

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 370 of 2009

[Against the Judgment of conviction and Order of sentence dated 04.04.2009 passed by learned Sessions Judge, Godda in Sessions Case No. 237 of 2006].

Santosh Mishra @ Lappu Mishra, son of Jaykant Mishra,
 resident of Village – Sinpur, P.O. and P.S.-Mahgama,
 District – Godda.

	...	...	Appellant
	Versus		
The State of Jharkhand	...	...	Respondent

.....	
For the Appellant	: Mr. S.P. Roy, Advocate.
For the Respondent	: Mrs. Mahua Palit, A.P.P.

.....
P R E S E N T
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

Dated 20th April, 2026

By Court: Heard Mr. S.P. Roy, learned counsel for the
 appellant and Mrs. Mahua Palit, learned A.P.P.
 appearing for the State.

- 2.** Above named appellant has preferred this criminal appeal challenging his judgment of conviction and order of sentence dated 04.04.2009 passed by learned Sessions Judge, Godda in Sessions Case No. 237 of 2006, whereby and whereunder, the appellant has been held guilty for the offence under Section 354 of the I.P.C. and sentenced to undergo R.I. for two years and to pay fine of Rs. 1,000/- with default stipulation.

FACTUAL MATRIX

- 3.** The factual matrix giving rise to this appeal in a narrow

compass is that on 14.06.2006, the victim was alone in the house of her married sister, as her sister and her family members had gone to attend a feast. At about 8:45 P.M., their neighbour Santosh Mishra @ Lappu Mishra came and asked her for a chicken from the victim. The victim informed that there is no chicken in the house nor anybody else is in the house and her sister had gone to attend a feast in connection with a marriage to a nearby place. The victim came near the door, but the accused followed her inside the house and caught hold her hand and forcibly dragged her to the room situated towards the west. Thereafter the accused pushed the informant on the ground and tried to commit rape on her by removing her saree, but could not succeed, as in the meanwhile informant's sister came over there and on seeing her sister, the accused fled away from there.

- 4.** On the basis of above information, FIR being Mahgama P.S. Case No. 80 of 2006 was registered against the appellant for the offence under Sections 376/511 of the I.P.C.
- 5.** After completion of investigation, the I.O. of the case has submitted charge sheet against the accused under the aforesaid offence. After submission of charge sheet, the cognizance was taken and the case was committed to the court of Sessions, where the charges were framed under

Sections 376/511 of the I.P.C., to which the appellant pleaded not guilty and claimed to be tried.

6. In order to substantiate the charges leveled against accused, altogether 11 witnesses were examined by the prosecution.
7. Apart from oral evidence of ocular witnesses, following documentary evidences were also adduced.

Exhibit-1 : Fardbeyan.

Exhibit-2 : Formal F.I.R.

8. The case of defence is that appellant is an innocent person and has committed no offence at all and has been falsely implicated in this case. However, no oral or documentary evidence has been adduced by the defence.
9. The learned trial court, after evaluating the evidence available on record, held the appellant guilty for the offence under Section 354 of the I.P.C. and sentenced as stated above.
10. Being aggrieved with the impugned judgment of conviction and order of sentence dated 04.04.2009, this Criminal Appeal has been preferred on behalf of the appellant.
11. Learned counsel for the appellant has submitted that the appellant has been convicted for the offence under

Section 354 of the I.P.C. The allegation against the appellant is that he pushed the victim in her house upon some scuffle due to purchase of hen. It is further submitted that the appellant was falsely implicated in this case. Informant party had poultry farming business and their cocks, hens and chickens used to wander near the house of the appellant, who belonged to brahmin community, who objected for the same. Hence, he was falsely implicated in this case, no such occurrence took place as stated by prosecution.

- 12.** In alternative, it is submitted that the appellant has already undergone 09 months custody, out of two years R.I. imposed upon him. It is further submitted that the occurrence is of the year 2006 and about two decades have been passed. The victim was also not a local inhabitant, rather she has come to her sister's house and now peaceful cordial relationship restored with the neighbour, who are relative of victim lady. Therefore, appellant has been sufficiently punished for his guilt and his sentence may be reduced to the extent of imprisonment already undergone by him.
- 13.** On the other hand, learned APP has defended the impugned judgment of conviction and order of sentence on merits.
- 14.** It appears that the first information was lodged in the

year 2006 for the offence under Section 376/511 of the I.P.C. against the appellant and now about two decades have been passed from the date of occurrence. During course of trial, the victim was examined as P.W.-10 and she has categorically stated in her cross-examination that when she came out to say that the hen is not available in the house, then the accused appellant had pushed her, upon which, she started raising alarm and nearby persons assembled there then the appellant fled away, meaning thereby other allegation regarding dragging and tried to commit rape are only after thought and has been levelled with an oblique motive.

15. Therefore, on merits, I find no reason to interfere with the impugned judgment of conviction, but so far quantum of sentence is concerned, considering the facts and circumstances of case, nature of offence committed by the appellant, his age, antecedent and character and also in view of the fact that considerable period has elapsed from the date of occurrence and appellant has also remained in custody for nine months, out of two years sentence, I feel inclined to reduce / alter the sentence of the appellant to the period already undergone instead of imprisonment of two years as awarded by the learned trial court.
16. Accordingly, this appeal is **dismissed** on merits with modification in sentence as stated above.

17. The appellant is on bail. As such, he is discharged from liability of bail bond and sureties shall also discharged
18. 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 : 20th April, 2024

Sunil / **N.A.F.R.**

Uploaded On : 24/04/2026