

**THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Criminal Appeal No.668 of 2019**

Monu .....Appellant

Vs.

State of Uttarakhand ..... Respondent

Presents:-

Mr. Siddhartha Bankoti, Advocate for the appellant.

Mr. Vipul Painuli, Brief Holder for the State of Uttarakhand.

**JUDGMENT**

**Hon'ble Ravindra Maithani, J. (Oral)**

The challenge in this appeal is made to the judgment and order dated 27/29.11.2019, passed in Sessions Trial No.53 of 2016, State vs. Monu, by the court of Additional Sessions Judge/FTSC Haridwar ("the case"). By it, the revisionist has been convicted under Sections 363, 366-A, 376(2)(n) IPC and Sections 5(l), 5(j)(ii)/6 of The Protection Of Children From Sexual Offences Act, 2012 ("the Act") and sentenced as follows:-

- i. Under Section 363 IPC, to undergo rigorous imprisonment for a period of three years with a fine of Rs.5000/-. In default of payment of fine, to undergo rigorous imprisonment for a further period of three months.
- ii. Under Section 366-A IPC, to undergo rigorous imprisonment for a period of five years with a fine of Rs.10,000/-. In default of payment of fine,

to undergo rigorous imprisonment for a further period of six months.

- iii. Under Section 6 of the Act, to undergo rigorous imprisonment for a period of ten years with a fine of Rs.50,000/-. In default of payment of fine, to undergo rigorous imprisonment for a further period of one year.

2. Heard learned counsel for the parties and perused the record.

3. The prosecution case, as unfolded is as follows: On 27.04.2016, a report was lodged by PW1, the father of the victim. According to it, the victim had left her home at 07:00 PM on 21.04.2016 to answer the call of nature, but she did not return. When a search was made Sushil, a villager had told it to the informant that he had seen the victim going along with the appellant and one Mangi. The FIR records that the victim is a minor and the appellant had enticed her and taken her away. Based on this report, an FIR was lodged under Sections 363, 366-A IPC and a case was registered. Subsequently, the victim was recovered, her statement under Section 164 of the Code of Criminal Procedure, 1973 ("the Code") was recorded. She was medically examined on 02.06.2016 when she stated her age to be 18-19 years. She was

pregnant at that time. The victim told it to the doctor at the time of medical examination that she on her own had gone with the appellant. She told that the appellant is her husband. The Investigating Officer collected record with regard to the date of birth of the victim and after investigation has submitted a charge-sheet under Sections 363, 366-A, 376 IPC and Sections 3, 4(l)/6 of the Act. On 15.09.2016, charge under Sections 363, 366-A, 376(2)(n) IPC and Sections 5(l)/6 of the Act were framed against the appellant. On 23.02.2019, additional charge under Sections 5(j)(ii)/6 of the Act was framed against the appellant.

4. In order to prove its case, the prosecution has examined eight witnesses namely, PW1, father of the victim, PW2 Sushil Kumar, PW3 the victim, PW4 mother of the victim, PW5 Dr. Nisha Gupta, PW6 Lady Constable 305 Reena Devi, PW7 SI Tina Rawat, Investigating Officer, PW8 Smt. Vimla Devi, Principal of the school. The appellant was examined under Section 313 of the Code. According to him, he was falsely implicated. He has stated that the victim never studied in the school. The victim on her own had left her home. She is major. She has been made to give false evidence.

5. In his defence, the appellant examined two witnesses namely, DW1, Shankardeep, and DW2, Vimla Devi. Even DW2, Vimla Devi, had already been examined as PW8. The right course would have been to recall PW8 or the defence could have proved their documents when PW8 was examined. But, this was not done and Smt. Vimla Devi, Principal has been again called as defence witness.

6. After hearing the parties, by the impugned judgment and order, the appellant has been convicted and sentenced, as stated hereinabove. Aggrieved by it, instant appeal has been preferred.

7. PW1 is the father of the victim. He has stated that on 21.04.2016, the victim has left her home to answer the call of nature, but she did not return. Subsequently, when a search was made, Sushil had told it to this witness that he had seen the victim going alongwith the appellant and Mangi. They searched for the victim for 5-6 days, but they could not trace her. Thereafter, FIR was lodged. This witness has proved the FIR Ex. A1.

8. PW2 Sushil Kumar had stated that on the date of the incident, at about 7:00 – 7:30 PM, he had seen the appellant alongwith the victim going towards a bridge.

9. PW3 is the victim. She has stated that on 21.04.2016, she was 16 years of age. She was called by the appellant. She left her *chunni* and slippers near a canal, so that her parents could assume that she had died of drowning. She has stated that subsequently, the appellant took her to Roorkee and from there to Delhi. There they stayed as husband and wife. When they were out of money, they came back to Manglore, where the police caught them. She has stated that she studied upto Class II. She has proved her statement under Section 164 of the Code, which is Ex. A2.

10. PW4 is the mother of the victim. She has also corroborated the statement of PW1, the father of the victim.

11. PW5, Dr. Nisha Gupta, did medically examine the victim on 02.06.2016. According to her, the victim was pregnant for two and a half months. She proved the medical examination report Ex. A3.

12. PW6, Lady Constable Reena Devi, proved some police documents.

13. PW7, Sub Inspector Teena Rawat, is the Investigating Officer. She has proved the document submitted by her during investigation and proved the charge sheet.

14. PW8, Smt. Vimla Devi, is the Principal of the school, where according to the prosecution, the victim had studied. According to her, the victim had taken admission in the school in Class II on 01.07.2008 and her name was removed from scholar register on 17.03.2009 due to continuous absence. According to this witness, the date of birth of the victim is 02.02.2000. She has proved the copy of the scholar register Ex-A.8.

15. DW1 Shankar Deep has proved the birth certificate of the victim which is Ex. B1, which records the date of birth of the victim as 03.05.1994. This date of birth certificate was issued on 23.09.2015. This man is Village Development Officer.

16. DW2 in fact, is the same witness, who had already been examined as PW8 Smt. Vimla Devi. She had come with the record of the same school, which she has proved as PW8 and has stated that the victim had taken admission in their school in Class 1st on 11.08.2005. Her date of birth, according to this witness is 02.02.2000. It may be noted that when examined as PW8, Smt. Vimla Devi has stated that on 01.07.2008, the victim had taken admission in their school in Class II, which means for two different classes, in the same school, twice the entries of the victim was made in the scholar register.

17. Learned counsel for the appellant would submit that the prosecution has utterly failed to prove its case beyond reasonable doubt. He would argue only on the question of age of the victim. According to learned counsel, the prosecution has failed to prove that the victim was minor on the date of alleged incident. He would submit that PW1 the informant in his examination has admitted the existence of family register, which has been proved as Ex-B.3 by DW1, in which the birth year of the victim was recorded as 1992. He would also submit that the birth certificate was issued as per law, records the date of birth of the victim as 03.05.1994, which casts doubt about the minor status of the victim. He would also submit that victim as a witness has stated that for the first time, when she went to the school, she was eight years of age. It is argued that as per DW2 Smt. Vimla Devi, the victim had taken admission in Class 1st in the school on 11.08.2005, which means, that the date of birth of the victim is sometimes in the year 1997 and if it is so, the victim was not minor on the date of alleged incident.

18. Learned counsel for the appellant would also submit that date of birth recorded in the school register per se may not be proof of it. It has to be shown that as to what is the basis of the date of birth so recorded in the school register. Learned counsel would submit that PW1, the

father of the victim has not stated that he got the date of birth recorded in the school register of the victim. It is argued that, in fact, according to PW1, he did not get the victim admitted in the school. Reference has been made to the statement of the PW4, the mother of the victim, when she has stated that she cannot tell the date of birth of the victim. Moreover, it is argued that both, PW1 the informant and PW3 the victim have stated that whatever date of birth they are able to tell about the victim, is based on the school record. Learned counsel would submit that the School Transfer Certificate which was proved by the PW8 Smt. Vimla Devi was procured on the same date, when the FIR was lodged on 27.04.2016.

19. It may be noted that, in fact, no School Transfer Certificate has been proved. The extract of scholar register Ex. A8 has been proved.

20. In support of his contention, learned counsel has placed reliance upon the principles of law, as laid down in the cases of Alamelu and another Vs. State, (2011) 2 SCC 385, Ravinder Singh Gorkhi Vs. State of U.P., (2006) 5 SCC 584 and P. Yuvaprakash Vs. State, Rep. by Inspector of Police, 2023 SCC OnLine SC 846.

21. In the case of Alamelu (*supra*), the Hon'ble Supreme Court discussed the admissibility and evidentiary value of the transfer certificate and observed as follows:-

“40. Undoubtedly, the transfer certificate, Ext. P-16 indicates that the girl's date of birth was 15-6-1977. Therefore, even according to the aforesaid certificate, she would be above 16 years of age (16 years 1 month and 16 days) on the date of the alleged incident i.e. 31-7-1993. The transfer certificate has been issued by a government school and has been duly signed by the Headmaster. Therefore, it would be admissible in evidence under Section 35 of the Evidence Act, 1872. However, the admissibility of such a document would be of not much evidentiary value to prove the age of the girl in the absence of the material on the basis of which the age was recorded. The date of birth mentioned in the transfer certificate would have no evidentiary value unless the person, who made the entry or who gave the date of birth is examined.”

22. In the case of Ravinder Singh Gorkhi (*supra*), the Hon'ble Supreme Court relied on the principles of law, as laid down in the case of Birad Mal Singhvi Vs. Anand Purohit, 1988 Supp SCC 604 and observed as follows:-

“26. In Birad Mal Singhvi v. Anand Purohit [1988 Supp SCC 604] this Court held: (SCC p. 619, para 15)

“To render a document admissible under Section 35, three conditions must be satisfied, firstly, entry that is relied on must be one in a public or other official book, register or record; secondly, it must be an entry stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law. **An entry relating to date of birth made in the school register is**

**relevant and admissible under Section 35 of the Act but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded.”**

(emphasis supplied)

23. In the case of P. Yuvaprakash (supra), the Hon'ble Supreme Court discussed this aspect of age determination and under the facts and circumstances of that case observed “It is clear from the above narrative that none of the documents produced during the trial answered the description of “the date of birth certificate from the school” or “the matriculation or equivalent certificate” from the concerned examination board or certificate by a corporation, municipal authority or a Panchayat. In these circumstances, it was incumbent for the prosecution to prove through acceptable medical tests/examination that the victim's age was below 18 years as per Section 94(2)(iii) of the JJ Act.”

24. On the other hand, learned State counsel would submit that the victim was minor on the date of incident. He would refer to the statement of PW8, Vimla Devi, to argue that this witness is the Principal of the school where the victim had studied and she has stated that the date of

birth of the victim, as per scholar register and transfer certificate, is 02.02.2000.

25. The appellant has been convicted and sentenced under Sections 363, 366A, 376(2)(n) IPC and Section 5(l) and Section 5(j)(ii)/6 of the Act. Section 363 IPC provides punishment for kidnapping. Section 366A IPC provides punishment for procurement of minor girl, etc. These both Sections are as follows:-

**“363. Punishment for kidnapping.—**Whoever kidnaps any person from India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**366A. Procurement of minor girl.—**Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.”

26. What is kidnapping has been defined under Section 359 IPC. It reads as follows:-

**“359. Kidnapping.—**Kidnapping is of two kinds: kidnapping from India, and kidnapping from lawful guardianship.”

27. The appellant has also been convicted of rape and aggravated penetrative sexual assault.

28. First and foremost, it has to be seen as to whether the victim was a child on the date of incident. The Juvenile Justice (Care and Protection of Children) Act, 2015 (“the JJ Act”) provides for presumption and determination of age. Section 94 of it provides as hereunder:-

**“94. Presumption and determination of age.—**

(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

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

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an

ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.”

29. The determination of age of an offender may be determined according to the provisions of the JJ Act. Similarly, the age of the victim may also be determined accordingly. There are multiple documents filed from both sides to establish the age of the victim. On behalf of the prosecution, PW8, Vimla Devi, has proved the scholar register as well as she has stated about the transfer certificate. The extract of the scholar register, which has been proved by the PW8, Vimla Devi, is at Ex-A.8, according to which, the date of birth of the victim is 02.02.2000 and the transfer certificate, as such, has not been exhibited, but PW8, Vimla Devi, has proved it saying that it is Paper no. 70A on record. In it also, the date of birth of the victim is recorded as 02.02.2000.

30. On behalf of the appellant also, two witnesses have been examined with regard to the documents of age; (i) DW1 has proved the extract of birth register, which is

Ex. B.1. In it, the date of birth of the victim is recorded as 03.05.1994, and extract of family register, which is Ex-B.3. In it, the birth year of the victim is recorded as 1992. (ii) DW2, who had already been examined as PW8, has proved another extract of scholar register, in which also the age of the victim is recorded as 02.02.2000. This is Ex-B.2. In this Ex-B.2, the date of birth of the victim is recorded as 03.02.1995. In fact, this witness, DW2, has proved Ex-B.2 saying that it is the extract of the scholar register, in which the date of birth, as stated, is recorded as 03.02.1995. This is not correct because according to DW2 herself, in the school register, the date of birth of the victim is recorded as 02.02.2000. If it is so, Ex-B.2 could not reveal the date of birth of the victim as 03.02.1995. This Court has, in fact, summoned the original scholar register of Ex-B.2. It is perused in the presence of both the parties during the course of hearing. In the original register, this date of birth is 02.02.2000. Has Ex-B.2 been forged? The Court leaves it at it. This document Ex-B.2 does not lend any credence.

31. The prosecution has heavily relied on Ex-A.8, the extract of the scholar register as well as the transfer certificate of the victim, in which her date of birth is recorded as

02.02.2000. There is no doubt that this document is admissible in evidence, but, any entry that is made, may not get proved merely because it is an admissible evidence. The entries are to be separately proved.

32. In the case of Rishipal Singh Solanki Vs. State of Uttar Pradesh and Others, Manu/SC/1081/2021, the Hon'ble Supreme Court discussed the law on this aspect and culled out the principles with regard to the determination of age as hereunder:-

**“29.** What emerges on a cumulative consideration of the aforesaid catena of judgments is as follows:

(i) A claim of juvenility may be raised at any stage of a criminal proceeding, even after a final disposal of the case. A delay in raising the claim of juvenility cannot be a ground for rejection of such claim. It can also be raised for the first time before this Court.

(ii) An application claiming juvenility could be made either before the Court or the JJ Board.

(iia) When the issue of juvenility arises before a Court, it would be Under Subsection (2) and (3) of Section 9 of the JJ Act, 2015 but when a person is brought before a Committee or JJ Board, Section 94 of the JJ Act, 2015 applies.

(iib) If an application is filed before the Court claiming juvenility, the provision of Sub-section (2) of Section 94 of the JJ Act, 2015 would have to be applied or read along with Sub-section (2) of Section 9 so as to seek evidence for the purpose of

recording a finding stating the age of the person as nearly as may be.

(iic) When an application claiming juvenility is made Under Section 94 of the JJ Act, 2015 before the JJ Board when the matter regarding the alleged commission of offence is pending before a Court, then the procedure contemplated Under Section 94 of the JJ Act, 2015 would apply. Under the said provision if the JJ Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Board shall undertake the process of age determination by seeking evidence and the age recorded by the JJ Board to be the age of the person so brought before it shall, for the purpose of the JJ Act, 2015, be deemed to be true age of that person. Hence the degree of proof required in such a proceeding before the JJ Board, when an application is filed seeking a claim of juvenility when the trial is before the concerned criminal court, is higher than when an inquiry is made by a court before which the case regarding the commission of the offence is pending (vide Section 9 of the JJ Act, 2015).

(iii) That when a claim for juvenility is raised, the burden is on the person raising the claim to satisfy the Court to discharge the initial burden. However, the documents mentioned in Rule 12(3)(a)(i), (ii), and (iii) of the JJ Rules 2007 made under the JJ Act, 2000 or Sub-section (2) of Section 94 of JJ Act, 2015, shall be sufficient for prima facie satisfaction of the Court. On the basis of the aforesaid documents a presumption of juvenility may be raised.

(iv) The said presumption is however not conclusive proof of the age of juvenility and the

same may be rebutted by contra evidence let in by the opposite side.

(v) That the procedure of an inquiry by a Court is not the same thing as declaring the age of the person as a juvenile sought before the JJ Board when the case is pending for trial before the concerned criminal court. In case of an inquiry, the Court records a prima facie conclusion but when there is a determination of age as per Sub-section (2) of Section 94 of 2015 Act, a declaration is made on the basis of evidence. Also the age recorded by the JJ Board shall be deemed to be the true age of the person brought before it. Thus, the standard of proof in an inquiry is different from that required in a proceeding where the determination and declaration of the age of a person has to be made on the basis of evidence scrutinised and accepted only if worthy of such acceptance

(vi) That it is neither feasible nor desirable to lay down an abstract formula to determine the age of a person. It has to be on the basis of the material on record and on appreciation of evidence adduced by the parties in each case.

(vii) This Court has observed that a hyper-technical approach should not be adopted when evidence is adduced on behalf of the Accused in support of the plea that he was a juvenile.

(viii) If two views are possible on the same evidence, the court should lean in favour of holding the Accused to be a juvenile in borderline cases. This is in order to ensure that the benefit of the JJ Act, 2015 is made applicable to the juvenile in conflict with law. At the same time, the Court should ensure that the JJ Act, 2015 is not misused by persons to

escape punishment after having committed serious offences.

(ix) That when the determination of age is on the basis of evidence such as school records, it is necessary that the same would have to be considered as per Section 35 of the Indian Evidence Act, inasmuch as any public or official document maintained in the discharge of official duty would have greater credibility than private documents.

(x) Any document which is in consonance with public documents, such as matriculation certificate, could be accepted by the Court or the JJ Board provided such public document is credible and authentic as per the provisions of the Indian Evidence Act viz., Section 35 and other provisions.

(xi) Ossification Test cannot be the sole criterion for age determination and a mechanical view regarding the age of a person cannot be adopted solely on the basis of medical opinion by radiological examination. Such evidence is not conclusive evidence but only a very useful guiding factor to be considered in the absence of documents mentioned in Section 94(2) of the JJ Act, 2015.”

33. In the case of Satpal Singh Vs. State of Haryana, (2010) 8 SCC 714, the Hon’ble Supreme Court, while discussing on this aspect, held that, **“-entry in school register /certificate requires to be proved in accordance with law. Standard of proof for the same remains as in any other civil and criminal case.”**

34. The similar principles of law have been laid by the Hon'ble Supreme Court in the case of Alamelu (*supra*), wherein, the Hon'ble Supreme Court observed that, **“The date of birth mentioned in the transfer certificate would have no evidentiary value unless the person, who made the entry or who gave the date of birth is examined.”**

35. PW1 is the father of the victim. In his statement at Page 6, paragraph 2<sup>nd</sup>, this witness has stated that he did not get his daughter admitted in the school. He, in fact, expressed ignorance about the date when the victim was admitted in the school. He also tells in the same sequel that the victim was born in Punjab, where he was labourer at the relevant time. In Page 5, bottom paragraph, PW1, the father of the victim tells that he can tell the date of birth of the victim because he had got a document from the school. On his own, this witness was not in a position to tell the date of birth of the victim. He has not recorded the date of birth of the victim in the school records.

36. PW3 is the victim. In answer to a question at Page 2, 3<sup>rd</sup> paragraph, she has stated that she was admitted to the school when her age was 8 years. This statement is important. In the same sequence, PW3, the victim, has stated

that she does not remember as to what is the date of birth recorded in the school record. She also tells that her elder sister is married for 5 years and she is 2 years younger to her.

37. PW4, the mother of the victim, could not tell the date of birth of the victim.

38. PW5, the Doctor, who examined the victim, has recorded the age of the victim as 18-19 years when she was examined. In the last line of her examination, PW5, Dr. Nisha Gupta, has stated that by appearance, the victim looks around 19-20 years of age. As stated, there is an extract of the family register that has been produced and proved on behalf of the appellant, in which the birth year of the victim is recorded as 1992.

39. According to PW8, the extract of scholar register Ex-A.8 pertains to the admission of the victim in class II and she was admitted on 01.07.2008 in class II. Since she did not continue, her name was removed from the roll on 17.03.2009. The same witness, as stated has been examined as DW2, she proved the scholar register of the victim. She has stated that the victim took admission in class I in the school on 11.08.2005. As stated, the victim has stated that when she was admitted

in the school, she was 8 years of age, which means that the victim was born sometimes in the year 1997. It also creates doubts on the genuineness of the date of birth of the victim, as recorded in the school register.

40. There is no evidence adduced by the prosecution to establish as to who was the person who got the date of birth of the victim recorded in her school register. PW1, the father of the victim, did not get her daughter admitted in the school. PW3, the victim, herself does not know her date of birth. In fact, she has also not stated as to who got her admitted in the school. There is no application form of the school. PW4, the mother of the victim, could not also tell the date of birth of the victim.

41. These all factors with attending circumstances leads to the conclusion that the prosecution utterly failed to prove that the victim was less than 18 years of age on the date of incident. Therefore, this Court is of the view that the prosecution fails to prove that the victim was a child on the date of incident.

42. The victim has not been forcibly taken by the appellant. This Court has already concluded that the prosecution failed to prove that the victim was a child on the date of incident.

43. The victim, as PW3, has stated that on the date of incident, in fact, she had some dispute in the house as she had spilled the vegetables. Her mother wanted to beat her. Therefore, she ran away from the house and met the appellant. Thereafter they visited various places and the appellant established physical relations with her. The victim has also proved her statement under Section 164 of the Code. The statement, recorded under Section 164 of the Code may also be used for corroboration not only contradiction, as held in the case of R. Shaji Vs. State of Kerala, (2013) 14 SCC 266. In this case, the Hon'ble Supreme Court held that, **“the statement given under Section 164 of the Code may be used for the purpose of corroboration and contradiction.”**

44. In her statement recorded under Section 164 of the Code, the victim has stated that she was in relationship with the appellant and she left her home and joined the company of the appellant, and, thereafter, they visited various places and established physical relations.

45. The victim was not kidnapped. The victim was not a minor. The victim, on her own, had joined the company of the appellant. She was consenting throughout. Therefore, in view of the foregoing discussion, this Court is of the view that the prosecution utterly failed to prove the

charges levelled against the appellant. The appellant ought to have been acquitted of the charge. The court below did commit an error in law in convicting and sentencing the appellant.

46. Therefore, while setting aside the impugned judgment and order, the appellant is entitled to be acquitted of the charges under Sections 363, 366-A, 376(2)(n) IPC and Sections 5(l), 5(j)(ii)/6 of the Act.

47. The appeal is allowed.

48. The impugned judgment and order dated 27/29.11.2019, passed in the case, is set aside. The appellant is acquitted of the charges under Sections 363, 366-A, 376(2)(n) IPC and Sections 5(l), 5(j)(ii)/6 of the Act.

49. The appellant is in jail. Let he be released forthwith if not wanted in any other case subject to his furnishing a personal bond and two sureties under Section 437A of the Code to the satisfaction of the court concerned.

50. Let a copy of this judgment along with the Lower Court Record be transmitted to the court below for compliance.

**(Ravindra Maithani, J.)**

23.04.2024

