THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.372 of 2019
CNR No.ODHC010293532019

(In the matter of an application under Section 374 (2) of Criminal Procedure Code)

Kanta Bag @ Keut ……. ***Appellant***

-Versus-

State of Odisha ……. ***Respondent***

For the Appellant : Mr. G.N. Sahu, Advocate

For the Respondent : Mr. Jateswar Nayak, AGA

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 28.09.2026 : Date of Judgment: 31.10.2026

S.S. Mishra, J. The present appeal has been filed assailing the judgment of conviction and order of sentence dated 30.03.2019 passed by the learned Additional District and Sessions Judge-cum-Special Judge, Nuapada in S.A. No.91 of 2017, whereby the appellant has been

convicted for commission of the offence punishable under Section 376(2)(n) of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5,000/-, in default whereof, to undergo further rigorous imprisonment for six months.

2. Heard Mr. G.N. Sahu, learned counsel appearing for the appellant, and Mr. Jateswar Nayak, learned Additional Government Advocate appearing for the respondent-State.

3. The prosecution case, in brief, is that on 31.07.2017, one Smt. Bimala Bag, a co-villager of the informant-Jhangulu Pandey, came to the house of the informant and informed his wife that her son, i.e., the accused, had developed physical relationship with the victim and that, as a result thereof, the victim had become pregnant by about three to four months. She further stated that she wanted the foetus to be aborted. The wife of the informant disclosed these facts to him in the evening upon his return home. On the following morning, the informant questioned the victim, who admitted the said facts and stated that the accused had established physical relationship with her on the false assurance of

marriage. Thereafter, on 01.08.2017, when the victim went to the house of the accused, his mother-Bimala Bag and sister-Minati Bag allegedly assaulted her and drove her away. A meeting was convened at about 10.00 a.m.; however, no settlement could be arrived at. Consequently, the informant lodged a report before the police, which was registered as Beltukuri P.S. Case No.76 dated 02.08.2017 for the offences punishable under Sections 376(2)(n), 493, 417, 323 and 34 of the IPC read with Section 6 of the POCSO Act. The Investigating Officer took up investigation, examined the victim and other witnesses, sent the victim and the accused for medical examination, seized the relevant documents, arrested the accused and forwarded him to the Court. Upon completion of investigation, charge-sheet was submitted against the accused for the offences punishable under Sections 376(2)(n) and 417 of the IPC along with Section 6 of the POCSO Act.

4. In order to establish its case, the prosecution examined twenty-five witnesses, namely, P.Ws.1-Jagat Ram Chandrakar, 2-Ratikanta Pradhan, 3-Bisahu Pandey, 4-Chandra Sekhar Pradhan, 11-Shraban Kumar Chandrakar, 12-Kishor Chandra Barik and 21-Omprakash Chandrakar as

independent witnesses; P.Ws.5-Haradhar Pradhan, 6-Bidesh Pradhan and 7-Ramesh Barik as seizure witnesses; P.W.8-Sundarlal Pandey, brother of the informant; P.W.9-Pramila Nial and P.W.10-Netram Majhi as police constables/official seizure witnesses; P.W.13-Kulanti Bai Pandey, mother of the victim; P.W.14, the victim; P.W.15-Jhangulu Pandey, the informant; P.W.16-Dewanlal Pandey, brother-in-law of the victim; P.W.17-Dr. Bikram Keshari Naik, who examined the victim; P.W.18-Dr. Bijaya Ranjan Panigrahi, O&G Specialist, D.H.H., Nuapada, who conducted the ultrasound examination of the victim; P.W.19-Dr. Pitbash Sha, Paediatric Specialist, C.H.C., Khariar Road, who examined the accused; P.W.20-Susila Pradhan, Anganwadi Worker; P.W.22-Bimala Pandey, sister of the victim; P.W.23-Sudhir Kumar Sahoo, the Investigating Officer; P.W.24-Chandra Harijan, the scribe of the FIR; and P.W.25-Nityananda Das, A.S.I. of Police, who assisted the Investigating Officer during investigation. The prosecution also proved documents marked as Exts.1 to 17 and material objects marked as M.Os.I to III. On the other hand, the defence examined two witnesses, namely, D.W.1 and D.W.2.

5. Upon appreciation of the evidence on record, the learned Trial Court, while acquitting the appellant of the charge under Section 417 of the IPC and under section 6 of the POCSO Act, extending to him the benefit of doubt with regard to the age of the victim, nevertheless found the evidence of the victim reliable and held that the prosecution had succeeded in establishing the charge under Section 376(2)(n) of the IPC. The relevant findings of the learned Trial Court, as contained in paragraphs 9 and 11 of the judgment, are extracted below:

> *"9. On the other hand learned counsel for the prosecution advanced his argument and further submitted that the court shall presume that the accused has committed the offence unless the contrary is proved as mandate u/s 29 of the POCSO Act. In this case at hand, the accused has been charged for commission of offence u/s 417/376 (2)(n) of the IPC and U/s 6 of POCSO Act. Now it is to be seen whether the victim was minor at the relevant time so as to attract the provision of the POCSO Act. On perusal of Ext.11 and more particularly, the entry in it vide Ext.11/1 made relating to the victim, it is found that the date of birth has been over-written without having any initial and that apart the register has not been verified nor sealed. P.W.20, from whom the register has been seized, has not claimed to have filled up the columns herself in the register. The parent of the victim are the best persons to say about her date of birth. According to the mother of the victim (P.W.13), she cannot say the date, day, month or year of birth of her daughter. There is no document in this regard with them. So also the father of the victim (P.W.15), who put his LTI in the relevant register of the Anganwadi relating to the date of birth of his victim daughter has deposed that the nurse has filled up the column and did not ask about the date of*

birth of the victim to him as he was absent during such entry.

The accused has examined D.W.1 and D.W.2 to disprove the fact that the victim to be a minor. D.W.1 has deposed that the victim is 25 days younger to her daughter, who is by then 22 years old and so also D.W.2 has deposed the same fact. On going through the evidence on record, both oral and documentary, I am of the view that the prosecution has failed to prove that the victim was minor at the time of alleged incident and thus, I am inclined to extend the benefit of doubt in favour of the accused in this regard.

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11. In this case at hand the victim has categorically deposed of being ravished by the accused for six days. She was put to searching cross-examination, but nothing could be elicited from her mouth to discredit her sworned testimony. It is also a well known fact that a girl or a woman in the tradition bound non-permissive society of county like ours would be extremely reluctant even to admit that any incident, which is likely to reflect on her chastity had ever occurred. I do not find any infirmity in the evidence of the prosecutrix (P.W.14) to discard her sworned testimony to the fact that it is the accused who has ravished her for several times and made her pregnant resulting in delivery of a baby. So now it is to be seen if the prosecutrix was a consenting party to the said act. During her examination the victim has categorically deposed that she always protested the accused while he developed physical relationship with her. Consent is an act of reason coupled with deliberation, after the mind has weighed the good and evil on each side in a balanced manner. Consent denotes an active will in the mind of a person to permit the doing of the act complained of. A mere act of helpless resignation cannot be deemed to be consent and to me consent on the part of the victim, as a defence to the allegation of rape, requires voluntary participation. While the victim has deposed to have protested the accused for physical relationship I am of the firm view that she had no consent to the said act and thus the prosecution has able to prove the allegation u/s 376(2)(n) of IPC against the accused. But absolutely there is no iota of evidence against

the accused for alluring the victim to marry her. Thus, I am of the view that prosecution has failed to prove the offence u/s 417 of the IPC beyond all reasonable doubts against the accused."

6. Aggrieved by the aforesaid judgment of conviction and order of sentence, the appellant has preferred the present appeal. Learned counsel for the appellant, assailing the impugned judgment, would contend that the learned Trial Court has failed to properly appreciate the evidence available on record and has arrived at the conclusion of guilt under Section 376(2)(n) of the IPC without there being sufficient and reliable evidence to sustain the conviction. He would further contend that the findings recorded by the learned Trial Court are contrary to the evidence on record and, therefore, the impugned judgment of conviction and order of sentence warrants interference by this Court.

7. During pendency of the present appeal, this Court, vide order dated 09.09.2026, called for a report regarding the conduct and period of custody of the appellant, along with information as to whether he has any other criminal antecedents. Pursuant thereto, a report dated 24.09.2026 has been received, indicating that the conduct of the appellant during his incarceration has been found to be excellent/satisfactory, as reflected in

the Character Certificate issued by the Superintendent of Jail. It is further stated that the appellant has already undergone approximately 9 years and 9 months of the substantive sentence of 10 years. Further, as per the report dated 21.09.2026 submitted by the I.I.C., Beltuluri P.S., no other criminal case or violation of any condition is reported to be pending against the appellant, apart from the present case.

8. Learned counsel for the appellant, Mr. G.N. Sahu, assailing the impugned judgment of conviction and order of sentence, submitted that the learned Trial Court has committed serious errors both in appreciation of the evidence and in its ultimate conclusion regarding absence of consent. It is contended that the evidence on record, when considered in its entirety, would indicate that the parties were in an adolescent love relationship which subsequently developed into a physical relationship on the assurance of marriage, but the relationship eventually deteriorated when the marriage did not materialize. According to learned counsel, the subsequent institution of the criminal case is required to be examined in the backdrop of such relationship and the surrounding circumstances.

Learned counsel further submitted that the case of the appellant is squarely covered by the Judgment of this Court in ***Bikash Behera v. State of Orissa***, dated 22.05.2026 passed in ***CRA No.288 of 1997***, wherein, on consideration of a similar factual situation involving a prolonged relationship between the parties, delayed disclosure and absence of corroborative medical and scientific evidence, this Court held as follows:

> *"18. Coming to the second issue, namely whether the alleged consent was obtained by fraud, coercion, threat or misconception of fact, the evidence on record does not inspire confidence to conclusively establish absence of voluntary participation on the part of the prosecutrix. It's noteworthy to mention that at the time of the incident the appellant was only 20 years of age and the prosecutrix also of same age group. It appears that they were in an adolescence relationship. At this point it would be apt to reproduce the evidence of the prosecutrix (P.W.5) for the convenience of ready reference:*
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> > *"2. During the period of occurrence I was working as a maid servant in the house of the accused. I was engaged to work in the house of the accused since about 1 year prior to the occurrence. In course of such employment I was residing in the accused's house. The occurrence took place more than a year back in the month of Pausa on a Wednesday.*
> > *3. At the time of occurrences accused Bikash was alone present in the house and his family members were not there. The accused dragged me to his T.V. room and forcibly laid me on the PALANKA, he lifted the Sari which I was wearing and committed forcible sexual intercourse with me.*
> > *4. After committing rape the accused told me that he would take me as his wife and threatened me that he would stab me with knife if I disclose the occurrence to*

any one. Out of fear I did not disclose regarding the occurrence to my parents or anyone else. Thereafter also the accused committed rape on me on several occasions me as a result of which I became pregnant. When I told regarding the pregnancy to the accused, he gave me some medicines to terminate the pregnancy. I did not take the medicine and threw it away.

5. When I was already conceiving for 5 months my mother could detect the pregnancy. On knowing the same she enquired regarding the person who is responsible for the same on which I disclosed regarding the entire occurrence to her and disclosed the name of the accused."

The prosecutrix in the Cross-examination has also states that she used to have vocal pleasantries of intimate nature, prior to commission of offence, she in her evidence has stated thus:

"10. Prior to the occurrence i.e. the first rape in the month of Pausa, the accused and myself used to exchange vocal pleasantries of intimate nature. Such pleasantries, included tilting of eye by me to him and tilting of eye by him to me…..

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13. The accused showed me knife on every occasion when he committed rape on me.

14. I used to visit my house at the intervals of 8/10 days."

Though the prosecutrix alleged that the accused initially threatened her with a knife and promised to marry her, it is admitted that the relationship allegedly continued over several months. She used to visit her parental home at intervals of 8 to 10 days, yet did not disclose the occurrence to anyone till pregnancy was detected after nearly five months, no complaint was lodged either before the police, village elders or even before her parents immediately after the alleged occurrence. In cross-examination, she admitted prior exchange of intimate pleasantries with the accused. However, admittedly the house of the accused was situated in the midst of the village and there is no evidence from any independent villager that any alarm or commotion was ever heard. No neighbour or co-villager has stated regarding hearing cries for help from the prosecutrix despite the alleged repeated incidents occurring over a prolonged

period. On the other hand, she has admitted in her evidence that even after the first sexual encounter, they continued the relationship, which had gone sour of late once the accused refused to stand by his promise to marry her. This prolonged silence and continued association between the parties create a serious dent in the prosecution version of repeated forcible intercourse against the will of the prosecutrix. The conduct of the prosecutrix, as emerging from the evidence, appears inconsistent with the normal conduct expected in a case of repeated forcible sexual encounter, especially when opportunities existed for disclosure to her parents during her visits home. Furthermore, the victim's parents failed to establish her exact age or birthdate in their testimony. Their statements merely repeated the narrative provided by their daughter, offering no independent corroboration.

19. Furthermore, no contemporaneous medical evidence of injury or resistance is available on record because of the delayed FIR. No DNA or genetic examination was conducted to establish paternity of the child born to the prosecutrix, thereby depriving the prosecution case of crucial corroborative scientific evidence.

20. The Hon'ble Supreme Court in ***Vijayan v. State of Kerala****, reported in* ***(2009) 3 SCC (Cri) 589****, observed that where the prosecutrix waits for several months before lodging FIR and continues physical relationship with the accused, conviction solely on her testimony becomes unsafe, particularly in absence of supporting medical or scientific evidence. It was held thus:-*

> *"5. The present case wholly depends upon the testimony of the prosecutrix. The incident in the present case took place seven months prior to the date of lodging the complaint as a realisation dawned upon her that she has been subjected to rape by the appellant-accused. No complaint or grievance was made either to the police or the parents prior thereto. The explanation for delay in lodging the FIR is that the appellant-accused promised her to marry therefore the FIR was not filed. In cases where the sole testimony of the prosecutrix is available, it is very dangerous to convict the accused, specially when the prosecutrix could venture to wait for seven months for*

filing the FIR for rape. This leaves the accused totally defenceless. Had the prosecutrix lodged the complaint soon after the incident, there would have been some supporting evidence like the medical report or any other injury on the body of the prosecutrix so as to show the sign of rape. If the prosecutrix has willingly submitted herself to sexual intercourse and waited for seven months for filing the FIR it will be very hazardous to convict on such sole oral testimony. Moreover, no DNA test was conducted to find out whether the child was born out of the said incident of rape and that the appellant-accused was responsible for the said child. In the face of lack of any other evidence, it is unsafe to convict the accused. Therefore, we are of the opinion that the view taken by the trial court and the learned Single Judge of the High Court in convicting the appellant-accused under Section 376 IPC cannot be sustained. Consequently, we set aside the judgment and order of the trial court as also of the High Court and quash the conviction and sentence of the appellant-accused under Section 376 IPC. The accused may be released forthwith from custody if not required in any other case."

*Similar view was reiterated in **Kaini Rajan v. State of Kerala**, reported in **(2013) 3 SCC (Cri) 858**, wherein the Hon'ble Apex Court held that prolonged silence, delayed reporting and surrounding circumstances probabilising consensual intimacy render it hazardous to sustain conviction for rape. The principles laid down therein were subsequently noticed and reaffirmed in **Prakash Chand v. State of Himachal Pradesh**, reported in **(2019) 5 SCC 628**, while considering cases involving prolonged physical relationship and delayed allegations.*

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22. The prolonged silence of the prosecutrix, continued association between the parties, absence of prompt complaint, lack of medical evidence showing injuries suggestive of forcible intercourse, and non-conduct of DNA examination cumulatively create serious doubt regarding the prosecution story of repeated forcible rape. The factual matrix rather probabilises a consensual relationship which subsequently deteriorated."

9. Learned counsel submitted that the aforesaid principles are applicable to the facts of the present case. According to him, the statement of the victim recorded under Section 164 of the Code of Criminal Procedure assumes considerable significance, as therein she had stated that she and the appellant were in a love relationship and that the physical relationship developed between them on the assurance of marriage. It is contended that the said statement is materially at variance with the subsequent version of the victim before the Trial Court and, therefore, her deposition as P.W.14 requires careful scrutiny.

10. It is further submitted that there are material discrepancies in the prosecution case, including with regard to the scribe of the FIR and the manner in which the initial version came to be recorded. Learned counsel submitted that the prosecution has also failed to adduce any reliable scientific evidence connecting the appellant with the child born to the victim. In particular, no DNA or genetic examination was conducted to establish the paternity of the child. According to learned counsel, in the factual circumstances of the case, such scientific evidence

would have constituted an important piece of corroboration, particularly when the prosecution case is sought to be founded substantially upon the testimony of the victim.

11. Learned counsel further submitted that the medical evidence does not provide any material corroboration of the allegation of repeated forcible sexual intercourse. It is argued that the alleged occurrence was spread over a period of time and yet the prosecution has brought on record no *iota* of any convincing medical evidence indicative of force or resistance. The other material contradictions and inconsistencies appearing in the evidence of the prosecution witnesses, according to learned counsel, further render the prosecution version doubtful.

12. Learned counsel also submitted that the deposition of the victim (P.W.14) before the Trial Court, particularly when compared with her earlier statement under Section 164 of the Cr.P.C., appears to be an improved version and, therefore, cannot be accepted without independent and reliable corroboration. It is argued that the learned Trial Court, while noticing that the prosecution had failed to establish the

minority of the victim and had consequently extended the benefit of doubt to the appellant on that aspect, nevertheless failed to appreciate the other circumstances which materially affected the credibility of the prosecution case relating to want of consent.

13. Learned counsel finally submitted that, even otherwise, the appellant has already undergone approximately 9 years and 9 months of incarceration against the sentence of ten years imposed upon him. His conduct in custody has been reported to be satisfactory and there is no other criminal case or violation of any condition reported against him. It is, therefore, submitted that, having regard to the period already undergone, the nature of the relationship between the parties, the material discrepancies in the prosecution case, absence of scientific corroboration and the principles laid down in the aforesaid decisions, the conviction of the appellant is unsustainable and he deserves to be acquitted by allowing the present appeal.

14. Per contra, Mr. Jateswar Nayak, learned Additional Government Advocate appearing for the respondent-State, supported the impugned judgment of conviction and order of sentence and submitted that the

learned Trial Court, upon a careful appreciation of the evidence available on record, has rightly held the appellant guilty of the offence punishable under Section 376(2)(n) of the IPC. It is contended that the testimony of the victim (P.W.14) is clear, consistent and categorical with regard to the repeated sexual assault committed upon her by the appellant and nothing substantial could be elicited in her cross-examination so as to discredit her testimony.

15. Learned Additional Government Advocate further submitted that the mere fact that the victim was acquainted with the appellant or that they were allegedly in a relationship would not, by itself, establish consent to the sexual acts complained of. According to him, consent must be a conscious and voluntary participation in the sexual act and cannot be inferred merely from a prior relationship between the parties. The learned Trial Court has rightly considered the specific deposition of the victim that she had protested the acts of the appellant and, on such evidence, rightly concluded that the sexual relationship was not consensual.

16. It is further submitted that the reliance placed by learned counsel for the appellant upon the judgment in ***Bikash Behera*** (supra) is misplaced, as the said decision turned upon its own peculiar facts and the appreciation of evidence in that case. The learned Additional Government Advocate submitted that the factual circumstances of the present case are materially distinguishable and that the ratio of the said decision cannot be mechanically applied without examining the evidence available in the present case.

17. Learned Additional Government Advocate also submitted that the absence of DNA examination or the absence of any particular medical injury cannot, by itself, demolish the prosecution case when the substantive evidence of the victim is otherwise found to be trustworthy. It is contended that the testimony of the prosecutrix, if found to be cogent and credible, does not require corroboration as a matter of law. The learned Trial Court, having had the advantage of examining the evidence of the witnesses and appreciating their demeanour, has recorded a well-reasoned finding of guilt which does not call for interference in appeal.

18. Before proceeding further, it is made clear that this Court is not called upon to examine the acquittal of the appellant of the offences punishable under Section 417 of the IPC and Section 6 of the POCSO Act, as the said acquittal has not been assailed before this Court. The consideration in the present appeal is, therefore, confined to the appellant's conviction under Section 376(2)(n) of the IPC.

19. Having heard learned counsel for the parties and upon careful consideration of the evidence on record, the principal question that arises for consideration is whether the prosecution has been able to establish beyond reasonable doubt that the physical relationship between the appellant and the victim was without her consent. The conviction under Section 376(2)(n) of the IPC rests substantially upon the testimony of P.W.14, the victim.

20. It is not in dispute that the victim and the appellant were acquainted and, according to her statement recorded under Section 164 of the Cr.P.C., they were in a love relationship and their physical relationship developed on the assurance of marriage. The said statement

assumes significance while appreciating her subsequent testimony before the Trial Court. Though a prior relationship or an assurance of marriage cannot, by itself, establish consent, the entire course of the relationship and the surrounding circumstances are required to be examined to determine whether the prosecution has established absence of consent beyond reasonable doubt.

21. In the present case, there is material variation between the statement of the victim under Section 164 of the Cr.P.C. and her subsequent deposition as P.W.14. The prosecution has also not been able to establish that the appellant had made a false promise of marriage from the inception with no intention to honour the same. The fact that the relationship subsequently deteriorated and did not culminate in marriage cannot, by itself, convert a consensual relationship into an offence of rape.

22. The learned Trial Court itself found that the prosecution had failed to establish the minority of the victim and consequently extended the benefit of doubt to the appellant on the applicability of the POCSO Act. The Trial Court also acquitted the appellant of the charge under Section

417 of the IPC, observing that there was no evidence to establish that he had fraudulently or dishonestly induced the victim by alluring her with a promise of marriage. Though such finding is not by itself determinative of the charge under Section 376(2)(n) of the IPC, it is certainly a relevant circumstance while appreciating the overall prosecution case concerning the nature of the relationship between the parties.

23. The prosecution case is further required to be considered in the light of the medical and scientific evidence. No DNA or genetic examination was conducted to establish that the child born to the victim was fathered by the appellant. It is true that non-conduct of DNA examination, by itself, cannot be a ground to discard an otherwise reliable prosecution case. Nevertheless, where the paternity of the child constitutes a relevant circumstance and the prosecution case substantially rests upon the testimony of the victim, such scientific evidence has its own corroborative value, and its absence assumes significance when considered along with the other circumstances appearing on record.

24. The discrepancies regarding the scribe and preparation of the FIR, the material variations in the evidence, the statement of the victim under Section 164 of the Cr.P.C., the absence of DNA examination and the lack of significant medical corroboration, when considered cumulatively with the admitted prior relationship between the parties, create a reasonable doubt regarding the prosecution version of repeated forcible sexual intercourse. These circumstances cannot be considered in isolation but have to be assessed in their entirety.

25. The principles laid down by this Court in ***Bikash Behera v. State of Orissa*** in ***CRA No.288 of 1997***, relied upon by learned counsel for the appellant, are also relevant in this context. Though every case has to be decided on its own facts, the said decision emphasises the necessity of considering the prolonged relationship between the parties, the surrounding circumstances, the conduct of the parties, the delay in disclosure and the availability or otherwise of medical and scientific corroboration while determining whether the prosecution has established absence of consent.

26. This Court is conscious to the settled principle of law that, the testimony of a prosecutrix, if found to be wholly reliable and trustworthy, can by itself form the basis of conviction and does not require corroboration as a matter of law. However, in the present case, having regard to the aforesaid circumstances and the material variations in the prosecution evidence, the testimony of P.W.14 does not inspire such confidence as would safely sustain a conviction for the offence under Section 376(2)(n) of the IPC.

27. It is a settled principle of criminal jurisprudence that the prosecution must establish the guilt of the accused beyond reasonable doubt. Where the evidence admits of two reasonably possible views, the one favourable to the accused must prevail. On a cumulative assessment of the evidence, this Court is of the considered view that the prosecution has failed to establish beyond reasonable doubt that the physical relationship between the appellant and the victim was without her consent. The appellant is, therefore, entitled to the benefit of doubt.

28. It is also relevant that the appellant has already undergone approximately 9 years and 9 months of custody against the sentence of

ten years imposed by the learned Trial Court. His conduct in custody has been reported to be satisfactory and, as per the report of the I.I.C., Beltuluri P.S., no other criminal case or violation has been reported against him apart from the present case. Though the period already undergone cannot determine the question of guilt, the same is a relevant circumstance in the overall consideration of the matter.

29. Hence, the judgment of conviction and order of sentence dated 30.03.2019 passed by the learned Additional District and Sessions Judge-cum-Special Judge, Nuapada in S.A. No.91 of 2017, convicting the appellant under Section 376(2)(n) of the IPC and the subsequent order of sentence, are hereby set aside. The appellant is acquitted of the charge under Section 376(2)(n) of the IPC. The appellant, who is currently in custody, shall be released upon communication of this judgment.

30. Accordingly, the Criminal Appeal is allowed.

(S.S. Mishra)
Judge

Signature Not Verified
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Signed by: SUBHASIS MOHANTY
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 03-Nov-2026 12:54:24

Pronounced in the Court of Orissa, Cuttack
Dated the 31st day of October, 2026/ Subhasis Mohanty