the ends of justice in this case,

instead of undergoing further imprisonment awarded by the learned trial court.

27. In view of aforesaid discussion and reasons, the sentence awarded to the appellant by the learned trial court is hereby modified and reduced to imprisonment already undergone by him.

28. Accordingly, this appeal is **dismissed on merits with modification in sentence**, as stated above.

29. Appellant is on bail, as such he is discharged from the liability of bail bond. Sureties are also discharged.

30. Pending I.A., if any, stand disposed of.

31. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated, the 5th October, 2026.
Sunil /**N.A.F.R.**
Uploaded on 06/10/2026