

(2021) 11 OHC CK 0049

In the Orissa High Court

Case No : Jail Criminal Appeal No. 60 Of 2018

Prafulla Mundari @ Pelka

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 02-11-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 313, 432
Indian Penal Code, 1860 — Section 375, 375(b), 375(c), 376(2)(h), 376(2)(i)
Protection of Children from Sexual Offences Act, 2012 — Section 3(a), 3(c), 4, 5(m),
6, 42
Evidence Act, 1872 — Section 21

Citation : (2021) 11 OHC CK 0049

Hon'ble Judges : S.K. Sahoo, J

Bench : Single Bench

Advocate : Arun Kumar Budhia, Amicus Curiae, Arupananda Das

Final Decision : Dismissed

Judgement

S.K. Sahoo, J

1. The appellant Prafulla Mundari @ Pelka faced trial in the Court of learned Addl. Sessions Judge -cum- Special Judge, Sundargarh camp at Rourkela in Special G.R. Case No.417 of 2013/Trial No.29 of 2017 for commission of offences punishable under section 376(2)(i) of the Indian Penal Code and section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO Act') on the accusation that he committed rape on the victim girl, who was aged about eight years at the time of occurrence, in a dilapidated house situated at village Lindra under Bisra police station in the district of Sundargarh.

The learned trial Court vide impugned judgment and order dated 21.03.2018 found the appellant guilty of both the charges and sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs. 5,000/- (five thousand), in default, to undergo rigorous imprisonment for six months for the offence under section 376(2)(i) of the Indian Penal Code. No separate sentence

was awarded for the conviction of the appellant under section 6 of the POCSO Act in view of the provision under section 42 of the said Act.

2. The prosecution case, as per the first information report lodged by one Minaketan Mundari (P.W.10), the father of the victim before the Inspector in-charge of Bisra police station on 24.02.2013 is that on that day in the afternoon at about 03.00 p.m., the appellant called the victim girl who was aged about eight years to a dilapidated house and opened her pant and committed rape on her and after the occurrence, the victim returned home and disclosed about the incident crying before her mother.

On the basis of such first information report, Bisra P.S. Case No. 20 dated 24.02.2013 was registered under section 376(2)(h) of the Indian Penal Code and section 4 of the POCSO Act. P.W.14 Subodha Kumar Mallik, Inspector in-charge of Bisra police station after registration of the case, took up investigation, examined the victim, informant, mother of the victim and other witnesses, seized the wearing apparels of the victim girl, sent the victim girl for her medical examination to Bisra C.H.C., arrested the appellant on 24.02.2013, seized the wearing apparels in presence of witnesses, sent the appellant to Bisra C.H.C. for medical examination, visited the spot and prepared the spot map, seized the biological samples of the victim girl collected by the medical officer, forwarded the appellant to the Court on 25.02.2013 and made a prayer to the Court for dispatch of the exhibits to the R.F.S.L., Sambalpur for chemical examination, received the medical examination reports of the victim as well as the appellant and on completion of investigation, submitted charge sheet on 30.05.2014 under section 376(2)(i) of the Indian Penal Code and section 4 of the POCSO Act against the appellant.

3. The defence plea of the appellant is one of denial and it is pleaded that there was civil dispute between both the families for which a false case has been foisted against him.

4. Initially, the learned trial Court framed charges under section 376(2)(i) of the Indian Penal Code and section 4 of the POCSO Act on 24.03.2015, but subsequently on 19.03.2018 charge was reframed under section 376(2)(i) of the Indian Penal Code and section 6 of the POCSO Act against the appellant and since the appellant refuted the charges, pleaded not guilty and claimed to be tried, the sessions trial procedure was resorted to prosecute him and establish his guilt.

5. During course of trial, in order to prove its case, the prosecution has examined as many as fourteen witnesses.

P.W.1 Rajgobind Mahali stated that the wearing apparels of a girl were seized in his presence by police and his signatures were taken in two documents.

P.W.2 Mahendra Mahali is a witness to the seizure of wearing apparels of the victim and the appellant such as top, pants, T shirt and gamucha vide seizure

lists Exts.1/1 and 2/1 respectively. He further stated that when a gathering of people called the appellant and confronted him about the occurrence, he admitted the fact.

P.W.3 Ghanashyam Naik is an independent witness and also a witness to the seizure of one sealed vial containing vaginal swab of the victim and one vial containing pubic hair of the appellant vide seizure lists Ext.3 and 4 respectively.

P.W.4 Samarai Mundari is a co-villager of the informant and the appellant and he did not support the prosecution case and was declared hostile by the prosecution and cross-examined.

P.W.5 Jamuna Mundari is the aunt of the victim (P.W.9) and sister-in-law of the informant (P.W.10). She stated that when she was returning from work on one evening, she heard from the villagers that the appellant had raped her niece and she went to the house of the informant (P.W.10) and there the mother of the victim (P.W.11) informed her that the appellant had raped the victim.

P.W.6 Bijaya Kumar Mundari is the brother-in-law of P.W.10 and brother of P.W.11. He stated that when he was returning from his work, he heard from P.W.11 that the appellant raped the victim, who is his niece.

P.W.7 Shyamlal Mundari is an independent witness, who stated that on 24.02.2013 in the afternoon, he heard from the villagers that the appellant had raped the minor daughter of the informant (P.W.10), who was aged about five to six years at the time of occurrence.

P.W.8 Ramesh Chandra Sandil, who is a co-villager of the informant and the appellant, is the scribe of the F.I.R. (Ext.5).

P.W.9 is the victim. She supported the prosecution case and stated about the commission of rape on her by the appellant.

P.W.10 Minaketan Mundari is the informant of the case and he is the father of the victim (P.W.9). He stated that on the date of occurrence, when he returned home from work, his wife (P.W.11) informed him about the misdeeds of the appellant in committing rape of the victim (P.W.9) and at that time, he asked the victim who told him about the incident. He stated that on his production, police seized the wearing apparels of the victim and prepared seizure list vide Ext.1/1. He also proved the consent on the medical examination report of the victim vide Ext.6.

P.W.11 Sini Mundari is the mother of the victim (P.W.9), who stated that when her younger daughter informed her about the incident, she asked the victim who narrated the entire incident of rape before her.

P.W.12 Eprem Tirkey was working as the Constable at Bisra police station, who stated that on the basis of command certificate issued by the Investigating Officer, he escorted the victim and the appellant to the hospital for their medical examination and after medical examination, the hospital authority collected vaginal swab of the victim and the pubic hair and semen of the appellant keeping

the same in two sealed vials and handed over to him, which produced before the I.O. which were seized as per seizure lists Exts.3 and 4 respectively.

P.W.13 Dr. Gujaram Majandi was the Medical Officer of Bisra C.H.C., who medically examined the appellant and the victim on police requisition and proved the medical examination reports vide Exts.7 and 9 respectively. He also proved his observation on the medical examination report of the appellant vide Ext.8.

P.W.14 Subodha Kumar Mallik was the Inspector in-charge of Bisra police station and he is the Investigating Officer of the case.

The prosecution exhibited twelve numbers of documents. Ext.1/1 is the seizure list of the wearing apparels of the victim, Ext.2/1 is the seizure list of one red and green colour half pant, one black and blue colour T shirt and red colour gamucha of the appellant, Ext.3 is the seizure list of one sealed vial containing vaginal swab of P.W.9 presented by P.W.3, Ext.4 is the seizure list of two vials containing pubic hair and semen of the appellant, Ext.5 is the F.I.R., Ext.6 is the consent of P.W.10 on the medical examination report of P.W.9, Ext.7 is the injury report of the appellant, Ext.8 is the medical examination report of the appellant, Ext.9 is the medical report of P.W.9, Ext.10 is the spot map, Ext.11 is the prayer for forwarding M.Os. and Ext.12 is the copy of forwarding report.

No witness was examined on behalf of the defence.

6. Learned trial Court after analyzing the evidence on record, came to hold that the victim was eight years of age at the time of incident and that the appellant committed rape on the victim and that the prosecution has been able to prove the charges under section 376(2)(i) of the Indian Penal Code and section 6 of the POCSO Act against the appellant.

7. Mr. Arun Kumar Budhia, learned Amicus Curiae appearing for the appellant contended that the evidence of the victim (P.W.9) that the appellant after removing her pant inserted his penis into her vagina and anus is not corroborated by the medical evidence. The doctor (P.W.13), who examined the victim on the very day of occurrence has stated that he did not find any external or internal injury on her person suggestive of forcible sexual intercourse and the genitals were intact and there was no sign and symptoms of recent sexual intercourse. It is further argued that though the victim stated in her evidence that the appellant inserted his penis in her vagina and anus and that to by making her lie on the ground, but she disclosed before her parents i.e. P.Ws. 10 and 11 that the appellant rubbed his penis on her vagina. Learned counsel further submitted that as per the report submitted by the learned trial Court along with the report of the Jail doctor, the appellant is now aged about eighty years and the Medical Officer, Jail Hospital, Special Jail, Rourkela has reported that the appellant is suffering from different age related ailments and he is unable to take care of his personal hygiene and his routine activities without the assistance of his co-inmates. Learned counsel further submitted that since the appellant has remained in custody for more than eight years and eight months as

he was forwarded to Court on 25.02.2013, in view of his alarming health condition, in case the impugned judgment and order of conviction is upheld, the sentence awarded to the appellant deserves to be reduced to the period already undergone by him.

Mr. Arupananda Das, learned Additional Government Advocate, on the other hand, contended that the victim girl appears to be a truthful witness and she stood the test of cross-examination very well and nothing has been elicited in her cross-examination so as to disbelieve her testimony. The evidence of the victim is also getting corroboration from the evidence of her parents and in such a scenario, the evidence of the doctor regarding absence of external and internal injury suggestive of forcible sexual intercourse or absence of any sign or symptoms of recent sexual intercourse cannot be a ground to discard the testimony of the victim. Learned counsel further submitted that complete penetration is not required for establishing the offence charged in view of the definition of 'rape' as per section 375 of the Indian Penal Code, which was substituted by the Act 13 of 2013 and came into force on 03.02.2013. Since the occurrence has taken place on 24.02.2013, the said definition of 'rape' would be applicable in this case and therefore, it can be said that the prosecution has successfully established the charge under section 376(2)(i) of the Indian Penal Code and section 6 of the POCSO Act against the appellant. Learned counsel further submitted that the appellant has admitted his guilt before the villagers which is stated by P.W.2, who is a co-villager. He further argued that since minimum sentence prescribed under section 376(2)(i) of the Indian Penal Code has been imposed on the appellant by the learned trial Court, the question of reducing the sentence does not arise in this case and therefore, the appeal should be dismissed.

8. In this case, the victim (P.W.9) is the star witness on behalf of the prosecution. So far as the age of the victim is concerned, the F.I.R. indicates that the victim was aged about eight years at the time of occurrence. The victim herself while giving her evidence on 02.03.2016 has stated her age to be ten years and that she was a student of Class-IV. Nothing has been elicited in the cross-examination of the victim to disbelieve her age. The doctor (P.W.13) has also stated the age of the victim to be eight to twelve years and the evidence of the doctor has remained unchallenged inasmuch as no cross-examination has been made to the doctor. Of course, the Investigating Officer has stated that he has not seized any documents to show the date of birth of the victim and as per the disclosure of the family members about the age of the victim, the same was mentioned, but since the evidence of the victim as well as the doctor has remained unchallenged, I am of the humble view that the finding of the learned trial Court that the victim was below twelve years of age at the time of incident is quite justified. Learned counsel for the appellant has also not challenged the age of the victim.

The victim was tested by the learned trial Court by putting some questions and it

was found that she was able to give rational answers. Being examined as P.W.9, the victim has stated that on the date of occurrence, she along with her sister was playing on the verandah of their house and their father was not present in the house and their mother was cooking food and at that time the appellant came and gave her money and took her to another house situated nearby and there the appellant by removing her pant, inserted his penis in her vagina and anus (MORA PICHARE AND JUNGHA SANDHIRE THOKLA). On the question put by the Court as to what happened thereafter, the victim replied 'SUAI KARI THOKLA MOTE'. The victim further stated that after the appellant left, she came to her house and narrated the incident before her mother. In the cross-examination, she has also stated that there was no quarrel between her family and the family of the appellant. She further stated that she did not seek any permission from her mother to accompany the appellant. She stated that her parents had never tutored her as to what to say in the Court. She denied the suggestion given by the learned defence counsel that the appellant had not given her any money and not taken her to a house and removed her pant and inserted his penis into her vagina and anus.

The mother of the victim being examined as P.W.11 has stated that when the victim (P.W.9) was asked, she informed that the appellant called her to a nearby dilapidated house while she was playing in the verandah with her sister and there the appellant made her lie on the ground, removed her chadi and rubbed her penis on her vagina. She denied the suggestion given by the learned defence counsel that there was any quarrel between the two families and that they had taken heavy loan from the appellant and that in order to escape from the liability of loan, a false case was foisted against the appellant. Nothing has been elicited in the cross-examination to disbelieve the evidence of P.W.11.

The evidence of the father of the victim, who has been examined as P.W.10 also corroborated the evidence of the victim and he stated that when he asked the victim, she told him that on that day at about 03.00 p.m. to 04.00 p.m. the appellant took her to a dilapidated house, removed her pant and rubbed his penis on her vagina and anus. Therefore, the evidence of the victim is corroborated by the statements of her parents.

It is pertinent to note that the occurrence in question took place on 24.02.2013 and on the very day, the matter was reported to the police and the victim was also medically examined on that date. Therefore, there was no time for concoction of any case and prompt lodging of the first information report is also another factor, which goes in favour of the prosecution.

P.W.2, who is a co-villager of the informant, has stated that he got information from the informant about the offence committed by the appellant and when the gathering called the appellant and confronted him about the fact, he admitted the fact. Then the appellant was kept in the custody of some of the villagers and the matter was reported to the police. In the cross-examination, he has stated that twenty to twenty five persons had gathered. However, in the accused

statement, no question has been put to the appellant on such admission. A confession must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. An admission of a gravely incriminating fact, even a conclusively incriminating fact, is not of itself a confession. (Ref: Pakala Narayana Swami -Vrs.- Emperor; A.I.R. 1939 PC 47). Only voluntary and direct acknowledgment of guilt is a confession but when a confession falls short of actual admission of guilt, it may nevertheless be used as evidence against the person who made it or his authorized agent as an 'admission' under section 21 of the Evidence Act. (Ref: Central Bureau of Investigation -Vrs.- V.C. Shukla ; A.I.R. 1998 SC 1406). When a statement falls short of a plenary acknowledgment of guilt, it would not be a confession, even though the statement is in respect of some incriminating facts, which taken, along with other evidence, tends to prove the guilt of the accused. However, such a statement would, indeed, be admission. (Ref: Irsad Alam -Vrs.- The State of Bihar, 2014 Criminal Journal 2107). The surrounding circumstances under which the admission was stated to have been made, absence of any specific material as to what was confronted to the appellant and what was his answer to such confrontation made before twenty to twenty five persons and more particularly when this material circumstance was not put to the appellant in his statement recorded under section 313 of Cr.P.C., the prosecution cannot be permitted to rely on this admission. Thus, the evidence of P.W.2 no way helps the prosecution case.

The victim was medically examined on the date of occurrence and the doctor (P.W.13) has stated that he found no external or internal injury on her person suggestive of forcible sexual intercourse, the clothes were intact and there was no tear and her pant was stained with semen. The doctor further stated that the genital was intact and there was no sign or symptoms of recent sexual intercourse and the age of the victim was opined to be eight to twelve years. Though the biological samples along with the seized wearing apparels of both the victim and the appellant were sent for chemical analysis, but the reports were not obtained from the R.F.S.L., Sambalpur to be proved by the prosecution during trial. Delay in analysis of the exhibits and delay in communication of its results by the Forensic Science Laboratories to the Courts create hindrance to the early disposal of the criminal trial. It is the solemn duty of the State to engage more number of efficient analysts in different laboratories to see that right to speedy trial which is a fundamental right guarantee under Article 21 of the Constitution of India is not denied to any accused.

In view of the definition of 'rape' as per the amended provision of section 375 of the Indian Penal Code, which came into force from 03.02.2013, it is apparent that complete penetration of the penis either into the vagina, mouth, urethra or anus of a woman is not necessary to make out a case of rape.

If there is penetration of penis, to any extent, into any of such part of the body of a woman, that would come within clause (a) of section 375 of the Indian Penal Code and the man committing such act can be stated to have committed rape.

Explanation I makes it very clear that for the purpose of section 375 of the Indian Penal Code, 'vagina' shall also include labia majora.

In the case of Beirangai -Vrs.- State of Mizoram and Ors., reported in (2020) 4 Gauhati Law Times 411, a Division Bench of Gauhati High Court, Aizawl Bench held as follows:

"25. Section 6 of the POCSO Act, 2012 is the punishment provided for aggravated penetrative sexual assault, which not only requires that the condition/s provided in Section 5 of the POCSO Act, 2012 are satisfied, but that the conditions provided in Section 3 of the POCSO Act, 2012 are present. Thus, while Section 3(a) requires penetration of the vagina by the penis, the words used by the learned Trial Court, while framing charge under Section 6 of the POCSO Act, 2012, is that the appellant tried to insert his penis into the vagina of the prosecutrix. The use of the word "tried to insert" leads to an inference that an attempt to rape or penetrative sexual assault had been made, but had not led to actual penetration. However, the framing of charge under Section 6 of POCSO Act, 2012, read with facts of this case, implies penetration by the appellant's penis into the vagina of the prosecutrix, thereby attracting Section 3(a) of the POCSO Act, 2012. In any event, the attempt to insert the penis into the victim's vagina, after rubbing it with soap to oil it would also attract Section 3(c) of the POCSO Act, 2012 as the rubbing of the vagina with soap to oil the same and touching of the vagina by the penis would amount to manipulation of any part of the body of the child so as to cause penetration into the vagina. Penetration of the penis into the vagina is not sine qua non for attracting Section 3(c), as the same is taken care of by Section 3(a). Thus, rubbing of soap or oil the victim's private parts, so as to cause penetration and the meaning of attempt to penetrate the vagina would come within the meaning of the word "manipulation", as provided in Section 3(c). As the prosecutrix is below 12 years of age, Section 5(m) is attracted and thus, we find no infirmity with the framing of charge being made against the appellant under Section 6 POCSO Act, 2012, only because of the use of the words "tried to insert"."

In the case of Santhosh -Vrs.- State of Kerala reported in 2021 (4) Kerala Law Times 656, a Division Bench of Kerala High Court held as follows:

"32.....One of the crucial aspects to be noticed in section 375 as it stood prior to the amendment in 2013, is that, it provided for "sexual intercourse" and "penetration" (of any degree). In Sakshi -Vrs.- Union of India : (2004) 5 SCC 518, the Honourable Supreme Court, adopted the dictionary meaning of the word "sexual intercourse" as "heterosexual intercourse involving penetration of the vagina by the penis". So, penile-vaginal interaction was one of the necessary ingredients for constituting the offence of rape, prior to the amendment. As noticed above, even at that time, judicial interpretations sounded different notes and often adopted very wide interpretation as to the degree of penetration and even slightest penetration was treated as sufficient to attract the offence of rape. In the amendment proposed in Criminal Law Amendment Bill, 2012, the

expression "rape" itself was proposed to be substituted with the expression 'sexual assault', to make the offence of sexual assault gender neutral and also for widening the scope of the offence of sexual assault. One of the objects of the said proposal was that the term "sexual intercourse", which confined it to penile-vaginal intercourse, was to be done away with. However, in the report of Justice J.S. Verma Committee, the proposal was to widen the scope of definition of "rape" by retaining the said expression in the statute, instead of substituting it with ' "sexual assault". The proposal in Justice J.S. Verma Committee report included penetration to other orifices but such penetration was confined to orifices such as vagina, urethra and anus. In the said report section 375(b) proposed was "manipulates any part of the body of a person so as to cause penetration of the vagina or anus or urethra of another person". In all the above stages, the suggestions were made for amendments to widen the scope of definition of offence of rape, though it fell short of including any orifices other than vagina, urethra and anus. Later, presumably by taking into account, the suggestions from other sources, the legislature has further widened the said provision, by including the penetration to any part of the body of woman. As the provision stands at present in 375(c) what constitutes rape reads as: (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or". It includes penetration to other parts of the body of woman and it is not confined to vagina, urethra and anus. In the amended provisions, the legislative intention is very evident, and it is also a marked deviation from what is proposed in Justice Verma Committee report, wherein the penetration was confined to vagina, urethra and anus alone. When the amended definition of section 375 is examined in the light of the gradual evolution of definition of rape and the expansion thereof, in our view, the expression "cause penetration into the vagina, urethra, anus or any part of body of such woman" as used therein, requires wider interpretation so as to include any orifices naturally present or any part of the body manipulated to simulate a penetration and have the effect/sensation of an orifice. It is crucial to note that the said provision starts with the words "manipulates any part of the body of a woman so as to cause penetration" The dictionary meaning of "manipulate: includes "control or influence cleverly or unscrupulously.". The word penetration means: "a movement into or through something or someone" The word, 'penetrate', as per 'The Concise Oxford Dictionary', means 'the act or process of making way into or through something'; 'to enter or pass through or force a way into or through'. When the above provision is read with the said definitions in common parlance, we have no doubt in our mind that, when the body of the victim is manipulated to hold the legs together for the purpose of simulating a sensation akin to penetration of an orifice; the offence of rape is attracted. When penetration is thus made in between the thighs so held together, it would certainly amount to "rape" as defined under Section 375. In short, considering the intention of the legislature as revealed from the above proposals, followed by the enactment of Criminal Law Amendment Act, 2013 and gradual evolution of

the concept of the offence of "rape" from time to time, the irresistible conclusion is that, the definition of rape as contained in section 375 would take in, all forms of penetrative sexual assault onto vagina, urethra, anus or any other parts of the body so manipulated to get the feeling or sensation of an orifice. The word manipulation by itself includes an artificial creation. The effect of manipulating the thighs to be held tightly together is to cause penetration of the crevice, when the muscles engulf the object which penetrates to create or simulate the same effect as in a normal penile-vaginal intercourse."

In the case in hand, the victim has stated in her evidence that the appellant by removing her pant inserted his penis in her vagina and anus. The learned trial Court mentioned the exact words stated by the victim, such as 'MORA PICHARE AND JUNGHA SANDHIRE THOKLA'. Thus, if properly translated, the victim in fact stated that the appellant inserted his penis in between the buttocks and the thighs. Even though the victim has stated before her parents that the appellant after removing her chadi rubbed his penis in her vagina but not stated about insertion of penis in her vagina and anus, as stated by her in her deposition (which seems to have not been properly translated by the learned trial Court while recording evidence), but in my humble view such act of rubbing the penis in the vagina of the victim or penetrative sexual act between the buttocks or thighs of the victim by the appellant would amount to an act of manipulation of the body of the victim to obtain sexual gratification which would come under clause (c) of section 375 of the Indian Penal Code which includes "manipulates any part of body of a woman so as to cause penetration into...or any part of body of such woman". Non-noticing of any external or internal injury on the person of the victim suggestive of forcible sexual intercourse as per the evidence of the doctor (P.W.13) in such a scenario, cannot be a ground to discard the prosecution case. The minor variation in the evidence of the teen aged victim and what she stated before her parents about rape is not sufficient to disbelieve the prosecution case. Therefore, the learned trial Court has rightly found the appellant guilty under section 376(2)(i) of the Indian Penal Code and 6 of the POCSO Act.

9. The learned trial Court has imposed minimum sentence prescribed under section 376(2)(i) of the Indian Penal Code and therefore, the contention of the learned counsel for the appellant to reduce the sentence to the period already undergone by the appellant cannot be accepted. However, taking into account the health condition of the appellant and his age as per the report dated 12.08.2021 furnished by the learned trial Court basing on the report of the Medical Officer, Jail Hospital, Special Jail, Rourkela that the appellant is now eighty years of age and suffering from Systemic hypertension, complete blindness of right eye and diminished vision of left eye and that due to old age debility and diminished vision, he is unable to take care of his personal hygiene and his routine activities without assistance of his co-inmates, the appellant is at liberty to move the appropriate Government for remission of the sentence through the Jail Superintendent as per the provision of section 432 of the Code

of Criminal Procedure in accordance with law, which is over and above the remission granted or awarded to a convict under the Jail Manual or other statutory rules and this Court expresses no opinion on the same.

Though the learned trial Court sent a copy of the judgment to the District Legal Services Authority, Sundargarh to award compensation as per the provision of Victim Compensation Scheme, it is not clear whether the same has been done or not. A copy of this judgment along with the trial Court record be sent to the concerned Court to take necessary steps in that regard

The JCRLA being devoid on merits, stands dismissed. Before parting with the case, I would like to put on record my appreciation to Mr. Arun Kumar Budhia, the learned Amicus Curiae for rendering his valuable help and assistance towards arriving at the decision above mentioned. The learned Amicus Curiae shall be entitled to his professional fees which is fixed at Rs.7,500/- (rupees seven thousand five hundred only).

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