

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 647 of 2008**

[Against the Judgment of conviction and order of sentence dated 26.04.2008 passed by learned Addl. Sessions Judge, F.T.C.-III, Chatra in Sessions Trial No. 185 of 2002, arising out of Itkhori P.S. Case No. 79 of 2001]

Suresh Singh, S/o Late Manki Singh, Resident of Village-Itkhori, P.S.-
Itkhori, Dist-Chatra **Appellant**

Versus

The State of Jharkhand **Respondent**

For the Appellant : Mr. Binod Kumar Dubey, Advocate
Mr. Arvind Prajapati, Advocate
Ms. Akriti Aprajita, Advocate
For the Resp. State : Mr. Tarun Kumar, APP

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

CAV On 01/05/2026

Pronounced On 09/06/2026

Per- Pradeep Kumar Srivastava, J.

1. The instant criminal appeal is directed against the Judgment of conviction and order of sentence dated 26.04.2008 passed by learned Addl. Sessions Judge, F.T.C.-III, Chatra in Sessions Trial No. 185 of 2002, whereby and whereunder, the appellant has been held guilty for the offence under Section 109 of the IPC for abetting the commission of offence under Section 315 of the I.P.C. and sentenced to undergo R.I. for three years.
2. Heard the learned counsel for the appellant and learned APP for the State.

Factual Matrix:-

3. The factual matrix giving rise to this appeal, according to the informant (victim) is that about five months ago, i.e. 08.09.2001 at

about 7:30 pm, she was forcibly taken away by the present appellant towards a nearby agricultural farm and committed rape upon her and also threatened not to disclose the above fact to anyone. Subsequently, the informant was married and went to her in-law's house but due to illness, came back to her parental house and Doctor confirmed her pregnancy. Then, she along with her mother approached to the accused and apprised him about her pregnancy due to his misdeeds, then, the accused got her abortion by Dr. Siya Ram Singh and other doctors of Hazaribag and also borne the expenses.

4. On the basis of above information, Itkhori P.S. Case No. 79 of 2001 was registered, for the offence under Section 376/315 of the I.P.C. against the appellant and Dr. Siya Ram Singh. After completion of investigation, charge sheet was submitted against the present appellant for the offence under Section 315 read with Section 109 of the I.P.C. showing Dr. Siya Ram Singh as absconder.
5. The case was committed to the Court of Sessions, where S.T. No. 185 of 2002 was registered. The accused denied the charge leveled against him and claimed to be tried.
6. In course of trial, altogether 8 witnesses were examined by the prosecution.

| | |
|--------|---------------------------------------|
| P.W.-1 | Urmila Devi (Mother of the victim) |
| P.W.-2 | Parwati Kumari (Sister of the victim) |
| P.W.-3 | Rajdeo Dangi (father of the victim) |
| P.W.-4 | Sugriwan Singh |
| P.W.-5 | Asha Devi |
| P.W.-6 | Victim |
| P.W.-7 | Dr. Snehlata Sinha |
| P.W.-8 | Nagendra Prasad Singh |

7. Apart from oral testimony of the witnesses, following documentary evidence has also been adduced by the prosecution: -

Ext.-1 Injury Report

Ext.-2 Fardbeyan

Ext.-3 Formal F.I.R.

8. On the other hand, no oral or documentary evidence has been adduced by the defence.

9. The learned trial Court, after scrutinizing the evidence available on record has acquitted the appellant from the charge under Section 315 of the I.P.C. with observation that in this case, Dr. Siya Ram Singh has caused miscarriage and not the present accused rather he has abetted the commission of the said offence of termination of pregnancy of the informant against her will and consent. Accordingly, the learned trial Court held the appellant guilty for the offence under Section 109 of the I.P.C. and sentenced as stated above.

Submissions on behalf of appellant: -

10. Learned counsel for the appellant assailing the impugned judgment has submitted that from the entire evidence adduced by the informant and her mother, who are the star witness in this case, no offence of abetment is proved and attracted against the appellant. The appellant has not faced the trial for the offence under Section 376 of the I.P.C. and after investigation also, no sufficient evidence was found for the offence under Section 376 of the I.P.C. against the appellant as alleged in the F.I.R. The learned trial Court has acquitted the appellant from the charge under Section 315 of the I.P.C. It is admitted case of the prosecution that the victim along with her mother approached the appellant for help and he disclosed the name of some Doctors

including Dr. Siya Ram Singh and others where the victim along with her mother remained present for four days and got her treatment. There is no iota of evidence that any other help was extended by the present appellant or he ever abetted by instigation, or by aiding or by entering into conspiracy for getting the termination of pregnancy of the informant. It is further submitted that for whatsoever reason, the informant might be pregnant, she herself has undergone for abortion due to her recent marriage with another man who detected the pregnancy from local Doctor, when the informant complained stomach pain. The informant with a view to secure her marriage, herself has got abortion and was never abetted or assisted by the present appellant. It is also submitted that F.I.R. was lodged after six months of the alleged occurrence without offering any reasonable explanation. Therefore, the conviction and sentence of the appellant under Section 109 of the I.P.C. is absolutely illegal and beyond the weight of evidence available on record and liable to be set aside and this appeal may kindly be allowed.

Submissions on behalf of the State

11. On the other hand, learned A.P.P. has opposed the aforesaid contentions raised on behalf of the appellant and submitted that the appellant was actively involved in getting the termination of pregnancy of the informant. It is also proved that the informant got pregnant due to commission of rape upon her by the present appellant. Later on, she was married with another man and when the pregnancy was detected, then informant returned to her parental

home and complained about the incident to the present appellant who actively got her pregnancy terminated by co-accused Dr. Siya Ram Singh providing monetary help also. Therefore, the learned trial Court has rightly convicted and sentenced the appellant for the offence under Section 109 of the I.P.C. The impugned judgment suffers from no illegality or infirmity calling for any interference in this appeal, which is devoid of merit and fit to be dismissed.

12. I have gone through the record of the case along with the impugned judgment in the light of rival contentions raised on behalf of the parties.

13. The sole point for determination in this appeal is “as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?”

Analysis, reasons and decision:

14. Before adjudicating the above point, it is pertinent to take brief resume of the evidence on examination during trial.

P.W.-1 Urmila Devi is the mother of the informant. Admittedly, she got information about pregnancy of her daughter after solemnization of her marriage and returned from matrimonial home. She has stated that her daughter complained that rape was committed with her by the present appellant, due to which, she has become pregnant. Therefore, she along with her daughter met with present appellant who advised for abortion and also provided assistant and helped in arranging the money and the Doctor who has to terminate the

pregnancy. She has also stated that Dr. Siya Ram Singh, on the advice of the accused Suresh Singh, terminated the pregnancy of her daughter admitting for four days.

P.W.-2 Parwati Kumari is the sister of the victim girl. She simply stated about the illness of her sister and nothing else, hence, declared hostile by the prosecution.

P.W.-3 Rajdeo Dangi is the father of the victim. He is also hearsay witness, who came to know about the pregnancy of her daughter just after her marriage. He has given a new story that present appellant has abducted or kidnapped his wife and daughter. He also admits that he did not know about any doctor for getting abortion of his daughter.

P.W.-4 Sugriwan Singh has expressed no knowledge about the occurrence.

P.W.-5 Asha Devi is the wife of Dr. Siya Ram Singh, who has disclosed that she does not know about the business of her husband.

P.W.-6 is the victim girl herself, who has stated that when she returned from her in-laws house, due to stomach pain, her mother shown to a Doctor, who disclosed about her pregnancy and then, she went to accused with her mother and the accused took them to Hazaribag and again to Dr. Siya Ram Singh at Itkhori and there, he performed abortion. She has stated nothing about any active role and presence of the appellant in getting termination of her pregnancy against her will, rather she along with her mother has voluntarily undergone the surgical operation for termination of pregnancy.

P.W.-7 Dr. Snehlata Sinha has stated nothing about duration of pregnancy at the time of abortion, rather, she has confirmed that operation took place.

P.W.-8 Nagendra Prasad Singh is a formal witness, who has proved the fardbeyan as Ext.-2 and Formal F.I.R. as Ext.-3.

15. At this juncture, it is relevant to note some findings and observations recorded by the learned trial Court. The learned trial Court has acquitted the accused from the offence under Section 315 of the I.P.C. with observation that Dr. Siya Ram Singh has caused miscarriage and not the accused. It was also observed that the said Dr. Siya Ram Singh is no more in the Court, therefore, the present accused cannot be held guilty for the offence under Section 315 of the I.P.C.

So far as conviction of the appellant for the offence under Section 109 of the I.P.C. is concerned, in this case, it was the accused who took the victim girl and her mother to Dr. Siya Ram Singh and got the child aborted. Therefore, he has facilitated the commission of abortion of the victim girl and accordingly, convicted and sentenced.

16. I have gone through the entire evidence available on record and the findings recorded by the learned trial Court, while convicting the appellant for the offence under Section 109 of the I.P.C. and find that the learned trial Court has taken a very absurd ground for convicting the appellant, merely, because he took the victim girl to the Doctor for the purpose of miscarriage. It is trite that the abetment of any offence consists in instigation for commission of any offence, or by getting participation, or aiding in commission of any offence, or

conspiring for commission of any offence. No such ingredients of abetment are attracted against the present appellant. Admittedly, the prosecution never adhered to prove commission of offence under Section 376 of the I.P.C. as well as Section 315 of the I.P.C. against the appellant, for which, he has not been found guilty. Therefore, mere suggestion about the Doctor for the purpose of miscarriage cannot amount to any abetment to commit the offence of miscarriage.

17. In view of the aforesaid discussions and reasons, I find that the learned trial Court has committed serious illegality while holding the appellant guilty for the offence under Section 109 of the I.P.C. without any specific allegations against the present appellant to attract provision of section 109 of the I.P.C. as defined under Section 107 of the I.P.C.

18. In result, this **appeal is allowed**. Consequently, the appellant is acquitted from the charge leveled against him. The appellant is on bail, hence, he is discharged from the liabilities of bail bonds. The sureties are also discharged.

19. Pending I.A(s), if any, is also disposed of, accordingly.

20. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi

Date: 09/06/2026

Basant/-N.A.F.R.

Uploaded on 10/06/2026