



2026:AHC:44026-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 372 CR.P.C. No. - 575 of 2023

Chandrapal

.....Appellant(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Anil Kumar
Counsel for Respondent(s)	:	Abhishek Mishra, G.A.

Along with :

1. Government Appeal No. 504 of 2023:

State of UP

Versus

Nripendra Rajpoot and others

Court No. - 42

HON'BLE SIDDHARTHA VARMA, J.

HON'BLE PRASHANT MISHRA-I, J.

1. Heard Sri Anil Kumar, learned counsel for the appellant, Sri Abhishek Mishra, learned counsel for the Opposite Parties No. 2 to 5 in criminal appeal under Section 372 Cr.P.C. and learned A.G.A. for the State in both the appeals.

2. The instant criminal appeal under Section 372 Cr.P.C. and Government Appeal have been preferred by appellants, against the judgment and order dated 04.09.2023 passed by learned Additional District and Sessions Judge/Special Judge POCSO (Protection of Children from Sexual Offficcence) Act, Jalaun at Orai, District Jalaun in Criminal Case No. 92 of 2022 arising out of Case Crime No. 80 of 2022, under Section 376-D I.P.C. and Section 5G/6 of P.O.C.S.O. (Protection of Children from Sexual Offficcences) Act, 2012, Police Station Kadaura, District Jalaun (State Vs. Nrapendra Rajpoot and others), whereby Opposite Party Nos. 2 to 5 (in criminal appeal under Section 372 Cr.P.C.)/opposite party nos. 1 to 4 (in Government

Appeal) have been acquitted.

3. F.I.R. was got lodged on 10.06.2022 by the appellant i.e. father of the victim, Chandrapal. It was alleged that on 09/10.06.2022 at around 02:00 a.m., the victim had come running to the house and she had alleged that accused Nrapendra Rajpoot had committed offence of rape upon her and also stated that Nrapendra Rajpoot was accompanied by Jeetu, Manoj and Mohit, who had allegedly taken the victim away from the house of first informant by threatening her with country made pistol. After the F.I.R. was lodged, the police got into action, thereafter police submitted charge-sheet under Section 376D I.P.C. and 5g/6 of P.O.C.S.O. Act and the trial commenced.

4. From the side of prosecution, the first informant, Chandrapal appeared as P.W. 1; victim appeared as P.W. 2; Siya Sharan, Principal appeared as P.W. 3. P.W. 3 had stated about the age of the victim. P.W. 4 was the lady police constable who had proved the chick report. P.W. 5 was Dr. Mahendra Kumar Verma, who had examined the victim after she was taken to the hospital by the the police. P.W. 6, Inspector Umakant Ojha happened to be Investigating Officer. D.W. 1 is one Satish Kumar who appeared from the side of defence. While the prosecution witnesses, specifically the witnesses of fact i.e. P.W. 1 and P.W. 2 had tried to impress upon the trial court that the offence of rape has been committed by the four accused persons, the doctor had given statement that there was no injury on the body of the victim and that the hymen was torn for quite some-time and there was absolutely no injury etc. found on the private parts of the victim; also there were no marks of struggling.

5. The accused persons denied all the allegations made against them and their statement under Section 313 Cr.P.C. had been recorded.

6. D.W. 1 has testified regarding false case which has been registered against the four accused persons. From perusal of the statements of the prosecution witnesses, specially that of doctor, the plausible conclusion can be drawn that offence under Section 376 D I.P.C. was not made out.

7. Learned counsel who had appeared for the appellant/first informant, Chandrapal and argued the appeal under Section 372 Cr.P.C. and learned A.G.A. for the State, have submitted that the trial court had erred in evaluating the evidence and acquitting the accused. Learned counsel for the appellant further stated that when the victim herself was narrating the entire incident then it mattered little that the doctor had stated that there was no injury found on the body of the victim.

8. In opposition, learned counsel for the opposite party nos. 2 to 5 in criminal appeal under section 372 Cr.P.C., has opposed the appeal and submitted that when the doctor himself had testified that there was no evidence of any injury on the body of the victim and there was hardly any mark of struggle to be seen in injuries etc. then definitely no case under Section 376-D can be made out. It is next submitted that hymen, as recorded in the medical examination, also shows that victim had consensual physical relationship. It has also been submitted that there was absolutely no F.S.L. report on record.

9. Perusal of the statement of doctor itself shows that a false case was made out by the victim. There was absolutely no injury on the body of the victim and also no sign of any struggle was found. State of hymen shows that it was not newly torn but much before the act actually happened.

10. After having heard learned counsel for the parties and also after having heard learned A.G.A. for the State on the question of leave to appeal, we are of the view that judgement and order dated 04.09.2023 passed by the Additional District and Sessions Judge/Special Judge, P.O.C.S.O. Act-Ist, Auraiya

requires no interference.

11. We are also of the view that no relief is to be granted in the Government Appeal i.e. Government Appeal No. 504 of 2023.

12. This appeal under Section 372 Cr.P.C. filed by the appellant-informant of the case is dismissed.

13. Also we do not consider it to be a fit case for grant of leave to appeal to the appellant in Government Appeal No. 504 of 2023. The application seeking leave to appeal is, accordingly, rejected and, consequently the aforesaid Government Appeal is also dismissed.

14. Office to return the trial court record to the court concerned as expeditiously as possible.

15. Copy of this order be also sent to the court concerned for necessary information.

**February 23,
2026**

A. Mandhani

(Prashant Mishra-I,J.) (Siddhartha Varma,J.)