

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 230-231/2026

(@Petition for Special Leave to Appeal (Crl.) Nos.11590-11591/2025)

RAI SINGH MARKAM ETC.

Appellant(s)

VERSUS

STATE OF CHHATTISGARH

Respondent(s)

O R D E R

1. Leave granted.

2. Since the issues involved in both the captioned appeals are the same and the challenge is also to the self-same Judgment and order passed by the High Court, those were taken up for hearing analogously and are being disposed of by this common Judgment and Order.

3. These appeals arise from the common Judgment and Order passed by the High Court of Chhattisgarh dated 11-9-2024 by which two Criminal Appeals filed by the appellants - herein came to be dismissed thereby affirming the Judgment and Order of conviction passed by the Trial Court for the offence punishable under Sections 5(g) & 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, "POCSO Act") respectively.

4. It appears from the materials on record that the appellants were put to trial in the Court of the Special Additional Sessions Judge, District Bilaspur, Chhattisgarh in Special Case No.3/2020

for the offence punishable under Section 5(4) and 6 of the POCSO Act respectively and Section 376D, Section 323 read with Section 34 of the Indian Penal Code (for short, the "IPC").

5. It is the case of the prosecution that on 1-12-2019, the prosecutrix (PW 2) had gone to Banjhorka near Tikri Nala for grazing her cattle. At that point of time, the appellants are said to have caught hold of the victim. One of the appellants is alleged to have sexually assaulted the victim.

6. The co-accused is alleged to have facilitated the main accused by catching hold of the victim and thus is alleged to have shared the common intention with the accused who actually indulged in forceful sexual intercourse.

7. On hearing the shouts of the prosecutrix, the maternal grandmother namely Shyam Bai (PW 3) came running at the place of occurrence and rescued the prosecutrix. As alleged, the appellants ran away from the place of occurrence. The prosecutrix was brought at her home where she narrated the entire incident to her mother (PW 1).

8. PW 1 thereafter went to the Police Station and lodged an FIR for the offences enumerated above. Upon registration of the FIR, the investigation was undertaken by the Police. The prosecutrix was taken to the hospital for medical examination. Both the accused were arrested and subjected to medical examination. The clothes of the prosecutrix along with the clothes of the appellants were collected by the Investigating Officer and were sent to the forensic science laboratory for chemical analysis.

9. The panchnama of the place of occurrence, etc. was drawn.

10. It appears from the materials on record that at the time of incident i.e. on 1-12-2019, the prosecutrix was 16 years 4 months and 26 days of age. Indisputably, she was less than 18 years of age.

11. Upon completion of the investigation, charge-sheet came to be filed against the appellants. The case was committed to the Court of Sessions. The Trial Court framed charge for the offences enumerated above.

12. The appellants pleaded not guilty and claimed to be tried.

13. In the course of the trial, the prosecution examined the following witnesses:-

1. Geeta Bai (PW 1) (mother of the victim)
2. XXX (PW 2) (victim)
3. Shyam Bai (PW 3) (maternal grandmother of the victim)
4. Dr. Subhadra Paikra (PW 18)
5. Dr. Shashank Shekar Shukla (PW 19)

14. The prosecution also led few pieces of documentary evidence.

15. Upon closure of the recording of evidence by the prosecution, the further statements of the two appellants came to be recorded under Section 313 of the Code of Criminal Procedure Code, 1973.

16. Both the appellants pleaded to be innocent. They stated that they were falsely implicated in the alleged crime. The Trial Court, upon appreciation of the oral as well as the documentary evidence on record, reached the conclusion that the prosecution had been able to establish its case against the appellants beyond reasonable doubt. Accordingly, the Trial Court held the appellants guilty of

the offences enumerated above and sentenced them to undergo life imprisonment which shall extend to life, i.e., till both the appellants breathe their last.

17. The appellants, being dissatisfied with the Judgment and Order of conviction passed by the Trial Court, referred to above, went in appeal before the High Court. Two separate appeals were filed by the appellants. Both the appeals were taken up for hearing jointly and ultimately by the common impugned Judgment and Order, the High Court dismissed both the appeals thereby affirming the Judgment and Order of conviction passed by the Trial Court.

18. Being dissatisfied with the impugned Judgment and Order passed by the High Court, the appellants are here before us with their two appeals.

19. This is a legal aid matter.

20. We heard Ms. Sangeeta Kumar, the learned counsel appearing for the appellants and Mr. Praneet Pranav, the learned counsel appearing for the State of Chhattisgarh.

21. We first looked into the FIR which was lodged by the mother of the prosecutrix on 1-12-2019 at 1900 hours.

22. We also looked into the oral evidence of the mother (P.W.1) of the prosecutrix. Thereafter, we looked into the oral evidence of the prosecutrix (PW 2).

23. In her oral testimony, the prosecutrix has very clearly deposed what had happened on the fateful day of the incident. She has narrated all the facts threadbare.

24. She has also deposed about her statement which came to be recorded by the Magistrate under Section 164 of the Code of

Criminal Procedure, 1973 (Exhibit P4).

25. We take notice of the fact that there is practically no cross-examination of the prosecutrix by the defence counsel. Except bare suggestions, there is nothing in the cross-examination to discredit her version. The entire version put up by the prosecutrix in her examination-in-chief has practically gone un-rebutted.

26. Thereafter, we looked into the evidence of Dr. Subhadra Paikra (PW 18). Dr. Paikra at the relevant point of time was serving as a Medical Officer at the Sanatorium Hospital, Gaurela. She has deposed that on 1-12-2019, a lady constable by name Sarita Maravi No.640 of Police Station Gaurela brought the prosecutrix at the hospital for her medical examination. The examination-in-chief of Dr. Paikra (PW 18) reads thus:-

"2. On internal examination - Pubic hair had been shaved and the perineum was clean and the breast was also found round and she was complaining pain over her buttock and the hymen was also found ruptured. There was redness inside the wall of her vagina, and two fingers were able to enter but she was complaining pain. I had also prepared the two slides of her vaginal fluid and thereafter, had sealed it and handed over the same to the constable. In my opinion, the sexual intercourse had taken place with the prosecutrix but definite opinion can be given only after the FSL report is received."

27. We find that there is practically no cross-examination of the Doctor by the defence counsel. Except few suggestions, nothing specific or substantial could be elicited by the defence through the doctor in her cross-examination. It is well settled that suggestions have no evidentiary value.

28. The oral testimony of the prosecutrix is fully corroborated by the medical evidence on record. The defence could not elicit anything substantial through the cross-examination of any of the witnesses examined by the prosecution so as to render the case of

the prosecution doubtful in any manner.

29. In view of the aforesaid, we have no hesitation in reaching the conclusion that the Trial Court rightly held both the appellants guilty of the alleged crime. The High Court also upon re-appreciation of the oral as well as documentary evidence on record, rightly dismissed the appeals preferred by the appellants. No error not to speak of any error of law could be said to have been committed by the High Court in passing the impugned Judgment and order.

30. The only aspect which calls for our attention is the quantum of sentence imposed by the Trial Court as affirmed by the High Court. The Trial Court while imposing the sentence of life imprisonment upon both the appellants made it very clear that the appellants shall be kept in jail till they breathe their last.

31. Section 376D IPC reads thus:-

"376D. Gang rape.—Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim."

32. Section 376D provides for punishment in cases of gang-rape. The minimum sentence, as provided under Section 376D, is 20 years but the same may extend to life which shall mean imprisonment for

the remainder of that person's natural life and with fine.

33. We shall now look into Section 6 of the POCSO Act, 2012.

34. Section 6 reads thus:-

"6. Punishment for aggravated penetrative sexual assault.-(1) Whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.

(2) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim."

35. Section 6 is a provision which provides for punishment in cases of aggravated penetrative sexual assault.

36. The minimum punishment as prescribed under Section 6 of POCSO is 20 years which may extend to imprisonment for life which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine or with death.

37. Section 6 of the POCSO Act, 2012 is *pari materia* to Section 376D of the IPC [now Section 70 of the Bharatiya Nyaya Sanhita 2023 (for short, "the BNS 2023")] in terms of the severity of punishment for heinous sexual offences involving multiple offenders or severe injury, often being charged together.

38. We also take notice of the fact that since the conviction and the sentence is under Section 6 of the POCSO, the Trial Court clarified that no separate order of sentence was being passed in so far as Section 376D of the IPC was concerned.

39. The short point for our consideration is whether the facts of this case warrants punishment of imprisonment for life till both

the appellants breathe their last.

40. We are of the view having regard to all the circumstances on record, that the minimum sentence of 20 years with no remission should serve the ends of justice. There can be imposition of life imprisonment without any remission as provided by the statute itself (POCSO) till the last breath. However, ordinarily the court should impose life imprisonment without any remission till the last breath as a substitution of death sentence in appropriate cases. The case at hand is not one of the category of rarest of the rare. Keeping this in mind, we have said that the minimum sentence of 20 years with no remission would serve the ends of justice.

41. To the limited extent aforesaid, we partly allow the appeals modifying the order of sentence.

42. The original order of sentence passed by the Trial Court as affirmed by the High Court is modified to the extent that the appellants shall undergo life imprisonment for 20 years without any benefit of remission of the sentence.

43. Pending applications, if any, also stand disposed of.

.....J
(J.B. PARDIWALA)

.....J
(K.V. VISWANATHAN)

NEW DELHI;
13TH JANUARY, 2026.

ITEM NO.26

COURT NO.7

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) Nos.11590-11591/2025

[Arising out of impugned final judgment and order dated 11-09-2024 in CRA No. 631/2021 and CRA No. 749/2021 passed by the High Court of Chhatisgarh at Bilaspur]

RAI SINGH MARKAM

Petitioner(s)

VERSUS

STATE OF CHATTISGARH

Respondent(s)

[TO BE TAKEN UP AT THE TOP OF THE BOARD]
(IA No. 128253/2025 - EXEMPTION FROM FILING O.T.)

Date : 13-01-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Ms. Sangeeta Kumar, AOR
Mr. Vijay Kumar, Adv.
Ms. Vidushi Garg, Adv.

For Respondent(s) :

Mr. Praneet Pranav, D.A.G.
Ms. Sugandha Jain, Adv.
Mr. Prabodh Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Exemption Application is allowed.
2. Leave granted.
3. The appeals are partly allowed, in terms of the signed order.
4. Pending applications, if any, also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)

(Signed Order is placed on the file)