



CNR: KAHC010078992019

NC: 2026:KHC:47260-DB
CRL.A No. 530 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.530 OF 2019

BETWEEN:

1. STATE OF KARNATAKA,
BY BAJPE POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

...APPELLANT

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP)

Digitally signed
by DEVIKA M

Location: HIGH
COURT OF
KARNATAKA

AND:

1. SHEKARA SHETTIGARA,
S/O LATE SIDDU SHETTIGARA,
AGED ABOUT 55 YEARS,
R/AT DASAPPA SHETTIGAR COMPOUND,
PERMUDE POST,
THENKA EKKARU VILLAGE,
MANGALURU TALUK-575001.

...RESPONDENT

(BY SRI. SUYOG HERELE E, ADVOCATE)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION
378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO



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APPEAL AGAINST THE JUDGMENT AND ORDER DATED 04.09.2018 PASSED BY THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAKSHINA KANNADA AT MANGALURU, IN S.C.NO.120/2017 IN SO FAR AS IT RELATES TO ACQUITTING THE RESPONDEN-ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 376(2)(f) OF IPC.

THIS APPEAL COMING ON FOR HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard the learned Additional SPP appearing for the appellant/State and the learned counsel for the respondent/accused.

2. This appeal is filed against the judgment of acquittal dated 04.09.2018 passed in Sessions Case No.120/2017, acquitting the accused for the offence punishable under Section 376(2)(I) of IPC, but convicted the accused for the offence punishable under Sections 506 and 354 of IPC and prays this Court to convict the accused for the offence punishable under Section 376(2)(I) of IPC and sentence him.



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3. The factual matrix of the case of the prosecution is that, on 21.02.2017 at 11.00 a.m., the accused entered house No.2-39/3-5 belonging to the complainant in Permude Padavu of Thenka Ekkaru Village, Mangaluru Taluk, and on seeing the victim, the daughter of C.W.1 alone in the house, who is differently abled girl, on the guise to talk with her, closed the front door, held her tightly, put the hands on her chest and removed her clothes forcibly and then had forcible sexual intercourse on her and he gave life threat to kill her, if she informed the matter to C.W.1. Hence, the offences under Sections 376 and 506 of IPC were invoked against the accused. The Trial Court having considered the material on record, framed the charge for the offence punishable under Section 376(2)(I) and 506 of IPC. The accused did not plead guilty and claimed trial and hence, the prosecution examined P.W.1 to P.W.17 and got marked the documents at Exs.P.1 to 18 and M.Os.1 to 5 were also marked. On closer of the evidence of the prosecution, the accused was subjected to 313 statement and the accused has not led any defence evidence. The Trial Court having considered the material on record, convicted the



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accused for the offences punishable under Sections 354 and 506 of IPC and acquitted the accused for the offence punishable Section 376(2)(I) of IPC.

4. Being aggrieved by the acquittal for the offence punishable under Section 376(2)(I) of IPC, the present appeal is filed by the State.

5. The learned Additional SPP appearing for the appellant/State in his argument would vehemently contend that the incident was taken place on 21.02.2017 at 11.00 a.m. The complaint was given on 14.03.2017 and there was a delay of 21 days in lodging the complaint. The learned counsel would submit that the victim, who has been examined as P.W.4, reiterates the contents of the complaint in her evidence and also in her 164 statement made before the learned Magistrate. The learned counsel would contend that the doctor who has been examined as P.W.8, categorically says that the victim has given the very same history that she was subjected to sexual act by the accused. The learned counsel also submits that on medical examination, hymen was absent and also given the opinion that she was subjected to sexual act. The mother of the



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victim who has been examined as P.W.2 also reiterated that after committing the offence, the accused had caused life threat to the victim. P.W.3 sister of the victim, also deposed before the Court in the same line as P.W.2 and P.W.4. The learned counsel would contend that when the Trial Court comes to the conclusion that there was a material to convict the accused for the offence punishable Sections 354 and 506 of IPC that there was a threat as well as she was subjected to outraging the modesty and when there are medical evidence before the Court that she was subjected to sexual act, ought not to have acquitted the accused for the offence punishable under Section 376(2)(I) of IPC.

6. The learned Additional SPP also would contend that the doctor who has been examined before the Court as P.W.9, who examined the victim has categorically stated that she is mentally retarded and assessed 75% of impairment. The learned counsel would contend that the victim is mentally retarded and the same is proved by examining the doctor P.W.9. The learned counsel would vehemently contend that Ex.P.7 medical certificate is also very clear that she was



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subjected to sexual act and so also Ex.P.9 FSL report is also positive. The Trial Court fails to discuss the medical evidence along with the FSL report and no discussion at all while considering the case of the victim and committed an error in not considering Exs.P.7 and 9. The learned counsel would contend that P.W.5 and P.W.6, who are the neighbours, have categorically stated that when they went and enquired the victim, she reiterated that the accused committed sexual act against her and their evidence is also corroborative in nature. Hence, prays this Court to convict the accused for the offence punishable under Section 376(2)(I) of IPC.

7. Per contra, the counsel for the respondent/accused would vehemently contend that there is a clear delay of 21 days in lodging the complaint and there is no explanation either in the complaint or in the evidence of the prosecution witnesses. The learned counsel would contend that 164 statement was recorded after 3 months of the complaint was lodged. The learned counsel contend that when P.W.6, who is the neighbour and relative of the victim advised to file a complaint, but complaint was not filed immediately. P.W.6 says



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that he was out of town for one week and hence, could not take the victim to the police station and his evidence cannot be believed. The learned counsel also contend that there was an enmity between the accused and P.W.6 and the said suggestion is made, though not admitted, but the material not suggests that it was an act done by the accused. The learned counsel would contend that even P.W.2 and P.W.3 have categorically deposed that the victim never talks to anybody else and their evidence is very clear that question of disclosing the same either to P.W.5 and P.W.6 also does not arise. The learned counsel would contend that none of the witnesses have witnessed the very entering the house of the complainant by this accused and the very evidence of the prosecution not inspires the confidence of the Court and hence, the Trial Court convicted the accused only for the offences under Sections 354 and 506 of IPC, but not convicted the accused for the offence under Section 376(2)(I) of IPC, as there was no any supporting material evidence before the Court that she was subjected to sexual act.



8. The learned counsel for the respondent in support of his arguments, relies upon the judgment of the Apex Court in the case of **BALLU ALIAS BALRAM ALIAS BALMUKUND AND ANOTHER v. STATE OF MADHYA PRADESH** reported in **(2024) 12 SCC 202** and brought to the notice of this Court, paragraph Nos.34 and 35, wherein the Apex Court held that the High Court could have interfered in the criminal appeal only if it came to the conclusion that the findings of the Trial Judge were either perverse or impossible. As already discussed hereinbefore, no perversity or impossibility could be found in the approach adopted by the learned Trial Judge. In paragraph No.35, an observation is made that, even if two views are possible and the Trial Judge found the other view to be more probable, an interference would not have been warranted by the High Court, unless the view taken by the learned Trial Judge was a perverse or impossible view.

9. The learned counsel also relies upon the judgment of the Apex Court in the case of **BABU SAHEBAGOUDA RUDRAGAUDAR AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 8 SCC 149**, wherein referred to the



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judgment in the case of **H.D. SUNDARA v. STATE OF KARNATAKA**, wherein the Court summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of Cr.P.C. and brought to the notice of this Court the discussion made in paragraph Nos.8.1 to 8.5 and so also paragraph Nos.41.1, 41.2 and 41.3. The learned counsel would contend that it is not a case for reversing the acquittal and there is no any consistent evidence. The Trial Court taken note of the inconsistencies in the evidence of P.W.2 to P.W.4 and so also P.W.5 and P.W.6 and their evidence also not inspires the confidence of the Court.

10. In reply to this argument, the learned Additional SPP appearing for the appellant/State relies upon the judgment of the Apex Court in the case of **PHOOL SINGH v. STATE OF MADHYA PRADESH** reported in **(2022) 2 SCC 74** and brought to the notice of this Court the discussion made in paragraph No.2 with regard to the factual aspects of that particular case and also brought to the notice of this Court paragraph Nos.3, 3.1, 4.2 and 5.4 and conclusion portion of the judgment in paragraph No.11, wherein it is held that if the



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evidence of the prosecutrix is reliable and trustworthy, without any further corroboration, the conviction of the accused relying upon the sole testimony of the prosecutrix can be sustained.

11. The learned counsel for the respondent/accused relying upon the FSL report would contend that the seminal stains were not found as per Ex.P.10 and the same was also taken note of by the Trial Court while acquitting the accused.

12. Having heard the learned Additional SPP appearing for the appellant/State and the learned counsel for the respondent/accused and on re-appraisal of both oral and documentary evidence available on record, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the accused for the offence punishable under Section 376(2)(I) of IPC and whether the reasoning given by the Trial Court amounts to perversity, which leads to miscarriage of justice, as contended by the learned counsel appearing for the State?
- (ii) What order?



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Point No.(i):

13. Having heard the respective learned counsel and also having perused the material available on record, the Trial Court while framing the charge against the accused, particularly invoked the offence under Section 376(2)(I) of IPC. In order to prove that the victim is a mentally retarded woman, the prosecution mainly relies upon the evidence of P.W.9 doctor. On perusal of the evidence of P.W.9 Dr. Sunil Kumar, it is very clear that the victim was produced before him for examination and they subjected her for medical examination and made the assessment that her IQ was 48 and she was mentally retarded and impairment is 75% and issued the certificate in terms of Ex.P.11. The signature of the doctor is also marked as Ex.P.11(a). In the cross-examination, he admits that when the question was put to the victim, she was answering, but he did not record the question and answer. It is suggested that without examining the victim, the certificate was given and the same was denied. There is no any serious dispute with regard to her mental condition is concerned. With regard to her impairment is concerned, nothing is suggested to



the witness that she was not having impairment of 75% and so also in respect of the IQ which was assessed as 48. Hence, it is very clear that the victim is a mentally retarded woman as contended by the prosecution and no material proof to comes to a other conclusion and hence, the Court can invoke Section 376(2)(I) of IPC, if any sexual act is committed on the mentally retarded woman.

14. Now this Court has to consider the evidence of the victim P.W.4. The witness identifies her sister P.W.3, her mother P.W.2 and also the accused as her neighbour. It is her evidence that the accused came to her house and removed her underwear, pressed her chest, touched her private part and made her to lie on the ground and subjected for sexual act. As a result, she has sustained pain in her private part and thereafter, he left the house. At that time, her sister and mother were not there at the house. It is her evidence that the accused came and subjected her for sexual act on that day, but she cannot tell the date. It is also her evidence that she went and gave the statement before the learned Magistrate. Her signature was also confronted by showing the statement made



before the Magistrate in terms of Ex.P.3 and her signature is also marked as Exs.P.3(a) and 3(b). This witness was subjected to cross-examination.

15. In the cross-examination, she says that she has went to school. It is also her evidence that while her mother and sister were going out, they used to lock the latches. There are other neighboring houses. On the date of the incident, her mother and sister were not in the house. Her sister Varija came in the afternoon and she removed the latches. When the accused came to the house also, she only removed the latches. It is elicited that when the accused came she did not scream. She says that when Varija came she was already wearing the cloth which was removed by the accused. She says that on the very same day she went to the police station and she was accompanied with mother and Bharath Gowda and police also came to her house. It is suggested that the police did not visit and enquire her and no such incident was taken place and the same was denied. A suggestion was made that no such incident was taken place and the same was denied. Her evidence is very clear in the chief evidence that the accused touched upon



her chest and also subjected her for sexual act by removing her cloth.

16. Now this Court has to take note of the evidence of P.W.2 and P.W.3. P.W.2 is the mother of the victim and her evidence is that she came to know about the incident through the victim and when she came and noticed, her clothes were not in order. On enquiry, the victim revealed about the incident to her and her sister P.W.3. It is her evidence that after the accused subjected the victim for sexual act and while leaving the house, he caused life threat to the victim not to inform the same to her mother. It is also her evidence that she enquired C.W.5 and also gave the complaint after 20 days and there are no male member in the family and being afraid of the accused, complaint was not given. The complaint Ex.P.2 is marked and her signature is also marked as Ex.P.2(a). She says that the victim was taken to Lady Goshan Hospital and doctor subjected her for medical examination. In the presence of PSI, the victim was enquired with the assistance of P.W.1. The clothes were also seized and she identifies M.O.1 and M.O.2. This witness was subjected to cross-examination and in the cross-



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examination, she says that the victim has studied, but there is no certificate. She says that there are other houses next to her house. She says that she informed about the incident to C.W.5 Bharath Gowda and complaint was given. It is also her evidence that when she went to the police station, Krishna and Govinda accompanied her. It is also her evidence that P.W.4 is mentally retarded and the same is got elicited from the mouth of P.W.2 by the defence itself. It is elicited that she went to the police station to give the complaint at 4.00 p.m. and she was in the police station till 6.00 p.m. Except C.Ws.2, 3, 5, 8 and 9, no other persons came to the police station. It is elicited that in the complaint she has stated that there are no male members in the family and being afraid of the accused, complaint was given belatedly. A suggestion was made that nothing is stated in the complaint to that effect and the same was denied.

17. Now this Court has to consider the evidence of sister P.W.3 and her evidence is also very clear that on the date of the incident, she was not in the house. When she came back to the house, the clothes of the victim were removed. On enquiry, the victim revealed that the accused subjected her for



sexual act and he touched upon her chest and she is getting pain in her private part. She also revealed that the accused caused life threat that he will take away the life with knife. C.W.4 also came and enquired her and she repeated the same. This witness was also subjected to cross-examination and in the cross-examination she says that Bharath Gowda C.W.5 informed them to lodge a complaint. She also reiterated that C.Ws.5, 8 and 9 accompanied them to the police station. She admits that normally P.W.4 will not talk to any other person with whom she is not having acquaintance. She also admits that there was a delay in lodging the complaint. Having considered the evidence of P.W.2, P.W.3 and P.W.4, no doubt they are all family members.

18. The Court has to take note of the evidence of P.W.1, who is the teacher and whose assistance was taken in the police station as well as while recording the statement of the victim. P.W.1 says that the victim revealed about the very act of the accused and she enquired taking the victim to her confidence. The other evidence is P.W.8 doctor, who conducted the medical examination of the victim. The evidence of P.W.8 is



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also clear that on enquiry, the victim revealed that the accused subjected her for sexual act. She says that the victim is mentally retarded. But, however she was answering and understanding the questions put to her and she had normal growth. She says that there were no external injuries. However, on examination of private part, hymen was not intact. Blood group was 'B' positive and vaginal swab was also collected and sent to the FSL. The certificate is also marked as Ex.P.7. She says that the victim was subjected to sexual act and material discloses suggesting that she was subjected to sexual act. She says that the victim was also referred to Wenlock hospital. Ex.P.8 is also marked and she gave the opinion as per Ex.P.9 and Ex.P.10. In the cross-examination, a suggestion was made that if forcibly subjected her for sexual act, there is a chance of tearing of the hymen and the witness says that the same could be found if she was examined immediately. It is suggested that if she was continuously subjected to sexual act, then hymen will not be intact and the same is denied. However, it is elicited that if the act is done voluntarily also, there is a chance of tearing of hymen.



19. Having considered the evidence of the doctor P.W.8 as well as the opinion in terms of Ex.P.7 and Ex.P.10, it is very clear that on clinical examination, it is found that there is evidence suggestive of sexual intercourse. But final opinion was reserved. In terms of Ex.P.9, final opinion was given that there is evidence suggestive of sexual intercourse. No doubt, in terms of Ex.P.10, there is no any positive report with regard to the seminal stains as contended by the counsel appearing for the defence. The presence of seminal stains was not detected in the articles which were sent to the FSL. No doubt, with regard to the seminal stains is concerned, there is a negative report. But the fact is that the incident was taken place long back on 21.02.2017 and complaint was given on 14.03.2017 and there was a delay of 21 days in lodging the complaint and clothes were examined subsequently and the Court cannot expect seminal stains on the clothes of the victim when the same was subjected to examination after long time. However, the Court has to take note of the medical examination conducted by P.W.8 and also the FSL report in terms of Ex.P.9 and based on the same only the doctor has opined that there



was a material suggestive of that the victim was subjected to sexual act and similar opinion was also given in FSL report as per Ex.P.7.

20. Having considered the material on record, it is clear that the victim was examined with the assistance of P.W.1. There was no any enmity between P.W.4 victim who is mentally retarded, P.W.2, P.W.3 and the accused and nothing is elicited from the mouth of these witnesses that these persons are having enmity against the accused. The Court has to take note of the evidence of other witnesses P.W.5 and P.W.6. P.W.5 is the sister-in-law of the accused and her evidence is very clear that on request of P.W.3, she enquired the victim and the victim told that the accused came and subjected her for sexual act. The victim informed that P.W.3 was not in the house at that time. P.W.5 says that she consoled the victim. In the cross-examination, this witness also admits that there are neighboring houses and also admits that normally P.W.4 will not talk properly. She says that she came to know about the incident through P.W.3. It is her evidence that when she went to the house of P.W.4, on that day itself police came to her



house. A suggestion was made that P.W.4 did not tell anything to her and the said suggestion was categorically denied. Nothing is elicited from the mouth of P.W.5 that she was having enmity against the accused even though accused was relative of P.W.5.

21. The other witness is P.W.6. No doubt, the learned counsel appearing for the accused brought to the notice of this Court that when P.W.6 came to know about the incident, he had advised to lodge a complaint. But P.W.6 says that he was not there in the village for about one week and he had went to attend a function. This witness also says that the victim informed him that the accused caused life threat to her. But when he tried to enquire with the accused, he was not there. Hence, he advised to lodge a complaint. In the cross-examination, a suggestion was made that the victim was not speaking properly and he says that she used to speak only when someone used to talk to her. It is suggested that he was having an enmity with the accused in respect of financial transaction and the said suggestion was denied. The witness volunteers that he never done any financial transaction with the



accused. However, he says that he is not in talking terms with the accused. A suggestion was made that due to enmity, he got lodged the complaint through P.W.2 and the same was denied. Except the suggestion that there was an enmity, nothing is elicited with regard to the financial transaction as suggested.

22. Having considered overall evidence available before the Court, the victim was a mentally retarded woman is certified by P.W.9. The evidence of P.Ws.2, 3 and 4 is consistent. The Court has to take note of the evidence of P.W.4 victim. who is a mentally retarded woman and she was not having any enmity against the accused and nothing is elicited from the mouth of P.W.2 and P.W.3 with regard to the enmity except suggestion. The medical evidence supports the case of the prosecution. The Trial Court also not discussed anything about the medical report of Ex.P.7 and also with regard to Ex.P.9 is concerned. The learned counsel for the State also submits that medical evidence is not discussed by the Trial Court. When the charges are levelled for the offence under Section 376 of IPC, the Trial Court ought to have discussed with regard to the medical evidence available on



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record, particularly Exs.P.7 and 9 and the same were not considered by the Trial Court and the very approach of the Trial Court is erroneous.

23. No doubt, the learned counsel appearing for the defence brought to the notice of this Court that P.W.4 victim says that on the very day of the incident, complaint was given and she went to the police station and police came and enquired on the very same day. But the Court has to take note of the evidence of P.W.9 doctor, who says that the IQ of the victim is only 48 and also she has impairment of 75%. When such being the case, the evidence and admission on the part of P.W.4 that on the very same day they went and gave the complaint and police came and enquired, will not take away the case of the prosecution and that admission will not go to the very root of the case of the prosecution. The Court has to take note of the evidence of P.W.2 and P.W.3 and both of them were not having any enmity against the accused. P.W.4 though mentally retarded, her evidence is very consistent by making the statement before the neighbours, mother and sister and so also while lodging the complaint. In her 164 statement also



she has reiterated the same and so also before the Court also her evidence is very clear and the Court has to take note of the evidence of the victim which inspires the confidence of the Court that she was subjected to sexual act. The medical evidence also supports the same and so also Ex.P.9 FSL report also confirms the same. When such being the case, the very reasoning given by the Trial Court is erroneous and there is a perversity, which leads to the miscarriage of justice.

24. It is also important to note that the Trial Court comes to the conclusion that incident was taken place and threat was caused to P.W.4 and invoked the offence under Sections 354 and 506 of IPC. P.W.4 categorically deposed with regard to the outraging of modesty as well as subjecting her for sexual act. But the Trial Court committed an error in coming to the conclusion that there was a delay in lodging the complaint and mainly relies upon Ex.P.10 that there was no seminal stains. The seminal stains cannot be expected when the clothes were seized after long time and there was delay in lodging the complaint. The delay of 21 days in lodging the complaint will not take away the case of the prosecution in a



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case of offence under Section 376(2)(I) of IPC, that too when a mentally retarded woman was subjected to sexual act. The Trial Court also accepted with regard to the causing of threat is concerned and invoked Section 506 of IPC. The very evidence of P.W.4 victim is very clear that while leaving the house, the accused caused life threat that in case if she discloses the same to her mother or anybody else, he will take away the life by using the knife. When such statement was made, the same was accepted by the Trial Court and the Trial Court ought not to have acquitted the accused for the offence punishable under Section 376(2)(I) of IPC when there are materials before the Court which corroborates with the evidence of P.W.4 victim as well as sister and mother and also the evidence of P.W.5 and P.W.6 and the medical evidence and the evidence of P.W.9. Hence, it is a fit case to reverse the finding of the Trial Court.

25. No doubt, the learned counsel for the respondent/accused brought to the notice of this Court the principles laid down in the judgments of the Apex Court in the case of **Ballu** (supra) and **Babu Sahebagouda** (supra), wherein the Apex Court laid down the principles in a case of



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acquittal and converting the same for conviction. Having considered the material available on record, these principles are very clear that if the Trial Court committed an error in considering the evidence and if it amounts to perversity and leads to miscarriage of justice, then only the Court has to convert the same from acquittal to conviction. Having perused the material available on record and considering overall evidence available on record, we are of the opinion that the Trial Court proceeded in an erroneous approach and fails to consider the evidence available on record, which amounts to perversity and also which has resulted in miscarriage of justice. Hence, we answered the point in the affirmative.

Point No.(ii):

26. In view of the discussions made above, we pass the following:

ORDER

- (i) The appeal is allowed.
- (ii) The judgment of acquittal dated 04.09.2018 passed by the Trial Court in Sessions Case No.120/2017, is set aside.



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- (iii) The accused is convicted for the offence punishable under Section 376(2)(I) of IPC.

REGARDING SENTENCE:

The very proviso of Section 376 of IPC is very clear that the accused shall be punished with rigorous imprisonment for a term which shall not be less than ten 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.

2. The learned Additional SPP appearing for the appellant/State would submit that the accused committed sexual act against the mentally retarded woman and hence, to impose maximum sentence as contemplated under Section 376 of IPC.

3. Per contra, the learned counsel for the respondent/accused would submit that the age of the accused was 53 years as on the date of incident and this incident was taken place in the year 2017 and almost a decade has been elapsed and now he is aged about 62 years and hence, the



Court has to take note of the same while imposing the sentence.

4. Having considered the submissions of the respective learned counsel and considering the material on record, the act is done by a person, who was aged about 53 years at the time of the incident and victim was aged about 25 years at the time of the incident and that too, she is a mentally retarded woman. The accused even fails to take note of when a woman is suffering from mental or physical disability, ought not to have done the same. The same is a heinous act on the part of the accused. Considering he is aged about 62 years now, it is appropriate to impose the following sentence.

5. Hence, we pass the following:

ORDER

- (i) The accused is sentenced for rigorous imprisonment for a term of ten years with fine of Rs.1,00,000/-, payable to the victim, within four weeks from today. The accused is directed to surrender before the Trial Court within ten days from today.



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- (ii) If the accused fails to surrender, the Trial Court is directed to secure the accused and commit him to prison by issuing the conviction warrant against him.
- (iii) The accused is entitled for set-off under Section 428 of Cr.P.C. and Section 468 of BNSS, 2023.
- (iv) The Registry is directed to furnish a copy of this judgment to the learned counsel for the respondent, forthwith.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(B.PRAMOD)
JUDGE**

MD
List No.: 1 Sl No.: 11