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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 357/2020 and CRL.M.A. 34021/2023
PAWAN KUMAR JHAAppellant
Through:

versus

STATE OF NCT OF DELHIRespondent
Through: Mr.Pradeep Gahalot, APP for State with
SI Sheetal
Ms.Aishwarya Rao and Ms.Mansi Rao, Advocates
for victim

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **05.08.2025**

1. By way of the present appeal, the appellant seeks to assail the judgement of conviction and order on sentence dated 04.12.2019 passed by learned ASJ-05, Children's Court, North District, Rohini Courts, Delhi, in SC No.58179/2016 arising out of FIR No.185/2011 registered under Section 376 IPC at P.S. Swaroop Nagar, Delhi.

Vide the order on sentence, the appellant was directed to undergo rigorous imprisonment for a period of 7 years for the offence punishable under Section 376 read with Section 511 IPC along with payment of fine of Rs.100/- in default of payment of fine, he was directed to further undergo simple imprisonment for a period of 7 days. The benefit of Section 428 Cr.P.C. was provided to the appellant.

2. Briefly stated facts of the case are that the victim was a mentally challenged child having a case of mild mental retardation and an IQ of 50,



and it has been alleged that on 02.12.2011, the appellant, who is a neighbour of the child victim, raped her in his house. Despite her mental limitations, she was found competent to testify before the Court. She deposed that the appellant, residing in the neighbourhood of the victim, called her to his house pressed her breasts. He removed her clothes and put his urinating part in her urinating part. At the relevant time, the victim was about 12 years of age, and the incident came to light when the victim returned home and narrated the occurrence to her sister and neighbour. Later on, when the father of the child victim reached home, she narrated the incident to him and the FIR was registered the next day.

3. The factum of disclosure about the said incident by the child victim was corroborated by PW-2 (a neighbour), PW-7 (her sister) and PW-6 (father of the victim). Medical evidence was brought on record through PW-5 and PW-10, who proved the MLC (Ex. PW5/A), which noted hymenal tear and signs of prior sexual assault, however, no fresh external injury was found at the time of medical examination. The accused, in his statement under Section 313 Cr.P.C, denied the allegations and alleged false implication over a monetary dispute, but did not lead any defence evidence.

4. The trial court while convicting the appellant, held that the testimony of the child victim was convincing and reliable. However, the MLC of the victim did not indicate any external injury or that the hymen tear was fresh. Moreover, no semen was detected from vaginal swab as per the CFSL report but the presence of semen of the appellant was detected on the salwar of the victim. Considering the entire facts and circumstances, the Trial Court came to the conclusion that the prosecution was only able to prove that rape was attempted, and found the appellant guilty for the offence punishable under



Section 376 read with Section 511 IPC.

5. At this stage, learned counsel for the appellant, on instructions from appellant who is present in the Court, submits that having undergone the entire substantive sentence and being aware of the consequences, he does not wish to press the present appeal on merits.

6. The nominal roll dated 31.07.2025 placed on record reflects that the appellant has been released on 30.12.2024 as he had already undergone the entire sentence. The fine amount of Rs.100/- also stands paid.

7. Considering the aforesaid, and keeping in view that the appellant has already served the entire sentence in the present case and does not wish to press the present appeal, the conviction of the appellant is upheld.

8. The appeal stands disposed of as not pressed along with the pending applications.

9. A copy of this order be communicated to the concerned Jail Superintendent as well as the Trial Court.

MANOJ KUMAR OHRI, J

AUGUST 5, 2025

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