

**GYANENDRA SINGH @ RAJA  
SINGH**

**versus**

**STATE OF U.P**

**2025 Supreme Court**

**Provisions involved -:**

**Section 42, 42A,3,4 of POCSO Act  
& section 376 IPC**

The accused was convicted for the offences punishable under Sections 376(2)(f) and 376(2)(i) of the Indian Penal Code, 18604 and Sections 3/4 of Protection of Children from Sexual Offences Act, 20125. The appellant was awarded punishment of imprisonment for life along with a fine of Rs. 25,000/-. In default of payment of aforesaid fine, it was ordered that the appellant was to undergo two months of additional imprisonment on each count.

learned senior counsel appearing for the appellant advanced a solitary submission urging that the trial Court ought not to have convicted the appellant for the offences punishable under Sections 376(2)(f) and 376(2)(i) IPC because the acts alleged are defined as offences in both category of laws, i.e., the general laws, i.e., the IPC, as well as in the special law, i.e., the POCSO Act. Since the offences are overlapping, the special law would prevail over the general law and hence, conviction of the appellant could not have been recorded by the trial Court for both the offences. He placed reliance on Section 42A of the POCSO Act and urged that the said provision makes it clear that the provisions of the POCSO Act are not in derogation of any other law and that the provisions of the

**POCSO Act have an overriding effect on the provisions of any other law to the extent of inconsistency.**

learned senior counsel, further urged that the trial Court awarded sentence of life imprisonment to the appellant for the offences punishable under Sections 376(2)(f) and 376(2)(i) of IPC, but the High Court in the appeal against conviction, has modified the judgment of the trial Court and has increased the rigor of the punishment by directing that the appellant would have to undergo life imprisonment for the remainder of his natural life as provided under Sections 376(2)(f) and 376(2)(i) of IPC and that there would be no requirement of a separate sentence for the offence punishable under

**Sections 3/4 of the POCSO Act. The learned counsel submitted that without there being any appeal for enhancement of sentence, the High Court, in an appeal against conviction filed by the appellant, ought not to have enhanced the rigor of the punishment awarded to the appellant and, to this extent, the judgment of the High Court is illegal and deserves to be set aside.**

**42. Alternate punishment.**— Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, [376A, 376AB, 376B, 376C, 376D, 376DA, 376DB], [376E, section 509 of the Indian Penal Code or section 67B of the Information Technology Act, 2000 (21 of 2000)], then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

**42A. Act not in derogation of any other law.—** The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.