

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 234 of 2005

(Against the judgment of conviction dated 18.01.2005 and order of sentence dated 19.01.2005 passed in Sessions Trial No. 104 of 1997 arising out of Dhanbad (Dhansar) P.S. Case No. 724 of 1996 corresponding to G.R. Case No. 2994 of 1996 by the Court of learned Mr. Prakash Chandra Chowdhuri, Additional Sessions Judge, Fast Track Court No. IV, Dhanbad)

1. Ranjit Kumar Das, S/o Brij Nandan Das, R/o Anugraha Nagar, P.S. Dhanbad, Dist. Dhanbad
2. Sanjay Paswan, s/o Jay Mangal Paswan, R/o Anugraha Nagar, Railway Line Side, P.S. Dhansar, Dist. Dhanbad.
3. Kaushalya Devi, w/o Late Nagina Paswan, R/o Village Bharthuinya, P.O. Barachakiya, Dist. Champaran East

--- --- **Appellants**

Versus

1. The State of Jharkhand
2. Victim 'X'

--- --- **Respondents**

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For the Appellant
For the State

: Mr. Rohit, Advocate
: Mr. Jitendra Pandey, A.P.P.

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

J U D G M E N T

30.10.2025 Heard learned counsel for the appellants and the learned A.P.P. representing the State.

2. The present appeal has been preferred against the judgment of conviction dated 18.01.2005 and order of sentence dated 19.01.2005 passed in Sessions Trial No. 104 of 1997 arising out of Dhanbad (Dhansar) P.S. Case No. 724 of 1996 corresponding to G.R. Case No. 2994 of 1996 by the Court of learned Additional Sessions Judge, Fast Track Court No. IV, Dhanbad, whereby the appellants have been convicted for the offence under Section 366/120B of the Indian Penal Code and they have been sentenced to undergo rigorous imprisonment

for seven years under each section and also to pay fine of Rs.500/- each and in default thereof, to further undergo S.I. for two months. All the sentences were directed to run concurrently.

3. The criminal law has been put into motion on lodging an F.I.R being Dhanbad (Dhansar) P.S. Case No. 724 of 1996 against one Shyama Gosai and Ram Nath Rawani and their wives, who were neighbours of the informant, who were suspected for kidnapping the daughter of the informant Parmanand Choudhari.

On 27.09.1996 in the night, the wife of accused Shyama Gosai called the informant's daughter where after she went missing. The informant on suspicion that Shyama Gosai, Ram Nath Rawani and their wives were involved in kidnapping his daughter, lodged F.I.R as aforesaid. Later on the informant's daughter was recovered by the Police from Motihari along with Ranjit Kumar Das, Kaushalya Devi and Sanjay Paswan, who are appellants in the present appeal.

4. On the basis of the investigation, the Police submitted chargesheet on 08.11.1996 against all the appellants for the offence under Section 366/120B of the IPC. Thereafter cognizance has been taken and the case was committed to the Court of Sessions.

5. Accordingly, the charge under Section 366/120(B) IPC was framed on 05.09.2000 against the appellants who denied the charge and claimed to be tried.

6. To substantiate the allegations altogether eight prosecution witnesses have been examined:

- I. P.W.1-Anjani Devi is the wife of the Informant and has supported the case of the prosecution.
- II. P.W.2-Parmanand Choudhari is the informant of the case and has supported the case of the prosecution.
- III. P.W.3-Hari Shanker Paswan has been declared hostile.
- IV. P.W.4- Ashok Gupta has been declared hostile.
- V. P.W.5- Rama Nand Singh has been declared hostile.
- VI. P.W.6- Dr. Rita Gupta, who has examined the victim girl

has not found any external or internal injury upon the body of the victim.

VII. P.W.7-Bangal Charan Das is the Investigating Officer of the Case, who has proved the F.I.R (Ext. 3)

VIII. P.W.8- Raj Kishore Singh is the then Judicial Magistrate, Dhanbad, who has recorded the statement of the victim under Section 164 Cr.P.C. marked as Ext.5

7. It has been submitted by learned counsel for the appellants that the basic ingredients of Section 366 IPC is that a major has been abducted against her will and this can be ascertained only on the basis of the evidence of the victim.

8. However, in the present case the victim has not been produced as a witness and only on the basis of her statement made under Section 164 Cr.P.C. the present appellants have been convicted.

9. It is settled principle of law that the statement made under Section 164 Cr.P.C. is not a substantial piece of evidence rather the witness has to move into the witness box for cross examination also as without giving opportunity of cross examination, no evidence is complete.

10. Since, there is no substantive piece of evidence to suggest that the victim, in question, has been taken away against her will and this evidence can be gathered only and only through the victim girl, who has not been examined in the present case, this Court finds that there is no evidence for conviction of the present appellants.

11. In view of the above facts and circumstances, this Court finds that the learned Trial Court has erred in recording the judgment of conviction against the present appellants.

12. Accordingly, the impugned judgment of conviction dated 18.01.2005 and order of sentence dated 19.01.2005 passed in Sessions Trial No. 104 of 1997 arising out of Dhanbad (Dhansar) P.S. Case No. 724 of 1996 corresponding to G.R. Case No. 2994 of 1996 by the Court of learned Additional Sessions Judge, Fast Track Court No. IV,

Dhanbad are quashed and set aside.

13. Since the appellants are on bail, they are discharged from the liability of their bail bond.

14. This Criminal Appeal is allowed.

(Rajesh Kumar, J.)

Dated 30th October 2025
A. Mohanty
Jharkhand High Court