



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 23rd OF FEBRUARY, 2026

CRIMINAL APPEAL No. 2282 of 2024

SANTOSH YADAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Ms. Smita Varma. learned counsel for the appellant.

Shri Veer Virant Singh, learned Deputy Advocate General for
respondent/State.
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JUDGMENT

Per. Justice Vivek Agarwal

At the outset, learned counsel for the appellant prays for withdrawal of I.A. No.4187 of 2024 first application under Section 430 (1) of B.N.S.S. 2023 for suspension of remaining jail sentence and grant of bail.

2. Accordingly, I.A. No.4187 of 2024 is dismissed as withdrawn.

3. With the consent of learned counsel for the parties, the appeal is heard finally.

4. The appellant is aggrieved of the judgment dated 13.01.2023 passed by Special Judge (Protection of Children from Sexual Offences Act 2012), Narmadapuram in S.C. No.117 of 2021 by which the appellant has been convicted and sentenced as under :-
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Conviction	Sentence			
	Section	Act	Imprisonment fine	Fine if deposited details
376(3)	IPC	RI for 20 years	Rs.2000/-	Additional R.I. for 2 months.
3/4(2)	Protection of Children from Sexual Offences Act 2012	-	-	-

5. It is pointed out that victim (PW/1) has admitted that her age at the time of deposition was 19 to 20 years that means she was major at the time of incident. She had admitted that she narrated the same facts, which were narrated by her mother before the police authorities She admitted that since her father was breaking the boundary as a result of which dispute had occurred as Santosh, who is the labourer had asked not to cause any damage to the boundaries.

6. Father of the victim (PW/2) admitted that victim was adult at the time of incident.

7. Mother of the victim (PW/3) also admitted that victim was an adult.

8. Lady doctor (PW/10) admitted that there were injury signs external or internal on the body of the victim.

9. When these facts are taken into consideration, its a case of consensual relationship between boy and girl, who were adult at the time of incident and therefore, appellat is entitled to be acquitted from all the charges.

10. Shri Veer Vikrant Singh, learned Public Prosecutor has opposed the prayer.



11. After hearing learned counsel for the parties and going through the record.

12. Father of the victim PW/2 has admitted that incident took place inside his house. He admitted that his age is about 50 years. His marriage was performed 25 years back. He admitted that after one year of marriage, elder son was born. After one year, thereafter, victim was born. Similar statements have been given by her mother PW/3.

13. PW/4, School teacher admits that no documentary evidence was furnished at the time of admission of victim. Parents of the victim have not proves the date of birth mentioned in the school records in terms of judgment in **Birad Mal Singhvi vs Anand Purohit AIR 1988 SC 1796, wherein the Apex Court has in Para 14, held as under:**

The date of birth mentioned in the scholar's register has no evidentiary value unless the person who made the entry or who gave the date of birth is examined. The entry contained in the admission form or in the scholar register must be shown to be made on the basis of information given by the parents or a person having special knowledge about the date of birth of the person concerned. If the entry in the scholar's register regarding date of birth is made in the basis of information given by parents, the entry would have evidentiary value but if it is given by a stranger or by someone else who had no special means of knowledge of the date of birth, such an entry will have no evidentiary value. Merely because the documents Exs.8, 9, 10, 11 and 12 were proved, it does not mean that the contents of documents were also proved. Mere proof of the documents Exs. 8, 9, 10, 11 and 12 would not tantamount to proof of all the contents or the correctness of date of birth stated in the documents.

14. Dr. Shradha (PW/10) stated that vitals of victim were normal. There were no injuries relating to forceful sexual assault. She had not seen any external and internal injury marks. DNA report Ex.25 is uninteruptible.

15. When these facts are taken into consideration, admittedly the victim was adult. There are no injury marks, DNA is uninteruptible, age of the victim is doubtful, therefore, there is no concrete documentary evidence to uphold the



conviction. Benefit of doubt can be extended in favour of the appellant.

16. Accordingly, impugned judgment of the learned trial Court having failed to take into consideration, that victim was major at the time of incident as admitted by the victim and her parents, so also school teacher has stated that no documentary evidence was furnished in regard to date of birth of the victim. It is further evident that PW-10 Dr. Shradha, who had examined the victim did not found any internal or external injury or any signs of struggle and expressed no definite opinion can be given when tested the impugned judgment cannot be sustained in the eyes of law and it is hereby set aside.

17. In the result, appeal filed by the appellant is allowed and disposed of.

18. Appellant be released forthwith, if not required in any other case.

19. The case property be disposed of as per the direction of the learned Trial Court.

20. Record of the trial Court be sent back.

(VIVEK AGARWAL)
JUDGE

(RATNESH CHANDRA SINGH BISEN)
JUDGE

RS