

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.173 of 2019

[Against the Judgment of conviction dated 25.11.2017 and Order of sentence dated 29.11.2017, passed by the learned Additional Sessions Judge -cum- Special Judge, POCSO Act, Simdega in Special (POCSO) Case No.20 of 2016].

Ashok Minz @ Laden @ Jagira Minz, aged about 41 years, son of Ishdor Minz, resident of village Tumbilpani, P.O & P.S. Kurdeg, District Simdega, Jharkhand. **Appellant**

Versus

The State of Jharkhand **Respondent**

PRESENT

HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Ms. Amrita Banerjee, Advocate
For the State : Mr. Shree Prakash Jha, A.P.P

Order No.05/ Dated: 23rd April, 2026

1. Heard Ms. Amrita Banerjee, learned counsel for the appellant (through JHCLSC) and Mr. Shree Prakash Jha, learned A.P.P.
2. The present appeal is directed against the Judgment of conviction dated 25.11.2017 and order of sentence dated 29.11.2017, passed by the learned Additional Sessions Judge -cum- Special Judge, POCSO Act, Simdega, in Special (POCSO) Case No.20 of 2016, whereby the appellant has been convicted under Sections 386/ 354A of the Indian Penal Code (IPC) and Sections 8/ 12 of the Protection of Children from Sexual Offence Act, 2012 (POCSO Act), and has been sentenced to undergo rigorous imprisonment for five years with fine of Rs.5,000/- with default clause for the offence under Section 386 I.P.C., rigorous imprisonment for

three years with fine of Rs.1,000/- with default clause for the offence under Section 354A IPC and for the offence under Sections 8/ 12 of the POCSO Act, he has been sentenced to undergo rigorous imprisonment for five years with fine of Rs.5,000/- with default clause. All the sentences were directed to run concurrently.

3. The criminal law has been put into motion by lodging F.I.R being Kurdeg P.S. Case No.22 of 2016 dated 31.08.2016, has been registered under Sections 386/ 354 of the Indian Penal Code and Section 8 of the POCSO Act.

As per the F.I.R, the statement has been taken in the courtyard of the house of the victim. The seizure list has been prepared then and there at 09.15 A.M on the same date.

The prosecution story, in short, as per the *fardbeyan* of the informant is that at about 8.00'O clock night Jagira Minz @ Laden, the above named sole accused, came in his house and demanded cash Rs.1,00,000/- (Rupees one lakh) on knife point and threatened to kill his entire family if said money will not be paid. Then out of fear, he paid cash Rs. 1,000/- (Rs. One Thousand) and delivered one *murga* to said accused from his house. Then the said accused threatening him that today he is going back with said articles and told him that on the next day he will again visit his house and asked him to make arrangement of entire amount otherwise consequences will be dire. He further alleged that on dated 31.08.2016 at about 7.00'O clock

morning the above named accused armed with a weapon (DAULI) came in his house and demanded money from him. then he replied that money is not with him. Then with anger, the said accused by force, caught hold the hand of his daughter /victim with bad intention and tried to take her in his room. Then he raised alarm SAVE-SAVE. On his alarm, his co-villagers reached there and saved his daughter/ victim from clutches of the said accused and out of anger, the co-villagers in the course of setting free assaulted the accused, who sustained injury and thereafter with the help of the co-villagers, the matter was informed to the local police and thereafter local police came in his house and recorded his *Fardbeyan* and after reading and finding the same true in the presence of his co- villager namely, Digamber Manjhi, he put his thumb impression over it.

The police, after completing the investigation, has submitted the charge-sheet and the trial court has framed the charge under Sections 386, 354-A of the I.P.C and under Sections 8/12 of the POCSO Act. Thereafter, the case has been committed to the court of Sessions to which the appellant has pleaded innocence and claimed to be tried and accordingly, the trial has commenced.

4. To substantiate the charges, the prosecution has examined altogether 12 witnesses. Their depositions, in short, are as follows:-

5. **P.W.-1, Ram Sagar Manjhi**, is a hearsay witness. He

deposed that he reached at the place of occurrence, after the alleged incident and he is witness to the presence of the appellant in the courtyard.

6. **P.W.-2, Mahindra Manjhi**, is the informant of the case. In his statement, he has deposed that on 23.08.2016 on demand of Rs.1,00,000/- and threatening by the accused, he has given Rs.1,000/- and one *murga* to the accused and assured him that you come after sometime then he will make arrangement of money. He further stated that after a week, the accused again came on the fateful day and it has been alleged that he has demanded the money and has tried to molest his minor daughter, aged about 14 years. He has further stated that he had gone to *thana* for recording of his statement and handed over the *dauli*, taken from the accused, as the accused has been apprehended by the villagers and he has been assaulted also.

In cross-examination, he has stated that he has been threatened by the accused that his daughter will be kidnapped, if the money is not given. He has denied the suggestion that his daughter is a major girl. He has denied that this is a false allegation.

7. **P.W.-3, Surendra Manjhi**, is the brother of the informant. He has reiterated the prosecution story, but in cross-examination, he has stated that the story has been told to him by his brother, Mahindra Manjhi.

He has further stated that he has reached the place of

occurrence on hearing *hulla* and the accused has been apprehended by the villagers and the police has come at the spot.

8. P.W.-4, Madan Manjhi, is also the brother of P.W.-3 and he has stated that he has reached the place of occurrence on hearing *hulla* and the accused has been handed over to the police at the place of occurrence itself.

P.Ws-3 & 4, both have stated the date of incident as 23.08.2016.

In cross-examination, both have stated that the incident came to their knowledge on the next date on the information given by the informant.

9. P.W.-5, Prabhasini Devi, is the wife of the informant and the alleged eye witness. She has stated that on 23.08.2016 on demand of money by the accused, her husband has collected money from the neighbours and thereafter, Rs.1,000/- has been given to the accused. Again on 31.08.2016, the accused had come and tried to molest her daughter. She has also stated that the accused has been apprehended by the villagers and the police has come at the spot and there itself the accused has been handed over to the police.

In cross-examination, she has denied that the accused was known to the family.

10. P.W.-6, XXXX, is the victim and she has stated that on 23.08.2016, Rs.1,000/- has been given to the accused after collecting the same from the neighbours and again on

the fateful date, the accused came and demanded and thereafter, out of anger he has caught hold her, but she has denied that it was with any bad intention. She has also stated that the accused has been handed over to the police on the place of occurrence itself.

In cross-examination, she has stated that the accused has said that if the money is not given to him then he will kill her, but no sexual intent has been accepted by her, who is the main victim, as per the F.I.R.

11. P.W.-7, Shera Samson Tirkey, is the Judicial Magistrate and he has proved 164 Cr.P.C statement of the victim girl.

12. P.W.-8, Ram Das Bhagat, is the police personnel and he has identified the *dauli*, the weapon of crime.

13. P.W.-9, Dr. Shyam Sunder Paswan, is the doctor, who has proved the injury of the accused.

14. P.W.-10, Digamber Manjhi, is a seizure list witness. He has stated that the seizure has been made on 31.08.2016 at the place of occurrence itself, but in cross-examination, he has stated that the incident was told to him in the next morning.

15. P.W.-11, Bajru Manjhi, is also a seizure list witness and he has stated the same thing.

16. P.W.-12, Jaglal Bhagat, is the Investigating Officer of the case and he has stated that on being assigned the investigation, inspected the place of occurrence. He has stated that he has recovered the *dauli* and seized it.

Thus, as per him, after taking the investigation the seizure of the alleged *dauli* has been made.

In cross-examination, he has stated that the witnesses have never said that Rs.1,000/- has been given after arranging it from the neighbours. They have never stated that the apprehended accused was kept at the place of occurrence by tying on. The accused has been assaulted and he has sustained injury, but no F.I.R has been lodged.

17. On culmination of trial, the appellant has been found guilty and convicted under Sections 386/ 354A of the Indian Penal Code (IPC) and Sections 8/ 12 of the POCSO Act and sentenced him as stated above.

18. Being aggrieved by the aforesaid judgment of conviction, the appellant has preferred the present appeal.

19. Learned counsel for the appellant has tried to assailed the veracity of the witnesses stating that the entire story is false and fabricated, rather there was transaction of money and for demanding the lended amount, the appellant had gone to the house of the informant and this false case has been lodged just to deny the money which has been taken by the informant.

Referring to the deposition of the different witnesses, it has been submitted by the learned counsel for the appellant that :-

(i) P.W.1 although has stated that he has reached at the place of occurrence after hearing *hulla* and the accused has been handed over to the

police, but this factum has been denied by the Investigating Officer itself and further, the seizure list itself suggests that *dauli* has been seized at the place of occurrence and the appellant-accused was also apprehended therein, but this gets contradicted from the statement of the I.O because he has stated that only after lodging of the F.I.R., he has inspected the place of occurrence.

(ii) P.W.-2 is the informant and he has stated nothing about the alleged weapon, used in the crime. He has stated that he has given Rs.1,000/- from his house itself and he has not stated that he had made arrangements by collecting it from the neighbours. Further, no person has been examined and there is no corroborative material available on record suggesting that the money has been arranged from the neighbours. He has stated that his daughter has been caught hold by the appellant with bad intention, but this factum has been denied by the victim girl herself. He has also denied the suggestion that the victim is a major girl, but there is no material whatsoever regarding the age of the victim girl. Thus, his deposition is not reliable at all.

(iii) P.W. -3 is the brother of the informant and he has stated that he got the information on the next morning of the incident, but in the main

statement he has stated that he has gone to the place of occurrence and has handed over the appellant to the police. Thus, his statement also gets demolished in cross-examination.

(iv) P.W.-4 is one of the brother of the informant and his statement is of similar nature and in the same way his evidence is also not reliable.

Both these witnesses have stated that the date of occurrence is 23.08.2016, but in fact, it is 31.08.2016. Thus, both these witnesses are not reliable rather, their statements clearly suggest that it is false deposition.

(v) P.W.-5 is the wife of the informant. She was present at the place of occurrence. She has stated in the same way, as per the F.I.R., but she has stated that the accused has been handed over to the police at the place of occurrence itself. She has stated that the accused was not known to the family, but this fact gets negated as other witnesses have clearly stated that the accused used to come to the house of the informant. She has also stated that the money has been arranged, but there is no such evidence available on record neither any person has been examined to suggest that they have lended money to this appellant on that date. Thus, this witness is an interested

witness and her statements are full of contradiction rather not reliable.

(vi) P.W.-6 is the daughter of the informant and she has clearly stated that there was no bad intention rather she has only supported the story of the informant and further, there is no evidence regarding the age of the victim. Thus, her evidence is also not reliable.

(vii) P.W.-7 is of no importance as he has only proved 164 Cr.P.C statement.

(viii) P.W.-8 is the witness of production of seized *dauli*.

(ix) P.W.-9 is the doctor who has proved the injury of the accused-appellant.

(x) P.Ws.-10 & 11 are the seizure list witnesses. They have stated that seizure have been made in their presence, but in cross-examination, they have stated that the informant had told them regarding the incident on the next date. Thus, the seizure is doubtful, as their signature has been taken subsequently.

(xi) P.W.-12 is the Investigating Officer and he has stated that *dauli* has been recovered. He has never stated that it has been handed over to him as per the statements of the witnesses. He has also stated that it was never told to him that the money has been arranged from the neighbours. Thus, he

has contradicted the statements of the prosecution evidence.

20. On the basis of above pointing out, learned counsel for the appellant has submitted that the evidence of the entire witnesses is doubtful. They have stated the story in a stereo type manner, but on close scrutiny, it is very much clear that all the witnesses except the informant, wife of the informant and the victim girl, have stated that they reached at the place of occurrence on hearing *hulla*. They have caught hold the present accused-appellant and after some assault, he has been handed over to the police and the *dauli* was also handed over to the police. The F.I.R has also been lodged at the place of occurrence itself. But, this fact gets negated by the statement of the investigating officer.

Further, the other witnesses have clearly stated they have been informed regarding the incident on the next morning. Some of the witnesses have stated that the date of occurrence is 23.08.2016 while it is 31.08.2016.

Further, there is improvement in the story as they have stated that Rs.1,000/- has been given to the accused after arranging it from the neighbours, but no such evidence has been brought on record. Thus, it is a clear cut case where the money has been demanded by this appellant which he had lended to the informant and on demand, this false and fabricated case has been lodged.

21. On the above basis, it has been submitted that the

conviction of the appellant under Section 354-A IPC and 8/12 of the POCSO Act cannot sustain as the victim has herself denied such incident. So far as conviction under Section 386 IPC is concerned, the presence of the appellant has been proved, but the transaction of money has not been proved.

22. On the other hand, learned counsel for the State has supported the judgment of conviction and order of sentence, stating that all the witnesses have clearly stated that the money has been demanded. The appellant has sustained injury and as such, his presence at the place of occurrence cannot be denied. The *dauli* has also been seized, which suggests that this appellant was present at the place of occurrence with a weapon.

23. Having heard learned counsel for the parties, from perusal of records and marshalling of the facts, as disclosed above, this Court finds that :-

(a) So far as conviction of the appellant under Section 354-A IPC and Sections 8/ 12 of the POCSO Act, is concerned, the victim has never felt the bad touch and she has clearly stated in her statement that there was no intention of bad touch. Thus, the conviction under Section 354A IPC and Sections 8/ 12 of the POCSO Act, is not sustainable and the same is hereby, quashed and set aside.

(b) So far as conviction under Section 386 IPC

is concerned, the presence of the appellant is there, but the defence has been taken that he had gone there for demanding his own money, is a probable story. The Contradiction in the statement of the witnesses, especially, the money has been given to the appellant after arranging it from the neighbours, gets no corroboration and further, this was not stated before the I.O. The place of occurrence is also doubtful, as all the witnesses have stated that the F.I.R has been drawn at the place of occurrence, the appellant has been handed over at the place of occurrence and the seizure has been made on the same place, while the seizure list witnesses i.e. PWs.-10 & 11 have clearly stated that they have got the information regarding the incident on the next date. Thus, the entire seizure of the weapon is doubtful.

Thus, this Court finds that the prosecution has miserably failed to prove the necessary ingredients of Section 386 IPC. Mere presence in the house of the informant cannot be a ground for conviction under Section 386 IPC. Accordingly, this Court finds that the conviction of the appellant under Section 386 IPC is also bad in law and accordingly, it is, hereby, quashed and set aside.

24. In view of above discussions, the Judgment of conviction dated 25.11.2017 and order of sentence dated

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29.11.2017, passed by the learned Additional Sessions Judge -cum- Special Judge, POCSO Act, Simdega, in Special (POCSO) Case No.20 of 2016 is, hereby, quashed and set aside.

25. In the result, the appeal stands allowed and accordingly disposed of.

26. The appellant is on bail, hence, he is discharged from the liability of bail bond.

27. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

28. This Court appreciates the assistance rendered by Ms. Amrita Banerjee, learned counsel for the appellant.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 23rd April, 2026
Ravi-Chandan/- NAFR
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