

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.1386 of 2008

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[Against the Judgment of conviction dated 13.08.2008 and order of sentence dated 27.08.2008, passed by learned Additional Sessions Judge, Simdega in S.T. No.55 of 2003]

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1. Prem Kandulna son of Late Mansid Kandulna residence of village Bedalrgi, police station – Bano District Simdega.
2. Sanjay Kandulna son of Sri Inda Kandulna residents of village Birta, police station – Bano District – Simdega

... **Appellants**

Versus

The State of Jharkhand

... **Respondent**

For the Appellant : Md. Zaid Ahmad, Adv.
Mr. Ashutosh Agarwal, Adv.
For the State : Mrs. Nehal Sharmin, Spl. P.P.

P R E S E N T

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated - 01.07.2026

By Court:- Heard Md. Zaid Ahmad , learned counsel appearing for the appellant as well as learned Spl. P.P. for the State.

2. Instant criminal appeal has been preferred by the appellants against the judgment of conviction dated 13.08.2008 and order of sentence dated 27.08.2008 passed by learned Additional Sessions Judge, Simdega in S.T. No.55 of

2003, whereby and whereunder the appellants have been held guilty for the offences under Sections 366/511 of the Indian Penal Code and sentenced to undergo R.I. for 5 years along with fine of Rs.5,000/- each with default stipulation.

3. Factual matrix giving rise to this appeal as emerging from the written report of the informant, is that the informant's mother had been suffering from mental illness for the last five years and was being treated through local 'Bhagats' and Ayurvedic remedies, though without improvement. During the course of such search for treatment, the informant came in contact with accused Prem Kandulna, a 'Bhagat' residing at village Bera Irgi and on 25.01.2002, she was taken there for treatment. It is alleged that during such treatment, accused Prem Kandulna pressurized the informant to marry him, which was continuously declined. Thereafter, the accused allegedly continued visiting the informant's house in connection with the treatment of her mother. It is further alleged that on 19.02.2003 at about 6:00 P.M., accused Prem Kandulna along with co-accused Sanjay Kandulna came to the informant's house and attempted to forcibly take her away for marriage. Upon alarm being raised, several villagers assembled there, whereupon the accused persons

attempted to flee but were apprehended by the villagers and subsequently handed over to the police.

On the basis of above written report, Jaldega P.S. Case No. 05 of 2003 was registered for the offences under Sections 366/511 of the I.P.C.

4. After completion of the investigation, charge-sheet was submitted against the appellants for the aforesaid offences and accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions where S.T. No.55 of 2003 was registered. Charges were framed against the appellants which was read over and explained to them for which they pleaded not guilty and claimed to be tried.

5. In the course of trial, altogether nine witnesses were examined and several documentary evidences were also adduced by the prosecution.

6. On the other hand, no oral or documentary evidence has been adduced by the defence.

7. After conclusion of trial, impugned judgment and order has been passed which has been assailed in this appeal.

8. Learned counsel for the appellant without touching the merits of the judgment has confined himself towards the quantum of sentence. It is submitted that the simple

allegation against the appellant No.1 is that on the date of occurrence, he dragged the informant with intention to abduct her for solemnizing marriage with her but was immediately apprehended and should not succeed. Therefore, the appellants have been convicted and sentenced for the offences under Sections 366/511 of the I.P.C. and directed to undergo R.I. for five years. It is further submitted that it was first offence of the appellants and he has no criminal background. The occurrence is of the year 2003. Both the parties have solemnized their marriage and happily discharging their conjugal lives having family and children. Now no useful purpose will be served in sending the appellants to custody after two decades of the occurrence. The appellant No.2 Sanjay Kandulna is simply alleged to have assisted the appellant No.1 Prem Kandulna in commission of the said offence. As per custody report submitted by the State, both the appellants have remained eight months and 18 days in custody during investigation, trial and post-conviction. As such, appellants have sufficiently been punished for their guilt and the sentence awarded to the appellants may be reduced to the imprisonment already undergone.

9. On the other hand, learned Spl. P.P. appearing for the State has defended the impugned judgment on merits. So far as quantum of sentence is concerned, no serious objection has been raised.

10. I have gone through the impugned judgment and order along with the record of the case in the light of rival contentions of the learned counsel for the respective parties.

11. Considering the facts and circumstances of the case, genesis and manner of occurrence under which the offence was committed by appellants and after evaluating the evidence of the witnesses, P.W.1, P.W.2, P.W.3, P.W.4, P.W.5, P.W.6, P.W.7 and P.W.8 consistently establishes that the accused persons had forcibly dragged the victim with an intention to marry her against her will. P.W.1 specifically stated that the victim was dragged for about 400–500 yards, while P.W.2 categorically deposed that the accused persons were taking the victim by force and the villagers rescued her and apprehended the accused persons. The victim herself, examined as P.W.5, fully supported the prosecution case and remained unshaken on the material particulars. The ocular testimonies of the witnesses are natural, consistent and duly corroborated by the Investigating Officer (P.W.9). The acts of

forcibly dragging and attempting to take away the victim clearly constitute an attempt to compel marriage, therefore, the conviction of the appellants for the offences under Sections 366/511 of the I.P.C passed by the learned Trial Court is upheld.

12. So far as the sentence of the appellants are concerned, it appears that the occurrence is of the year 2003 and more than two decades have been elapsed and out of five years' imprisonment, both appellants have remained 8 months and 18 days in custody, therefore, no useful purpose would be served by sending the appellants again in jail for sustaining the rest of the imprisonment. Therefore, sentence is reduced from five years of R.I. to imprisonment already undergone by them.

13. Accordingly, this appeal is **dismissed on merits with modification in sentence** as stated above.

14. The appellants are on bail, hence, they are discharged from the liability of bail bond. The sureties are also discharged.

15. Pending I.A., if any, stands disposed of.

16. Let a copy of this judgment along with Trial Court record be sent back immediately to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 01/07/2026

Sachin / **NAFR**

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