

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 41/2021

SHRIRAM URAV

APPELLANT(s)

VERSUS

STATE OF CHHATTISGARH

RESPONDENT(s)

O R D E R

This appeal assails the judgment and sentence passed by the High Court of Chhattisgarh, Bilaspur dated 25.04.2019 in C.R.A. No.1267/1999. By the said judgment, the appeal was partly allowed. Consequently, the judgment of conviction and sentence of the Trial Court/Sessions Court was modified inasmuch as the conviction for the offence punishable under Section 363 Indian Penal Code, 1860 (for short "IPC") was set aside while confirming the sentence under Sections 366 and 376 of the IPC. Being aggrieved by the said judgment, the appellant is before this Court.

2. The appellant-prosecutrix had lodged an FIR bearing No.83/1997 against the appellant herein at Batouli Police Station, District Surguja, Madhya Pradesh (now Chhattisgarh) under Sections 363, 366 and 376 of the IPC. Pursuant thereto, investigation was carried out by the investigating officer and chargesheet was filed against the appellant herein as well as the co-accused i.e. Kalauti alias Kalawati and Ameer Sai. Charges were framed on 09.02.1998 by the Sessions Court under Sections 363, 366 and 376 of the IPC. Charges under Section 368 of the IPC was framed against the co-accused Kalauti alias Kalawati and Ameer Sai and they were tried by the

Sessions Court in Sessions Trial No.16/98. All the accused pleaded not guilty and requested for trial. They denied having committed any offence in their statement under Section 313 of Cr.P.C. and stated that they have been falsely implicated. The prosecutrix deposed before the Sessions Court as PW-1. The doctor, who examined the prosecutrix deposed as PW-5. The Sessions Court passed the judgment in S.T. No.16/1998 convicting the appellant under Sections 363, 366 and 376 of the IPC. However, the co-accused Kalawati and Ameer Sai were acquitted. The appellant was sentenced to undergo three years' rigorous imprisonment for offence under Section 363 of the IPC; five years' rigorous imprisonment for offence under Section 366 of the IPC and seven years' rigorous imprisonment for offence under Section 376 of the IPC and a fine of Rs.200/-, in default of which the appellant was sentenced to undergo further two years rigorous imprisonment. All these sentences were ordered to run concurrently. Aggrieved by the aforesaid judgment and imposition of sentence by the Sessions Court in S.T. No.16/98, the appellant herein preferred C.R.A. No.1267/1999 before the High Court of Madhya Pradesh (Jabalpur Bench). The appeal was transferred to the High Court of Chhattisgarh at Bilaspur in the year 2000 on creation of the new State of Chhattisgarh. In 2003, the prosecutrix got married to the appellant herein and they now have four children from the said wedlock. By the impugned judgment dated 25.04.2019, the High Court partly allowed the C.R.A. No.1267/1999 filed by the appellant, upholding his conviction and sentence under Sections 366 and 376 of the IPC and setting aside his conviction under Section 363 of the IPC. The punishment given

to the appellant for offences under Sections 366 and 376 of the IPC was maintained. Hence, this appeal.

3. We have heard learned counsel for the appellant and learned counsel for first respondent-State and learned counsel for second respondent-complainant.

4. During the course of submissions, it was brought to our notice that this Court on 04.01.2021 had recorded the fact that the appellant-accused and the second respondent, victim (prosecutrix) had actually married in the year 2003 and were living together since then as husband and wife and they also have four children out of their wedlock.

5. Learned counsel for the appellant submitted that if at this stage, the impugned judgment of conviction and sentence is to be affirmed by this Court, greater injustice would be caused to the appellant herein. In this regard learned counsel for the second respondent, complainant (prosecutrix) supported the submissions of the appellant's counsel and brought to our notice the fact that exercising powers under Article 142 of the Constitution of India, this Court may quash the proceedings instituted against the appellant-accused herein and consequently, grant an acquittal. Learned counsel submitted that the parties belong to the tribal community and if this Court is to affirm the judgment of the High Court, the second respondent would also be prejudiced and would suffer.

6. By way of response, learned counsel for the appellant drew our

attention to two orders of this Court in the case of *K. Dhandapani vs. State by the Inspector of Police reported in 2022 SCC Online SC 1056* and *Dasari Srikanth vs. State of Telangana reported in (2024) SCC online SC 936*, wherein under identical circumstances and almost identical provisions, this Court had exercised its powers under Article 142 of the Constitution of India and quashed the proceedings instituted against the accused therein and consequently, had granted acquittal of all the charges alleged.

7. Learned counsel submitted that the aforesaid orders may be followed in the instant case also and relief may be granted not only to the appellant-accused but also to the second respondent-complainant(prosecutrix) and thereby justice would be done to the entire family.

8. Per contra, learned counsel for respondent-State submitted that the prosecutrix, the victim was a minor when the offence was committed against her; the fact that the victim and the appellant-accused have subsequently married and have had children would not detract from the offences which have been proved as against the appellant-accused. The victim was only fifteen years of age, a minor and there has been proof beyond reasonable doubt of the offences alleged against the appellant-accused. Learned counsel for the respondent-State, therefore, submitted that there is no merit in this appeal.

9. Alternatively, learned counsel for the respondent-State submitted that having regard to the orders relied upon by the

appellant's counsel and supported by learned counsel for the second respondent-victim, appropriate orders may be made in the appeal.

10. We have considered the submissions made at the bar in light of the impugned judgment passed by the High Court which has modified the sentence imposed by the Special Court while affirming the conviction as against the accused herein.

11. Article 142 of the Constitution is a Special power conferred on the Supreme Court. Article 142(1) of the Constitution confers jurisdiction on the Supreme Court to pass such orders as are necessary for doing complete justice in any cause or matter pending before it. The said power is no doubt to be exercised sparingly and having regard to the peculiar facts of the case for achieving to do justice between the parties. Bearing in mind the fact that in this case, the appellant-accused has subsequently married the second respondent-prosecutrix and they have four children out of their wedlock, we find that the peculiar facts and circumstances of this case would persuade us to exercise our jurisdiction and powers under Article 142 of the Constitution of India by following earlier dicta of this case in the aforesaid orders.

12. Paragraphs 3, 7 and 8 of K. Dhandapani(supra) read as under:

"3. Mr. M.P. Parthiban, learned counsel appearing for the appellant, submitted that allegation against him was that he had physical relations with the prosecutrix on the promise of marrying her. He stated that, in fact, he married the prosecutrix and they have two children.

7. In the peculiar facts and circumstances of this case, we are of the considered view that the conviction

and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the custom in Tamil Nadu of the marriage of a girl with the maternal uncle.

8. For the aforesaid mentioned reasons, the conviction and sentence of the appellant is set aside in the peculiar facts of the case and shall not be treated as a precedent. The appeal is accordingly, disposed of. Pending application(s), if any, shall stand disposed of."

13. Similarly, paragraphs 8 to 10 of Dasari Srikant(supra) read as under:

"8. Since, the appellant and the complainant have married each other, the affirmation of the judgment rendered by the High Court would have the disastrous consequence on the accused appellant being sent to jail which in turn could put his matrimonial relationship with the complainant in danger.

9. As a consequence, we are inclined to exercise the powers under Article 142 of the Constitution of India for quashing the conviction of the accused appellant as recorded by the learned trial Court and modified by the High Court.

10. As a result, the impugned judgment dated 27th June, 2023 passed by the High Court and judgment dated 9th April, 2021 passed by the trial Court are hereby quashed and set aside."

14. On a reading of the aforesaid paragraphs, we note that in those cases also, the appellant-accused and the complainant/victim had married each other just as in the instant case. Therefore, we exercise our powers under Article 142 of the Constitution of India and quash the conviction as well as the sentence imposed upon the appellant herein.

15. As a result, the impugned judgment dated 25.04.2019 in C.R.A No.1267 of 1999 by which the judgment and sentence dated 22.04.1999 passed by the 2<sup>nd</sup> Additional Sessions Judge, Ambikapur-Surguja (M.P.)(now in Chhattisgarh) in S.T. No.16/1998 was modified, stand quashed.

16. The appellant is acquitted of all the charges against him.

The appeal is allowed in the aforesaid terms.

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

....., J.  
(B.V. NAGARATHNA)

....., J.  
(SATISH CHANDRA SHARMA)

NEW DELHI;  
JANUARY 30, 2025

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CRIMINAL APPEAL NO(S). 41/2021

SHRIRAM URAV

Appellant(s)

VERSUS

STATE OF CHHATTISGARH

Respondent(s)

(IA No. 100759/2020 - EXEMPTION FROM FILING O.T.  
IA No. 100762/2020 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 100761/2020 - PERMISSION TO PLACE ADDITIONAL FACTS AND  
GROUNDS)

Date : 30-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Appellant(s) Mr. Arvind Kumar, AOR

For Respondent(s) Mr. Bharat Bhushan, AOR  
Mr. Keshav Bansal, Adv.

Mr. Apoorv Shukla, AOR  
Mr. Puneet Chahar, Adv.  
Ms. Prabhleen A. Shukla, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the signed order.

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

(RADHA SHARMA)  
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)  
COURT MASTER (NSH)

(Signed order is placed on the file)