

UKHC010035472019



2026:UHC:5825-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No.95 of 2019

Pratap Singh

.....Appellant

Versus

State of Uttarakhand

.....Respondent

Present:- Mr. Akhil Kumar Sah, Advocate for the appellant.
Mr. Siddhartha Bisht, AGA for the State.

JUDGMENT

Coram : **Hon'ble Ravindra Maithani. J.**
Hon'ble Siddhartha Sah, J.

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this appeal is made to the judgment and order dated 24.12.2018/08.01.2019, passed in Special Sessions Trial No.35 of 2018, State of Uttarakhand Vs. Shri Pratap Singh, by the court of Special Judge (POCSO), Almora. By it, the appellant has been convicted under Section 376(2) IPC and Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012 ("the POCSO Act") and sentenced for life imprisonment, which mean imprisonment for the remainder of the appellant's natural life with a fine of Rs.50,000/- under Section 376(2) IPC, and in default of payment of fine, to undergo further imprisonment for six months.

2. The prosecution case as unfolded in the FIR is as follows.
On 09.07.2018 at 10:00 in the morning, the victim, a young girl of

14 years had gone to fetch water. From that date, she started withdrawing from everyone and spent her time all alone. She was questioned by the family members. On 11.07.2018, she revealed that on 09.07.2018, when she had gone to fetch water from a tank, the appellant put a sack on her, took her in his kitchen and did *Galat Kaam* with her. Her mother PW2 got a report recorded by PW3 and lodged an FIR at Police Station Daniya on 11.07.2018 at 07:52 pm, based on which, Case Crime No.11 of 2018 under Sections 376 and 506 IPC and Section 3 read with Section 4 of the POCSO Act was registered against the appellant. The FIR is Ex. A-4 and chik FIR is Ex. A-8. The extract of General Diary entry is Ex. A-9. The victim's statement was recorded under Section 164 of the Code of Criminal Procedure, 1973 ("the Code") on 12.07.2018, which is Ex.A-2. The Investigating Officer prepared the site plan at the instance of the victim, which is Ex. A-3. On 11.07.2018, at 10:35 pm, the victim was medically examined by PW5 Dr. Hema Rawat. Medical report is Ex. A-5, in which the statement of PW1, the victim has also been recorded by the doctor. The Investigating Officer conducted the investigation and collected the date of birth certificate of the victim from the school which she last attended. The Principal of the school has given a certificate regarding date of birth of PW1, the victim, which is marked as Ex. A-16. The appellant was arrested. Certain articles were sent for forensic examination. The pathological examination does not support the prosecution case. After investigation, charge-sheet was submitted against the appellant under Sections 376(2) and 506 IPC and Sections 3/4 of the POCSO Act, which is basis of the case.

3. On 06.09.2018, charges under Sections 376(2) and 506 IPC and Sections 3/4 of the POCSO Act were framed against the appellant, to which, he denied and claimed trial.

4. In order to prove its case, the prosecution examined as many as seven witnesses namely, PW1 the victim, PW2 the mother of the victim, PW3 Ganesh Pandey, PW4 Rajesh Verma, PW5 Dr. Hema Rawat, PW6 Keshav Dutt Joshi and PW7 SI Nikhilesh Singh Bisht, the Investigating Officer.

5. After examination of the prosecution witnesses, the appellant was examined under Section 313 of the Code. According to him, he has been falsely implicated.

6. After hearing the parties, vide judgment and order dated 24.12.2018/08.01.2019, the appellant has been convicted and sentenced as stated hereinbefore.

7. Heard learned counsel for the parties and perused the record.

8. Learned counsel for the appellant submits that the prosecution has utterly failed to prove its case beyond reasonable doubt, therefore, while acquitting the appellant the appeal deserves to be allowed. He also raised the following arguments:-

- (a) PW1 the victim has not stated that any kind of penetration was done to her by the appellant. Reference has been made to the statement of PW1 the victim, in para 5. It is argued that at the most, it may be an offence under Section 354 IPC.

(b) The date of birth of the victim has not been proved. The formal proof of date of birth certificate issued by the school has been dispensed with by the appellant. It is argued that *per se* it does not prove the age of the victim, as recorded. He would submit that according to the victim, her date of birth is 26.11.2004, whereas according to this certificate, her date of birth is 26.12.2004.

(c) The date of birth recorded in the school register is not proof of it unless it is proved as to at whose behest the date of birth was recorded in the school register.

9. In support of his contention learned counsel for the appellant placed reliance on the principle as laid down by the Hon'ble Supreme Court in the case of *Alamelu and another Vs. State*, (2011)2 SCC 385 with connected matters, *Birka Shiva Vs. State of Telangana* 2025 SCC OnLine SC 1454; *Manak Chand @ Mani Vs. State of Haryana*, (2024)20 SCC 561 and *Birad Mal Singhvi Vs. Anand Purohit*, 1988 Supp SCC 604.

10. In the case of *Alamelu (Supra)*, the Hon'ble Supreme Court *inter alia* held that the date of birth recorded in the school register is admissible in evidence under Section 35 of the Evidence Act, 1872. But, proof of age is something different. In para 44 of the judgment in the case of *Alamelu (Supra)*, the Hon'ble Supreme Court observed as follows:-

“44. In our opinion, the aforesaid burden of proof has not been discharged by the prosecution. The father says nothing about the transfer certificate in his evidence. The Headmaster has not been examined at all. Therefore, the entry in the transfer certificate cannot be relied upon to definitely fix the age of the girl.”

11. In the case of Birka Shiva (*Supra*), the Hon’ble Supreme Court has interpreted the effect of entry in the public or official register. In para 8, the Hon’ble Supreme Court observes as under:-

“8. The evidentiary value of such an entry made in public or official registers may be admissible in evidence under Section 35 of the Indian Evidence Act, 1872. However, admissibility is distinct from probative value. While such documents may be admitted into evidence, their evidentiary weight depends on proof of their authenticity and the source of the underlying information. Mere production and marking of a document as exhibited by the Court does not amount to proof of its contents. Its execution has to be proved by leading substantive evidence, that is, by the ‘*evidence of those persons who can vouchsafe for the truth of the facts in issue*’. [See : *Narbada Devi Gupta v. Birendra Kumar Jaiswal*] We may refer to a few judicial pronouncements of this Court in this regard:

8.1. This Court, in *Birad Mal Singhvi v. Anand Purohit*, held that the entries contained in the school register are relevant and admissible but have no probative value unless the person who made the entry or provided the date of birth is examined.
.....
.....
.....”

(emphasis supplied)

12. The Hon’ble Supreme Court in the case of Birka Shiva (*Supra*) further observed as follows:-

“12. Well, suffice it to say that Courts of law cannot make a determination of guilt in thin air, based on estimations. In the present facts and circumstances, the proof submitted by the prosecution in the form of Ex.P11 (*birth certificate issued by the school*) was not sufficient to arrive at a finding that the prosecutrix was less than sixteen/eighteen years of age, especially when such a document was not sufficiently corroborated. Therefore, it was neither safe nor fair to convict the appellant based on it, particularly in the context where the age of the victim was such a pivotal factor.”

(emphasis supplied)

13. In the case of Birad Mal Singhvi (*Supra*), the Hon'ble Supreme Court *inter alia* observed that **“An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Indian Evidence Act, 1872 but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded.”**

14. In the case of Manak Chand @ Mani (*Supra*), the law with regard to date of birth has been discussed and in paras 15 to 18, the Hon'ble Court observed as follows:-

“15. There are two aspects which ought to have been considered by the trial court and the High Court in greater detail than what has been done. The first is the age of the prosecutrix. The age of the prosecutrix has an extremely crucial bearing in the case. The only evidence relied by the court for holding the prosecutrix as a minor (less than sixteen years of age), is the school register of Government Girls High School, which was placed in the Court by the clerk of the school, Ram Sahay (PW 2).

16. Undoubtedly, the date of birth in the school register is 4-4-1987 which makes the prosecutrix less than sixteen years of age at the time of the incident. But it has also come in the evidence of Ram Sahay (PW 2) that this date of birth was recorded not on the statement of the parents of the prosecutrix, but by some other person and more importantly, it was based on the transfer certificate of Government Primary School where the date of birth was recorded as 4-4-1987. All the same, this transfer certificate, on the basis of which the date of birth was recorded, was never produced in the Court.

17. Yet, both the trial court and the High Court have relied upon the veracity of the school register. It is the same school register which marks the presence of the prosecutrix on 12-9-2000 in the school. This is also the date when the prosecutrix was allegedly raped for the first time, in the house of the appellant in Village Sanwat Khera, whereas the school is at another place called Dabwali Mandi. The trial court discards the evidence in the same school register, as not being authentic, when the defence had raised the apparent

contradictions on the prosecutrix being in school and at the Sanwat Khera Village at the same time. This is not a fair appreciation of evidence, to say the least, as same school register is the only basis for the determination of the age of the prosecutrix!

18. This Court in *Birad Mal Singhvi v. Anand Purohi* [*Birad Mal Singhvi v. Anand Purohi*, 1988 Supp SCC 604] had observed that the date of birth in the register of a school would not have any evidentiary value without the testimony of the person making the entry or the person who gave the date of birth: (SCC p. 618, para 14)

“14. ... The date of birth mentioned in the scholar's register has no evidentiary value unless the person who made the entry or who gave the date of birth is examined. The entry contained in the admission form or in the scholar's register must be shown to be made on the basis of information given by the parents or a person having special knowledge about the date of birth of the person concerned. If the entry in the scholar's register regarding date of birth is made on the basis of information given by parents, the entry would have evidentiary value but if it is given by a stranger or by someone else who had no special means of knowledge of the date of birth, such an entry will have no evidentiary value.”

15. It is also argued that the documents pertaining to the date of birth have not been put to the appellant under Section 313 of the Code and in the absence of it such documents may not be read against the appellant.

16. On the other hand, learned State Counsel submits that the prosecution has been able to prove its case beyond reasonable doubt. It is submitted that the victim has stated as to what has been done with her by the appellant and it is a case of rape.

17. With regard to the date of birth, it is argued that the date of birth certificate issued by the school has been admitted by the defence. Its genuineness has been admitted, therefore, this document may be read into evidence as genuine. Learned State Counsel has placed reliance on the principle of law as laid down by

the Hon'ble Supreme Court in the case of Akhtar and others Vs. State of Uttaranchal, (2009)13 SCC 722.

18. In the case of Akhtar (*Supra*), the injury report and post-mortem report's genuineness was admitted by the defence when it was argued that non examination of medical officer shall be fatal to the prosecution. The Hon'ble Supreme Court held that, in fact, if the genuineness of any document filed by a party is not disputed by the opposite party it can be read as substantive evidence under sub-section (3) of Section 294 CrPC. In para 21, the Hon'ble Supreme Court observed as follows:-

"21. It has been argued that non-examination of the medical officers concerned is fatal for the prosecution. However, there is no denial of the fact that the defence admitted the genuineness of the injury reports and the post-mortem examination reports before the trial court. So the genuineness and authenticity of the documents stands proved and shall be treated as valid evidence under Section 294 CrPC. It is settled position of law that if the genuineness of any document filed by a party is not disputed by the opposite party it can be read as substantive evidence under sub-section (3) of Section 294 CrPC. Accordingly, the post-mortem report, if its genuineness is not disputed by the opposite party, the said post-mortem report can be read as substantive evidence to prove the correctness of its contents without the doctor concerned being examined."

19. Before arguments are appreciated it would be apt to examine, as to what the witnesses have stated.

20. PW1 is the victim. According to her, on the date of incident, she was studying in Class VII and her date of birth is 26.11.2004. According to her on 09.07.2018, at 10:00 in the morning she had gone to fetch from a tank. The appellant's house is adjoining the tank. On that day when the victim was returning

after getting water, the appellant put a sack on her, covered her face and took her alone in his kitchen. When in the room the appellant removed the sack, the victim identified the appellant. Thereafter, the appellant did *badtameeji* with her, opened her *Pajama* and inserted his *Pisaab* ("urine") into her *Pisaab*. He had also shown her Rs.500/- currency note, which she did not take. According to PW1 the victim, while the appellant inserted his *Pisaab* to her *Pisaab*, she felt a lot of pain. Thereafter, the appellant released her. The victim could not reveal this incident to anyone due to threat extended to her by the appellant. On 11.07.2018, she revealed the incident to her mother as she had a lot of pain in her stomach. She has proved her thumb impression. She has also proved her statement recorded under Section 164 of the Code, which is Ex. A-2. According to her, the police prepared site plan in her presence, on which she also signed. She has proved her signature in site plan, Ex. A-2.

21. It may be noted that in this case, on a same document multiple exhibits have been recorded as per the witnesses to prove their signatures on those documents.

22. PW2 is the mother of the victim. She has corroborated the statement of the victim. According to her, when the victim revealed her that the appellant did that act with her she got the report lodged from PW3 Ganesh Pandey. She has proved her signature on the FIR, which is Ex. A-4. It is also stated that she went along with the victim for medical examination. She proved her signature on that part, which is Ex. A-6. She has also proved her signature on the site plan, Ex. A-7.

23. PW3 Ganesh Pandey is a person, who was a para legal Volunteer in District Legal Services Authority. According to him, he met the victim and her mother at Police Station. There at the request of the mother of the victim he wrote the FIR.

24. PW4 Constable Rajesh Verma is formal witness. He has lodged the Chik FIR and made the entry in the General Diary of the Police Station.

25. PW5 Dr. Hema Rawat was the doctor, who medically examined the victim on 11.07.2018 at 10:35 p.m. She has proved the medical examination report as Ex. A-13. This witness has also stated that at the time of medical examination the victim revealed the history which she has recorded in the medical examination report, according to which, on the date of the incident when the victim had gone to fetch water from a tank, the appellant put a sack on her head and took her in his kitchen, removed her *paijama*, tied her hands and inserted his penis in her lower part and also inserted his penis in her mouth and subsequently threatened her. She was made to swear in the name of God and family members that she will not reveal it to anyone. She was slapped and sent back, due to which, she kept silent. The witness PW5 Dr. Hema Rawat has proved the medical examination and other documents as well.

26. PW6 Keshav Dutt Joshi is the owner of the hotel from where the appellant was arrested. He has proved documents relating to it.

27. PW7 SI Nikhilesh Singh Bisht is the Investigating Officer, who investigated the case. He has stated about the steps taken by him during investigation. He prepared the site plan, which is Ex. A-21. According to him, he took the date of birth certificate of PW1, the victim, which was given to him by PW2, the mother of the victim. He arrested the appellant from a hotel; sent some articles for forensic examination and finally he submitted charge sheet. This witness has proved the documents.

28. According to the victim, she was studying in Class VII at the relevant time and on the date of incident i.e. 09.07.2018, she had gone to fetch water from a tank near the residence of the appellant, while the appellant put a sack on her, took her inside and inserted his *Pisaab* in her *Pisaab*. These are the words, which the victim has stated in para 5 of her statement. At the cost of repetition, it may be stated that in para 5 of her statement PW1, the victim stated that when the appellant inserted his *Pisaab* to her *Pisaab*, she felt a lot of pain. Considering this word "*Pisaab*" and "*Pisaab*", it is argued that it indicates that it is insertion of penis in the urethra of the victim, which is not possible because had it been done, there would have been multiple injuries on the victim.

29. The evidence may not be read in isolation. It should be read in totality. The FIR records that on the date of incident, the appellant took the victim in his room and did *Galat Kaam* with her. The victim was examined under Section 164 of the Code on 12.07.2018. She has been categorical that on the date of incident the appellant took her inside the room and tied her hands and feet and kissed her cheeks and inserted the organ by which he

urinates into the organ by which the victim urinates, due to which, she cried. Statement under Section 164 of the Code is not only used for contradiction, but it is also used for corroboration. As held by the Hon'ble Supreme Court in the case of R. Shaji Vs. State of Kerala, (2013)14 SCC 266.

30. In order to understand the words spoken by the victim in the court, her statement recorded under Section 164 of the Code may definitely be recorded. Here the victim's statement under Section 164 of the Code categorically establishes that, in fact, the appellant inserted his penis in the vagina of the victim. These are two parts of male and female through which they urinate.

31. Not only this, the victim was examined on 11.07.2018 at 10:35 p.m. by PW5 Dr. Hema Rawat. She has categorically stated that she recorded what was stated by the victim to her about the incident. There it is recorded that the appellant inserted his penis in the lower part of the victim. In all the statements of the victim, which are given at a different time along with the statement given in the court she has stated that the appellant inserted his penis into the vagina of the victim.

32. PW1 the victim did not reveal the incident immediately to anyone, she was scared. According to PW1 the victim, the appellant has extended threat to her. She withdrew from everyone and started spending time all alone. It was on 11.07.2018, when she had stomach pain, she was questioned and then she revealed the incident. On the same date, she was medically examined. As stated, there also, she stated the history. Her hymen were found ruptured.

It is argued that there was no medical opinion with regard to the offence of rape.

33. In the cases of sexual assault like the instant one, it is the statement of the victim that has to be given weightage. If it inspires confidence, perhaps no corroboration with the other evidence is required. However, in some cases corroboration with some pathological evidences, etc. may be required.

34. Having considered the statement of PW1, the victim, this Court is of the view that her statement is totally reliable in evidence. She has proved that on 09.07.2018, when she had gone to fetch water from a tank, the appellant inserted his penis into her vagina.

35. The question is, as to what offence has been committed by the appellant because specific charges have been framed against the appellant keeping in view the age of the victim. The prosecution has relied on Ex. A-16, according to which, the date of birth of the victim is 26.12.2004.

36. PW1 the victim herself has been examined. She has not corroborated the date of birth as recorded as Ex. A-16. According to PW1 the victim, her date of birth is 26.11.2004.

37. PW2 is the mother of the victim, she has not stated the age of the victim. She has also not stated that she got the victim admitted in a school when she got the date of birth recorded. The only document is Ex. A-16 and it is stated that it also contradicts

the date of birth as stated by PW1 the victim in her examination before the court.

38. First and foremost, it is admitted that this document was not put to the appellant under Section 313 of the Code. Law on this point is well settled. If any material is not put to an accused under Section 313 of the Code, such material may not be taken into consideration. But then, there are methods to do the way with that. What would be that?

39. In the case of Nar Singh Vs. State of Haryana, (2015)1 SCC 496, the Hon'ble Supreme Court laid down the procedure in some cases, which is as follows:-

“30. Whenever a plea of omission to put a question to the accused on vital piece of evidence is raised in the appellate court, courses available to the appellate court can be briefly summarised as under:

30.1. Whenever a plea of non-compliance with Section 313 CrPC is raised, it is within the powers of the appellate court to examine and further examine the convict or the counsel appearing for the accused and the said answers shall be taken into consideration for deciding the matter. If the accused is unable to offer the appellate court any reasonable explanation of such circumstance, the court may assume that the accused has no acceptable explanation to offer.

30.2. In the facts and circumstances of the case, if the appellate court comes to the conclusion that no prejudice was caused or no failure of justice was occasioned, the appellate court will hear and decide the matter upon merits.

30.3. If the appellate court is of the opinion that non-compliance with the provisions of Section 313 CrPC has occasioned or is likely to have occasioned prejudice to the accused, the appellate court may direct retrial from the stage of recording the statements of the accused from the point where the irregularity occurred, that is, from the stage of questioning the accused under Section 313 CrPC and the trial Judge may be directed to examine the accused afresh and defence witness, if any, and dispose of the matter afresh.

30.4. The appellate court may decline to remit the matter to the trial court for retrial on account of long time already spent in the trial of the case and the period of sentence already undergone by the convict and in the facts and circumstances of the case, may decide the appeal on its own merits, keeping in view the prejudice caused to the accused.”

40. What should be the option to be exercised in this case, it will be examined at a later stage.

41. On behalf of the appellant it has been argued that even if the Ex. A-16 is read as an evidence it does not prove the date of birth as 26.12.2004 because the date of birth recorded in the school register is admissible, but its evidentiary value is quite distinct.

42. Reference has been made in the case of *Alamelu (Supra)*, *Birka Shiva (Supra)*, *Manak Chand @ Mani (Supra)* and *Birad Mal Singhvi (Supra)*, the extracts of some of these judgments have already been quoted hereinabove. These case laws have been distinguished by learned State Counsel referring to the judgment in the case of *Akhtar (Supra)*. In the case of *Akhtar (Supra)*, a similar question had arisen when the genuineness of documents were admitted under Section 294 of the Code. It was argued that post-mortem report and injury report cannot be read into evidence without examination of doctor and that argument was rebutted by the Hon’ble Supreme Court while holding that if genuineness of any document filed by the parties is not disputed by the opposite party, it can be read as substantive evidence under Sub Section (3) of Section 294 of the Code.

43. Learned counsel for the appellant has distinguished the judgment in the case of Akhtar (*Supra*). According to him, in the case of Akhtar (*Supra*), the documents were authored by the doctor, who prepared the post-mortem report and injury report. Therefore, their contents value could have been read in that case. But, it is argued that in the instant case, Ex. A-16 is the date of birth certificate issued by the Principal. The date of birth was not in the knowledge of the Principal. It must have been borrowed or given by someone to the school authority. That would have been the substantive evidence and in the absence of the source of the date of information, as recorded in Ex. A-16, it cannot be said the date of birth has been proved by the prosecution as 26.12.2004.

44. Section 294 of the Code reads as follows:-

“294. No formal proof of certain documents.—(1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused, as the case may be, or the pleader for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document.

(2) The list of documents shall be in such form as be prescribed by the State Government.

(3) Where the genuineness of any document is not disputed, such document may be read in evidence in inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.”

45. A bare reading of it, it makes it abundantly clear that the genuineness of any document may be read into evidence.

Undoubtedly, Ex. A-16 shall be read into evidence. But, does it mean that the date of birth recorded in the certificate, shall be the date of birth of the victim? Had the Principal been examined by the prosecution to prove Ex. A-16, the date of birth certificate, that could have been the best situation for the prosecution. In such cases, when those documents are proved by the school authority, the Hon'ble Supreme Court has held that it does not prove the date of birth. It only proves that a particular date of birth was recorded in a school register. In the case of Manak Chand (*Supra*), the Hon'ble Supreme Court while relying on the judgment of Birad Mal Singhvi (*Supra*) has held that the age of the prosecutrix in the form of the school register was not sufficient to arrive at a finding that the prosecutrix was less than sixteen years of age.

46. In the instant case, prosecution has not proved, as to what is the basis of date of birth recorded in Ex. A-16. The source is not proved. Therefore, merely on the basis of Ex. A-16 it cannot be said that the victim was below 14 years of age on the date of incident. The prosecution has not been able to prove the date of birth of the victim. In view of this finding now no new exercise is to be undertaken for examination of the appellant under Section 313 of the Code *qua* this document.

47. This Court has already held that the prosecution has been able to prove its case beyond reasonable doubt. On 09.07.2018 in the morning when PW1 the victim had gone to fetch the water and while she was returning, the appellant took her in a room and raped her. The prosecution has not been able to prove that the victim was below 14 years of age. Her age has not been proved. Therefore, this Court is of the view that the appellant is liable to be convicted under Sections 376(1) and he is liable to be

acquitted of the charges under Sections 376(2) IPC and Sections 3/4 of the POCSO Act.

48. The appellant is acquitted of the charges under Sections 376(2) IPC and Sections 3/4 of the POCSO Act.

49. However, the appellant is convicted under Section 376(1) IPC.

50. Learned counsel for the appellant during the course of hearing argued that the appellant is 76 years of age. He has been in jail for 08 years. He has no criminal record. The prosecution has not been able to prove the age of the victim. Hence, the minimum sentence should be awarded to the appellant.

51. To impose an adequate sentence is one of the toughest exercises that a criminal court has to undertake. Varieties of reasons are taken into consideration while awarding the sentence. It includes the offence, its gravity, its impact, the offender, the social condition of injured and the other attending circumstances, etc. Here the victim was admittedly a school going girl. Her age is not been proved by the prosecution. The appellant did commit a very serious offence with her.

52. Having considered the entirety of the facts, we are of the view that the interest of justice would be served if the appellant is sentenced 12 years rigorous imprisonment under Section 376(1) IPC.

53. The appellant is sentenced to twelve years rigorous imprisonment and a fine of Rs.50,000/- under Section 376(1) IPC. In default of payment of fine, he shall undergo further imprisonment for six months.

54. The impugned judgment and order dated 24.12.2018/08.01.2019, passed in Special Sessions Trial No.35 of 2018, State of Uttarakhand Vs. Shri Pratap Singh, by the court of Special Judge (POCSO), Almora is modified to the extent as aforesaid.

55. The appeal is partly allowed accordingly.

(Siddhartha Sah, J.)

(Ravindra Maithani, J.)

15.07.2026

Sanjay

SANJAY
KANOJIA

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