

**COURT OF THE
PRINCIPAL SESSIONS JUDGE ANANTNAG**

File No.	23/Sessions
CNR.No.	JKAN010002172022
Date of institution	11.03.2022
Reserved on	22.09.2025
Date of judgment	15.10.2025
Date of awarding sentence	24.10.2025

In the case of:-

UT of J&K through SHO Women's P/S Anantnag
FIR No. 03/2022 U/S 376 (3), 506 Indian Panel Code,
6 POCSO Act

Through: Ld. PP, Ab. Rashid Mir

Versus

X X X X

(Accused)

Through Syed Masood Advocate

Coram: ***Tahir Khurshid Raina***
 (UID No.JK00055)

S E N T E N C E

Introduction

1. In a state of complete helplessness and utter shock, the victim of the offence of rape has asked to her convict-father, when he overpowered her to perform this heinous Crime on her, ***“whether any father does such an act with his daughter”***. ***This was stated by the victim in Court while deposing against the convict, with tears rolling down her eyes.***
2. In the opinion of the court, this question of her was not only directed at the convict but to the society as a whole- a society wherein such an unprecedented Crime has taken place. It is a symbol of extreme

depravity, mental sickness and the complete collapse of ethical values.

3. Whether our daughters are safe enough to survive, sustain and enjoy life to their fullest? Are they truly safe and secure in their homes and hearths? The question which is asked by the victim to her convict-father is an eye opener in this context. It is ironic in this context as well that this Court is trying one more case, wherein a grandfather is accused of raping his grand-daughter continuously for two years.
4. By no stretch of imagination can it be expected that a man can turn into such a beast. The instant conviction has unfortunately cast a death shadow on the pious and beautiful relation between a father and a daughter- a bond about which it is said, ***“No one in this world can love a girl more than her father”***. He is her role model, a standard against which she judges all men. This Court, infact, felt-shell shocked while convicting the father for committing such a heinous crime- a rank immorality perpetrated against his own daughter.
5. The next pertinent question is whether merely awarding a sentence by the court to the convict-father will help in rejuvenating the withering probity level of the society? Whether sentencing will ensure that daughters feel safe and secure even within their own homes, hearths and the community? This Court poses these questions to the society for introspection as to where it has gone astray, that even a protector of his daughter has turned into her tormentor.

LEGAL & PENAL

6. Now, let's address the issue on the plank of penology, whereby this Court has to award sentence to the convict-father who is ironically found to have Raped and impregnated his daughter-the victim herein.
7. He is found guilty of the commission of offence of Rape of his minor daughter, who was aged 15 years, 4 months, and 9 days on the date of occurrence, i.e, on 25.01.2022. Accordingly, the accused has been convicted for commission of offence under Section 376 (3) IPC. For reference, same is reproduced below:

“Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine, Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim, Provided further that any fine imposed under this sub-section shall be paid to the victim.”

8. He also stands convicted for the commission of offence under Section 6 of the POCSO Act, which refers to punishment for aggravated penetrative sexual assault. Same is reproduced below:

“The punishment for aggravated penetrative sexual assault under Section 6 of the POCSO Act is rigorous imprisonment for a minimum of 20 years, which can extend to life imprisonment and a fine. Alternatively, the punishment can be death. The fine is to be paid to the victim for medical expenses and rehabilitation.”

9. The accused is also convicted for commission of offence of criminal intimidation, punishable under

Section 506 of Indian Penal Code. It involves threatening of a person with the intent to cause fear of injury to their person, reputation, or property. In reference, same is reproduced as under:

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. If threat be to cause death or grievous hurt, etc and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

10. Accordingly, the convict is now to be awarded three sentences for the aforesaid offences.
11. Before awarding appropriate sentence to the convict, let's briefly refer to the arguments advanced in this regard by the counsels for both sides.

Prosecution

12. The Ld. Public Prosecutor (Ld.PP) very vehemently prayed before this court for awarding the maximum sentence prescribed for the commission of the said offences to the convict, for the simple reason that he is found to have committed a heinous and unprecedented crime in the society which has been condemned across the society. The convict, in the backdrop of the relation he had with the victim of the crime, requires the full measure of punishment prescribed in the statute. That any leniency shown by

the court would simply amount to adding a premium to the offence. Therefore, the Ld.PP prayed that the court to award the maximum punishment prescribed for the said offences which must give a deterrent message to the society and infuse a sense of security in the hearts and minds of the young girls to feel safe and secured.

13. Defence

The counsel for the convict presented a brief argument, stating that the conduct of the accused in the jail has remained up to the mark, and that he is a first time offender with no criminal background or antecedents. That the evidence on record on the basis of which he stands convicted is not so glaring and convincing, and therefore, he should be awarded imprisonment, limited to the period he has already undergone in jail during the course of the trial.

Heard and considered.

14. It is emphasized upon the criminal courts to adopt a balanced and principled approach in matters of sentencing. Let's make an endeavor in this regard.
15. At the risk of repetition, it must be noted that the convict in the case is none other than the father of the victim, who is supposed to be the saviour and protector of his daughter. It is beyond imagination to think that a father has been convicted for the offence of Raping his own daughter. Though, in the prologue of this order, I have observed that such an obnoxious crime is not simply to be addressed from a penal point of view, the court nevertheless has a duty to discharge its responsibility by awarding an appropriate sentence to the convict. In-furtherance of the same, an

appropriate sentence based on a deterrent message is required to be delivered across society, which may lead in shaping and strengthening the moral fabric of the society at large.

16. In this endeavor, the task of this Court has been made easier by the Ld.PP by placing on record a very befitting judgment of the Hon'ble Supreme Court of India on the subject titled-**Bhanei Prasad Raju Vs State of Himachal Pradesh, Date of Decision-04.08.2025.**
17. For the sake of reference, I would like to quote para-13 of the judgment, which has legally influenced this Court in formulating a just and appropriate sentence to be awarded to the convict. For reference, para-13 is reproduced here under:

13. when a father who is expected to be a shield, a guardian, a moral compass, becomes the source of the most severe violation of a child's bodily integrity and dignity, the betrayal is not only personal but institutional. The law does not, and cannot, condone such acts under the guise of rehabilitation or reform. Incestuous sexual violence committed by a parent is a distinct category of offence that tears through the foundational fabric of familial trust and must invite the severest condemnation in both language and sentence. The home, which should be a sanctuary, cannot be permitted to become a site of unspeakable trauma and the courts must send a clear signal that such offences will be met with an equally unsparing judicial response. To entertain a plea for leniency in a case of this nature would not merely be misplaced, it would constitute a betrayal of the Court's own constitutional duty to protect the vulnerable. When a child is forced to suffer

at the hands of her own father, the law must speak in a voice that is resolute and uncompromising. There can be no mitigation in sentencing for crimes that subvert the very notion of family as a space of security.

18. The facts before this Court are almost identical to the facts of the judgment (supra), viz-a-viz, a father proved to be the offender in the commission of the offence of rape of his minor daughter. Accordingly, this court awards the following sentence, to the convict:

Under Section 376(3) IPC: Life imprisonment, which means imprisonment for the remainder of the natural life of the convict, along with a fine of Rupees One lakh. In default of payment of the fine, the convict shall further undergo rigorous imprisonment for a period of one year.

Under Section 6 POCSO Act: Life imprisonment, which means imprisonment for the remainder of the natural life of the convict, along with a fine of Rupees One lakh. In default of payment of the fine, the convict shall further undergo rigorous imprisonment for a period of one year.

Under Section 506 of IPC: Seven (07) years of rigorous imprisonment with a fine of Rs. 10,000/-. In default of payment of fine, the convict shall undergo simple imprisonment for one month.

19. **All the sentences of imprisonment shall run concurrently. The period already undergone by the convict in custody during the course of investigation, inquiry, and trial shall be set off against the substantive sentences of imprisonment awarded herein. However, the fine amount if paid shall be given to the victim of the offence.**
20. Further, in view of the traumatic nature of the offence and the permanent psychological, emotional and social impact upon the minor victim and in keeping with the spirit of the direction laid down in paras 15 to 17 of the judgment (supra), this Court is of the considered view that the case warrants invocation of the **“Victim Compensation Scheme”** under Section 357A of the Code of Criminal Procedure, 1973, as amended.
21. It has been rightly held that in cases involving grave sexual offences, especially incestuous sexual violence, the responsibility of the State does not end with the conviction and sentencing of the offender by the court. The State is constitutionally and statutorily obligated to provide for **rehabilitation, restoration and support to the victim**, particularly when the child has been subjected to abuse within the supposed safety of the home by her own father.
22. Accordingly, this Court hereby **recommends and directs** that the matter be referred to the **District Legal Services Authority (DLSA)** Anantnag, for determination of compensation payable to the victim under the **Victim Compensation Scheme** notified by the State Government under Section 357A Code of Criminal Procedure. The DLSA is directed to consider the following factors while awarding compensation:

- i) *The age of the victim (minor at the time of offence);*
- ii) *The nature and gravity of the offence (incestuous rape and aggravated sexual assault);*
- iii) *The degree of mental trauma, emotional distress and social stigma suffered;*
- iv) *The need for psychological counseling, education, shelter and future rehabilitation of the victim.*

23. The DLSA shall process and decide the compensation within 30 days from the receipt of a certified copy of this judgment and shall ensure that an amount not less than Rs.10,00,000/- (Rupees Ten Lakhs only) is awarded to the victim for her welfare, rehabilitation and educational pursuits. The awarded compensation shall be deposited in a fixed deposit account in the name of the victim, to be operated under the supervision of the CWC (Child Welfare Committee), with periodic withdrawal permitted strictly for her educational, medical, or psychological needs.

24. A copy of this judgment be sent to the Secretary, District Legal Services Authority, Anantnag for immediate compliance.

25. A copy of the judgment and sentence is given to the counsel for the convict in the open court free of cost.

**Announced:
24.10.2025**

**(Tahir Khurshid Raina)
Principal Sessions Judge,
Anantnag**