

**(2024) 11 JH CK 0046**

**Jharkhand High Court**

**Case No:** Criminal Appeal (S.J.) No. 1414 Of 2006

Md. Alam Ansari

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

**Date of Decision:** Nov. 19, 2024

**Acts Referred:**

- Code of Criminal Procedure, 1973 - Section 164
- Indian Penal Code, 1860 - Section 366A, 376

**Hon'ble Judges:** Pradeep Kumar Srivastava, J

**Bench:** Single Bench

**Advocate:** Md. Faruque Ansari, Md. Hatim, Manoj Kr. Mishra

**Final Decision:** Dismissed

**Judgement**

Pradeep Kumar Srivastava, J

1. Heard Md. Faruque Ansari, learned counsel for the appellant and Mr. Manoj Kumar Mishra, learned A.P.P. appearing for the State.

2. Above named appellant has preferred this criminal appeal challenging his judgment of conviction dated 25.09.2006 and order of sentence dated

26.09.2006 passed by learned Sessions Judge, Latehar in Sessions Trial No. 10 of 2005, whereby and whereunder, the appellant has been held guilty

for the offence under Section 366 (A) of the I.P.C. and sentenced him to undergo R.I. for three years and to pay fine of Rs. 3,000/- with default

stipulation.

**FACTUAL MATRIX**

3. The factual matrix giving rise to this appeal in a narrow compass is that on 09.07.2004, the informant's daughter Roshan Ara and his another

sister Gulshan Ara returned to their house in tiffin time for taking meal and after taking meal, they were again going to their school, while they were in

mid-way to the school, accused Alam Mian forcibly compelled Roshan Ara to sit on his scooter and fled away from the place of occurrence.

4. On the basis of above information, FIR being Latehar P.S. Case No. 57 of 2004 was registered against the appellant for the offence under Section

366A of the I.P.C.

5. After completion of investigation, the I.O. of the case has submitted charge sheet against the accused Alam Mian. 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 366A and 376

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 person, altogether 13 witnesses were examined by the prosecution.

7. Apart from oral evidence of ocular witnesses, following documentary evidences were also adduced.

Exhibit-1:Â Medical Report.

Exhibit-2:Â Written application.

Exhibit-3:Â Endorsement.

Exhibit-4:Â Formal F.I.R.

Exhibit-5 : Admission Gulshan of Roshan Arah in Arah and admission register.

Exhibit-6 : Birth Certificate of Roshan Arah.

Exhibit-7 : Statement of Roshan Arah under Section 164 of the Cr.P.C.

Exhibit-8 : Requisition of Kamta Prasad (I.O.).

8. The case of defence is that appellant is an innocent person and has committed no offence at all. He has been falsely implicated in this case.

However, following documentary evidence has been adduced by the defence.

Exhibit-A : Signature of Roshan Arah on statement under Section 164 of the Cr.P.C.

Exhibit-B, B/1 & B/2 :Â Three greeting cards.

Exhibit-C : Daily attendance register of class 7th, month of July, 2004 of Chandandih Middle School, Latehar.

9. The learned trial court, after evaluating the evidence available on record, held the appellant guilty for the offence under Section 366A of the I.P.C.

and sentenced as stated above.

10. Being aggrieved with the impugned judgment of conviction dated 25.09.2006 and order of sentence dated 26.09.2006, this Criminal Appeal has

been preferred on behalf of the appellant.

11. Learned counsel for the appellant without touching the merit of the judgment confined himself towards quantum of sentence awarded to the

appellant for the offence under Section 366A I.P.C. It is submitted that the victim girl was below 18 years and appellant was also a boy and due to

love affairs, both proceeded together. Thereafter, under influence of her parents, the victim girl, in her statement recorded under Section 164 Cr.P.C.,

has projected a story of forceful abduction along with her younger sister by the appellant and keeping her four days in his house. It is further submitted

that although charge was framed under Section 376 I.P.C. also, but appellant was acquitted thereunder and the victim girl has also not stated anything

regarding any illicit relationship with her by the appellant or any other person. It is further submitted that in course of trial, appellant has remained in

custody about 02 years 03 months and maximum sentence awarded to him is three years by the learned trial court. More than two decades have been

elapsed from the date of alleged occurrence and both parties have settled in their life in their own ways without indulging in any other criminal

activities. Therefore, imprisonment already undergone by the appellant would meet the ends of justice in this case, instead of undergoing further

imprisonment awarded by the learned trial court. Therefore, this appeal may be disposed of with alternation in sentence.

12. On the other hand, learned APP has raised no serious objection to the aforesaid point of argument, rather defended the impugned judgment of

conviction and order of sentence on merits.

13. It appears that the first information was lodged in the year 2004 for the offence under Section 366A of the I.P.C. against the appellant. During

course of trial, the victim was examined as P.W.-9 and she has testified in clear terms that while she was returning from school for having mid-day

meal and thereafter, again proceeded to school and reached near the house of Junglee Ram, meanwhile, present appellant riding on a Scooter

forcefully got boarded her along with her younger sister and brought to his own house at Lohardaga and kept her confined for four days. Anyhow the

appellant came to know that case has been lodged by father of the victim, then he left her and thereafter, he was also arrested by the police. The

victim has not complained about any illicit relationship with her at the hands of appellant or any other person.

14. Therefore, on merits, I find no reason to interfere with the impugned judgment of conviction and order of sentence, 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 two years and

three months, I feel inclined to alter the sentence of the appellant to the period already undergone instead of imprisonment of three years as awarded

by the learned trial court.

15. Accordingly, this appeal is dismissed on merits, but with alteration in sentence as stated above.

16. The appellant is on bail, as such, he is discharged from liability of bail bond and sureties shall also be discharged

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