

---

**(2011) 09 JH CK 0108**  
**In the Jharkhand High Court**  
**Case No : Criminal Appeal No. 81 of 2002**

Guddu Singh @ Dinesh Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

---

**Date of Decision :** 22-09-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 164  
Penal Code, 1860 (IPC) — Section 363, 366A, 376

**Citation :** (2011) 09 JH CK 0108

**Hon'ble Judges :** R.K. Merathia, J

**Bench :** Single Bench

**Final Decision :** Allowed

---

## Judgement

R.K. Merathia, J.—This appeal is directed against the judgment of conviction and order of sentence dated 19.02.2002, passed by learned 6th Additional Sessions Judge, Dhanbad, in Sessions Trial No. 560/94, convicting the Appellant under Sections 363, 366A & 376 Indian Penal Code and sentencing him to undergo R.I. for seven years and also a fine of Rs. 1,000/- and in default of payment, six months S.I. u/s 363 Indian Penal Code, 10 years R.I. and fine of Rs. 2,000/- and in default, S.I. for one year u/s 366A Indian Penal Code and sentenced R.I for 10 years and also a fine of Rs. 2,000/- and in default, S.I. for one year u/s 376 Indian Penal Code. All the sentences were to run concurrently.

2. The prosecution case in brief is that the mother of Sujata Mitra @ Ruby lodged an FIR on 10.4.1994 that her daughter is missing from 9.4.1994. She alleged that the Appellant might have kidnapped her and concealed her because he was in love with her and used to visit her house in her absence. The informant had complained for this to the mother of the Appellant as well as other family members about two months ago. The informant asked them that if they are ready, she may get her daughter married with the Appellant, upon which she was told that they would restrain the Appellant and asked the informant to take her daughter Sujata. According to the informant, the Appellant used to send letters

also to Sujata.

3. Mr. A.K. Sahani, learned Counsel for the Appellant, submitted that the doctor opined that the age of Sujata was 16 years. The Appellant should be given benefit of such determination as the doctor's assessment can be plus minus one year. The prosecution has not brought on record any documentary evidence in proof of her age. He further submitted that at the time of judgement in the year February 2002, the age of the Appellant was assessed as 24 years, which means that Appellant was also of tender age and may be juvenile at the time of occurrence. He further submitted that ingredients of the alleged offences are not made out.

4. On the other hand, counsel for the State supported the impugned judgement and pointed out that the girl committed suicide on 15.9.1994.

5. It appears even from the statement of Sujata recorded u/s 164 Code of Criminal Procedure that she went near the house of the Appellant and then when the Appellant called her, she went inside his house and remained hidden when her mother came to search her. Then she said that the Appellant put vermilion on her head and both accepted each other as husband and wife and indulged in physical relation and then they went to Asansol. On 11.4.1994, when the Appellant was taking her to her mother, the family members of the Appellant dragged the Appellant inside the house and pushed Sujata out of the house. Then she returned to her mother. She also said that she wanted to live with the Appellant.

6. Sujata was examined by the doctor on 12.4.1994. The doctor did not find any sign of rape but found sign of sexual intercourse within a week. As per the doctor, the age of Sujata was about 16 years. It appears that the family members of Sujata were ready to perform her marriage with the Appellant but the Appellant's family was not ready. Otherwise also, they were not of marriageable age. It further appears that Sujata committed suicide and made a suicidal note. Though not exhibited but a photo copy of alleged suicidal note is marked as "X", which was handed over by the mother of Sujata to the police. From this, it appears that she was feeling guilty that she has given bad name to her family but she said that she married the Appellant and the case against the Appellant should be withdrawn and the Appellant be pardoned.

7. Be that as it may, I am inclined to give benefit of doubt to the Appellant as the prosecution has not proved it's case beyond all reasonable doubts.

8. In the result, this appeal is allowed. The judgment of conviction and order of sentence dated 19.02.2002, passed by learned 6th Additional Sessions Judge, Dhanbad in Sessions Trial No. 560/94, is set aside and Appellant is discharged from his bail bonds.