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CRA-785-2015

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE DEVNARAYAN MISHRA

ON THE 18th OF MARCH, 2025CRIMINAL APPEAL No. 785 of 2015*LALLA YADAV**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

*Shri Ram Prakash Yadav - Advocate for appellant.**Shri Ajay Tamrakar - Government Advocate for State.*
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ORDER

Per. Justice Vivek Agarwal

With the consent of the parties, IA No.4085 of 2023, which is an application for suspension of sentence, is dismissed as withdrawn and the case is taken up for final argument on merits.

Shri Ram Prakash Yadav, learned counsel for appellant submits that appellant is aggrieved of judgment dated 04.09.2014 passed by learned First Additional Sessions Judge, Shahdol, in Sessions Trail No.92/2013 whereby learned trial Court has found the appellant to be guilty of Section 5(K) of the POCSO Act and Section 376(2)(L) of the IPC and has sentenced the appellant for the offence punishable under Section 376(2)(L) of the IPC with life imprisonment for remainder of his life along with fine amount of Rs.20,000/-.

2. Learned counsel for appellant submits that appellant is innocent. He is a person of the society having wife and four children. Appellant stays in the neighborhood of the prosecutrix. Prosecutrix is mentally under developed and



there is delay in FIR, therefore, all these facts cumulatively indicate towards his innocence.

3. Shri Ajay Tamrakar, learned counsel for State in his turn submits that FSL report (Ex.P-22) is positive. Sperms were found on both Article A which was a vaginal slide of the prosecutrix and the slide obtained from the appellant Lalla Yadav.

4. It is further submitted that disability certificate is Ex.P-22 C shows 60% mental disability. It is further submitted that besides school record contained in Ex.P-8 showing date of birth of the prosecutrix as 27.05.1997, there is an ossification test report as contained in Ex.P-21 proved by PW-12 showing the age of the prosecutrix to be between 14 to 15 years and therefore prosecutrix being a child, provisions of POCSO Act will be applicable and there being sufficient evidence to indict the appellant, merely some delay in FIR will not cause any harm to the prosecution story.

5. It is submitted that prosecutrix being mentally disabled child when saw the appellant, recollected other deal she had undergone and narrated to her father which is not an unnatural circumstance and since it has been corroborated with FSL report, there is no scope for any leniency.

6. At this stage, Shri Ram Prakash Yadav, learned counsel for appellant submits that Section 6 of the POCSO Act provides for rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person. Similarly, Section 376(2)(L) is an offence for which punishment prescribed under Section 376(2) is rigorous imprisonment for a term which shall not be less than 10 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall



also be liable to fine.

7. It is submitted that learned trial Court has not given any reason for awarding life imprisonment for remainder of life and looking to the fact that appellant is married person, he was going through his youth and at the time of commission of offence, his age was 33 years, he has 4 children and a family to support, some leniency be shown in the matter of sentence.

8. This prayer is not opposed by Shri Ajay Tamrakar, learned counsel for State and accordingly, taking these mitigating circumstances into consideration, this Court is of the opinion that interest of justice will be served if minimum sentence as prescribed under Section 6 of POCSO Act is handed over to the appellant and accordingly we direct that the appellant's sentence should be one under Section 6 of the POCSO Act.

9. Considering the argument and interpretation of Section 6 of the POCSO Act and Section 376(2) of the IPC, appellant's sentence is modified from life imprisonment meaning sentence for remainder of his life to one for a fix period of 20 years and fine amount shall remain intact.

10. In view of the above, terms the appeal is partly allowed.

11. Accordingly, the appeal is disposed of.

12. Record of the trial Court be sent back.

(VIVEK AGARWAL)
JUDGE

(DEVNARAYAN MISHRA)
JUDGE

DPS