

**(2017) 04 MP CK 0075**  
**MADHYA PRADESH HIGH COURT**  
**Case No:** 1276 of 2013

Virendra s/o Mahesh Sahu, &  
Ors.

APPELLANT

Vs

State of M.P. through Police  
Station Damoh Dehat, & Anr.

RESPONDENT

**Date of Decision:** April 11, 2017

**Acts Referred:**

- Indian Penal Code, 1860, Section 161, Section 161, Section 376, Section 376, Section 313, Section 313,

**Hon'ble Judges:** Ved Prakash Sharma

**Bench:** Single Bench

**Advocate:** Sharmila Sharma, C.S. Ujjainiya

**Judgement**

1. This jail appeal is directed against judgment and order dated 26.08.2013 rendered by Special Judge {under SC & ST (P.A.) Act}, 1989 ? for short "the Act"} in Special Criminal Case No.26/2013, whereby the appellant has been convicted and sentenced as under :

Conviction u/S.	Rigorous Imprisonment	Fine	default fine
368 of IPC	10 years	Rs.1,000/-	One month
366-A of IPC	10 years	Rs. 1,000/-	One month

376 (2) (i) and 376 (2)(n) of IPC r/w Section 3(a)/4 and 5(L) of the Protection of Children from Sexual Offences Act, 2012 (for short "The Act of 2012")	L.I.	Rs.10,000/-	Six months
376E/75 of IPC r/w 5(t)/6 of "the Act of 2012"	L.I.	Rs.10,000	Six months
3(2)(v) of "the Act"	L.I.	Rs.10,000/-	Six months

**02.** The prosecution case, briefly stated, is that one Jitendra Verma (P.W.3), who frequently used to visit the appellant, came in the contact with the prosecutrix, aged about 14 years, and gradually developed intimacy with her. Allegedly, Jitendra (P.W.3) and the prosecutrix (P.W.1) liked each other and wished to marry, however, the parents of the prosecutrix (P.W.1) were not agree for such marriage.

**03.** It is further alleged that the appellant taking advantage of his acquaintance with the prosecutrix (P.W.1) promised her that he will persuade her parents for her marriage with Jitendra (P.W.3). Allegedly, by way of favour, the appellant asked the prosecutrix to stay with him for 15 ? 20 days, for which she, under the expectation that he will help her in getting married with Jitendra (P.W.3), agreed; pursuant to this she was taken by the appellant to his room rented out to him by Sugriv Prasad (P.W.8). Allegedly, the appellant, on a query being made by Sugriv Prasad (P.W.8) about the prosecutrix (P.W.1); introduced her as his daughter. As per prosecution, thereafter, for 2-3 days, the appellant forcibly subjected the prosecutrix (P.W.1) to sexual intercourse. On 18.03.2013 the police on a tip-off raided the room of the appellant and found him there with the prosecutrix (P.W.1). The police, vide memo (Ex.P/1) recovered the prosecutrix from the room of the appellant. He too was taken into custody. First Information Report (Ex.P/26) in this regard was registered against him on 06.03.2013 at Police Station - Pithampur. The prosecutrix was sent for medical examination. She was examined by Dr. Antimbala Solanki (P.W.9), however, no definite opinion could be given by her about rape. Two slides of her vaginal

smear were prepared by Dr. Solanki (P.W.9). Apart that, "Salwar" and undergarments worn by the prosecutrix (P.W.1) were also taken from her and handed over to the police in a sealed cover. The appellant was also sent for medical examination. Dr. S. Sisodiya (P.W.4) the then Medical Officer, District Hospital, Dhar examined him and, vide report Ex.P/8 found him capable for sexual intercourse. Articles seized during investigation were sent for forensic examination to FSL, Indore. The Assistant Chemical Examiner, FSL Indore, vide report (Ex.P/28), found presence of sperms on the slide of vaginal smear as well as "Salwar" and undergarments of the prosecutrix. Sperms were also found on the underwear recovered from the appellant.

**04.** During investigation, it was revealed that the appellant was earlier prosecuted for offence u/S 376 of I.P.C before the Court of Sessions Judge, Sidhi in S.T. No.18/2000 for committing rape with a girl, aged about 7 years and on being convicted in that regard, vide judgment dated 21.12.2000 (Copy Ex.P/29), was sentenced to 10 years RI and fine.

**05.** After usual investigation, a charge-sheet was filed before the competent Magistrate who in turn committed the case to the Court of Special Judge, Dhar.

**06.** The charge for offences under Section 363, 366-A, 376(2)(i), 376(2)(n), 343, 368 of IPC r/w Section 3(ii)(v) of "The Act", and under Section 5(L)/6 and 5(t)/6 and 3(a)/4 of "the Act of 2012") were framed against the appellant. Apart this, charge under Section 5(t)/6 of "the Act of 2012" r/w Section 376-E of IPC was also framed against him as regards commission of offence of rape, in view of his previous conviction under Section 376(2)(h) of IPC by IInd Additional Sessions Judge, Sidhi, vide judgment dated 21.12.2001.

**07.** The appellant did not dispute that he was convicted by the Court of Sessions Judge, Sidhi for committing rape and on being sentenced in this regard remained in jail for more than 5 years in that case. It was further not disputed by the appellant that during July, 2012, the prosecutrix (P.W.1) along with her father - Purushottam (P.W.2) and mother - Sunita (P.W.7) was residing in Patel Mohla, Pithampur, Distt. Dhar. The appellant, also residing in the same locality, was their next door neighbour, and, therefore, was having acquaintance with the prosecutrix (P.W.1). It is also not a matter of dispute that Sugriv Prasad (P.W.8) had rented out to the appellant, a room of his house situated near Indorama Chourah, Pithampur, on a monthly rent of Rs.1000/- per month. However, he denied the remaining charges and claimed to be tried. In his defence, the appellant submitted that the prosecutrix and Jitendra (P.W.3) were having intimacy and were caught by the police, and that he has been falsely implicated in this case.

**08.** The prosecution in order to bring home the charge examined as many as 20

witnesses before the learned trial Court including the prosecutrix (P.W.1), her father Purushottam (P.W.2), mother Sunita (P.W.7), landlord of the appellant Sugriv Prasad (P.W.8) and Jitendra Verma (P.W.3). Ramsanehi Mishra (P.W.20) had conducted investigation while Dr. Antimbala Solanki (P.W.9) and Dr. Sumit Sisodia (P.W.4) had, respectively, examined the prosecutrix (P.W.1) and the appellant. Apart this, documents Ex.P/1 to Ex.P/29 were marked in evidence. None was examined in defence, however, statement of prosecutrix (P.W.1) and Jitendra Verma (P.W.3) recorded under Section 161 of "the Code" were respectively, marked as Ex.D/1 to D/2.

**09.** The learned trial Court on the basis of evidence adduced before it by the impugned judgment found the charges levelled against the appellant proved. Accordingly, he was convicted and sentenced as stated herein above.

**10.** In this appeal, preferred through jail authorities, finding of guilt recorded against the petitioner is sought to be challenged on the ground that the learned trial Court has not properly appreciated the evidence adduced by the prosecution; that the finding with regard to age of the prosecutrix is erroneous because the scholar register was not properly proved during the trial. It is also submitted that the police has falsely implicated the appellant, so as to screen away Jitendra (P.W.3) and, therefore, the conviction and sentence recorded against the appellant deserves to be set aside.

**11.** Per contra, it is submitted by learned Public Prosecutor that the prosecutrix has clearly deposed about the manner in which the appellant allured and persuaded her to accompany him by pretending that he will facilitate her marriage with Jitendra (P.W.3). It is contended that the scholars register from the school, where the prosecutrix studied up to 5th Std., was proved by the concerned Head Master, therefore, it cannot be said that the age of the prosecutrix was not duly proved. It is contended that, as the appellant has not pleaded consent of the prosecutrix as a defence, therefore, the plea about age of the prosecutrix was not tenable. It is contended that considering his previous conviction u/S.376 of IPC for commission of rape, no leniency was called for in the matter as regards sentence and that the conviction and sentence recorded by the learned trial Court being well merited and based on reliable evidence, the appeal is liable to be dismissed.

**12.** We have bestowed our thoughtful consideration to the rival submission made by the learned counsel for the parties and have gone through the record.

**13.** It has strenuously been contended on behalf of the appellant that the finding with regard to age of the prosecutrix is not based on proper appreciation of evidence. It is submitted that Purushottam (P.W.2) and Sunita (P.W.7), respectively, the father and mother of prosecutrix (P.W.1), have not specifically deposed about

the date and year of birth of the prosecutrix. It is further submitted that Arjun Singh (P.W. 16), who has been examined to prove the entries of scholar's register Ex. P/20, has stated that the entry with regard to date of birth was made on the basis of transfer certificate and mark-sheet of the prosecutrix for 5th Standard, however, the scholar's register of Primary School has not been produced, therefore, the entries made in Ex. P/20 and the oral testimony of Arjun Singh (P.W.16) carries no weight.

**14.** Refuting the aforesaid arguments, it has been submitted by learned public prosecutor that Sunita (P.W.7), the mother of the prosecutrix, examined on 15.5.2013, has clearly deposed in Para 1 that the prosecutrix would be completing 15 years of age on "Diwali" falling in that very year. It is submitted that her testimony on this point remained unchallenged in the cross examination, therefore, the same deserved acceptance. The further contention is that Purushottam (P.W.2), the father of the prosecutrix, also deposed that the prosecutrix's age was about 15 years, however, not a single suggestion was made to him that she was more than 16/18 years at the time of alleged incident. Lastly, it is contended that Ex. P/20 is a public record within the meaning of Section 35 of the Indian Evidence Act and, therefore, in absence of any rebuttal evidence, the entries made therein should be taken as correct and that, the same cannot be rejected on the sole ground that scholar's register of primary school was not produced in the evidence.

**15.** The learned trial Court in Para 14 to 18 of the impugned judgment has dealt with the evidence pertaining to age of the prosecutrix. As pointed out by learned Prosecutor, the testimony of Purushottam (P.W.2) and Sunita (P.W.7), regarding age of the prosecutrix, has remained unchallenged. May be, because of their illiteracy, they have expressed inability to state specific date, month and year of birth of the prosecutrix however, we cannot lose sight of the fact that even rural, rustic and illiterate person have robust sense of time and therefore, the consistent evidence of mother and father, who obviously, are supposed to have first hand knowledge about the age of their child, in absence of any contra suggestion or evidence, deserves to be accepted and in our considered opinion, has rightly been accepted by the learned trial Court.

**16.** The oral testimony of Purushottam (P.W.2) and Sunita (P.W.7) stands well corroborated by entry made at Serial No.836 in the scholar's register Ex. P/20, in which, the date of birth of the prosecutrix in the relevant column is mentioned as 30.6.1998. Arjun Singh (P.W. 16), posted as Teacher in Govt. Poorva Madhyamik Shala, Bardhari, has deposed that the entry with regard to admission of the prosecutrix in the scholar's register Ex. P/20 was made by him on the basis of transfer certificate and mark-sheet of 5th Standard. No suggestion has been made to this witness that the entry made by him is wrong or suffers from any interpolation. It is not the case of defense that Arjun Singh (P.W.16) has any motive against the appellant and is interested in falsely deposing about age of the

prosecutrix. Ex. P/20 being public record, the same is relevant u/s. 35 of the Indian Evidence Act and in absence of evidence to the contrary, deserves to be accepted.

**17.** In *Jarnail Singh vs. State of Haryana*, (2013) 7 SCC 263, it has been held by Hon"ble the apex Court that even in cases of rape, the principles engrafted in Rule 12 of the Juvenile Justice (Care and Protection) of Children Rules, 2007 are very much applicable for determining the age of the prosecutrix. Para 20 & 21 of the aforesaid decision which are relevant in this regard run as under:-

"20. 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." 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.

21. .... In the scheme contemplated under Rule 12(3) of the 2007 Rules, it is not permissible to determine age in any other manner, and certainly not on the basis of an option mentioned in a subsequent clause. We are therefore of the view, that the High Court was fully justified in relying on the aforesaid basis for establishing the age of the prosecutrix VW ? PW6. It would also be relevant to mention, that under the scheme of Rule 12 of the 2007 Rules, it would have been improper for the High Court to rely on any other material including the ossification test, for determining the age of the prosecutrix VW-PW6. The deposition of Satpal-PW4 has not been contested. Therefore, the date of birth of the prosecutrix VW - PW6 (indicated in Exhibit P.G., as 15.7.1977) assumes finality....."

**18.** In view of the aforesaid, it cannot be said that learned trial Court committed any error in recording a finding about the age of the prosecutrix on the basis of Ex. P/20, which stands corroborated by the testimony of Purushottam (P.W.2) and Sunita (P.W.7).

**19.** In the aforesaid premises, we have no hesitation in concurring with the finding recorded by learned trial Court that at the time of alleged occurrence, the age of prosecutrix was about 15 years and, therefore, she was a child within the meaning of Section 2(d) of the "Act of 2012" so also a person incapable of tendering consent as regards sexual intercourse.



**20.** This brings us to the issue regarding evidential value of testimony of prosecutrix (P.W.1), who has clearly deposed that she being in intimate relationship with Jitendra (P.W.3) wished to marry him, however, her parents were unwilling for such a marriage and that the appellant, taking advantage of this situation, promised her that he will persuade her parents for her marriage with Jitendra (P.W.3) provided, she agrees to stay with him for some period and that, pursuant to this, she went with the appellant and was repeatedly subjected to rape for 2-3 days by him in a room situated near Indorama Crossing.

**21.** Before entering into the arena of appreciation of the testimony of the prosecutrix, it would be apposite to advert to the principles of law pertaining to appreciation of evidence of victim of rape. The law in this regard by now is well settled by a catena of decisions of Hon<sup>ble</sup> the apex Court.

**22.** In *State of Punjab vs. Gurmeet Singh & Ors.*, [1996] 2 SCC 384 the apex Court took note of the increasing rate of crime against the woman and held that- "It is an irony that while we are celebrating woman'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 courts, therefore, shoulder 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 prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars."

**23.** In *State of Maharashtra vs. Chandraprakash Kewalchand Jain*, [1990] 1 SCC 550, the apex court has summarised the legal position regarding appreciation of the testimony of a rape victim as under( para 14) :

"A prosecutrix of a sex offence cannot be put on a 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 alive to and 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 prosecutrix, there is no rule of law or practice incorporated in the 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 prosecutrix 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 prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discussed that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence."

( Emphasis supplied )

**24.** The testimony of the prosecutrix (PW.1) has to be examined in the light of the aforesaid principles of law. The prosecutrix (PW.1) has been subjected to elaborate and indepth cross-examination and generally, she has responded to these questions in quite usual manner. She has clearly deposed that she was in love with Jitendra (P.W.3) and wished to marry him, however, his parents did not agree for it. She has further clearly deposed that the appellant, who was her next door neighbour and with whom she was acquainted, assured her that he will persuade her parents for her marriage with Jitendra (PW.3) provided she agrees to stay with him for few days. The prosecutrix (P.W.1) has further deposed that she acceded to this proposal and went to stay with him in a room situated in a house near Indorama Crossing and that, thereafter, she was forcibly subjected by him to sexual intercourse and was also threatened that if she revealed anything to her parents, then they will put her afire. Despite searching cross-examination, the testimony of this witness remained unscratched and un-dented. A couple of insignificant omissions/variations are noticed in her statement Ex. D/1 recorded u/s. 161 of "The Code" vis-a-vis her deposition. Firstly, in Ex. D/1, there is omission on the point that the appellant threatened her that her parents would put her afire. Next omission is that the appellant had threatened her in the name of Jitendra (P.W.3). However, considering the overall texture of the testimony of this witness, in our considered opinion, these omissions not being with regard to material aspects of the prosecution case, may not be treated as contradictions so as to discredit her as regards substantive allegations.

**25.** As a matter of fact, there is nothing in the testimony of prosecutrix to indicate that she had a motive to falsely implicate the appellant on account of some ill-will or animosity. Noticeably, the prosecutrix (PW.1) has not concealed about her genuine desire to marry Jitendra (P.W.3); she has further not concealed the fact that she went with the appellant on an assurance made by him to help her in arranging her marriage with Jitendra (P.W.3). The evidence on record clearly reveals that at the time of occurrence, prosecutrix was hardly 15 years of age, while the accused, was in his fifties, because at the time of examination u/s. 313 of "the Code", he has stated his age as 58 years. Again, Sugriv Prasad (P.W.8), who may not have any motive to falsely implicate the appellant, has clearly deposed that the appellant, on being asked about the identity of the girl (the prosecutrix) accompanying him, introduced her as his daughter.

**26.** In the light of aforesaid discussion and analysis we do not have the slightest hesitation in concurring with the learned trial Court that on 05/03/2013 the appellant kidnapped the prosecutrix (P.W.1), aged about 15 years, and thereafter repeatedly subjected her to rape till her recovery on 08/03/2013; therefore, he is guilty for offences under Section 366-A, 368, 376(2)(i) and 376(2)(n) of IPC read with Section 3(a) read with Section 4 and Section 5(L) and 5(t) read with Section 6 of "the Act of 2012" .

**27.** In view of the aforesaid, we do not find any factual or legal error in the conviction recorded by learned trial Court against the appellant for offence u/S. 368, 366A, 376(2)(i) and 376(2)(n) read with Section 376A of the IPC and Section 3(a)/4, 5(l), 5(t)/6 of the Protection of Children from Sexual Offences Act and u/S. 3(2)(v) of "the Act".

**28.** As regards sentence, the appellant has been sentenced by the learned trial court for offence under Section 368 & 366A of IPC with R.I. Of 10 years on each count and fine, while for offence under Section 376(2)(i) and 376(2)(n) read with Section 376E/75 of IPC and Section 3(a)/4 and 5(l) of "the Act of 2012" he has been sentenced to life imprisonment, which shall mean imprisonment for the remainder of the appellant's natural life.

**29.** Offence under Section 376(2)(i) of IPC (rape on a woman under 16 years of age) and offence under Section 376(2)(n) of IPC (repeated rape on the same woman) carries punishment which may extend to imprisonment for life, which shall be imprisonment for the remainder of that person's natural life. Again, Section 376-E of IPC which prescribes punishment for rape for repeat offenders stipulates punishment of imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death; meaning thereby minimum punishment under Section 376-E of IPC is imprisonment for life which shall be the

remainder of that person's natural life.

**30.** In the instant case, the appellant is a repeat offender, therefore, in the aforesaid premises, it cannot be said that the learned trial Court has committed any error in inflicting punishment of imprisonment for life which shall be imprisonment for the remainder of that person life with regard to offences under Sections 376(2)(i), 376(2)(n) and 376-E of IPC.

**31.** Resultantly, this appeal having no merit deserves to be and is accordingly hereby dismissed.