2025 INSC 887

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2695 OF 2025

SUA ... **APPELLANT**

VERSUS

THE STATE OF RAJASTHAN ... **RESPONDENT**

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. This appeal has been preferred against the Order of Conviction and Sentence dated 02.02.1993, passed by the Additional Sessions Judge, Kishangarh, District Ajmer, by which the Appellant-accused stands convicted and sentenced under Section 342 (Wrongful Confinement) for a period of 6 months' rigorous imprisonment, along with a fine of Rs. 200, and in default, 2 months' simple imprisonment; and under Section 376 (Rape) for rigorous imprisonment of 5 years, along with a fine of Rs. 300, in default thereof, simple imprisonment of 3 months, which stands confirmed by the High Court vide the impugned judgment dated 12.07.2024.

2. Learned Counsel for the Appellant had put forth the arguments with regard to the discrepancies in the prosecution case by asserting that the First Information Report was registered after about 20 hours of the alleged occurrence of the incident. It is further asserted that the brother of the rape victim turned hostile and stated in categorical terms that no incident happened with his sister, rather, a false case was registered against the Appellant under the influence of their mother because of the boundary dispute of the enclosure with his family.

3. Contradictions in the statements of the witnesses have also been sought to be pressed into service to assert that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. Reference has also been made to the statement of PW-8, the doctor who conducted the medical examination of the victim on the day following the incident, where it was pointed out that there were no injuries on the external parts of the body. Although the hymen was torn horizontally, there was no fresh bleeding.

4. It is on this basis that the veracity of the witnesses which led to the conviction and sentence of the Appellant is sought to be attacked, praying for the acquittal of the Appellant-accused.

5. Another submission, which has been put forth, and that too for the first time before this Court is that the Appellant-accused was a juvenile at the time of the alleged incident, which took place on 17.11.1988 at 2 o'clock in the afternoon. It is asserted that the date of birth of the Appellant is 14.09.1972, and therefore, on the date of the incident, his age would come to 16 years 2 months and 3 days. Since he was a juvenile, the proceedings as held cannot sustain, especially the sentence. Prayer has been made that an inquiry be held to determine the age of the Appellant so that he may get the benefits of the Juvenile Justice (Care and Protection of Children) Act, 2000 (in short "The 2000 Act") and the Juvenile Justice (Care and Protection of Children) Rules, 2007 (in short "The 2007 Rules"). Learned Counsel has asserted that the benefits can be claimed at any stage of the proceedings and even after the conclusion of the same. Support has been sought from the judgment of this Court in ***Dharambir v. State (NCT of Delhi)[1] and Another***.

6. With reference to this judgment, it has further been asserted that the case be got inquired into with regard to the plea of juvenility, and in case the findings come

[1] (2010) 5 SCC 344.

in favour of the Appellant, he be granted the benefit of the 2000 Act.

7. Learned Counsel for the Respondent, on the other hand, has asserted that the judgments passed by the courts below are based upon proper appreciation of the oral evidence as have been led by the prosecution, as also the medical evidence. The factum of rape having been committed upon the victim is duly supported by the prosecutrix herself in her statement, where she had clearly detailed out the offense having been committed and the manner in which the Appellant had forced himself upon her.

8. It would not be out of way to mention here that the victim was 11 years of age at the time of the incident when she had gone to the *Bada* after taking water from the school handpump on 17.11.1988 at about 2:00 PM, Appellant was already present in the *Bada* and was hiding behind the door. On the victim entering the *Bada*, he threw her down and committed rape upon her. Since she was an 11 year old child and was alone in her *Bada*, she waited for her mother to come, who came in the evening at about 5 PM when she narrated the entire story to her. Since in the month of November, the days are short and the police station was at a distance of 26 kms from the house of the victim. They

could not approach the police for recording their complaint. Thus, it was in the morning, at around 8-9 AM, that the FIR was lodged at the police station, where both the victim and her mother had gone there. The delay had been duly explained. Therefore, no benefit can be granted to the Appellant. The same day, i.e., 18.11.1988, the medical examination of the victim was conducted. The potency test of the accused-appellant was conducted by PW-12 Dr. Ramaprakash Garg, which established his capability of having sexual intercourse.

9. The aspect with regard to Shaitaan Singh, the person who is said to have seen the accused running away from the spot after the incident, although has turned hostile, but that would not confer any benefit on defence as he was not an eyewitness. The victim has stood firm in her cross-examination which is supported by the medical evidence as submitted by the State Counsel as recorded above apart for the other official witnesses. Another aspect which goes in favour of the prosecution is that the *ghagra* (long skirt) worn by the victim, as well as the underpants of the accused, which fortifies the commission of the offence.

10. As regards the reliance placed on the sole testimony of the prosecutrix for conviction, it is well settled by this

Court in ***Mohd. Imran Khan v. State Government (NCT of Delhi)***[2] that a conviction can be sustained on the uncorroborated testimony of the prosecutrix if it is found to be credible and trustworthy. This principle was further reiterated in ***Phool Singh v. State of Madhya Pradesh***[3] and ***Ganesan v. State***[4], where it was held that corroboration is not a sine qua non for conviction in sexual offence cases. Thus, the settled legal position is that the statement of the prosecutrix, if worthy of credence, requires no corroboration and can form the sole basis for conviction. Furthermore, in the present case, the prosecution's case is not founded solely on the testimony of the victim; rather, it is amply supported by the statements of other witnesses and corroborating medical evidence, all of which collectively establish the case of the prosecution.

11. Therefore, the findings as recorded with regard to the conviction of the Appellant stand duly established beyond doubt. The impugned judgments, therefore, cannot be faulted with.

12. The plea of the Appellant that he was a juvenile when the incident had taken place, led to the passing of an order dated 20.01.2025, which reads as follows:

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[2] (2011) 10 SCC 192
[3] (2022) 2 SCC 74
[4] (2020) 10 SCC 573

> *1. The petitioner claims that he was under sixteen years of age at the time of the offence.*
> *2. We, therefore, find that it would be appropriate that the District and Sessions Judge having jurisdiction at Kishangarh, Ajmer, Rajasthan conducts an inquiry into the claim of the petitioner, as to whether on the date of the commission of the offence, he was juvenile or not.*
> *3. The same shall be done in accordance with the guidelines laid down by this Court in the case of Abuzar Hossain v. State of West Bengal, reported in (2012) 10 SCC 489.*
> *4. The said report shall be submitted within a period of eight weeks from today.*
> *5. List after eight weeks."*

13. It is in pursuance of the said order that the Inquiry Report stands submitted by the Additional Sessions Judge No. 1, Kishangarh, District Ajmer, Rajasthan.

14. The procedure has been duly followed as provided for under the 2000 Act and the 2007 Rules. On the basis of the statements of the witnesses and the documents produced including the admission record in Class-I of the Government Higher Secondary School, Baharu, dated 16.05.1980, as well as other school records where his date of birth is reflected as 14.09.1972 which has been accepted to be correct. The findings with regard to his age at the time of commission of the offence has been returned as 16 years 2 months and 3

days on the date of the commission of the crime, i.e., 17.11.1988, with the date of birth of the Appellant being 14.09.1972. The Appellant was therefore a juvenile on the date of commission of the crime.

15. As regards the opposition by the State with regard to the plea having been taken for the first time before this Court that the Appellant being a juvenile being not permissible, the same needs to be merely mentioned to be rejected in light of the authoritative judgments passed by this Court starting from ***Hari Ram v. State of Rajasthan and Another***[5] followed by ***Dharambir v. State (NCT of Delhi) and Another*** *(Supra),* where it has been categorically held that the plea of juvenility can be raised before any court and has to be recognized at any stage, even after disposal of the case. It has further been held that such a claim is required to be determined in terms of the provisions contained in the 2000 Act and the Rules framed thereunder, i.e., the 2007 Rules, even if the juvenile has ceased to be so on or before the date of commencement of the 2000 Act, as in the present case. The relevant factor, therefore, is that the accused, to be a juvenile, should have not completed 18 years of age on the date of commission of

[5] (2009) 13 SCC 211

the offense, which entitles him to the benefit of the 2000 Act.

16. In the light of the above, the provisions as contained in the 2000 Act would apply. Consequently, the sentence as imposed by the Trial Court and upheld by the High Court will have to be set aside, as the same cannot sustain. We order accordingly.

17. The case is referred to the Board for passing appropriate orders in light of Sections 15 and 16 of the 2000 Act. The Appellant is directed to appear before the Board on 15th September 2025.

18. The appeal stands disposed of accordingly.

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

.....CJI.
[B. R. GAVAI]

.....J.
[AUGUSTINE GEORGE MASIH]

NEW DELHI;
JULY 23, 2025.