

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 843 of 2023

[Against the judgment of conviction dated 22.08.2023 and order of sentence, dated 28.08.2023 passed in POCSO Case No. 15 of 2017 arising out of Chandil P.S. Case No. 106 of 2017, by the learned Special Judge, POCSO Act, Seraikella Kharsawan]

Budhu Murmu @ Gudu Murmu, aged about 40 years, S/o Sam Murmu, resident of Chakulia @ Chakuliya, Dom Basti, P.O. & P.S.- Chandil, District-Seraikella Kharsawan.

--- --- **Appellant**

Versus

The State of Jharkhand

--- --- **Respondent**

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For the Appellant	: Mrs. Omiya Anusha, Advocate (JHCLSC)
For the State	: Mr. Bishwambhar Shastri, A.P.P.

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

J U D G M E N T

By Court

1. Heard learned counsel for the appellant appearing through the Jharkhand High Court Legal Services Committee and learned A.P.P. representing the State.
2. The present appeal has been preferred against the judgment of conviction dated 22.08.2023 and order of sentence, dated 28.08.2023 passed in POCSO Case No. 15 of 2017 arising out of Chandil P.S. Case No. 106 of 2017, by the learned Special Judge, POCSO Act, Seraikella Kharsawan, whereby the appellant has been convicted for the offence punishable under Section 354 of the IPC and has been sentenced to undergo R.I. for One year with a fine of Rs.1000/- and in default of payment of fine, he is further directed to undergo S.I. for 1 month.
3. The criminal law has been put into motion on lodging of written

report by the informant Samar Kumar Hembrom recorded before Officer In-charge of Chandil Police Station on 21.06.2017.

In the said written report the informant has stated that his daughter, aged about 10 years, had gone to school in Chakulia. After the school at about 11.30A.M in the morning when she was returning, the accused Buddhu Murmu @ Guddu Murmu aged about 26 years outraged her modesty and forcibly caught her hand. It is alleged that he was taking her away with intention to marry. His daughter shouted loudly, upon which, the villagers reached on the spot and freed her from his shackles.

4. On the basis of the above written report, the case was registered being Chandil P.S. Case No. 106 of 2017 dated 22.06.2017 under Sections 354 of the IPC and Section 8 of the POCSO Act against the accused.

5. On completion of investigation, the I.O has submitted charge-sheet on 14.07.2017 for the offence under 354 IPC and Section 8 of the POCSO Act against the accused on the basis of which cognizance was taken by the learned Special Judge, POCSO Act, Seraikella Kharsawan

6. On appearance of the accused, the charge for the offence under Section 354 of the IPC and Section 8 of the POCSO Act was framed on 23.01.2018 and the content of charge was explained to the accused to which he pleaded not guilty and claimed to be tried.

7. To substantiate the prosecution story altogether six prosecution witnesses have been examined. Their brief statements are as follows:

- I. **P.W.1(Durjan Murmu)** – He has stated that on the date of occurrence he was at his home. On hearing alarm of the victim girl, he came out of his house and saw the accused Guddu Murmu dragging the victim by catching her hand. He along with several other persons arrived there and apprehended the accused. In his cross examination he has stated that he was at his home at the time of occurrence and

a panchayati was also held for alleged occurrence but without any result. He has deposed that the victim was aged 10 years on the date of occurrence.

- II. **P.W.2(Samar Kumar Hembrom @ Manjhi)** – He is the informant of the case and father of the victim. He has deposed in his examination-in-chief that his daughter/ victim aged about 10 years had gone to school and while returning home around 11.30 A.M. the accused Buddhu outraged her modesty near the house of Durjan Majhi by dragging her and telling that he would keep her. Her daughter raised alarm, hearing which the villagers arrived and saved her. He has further stated that his wife has informed him about the occurrence. Thereafter he went to the police station and lodged the case. In his cross examination he has admitted that he came to know about the occurrence from his wife only and none other. On the date of occurrence, he had not informed either in the panchayati or any person in the village. In para 5 he has stated that he gave a written report in the gram sabha, a copy of which he has preserved which he can produce the same in the court. He has also admitted that there was no enmity with the accused
- III. **P.W.3(Dhananjay Mahato @ Fatik)** – He has reiterated the same story as narrated by P.W.1 and P.W.2. In his cross examination he has stated that the police had recorded his statement one and half month after the occurrence wherein he has stated that Buddhu Murmu was dragging the victim with his hand
- IV. **P.W.4(Gandhi Ram Murmu)** – He has also reiterated the same statement as stated made by P.W.1, P.W.2 and P.W.3. In his cross examination he has stated that P.W.1 Durjan Murmu and his wife were present prior to his coming out from the house and reiterated that the accused had caught

hold of the victim.

V. **P.W.5(the Victim Girl)**- She has deposed that on 21.06.2017 at about 11.30A.M. when she was returning home from school, as soon as she reached near Club House, the accused caught hold of her hand and started to drag her towards the forest. She raised alarm and the villagers arrived and freed her. She has stated at para 3 that the accused was taking her away for forced marriage. She has given her statement in the Court under Section 164 Cr.P.C on which she has put her signature. In cross examination at para no.3 she has stated that the written report was penned by her father. She had disclosed to the police that with a view to perform marriage the accused had caught hold of her hand.

VI. **P.W.6(Bisheshwar Kumar, ASI)**- He is the investigating officer of the case. He has deposed that on the date of occurrence he was posted at Chandil P.S. as ASI. After taking charge of the case he has recorded the statement of the witnesses and restatement of the informant. Thereafter, he has visited the place of occurrence. He has also recorded the statement of the victim girl. In cross examination he has stated that he had recorded the statement of the victim near her house.

8. The prosecution has also adduced documentary evidence as under:

- I. **Exhibit -1** – Written application
- II. **Exhibit-2**- Signature of victim (P.W.5) on the statement under Section 164 Cr.P.C.
- III. **Exhibit-1/2** –Endorsement
- IV. **Ext.3**-Formal FIR

9. After conducting full-fledged trial, the learned Trial Court has convicted and sentenced the appellant for the offence under Section 354 of the IPC and acquitted him of the charge under Section 8 of the

POCSO Act.

10. Learned counsel for the appellant by referring to the statement of the victim (P.W.5) has submitted that there was only allegation that the accused has proposed the victim for marriage and in that process, he had caught hold the hand of the victim for few minutes. No bad intention is alleged, which is *sine qua non* for invocation of Section 354 of the IPC. Mere making proposal for marriage cannot attract the ingredients of Section 354 of the IPC.

11. In support of her contention, learned counsel for the appellant has relied upon the judgment of the Hon'ble Supreme Court in the case of *Naresh Aneja @ Naresh Kumar Aneja Vrs. The State of Uttar Pradesh & Another* reported in *(2025)2 SCC 604*, relevant paragraph no. 20 and 24 are quoted hereunder:

“20. A bare perusal of Section 354 IPC reveals that for it to apply, the offence must be committed against a woman; criminal force must be applied against her; and such application of force must be with the intent to outrage her modesty.

24. It is well-settled that for mens rea to be established, something better than vague statements must be produced before the court. As evidenced by the annexures referred to above i.e. the FIR, the preliminary investigation report as also the concluding portion of the charge-sheet, no direct allegation nor any evidence, in support thereof can be found attributing intent to the appellant. It cannot be said, then, that a case under Section 354 IPC is made out against the appellant.”

12. Learned counsel for the State has supported the judgment of conviction passed by the learned Trial Court and has submitted that there are enough materials against the appellant and the learned Trial Court has rightly convicted the appellant.

13. Having heard learned counsel for the parties and on perusal of the record, it appears from the deposition of the victim girl (P.W.5) that the boy had merely proposed her for marriage and there was no bad intention on his part. As such, the ingredient of Section 354 of the IPC is not attracted.

14. Accordingly, the judgment of conviction dated 22.08.2023 and order of sentence, dated 28.08.2023 passed in POCSO Case No. 15 of 2017 arising out of Chandil P.S. Case No. 106 of 2017, by the learned Special Judge, POCSO Act, Seraikella Kharsawan are quashed and set aside.

15. It has been submitted by learned counsel for the appellant that appellant has already been released from custody after serving out his sentence.

16. The present criminal appeal is allowed.

17. Let the trial court record be sent to the concerned court, forthwith.

(Rajesh Kumar, J.)

A. Mohanty
Jharkhand High Court
Dated 08th July 2026

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