



2026:CGHC:26334

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 487 of 2008

Reserved on 22/06/2026
Pronounced on 29/06/2026

Raju Sahu S/o Sahas Ram Sahu, Aged About 24 Years, R/o Village Mudhapar, Chowki Hasaud, Jaijipur, District Janjgir Champa (CG)

... Appellant

versus

The State of Chhattisgarh, Through : Police Chowki Hasaud, Jaijipur, District Janjgir Champa (CG)

---- Respondent

For Appellant	:	Mr. S.C. Verma, learned Senior Counsel appears along with Ms. Pooja Sahu, Advocate.
For State/Respondent	:	Ms. K. Radhika, Panel Lawyer

Single Bench : Hon'ble Shri Justice Sanjay S. Agrawal

C A V Judgment

1. This appeal has been preferred by the accused/appellant under Section 374 of the Code of Criminal Procedure, 1973 (for short the Cr.P.C.), questioning the legality and propriety of the judgment of conviction and order of sentence dated 23.04.2008 passed by the learned Additional Sessions Judge, Sakti, District- Janjgir Champa (CG) in Sessions Trial No.167/2007, whereby, the appellant- Raju Sahu, has



been convicted and sentenced as under :-

Conviction	Sentence
Under Section 376 (1) of IPC	R.I. for 07 years and fine of Rs.500/-, in default of payment of fine to further undergo R.I. for 03 months.
Under Section 506 Part-II of IPC	R.I. for 03 years and fine of Rs.200/-, in default of payment of fine to further undergo R.I. for 02 months. Both the sentences were directed to run concurrently.

2. Briefly stated the facts of the case are that on 22.12.2006, an FIR (Ex.P-5) was lodged by the victim before the Out post- Hasaud, District Janjgir Champa, alleging *inter alia*, that on 29.09.2006 around 9.00 am, the appellant, at the relevant time, came and while caught hold of her hand, dragged towards the Pump House and by alluring her to marry, committed sexual intercourse and threatened to kill, if she disclosed the alleged incident to anyone and, thereafter, exploited her physically every other day in the said Pump House and refused to marry when she insisted for it. It is alleged further that as per his instructions, she entered into his house on 04.11.2006 and started living there, where also, he used to commit sexual intercourse on the pretext of marriage. Further of her allegation is that instead of marrying, he fled away, which compelled her to lodge the alleged report (Ex.P-5) and, based upon which, an offence under Sections 376(1) and 506 of IPC has been registered against him in connection with Crime No.322/2006. During the course of investigation, she was examined medically by Dr. Saroj Kachhap (PW-5), who vide her MLC report (Ex.P-7), found her habitual to intercourse and has not found any internal or external injuries on her



body and, during the further investigation, her petticoat “Saya” with stains, like sperm, as well as her vaginal slide were seized from her vide Ex.P-9 and Ex.P-17, respectively, on 23.12.2006, while semen slide belonging to the appellant was recovered with sealed cover vide Ex.P-15 on 09.01.2007 apart from his underwear and the alleged articles, so recovered, were sent for chemical examination on 20.02.2007 vide Ex.P-25 and, after completion of the usual investigation, the charge-sheet was submitted before the Judicial Magistrate First Class, Sakti, who in turn, committed the matter to the trial Court, where based upon the materials available on record, the appellant was charge-sheeted for the offence punishable under Sections 376 (1) and 506 Part-II of IPC, which was denied by him and claimed to be tried.

3. In order to bring home the guilt of the appellant, the prosecution has examined as many as 14 witnesses and exhibited 27 documents, while the appellant has produced 9 documents, including the legal notice (Ex.D-3) issued by him and the complaint (Ex.D-7) lodged against the victim, in his defence.

4. The trial Court, after considering the evidence led by the prosecution, arrived at a conclusion that since the consent of the victim for commission of the alleged sexual intercourse was obtained by the appellant while assuring her on false promise of marriage, therefore, her consent for the alleged relations cannot be held to be consensual in nature and, it was held further that though, there was delay in lodging the alleged report (Ex.P-5), but since she was assured by the appellant



to solemnize the marriage with her, therefore, the alleged delay in lodging the report would not give any benefit to the appellant and, in consequence, he was held guilty for the commission of the alleged offence and has been convicted and sentenced as mentioned herein-above.

5. Mr. S.C. Verma, learned senior counsel appearing for the appellant submits that the finding of the trial Court holding the appellant guilty, is apparently contrary to law, inasmuch as the evidence led by the prosecution has not been scanned in its proper perspective and has failed even to consider the documents produced by the appellant in his defence, particularly the complaint (Ex.D-7) lodged by him against the victim on 11.11.2006 followed by a legal notice (Ex.D-3), dated 15.11.2006 and, thereby, erred in convicting him as such. It is contended further that even in absence of any cogent and reliable evidence, the trial Court has committed an illegality in holding that the alleged sexual intercourse was made by the appellant while assuring a false promise of marriage with her. While referring to her statement, it is contended further that even if it is held that the alleged physical relation was made, then also, it was with her own consent, else the alleged report (Ex.P-5) would not have been lodged after a considerable period of more than 2 ½ months from the commission of the alleged crime.

6. On the other hand, Ms. K. Radhika, learned counsel appearing for the respondent/State has supported the impugned judgment of conviction and order of sentence as passed by the trial Court.



7. I have heard learned counsel appearing for the parties and perused the entire record.

8. According to the prosecution, the prosecutrix was sexually exploited by the appellant for the period commencing with effect from 29.06.2006 upto 05.11.2006, while alluring her on the pretext of marriage and threatened her to face dire consequences, if she disclosed the alleged incident to anyone and, it was alleged further that as per his instructions, she entered into his house on 04.11.2006 and when he refused to marry, she was then compelled to lodge the alleged report (Ex.P-5) on 22.12.2006.

9. In order to ascertain the veracity of the alleged of her allegations, as reflected from her report (Ex.P-5), it is necessary to examine her(PW-4) testimony as well as of her parents.

10. In her statement, it was alleged that the appellant has committed sexual intercourse with her on several occasions on the pretext of marriage, owing to which, she became pregnant and upon knowing the said fact, he took her to his house, but later on, fled away, which led to convene a Panchayat meeting, where he failed to appear despite of being given sufficient time. It reveals further from her testimony that a pond is not only near the place of incident which is adjoining to the thoroughfare, but is being used oftenly by the people and who can hear even the normal voice easily. Further of her testimony would show that during the course of sexual intercourse, neither she resisted, nor has



raised an alarm in order to save herself from his clutches though she could have shouted. It reveals further from para 13 of her testimony that the alleged sexual intercourse was being done in every other day on her own wish voluntarily and, she never disclosed the alleged fact to her parents.

11. Father (PW-7) of the prosecutrix has stated in his evidence that on the date of the incident when he returned home by 12 O'clock, he did not find his daughter/victim at home, who was, however, went to the appellant's house and came to know from his daughter that she was taken by him in his house while alluring her on the pretext of marriage. It appears further from his testimony that in a meeting convened in the Panchayat, where the appellant has said that he had no relation with his daughter, nor has assured to marry her. Further of his testimony would reveal the fact that in a subsequent meeting held in the village, the appellant has failed to come, though two days' time was granted and he came to know in the said meeting that his daughter was pregnant and, from his cross-examination, it appears that he had pressurized the appellant to marry his daughter through the Panchayat and, has admitted the fact that the appellant has lodged a report against his daughter on 11.11.2006 and issued a legal notice as well, when he was threatened.

12. Insofar as the statement of mother (PW-6) of the prosecutrix is concerned, it appears that she was not at the village as she went to Delhi along with her son for livelihood and when she returned then only



she came to know that her daughter/prosecutrix is at the appellant's house and was not aware what had happened in the Panchayat meeting.

13. What is, therefore, reflected from the evidence of the father (PW-7) of the prosecutrix that he came to know from his daughter that she was taken by the appellant to his house on the pretext of marriage and came to know for the first time in the Panchayat meeting that his daughter was pregnant, while mother(PW-6) was not aware regarding the relation of her daughter with the appellant. It, thus, appears that the alleged allegations as reflected from her alleged report (Ex.P-5) were not found to be supported by her parents.

14. That apart, the prosecutrix though, has stated in her evidence that the appellant has committed sexual intercourse with her on the pretext of marriage and threatened to kill, if she disclosed the alleged incident to anyone else and exploited her physically on various occasions, owing to which, she became pregnant. But, the alleged of her version is, however, not found to be supported even by her parents as revealed from their testimonies, nor this material fact has either been reflected from her alleged report (Ex.P-5), or even in her statement (Ex.D-2) recorded on 23.12.2006 under Section 161 Cr.P.C. Pertinently, to be noted here further at this juncture that her pregnancy test was even not found to be 'positive', as revealed from the testimony of Dr. Saroj Kacchap (PW-5), nor has she found any kind of external or internal injuries on her body in her MLC report (Ex. P-7).



15. It it to be seen further that the petticoat (Saya) and the vaginal slide, seized from her vide Ex.P-9 and Ex.P-17, along with the undergarments of the appellant, seized vide Ex.P-21 on 09.01.2007 were sent for chemical examination vide memo dated 12.02.2007 (Ex.P-25), but no report to this effect has, however, been placed on record. In view of such circumstances, no reliance, therefore, could be placed upon her (PW-4) testimony in order to prove her alleged version that because of her alleged relations with the appellant, she became pregnant, or was exploited physically by him.

16. Pertinently, to be noted here further that much prior to the lodging of the alleged report (Ex.P-5) by the prosecutrix on 22.12.2006, a complaint (Ex.D-7) was lodged by the appellant on 11.11.2006, which was followed by a legal notice (Ex.D-3) issued on 15.11.2006 and, lodging of the alleged complaint and the said legal notice was duly admitted by the father of the prosecutrix and a bare perusal of those documents would reveal the fact that the same has been made by him in order to save himself from the alleged false allegations levelled by the prosecutrix, which, therefore, lead to an irresistible conclusion that the alleged allegation of her is not only a false one, but has been made with an ulterior motive. Surprisingly, enough to be noted that the trial Court while holding the appellant guilty as such for the commission of the alleged crime has, however, completely ignored these materials. The approach of the trial Court convicting the appellant as such, therefore, cannot be held to be sustainable in the eye of law.



17. In view of such circumstances and in absence of any cogent and reliable evidence corroborating the testimony of the prosecutrix (PW-4), it is, therefore, difficult to hold the appellant guilty based upon her alleged bald allegations made much after the occurrence of the alleged incident even without explaining any plausible reasons for it.

18. Consequently, the appeal is allowed and the impugned judgment of conviction and order of sentence dated 23.04.2008 passed by the learned Additional Sessions Judge, Sakti, District- Janjgir Champa (CG) in Sessions Trial No. 167/2007 is hereby set-aside. The appellant is acquitted of the charges framed against him. Since the appellant is on bail, he need not surrender. However, his bail bond shall remain in operation for a further period of six months in view of the provisions prescribed under Section 437-A of the Cr.P.C.

19. Let a certified copy of this judgment along with the original records be transmitted to the trial Court concerned, forthwith for information and necessary action.

Sd/-

(Sanjay S. Agrawal)
JUDGE