



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEVNARAYAN MISHRA

ON THE 17th OF SEPTEMBER, 2026

CRIMINAL APPEAL No. 968 of 2025

TEERATH @ CHOTU TEKAM

Versus

STATE OF MADHYA PRADEH

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Appearance:

Shri Manoj Kushwaha - Advocate for the appellant.

Shri Atmaram Bain - Dy. Government Advocate for the State.

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JUDGMENT

At the outset, learned counsel for the appellant seeks permission to withdraw I.A. No.4418/2026, which is an application for suspension of sentence and grant of bail to the appellant.

2. Permission is granted.

3. Accordingly, I.A. No.4418/2026 stands dismissed as withdrawn.

4. With the consent of learned counsel for the parties, the appeal is heard finally at motion stage.

5. This appeal under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been preferred by the appellant being aggrieved with the judgment of conviction and sentence dated 12.12.2024 passed by the Court of First Additional Sessions Judge, Lakhnadon, District-Seoni (M.P.) in S.T. No.35/2021, whereby the appellant has been convicted for the offences punishable under Section 450 of the IPC and sentenced to undergo rigorous



imprisonment for 02 years with fine amount of Rs.1,000/-, Section 376(1) of the IPC and sentenced to undergo rigorous imprisonment for 10 years with fine amount of Rs.3,500/-, Section 376(2)(l) of the IPC and sentenced to undergo rigorous imprisonment for 10 years with fine amount of Rs.3,500/- and Section 376(2)(f) of the IPC and sentenced to undergo rigorous imprisonment for 10 years with fine amount of Rs.3,500/-, with default stipulations.

6. Learned counsel for the appellant has submitted that there is no evidence against the appellant. The FIR was registered solely on the basis that the victim became pregnant and it was seen that the appellant entered into the victim's house, removed the bulb from the holder and the victim was found pregnant. The victim was suffering from a mental disability. On this basis, the FIR was registered under Sections 450, 376(1), 376(2)(l) and 376(2)(f) of the IPC as Crime No.155/2020, Police Station-Ghansaur, District-Seoni.

7. Learned counsel for the appellant has further submitted that the DNA report is negative. The appellant is not the biological father of the child born to the victim. Another person was involved in the offence and being a neighbour, the appellant has falsely been implicated in the case.

8. The witness victim's mother (PW-1), in her cross-examination, has admitted that the victim told her that the appellant committed sexual assault on her. On that basis, her son (PW-2) told her that the appellant committed the offence with the victim and her daughter has also told her about this fact. This witness, in paragraph no.10 of her cross-examination, has admitted that



the appellant's house is near the victim's house, on that, she was having a doubt.

9. The prosecution witness (PW-2), who is the brother of the victim, has stated that in one evening at about 7:00 pm, while he went to purchase the edible oil, the appellant switched off the light. He could not explain what the appellant had done after switching off the light and the victim was also present in that room. This witness, in paragraph no.4 of his cross-examination, has admitted that during Diwali, his parents went to Nagpur to work as labourers and this witness also went along with his parents to Nagpur. After 2-3 days of Diwali, the appellant switched off the light of his house and only once he had done it. On the basis of doubt and suspicion, the FIR was lodged.

10. The prosecution witness (PW-3), who is the victim's father, has stated that near Diwali, he along with his wife and son went to Nagpur for the labour work and returned to their village during Holi and he saw that his daughter was pregnant. Thereafter, he informed the village panchs, who advised to lodge an FIR. The Town Inspector firstly talked to his daughter and thereafter, the Town Inspector asked about the present appellant-Teerath, on that, she told that the appellant was the person, who committed the offence with her. This witness, in his cross-examination, has also stated that his son (PW-2) told that the appellant after 2-3 days of Diwali came in his house and removed the bulb from the holder, as a result of which, the room became dark. This witness, in paragraph no.6 of his cross-examination, has clearly admitted that his daughter did not tell that the appellant has violated



her privacy but the Town Inspector (T.I.) informed him that the victim told the name of the appellant. On that basis, he states that the appellant committed the offence with the victim. He denied the suggestion that the Panchayat had imposed a penalty of Rs. 5,000/- upon Pooran. This witness, in his cross-examination, has admitted that from Diwali to Holi, he was at Nagpur and he could not explain who had committed the offence with his daughter.

11. The victim, in her examination-in-chief, has stated that the appellant had disrobed her and committed sexual assault upon her. However, when she was questioned as to whether the police had told her to name the appellant, she remained silent and did not provide any clarification in this regard.

12. Learned counsel for the appellant has further submitted that the victim, in her chief-examination, has stated that the appellant disrobed her and committed sexual assault upon her but when she was questioned to clarify as to whether the police had told her to name the appellant, the victim remained silent. Further, when she was asked whether at the time of the incident, the appellant was present on the spot or not, on this, the witness has stated that he was present. The victim, in her cross-examination, has admitted the suggestion that at the night time, one person came at her house but she denied the suggestion that the appellant committed an offence and when she was asked that other persons were also involved in the offence, she was mum. In her cross-examination, when she was clearly asked that her mother told her to name the appellant, the victim, in her statement, has clearly



admitted that her mother told her to name the appellant as an offender. When she was further asked that her mother told her to name the appellant before the police officer, the witness was mum.

13. On that basis, it is submitted that the victim has admitted that the appellant committed the offence only on the suggestion and persuasion of her mother. The victim's brother (PW-2) has clearly stated that the appellant only removed the bulb from the holder, except that no offence was committed.

14. Dr. Bharti Sonkesariya (PW-9), in her cross-examination, has clearly stated that no external or internal injury was found. After delivery, she examined the victim and collected the samples from both the victim and the newborn baby.

15. The Investigating Officer (PW-6) has admitted in paragraph no.8 of his cross-examination that the victim and her brother had not told in their statements (Ex.D-1, Ex.P-1 and Ex.P-2) that the appellant committed sexual assault on the victim. In these circumstances, it is prayed that the appeal filed by the appellant deserves to be allowed.

16. Learned counsel for the State has submitted that the other persons might have committed the offence but when the victim has clearly stated that the appellant committed the offence, no interference in the judgment of the trial Court is required and the conviction and sentence of the appellant be maintained.

17. I have gone through the record of the trial Court.

18. From the material available on record, it is clear that there is an



allegation of house trespass, but none of the prosecution witnesses has stated that the appellant committed trespass as the appellant usually visited the victim's house. Furthermore, with regard to the alleged relationship between the appellant and the victim, it has been stated by the witnesses that the appellant was the son of the victim's aunt, but no specific question was put to the witnesses regarding the name or identity of the appellant's mother and no document to support the said fact has been produced to establish that the appellant is the son of the victim's aunt. Thus, the alleged relationship between the appellant and the victim has not been established by any specific or independent evidence. Only on the basis that in rural areas, a person of the same village introduces the other person by the relation, it cannot be stated that the victim was related to the appellant.

19. On the point of sexual intercourse by the appellant upon the victim, from the FSL report (Ex.P-22), it is clear that vaginal slide and blood sample of the victim were taken as Articles A and C and blood sample of the newly born baby was taken as Article D, whereas the blood sample of the appellant was taken as Article B. When they were put for the examination, the blood sample Article D, which is the blood sample of the newly born baby, matches with the DNA of the victim, but it doesn't match with the sample of the appellant. On that basis, the Scientific Officer has arrived at a conclusion that the victim is the biological mother of the newly born baby, but the appellant is not the father of the newly born baby i.e. the victim's son was not born from the relation with the appellant.

20. From the prosecution evidence, the witnesses (PW-1 and PW-3),



who are the parents of the victim, were not present in the home when the offence was committed as they were working in Nagpur and when they returned, they saw the victim pregnant and on doubt, they made the inquiry. As a healthy and fit person, the witness (PW-2), who is the brother of the victim, has only stated that the appellant removed the light bulb from the holder as a result of which, the room became dark and when the appellant saw this witness, he again put the light bulb in the holder and there was light in the room.

21. Thus, taking out the bulb and again putting it in the holder appears to be simultaneous and on that basis, the appellant and the victim were seen in that room, only on that basis, it cannot be inferred that the appellant committed sexual assault upon the victim. Due to tutoring the victim (PW-4) by her mother, she told the name of this appellant, as a person who committed the offence. The victim, though partially mentally disabled, but it could not be inferred that she is a fully trustworthy witness as from the DNA report, it is clear that other person was involved in the offence and she has not named the other person, who was involved in the offence. Hence, she could not be said to be a fully trustworthy witness and scientific evidence excludes the appellant from the offence.

22. In these circumstances, the appellant is fully entitled to get the benefit of doubt, as the scientific evidence is not available and is not against the appellant and the victim is not a fully trustworthy witness, there is no other witness who can be fully relied upon and on that basis, the appellant is entitled for acquittal.



23. With the above observations, the appeal is **allowed** and the appellant is acquitted from the above charges. Consequentially, the sentence imposed upon the appellant by the trial Court vide judgment dated 12.12.2024 in S.T. No.35/2021 is **set aside**. The appellant shall be released forthwith, if not required in any other offence.

24. With the copy of the order, the record of the trial Court be returned.

25. Pending application, if any, stands disposed of.

(DEVNARAYAN MISHRA)
JUDGE

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