

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE SATYENDRA KUMAR SINGH

CRIMINAL APPEAL No. 1042 of 2016

Between:-

PHIROZ S/O GAFFOOR KHAN , AGED ABOUT 22 YEARS, SITAKHEDI, DISTT. DEWAS / HOUSE OF RAFIQUE BHAI GEETA NAGAR, INDORE (MADHYA PRADESH)

.....APPELLANT

(BY MS SUDHA SHRIVASTAVA, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THRU. P.S. CHANDAN NAGAR, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI AKASH SHARMA, GOVT.ADVOCATE)

Reserved on : 07.03.2022

Delivered on : 12.05.2022

This appeal coming on for judgment this day, Hon'ble Shri Justice Satyendra Kumar Singh passed the following:

JUDGMENT

The appellant has preferred this appeal under Section 374(2) of the Code

of Criminal Procedure, 1973 (2 of 1974) [in short “Cr.P.C.”] against the judgment dated 11.05.2016 passed by the Court of 13th Additional Sessions Judge, Indore (M.P.) in S.S.T. No.150/2015, whereby the appellant has been convicted for the offences punishable under Sections 363, 366, 376(2)(I) and 376(2)(N) of the Indian Penal Code, 1860 (in short “IPC”) alongwith Section 5(1)/6 of the Protection of Children from Sexual Offences Act, 2012 (in short “the POCSO Act”) and in view of provisions of Section 42 of POCSO Act, sentenced him as follows :

| Conviction | Sentence | | |
|---------------------------------------|---------------------|--------------------|--|
| | Imprisonment | Fine Amount | Additional Imprisonment in Default of payment of fine |
| 366 of IPC | 10 years R.I. | 1,000/- | 1 year R.I. |
| 376(2)(I) of IPC | 10 years R.I. | 1,000/- | 1 year R.I. |
| 376(2)(N) of IPC | 10 years R.I. | 1,000/- | 1 year R.I. |
| All the sentences to run concurrently | | | |

2. Prosecution story, in brief is as follows:

(i) Appellant and complainant's minor daughter – prosecutrix aged about 13 years were known to each other as appellant lives opposite to prosecutrix maternal grandfather's house at Geeta Nagar, Indore. On 30.04.2015, at about 9:00 p.m.,

when complainant alongwith his other family members including his minor daughter - prosecutrix had gone to attend a marriage function of his relative at Sunny Garden, Geeta Nagar Indore, then appellat called his minor daughter – prosecutrix on the road and on the pretext of marriage, took her to Sarwate Bus Stand, Indore in an autorickshaw and thereafter to Khandwa by bus and forcefully committed rape upon her. Thereafter, he took her to Bhopal by bus and there also, he committed rape upon her.

(ii) Complainant on being informed by witnesses Shammo Bi and Shayra Bi that appellat took prosecutrix in an autorickshaw searched for her at nearby places and thereafter on 01.05.2015 at about 19:00 hrs lodged FIR (Ex P-5) at Police Station Chandan Nagar against the appellat for the offences punishable u/S 363 and 366 of IPC. On the next day, i.e. on 02.05.2015, at about 13.05 hours, S.I. S.S. Rajput went to the place of occurrence and prepared spot map (Ex. P-6), recorded the statements of complainant and other witnesses. Thereafter, on 06.05.2015 recovered the prosecutrix from the possession of the appellat as per *dastiyabi panchnama* (Ex. P-2) and sent the her to District Hospital, Indore for medical examination, where on the same day, at about 20:25 hours. Dr. Kalpana Amb medically examined her and prepared the MLC report (Ex.P-7) wherein she observed as follows:

- Old mark of abrasion brown in colour below lower lip Rt. Side.
- Multiple abrasion marks on the whole back.
- No injury around genital region, hymen torned, old scar.
- Dental formula

$$\begin{array}{c} \frac{7}{7} \\ \frac{7}{7} \end{array}$$

(iii) Dr. Kalpana Amb also prepared prosecutrix's vaginal swab slide, collected her pubic hairs and her undergarments, sealed and hand over the same to the concerned police constable, who brought the prosecutrix to hospital for chemical examination. For determination of age, she referred the prosecutrix to Radiologist for ossification test. On the same day, Radiologist of District Hospital, Indore has done X-ray of prosecutrix's elbow, wrist, hip and chest and opined as follows:

- Epiphysis of upper end of radius (elbow) has been fused. Epiphysis of lower end of radius (wrist) not fused. Epiphysis of chest appear but not fused.
- Radiological age is above 15 years (fifteen years) & below 17 years (seventeen years).

(iv) On the same day i.e. 06.05.2015, S.I. S.S. Rajput arrested the appellant

as per arrest memo (Ex. P-8), sent him to District Hospital, Indore for medical examination, where on the same day at about 21:50 hours, he was medically examined and found capable of doing sexual activities. S.I. S.S. Rajput obtained prosecutrix's birth certificate alongwith copy of the Indore Municipal Corporation, Birth Register Entry (Ex. P-12), wherein her date of birth is written as 11.03.2002. He vide letter (Ex. P-11) sent the seized articles to FSL, Rau, Indore, obtained FSL report(Ex. P-13) and after completion of investigation, filed chargesheet before the Court of 13th Additional Sessions Judge, Indore

3. Learned Trial Court considering the material *prima-facie* available on record, framed the charges under Section 363, 366, 376(2)(I) and 376(2)(N) of IPC and under Section 5L/6 of POCSO Act against the appellant, who abjured his guilt and prayed for trial. In his statement recorded under Section 313 of Cr.P.C., the appellant pleaded his false implication in the matter.

4. Learned Trial Court after appreciating the oral as well as documentary evidence available on record, recorded the findings that prosecution proved its case beyond reasonable doubt against the appellant for the offences punishable under Sections 363, 366, 376(2)(I) and 376(2)(N) of the IPC and under Section 5L/6 of POCSO Act and therefore, vide judgment dated 11.05.2016 convicted him for the aforesaid offences and sentenced him , as mentioned in para 1 of this judgment.

5. Being aggrieved with the said judgment of conviction and order of sentence, appellant has preferred this appeal.

6. Learned counsel for the appellant submits that learned trial Court has committed legal error while appreciating the evidence available on record. Municipal Corporation Register Entry(Ex. P-12) with regard to the date of birth of prosecutrix has not been proved properly. Ossification test report wherein prosecutrix's age at the time of incident was written as 15-17 years has not been proved. Prosecution has failed to prove that prosecutrix was minor at the time of incident. Prosecutrix's statements are inconsistent on the point of commission of offence of rape. Investigating Officer did not verify the places where incident is said to have happened. Prosecutrix in her cross-examination has denied the above allegation alleged against the appellant. Under such circumstances, learned Trial Court has committed a legal error in holding the appellant guilty while appreciating the evidence available on record, therefore, the impugned judgment of conviction and order of sentence may be set aside and the appellant may be acquitted from the charges framed against him.

7. Per contra, learned Public Prosecutor for the respondent-State, while supporting the impugned judgment of conviction and order of sentence submits that the judgment was passed by the Trial Court after proper appreciation of

evidence available on record. Same is well reasoned establishing the guilt of the appellant beyond reasonable doubt. Therefore, confirming the impugned judgment of conviction and order of sentence, the appeal filed by the appellant may be dismissed.

8. I have heard learned counsel for the parties at length and perused the record.

9. From the record, it is found that on 01.05.2015, at about 19:00 hrs, complainant (PW-2) lodged FIR (EX. P-5) at Police Station Chandan Nagar, Indore against the appellant stating that on 03.04.2015, at about 9:00 p.m. when he alongwith his other family members including his minor daughter – prosecutrix aged about 13 years had gone to attend a marriage function of his relative at Sunny Garden, Geeta Nagar, Indore, appellant took prosecutrix in an autorickshaw and since then she went missing. The prosecutrix was recovered on 06.05.2015 as per *dastayabi panchnama* (Ex. P-7) i.e. after about 06 days. Prosecutrix (PW-1) in her statement recorded on 13.05.2015 under Section 164 of Cr.P.C. (Ex. P-4) stated that on the date of incident, appellant called her outside the garden, where marriage function was going on, threatened her and forcefully took her to Sarvate Bus Stand in an autorickshaw from where he took her to Khandwa, Bhopal, Pithampur and back to Sarwate Bus Stand, Indore by bus where she was recovered by the police.

She also stated that during aforesaid period, appellant forcefully committed rape upon her.

10. The question that falls for consideration of this Court are that:

- Firstly whether the prosecutrix was minor at the time of incident ? If not then;
- Secondly whether the prosecutrix was a consenting party?

11. Regarding the admissibility of the documents proved in support of age of the prosecutrix and their probative value, the Hon'ble Supreme Court in the case of

Satpal Singh Vs. State of Haryana, (2010) 8 SCC 714, has held as under :-

19. So far as the issue as to whether the prosecutrix was a major or minor, it has also been elaborately considered by the courts below. In fact, the school register has been produced and proved by the Headmaster, Mohinder Singh (PW 3). According to him, Rajinder Kaur (PW 15), the prosecutrix, was admitted in Government School, Sharifgarh, District Kurukshetra on 2-5-1990 on the basis of school leaving certificate issued by Government Primary School, Dhantori. In the school register, her date of birth has been recorded as 13-2-1975. The question does arise as to whether the date of birth recorded in the school register is admissible in evidence and can be relied upon without any corroboration. This question becomes relevant for the reason that in cross-examination, Shri Mohinder Singh, Headmaster (PW 3), has stated that the date of birth is registered in the school register as per the information furnished by the person/guardian accompanying the students, who comes to the school for admission and the school authorities do not verify the date of birth by any other means.

20. A document is admissible under Section 35 of the Evidence Act, 1872 (hereinafter called as "the Evidence Act") being a public document if prepared by a government official in the exercise of his official duty. However, the question does arise as to what is the authenticity of the said entry for the reason that admissibility of a

document is one thing and probity of it is different.

21. *In State of Bihar v. Radha Krishna Singh 6 this Court dealt with a similar contention and held as under:*

“40. ... Admissibility of a document is one thing and its probative value quite another—these

two aspects cannot be combined. A document may be admissible and yet may not carry any conviction and weight or its probative value may be nil. ... (SCC p. 138, para 40)53. ... where a report is given by a responsible officer, which is based on evidence of witnesses and documents and has a statutory flavour in that it is given not merely by an administrative officer but under the authority of a statute, its probative value would indeed be very high so as to be entitled to great weight. (SCC p. 143, para 53) 145. (4) The probative value of documents which, however ancient they maybe, do not disclose sources of their information or have not achieved sufficient notoriety is precious little. (SCC p. 171, para 145)”

22. *Therefore, a document may be admissible, but as to whether the entry contained therein has any probative value may still be required to be examined in the facts and circumstances of a particular case. The aforesaid legal proposition stands fortified by the judgments of this Court in Ram Prasad Sharma v. State of Bihar; Ram Murti v. State of Haryana Dayaram v. Dawalatshah; Harpal Singh v. State of H.P.; Ravinder Singh Gorkhi v. State of U.P.; Babloo Pasi v. State of Jharkhand; Desh Raj v. Bodh Raj and Ram Suresh Singh v. Prabhat Singh. In these cases, it has been held that even if the entry was made in an official record by the official concerned in the discharge of his official duty, it may have weight but still may require corroboration by the person on whose information the entry has been made and as to whether the entry so made has been exhibited and proved. The standard of proof required herein is the same as in other civil and criminal cases. Such entries may be in any public document i.e. school register, voters list or family register prepared under the rules and regulations, etc. in force, and may be admissible under Section 35 of the Evidence Act as held in Mohd. Ikram Hussain v. State of U.P. and Santenu Mitra v. State of W.B.*

23. *There may be conflicting entries in the official document and in such a situation, the entry made at a later stage has to be accepted and relied upon. (Vide Durga Singh v. Tholu.)*

24. *While dealing with a similar issue in Birad Mal Singhvi v. Anand Purohit, this Court held as under: (SCC p. 619, para 15)“15. ... To render a document admissible under Section 35, three conditions must be satisfied, firstly, entry that is relied on must be one in a public or other official book, register or record; secondly, it must be an entry*

stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law.

An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act, but entry regarding to the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded. ”

25. A Constitution Bench of this Court, while dealing with a similar issue in *Brij Mohan Singh v. Priya Brat Narain Sinha*, observed as under: (AIR p. 286, para 18) “18. ... The reason why an entry made by a public servant in a public or other official book, register, or record stating a fact in issue or a relevant fact has been made relevant is that when a public servant makes it himself in the discharge of his official duty, the probability of its being truly and correctly recorded is high. That probability is reduced to a minimum when the public servant himself is illiterate and has to depend on somebody else to make the entry. We have therefore come to the conclusion that the High Court is right in holding that the entry made in an official record maintained by the illiterate chowkidar, by somebody else at his request does not come within Section 35 of the Evidence Act.”

26. ***In Vishnu v. State of Maharashtra***²⁰ while dealing with a similar issue, this Court observed that very often parents furnish incorrect date of birth to the school authorities to make up the age in order to secure admission for their children. For determining the age of the child, the best evidence is of his/her parents, if it is supported by unimpeccable documents. In case the date of birth depicted in the school register/certificate stands belied by the unimpeccable evidence of reliable persons and contemporaneous documents like the date of birth register of the municipal corporation, government hospital/nursing home, etc., the entry in the school register is to be discarded.

27. Thus, the entry in respect of age of the child seeking admission, made in the school register by semi-literate chowkidar at the instance of a person who came along with the child having no personal knowledge of the correct date of birth, cannot be relied upon.

28. Thus, the law on the issue can be summarised that the entry made in the official record by an official or person authorised in performance of an official duty is admissible under Section 35 of the Evidence Act but the party may still ask the court/authority to examine its probative value. The authenticity of the entry would

depend as to on whose instruction/information such entry stood recorded and what was his source of information. Thus, entry in school register/certificate requires to be proved in accordance with law. Standard of proof for the same remains as in any other civil and criminal case.

29. In case, the issue is examined in the light of the aforesaid settled legal proposition, there is nothing on record to corroborate the date of birth of the prosecutrix recorded in the school register. It is not possible to ascertain as to who was the person who had given her date of birth as 13-2-1975 at the time of initial admission in the primary school. More so, it cannot be ascertained as who was the person who had recorded her date of birth in the primary school register. More so, the entry in respect of the date of birth of the prosecutrix in the primary school register has not been produced and proved before the trial court. Thus, in view of the above, it cannot be held with certainty that the prosecutrix was a major. Be that as it may, the issue of majority becomes irrelevant if the prosecution successfully establishes that it was not a consent case.

(emphasis supplied)

12. Thus, this Court is required to test the evidence produced by the prosecution on the anvil of aforesaid dictum of the Supreme Court. Regarding age of the prosecutrix, prosecution has produced Indore Municipal Corporation Birth Register Entry (Ex. P12) wherein prosecutrix's date of birth is stated to be 11.03.2002. Mukesh(PW-7) who is an employee of Municipal Corporation, Indore has proved the aforesaid Birth Register Entry with original register. There is no reason to disbelieve the authenticity of the aforesaid entry.

13. In this regard, observations made by Dr. Kalpana Amb(PW-11) while examining the prosecutrix on 06.05.2015 are also relevant. She in her MLC report (Ex. P-7) specifically observed that prosecutrix's denition as under :

Dentition

7/7

7 / 7

14. As per Modi's Medical Jurisprudence & Toxicology, 23rd Edition, the average period of eruption of the temporary and permanent teeth are as follows:

| Teeth | Temporary | Permanent |
|---|---|--------------------------|
| <i>Central Incisors</i> | --- | <i>6th to 8th</i> |
| <i>Lower</i> | <i>6th to 8th month</i> | |
| <i>Upper</i> | <i>7th to 9th Month</i> | |
| <i>Lateral incisors</i> | --- | <i>7th to 9th year</i> |
| <i>Lower</i> | <i>10th to 12th month</i> | |
| <i>Upper</i> | <i>7th to 9th month</i> | |
| <i>Canines month</i> | <i>17th to 18th</i> | <i>11th to 12th year</i> |
| <i>Anterior Premolars or First Bicuspid</i> | <i>Absent</i> | <i>9th to 11th year</i> |
| <i>Posterior Premolars or Second Bicuspid</i> | <i>Absent</i> | <i>10th to 12th year</i> |
| <i>First Molars</i> | <i>12th to 14th month</i> | <i>6th to 7th year</i> |
| <i>Second Molars</i> | <i>20th to 30th month</i> | <i>12th to 14th year</i> |
| <i>Third Molars or Wisdom teeth</i> | <i>Absent</i> | <i>17th to 25th year</i> |

15. From the aforesaid table, it is apparent that normally second molar erupt between 12th to 14th year, while third molar is wisdom teeth and are erupted between 17-25th year. As per Dr. Kalpana Amb, MLC report(Ex. P-7), prosecutrix's third molar was not erupted meaning thereby she was below 17 years

of age at that time. Observations made by the learned Judicial Magistrate First Class while recording prosecutrix's statement u/S 164 of Cr.P.C. and learned trial Court while recording prosecutrix's statement during trial are also relevant wherein both the above Courts have stated prosecutrix apparent age as 13 years.

16. As observations made by Dr. Kalpana Amb as well as learned JMFC and learned trial Court corroborate the entry made in Indore Municipal Corporation Birth Register Entry(Ex. P12), therefore It is very well established that at the time of incident, prosecutrix was below 18 years of age and she was minor at that time. Although prosecutrix's ossification test report dated 06.05.2015, which is attached with the record of trial Court alongwith x-ray report has not been proved by the prosecution, but the same cannot be said to be against the prosecution because in the said report also prosecutrix's radiological age is written as 15-17 years. Under such circumstances, it has been found proved beyond reasonable doubt that prosecutrix was below 18 years of age at the time of incident and was not competent to give her consent at that time.

17. So far as the allegations alleged against the appellant are concerned, prosecutrix(PW-1) has reiterated her statement recorded u/S 164 of Cr.P.C. in the trial Court also that on the date of incident i.e. on 30.04.2015, appellant took her from Sunny Garden, Geeta Nagar, Indore and since then, she was in the company

of appellant till her recovery on 06.05.2015. Aforesaid fact finds support from the statement of complainant(PW-2) and Sub Inspector S.S. Rajput(PW-6) who deposed that after the incident, prosecutrix was recovered from the possession of the appellant on 06.05.2015 as per *dastyabi panchnama*(Ex. P-2). It has already been found proved that prosecutrix was minor and was not competent to give her consent at that time, therefore, this fact is also very well established that on the date of incident, appellant took minor prosecutrix from the legal guardianship of her father without his consent. Hence, learned trial Court has not committed any error in finding the appellant guilty for the offence punishable u/s 363 of IPC.

18. So far as the findings with regard to other alleged offences are concerned, prosecutrix's statements are not consistent. Prosecutrix(PW-1) in her statement recorded on 06.05.2015 u/S 161 of Cr.P.C.(Ex. D-1) stated that appellant took her to Khandwa, Bhopal and Pithampur by bus and committed rape upon her at all the above three places near bus stand, while in her statement recorded on 13.05.2015 u/S 164 of Cr.P.C.(Ex. P-4), she stated that appellant took her in a village near Khandwa, kept her there for two days, thereafter to Bhopal and committed rape upon her at both the above places, twice at Khandwa and once at Bhopal.

19. Prosecutrix in her statement recorded during trial, in her examination-in-

chief reiterated that appellant took her to Khandwa, Bhopal and Pithampur and committed rape upon her, but in her cross-examination, she stated entirely different story and deposed that appellant took her to Khandwa, thereafter to Nepanagar and kept her there for three days and thereafter to Bhopal and Pithampur. She specifically stated that she stayed with appellant at Nepanagar, Bhopal and Pithampur, but appellant did not commit any wrong with her meaning thereby she totally denied the fact that appellant committed rape upon her at aforesaid places. Dr. Kalpana Amb(PW-11), as per MLC report (Ex. P-7) stated that during medical examination, no external or internal injury was found around prosecutrix's genital region and her hymen was torn with old scar. Investigating Officer S.S. Rajput(PW-6) admitted that he did not verify the places where rape on the prosecutrix is said to be committed. There is nothing else on record which corroborates the statement of prosecutrix made during her examination-in-chief that she was subjected to sexual intercourse during the incident. It is settled law that the solitary testimony of a victim is sufficient for convicting the accused provided the testimony is unimpeachable and trustworthy. In the instant case, prosecutrix's statements with regard to the commission of offence of rape are inconsistent which requires corroboration for convicting the appellant u/S 376(2) (I), 376(2)(N) of IPC as well as Sec 5L/6 of POCSO Act. In this regard,

observations made by Hon'ble Apex Court in the case of ***State of Rajasthan Vs. Babu Meena [(2013) 4 SCC 206]*** can be relied upon. Relevant extracts of the said judgment is reproduced below for convenience and ready reference:

"8. We do not have the slightest hesitation in accepting the broad submission of Mr. Jain that the conviction can be based on the sole testimony of the prosecutrix, if found to be worthy of credence and reliable and for that no corroboration is required. It has often been said that oral testimony can be classified into three categories, namely (i) wholly reliable, (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable. In case of wholly reliable testimony of a single witness, the conviction can be founded without corroboration. This principle applies with greater vigour in case the nature of offence is such that it is committed in seclusion. In case prosecution is based on wholly unreliable testimony of a single witness, the court has no option than to acquit the accused."

20. In the present case, in view of material improvements, the testimony of the prosecutrix cannot be accepted as that of a sterling witness and it is not safe to rely upon the same without any corroboration. In such circumstances, appellant's conviction u/S 376(2)(I), 376(2)(N) of IPC as well as Sec 5L/6 of POCSO Act is not sustainable.

21. So far as conviction of the appellant under u/S 366 of IPC is concerned, mere finding that a woman was abducted is not enough, it must further be proved that the accused abducted the woman with the intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person or in order that she may be forced or seduced to illicit intercourse or knowing it to be likely that she will be forced or seduced to illicit intercourse. Unless the prosecution proves that the abduction is for the purposes mentioned in Section 366 IPC, the Court cannot hold the accused guilty and punish him under Section 366 IPC. The judgment rendered in the case of ***Kavita Chandrakant Lakhani Vs. State of Maharashtra [AIR 2018 SC 2099]*** can profitably be relied upon in this regard.

22. In view of the aforesaid discussion, impugned judgment with regard to conviction of the appellant for the offence punishable u/S 363 of IPC is liable to be affirmed, but conviction with regard to offences punishable u/S 366, 376(2)(I), 376(2)(N) of IPC and Sec 5L/6 of POCSO Act is not sustainable and is hereby set aside. Hence, the appeal filed by the appellant is partly allowed. Accordingly, this Court passes the following order:

(i) Criminal Appeal No. 1042/2016 filed by the appellant is partly allowed.

(ii) *The judgment and order of conviction dated 11.05.2016 passed by 13th Additional Sessions Judge, Indore, (M.P.) in S.S.T. No.150/2015 is modified to the extent that appellant stands acquitted from the offences punishable under 376(2)(i) & 376(2)(N) of IPC alongwith Section 5(L)/6 of POCSO Act. As the learned Trial Court convicted and sentenced the appellant for the offence punishable under Section 366 of IPC and therefore, separate sentence for the offence punishable under Sections 363 of IPC was not passed and appellant has now been acquitted from the charge punishable under Section 366 of IPC, therefore, considering overall facts of the case, it would be appropriate to sentence him for the offence punishable under Sections 363 of IPC with Rigorous Imprisonment for 7 years with fine of Rs.1,000/- and in default of payment of fine, to undergo 2 months additional RI. As per available record, appellant is in jail since 06.05.2015 and he has already undergone the substantial period of about seven years. Learned Trial Court is directed to ascertain the period of jail incarceration suffered by the appellant from the concerned jail. The modified sentence is as follows:*

| Conviction | Sentence | | | Modification |
|-------------------|--|--------------------------|--|---------------------|
| | Imprisonment | Fine Amount (Rs.) | Additional Imprisonment in Default of payment of fine | |
| 363 of IPC | 07 years R.I. | 1,000/- | 2 months R.I. | Convicted |
| 366 of IPC | 10 years R.I. | 1,000/- | 1 year R.I. | Acquitted |
| 376(2)(I) of IPC | 10 years R.I. | 1,000/- | 1 year R.I. | Acquitted |
| 376(2)(N) of IPC | 10 years R.I. | 1,000/- | 1 year R.I. | Acquitted |
| 5L/6 of POCSO | <i>Not sentenced separately as per provision of Section 42 of POCSO Act.</i> | | | Acquitted |

(iv) Fine amount(if any) deposited by the appellant under Sections 366, 376(2)(i) and 376(2)(N) be refunded to the appellant.

The Registry is directed to send back the trial Court record forthwith alongwith the copy of this judgment. Let a copy of this order be also sent to the concerned jail authorities for its speedy compliance and necessary action.

Certified copy as per rules.

(Satyendra Kumar Singh)
Judge
12.05.2022