



2026:AHC:41758

HIGH COURT OF JUDICATURE AT ALLAHABAD

JAIL APPEAL No. - 310 of 2025

Kuldeep Sharma

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Raj Kumar Mishra
Counsel for Respondent(s)	:	A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. This appeal has been preferred by the appellant against the conviction and sentence recorded vide judgment and order dated 20.08.2024 passed by learned Additional District and Session Judge/Special Judge POCSO Act (Exclusive Court), Baghpat in Session Trial No. 14 of 2024, arising out of Case Crime No. 373 of 2023 under Sections 452, 506 I.P.C. Section 3/25 of Arms Act, Police Station- Doghat, District- Baghpat.

2. Heard Sri Raj Kumar Mishra, learned counsel for the appellant and Sri Rahul Asthana, learned A.G.A. for the State.

3. According to the prosecution, on 14 July 2023, when the family members of the victim were working in the agricultural fields, the accused forcibly entered the house of the victim and committed rape upon her. It was further alleged that the accused recorded an obscene video of the incident. The victim allegedly disclosed the incident to her family members upon their return. However, due to social stigma and fear of defamation, no report was lodged with the police at that time. Thereafter, the accused is alleged to have made telephonic calls to the victim and threatened to viral the alleged video unless she agreed to marry him. It is further alleged that on 29 December 2023 at about 7:00 PM, the accused entered the victim's house armed with a country-made pistol. He allegedly threatened the victim's mother, Pushpa, and attempted to forcibly drag the victim out of the house. Upon hearing alarm and commotion, Shailendra (uncle of the victim) and other persons reached the spot and apprehended the accused inside the house. The accused was subsequently handed over

to the police along with the country-made pistol and live cartridges.

4. The prosecution has examined as many as 9 witnesses, PW-1 informant Shailendra, PW- 2 Victim, PW- 3 Pushpa, mother of the victim, PW-4 Saneev Tomar, PW-5 Dr. Rupal Agrawal, PW-6 Dr. Harish Kumar, PW-7 Constable Updesh Kumar, PW-8 Investigating Officer- Sonveer Singh Solanki, PW-9 - Dr. Monika.

5. PW-1 informant Shailendra, PW-2 Victim and PW-3 Pushpa, mother of the victim are examined as witnesses of fact. They supported the FIR version regarding the occurrence and stated that on the date of alleged incident, the accused entered their house. He was armed with a country-made pistol and threatened the mother of the victim and tried to drag the victim outside her home. Upon hearing the alarm, PW-1 and other witnesses came on the spot and apprehended the accused and took him to police station. PW-4 Sanjeev Tomar, produced the S.R. Register of Chetna Inter College, Kishanpur Baral, Baghpat before the Court and proved Date of Birth of the victim in accordance with the educational record, her date of birth according to transfer certificate issued by the Principal of Chetna Inter College is 01.07.2008. After medical examination, her age is assessed 17 to 18 years. The Ossification certificate Ext. Ka-7 is duly proved by P.W.-6- Dr. Harish Kumar.

6. PW-7 Constable Updesh Kumar has proved chik FIR as Ext. Ka-8 and copy of G.D. as Ext. Ka-9. The recovered country-made pistol was produced before the Court and proved as material Ext.-1. PW-7 Constable Updesh Kumar and PW-8 Investigating Officer Sonveer Singh Solanki, has proved site plan Ext. Ka-11 and charge-sheet Ext. Ka-12. After hearing the arguments advanced by both parties and considering the evidences on record. The learned trial court returned the finding of guilt and convicted the accused for offences under Section 452, 506 I.P.C. and Section 3/25 of Arms Act. However, the prosecution failed to prove the offences under Section 376 I.P.C. and Section 3/4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 beyond reasonable doubt. Therefore, the accused was acquitted for offences under Section 376 I.P.C. and Section 3/4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

7. Aggrieved by the order of conviction and sentence, the present appeal has been filed. It is argued that learned Trial Court has not applied his judicial mind while passing the impugned order and judgment. The order has been passed in mechanical manner without properly evaluating the material evidences available on record, therefore, it is prayed that the judgment dated 20.08.2024, convicting the appellant for the offences under Section 452 I.P.C. and 3/25 Arms Act be set aside.

8. On the other hand, learned A.G.A. for the State submits that conviction of the accused appellant is based on appreciation of cogent evidence and there is no illegality or perversity in the order of learned trial court.

9. A perusal of record transpires that the prosecution case, in brief, was that the appellant earlier committed forcible sexual assault upon the minor niece of the informant Shailendra and has allegedly prepared an obscene video but no FIR was lodged at that time. After about 5 months, on 29.12.2023 at about 7.00 P.M., the accused entered the house of the victim armed with a country-made pistol, threatened her mother and attempted to drag the victim outside. On alarm being raised, he was apprehended by the informant and local persons who came on the spot. He was taken to the police station and FIR was registered. Upon investigation of the case, charge-sheet was submitted.

10. During trial, prosecution witness No.1, informant/complainant, PW-2 victim and PW-3 victim's mother Pushpa was examined. The trial court upon appreciation of evidence found that the prosecution failed to establish the offence of rape or sexual assault against the accused and further failed to prove that the victim was below 18 years of age at the time of occurrence. Accordingly, the accused was acquitted of the offences under Section 376 I.P.C. and 3/4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

11. However, the trial court found reliable evidences regarding the incident dated 19.12.2023, particularly the forcible house trespass, criminal intimidation, and having possession of country-made pistol Ext. Ka-10. The recovery memo of the weapon was duly proved by the PW-7 Constable Updesh Kumar. He also proved the recovered country-made

pistol material Ext.-1 to 3 which are witnesses of facts supported the prosecution case regarding house trespass and threat. The site plan and charge-sheet were also proved by PW-8 Investigating Officer Sonveer Singh Solanki. Consequently, the appellant was convicted for offences under Section 452, 506 I.P.C. and 3/25 of Arms Act.

12. During pendency of appeal, it has been brought to the notice to the Court that the appellant has already undergone the entire sentence awarded by the trial court. At the time of hearing, learned counsel for the appellant fairly submits that since the sentence has already been served, he dose not wish to press the appeal on merits and has no objection if the conviction and sentence are affirmed.

13. The Court has independently examined the record. The finding recorded by the trial court in respect of offences under Section 452, 506 I.P.C. and Section 3/25 of Arms Act are based on cogent and reliable evidences. The recovery of weapon has been duly proved and the act of criminal intimidation while being armed stands established. No perversity or illegality has been pointed out warranting interference. In view of the above, the appeal lacks merit and is accordingly, **dismissed**. the Conviction and sentence awarded by trial court are hereby affirmed.

(Mrs. Vani Ranjan Agrawal,J.)

February 18, 2026

P. Pandey