



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

CRIMINAL APPEAL No. 565 of 2016

LALE @ LALLU RAVAT

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Sudhanshu Singh Chouhan - Advocate for appellant.

Shri Ajay Tamrakar - Govt. Advocate for the respondent/State.

Reserved on : 05/02/2026

Delivered on : 24/02/2026

JUDGMENT

Per. Justice Ratnesh Chandra Singh Bisen

This criminal appeal under Section 374(2) of the Cr.P.C. is filed by the appellant being aggrieved of the judgment dated 12.02.2016 passed by the learned 1st Additional Sessions Judge, Sidhi, District Sidhi in S.T. No.60/2014, whereby the learned trial Court has convicted and sentenced the appellant in following terms as under :-

<u>Conviction</u>		<u>Sentence</u>		
<u>Section</u>	<u>Act</u>	<u>Imprisonment</u>	<u>Fine</u>	<u>Imprisonment in lieu of fine</u>
450	I.P.C.	R.I. for 5 years	Rs.1,000/-	R.I for 3 months
376 of IPC r/w Section 3/4 of POCSO Act	I.P.C. & POCSO Act	R.I. for Life	Rs.10,000/-	Additional R.I. for 1 -1 year

2. Learned counsel for the appellants submits that, as per the prosecution



case, on 17.02.2014 at about 08:30 p.m., when the prosecutrix, aged about 8 years, was at home with her two nieces and her mother, brother, and sister-in-law had gone to attend a Barahon function at a relative's house, the appellant/accused allegedly committed forcible sexual intercourse with her without her consent. It is further submitted that the appellant is innocent and has been falsely implicated due to a prior dispute between him and the mother of the prosecutrix. It is also contended that there are several contradictions, omissions, and improvements in the testimonies of the prosecution witnesses, and therefore no implicit reliance can be placed upon such evidence. Additionally, it is argued that the medical report does not support the version of the prosecutrix, and according to the doctor, no definite opinion regarding forcible sexual intercourse could be given by Dr Babita Khare (PW-9) and as per her opinion, an attempt was made to have sexual intercourse with victim. In such a situation, the accused cannot be held guilty under Section 376 IPC r/w Section 3/ 4 of Protection of Children from Sexual Offences Act 2012. In these circumstances, it is prayed that the judgment of conviction and sentence passed by the learned trial Court be set aside and the appellant be acquitted from the aforesaid charges.

3. Shri Ajay Tamrakar, learned Public Prosecutor for the State, supported the judgment of conviction passed by the trial Court.

4. Heard the learned counsel for the parties.

5. From the evidence of Lavkush Pandey (PW-8), it appears that in the Scholar Register of the Govt. High School, Paigma victim's date of birth is recorded as 08.08.2005 at Sl. No.1868. This witness had also produced the original record/register of Session year 2006 before trial Court, which is Ex.P-



6. On the basis of his evidence, it appears that victim's date of birth is 08.08.2005 and the date of incident is 17.02.2014. Mother of victim (PW-2) and Bhagirathi Kol (PW-3) have also stated that the age of victim was eight years and that fact was not challenged by the defence counsel in the cross-examination of those witnesses. As far as the question of the age of the victim is admittedly proved that at the time of incident, she was less than 10 years.

6. Prosecutrix (PW-1) deposed in her statement that at the time of incident, she was studying in Class-III in Government School, Village Paigma. There was Barho function at the house of her elder sister and she along with her all family members went there. Due to sleep, she came back to her house along with her two nieces. While she was sleeping in her house, the accused came, caught hold of her, inserted his hand inside her underwear, and thereafter inserted his penis into her vagina, causing bleeding. Upon her raising an alarm and crying, her sister-in-law (bhabhi) arrived, and the accused fled away. She informed her mother about the incident, who in turn informed other family members. She was in pain and bleeding from her vagina. The next morning, her mother took her to Police Station Bahri, where the report (Ex.P-1) was lodged. Her consent for medical examination was obtained (Ex.P-2). In cross-examination, she denied the suggestion that she had not identified the accused and reaffirmed that she had identified him.

7. PW-2, the mother of the prosecutrix, stated that at the relevant time her daughter was 8 years old and studying in Class III. When she returned home, she found her daughter crying and bleeding from her private parts. The prosecutrix informed her that the accused had committed a wrongful act with her. Due to the late hour, she did not lodge the report the same night but went



to Police Station Bahri the next morning. She accompanied her daughter to District Hospital, Sidhi, for medical examination and gave consent (Ex.P-2).

8. P.W.-3, brother of prosecutrix, deposed that at about 10:00 p.m. his wife informed him on mobile phone that Lale @ Lallu Rawat raped his sister in his house at about 08:30 p.m. Upon receiving the information, he returned to his house and saw that his sister was lying in the house and told him that accused Lale came into her house, took off her panty and committed rape with her.

9. Smt. Mohniya (PW-4) deposed that on the date of incident, a Barhon function was organized at her house and they were busy in serving food to the relatives, then after hearing the noise, she came to the house of victim and saw that victim was lying on the floor. The blood was oozing out from the private part of the victim and the clothes of victim were wet with blood and she was crying.

10. Sobhnath Kol (PW-5) has also deposed that on the date of incident in the night, after hearing the noise, he reached the place of occurrence and saw that victim was weeping and lying on the floor and her underwear was stained with blood. Victim had told her mother that accused Lale had raped her. Police had also prepared the spot map Ex.P-4.

11. Savita Rawat (PW-6) has supported the prosecution story and stated that phone of her husband came on her mobile, then she came out from her house and she was talking her husband, then the accused came out from her uncle's house and accused ran away. After hearing the noise, she went to her uncle's house and saw that the blood was oozing out from the private part of



the victim and victim was lying in the bed (charpai) at that time. Victim told her that accused Lale had come into her house and he forcibly committed sexual intercourse with her.

12. Sukhdev (PW-7) stated that on the next day of the incident, he came to know about the incident when police came. The police had arrested the accused Lale @ Lalle Rawat and took him away.

13. Smt. Sangeeta Singh (PW-14) stated that on 18.02.2014, she was posted as Sub Inspector in Women Cell Sidhi. On the said date, she went to Bahri Police Station on the complaint of mother of victim, regarding the crime related to women and in relation to rape committed by the accused Lale @ Lallu Rawat. She lodged Crime No.56/14 against the accused under Section 376, 456 of IPC and Section 3/4 of POCSO Act. FIR is Ex.P-1. Thereafter she recorded the statement of victim as per her version. After the statement, she had taken the consent of victim and her mother for medical examination. Consent is Ex.P-2. After that she prepared the medical examination form (Ex.P-7). She was sent to District Hospital Sidhi by female Constable Sunita Yadav. On that day, she had also recorded the statement of the victim's mother as per her version. On 18.02.2014 after medical examination of victim, she had received a sealed packet containing clothes of victim, a sealed packet containing slide and a sealed packet containing sealed sample of the hospital. On receiving these, she seized them in the presence of witnesses and prepared seizure memo Ex.P-11. On 18.02.2014, she had also arrested the accused Lale @ Lallu Rawat in the presence of witnesses and prepared arrest memo Ex.P-13. After arresting the accused, for his medical examination, an examination form Ex.P-8 was prepared and sent to District Hospital Sidhi for medical



examination by Constable Brijesh Kumar. After medical examination, on receipt of a sealed packet from District Hospital Sidhi which contained the underwear of accused Lale @ Lallu Rawat and a sealed packet containing a slide and a sealed packet containing the sealed sample of the District Hospital. Seizure memo is Ex.P-12 was prepared. Seized articles in the case was sent by Superintendent of Police, Sidhi by letter No.-S.P./1530/14 for forensic examination. The report received from the Forensic Science Laboratory, Sagar is Ex.P-14.

14. P.W.-9, Dr. Smt. Bavita Khare, Medical Officer, District Hospital, Sidhi, examined the prosecutrix on 18.02.2014. She found that the victim's secondary sexual characteristics had not developed. There was a lacerated wound measuring 1 cm x 1 cm on the genital region. The child was in severe pain. Blood-stained clothes were sealed and handed over to the police. She opined that sexual intercourse had been attempted.

15. Dr. Rajeev Dwivedi (PW-10) stated that on 18.02.2014, he was posted as Medical Officer at the District Hospital Sidhi. On that date, Constable No.230, Brijesh Kumar of Police Station Bahri had brought the accused Lale Rawat @ Lallu before him for examination. As per his opinion, the accused was found capable to sexual intercourse. He also stated that he by extracting the semen from the accused Lale @ Lallu sent to the police station with his clothes sealed and Constable Brijesh Kumar. His report is Ex.P-8.

16. Rajesh Kumar Prajapati (PW-11) stated that on 28.02.2014, he was posted on the post of Patwari at Patwari Halka Pengwa Aabad. On that date, he visited the place of incident and prepared the spot map Ex.P-9 and also prepared the Panchnama Ex.P-10 in the presence of dignitaries people of the



village and he had sent the report to Station House Officer.

17. Sunita Yadav (PW-12) stated that on 18.02.2014, she was posted as Lady Constable at Police Station Bahri. She stated that she brought victim aged 8 years to District Hospital Sidhi with application for medical examination. After getting her medical examination done, a sealed packet containing the victim's clothes salwar and panty, a sealed packet containing the vaginal slide of the victim and a sealed sample of the District Hospital Sidhi were produced before the Sub Inspector, Sangeeta Singh, Women Cell Sidhi. Sub Inspector, Sangeeta seized the aforesaid articles. Seizure memo is Ex.P-11. On 18.02.2014 from District Hospital Sidhi itself the underwear of accused was in a sealed packet and the semen slide and the sealed sample of District Hospital Sidhi, all the above mentioned items were in a sealed packet, on being presented before her by Constable Brijesh Tiwari, the same were seized by Sub Inspector Sangeeta Singh and seizure memo Ex.P-12 was prepared.

18. Brijesh Kumar Tiwari (PW-13) stated that on 18.02.2014 he was posted as Constable at Police Station Bahri. He deposed that on the said date, Constable 203 of Women Cell, Sidhi had handed over a sealed packet containing underwear of the accused Lallu Rawat, a sealed packet containing vaginal slide of the accused and a sealed sample of the District Hospital Sidhi to Sub-Inspector Sangeeta Singh of the Women's Cell, Sidhi, whose seizure was made by Sangeeta Singh as Ex.P-12.

19. B.P. Tripathi (PW-15) stated that on 18.02.2014, he was posted as Deputy Superintendent of Police, Sidhi in the Women's Cell, Sidhi. He admits that on that date he had received the case dairy for investigation of Crime



No.56/14 under Section 376, 456 of IPC and Section 3/4 of Protection of Children From Sexual Offences Act, at Police Station Bahri. On 18.02.2014, he had prepared the spot map Ex.P-4 at the instance of complainant in the presence of witnesses. On said date, he also recorded the statements of witnesses Lalan @ Bhagirathi Rawat, Smt. Mohaniya Rawat, Sukhdev Sahu, Lallu Sahu and Smt. Savita Rawat as per their version. On 19.02.2014, he had visited the District Hospital, Sidhi and recorded the statement of victim in the question-answer format. He also recorded the statements of witnesses Sobhnath and Meena Rawat on 18.02.2014.

20. Arjun Prasad Gupta (DW-1) and Rajbahor Sahu (DW-2) were produced by accused in defence and both witnesses are trying to establish that the accused person was present in the program of Barhon and on that date there was no incident happened, but both defence witnesses are not reliable and it appears that both defence witnesses had come before the Court only at the behest of the accused.

21. After analyzing the evidence which was produced by the prosecution, it appears that victim (PW-1) clearly stated that on the date of incident, in the night, accused had come to her house and took off her panty and committed rape with her, due to which, blood was oozing from her private part of the victim. It is also clear that after crying the victim, her sister-in-law (Bhabhi) reached at the place of incident, appellant/accused fled away from her house. This fact is also corroborated by Savita Rawat (PW-6). Mother of victim (PW-2) also supported the statement of PW-1 that when she had reached her house and had seen the victim lying in the house and victim started to weep and told her about the incident.



22. On perusal of the statement of PW-3, it also appears that when he had seen the victim, the victim was lying in the house and victim told all the incident to the witnesses and it is also proved by the evidence of other witnesses like Smt. Mohaniya (PW-4) and Sobhnath Kol (PW-5) that when they had reached the house of the victim, they had seen the victim and found that blood was oozing out from the private part of the victim and her clothes were stained with blood.

23. From the evidence of Smt. Babita Khare, when she medically examined the victim, she found lacerated wound of 1x1 cm. and also cloth of the victim was stained with blood. In cross-examination of victim (PW-1), mother of victim (PW-2), Bhagirath Kol (PW-3) and other witnesses, nothing was found that the victim or her mother or her family was interested to falsely implicate to the accused person regarding any prior enmity of the incident.

24. The main argument made on behalf of the accused is that Dr. Babita Khare (PW-9) has stated in her opinion that an attempt was made to have sexual intercourse with victim. In such a situation, the accused cannot be held guilty under Section 376 IPC r/w Section 3/4 of Protection of Children from Sexual Offences Act 2012. The above argument made on behalf of the accused cannot be accepted because Dr. Babita Khare (PW-9) in her examination found that there was 1x1 cm. sized torn wound in the private part of the victim and at the time of the incident, the blue panty and white salwar were stained with blood. It is necessary to mention here that complete penetration is not necessary to establish the element of rape. In this regard, the Hon'ble Supreme Court in *Satyapal vs. State of Haryana; (2009)6 SCC 635* in para 18 of the judgment held as under:-



"18. In Modi's Medical Jurisprudence, 23rd Edn., at pp.897 and 928, it is stated:

"To constitute the offence of rape, it is not necessary that there would be complete penetration of the penis with the emission of semen and the rupture of hymen. Partial penetration of the penis within the labia majora or the vulva or pudenda, with or without the emission of semen or even an attempt at penetration is quite sufficient for the purpose of law. It is, therefore, quite possible to commit legally, the offence of rape without producing any injury to the genitals or leaving any seminal stains. ...

* * *

In small children, the hymen is not usually ruptured, but may become red and congested along with the inflammation and bruising of the labia. If considerable violence is used, there is often laceration of the fourchette and the perineum."

25. In view of aforesaid discussion, this criminal appeal fails and is hereby **dismissed**.

26. Record of the trial Court be sent back immediately.

(VIVEK AGARWAL)
JUDGE

(RATNESH CHANDRA SINGH BISEN)
JUDGE

