IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 1122 of 2018

(*Against the judgment of conviction dated 01.09.2018 and order of sentence dated 07.09.2018 passed by learned Additional Sessions Judge-1-cum-Special Court (POCSO Act), Koderma in Special POCSO Case No. 04 of 2018 corresponding to G.R. No. 1285 of 2017*.)

Rajesh Kumar Sao, Son of Sri Suresh Sao, R/o.- Village- T. Moriyawan, Ward No.- 8, P.O.– Jhumri Telaiya, P.S. – Telaiya, District – Koderma, State-Jharkhand.

... ... **Appellant(s)**

Versus

The State of Jharkhand …… **Respondent(s)**

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

For the Appellant : Mrs. Rashmi Kumar, Advocate
: Mr. Mohit Kumar, Advocate
For the State : Mrs. Nehala Sharmin, Spl.P.P.

JUDGMENT

Dated: 06th October, 2026
***By Court* :-**

We have heard learned counsel appearing for the appellant as well as learned Special P.P. appearing for the State.

2. The appellant in this appeal has challenged the judgment by which he has been convicted for committing the offences under Sections 323 & 376 of the I.P.C. and Section 4 of the POCSO Act vide judgment of conviction dated 01.09.2018 passed by the learned Additional Sessions Judge-1-cum-Special Court (POCSO Act), Koderma in Special POCSO Case No. 04 of 2018 corresponding to G.R. No. 1285 of 2017 and has been sentenced to undergo **R.I. for fourteen years alongwith the fine of Rs. 20,000/-** for the offence under Section 4 of the POCSO Act and further S.I. for six months for the offence under Section 323 of the I.P.C. with default stipulation, vide order of sentence dated 07.09.2018. Both the sentences are directed to run concurrently.

3. The prosecution case is that on 14.12.2017 at about 5:00 P.M., while the daughter of the informant was alone in the house, the appellant entered in the house and forcibly gagged her mouth and committed rape upon her. It has been stated that the appellant was having live-in relationship since 7-8 years with the informant, who is the mother of the victim. It has further been stated that the victim tried to resist but she was slapped and thereafter, the appellant, committing the occurrence, fled away. Further, it has been stated that the informant sent the victim to her aunt's (Mausi) village after the incident and on the very next day, again the accused came to the residence and inquired about the victim and also assaulted the informant and poured hot oil on the body of the informant, as a result, she sustained burn injury.

4. On the aforesaid background, Koderma P.S. Case No. 222 of 2017 was instituted on 16.12.2017 for the offences under Sections 341, 342, 376 & 324 of the I.P.C. and Sections 4/8 of the POCSO Act.

5. The police, after investigation, filed charge-sheet against the present accused for committing the offences under Sections 341, 323, 376, 324 & 506 of the I.P.C. and Sections 4/8 of the POCSO Act.

6. As the appellant pleaded not guilty, the charge was framed under Sections 323, 341, & 376 of the I.P.C. and Sections 4/8 of the POCSO Act.

7. After the appellant was put on trial, 9 witnesses were examined on behalf prosecution, who are as follows:-

1) PW-1: Victim/Prosecutrix
2) PW-2: Mother of the victim
3) PW-3: Dr. Shradha (Medical Officer)
4) PW-4: Dr. Ranjan Kumar (Medical Officer)
5) PW-5: Krishna Kumar Yadav
6) PW-6: Awadh Singh

7) PW-7: Damodar Pd. Yadav

8) PW-8: Turan Topno (Investigating Officer)

9) PW-9: Dr. Praveen Kumar (Medical Officer)

8. Apart from above oral evidence, prosecution has also adduced following documentary evidence:-

i. Ext.-1: Signature of victim on statement under Section 164 of Cr.P.C.

ii. Ext.-1/1: Signature of victim on written application.

iii. Ext.-2: Written application.

iv. Ext.-2/1: Registration on written application.

v. Ext.-3: Medical report of victim.

vi. Ext.-4: Signature of Dr. Ranjan (PW-4) on report of Medical Board.

vii. Ext.-5: Carbon copy of requisition for injury report.

viii. Ext.-6: Formal F.I.R.

ix. Ext.-7: Injury report of the informant.

9. After closure of the evidence, the statement of the appellant was recorded under Section 313 of the Cr.P.C. but thereafter the appellant did not produce any witness in defence.

10. The learned Trial Court, after evaluating oral as well as documentary evidence, found the appellant guilty for the offence punishable under Sections 323 & 376 of the I.P.C. and Section 4 of the POCSO Act and sentenced him accordingly as stated above.

11. The learned counsel appearing on behalf of the appellant submits that there is serious doubt about the prosecution case and there are discrepancies in the evidence of the informant and the victim. She further, by referring to the medical evidence, submits that medical evidence suggests that the doctor did not find any evidence of sexual assault. Further, no injury was found on the body of the victim, which suggests that the entire allegation is nothing but false. She

further submits that admittedly, the mother of the victim was in live-in relationship with the appellant since long and there was dispute between them as they both were selling vegetable together and there was dispute in respect of share in the profits. She lastly submits that there is delay in lodging of the F.I.R. which has not been properly explained.

12. Learned Special P.P. appearing on behalf of the State defending the impugned judgment on merits submits that the statement of the victim clearly suggests that she was sexually assaulted by the appellant. Her statement has been corroborated by the statement of the informant, who is none else but the mother of the victim. She further submits that the explanation for lodging the F.I.R. after two days has been given by the Investigating Officer (PW-8) of this case. Thus, it cannot be said that there is unexplained delay of two day in lodging the F.I.R. She further submits that the appellant had threatened the victim and her mother, as a result of which, no F.I.R. was registered. She lastly submits that the evidence of doctor is mere suggestive in nature.

13. After hearing both the parties, we have gone through the evidence available on record.

PW-3 is the medical officer, namely, **Dr. Shardha,** who examined the victim. We noted that the incidence had occurred on 14.12.2017 but the victim has been examined on 16.12.2017 at 3:30 P.M., i.e., after 46 hours. Though, the doctor has found her to be 14-15 years old but no injury was found on the body or on private part of the victim and the doctor has opined that the rape cannot be confirmed.

PW-4 Dr. Ranjan Kumar is another doctor, who assessed the age of the victim after proper evaluation of the Board. He found the age of the victim to be 16-17 years.

PW-1 is the victim herself. She has stated that her mother sells vegetable. On 14.12.2017, when she was alone in her house and cooking food in the evening, this appellant came and pinned her on the ground and thereafter committed rape upon her. She tried to raise alarm but she was gagged by this appellant by his hand and thereafter, she was also slapped, hence, she could not raise any alarm. After committing rape, this appellant left and fled away. She narrated the story to her mother, when her mother returned after selling the vegetables. She stated that the appellant had threatened them not to lodge any case. Thereafter, mother had sent the victim to her sister's house (Mausi of the victim). Thereafter, on the next day, the appellant came and assaulted the mother of the victim and threw hot oil on her leg as a result of which she got burnt. She admits that after her mother was burnt by this appellant, she lodged this case. This means, when the alleged sexual assault had taken place, no report was made.

In her cross-examination, she stated that the incident continued for five minutes and she tried to scream and raise alarm, but she was gagged by hand of the accused. She has also stated that she was assaulted by the appellant. She has further stated that the moment, when the appellant left her and fled away, her mother entered in the house. She has also stated that she, her mother and the appellant have resolved the issue and compromised the case, as this appellant had threatened hem. She has admitted that at that point of time, the appellant was in custody. She admitted that this appellant used to regularly visit their house and this appellant and her mother used to sell vegetables and divide the sale profits. She denies the suggestion that her mother was asking for more money, which the appellant refused and lodged this false case.

14. Thus, on analysis of evidence of the victim, it is clear that she

also resisted the assault and she was assaulted but surprisingly, the doctor did not find any mark of assault on her body or on her private parts and could not even found any mark of sexual assault. Further, another aspect is that there was business relationship between the appellant and the mother of the victim, as they were selling vegetables together and used to divide the sale proceeds between them. It is also apparent that the mother was having live-in relationship with the appellant and they had resolved the issue.

15. Another glaring aspect is that the F.I.R. was lodged after two days, i.e., after the appellant had allegedly thrown hot oil on the leg of the informant, for which the informant was treated by PW-9 Dr. Praveen Kumar. PW-9 examined the informant for the aforesaid burn injury on 16.12.2017 and admittedly from the evidence of PW-1, it is clear that the present F.I.R. was lodged for the commission of rape upon the victim was after the same incident had occurred.

16. The delay of two days in lodging the F.I.R. has been tried to be explained by the Investigating Officer (PW-8). In para-13, the Investigating Officer (PW-8) has stated that on the date of occurrence, he could not get record the statement of the victim as because it was already evening, but surprisingly, in the same breath, on the next date also, he could not get record the statement of the victim. This explanation does not match with his statement itself, which is at paragraph-1 of the evidence. The Investigating Officer has stated that on 16.12.2017, for the first time, he receives a written report from the victim, which was registered as Koderma P.S. Case No. 222 of 2017. It is surprising that when the first informant / fardbeyan was given on 16.12.2017, how in paragraph-13, the investigating officer says that it was not possible for him to record the statement of the victim on the date of occurrence, which is on 14.12.2017. No statement of the victim can be recorded prior to lodging of the F.I.R. as recording of

the statement of the victim is part of the investigation, which only can start after lodging of the F.I.R. Thus, this explanation, which has been tried to be given by the investigating officer, cannot be accepted.

17. Thus, it is quite clear, that the F.I.R. was lodged after the informant received burn injury from the appellant by pouring hot oil on her leg and it may be a fact that only thereafter this case has been lodged to implicate this appellant in an offence under POCSO Act. Here, this is a possibility which creates doubt in the mind of Court.

18. Further, the victim and also the informant have stated that immediately after the occurrence, informant had sent the victim to house of Chinta Devi, who is the sister of the informant, but after two days, the victim return. The investigating officer in his evidence has stated that he tried to find out Chinta Devi, but he could not get any whereabouts of Chinta Devi. This also creates a doubt in the prosecution story as to whether the victim was sent to the house of Chinta Devi or not.

19. It is the duty of the prosecution to prove the guilt of the appellant beyond all reasonable doubt. Similarly, if the defence is able to create a reasonable doubt in the mind of Court about prosecution story, the Court has to take side with the accused person. In this case, the appellant has created a doubt in the mind of Court about prosecution story. The evidences of the doctor, victim and the circumstance of lodging of the F.I.R. belatedly that too only after the mother sustained burnt injury, clearly creates a doubt in the mind of this Court about the prosecution case.

20. Thus, considering the doubt, which has been created, we are of the opinion that the appellant has succeeded in dispelling the prosecution case.

21. Accordingly, this criminal appeal stands **allowed.** The impugned judgment of conviction dated 01.09.2018 and order of

sentence dated 07.09.2018 passed by the learned Additional Sessions Judge-1-cum-Special Court (POCSO Act), Koderma in Special POCSO Case No. 04 of 2018 corresponding to G.R. No. 1285 of 2017 is, hereby set aside.

22. The appellant is acquitted from the charge. Thus, he is directed to be released from custody forthwith, if not required in any other case.

23. Let the copy of this judgment be sent to concerned Trial Court for information and needful.

24. Pending I.A.(s), if any, stands disposed of, accordingly.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

High Court of Jharkhand at Ranchi
Dated: 06.10.2026
Rahul/NAFR
Uploaded on:08/10/2026