



2. Succinctly, the facts of the case, as alleged, are that on 10.06.2003, complainant submitted a complaint, stating that his daughter, the prosecutrix, aged 14 years and studying in Class 8th, was subjected to an incident on 09.06.2003. On that day, he and his wife Kamla had gone to Charkhi Dadri to



purchase household items and returned home around 7:30 PM. Upon their return, the prosecutrix informed them that during their absence, petitioner had allured her and attempted to commit rape upon her, and when she raised an alarm, her uncle Balraj reached the spot, upon which petitioner fled. When the complainant went to petitioner's house to confront him, he and one Bhoop allegedly abused and threatened the complainant with dire consequences if he reported the matter to the police. Based on this complaint, an FIR(*supra*) was registered.

3. After assessing the material available on record, the learned trial Court convicted the appellant vide impugned judgment dated 20.11.2004 and sentenced him to imprisonment, as mentioned above. Aggrieved by the same, the appellant has preferred the present appeal.

4. Learned counsel for the appellant *inter alia* contends that there was an inordinate delay of 18 hours in reporting the alleged incident to the police. Further, there is no independent witness and there are strong variations and inconsistencies in the statements of the prosecutrix as well as Balraj. Lastly, the prosecution has failed to prove that the age of prosecutrix was less than 16 to 17 years. Therefore, sentence awarded to the appellant is grossly disproportionate and he deserves to be acquitted.

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the appellant and submits that he has been convicted by the learned trial Court on correct appreciation of the facts and the law, as such interference by this Court is not warranted.

6. During the pendency of the present appeal, a compromise has been arrived at between the parties, through a compromise deed dated 30.08.2019. The appellant has also filed the same as Annexure P-1.



7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the parties have entered into a compromise. It is a settled position of law that offences under Section 376/511 of IPC are non-compoundable in nature, therefore, no formal permission can be granted by this Court to effectuate a compromise in this case. However, the existence of a voluntary compromise between the parties, particularly where the prosecutrix no longer wishes to pursue the matter, may inform the discretion of this Court while determining the quantum of sentence.

8. A two Judge Bench of the Hon'ble Supreme Court in **Manjit Singh v. State of Punjab (SC) 2019** speaking through Justice R. Banumathi has held as under: -

*“6. Section 307 I.P.C. is a non-compoundable offence. No permission can be granted to record the compromise between the parties. In **Ishwar Singh v. State of Madhya Pradesh, 2009(1) RCR (Criminal) 1 : (2008) 15 SCC 667**, the Supreme Court of India has held that in a non-compoundable offence the compromise entered into between the parties is indeed a relevant circumstance which the Court may keep in mind for considering the quantum of sentence. In Paras (13) and (14) of the judgment in **Ishwar Singh (supra)** this Court has held as under:*

*“13. In **Jetha Ram v. State of Rajasthan, (2006) 9 SCC 255**, **Murugesan v. Ganapathy Velar, (2001) 10 SCC 504** and **Ishwarlal v. State of M.P., (2008) 15 SCC 671**, this Court, while taking into account the fact of compromise between the parties, reduced sentence imposed on the appellant-accused to already undergone, though the offences were not compoundable. But it was also stated that in **Mahesh Chand v. State of Rajasthan, 1988(1) RCR (Criminal) 498 : 1990 Supp. SCC 681** such offence was ordered to be compounded.*



14. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the Code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstance which the Court may keep in mind."

9. It is a matter of record that the alleged incident occurred in the year 2003 and the appellant has been facing the agony of trial for the last about 22 years. He has also spent 03 months 13 days in custody. Since the sentence of the appellant was suspended by this Court vide order dated 22.11.2004, he has been residing as a peaceful member of the society, without any untoward incident attributable to him.

10. In ***Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257***, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

11. Further, the Hon'ble Supreme Court in ***Ravada Sasikala vs. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise



the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

12. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment of conviction dated 20.11.2004 passed by the learned Additional Sessions Judge, Bhiwani, is upheld, however, the order of sentence dated 22.11.2004 is modified to the extent that the sentence of rigorous imprisonment for 03 years and fine along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.05.2025

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No