

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 507 of 2008

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*[Against the Judgment of conviction and sentence dated 04.04.2008
passed by learned Additional Sessions Judge, Fast Track Court No.I,
Gumla in Sessions Trial Case No.306 of 2006]*

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Nutan Bage son of Junul Bage, resident of village Takarma Hata,
P.S. Basia district Gumla ... **Appellant**

Versus

The State of Jharkhand ... **Respondent**

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For the Appellant : Mr. Shashikant Ojha, Adv.
Mr. Abhay Kumar Singh, Adv.
For the State : Mr. Gautam Rakesh, A.P.P.

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

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JUDGMENT

Dated- 06.05.2026

1. Heard the arguments advanced by Mr. Shashikant Ojha, learned counsel for the appellant as well as Mr. Gautam Rakesh, learned A.P.P. appearing for the State.
2. Instant criminal appeal is directed against the judgment of conviction and sentence dated 04.04.2008 passed by learned Additional Sessions Judge, Fast Track Court No.I, Gumla in Sessions Trial Case No. 306 of 2006, whereby and whereunder the appellant has been held guilty for the offence

under Section 493 of the Indian Penal Code and sentenced to undergo rigorous imprisonment (R.I.) for three years along with fine of Rs.5000/-.

3. Factual matrix giving rise to this appeal as emerging from the written report of the victim dated 10.06.2006 is that the accused Nutan Bage on the false assurance and promise of marriage, established physical relationship with the victim in the month of June 2004 and continued to subject her to sexual intercourse on such inducement for about two years. It is alleged that as a consequence thereof, the victim became pregnant and ultimately gave birth to a female child on 07.04.2006. The prosecutrix asserting the accused to be the father of the child, born out of the said relationship. It further transpires that repeated village panchayats were convened on 04.03.2006, 15.03.2006 and 27.03.2006 with a view to settle the dispute, but the accused failed to appear therein. In such circumstances, the victim alleged that the accused had deceitfully established physical relations with her under the pretext of marriage and thereby committed the offence alleged against him.

On the basis of above written report of the informant, Basia P.S. Case No. 62 of 2006 was registered for the offence under Section 376 of the Indian Penal Code against the accused appellant.

4. After completion of investigation, charge-sheet was submitted against the accused appellant for the aforesaid offence. Accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions where Sessions Trial Case No. 306 of 2006 was registered. Charge was framed against accused appellant under Section 376 of the I.P.C. on 02.02.2007 which was read over and explained to him, to which he denied and claimed to be tried.

5. In the course of trial, altogether six witnesses were examined and several documentary evidence 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 submits that the appellant was charged for the offence under Section 376 of the I.P.C. while the learned Trial Court after evaluating the evidence of the victim as well as other materials available on record acquitted the appellant from the aforesaid charge but has convicted and sentenced the appellant for the offence under Section 493 of the I.P.C. It is further submitted that no ingredient of offence under Section 493 of the I.P.C. is attracted in this case. Therefore, conviction and sentence of the appellant suffer from serious error of law. It is further submitted that the victim in her evidence herself admitted that just after lodging the case she got married with another person and she had no complain with the appellant (accused). She has also admitted that she is major one and indulged in sexual activities on assurance of marriage by the accused. She has also admitted in a Court question that she compromised with the accused with the condition that both will live their life in their own way and after the compromise with the accused, she solemnized her marriage on 19.05.2007 with one Johan Suren. Therefore, the conviction and sentence of the appellant for the offence under Section 493 of the I.P.C.

is absolutely illegal and liable to be set aside by allowing this appeal.

9. On the other hand, learned A.P.P. appearing for the State has opposed the aforesaid contentions raised on behalf of the appellant and submitted that there is no illegality or infirmity in the impugned judgment calling for any interference in this appeal which is fit to be dismissed.

10. I have gone through the record of the case along with the impugned judgment and order in the light of contentions raised on behalf of both side.

11. It appears that prosecutrix was indulged in sexual activities initially on the offer of marriage advanced by the present appellant in the month of June 2004. The said relationship continued over two years and in the meantime, the victim who was a major lady became pregnant and also delivered a child thereafter, Panchayati was also convened but of no result and marriage could not be materialized between informant and the present appellant, thereafter, this case was instituted. In the course of trial, the victim was examined as P.W.2 and has admitted that there was consensual sexual relationship for a long period of two years

with the accused, however, on assurance of marriage. Keeping in view the aforesaid aspect, the learned Trial Court has acquitted the appellant for the offence under Section 376 of the I.P.C. The learned Trial Court proceeded under Section 493 of the I.P.C. observing at para 20 that "*the essence of offence under Section 493 of I.P.C. is that while a woman is not in reality the wife of the accused, it must be shown that accused deliberately caused the deception so as to induce a belief in the mind of the woman that she is or has become his wife and in pursuance of that deception he induced her for which she agreed to cohabit with him or to have sexual intercourse with said person.*" In this context, the relevant provision of Section 493 of the I.P.C. is extracted as under :-

"493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage. – Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

12. A plain reading of above section goes to show that in order to constitute an offence under this Section it has to be demonstrated that a man has deceitfully caused any woman,

who is not lawfully married to him, to believe that she is lawfully married wife and thereby to cohabit with him. In other words, the accused must induce a woman, not lawfully married to him to believe that she is married to him and as a result of such misrepresentation, woman should believe that she was lawfully married to the man and thus there should be cohabitation or sexual intercourse.

13. In the case of *Ram Chandra Bhagat v. State of Jharkhand*, (2013) 1 SCC 562, the Hon'ble Apex Court has observed as under :-

"7. ... Upon perusal of Section 493 IPC, to establish that a person has committed an offence under the said section, it must be established that a person had deceitfully induced a belief to a woman, who is not lawfully married to him, that she is a lawfully married wife of that person and thereupon she should cohabit or should have had sexual intercourse with that person. Looking at the aforestated section, it is clear that the accused must induce a woman, who is not lawfully married to him, to believe that he is married to her and as a result of the aforestated representation, the woman should believe that she was lawfully married to him and there should be cohabitation or sexual intercourse as a result of the deception."

14. Keeping in view the ratio of above decisions, it transpires that if a woman is induced to change her status

from that of an unmarried to that of a married woman with all the duties and obligations pertaining to the changed relationship and that result is accomplished by deceit, such woman within the law can be said to have been deceived and the offence under Section 493 I.P.C. is brought home.

In the instant case, the factual aspects as averred by the victim during trial and also as depicted in the F.I.R. clearly shows that they have not changed their status to be as husband and wife and there was no reasonable belief to the complainant or victim that she has been married with the accused appellant rather she was insisting upon solemnization of marriage even Panchayati was also convened but no fruitful result yield. Therefore, in my considered view, the ingredients of offence under Section 493 of the I.P.C. is also not available in this case and the conviction of the appellant for the said offence is absolutely illegal and unwarranted. Accordingly, impugned judgment and order of conviction and sentence of the appellant is hereby set aside and this appeal is **allowed**.

15. The appellant is on provisional bail which was later on confirmed by this High Court vide order dated 01.05.2008,

therefore, he is discharged from the liability of bail bond and the sureties are also discharged.

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

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 06/05/2026

Sachin / **NAFR**

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