



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of reserving Judgment: 02nd September, 2026

Date of decision: 07th September, 2026

IN THE MATTER OF:

CNR No. DLHC010820692011

+ **CRL.A. 676/2011**

VAKUL KAPOOR

.....Appellant

Through: **Ms. Saahila Lamba, Adv.**

versus

STATE

.....Respondent

Through: **Mr. Raj Kumar, APP for the State
with SI Kanhaiya Lal, PS Geeta
Colony.**

**Ms. Astha, Adv. (DHCLSC) with Ms.
Megha Singh, Adv. for prosecutrix.**

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. Through the instant appeal, the judgment of conviction dated 07.05.2011 under Section 363 read with Section 366 & 376 of Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Order on Sentence dated 11.05.2011 under Section 363, 366 & 376 IPC have been assailed, but subsequently, learned counsel for the Appellant confined the challenge to the aspect of sentence only.
2. Learned counsel for the Appellant with the help of certain recent judgments, and the observations made by the various fora has advocated for



a lesser sentence. It is pointed out that even the learned Trial Court had awarded less than the minimum sentence prescribed, finding special and adequate reasons.

3. However, the indispensable facts are required to be noted before proceeding further in order to appreciate the arguments of the Appellant on the aspect of sentence. The prosecutrix, who was about 14 years of age in the year 2009, went missing from her home on 15.06.2009 at about 11:00 AM. The parents came to know about her being not there, but no FIR was registered even after two days of her missing. The FIR was then registered on 17.06.2009 under Section 363 IPC, and after registration of FIR, the prosecutrix returned back to her home. In the intervening period from 15.06.2009 to 17.09.2009, she, alongwith the Appellant had initially travelled to Connaught Place and from there to Manali in Himachal Pradesh and after staying there till afternoon of 17.06.2009, both the Appellant and the prosecutrix came back to Delhi. There are divergent facts with regard to the sojourn of the Appellant and the prosecutrix, as according to the Appellant, the prosecutrix had voluntarily accompanied him and whatever transpired between two of them, was all voluntary.

4. The prosecutrix whereas, whose initial stand on 17.06.2009 before the Medical Authorities was in consonance with the version of the Appellant, but then onwards, the prosecutrix took a different line i.e. against the Appellant. It is pertinent to note that the medical examination of the prosecutrix took place on 17.06.2009 itself, whereas the other vital aspect of the case i.e. statement of the prosecutrix under Section 164 Cr.P.C. was recorded on 26.06.2009. There is no explanation for this delay, inasmuch as the statement should have been recorded at the earliest. It is further interesting to note that in the intervening period, the police officials recorded



the statement of the prosecutrix Ex. PW-2/DA in the presence of her mother, if not all the family members, which too is not against the Appellant. This statement is signed by the prosecutrix as well as mother of the prosecutrix, who has categorically stated in her deposition that statement of the prosecutrix was recorded in her presence. This statement was also recorded on 17.06.2009.

5. So, the case of the prosecutrix till 17.06.2009 can be summed up in two lines that she was having an amorous relationship with the Appellant for last about one year, which involved physicality too and that she had herself accompanied the Appellant. It is pertinent to note that parents of the prosecutrix and police were there when her medical examination was conducted, where she gave her version, which was recorded in the MLC Ex. PW-4/A.

6. Admittedly, the prosecutrix takes a contrary stand against the Appellant from then onwards and that manifests itself in the statement under Section 164 Cr.P.C. Ex. PW-2/A recorded on 26.06.2009. The prosecutrix has, thereafter, maintained the same. Above all, in the substantive statement made before the Court, she has deposed against the Appellant, although, she did not have any convincing answers to certain aspects such as what was the occasion with her to have the name of the Appellant tattooed on her chest. She has also admitted that her name was tattooed by the Appellant on his hand. There is no reason or explanation or answer as to why, she accompanied the Appellant and did not raise any alarm or protest at any point of time.

7. The prosecutrix has taken a stand that she was under constant threat of being harmed or that her family would be harmed. This, however, does not seem to be the situation inasmuch as she was in her home when she



allegedly received a telephonic call from the Appellant, who called her to meet. She could have easily reported this then and there to her parents and had the option not to go as per the dictates of the Appellant. She has also stated that the Appellant used to roam around her school and used to tease her, but then she did not report it to anyone leave alone her parents or school authorities. These unanswered and open ended situations are indicative of the fact that the Appellant alone is not to be blamed. The only factor which weighed against the Appellant was the age of the prosecutrix, who, indeed, was a minor at the relevant time and, therefore, the case has taken a turn in which the Appellant has been held responsible. However, learned Trial Court has also noted all these facts and found special and adequate reasons to punish the Appellant for a sentence, which is lesser than the minimum sentence prescribed under the un-amended Section 376 IPC.

8. Against the backdrop of the aforesaid facts and circumstances, learned counsel for the Appellant has sought that the Appellant should be considered for the lightest possible sentence and possibly his period of incarceration hitherto may be taken as sufficient punishment. In order to strengthen her contentions, learned counsel for the Appellant has enumerated the following mitigating circumstances:

“There was deep intimacy between the appellant and prosecutrix.

Both appellant and prosecutrix are settled in life as they are both married to different persons.

Appellant and prosecutrix has got each other names tattooed on their bodies. (See cross-examination of prosecutrix at page no 47 of LCR dated 19.11.2009)



Young age of both appellant and prosecutrix. Prosecutrix was aged 14 years and appellant was 18 years on the date of incident.

Prosecutrix has stated that she does not want to contest the case which is indicative that she has no grievance against the appellant. (See order dated 03.12.2025)

Appellant has already undergone nearly 2 years 4 months of imprisonment. (1 year, 11 months under custody and 5 months-remission)

A daughter born to the appellant and his wife on 21.07.2024 met with untimely death on 06.08.2024.

The appellant and his wife have recently been blessed with a baby girl in the month of May, 2026 after undergoing IVF Treatment.

The appellant has been facing the ordeal of criminal proceedings for the last 17 years.

That the appellant lost his father at the tender age of 4 years.

That the mother of the appellant single handedly raised the appellant with great hardship.”

9. In addition to the aforesaid facts and circumstances, learned counsel for the Appellant has also placed reliance on various judgments from various High Courts and the Hon'ble Supreme Court. She has also pointed out the recommendation made by the Hon'ble Supreme Court in one of the case, where the government has been impressed upon to introduce a kind of *Romeo – Juliet* clause as has been recognized and used in various other countries, where romantic involvement of young children is there and the age difference between the male and female is minimal, indicating that they had sort of a relationship and without analyzing the consequences and understanding the implications arising out of being minor, certain things



took place. The parties, whereas, were genuinely involved in an adolescent relationship oblivious of the consequences, without any malafide. These observations made in the judgment titled as ***State of Uttar Pradesh v. Anurudh & Anr.***, 2026 SCC OnLine SC 40, were directed to be circulated to the various authorities more particularly to the Secretary, Law, Government of India, to consider initiation of steps as may be possible to curb this menace *inter alia* to introduce a *Romeo – Juliet* clause exempting genuine adolescent relationship from the stranglehold of this law; enacting a mechanism enabling the prosecution of those persons who, by the use of these laws seeks to settle scores etc., while referring to the misuse of Protection of Children from Sexual Offences Act, 2012.

10. Apart from the aforesaid judgment, following judgments have also been relied upon by learned counsel for the Appellant, in order to hammer the point that the Appellant deserves to be considered for a lighter punishment, and emphasized that the period of incarceration undergone by him should be taken into account as a punishment in the instant case:

a) ***Illiyas v. State of Kerala***, 2024 SCC OnLine Ker 5607;
and

b) ***Ravi Kumar v. State***, 2026 SCC OnLine Del 3227.

The deliberations with regard to the introduction of the *Romeo – Juliet* clause is reportedly underway, as is the determination of age of consent.

11. Hon'ble Delhi, Madras and Bombay High Courts have recognized the adolescent love and urged the parliament to make suitable changes, whereas other High Courts have also taken into account these aspects while dealing with cases involving minors.



12. So far as the instant case is concerned, the incident pertains to the year 2009, there was intimacy between Appellant and the prosecutrix, which could not be recognized due to the prosecutrix being minor and now both the Appellant and the prosecutrix are settled in their respective married lives. The Appellant was 18 years of age and the prosecutrix was 14 years of age at the relevant time. The prosecutrix has expressed her desire not to contest the case, as has been noted in the order dated 03.12.2025. It seems, some sort of soul searching was there, where the truth sits naked. In her heart of hearts, deep down somewhere, she must also be looking for answers and explanation for the tattoos and travel to Manali, etc.

13. As has been observed in **Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat**, (2021) 3 SCC 12, there is no element of force or coercion used in the alleged act of taking away the prosecutrix, no weapon or other malafide was found and that even the Appellant too was of a younger age at the time of incident. All these facts have to be kept in mind. More than 17 years have gone in between and as submitted by learned counsel for the Appellant, both the sides are settled in their matrimonial lives. The antecedents of the Appellant are clean as nothing of any sort, has been brought on record. There was no misuse of power, wealth, status or age by the Appellant. Therefore, at this stage, how far it would be appropriate to send the Appellant to custody to serve the remaining sentence, uprooting and disturbing his matrimonial and family life. Against the backdrop of these facts and circumstances, where the prosecutrix herself cannot escape the blame or has a fair contributory share in the offence, then it becomes all the more important to give indulgence.

14. Learned APP has not controverted the facts as has been noted hereinabove, but came up with the plea that the Appellant has already been



considered for a lighter sentence by the learned Trial Court as he has been awarded less than the minimum sentence. Therefore, it is evident that learned Trial Court was alive to the situation and the circumstances of the case, therefore, the Appellant does not deserves any more indulgence on this count.

15. Learned counsel for the prosecutrix has nothing substantial to submit. She has, however, not disputed the fact that the prosecutrix does not want to continue with the appeal. Thus, by implication, even the prosecutrix has not opposed to the proposition floated by the learned counsel for the Appellant.

16. Considering the matter in its entirety, in the light of the facts narrated above, the futility of sending him to the jail is writ large. Both the sides are living their married life with their respective spouses. The Appellant, and the prosecutrix must also have become parents. Therefore, sending the Appellant, who has otherwise, clean antecedents, would be nothing short of a travesty of justice. The fallout of the punishment would not be confined to the Appellant alone. The Appellant is heading towards the evening of his life. The long drawn criminal trial and proceedings thereafter, must have not only wisened him but tired him out too. As such, considering the otherwise clean antecedents; it seems that the period of custody already undergone by the Appellant would be sufficient to meet the ends of justice. As such, the contentions of learned counsel for the Appellant are accepted and the period of incarceration spent by the Appellant hitherto is taken as sufficient punishment for him, to be released on the basis of the period of custody already undergone by him. The aspect of fine with the sentence shall remain unaltered.

17. Appeal, together with application(s), if any, stands disposed off accordingly.



18. Copy of the judgment be transmitted to the learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

VIMAL KUMAR YADAV, J

SEPTEMBER 07, 2026/akc/NY

Shoneek Kapoor.com