



IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE

BEFORE
HON'BLE SHRI JUSTICE GAJENDRA SINGH
ON THE 23rd OF JULY, 2025

CRIMINAL APPEAL No. 6832 of 2023

MANGAL @ ANAND

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Harish Chandra Tripathi - Advocate for the appellant.

Shri Rajesh Joshi - G.A for the respondent/State.

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Reserved on 16.07.2025

Delivered on 23.07.2025

J U D G M E N T

This criminal appeal under section 374 of the Cr.P.C, 1973 is preferred being aggrieved by the judgment dated 11.05.2023 in S.T.No.317/2019 by Ist A.S.J, Khategaon, district Dewas whereby the appellant Mangal @ Anand has been convicted under section 376 (1) & 506 Part-II of the IPC and has been sentenced to ten years RI and fine of Rs.3,000/- with default stipulation of 3 months RI and 2 years RI with fine of Rs.2,000/- with default stipulation of 2 months RI.



2. The case of the prosecution is that victim (PW/1) was missing on 14.04.2019 from her house. A missing intimation was given to PS Nemawar on 15.04.2019 and missing person case no.0007/2014 was registered. The prosecutrix was recovered on 21.04.2019 and she disclosed that she was taken forcibly from the house by the appellant and co-accused Rahul and was kept secretly in a house in Bhopal and the present appellant insisted for marriage and committed penetrative sexual assault. On this information, the first information report no.93/2019 under sections 363, 365, 366, 376(2)(g), 190, 506 r/w section 34 of the IPC was registered against the present appellant and co-accused Rahul. The statement under section 164 of Cr.P.C was recorded on 22.04.2019 by JMFC, Khategaon. The victim (PW/1) was reported carrying pregnancy and the pregnancy was terminated in compliance of the order dated 22.05.2019 in W.P.No.1007/2019 by the High Court of M.P, Bench at Indore. Completing the investigation, final report was submitted. The appellant Mangal @ Anand was put to trail along with Rahul for charges under sections 365, 366, 376(1), 376(d) & 506 Part-II of the IPC for kidnapping, committing gang rape, extending threat to life to the prosecutrix (PW/1) regarding which a crime no.93/2019 was registered at PS Nemawar, district Dewas.

3. Appellant along with Rahul abjured the guilt and claimed



for trial.

4. To bring home the guilt, prosecution examined as many as 17 witnesses including the prosecutrix (PW/1), her father (PW/2), relative PW/8, Dr.Jeevan Yadav (PW/15), Dr.Ashwin Yadav (PW/16), Dr.Megha Patel (PW/17), formal witness Dilip (PW/3), Mangal Singh (PW/9), HariOm (PW/10), official witnesses Constable Mohan Singh (PW/4), Nagar Sainik Sandeep Singh (PW/5), Constable Ghanshyam Parmar (PW/7), Nagar Sainik Kalyansingh (PW/11), A.S.I Ramjas Sharma (PW/12), ASI Motilal Ishke (PW/13), Inspector Jaywant Singh Kakodia (PW/14) and relatives PW/7 & PW/8.

5. Appreciating evidence, trial court acquitted Rahul and convicted the appellant Mangal @ Anand only under sections 376(1) and 506 Part-II of the IPC. The trial court acquitted the present appellant from rest of the charges and sentenced as per para-1 of this judgment.

6. Challenging the conviction and sentence, this appeal has been preferred on the ground that trial court committed error in appreciating the evidence of prosecutrix (PW/1) as the statement of PW/1 clearly shows that prosecutrix was major and consenting party. There was a love relation and prosecutrix was having physical relation ship with the appellant since last one year and only because she got pregnancy, the matter was reported.



7. Heard.

8. State opposed the appeal and supported the conviction as well as sentence and submitted that there is no case for interference either in conviction or in the sentence.

9. Trial court has recorded the finding in para-21 that prosecutrix (PW/1) accompanied the appellant at her own will. She was not kidnapped secretly. The trial court further recorded the finding in para-26 that there was love affair between the prosecutrix and appellant but recorded the finding in para-27 that the physical relationship was not with the consent as she was compelled to make physical relationship because appellant has prepared a video when she was taking bath and committed physical relationship threatening her that video shall be made public.

10. Now this Court is examining the above finding of want of consent. Prosecutrix (PW/1) has stated in para-33 that she has physical relationship with the appellant prior to her pregnancy and they got physically intimate at their field and to establish the physical relationship she has gone to the field in the night from her house and after establishing the physical relationship she returned to home and physical relationship continued for a period of one year. When she came to know that she is pregnant, then she disclosed the incident. If she could not get pregnancy, then she could not have



disclosed the incident. Regarding black mailing on the basis of preparation of video, she stated that in para-32 that she has not seen such video. She has admitted in para-29 that they were staying together and she developed intimacy with the appellant and there was a romantic correspondence between them. This witness has stated in para-39 of the cross examination that she stayed at Bhopal with Aniket and Simran for a period of 7 days and she did not disclose that she has been taken forcibly or any sexual assault has been committed against her will. She has stated in para-34 that she did not raise any alarm during the journey from her village to Bhopal on the motorcycle.

11. The above referred cross examination of the victim (PW/1) clearly established that physical relationship was consensual in nature and no threat was extended to the victim (PW/1) and trial court recorded the finding of want of consent without appreciating the above statement of prosecutrix.

12. Accordingly, the conviction of the appellant Mangal @ Anand under section 376(1) and 506 Part-II of the IPC is not sustainable and is hereby set aside. Consequently, the sentence is also set aside.

13. This appeal is allowed and the appellant/accused is acquitted from the charge under sections 376(1) and 506 Part-II of the IPC.



14. The appellant be released forthwith, if not required in any other case. The record be remitted back to the trial court along with copy of the judgment for information and compliance.

(GAJENDRA SINGH)
JUDGE

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