

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (SJ) No. 725 of 2005

[Against the judgment and order of conviction and sentence dated 07.06.2005 and 08.06.2005 respectively, passed by learned 7th Additional Sessions Judge, Palamau at Daltonganj in Sessions Trial Case No. 62 of 2004]

Shankar Ram, son of Shri Dukhi Ram and resident of village-Chorar
Tola-Teliadih, P.S.-Chhattarpur, District-Palamau (Jharkhand)

... .. **Appellant**

Versus

The State of Jharkhand

... .. **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Pradeep Kumar Deomani, Advocate
For the State : Mr. Fahad Allam, A.P.P.

J U D G M E N T

C.A.V. on 15.07.2026

Pronounced on 12/08/2026

1. I have already heard the arguments of Mr. Pradeep Kumar Deomani, learned counsel for the appellant and Mr. Fahad Allam, learned A.P.P. for the State.

2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 07.06.2005 and 08.06.2005 respectively, passed by learned 7th Additional Sessions Judge, Palamau at Daltonganj in Sessions Trial Case No. 62 of 2004, whereby and whereunder the appellant has been held guilty for the offences under Section 376/511 of the I.P.C and sentenced to undergo R.I. for seven years along with fine of Rs. 1000/- with default stipulation.

Factual Matrix

3. Factual matrix giving rise to this appeal is that on 02.10.2003 at about 01:30 P.M., prosecutrix was in her field near the Rehat, where her *devar* (brother-in-law), Santosh Uraon was also sitting with another man. It is alleged that she was talking with her *devar*, in the meantime, the

another man sitting with her *devar* also started putting some informal questions to her thereafter, Santosh Uraon left the place and went to his house and prosecutrix engaged in cutting fodder grasses. In the meantime, the another man sitting with her *devar* rust towards her and tried to commit sexual assault pushing on ground anyhow she escaped herself from the clutches of the accused and started fleeing away, but she was again caught by the accused and pushed in her paddy field and tried to commit sexual assault with her. The prosecutrix raised alarm then the accused fled away. The prosecutrix immediately rushed to her home and narrated the above incident to her *gotani*, Sukhani Devi and in the evening, her husband returned then she disclosed this incident to her husband and father-in-law and also her *devar*, Santosh Uraon. She also asked her *devar*, Santosh about the name of the person who was sitting with him near the Rehat just before the occurrence then Santosh Uraon disclosed the name of the accused as Shankar Ram of village Teliyadih. It is further alleged that in the next day, the family members of prosecutrix along with other villagers went to village Teliyadih to protest against the act of the accused and also convened a *Panchayat* in the village. She was also called at the *Panchayat* to identify the miscreant. Upon identification of the accused by the prosecutrix, the father of the accused told her to do whatever she likes. Hence, she went to Chhatarpur police station along with her husband and father-in-law to lodge this case.

On the basis of above information, Chhatarpur P.S. Case No. 92 of 2003 dated 04.10.2003 was registered for the offence under Section

376/511 of the I.P.C. against the accused.

4. After completion of investigation, charge-sheet was submitted against the accused for the aforesaid offence. The case was committed to the Court of Sessions, where S.T. Case No. 62 of 2004 was registered. The accused denied from the charge leveled against him and claimed to be tried.

5. In the course of trial, altogether 8 witnesses were examined by prosecution:-

- (i) *P.W.-1-Victim*
- (ii) *P.W.-2-Lal Jee Uraon*
- (iii) *P.W.-3-Bhuneshwar Uraon*
- (iv) *P.W.-4-Balkesh Uraon*
- (v) *P.W.-5-Umesh Uraon*
- (vi) *P.W.-6-Suraj Deo Uraon*
- (vii) *P.W.-7-Binod Uraon*
- (viii) *P.W.-8-Ranu Devi*

However, no documentary evidence has been adduced by the prosecution.

6. On the other hand, two defence witnesses, namely Chandrika Ram (D.W.-1) and Dukh Haran Ram (D.W.-2) have been examined by defence. However, no documentary evidence has been adduced by defence.

7. The case of defence is denial from occurrence and false implication only on the basis of suspicion and pleaded innocence.

8. The learned Trial Court after considering the evidence of

prosecution arrived at definite conclusion about guilt of the appellant for the offence charged against him and convicted and sentenced him as stated above, which has been assailed in this appeal.

Submissions on behalf of the Appellant: -

9. Learned counsel appearing on behalf of the appellant assailing the impugned judgment of conviction and order of sentence primarily on the ground that the learned Trial Court has placed undue reliance upon the testimony of the informant (P.W.-1), although her statements in the F.I.R. and in her examination-in-chief suffer from material contradictions. Learned counsel further submitted that the learned Trial Court has failed to appreciate the admissions and contradictions brought on record during the cross-examination of P.W.-1. It is contended that the evidence of P.W.-1, when considered in its entirety, does not inspire confidence and, therefore, could not have been made the sole basis for recording the conviction of the appellant. It is also submitted that the evidence of P.W.s-2 to 7 has not been appreciated in its true and correct perspective. The learned Trial Court has also failed to properly appreciate the evidence of D.W.s-1 and 2. The defence witnesses have supported the case of the appellant in a convincing manner, but their evidence has been discarded without proper consideration and without assigning cogent reasons. Learned counsel further submitted that the Investigating Officer has not examined by the prosecution and such non-examination has caused serious prejudice to the appellant. It is further argued that even if the prosecution case is taken to be true in its entirety, the essential ingredients constituting the offence punishable under Sections 376/511

of the I.P.C. are not established from the evidence available on record. The learned Trial Court has failed to examine whether the ingredients of the alleged offence stood proved beyond reasonable doubt and has consequently committed an error in law in recording the conviction of the appellant as such impugned judgment is liable to be set aside, allowing this appeal.

Submissions on behalf of the State: -

10. On the other hand, learned A.P.P. for the State has defended the impugned judgment of conviction and order of sentence on merits and submitted that the learned Trial Court has very wisely and aptly appreciated and analyzed the evidence available on record and rightly convicted the appellant. There is no merit in this appeal which is fit to be dismissed.

Analysis, discussions and reasons:-

11. Before imparting my verdict on above point, it is desirable to take brief resume of ocular testimony of witnesses examined during trial.

The main witness of this case is the prosecutrix herself, who is victim of the crime and has been examined as **P.W.-1**. According to her evidence, on the date of occurrence at about 02:00 P.M., she was cutting grass in paddy field then accused Shankar met and asked her to learn the skill of grass cutting from her, thereafter accused started teasing her and with intention to outrage her modesty laid down on earth when she started fleeing, she was again chased and caught hold by the accused and laid down, but she managed to flee away and disclosed the above incident to her *gotani* and other family members. On the next day, when

she went to fetch water, where the accused Shankar was present then she identified him to all the family members and her *devar* told her the name of the accused.

In her cross-examination, she admits that near her field, where she was cutting grass, there is field of accused also. She has denied the suggestion of defence that she has cut the grass from the ridge of accused field to which he protested and then she has lodged this false case. She further states that due to pushing down on earth she has sustained no injury.

P.W.-2, Lal Jee Uraon is not an eye-witness of occurrence, but came to know from the prosecutrix that while she was cutting grass in her field, the accused raised hands against her with intention to indecently assault him. In the next day morning, he along with prosecutrix went to the house of accused, where the accused was identified by the prosecutrix, thereafter case was lodged.

P.W.-3, Bhuneshwar Uraon has also came to know about the incident from prosecutrix that indecent assault committed by the accused.

P.W.-4, Balkesh Uraon is father-in-law of the prosecutrix. He has also came to know from the prosecutrix about the incident that while she was cutting grass, one person laid her down with intention to outrage her modesty.

P.W.-5, Umesh Uraon also came to know from the prosecutrix when returned to his home in the evening that Shankar Ram laid her down with intention to outrage her modesty.

P.W.-6, Suraj Deo Uraon also deposed that on the date of occurrence, he returned to his house in the evening, where the prosecutrix narrated the occurrence to him. On the next day morning, he went to village Telaiyadih along with other villagers and the prosecutrix, where the accused was identified.

P.W.-7, Binod Uraon has not stated anything about the occurrence. He was tendered for cross-examination by the prosecution.

P.W.-8, Ranu Devi is mother-in-law of the prosecutrix. She has stated that she returned to her house in the evening on the alleged date of occurrence with her cattle. Her daughter-in-law told her about the occurrence and stated that when she had gone to cut grass, Shankar had scuffled with her over the grass-cutting. On the next day, she went to the house of the accused along with her daughter-in-law, where her daughter-in-law identified the accused. Thereupon, Shankar Ram told them to do whatever they liked. Thereafter, they returned to the village.

On the other hand, **D.W.-1, Chanarika Ram** has also claimed to be present at the place of occurrence at his field situated nearby the place of occurrence, where prosecutrix and Shankar Ram was also present. Shankar Ram was looking after his paddy crop. He has further stated that prosecutrix was cutting paddy for the purpose of fodder from the field of Shankar Ram to which he protested then prosecutrix raising *hulla* started calling villagers and lodged this false case. This witness happens to be paternal grandfather of the accused.

D.W.-2, Dukh Haran Ram has also deposed in the same lines as D.W.-1, wherein he has stated that he was also present at the place of

occurrence and further stated that the prosecutrix was cutting paddy crop from the field of Shankar Ram upon protest, she has lodged this false case.

12. The learned Trial Court after considering the evidence of prosecutrix held the appellant guilty for the offence under Section 376/511 of the I.P.C. However, the statement of victim as depicted in F.I.R. is simply that she was twice thrashed to the ground with the intention to outrage her modesty, but she has stated nothing in specific terms as to what overt act was committed by the appellant towards commission of rape with her so that the offence may fall in the category of attempt. It further appears that just after the occurrence, she has complained and narrated the incident to several witnesses, but some of the witnesses have stated that the victim disclosed that the accused committed some *hathapai* with her, while she was cutting grass in her own field. The evidence of the prosecutrix, when considered in its entirety, does not disclose any specific or overt act on the part of the appellant which can be said to constitute an act towards the commission of rape so as to attract the ingredients of an offence punishable under Section 376/511 of the I.P.C. The conduct of the appellant simply shows that he has committed some act of assault with the prosecutrix, which may likely to outrage her modesty and nothing overt act has been committed towards commission of the rape. Therefore, at best the offence falls under Section 354 of the I.P.C.

13. The prosecutrix has stated that the appellant twice pushed/thrashed her to the ground and thereafter she managed to escape

and raised alarm. However, there is no specific evidence regarding any attempt on the part of the appellant to commit sexual intercourse or any act sufficiently proximate to the commission of rape. The immediate disclosures made by the prosecutrix to her family members also indicate an act of assault/*hathapai* and an attempt to outrage her modesty, rather than an attempt to commit rape. The consistent evidence of the prosecutrix regarding the appellant having caught hold of her and pushed her to the ground, coupled with the surrounding circumstances, establishes that the appellant had committed an assault upon the prosecutrix with the intention of outraging or with knowledge that his act was likely to outrage, her modesty. Thus, the ingredients of Section 354 of the I.P.C. are made out against the appellant.

14. Accordingly, the conviction of the appellant under Section 376/511 of the I.P.C. is altered and modify to the offence under Section 354 of the I.P.C.

15. So far sentence of the appellant is concerned, it appears that it was the first offence of the appellant and he was never convicted for any offence as is apparent from the impugned judgment. Further, more than 22 years have elapsed from the date of commission of the alleged offence, therefore, considering the nature of offence committed by the appellant, his age, character and antecedent, it appears expedient in the ends of justice to award him sentence of imprisonment already undergone by him i.e. about 2 months during the trial of the case. Therefore, he is sentenced to undergo for the period already undergone by him.

16. In result, this appeal is **dismissed on merits with modification in conviction and sentence** as stated above.
17. Appellant is on bail, as such he is discharged from the liability of bail bond and sureties are also discharged.
18. Pending I.A(s), if any, stands disposed of.
19. 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

Dated 12/08/2026

Arpit/ N. A. F. R.

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