



2026:CGHC:15002-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1506 of 2024**

Rahul Kumar Mourya S/o Benuram Mourya Aged About 21 Years R/o
Village Awari Kenvatpara, Police Station Doundi, District Balod
Chhattisgarh

... Appellant(s)**versus**

State of Chhattisgarh Through Police Station Doundi District Balod
Chhattisgarh

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Bhupendra Singh, Advocate.
For Respondent/State	:	Mr. Shailendra Sharma, Panel Lawyer.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****01.04.2026**

1. Heard Mr. Bhupendra Singh, learned counsel for the appellant.
Also heard Mr. Shailendra Sharma, learned Panel Lawyer, appearing for
the State/respondent.

2. Today, though the criminal appeal has been listed for hearing on I.A. No. 3 of 2024, application for suspension of sentence and grant of bail to the appellant, however, with the consent of learned counsel for the parties, the appeal is heard finally.
3. Accordingly, I.A. No. 3 of 2024, application for suspension of sentence and grant of bail to the appellant, stands **disposed off**.
4. This criminal appeal filed by the appellant/accused under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') is directed against the impugned judgment of conviction and order of sentence dated 08.05.2024, passed by the learned Special Judge (POCSO Act), Balod, District Balod (C.G.) in Special Sessions Case No. 119 of 2022, whereby the appellant has been convicted and sentenced as under:

Conviction under Section	Sentence
Section 363 of the Indian Penal Code (<i>for short, 'IPC'</i>)	Rigorous imprisonment (<i>for short, 'R.I.'</i>) for 03 years and fine of Rs.1,000/-, in default of payment of fine, 01 year R.I. more.
Section 4(2) of the Protection of Children from Sexual Offences Act, 2012 (<i>for short, 'POCSO Act'</i>)	R.I. for 20 years and fine of Rs.3,000/-, in default of payment of fine, 01 year R.I. more.
<i>All the sentence shall run concurrently</i>	

5. The brief case of the prosecution is that the complainant, who is

the mother of the victim (PW-6), appeared at Police Station Doundi on 08.11.2022 and submitted a written report stating that she is engaged in agricultural work. On 07.11.2022, at about 2:00 p.m., upon returning from the fields, her daughter (the victim) informed her that on 05.11.2022 (Saturday), at around 2:00 p.m., she was playing near a Kusum tree in the lane outside their house. At that time, their neighbour Rahul Kumar Mourya, who is related to her as an uncle, approached her and, on the pretext of “bursting a cracker,” took her into a room in his house. There, he removed her slacks and undergarments, made her lie on a cot, opened his trousers, and placed his private part over her private part. Thereafter, he threatened her not to disclose the incident to anyone and asked her to go home. Upon returning home, the victim narrated the incident to her mother and her aunt (wife of her paternal uncle). When questioned as to why she had not disclosed the incident earlier, the victim stated that she was afraid. Upon learning of the incident, the complainant informed her husband that the accused had committed a wrongful act with their daughter.

6. On the basis of the written report submitted by the complainant, Police Station Doundi registered Crime No. 208/2022 against the accused Rahul Kumar Mourya under Sections 363 and 376 AB of the IPC and Sections 4 and 5(m) of the POCSO Act. The First Information Report (FIR), marked as Ex.P/13, was duly registered and the matter was taken up for investigation.

7. Upon completion of the investigation, the investigating agency

found sufficient material indicating the involvement of the accused in the commission of the aforesaid offences. Accordingly, a charge-sheet was filed before the learned trial Court on 14.12.2022 against the accused under Sections 363 and 376 AB of the IPC and Sections 4 and 5(m) of the POCSO Act for trial.

8. In the present case, charges were framed against the accused under Sections 363 and 376(2)(a)d) of the IPC and Section 3/4 of the POCSO Act. The charges were read over and explained to the accused, who denied the same and claimed trial.

9. In order to prove its case, the prosecution examined 10 witnesses and exhibited 32 documents. The statement of the accused/appellant was recorded under Section 313 of the Cr.P.C., wherein he denied all incriminating circumstances put to him and pleaded false implication. Upon appreciation of the oral and documentary evidence on record, the learned trial Court convicted the appellant and sentenced him as mentioned in paragraph 04 of the impugned judgment. Aggrieved thereby, the present appeal has been preferred.

10. Learned counsel for the appellant submits that the impugned judgment of conviction and the consequent order of sentence passed by the learned trial Court are unsustainable both in law and on facts. It is contended that the prosecution has failed to establish the guilt of the appellant beyond reasonable doubt, as the evidence on record is neither cogent nor reliable. The entire case of the prosecution is stated

to be based on conjectures and assumptions rather than on clear, consistent, and legally admissible evidence. It is further submitted that the conviction is primarily based on the testimony of the victim (PW-1), which, according to the appellant, suffers from material inconsistencies, contradictions, and improvements, thereby rendering it unreliable. Learned counsel further argues that the testimonies of the material witnesses, including the victim (PW-1), her mother (PW-6), her father (PW-7), the medical officer Dr. Nishi Netam (PW-4), and the Investigating Officer Kailash Chandra Marai (PW-10), are not wholly consistent and contain material discrepancies that go to the root of the prosecution case. It is further submitted that the FSL report (Ex.P/32) is negative, and the medical evidence does not support the prosecution version. The medical officer, Dr. Nishi Netam (PW-4), has opined that no definite opinion can be given regarding the commission of sexual intercourse with the victim. It is thus contended that these material deficiencies in the prosecution evidence create serious doubt regarding the veracity of the prosecution case, entitling the appellant to the benefit of doubt. On these grounds, it is prayed that the appeal be allowed, the impugned judgment of conviction and sentence be set aside, and the appellant be acquitted of all charges.

11. *Per contra*, learned counsel for the State opposes the submissions advanced on behalf of the appellant and contends that the judgment of the learned trial Court is well-reasoned and based on proper appreciation of evidence on record. It is submitted that the testimony of the victim is reliable, consistent, and sufficient to sustain

the conviction, and is duly corroborated by other prosecution evidence. It is further contended that the alleged discrepancies are trivial in nature and do not affect the core of the prosecution case. Accordingly, it is urged that no interference is called for by this Court, and the appeal deserves to be dismissed.

12. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the learned trial Court with utmost circumspection and carefully as well.

13. The first question for consideration before this Court would be, whether the learned trial Court has rightly held that on the date of incident, the victim was minor?

14. When a person is charged for the offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredient to prove such charge and the gravity of the offence gets changed when the child is below 18 years, 12 years and more than 18 years. Section 2(d) of the POCSO Act defines the “child” which means any person below the age of eighteen years.

15. In *Jarnail Singh Vs. State of Haryana, reported in (2013) 7 SCC 263*, the Hon'ble Supreme Court laid down the guiding principles for determining the age of a child, which read as follows:

“22. On the issue of determination of age of a minor, one only needs to make a reference to Rule 12 of the

Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the 2007 Rules). The aforesaid 2007 Rules have been framed under Section 68(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000. Rule 12 referred to hereinabove reads as under :

“12. Procedure to be followed in determination of Age.” (1) *In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.*

(2) *The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.*

(3) *In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –*

(a) (i) *the matriculation or equivalent certificates, if available; and in the absence whereof;*

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the

Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule(3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.”

23. *Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in*

sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.”

16. In the present case, as per the prosecution, the date of birth of the victim is 08.10.2015. On this basis, she was aged about 07 years and

27 days on the date of the incident. In order to establish the age of the victim, the prosecution has produced the birth certificate (Article B-C) as well as the Admission and Discharge Register (Article A-C) pertaining to Class 1 of Government Primary School, Awari, Tehsil Doundi, District Balod (C.G.). The said school record (Article A-C) has been duly proved by PW-2, Lata Kange, who is the Head Teacher of the said school. In her deposition, PW-2 has categorically stated that the victim was admitted to Class 1 on 03.07.2021 and that her date of birth was recorded in the school register as 08.10.2015.

17. The father of the victim (PW-7) has also supported the prosecution case by deposing that the date of birth of the victim is 08.10.2015, which is in consonance with the birth certificate (Article B-C) produced on record. Thus, the oral testimony of PW-7 stands corroborated by the documentary evidence in the form of the birth certificate and school records. On the basis of the aforesaid evidence, the age of the victim, calculated from her date of birth i.e. 08.10.2015, comes to approximately 7 years and 27 days on the date of the incident, thereby clearly establishing that she was below 12 years of age at the relevant time.

18. The defence has neither adduced any oral nor documentary evidence to dispute or discredit the recorded date of birth of the victim. There is also no material on record to indicate that the entries in the birth certificate or the school register are incorrect or fabricated. In the absence of any rebuttal evidence, the date of birth of the victim as

recorded in the aforesaid documents deserves to be accepted. Accordingly, we find no infirmity in the finding recorded by the learned trial Court that the victim was aged about 07 years and 27 days at the time of the incident and was, therefore, a minor below 12 years of age.

19. The next question for consideration before us is whether the appellant has committed penetrative sexual assault by having sexual intercourse with the victim, being a minor girl ?

20. In this regard, the victim (PW-1) deposed that the accused resides in her neighborhood and is known to her. On the date of the incident, while she was playing alone near a *Kusum* tree situated close to her house, the accused approached her and lured her by saying that he would give her crackers. Thereafter, he took her to his house, removed the slacks she was wearing, and inserted his private part into her private part. Thereafter, he threatened her not to disclose the incident to anyone, failing which he would kill her, and gave her a firecracker, after which she returned home. The victim initially disclosed the incident to her neighborhood aunt. Thereafter, her mother and paternal aunt took her for medical examination. The evidence on record establishes that the victim was a minor girl aged about 7 years on the date of the incident. Despite extensive cross-examination, her testimony remained consistent and could not be materially contradicted. Her categorical assertion that the accused lured her, removed her clothing, and committed penetrative sexual assault remained unshaken.

Considering her tender age, no presumption can reasonably be drawn that she would falsely implicate the accused. No material contradictions have emerged in her cross-examination so as to discredit her testimony. Accordingly, the prosecution has succeeded in establishing that the accused enticed the victim from lawful guardianship without consent and committed rape and penetrative sexual assault upon her.

21. The victim's mother (PW-6) deposed that the accused is a resident of their village and that the victim is her elder daughter. On the date of the incident, she had gone for paddy harvesting in a neighboring field and returned at about 5:00 p.m., whereupon the victim's aunt informed her about the incident. Upon questioning, the victim disclosed that the accused had taken her to a room in his house, made her lie down, removed her clothes, and committed sexual assault, while also threatening her against disclosure. The witness further stated that the victim had been lured with crackers while playing near the Kusum tree. Thereafter, she informed her husband and the villagers, and on the next day lodged a written complaint, on the basis of which the FIR was registered. She also handed over the victim's undergarments to the police and gave consent for her medical examination. The spot map was prepared in her presence. Despite detailed cross-examination, her testimony regarding the disclosure made by the victim remained intact. Although certain details were not recorded verbatim in her police statement, the overall tenor of her evidence clearly establishes the prosecution case.

22. The victim's father (PW-7) corroborated the prosecution version and stated that he was informed about the incident by his wife and daughter. He deposed that the accused had lured the victim, removed her clothes, and committed sexual assault. His testimony remained unshaken in cross-examination and inspires confidence.

23. Independent witness Mangalu (PW-8) further corroborated the prosecution case. He deposed that during a meeting convened by village elders, the victim, upon being questioned, narrated that the accused had taken her to his house and committed sexual assault upon her. His testimony lends additional assurance to the version of the victim and her parents.

24. Dr. Nishi Netam (PW-4), who examined the victim on 08.11.2022, proved the medical report (Ex.P/8). She observed that the secondary sexual characteristics of the victim were not developed; no external injuries, abrasions, or bruises were found, and the hymen was intact. She opined that a definite conclusion regarding recent sexual intercourse could not be given without chemical examination. No visible stains were found on the victim's undergarments. Thus, from a purely medical standpoint, a conclusive opinion regarding recent sexual intercourse could not be established.

25. Dr. N.K. Thakur (PW-3), who examined the accused on 08.11.2022, proved his report (Ex.P/6) and stated that the accused was a physically capable adult male. White stains were found on the accused's undergarments, which were sent for chemical examination.

However, the doctor specifically noted that there was no clinical evidence of recent sexual intercourse. Accordingly, this medical evidence does not provide direct corroboration of the act alleged by the prosecution.

26. In the Indian society refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the *sine qua non* for conviction in a rape case. The observations of Vivian Bose, J. in ***Rameshwar v. The State of Rajasthan***, reported in **(AIR 1952 SC 54)** were:

“The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge....”

27. Crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault - it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The Court, therefore, shoulders a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the victim, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the victim inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the victim must be appreciated in the background of the entire case and the trial Court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestation. This position was highlighted in ***State of Punjab v.***

Gurmeet Singh, reported in **(1996) 2 SCC 384**.

28. A victim of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the victim. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short 'Evidence Act') similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the Court is hesitant to place implicit reliance on the testimony of the victim it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the victim must necessarily depend on the facts and circumstances of each case. But, if a victim is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discloses that the victim does not have a strong motive to falsely involve

the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

29. The Hon'ble Supreme Court in the matter of ***Ranjit Hazarika v. State of Assam***, reported in ***AIR 1998 SC 635*** has held that the evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime, but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice.

30. The Hon'ble Supreme Court in the matter of ***Rai Sandeep @ Deenu v. State of NCT of Delhi***, reported in ***(2012) 8 SCC 21*** held as under:-

“In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and

consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

31. Upon a comprehensive evaluation of the entire evidence on

record, this Court finds that the prosecution has successfully established the guilt of the accused beyond reasonable doubt. The testimony of the victim (PW-1), who is a minor child, is cogent, consistent, and trustworthy. Despite rigorous cross-examination, her version has remained unshaken on all material particulars. Her statement clearly establishes that the accused lured her, took her to his house, and committed penetrative sexual assault. There is no reason to disbelieve her testimony, particularly considering her tender age and absence of any motive for false implication.

32. The statements of the victim's mother (PW-6) and father (PW-7) lend substantial corroboration to the version of the victim. The prompt disclosure made by the victim to her family members and the subsequent conduct of the witnesses further strengthen the prosecution case. The independent witness (PW-8) also supports the prosecution story, thereby providing additional assurance to the credibility of the victim's account.

33. Though the medical evidence does not conclusively establish recent sexual intercourse, it is well-settled that absence of medical corroboration is not fatal to the prosecution case, particularly where the testimony of the victim is reliable and inspires confidence. In the present case, the ocular evidence of the victim is of sterling quality and sufficient to base conviction.

34. The defence has failed to elicit any material contradiction or inconsistency in the prosecution evidence so as to create a reasonable

doubt. No plausible explanation has been offered by the accused, nor has any evidence been led in rebuttal. The overall circumstances and evidence on record form a complete chain pointing towards the guilt of the accused.

35. In view of the settled principles of law and the consistent, reliable testimony of the victim, this Court holds that the prosecution has proved that the accused not only enticed the minor victim but also committed penetrative sexual assault upon her. The findings recorded by the learned trial Court are based on proper appreciation of evidence and do not warrant any interference.

36. From the foregoing analysis, we are of the considered opinion that the prosecution has successfully proved its case beyond reasonable doubt, and the learned trial Court has not committed any legal or factual error in recording the finding of guilt against the appellant/convict.

37. Accordingly, the appeal, being devoid of merit, is hereby **dismissed**.

38. It is stated at the Bar that the appellant is presently in jail. He shall serve out the sentence as awarded by the learned trial Court.

39. The Registry is directed to transmit the original record to the concerned trial Court for necessary information and compliance. The Registry shall also send a certified copy of this judgment to the Superintendent of the Jail concerned, where the appellant is undergoing sentence, for service upon the appellant, informing him that he is at

liberty to challenge the present judgment before the Hon'ble Supreme Court with the assistance of the High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Brijmohan