



2026:AHC:199593

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 7320 of 2024

Ritesh Maurya @ Jitesh Maurya

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Shyam Narayan Verma
Counsel for Respondent(s)	:	G.A.

Court No. - 90

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. The present appeal has been filed against the judgment and order dated 08.07.2024 passed by learned Additional District and Sessions Judge/Special Judge, POCSO Act, Court No. 03, Varanasi, in Special Sessions Trial No. 892 of 2022 (State Versus Ritesh Maurya @ Jitesh Maurya), arising out of Case Crime No. 141 of 2022, under sections 366, 376 I.P.C., Police Station Cholapur, District Varanasi.
3. The F.I.R. has been registered on 05.05.2022, at 19.15 hours, under sections 363 and 366 I.P.C. as Case Crime No. 141 of 2022, at Police Station Cholapur, District Varanasi (Rural). The F.I.R. has been lodge with the delay. The alleged incident took place on 28.04.2022 at 21:00 hours. The complainant (Jokhan Yadav) who is the father of the victim has lodged the said F.I.R. against the appellant Ritesh Maurya. He has submitted that his minor daughter has been taken away with the allurement by Ritesh Maurya. Any untoward incident accident may be happened with her daughter.
4. After investigation, charge sheet has been filed against the appellant under sections 363, 366, 376 I.P.C. and $\frac{3}{4}$ POCSO Act. The trial has been concluded and the appellant has been acquitted under section 363 I.P.C. and $\frac{3}{4}$ POCSO Act and it has been established in the said case that on the date of incident on 28.04.2022 the victim was absolute major. The appellant has been convicted and sentenced only under section 366 and 376 I.P.C.
5. The statement of the victim was recorded under Section 161 Cr.P.C. on 15.05.2022 by a lady constable. She specifically stated that her age was 18

years and she had studied up to High School. She stated that she had left her house at 09:00 P.M. on 28.04.2022 along with Ritesh Maurya of her own free will. Thereafter, both solemnized their marriage and resided as husband and wife. She expressed her desire to reside with him. She further stated: "We were returning home on 14.05.2022 when the police personnel brought us to the police station." The lady constable specifically recorded that the said statement was made by the victim voluntarily.

6. The statement of the victim was subsequently recorded under Section 164 Cr.P.C. by the concerned Civil Judge (Junior Division)/FTC-02 on 16.05.2022. Her photograph was duly pasted on the said statement, which was verified by the victim as well as the Sub-Inspector. In her statement recorded under Section 164 Cr.P.C., exhibited as Ext. Ka-1, the victim stated: "I went to Bengaluru with Jitesh on 28.04.2022. I have been well acquainted with Jitesh for the last two years. He is a friend of my brother-in-law (Jija). We stayed in Bengaluru for one day. We solemnized our marriage at Raja Talab on 14.05.2022. This case has been registered by my father. I want to live with Jitesh."

7. The learned Magistrate also issued a certificate stating that the statement was given by the victim of her own free will and was recorded in toto as narrated by her.

8. The F.I.R. was delayed. The victim specifically admitted in her statements under Sections 161 and 164 Cr.P.C. that she went along with Jitesh Maurya, solemnized marriage with him, and thereafter resided as his wife.

9. The victim was examined as P.W.-1 before the court on 11.10.2023. In her testimony before the court, she resiled from her earlier statements recorded under Sections 161 and 164 Cr.P.C. She stated that her date of birth was 11.05.2004 and she had appeared in the High School examination. She stated that the incident took place approximately one year ago, the accused forcefully took her away and committed a bad act with her. However, she did not state that he committed the bad act without her will or consent. She specifically stated that she was fully conversant with such acts. She verified her statement under Section 164 Cr.P.C. as Ext. Ka-1. She stated that she left her house on the 28th, though she did not remember the month or year. She was recovered by the police ten days after the incident, on 14.05.2022. She deposed: "I do not remember where I lived during those 14 days. I do not

know whether I went to Bengaluru or not." However, she admitted in her statement under Section 164 Cr.P.C. that the accused, Jitesh, took her to Bengaluru. She stated that she did not possess a mobile phone when she left home, whereas Jitesh had one. She did not make any call to her home from Jitesh's mobile phone, but called her home four days after the incident using another person's phone from Bengaluru. She stated that she did not know the person whose phone she used to call her father.

10. She further deposed that her medical examination was conducted forcefully and she did not wish to undergo it. She stated that she did not know how many days after the incident her medical examination was conducted. She stated that the accused, Jitesh, took her to Bengaluru by train on the date of the incident. She alleged that while purchasing tickets, the accused held her hand, pressed her mouth, and gave her a tablet, due to which she could not scream. The train journey to Bengaluru took a few days. She claimed that the accused consistently beat and intimidated her, which prevented her from raising an alarm at Bengaluru railway station. She stated that he hit her on her back, mouth, and leg, but nowhere else, and that she showed all the hit marks.

11. She stated that she told the Inspector that she solemnized marriage with the accused and resided with him as husband and wife under his pressure. However, when shown Paper No. 8-Ka (her Medico-Legal Examination report), which noted: "I do not want my external or internal examination. I am under no pressure from anyone," she admitted that it was in her own handwriting. She stated that she told the doctor she was married on the instructions of the accused, Jitesh. She further stated that she informed the doctor about her injuries, and if they were not recorded, she could offer no explanation for the omission. She admitted that she recently solemnized her marriage after attaining 18 years of age and that her father had recorded her date of birth at the time of her initial school admission. She was above 17 years of age. She travelled from Varanasi to Bengaluru, resided with the accused, and married him. She did not raise any alarm while travelling by train or at either Varanasi or Bengaluru railway stations. She left her house at 09:00 P.M. at night. The conduct of the victim demonstrates that she fully understood the nature and consequences of her acts.

12. P.W.-2/Jokhan Yadav (the father of the victim), was examined on 25.10.2023. He deposed that he did not know Ritesh Maurya and the

incident occurred approximately 1 and half years prior at around 09:00 P.M. He stated that at the time of the incident, his daughter was under 18 years of age and that the accused allured and took her away. However, he did not mention the exact date of birth of the victim in his examination-in-chief, despite being her father is the best person to know her correct age.

13. Further in his cross-examination, P.W.-2 admitted that on the very date of the incident at 11:00 P.M., the accused called him and allowed him to speak with his daughter, whereupon he learned that the accused had taken her through allurement. Thus, the complainant's statement confirms that he gained knowledge of the incident on the same day, just two hours after it occurred. Despite this, he lodged the F.I.R. after an inordinate delay without providing a satisfactory explanation. He further stated that upon returning from Bengaluru, his daughter informed him that the accused, Ritesh, had taken her there.

14. Dr. Smita Srivastava was examined as P.W.-3. She deposed that on 15.05.2022, she was posted as Emergency Medical Officer (E.M.O.) at the Government District (Women) Hospital. On that day, at around 02:00 P.M., she conducted the medical examination of the victim, who was brought by Lady Constable Sunita Kumari (C.P. No. 4065). She stated that the victim reported her date of birth as 11.05.2004 and stated that she had solemnized her marriage on 29.04.2022 at a temple. Regarding the incident, the victim stated that she had eloped with her lover. At the time of examination, she was fully conscious, with a pulse rate of 102 beats per minute and blood pressure of 120/70. Axillary and pubic hair were present, and her breasts were developed. No external injuries were found on her body. The victim refused internal examination as well as the examination of her private parts, which Dr. Srivastava recorded in her own handwriting in the medical report. Lady Constable Sunita Kumari corroborated this refusal. The report was verified as Ext. Ka-3.

15. In her cross-examination, P.W.-3 affirmed that the victim refused both external and internal examinations, stating that she was under no pressure. P.W.-3 denied that the victim made these statements under coercion. She stated that the victim produced her birth certificate and refused medical examination for age estimation. P.W.-3 noted the presence of axillary and pubic hair based on her physical observation and confirmed that the victim disclosed having eloped with her lover and married him at a temple. No

external body injuries were observed.

16. In view of this evidence, it is clear that the victim was of mature mind, who fully understood the nature of her acts. She accompanied her lover, Ritesh, of her own free will and consent, fully aware of her actions.

17. Head Constable Ashok Kumar Yadav was examined as P.W.-4. He verified the Check F.I.R. as Ext. Ka-4 and the General Diary (G.D.) entry as Ext. Ka-5. He is a formal witness.

18. Santosh Kumar Yadav (Head Master) was examined as P.W.-5. He verified that the victim's date of birth was recorded as 03.07.2003 when she was admitted to his school in Class VI on 01.04.2015. She had completed Class V at her previous school and submitted a Transfer Certificate (T.C.), which recorded her date of birth as 03.07.2003. On that basis, her date of birth was recorded as 03.07.2003 in the scholar register. He verified these documents as Ext. Ka-6 and Ext. Ka-7. He specifically stated that there was no mention of 11.05.2004 as her date of birth in the scholar register or Ext. Ka-7.

19. Sub-Inspector Vipin Kumar Pandey, the Investigating Officer (I.O.), was examined as P.W.-6. He inspected the place of occurrence, verified Ext. Ka-5, recovered the accused Ritesh and the victim, and prepared G.D. Entry No. 4 on 15.05.2022. The recovery and arrest took place at 21:00 hours on 14.05.2022. Thereafter, Section 376 I.P.C. and Section 3/4 of the POCSO Act were added via G.D. Entry No. 30, verified as Ext. Ka-9. He subsequently submitted the charge sheet, verified as Ext. Ka-10.

20. P.W.-6 stated that a computerized High School mark sheet of the victim was provided to him by the complainant. He did not inquire how the complainant obtained it because it was an online copy downloaded from an official website. He neither verify this online copy nor request the victim's Class V or Class VIII educational certificates. He simply signed the mark sheet provided by the complainant. He admitted that on the date of the incident, the victim was 11 days short of attaining 18 years of age, but by the time she was recovered, she had completed 18 years. He stated that the victim informed him that she had married the accused. He further stated that the victim's mother and brother-in-law alleged that the accused committed a bad act with her, prompting the addition of Section 376 I.P.C. and Section 3/4 of the POCSO Act. Notably, the victim herself did not state to the I.O.

that the accused committed rape. The I.O. contradicted his own testimony regarding the addition of charges and the age of the victim. Although he admitted she had completed 18 years at the time of recovery/medical examination on 15.05.2022, his deposition contained notable variations and inconsistencies.

21. Prahlad Singh Yadav, the Principal, was examined as P.W.-7 on 18.05.2024. He deposed that the victim took admission in Class IX on 05.07.2018 as a regular student and appeared for the High School examination. As per the scholar register, her date of birth was 03.07.2003, recorded on the basis of previous school documents. He stated that while submitting the Board examination form, information was provided by either the student or the guardian, and the school merely forwarded it. He admitted that an error occurred in the office during this process. In the school register, her date of birth was 03.07.2003.

22. The alleged incident occurred on 28.04.2022, making the victim an absolute major on the date of occurrence. This was correctly concluded by the learned trial court, which acquitted the appellant under Section 363 I.P.C. and Section 3/4 of the POCSO Act. The victim is an educated girl who left her house at 09:00 P.M. Her father admitted speaking to her at 11:00 P.M. that same night via a call arranged by the appellant. Despite this immediate contact, there was an inordinate delay in lodging the F.I.R.

23. It cannot be ruled out that the victim possessed full understanding and knowledge of the nature of her acts. She was of mature mind at the time of the incident, and her date of birth was subsequently manipulated during the submission of her High School Board examination form (recording 11.05.2004 instead of 03.07.2003 as entered in the scholar register). She travelled from Varanasi to Bengaluru, a long journey taking over a day and a night by train without raising any alarm. In her statements under Sections 161 and 164 Cr.P.C., she specifically admitted that she left with her own consent, solemnized marriage with the appellant, and consensual relations took place.

24. The findings and observations of the learned trial court regarding the conviction and sentencing of the appellant under Sections 366 and 376 I.P.C. are perverse and contrary to law.

25. Accordingly, the judgment and order dated 08.07.2024 passed by the

learned Additional District and Sessions Judge / Special Judge, POCSO Act, Court No. 03, Varanasi, in Special Sessions Trial No. 892 of 2022 (State v. Ritesh Maurya @ Jitesh Maurya), arising out of Case Crime No. 141 of 2022, under Sections 366 and 376 I.P.C., Police Station Cholapur, District Varanasi, is hereby set aside.

26. The appellant is hereby acquitted of the charges under Sections 366 and 376 I.P.C.

27. The criminal appeal is allowed.

28. If the appellant is not incarcerated in connection with any other case, the appellant shall be released forthwith.

29. A copy of this judgment shall be sent immediately by the Registrar (Compliance) to the learned District and Sessions Judge, Varanasi, via e-mail. A copy of this order along with the original trial court record shall also be transmitted to the learned trial court for necessary compliance forthwith.

September 23, 2026
K.K. Maurya

(Abdul Shahid,J.)