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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment Reserved on: May 30, 2016

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Judgment Delivered on: June 03, 2016

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CRL.A. No.1321/2014

MANI RAM

..... Appellant

Through : Mr.Neeraj Bhardwaj, Advocate

Versus

STATE

..... Respondent

Through : Mr.Sudershan Joon, APP for State
with SI R.P. Singh, PS Dwarka
(South)

PRATIBHA RANI, J.

1. This appeal has come up for hearing pursuant to the directions issued for expediting hearing in appeals filed by persons in custody (with sentence more than seven years and upto ten years).

2. This appeal has been preferred by the appellant Mani Ram, challenging the judgment dated 22nd May, 2012 and order on sentence dated 24th May, 2012 passed in Sessions Case No. 100/11 whereby he has been convicted for committing the offence punishable under Sections 376/506 IPC and sentenced to undergo RI for 10 years with fine of ₹10,000/- and in default, to undergo SI for 6 months for the offence punishable under Section 376 IPC and further to undergo RI for 1 year with fine of ₹1,000/- and in default, to undergo SI for 1 month for the offence punishable under Section 506 IPC.

3. The appellant has been sent to face trial for committing rape on his

minor step-daughter who was aged about 14-15 years at that time.

4. The case of the prosecution is that on 31st July, 2011, the prosecutrix 'S' (name withheld to conceal the identity), along with her mother Ranju Devi and social worker Neetu Rajput reached police station Dwarka (South) and informed about the rape being committed by the step-father of the prosecutrix.

5. ASI Kamlesh was entrusted with the job of recording the statement of the prosecutrix. In her statement Ex.PW1/A, the prosecutrix she reported that she was studying in VIIIth Standard in a Government school and residing along with her mother, step-father and her younger brother and sister. Her step-father had been keeping evil eye on her and in the year 2009 thrice she was raped and threatened not to disclose the incident to anyone. On 24th July, 2011 her mother had gone to Chandigarh for taking some medicine, leaving her and other siblings at home. On 25th July, 2011 at about 12.00 midnight, when her brother and sister were sleeping, her step-father increased the volume of television set and committed rape on her. He also threatened to kill her in case the incident is disclosed by her. On 27th July, 2011, when her mother returned from Chandigarh and noticed her in sad mood, she tried to enquire about the reason. Then she (prosecutrix) disclosed about the rape being committed by her step-father. Her mother with the help of a neighbor who was working with some NGO, took her to the police station where the report was lodged.

6. During investigation Prosecutrix 'S' was sent for medical examination and her statement under Section 164 Cr.P.C. was also recorded. After completion of investigation charge-sheet was filed and case was committed to the Court of Sessions. The appellant was charged for committing rape on

his step-daughter. During trial 13 witnesses were examined . However, in her statement under Section 313 Cr.P.C. the appellant pleaded innocence.

7. Relying on the testimony of the prosecutrix and her mother as well the medical report, the learned Trial Court convicted the appellant for committing offence under Section 376/506 IPC and sentenced him as above.

8. Pursuant to the production warrants issued against the appellant, he has been produced from the custody.

9. I have heard learned counsel for the appellant as well as the appellant.

10. Learned counsel for the appellant, on instructions, submits that the appellant is not challenging his conviction for the offence punishable under Section 376/506 IPC. He further submits that the appellant is repenting for the unethical and illegal act committed by him on his step-daughter and an opportunity may be given to him to reform himself. He, however, submits that due to his incarnation, his family consisting of his wife and three children are suffering as he was the sole bread earner in the family. He wants to take care of them and secure future of his step-daughter ensuring that the prosecutrix is able to live without any fear and the other two children are also properly educated and taken care of by him.

11. The MLC of the prosecutrix records her age to be 15 years and at the time of her examination which was after about six days of the commission of the rape, no internal or external injury was found. Hymen was found torn with no active bleeding. On the MLC, the LMP has been recorded as 23rd July, 2011 and the incident of rape is dated 25th July, 2011.

12. No doubt the offence committed by the appellant is very serious where the appellant violated the body of his own step-daughter in the absence of his wife who had left her children with the appellant under the belief that they

were safe. However, taking into consideration the submissions made by the appellant and his repentance as well as the willingness to take care of his family, the substantive sentence of the appellant for committing the offence punishable under Section 376 IPC is reduced from 10 years to 7 years.

13. Accordingly, while maintaining the conviction of the appellant for the offences punishable under Section 376/506 IPC, the substantive sentence awarded to him for the offence punishable under Section 376 IPC is reduced from ten years to seven years. The substantive sentence awarded to the appellant for the offence punishable under Section 506 IPC is maintained. Sentence of fine awarded to the appellant for the offences punishable under Section 376/506 IPC is also maintained. However, the period required to be undergone by him in default of payment of fine i.e. for the offence punishable under Section 376 IPC is reduced to one month and for the offence punishable under Section 506 IPC is reduced to one week.

14. The appeal stands allowed in the above terms.

15. Copy of the order be sent to the Jail Superintendent for information and compliance.

16. TCR be sent back alongwith copy of this order.

PRATIBHA RANI, J.

June 03, 2016

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