

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Item no. 10 & 11

**Crl. A. No. 5 of 2018 with
MC(Crl. A.) No. 19 of 2025**

Shri Lourembam Dhiren Singh

... Appellant

- Versus -

State of Manipur

... Respondent

**B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

ORDER
Oral

04.12.2025

[1] Heard Mr. Th. Jugindro, learned counsel along with Ms. Rupashree, learned counsel for the appellant and Mr. Y. Ashang, learned PP assisted by Mrs. RK. Emily, learned Dy. GA for the State respondent.

[2] The appellant herein was convicted by judgment and order of conviction dated 29.06.2018 passed by the Ld. Sessions Judge, Imphal West in Sessions Trial Case Nos. 2 of 2012/ 65 of 2013/ 55 of 2015 under Sections 366 & 376 IPC. Vide order on sentence dated 04.07.2018, the appellant was directed to undergo rigorous imprisonment of 7 years with fine of Rs. 10,000/- for the offence u/s 366 IPC and rigorous imprisonment of 10 years with fine of Rs.30,000/- u/s 376 IPC. In default of payment of fine, the appellant was further to undergo simple imprisonment of 3 months and 6 months respectively. All sentences were to run concurrently.

[3] The appellant is an accused in FIR No. 31(6) 1999 Lamshang P.S u/s 366/376/419/34 IPC. There were 7(seven) accused persons in the FIR. Against the present appellant who is accused no. 1, the Ld. Sessions Judge, Manipur East framed charge under Section 366 IPC, 419 IPC and 376 IPC for allegedly kidnapping the victim on 17.06.1999 and committing rape on

18.06.1999 and other 6(six) co-accused were charged under Section 366 read with Section 114 of the IPC and Section 419 read with Section 114 of the IPC for abetting the appellant herein in committing the crime. After examining the witnesses and materials on record, the appellant was convicted by the impugned order dated 29.06.2018 under Sections 366 and 376 of the IPC and co-accused nos. 2 to 7 were acquitted from the charge level against them under Section 366 read with Section 144 of the IPC and Section 417 read with Section 114 of the IPC.

[4] Vide sentence order dated 04.07.2018, the appellant was directed to undergo rigorous imprisonment (R.I.) for a period of 7 years with a fine of Rs. 10,000/- (Rupees ten thousand) under Section 366 IPC and in default of payment of fine, extra 3 months simple imprisonment (S.I.) and also to undergo R.I. for 10 years under Section 376 IPC with a fine of Rs. 30,000/- (Rupees thirty thousand) and in default of payment of fine, extra 6 months S.I. It was also directed that a fine of Rs. 10,000/- & Rs. 30,000/- is deposited and the same be given to the victim as compensation. The learned Sessions Judge, Imphal West also awarded a sum of Rs. 2,00,000/- (Rupees two lakh) as compensation to the victim under the relevant scheme prevailing at that time.

[5] Being aggrieved by the judgment and order of conviction dated 29.06.2018 and order of sentence dated 04.07.2018, the appellant prefers the present appeal amongst on the following ground that statement recorded u/s 161 Cr.P.C. of the victim is not annexed with the charge sheet and hence, the same prejudices the case of the appellant. The complainant who is the father of the victim was never examined during the trial so as to establish the veracity of the complaint. Earlier, defense counsel could not properly cross-examine the prosecution witnesses and trial court has failed to appreciate the materials on record.

[6] On the other hand, Mr. Y. Ashang, learned PP submits that there is not infirmity in the trial court and the accused persons were given ample opportunity to cross-examine the witnesses and in absence of any irregularity in the trial, the appeal be dismiss being devoid of merit.

[7] At this stage, the learned counsel for the appellant submits that the appellant has been convicted u/s 366 of IPC for 7 years with a fine of Rs. 10,000/- and in default another S.I. of 3 months and for conviction u/s 376, the appellant is directed to undergo R.I. for 10 years with a fine of Rs. 30,000/- and in default another S.I. of 6 months and both the sentences have to run concurrently. It is submitted that the appellant has already undergone 7 years and 6 months as on date out of the maximum punishment of 10 years including the period in custody during the trial. It is submitted that the present appeal may be disposed of by reducing the sentence to the period already undergone. It is submitted that the appellant is now around 40 years of age and a reformed man. If the appeal is disposed of by reducing the sentence to that already undergone, the appellant will forgo the appeal on merit of conviction.

[8] It is also pointed out that the date of occurrence is on 17.06.1999, the punishment u/s 376 IPC at the relevant time is minimum 7 years extendable to life imprisonment with fine. The provisions of Section 376 IPC was amended vide Act no. 22 of 2018 with effect from 21.04.2018 with effect that the punishment u/s 376(1) IPC would be not less than 10 years but extendable to life imprisonment with fine. It is further submitted that at the relevant time, the minimum punishment prescribed is 7 years and by the amendment in 2018, the minimum is increased to 10 years. It is further submitted that the appellant is now reformed person having undergone substantial portion of punishment and there is no adverse remark against him during the custody and he may be released at this stage. He will be no longer a liability to the society.

[9] Mr. Y. Ashang, learned PP submits that if the conviction is sustained, this Court may pass appropriate order considering the period already undergone by the appellant in custody.

[10] This Court has considered the alternate prayer submitted by the learned counsel for the appellant during the course of hearing for reducing the sentence to the period already undergone and without proceeding on merit of conviction. The minimum punishment prescribed for the offence u/s 376 IPC prior to the amendment of 2018 is minimum 7 years R.I. which may be

extendable to life imprisonment with fine and the minimum punishment has been increased to 10 years by the amendment of 2018. In the present case, the date of occurrence is on 17.06.1999 and hence, the minimum sentence applicable in the case of appellant will be 7 years (even if the conviction order is dated 29.06.2018 after amendment of 2018 is effective). It is the settled law in criminal jurisprudence that the minimum punishment would be the sentence prevalent at the time of the occurrence of offence. In the present case, the appropriate punishment u/s 376(1) IPC will be minimum 7 years R.I. with fine. The appellant has already undergone a substantive period of 10 years punishment i.e. 7 years 6 months. Sentence of 7 years R.I. u/s 366 IPC has already been completed.

[11] This Court is of the view that it will be in the interest of justice, if the minimum sentence is reduced to the period already undergone. It may be noted that the appellant has already completed 7 years 6 months of imprisonment awarded u/s 376 IPC. In the circumstances, the criminal appeal is disposed of with the direction that the minimum sentence of 10 years awarded is reduced to the period already undergone. Ld. Sessions Judge, Imphal West in order of sentence dated 04.07.2018 already directed that the fine of Rs. 10,000/- and Rs. 30,000/- u/s 366 and 376 IPC be deposited before the trial court for releasing as compensation to the victim.

[12] This Court is of the view that the direction of the Ld. Sessions Judge, Imphal West is in tune with the provisions of Section 357 Cr.P.C. which permits that part or whole of fine may be converted by Court as the compensation to the victim. On depositing the sum of Rs. 40,000/- to the Court of Ld. Sessions Judge, Imphal West as compensation to the victim, the release order be issued.

[13] With these observations, Crl. A. No. 5 of 2018 is partly allowed and disposed of. The conviction u/s 366 and 376 IPC are upheld and the order of sentence dated 04.07.2018 is modified and reduced in terms of the above observations and directions.

[14] Accordingly, MC(Crl. A.) No. 19 of 2025 is also disposed of.

[15] Send a copy of this order to the Ld. Sessions Judge, Imphal West and to the Superintendent, Manipur Central Jail, Sajiwa, Manipur for information and doing the needful.

JUDGE

Thoiba