

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

% *Judgment delivered on: 7th October, 2013*

+ **CRL.A. 828/2009**

MOHIT BANSAL Appellant
Represented by: Mr. Ramesh Gupta, Senior
Advocate with Mr. Bharat
Sharma, Advocate.

Versus

STATE N.C.T. OF DELHI Respondent
Represented by: Mr. Sahil Mongia, Advocate for
Mr. Pawan Sharma, Standing
Counsel with Inspector Anil
Kumar, PS South Rohini.

AND

+ **CRL.A. 876/2009**

VIKAS RANA Appellant
Represented by: Mr. D.K. Sharma and
Mr. Deepak Panwar, Advocates.

Versus

STATE N.C.T. OF DELHI Respondent
Represented by: Mr. Sahil Mongia, Advocate for
Mr. Pawan Sharma, Standing
Counsel with Inspector Anil
Kumar, PS South Rohini.

AND

+

CRL.A. 785/2009

CHANDER PRAKASH @ RAJU

..... Appellant

Represented by: Mr.R.N. Sharma, Advocate.

Versus

STATE N.C.T. OF DELHI

..... Respondent

Represented by: Mr. Sahil Mongia, Advocate for
Mr. Pawan Sharma, Standing
Counsel with Inspector Anil
Kumar, PS South Rohini.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J.

1. By way of present appeals, all the appellants are impugning the judgment dated 23.09.2009 and order on sentence dated 29.09.2009 passed by the learned Trial Court. Therefore, this Court has decided to dispose of all the appeals by this common judgement.

2. Vide judgment dated 23.09.2009, passed by the learned Trial Court, all the appellants were convicted for the offence punishable under Sections 376(2)(g) read with Explanation 1 and Section 506-II of the Indian Penal Code, 1860 (hereinafter to be referred as 'IPC').

3. Vide order dated 29.09.2009, they all were sentenced to undergo RI for seven years with fine of Rs.25,000/- each and in default of payment of fine further directed to undergo SI for one year and nine

months. Benefit of Section 428 of the Code of Criminal Procedure, 1973 has also been given to all the appellants by the learned Trial Court.

4. Brief facts of the case are that Police Station Rohini had received an information vide D.D. No. 24 dated 07.09.2001 at 2.50 PM from the Police Control Room about the quarrel at B-6/222, Sector 5, Rohini. On reaching at the spot, police recorded the statement of the prosecutrix wherein she alleged that she was studying in SPM College, Punjabi Bagh in BA First year. She was going to the bus stand on foot to take bus for college at about 8.40 AM. When she reached at Rajiv Gandhi Cancer Institute, she saw her neighbour Mohit Bansal standing with his red colour motorcycle. On seeing her, he threatened and stopped her and asked her to sit on his motorcycle. There was no one present to help her. So he took her forcibly in flat No.B-5/136, Sector 11, Rohini. One boy was also present in the flat, who was in business of cable work in Sector 5, Rohini. He was known to her by the name 'Raju'. Simultaneously, another boy, who had been called by Raju and Mohit Bansal by the name 'Rana' also came there.

5. Thereafter, appellant Mohit Bansal bolted the room from inside and pushed her on a bed and removed her clothes and also removed his clothes. She started weeping. Appellant Mohit Bansal gagged her mouth and told that if she will cry then he will kill her. Thereafter, Mohit Bansal committed rape on her against her consent. After that, he unbolted the room while she was wearing her clothes. Mohit Bansal snatched her clothes and called Raju and Rana inside the room. He

started wearing his clothes. She covered herself with bed sheet. Both Raju and Rana tried to hug her; she started weeping loudly but Raju did not restrain. He started pressing her breast with his hands. Rana was seeing the same. On her cries, they left her. She wore her clothes and came down from the flat. Before her leaving the flat, Mohit Bansal again threatened her that if she will tell this fact to anyone, then it would be bad for her. From outside, she took a rickshaw and came back to her house. Her mother was not present in the house, so she changed her clothes and slept. At about 2.30 PM, her mother woke her up and then she told her mother about the incident. Her mother went to the house of Mohit Bansal to complain about the same. But mother of Mohit Bansal started abusing and quarrelling with her mother. Accordingly, her elder sister Anuradha informed the police on telephone.

6. On her statement, the Investigating Officer prepared the ruqqa and got the case registered vide FIR No. 646/2001 at Police Station Rohini for the offences punishable under Sections 365/376/342/354/34 IPC.

7. During investigation, medical examination of the prosecutrix was done. Clothes of the prosecutrix including her undergarments, which she was wearing at the time of rape, and her vaginal swab were taken and seized. Appellant Mohit Bansal was also got medically examined on 29.09.2001. After completion of the investigation, the Investigating Officer filed the charge sheet against all the appellants.

8. Vide order dated 04.06.2004, charge under Sections 354/34 IPC and Section 376 (2) (g) IPC was framed against the appellants Chander Prakash @ Raju and Vikas Rana and charge under Sections 366/376(2) (g)/506-II IPC was framed against the appellant Mohit Bansal to which they all pleaded not guilty and claimed trial.
9. To prove its case, the prosecution has examined 17 witnesses in all.
10. PW1 is the prosecutrix. She narrated the facts of the case.
11. PW2 is Smt.Saroj, mother of the prosecutrix.
12. PW3 is Smt. Nirmal Chhabra, who stated that about two years back, at about 10 or 11 AM when she was spreading her clothes for drying outside her house, the prosecutrix asked her the way to go to the Japanese Park.
13. PW Anuradha and Gulshan were dropped by the prosecution.
14. PW4, Ved Prakash did not support the prosecution case.
15. PW5, Dr. Sandhaya Jain has proved the MLC of Anuradha/sister of the prosecutrix as Ex.PW5/A and also proved the MLC of the prosecutrix as Ex.PW9/A.
16. PW6, Dr. G.P.Kaushal has proved the MLC of appellant Mohit Bansal as Ex.PW6/A.
17. PW7 Dr. Raj Mohan Trivedi has proved the MLC of appellant Chander Prakash @ Raju as Ex.PW7/A.

18. PW8, ASI Mohd. Swalay has proved the FIR as Ex.PW8/A.

19. PW10, Sh. Samuel, Record Clerk from the Transport Department has proved the RC of motorcycle bearing No.DL6SK-9171 in the name of Usha Bansal and details of record as Ex.PW10/A.

20. PW11, H.C. Suresh Kumar deposed that he joined the investigation of this case and visited the house of in-laws of appellant Chander Prakash @Raju, i.e., G-20/77, Sector 7 Rohini. The house was searched for recovery of bed sheet, but the same was not traceable there. He has proved the memo of *Khana Talashi* as Ex.PW11/A.

21. PW12, Constable Balraj Singh deposed that he joined the investigation with Inspector R.S. Dahiya and Harish Chand. He stated that appellant Chander Prakash surrendered before the court and with the permission of the court he was interrogated and was arrested. The said appellant made a disclosure statement mark PW12/AA. The said appellant also pointed out the flat. He identified the appellant Chander Prakash @ Raju in the court.

22. PW13, HC Siksha, posted in PCR has proved the information received by her as Ex.PW13/BB.

23. PW14 is HC Jogender Singh, who deposed that on receipt of DD No. 24, he along with ASI Dharampal reached at the place of quarrel and there came to know that the persons involved in the quarrel had already been removed by the PCR to Police Post Vijay Nagar. SI Dharampal prepared the *Tehrir* of the case and got the case registered through him. He handed over copy of FIR and original Rukka to SI

Dharampal at BSA Hospital. He received two parcels and one sample seal from the doctor, which he handed over to SI Dharampal, who seized the same vide memo Ex.PW14/A. Thereafter, at the instance of the prosecutrix, site plan was prepared by the Investigating Officer.

24. PW15, SI Dharampal has proved the DD No.24 as Ex.PW15/A and deposed that he reached at the place of quarrel and came to know that PCR had removed the persons involved in the quarrel. He came back to the Police Post, where he met the prosecutrix and recorded her statement Ex.PW1/A. He has prepared the Rukka Ex.PW15/P.

25. PW16, Inspector R.S. Dahiya is the Investigating Officer of this case. He deposed that he was entrusted with the investigation of this case on 11.09.2001. He recorded the supplementary statement of the prosecutrix and her father. He also went to the place of occurrence at flat No.B-5/136, Sector 11, Rohini, Delhi and on pointing out by the prosecutrix, he prepared the rough site plan Ex.PW16/A.

26. He further deposed that he recorded the disclosure statement of appellant Chander Prakash@ Raju. On 16.10.2001, blood sample of appellant Chander Prakash with other exhibits were sent to FSL for comparison through Constable Balraj and thereafter he formally arrested appellant Mohit Bansal in the court. He tendered the FSL results vide Ex.PW16/C and Ex.PW16/D.

27. PW17, HC Rajender was working as MHC(M). On 08.09.2001, SI Anant Kiran deposited the sealed parcels with him along with sample and also took the same from him for depositing with CFSL,

Malviya Nagar, New Delhi for result, and after examination the same were again deposited with him. He has proved the entries as exhibits PW17/A, 17/B and 17/C.

28. After recording the statement of the appellants under Section 313 Cr.P.C., DW-1, Sh. Gulshan Kumar Sachdeva was examined on behalf of appellant Mohit Bansal. He produced the record pertaining to Students' Union Election 2001-02 and has proved the copy of the same as Ex.DW1/A. The elections of the Union were held as per the given schedule on 07.09.2001.

29. Case of the appellants before the Trial Court was that appellant Vikas Rana was not known to the prosecutrix. He was not arrested at the instance of the prosecutrix. There was a delay in arrest of appellant Mohit Bansal. According to the case of the prosecution, the flat has one room only and according to the deposition of the prosecutrix, the other co-appellants, i.e., Chander Prakash @ Raju and Vikas Rana were in the second room, which falsifies the deposition of the prosecutrix. The prosecutrix did not raise any alarm when she was taken by appellant Mohit Bansal on his motorcycle. Appellant Vikas Rana was arrested later on. Prosecutrix made a lot of improvements in her supplementary statement. As per the statement of the prosecutrix, she was not taking any book with her although she was going to college. It proves that she had already a meeting fixed with appellant Mohit Bansal. The flat in question was at a distance of six to seven kilometres from the bus stop but she did not raise any alarm. If she was being taken on a motorcycle forcibly, then certainly she was a

pillion rider and in that circumstance, appellant Mohit Bansal was not in a position to threaten her on the point of revolver. Hence, the prosecutrix did not protest in any manner in respect of any act of appellant Mohit Bansal.

30. It is further case of the appellants that as per the prosecution case before the Trial Court, appellant Chander Prakash @ Raju and Vikas Rana were hiding in the bathroom. Appellant Chander Prakash @ Raju also committed rape on the prosecutrix. These facts were not told to the doctor in the hospital by the prosecutrix. Thus, there was a motive to falsely implicate the appellants in this case as is evident from deposition of PW2. Moreover, PW3 Smt. Nirmal Chhabra has stated that prosecutrix was normal when she asked the way to Japanese Park.

31. Mr. Ramesh Gupta, learned senior counsel appearing on behalf of the appellant Mohit Bansal, has submitted that there was a bus stand near the house of the prosecutrix, so there was no reason for her going to any other bus stand, which was far away from her house to pick up a bus to go to her college; PW1/prosecutrix did not disclose complete facts to the police; she has denied making of supplementary statement Ex.PW1/DA; father of the prosecutrix has not been examined; evidence of PW3 Nirmal Chhabra is contrary to the factum of voting of elections on that date and it is not opined on the MLC Ex.PW9/A of the prosecutrix that she was habitual for sexual intercourse or not.

32. Ld. Sr. Advocate further submitted that PW1 has deposed before the court that when she reached at the bus stand from her house at about 8.40 AM, appellant Mohit Bansal stopped her and threatened her

that he would kill her father and brother if she did not sit on his motorcycle. So she sat on his motorcycle out of fear. Appellant took her to a flat at Sector 11, Rohini forcibly and asked her to go upstairs after stopping his motorcycle there. Accordingly, she got down from the motorcycle and appellant Mohit Bansal followed her so that she may go to the flat and not run away.

33. Learned senior counsel has pointed out that the prosecutrix has made some improvements as in her previous statement Ex.PW1/A, she nowhere stated that appellant Mohit Bansal threatened her that he would kill her father and brother.

34. He argued that the distance between the bus stop from where the prosecutrix was allegedly forcibly taken by the appellant Mohit Bansal on his motorcycle and flat is about six to seven kilometres. She was confronted with her statement Ex.PW1/A in her cross-examination. She admitted that they passed through a bus stand of Rajiv Gandhi Cancer Hospital and she did not raise any alarm at that time. She voluntarily stated that it was not raised due to fear. She admitted in the cross-examination that she knew appellant Mohit Bansal for the last seven-eight years and also admitted that the said appellant Mohit Bansal called her by name and she stopped there. She also admitted that she did not try to run away from the stop. Further, it is admitted that the appellant Mohit Bansal was not having any arm whereas in the supplementary statement she stated that appellant Mohit Bansal was having a revolver with him.

35. Learned senior counsel for the appellant has submitted that the prosecutrix voluntarily went with appellant Mohit Bansal on his motorcycle and there was no fear from the side of the appellant.

36. PW1/prosecutrix has further deposed that when she entered into the flat, appellant Raju was also present in the room and appellant Rana entered thereafter in the said flat. Both the appellants have been identified by her. Appellant Mohit Bansal was known to her. Appellant Raju was also known to her as he was a cable operator of the area. She further deposed that as soon as appellant Rana entered into the room, appellant Mohit Bansal bolted the room from inside. Appellant Rana went inside the other room which was occupied by another appellant Raju. Appellant Mohit Bansal bolted that room from inside and there was a bed in that room.

37. Learned senior counsel for the appellants has pointed out that from the site plan of flat Ex.PW16/A, it is clear that there was one room, one kitchen, one latrine and there was no second room in the flat as it was one room flat only. Whereas PW1/prosecutrix has deposed that there were two rooms in the flat. Thus, she deposed falsely.

38. He further submitted that the learned Trial Court on considering the evidence on record and from the deposition of the prosecutrix/PW1 has opined that she went with appellant Mohit Bansal of her own will because the prosecution has failed to prove from the statement of the prosecutrix that she was kidnapped or abducted by appellant Mohit Bansal. Accordingly, appellant Mohit Bansal has been acquitted by the Trial Court for the offence punishable under Section 366 IPC.

39. Learned senior counsel submitted that if the charge of abduction of the prosecutrix has failed, then the subsequent story of rape being committed is also falsified.

40. Case of prosecution before the Trial Court, as per the FSL report, was that human semen was detected on exhibits 1a, 1c, 2a, 2b and 3. Ex.1a is underwear, Ex.1e is two pieces of cotton wool swab, Ex.2a is one lady kurta, Ex.2b is one salwar and Ex.3 is underwear. According to the biological report on all these exhibits, human blood of AB Group was found except Ex.2a, i.e., lady kurta. Prosecutrix in her statement Ex.PW1/A has proved that on 07.09.2001, appellant Mohit Bansal threatened her and forcibly took her on his motorcycle in a flat where appellant Raju was also present and appellant Rana also came there. Appellant Mohit Bansal bolted the room and removed her clothes forcibly and again threatened her to kill her and against her wishes committed rape upon her. Thereafter, appellant Chander Prakash @ Raju tried to hug her and pressed her breast with his hands. Appellant Vikas Rana was standing there and had seen the entire incident and on her cries, she was left, thereafter, she came down from the flat and went to her house. Her mother was not present in the house, therefore, she slept. At about 2.30 PM, she narrated the incident to her mother and police was informed accordingly.

41. While relying upon the report of the FSL, the learned Trial Court convicted the appellants. According to FSL report Ex.PW16/C, parcel No.1 was containing Ex.1a, one underwear, Ex.1b, four micro slides having thin whitish smear, Ex.1c, some filamentous like material

described as 'pubic hair', Ex.1d, dark brown liquid described as 'blood samples and Ex.1e, two pieces of cotton wool swab. Parcel No.2 was containing Ex.2a, one lady kurta and Ex.2b, one salwar. Parcel No.3 was containing Ex.3, one underwear. Parcel No.4 was containing Ex.4, i.e., some dark brown flaky material described as 'blood sample of Mohit Bansal'. Parcel No.5 was containing Ex.5, i.e., dark brown liquid described as 'blood sample of appellant Chander Prakash'.

42. Learned senior counsel has drawn the attention of this Court to the result of analysis, as per which human semen was detected on Ex.1a, i.e., one underwear of the prosecutrix.

43. According to the biological report, Ex.PW16/D, Ex. 1a, i.e., underwear of the prosecutrix was found having semen of AB group. Ex.1e, i.e., cotton wool swab was having blood of AB group, Ex.2b, i.e., salwar was found having blood of AB group. Ex.3, i.e., underwear of appellant Mohit Bansal was also found having blood of AB group,

44. Keeping in view the result of the FSL report stated above, the learned Trial Court while recording the statement of appellant Mohit Bansal under Section 313 Cr.P.C., put a specific question to him that:-

“Q.47. It is further in evidence against you that Inspector R.S. Dahiya collected the result of the FSL and he tendered the same in court vide Ex.PW16/C and PW16/D. What have you to say?”

Ans. It is a matter of record.”

45. Consequently, the learned Trial Court has recorded that as per FSL report, it is proved that appellant Mohit Bansal had committed sexual intercourse with the prosecutrix.

46. During pendency of the appeal, vide order dated 07.12.2009, on an application moved on behalf of appellant Mohit Bansal, the Superintendent Jail was directed to get his blood group determined in jail hospital and send his report to the Court. Accordingly, report Ex.CW2/A was submitted before this Court, stating therein that “blood grouping of prisoner/patient Mohit Bansal was done. The blood group of prisoner/patient is ‘B+ve’.

47. Thereafter, the sentence of appellant Mohit Bansal was suspended and he was released on bail vide order dated 05.2.2010 passed by this Court.

48. This Court issued summons vide order dated 05.03.2012 for appearance of Dr. Rajan Verma (Pathologist) of Dr. Verma’s Diagnostic Clinic, C2B/93A, Janakpuri, New Delhi-110058 with report dated 11.12.2009 and Medical Officer Incharge, who signed the MO 1/c DJR No. 1369 dated 14.12.2009 sent to the Superintendent, District Jail Rohini, Delhi on blood group determination report of prisoner/patient Mohit Bansal S/o Shri Dinesh Bansal.

49. Accordingly, Dr. Rajan Verma appeared in this Court and his statement was recorded as CW1 on 16.05.2012, which reads as under:-

“ *I am a consultant at Dr.Verma’s Diagnostic Clinic at C-2b, 93A, Janapuri, New Delhi-58.*

I had submitted the report dated 11.12.2009 to the Medical Officer, Incharge, Rohini District Jail, Delhi on the same date wherein I recorded the blood group of Mohit Bansal s/o Dinesh Bansal as 'B' +ve.

The said report is Ex.CW1/A bearing my signature at point A."

50. Statement of CW2 Dr. Vijay Mohan Aggarwal was recorded by this Court on 16.05.2012. The same reads as under:-

" Presently, I am working as Medical Officer, Incharge, Rohini District Jail, Delhi.

I identify the signature of Dr. Harpreet Kaur, earlier Medical Officer, Incharge, Rohini District Jail, Delhi on the report Ex.CW2/A. I identify her signature at point A, as I have worked with her for three months, 2with effect from March, 2010 to June, 2010.

As per the report, the blood group determination report of the prisoner/patient Mohit Bansal s/o Dinesh Bansal was found to be 'B'+ve. (Office record seen and returned to the witness)."

51. Both the aforesaid doctors were not cross-examined by the learned APP for the State.

52. Ld. Counsel further submitted that in view of the specific findings that the prosecutrix was not induced or abducted by appellant Mohit Bansal, rather it has been held that she went with the appellant of her own free will, therefore, it was essential for the Ld. Trial Court to look for strong corroboration that she was forcibly raped.

53. Moreover, Ld. Trial Court gravely fell into error by convicting the appellant on the ground that FSL report has proved that appellant

Mohit Bansal had committed sexual intercourse with the prosecutrix. This report itself falsifies and negates the theory that on that day, no such incident took place. The prosecutrix has admitted that she had gone to cast her vote in Students' Union Election in the year 2001 and election was probably on 07.09.2001. From the deposition of PW1 corroborated by PW3, it is clear that after the incident, the prosecutrix came back to her house. Thus, the Ld. Trial Court also totally disbelieved the statement of prosecutrix and convicted the appellant only on the basis of FSL report. Ld. Trial Court has opined that FSL Report proves that appellant Mohit Bansal committed sexual intercourse with the prosecutrix.

54. Ld. Sr. Counsel submitted that the Ld. Trial Court has erroneously read the FSL Report because the prosecution has even failed to establish the blood group of appellant Mohit Bansal. However, according to biological report, Ex.3, i.e., underwear of appellant Mohit Bansal was found having blood of AB Group.

55. On the basis of the result of the above exhibits, ld. Trial Court has opined as under:

“That FSL Report has proved that accused Mohit Bansal had committed sexual intercourse with the prosecutrix. This report itself falsify and negates the theory of the Ld. Defence Counsel that on that day no such incident took place as has been admitted by the prosecutrix that she had gone to cast her vote in the Student's Union Election in the year 2001 and election was probably on 07.09.2001. From the deposition of PW-1 corroborated by PW3, it is clear that after the incident the prosecutrix came back to her house.”

56. Ld. Counsel further submitted that the Id. Trial Court has again erroneously read the internal page No. 33 of the impugned judgment, wherein the Id. Trial Court has specifically mentioned that according to biological report Ex.PW16/D, Ex.1a, i.e., underwear of prosecutrix was found having blood of AB Group. Ex.1e, i.e., cotton woolen swab was found having blood of AB Group. Ex.2a, i.e., Salwar was found having blood of AB Group. Ex.3, i.e., underwear of appellant Mohit Bansal was found having blood of AB Group.

57. However, perusal of the FSL report clearly established that no such blood group was ever detected on any of these articles. FSL report clearly indicates that it was semen which was found on all these articles and that too of AB blood group and not the blood.

58. According to biological report, on all the exhibits human semen of AB blood group was found. Ex.3, i.e., underwear of appellant Mohit Bansal was also found having semen of AB blood group.

59. Ld. Counsel submitted that the entire findings of the Id. Trial Court is held to be wrong, in view of the specific finding now on record that the blood group of the appellant Mohit Bansal is 'B+ve'. Therefore, the conviction of the appellant is liable to be set aside on this sole count alone, as the conviction had been passed only on this very ground by stating that the FSL Report has proved that the appellant had intercourse with the prosecutrix.

60. In support of his contention, learned senior counsel for the appellant has relied upon the case of *Ashok Narang Vs. State of Delhi*,

2012(1)JCC482, decided on 12.01.2012, wherein it was held by this Court that the blood group found in the semen by FSL report of Group “A”, whereas the blood group of appellant was O+. Thus, the semen does not connect the appellant with the offence. In the present case, though group of semen was AB Group, whereas it is proved on record that blood group of appellant Mohit Bansal is ‘B+ve’.

61. In the case of **Rajesh @ Bobby Vs. State (NCT of Delhi)** reported in **MANU/DE/1434/2010**, it was held by this Court that incident becomes infirm on account of being contradicted by her own top toeing stand coupled with lack of medical evidence. One of the cardinal principle of the Criminal Jurisprudence is that accused is presumed to be innocent until he is proved guilty by the prosecution. Another golden thread which runs through the veins of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

62. To strengthen his case, Id. Senior Counsel for the appellant has relied upon a case of **Narender Kumar Vs. State (NCT of Delhi) AIR 2012 SC 2281**, wherein the Apex Court has held as under:

“ Medical evidence does not positively support the case of the prosecution as Dr. Nisha (PW.9) deposed that seeing her condition and torn clothes it could be said that the prosecutrix might had been raped.

The F.S.L. report dated 6.5.1999 reveal that the blood stains/semen on the prosecutrix kurta/ salwar belonged to

the AB blood group though the blood group of the Appellant is "O" (+) and thus, the FSL report does not support the case of the prosecution.

It is a settled legal proposition that once the statement of prosecutrix inspires confidence and is accepted by the court as such, conviction can be based only on the solitary evidence of the prosecutrix and no corroboration would be required unless there are compelling reasons which necessitate the court for corroboration of her statement. Corroboration of testimony of the prosecutrix as a condition for judicial reliance is not a requirement of law but a guidance of prudence under the given facts and circumstances. Minor contradictions or insignificant discrepancies should not be a ground for throwing out an otherwise reliable prosecution case. A prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. Her testimony has to be appreciated on the principle of probabilities just as the testimony of any other witness; a high degree of probability having been shown to exist in view of the subject matter being a criminal charge. However, if the court finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or substantial, which may lend assurance to her testimony. (Vide: Vimal Suresh Kamble v. Chaluverapinake Apal S.P. and Anr. AIR 2003 SC 818; and Vishnu v. State of Maharashtra AIR 2006 SC 508).

Where evidence of the prosecutrix is found suffering from serious infirmities and inconsistencies with other material, prosecutrix making deliberate improvements on material point with a view to rule out consent on her part and there being no injury on her person even though her version may be otherwise, no reliance can be placed upon her evidence. (Vide: Suresh N. Bhusare and Ors. v. State of Maharashtra : (1999) 1 SCC 220) ”

63. Ld. Counsel further submitted that there was no evidence to corroborate the claim of the prosecutrix that she was subjected to forcible intercourse by the appellant. There is no last seen evidence to the fact of the alleged scene of the incident. The prosecutrix has specifically admitted that on the date of alleged offence, she had gone to cast her vote in her college at Punjabi Bagh in the morning, which was scheduled between 8.30 am to 11.30 am. The relevant excerpt from the cross-examination of PW1 is as follows:

“I casted my vote once in the election of Delhi University Students Union (DUSU) in 2001. I do not remember the month of election of DUSU in 2001. It is possible that the date of DUSU election in 2001 was on 07.09.2001, when I cast my vote.”

64. DW1, Gulshan Kumar Sachdeva has proved the election notification as DW1/A that Student's Union Election was held on 07.09.2001 and the timing of voting was 8.30 am to 11.30 am for day classes. It is pertinent to mention here that her college, i.e., SPM college is a day classes college.

65. The prosecutrix has deposed that there were two rooms in the flat, where the alleged incident took place. However, from the site plan of flat Ex.PW16/A, it is clear that the flat in which the alleged incident occurred, is a one room flat and there was no second room.

66. Thus, the testimony of the prosecutrix is uninspiring as she had made materially contradictory statements at various stages, which cannot be relied upon. Her conduct is also artificial. Since the Ld. Trial Court had discarded her evidence regarding abduction and

disbelieved her statement, therefore the conviction of appellant is bad in law as per the facts and circumstances of the case and is liable to be set aside.

67. The settled law is that the court can act on the sole testimony of the prosecutrix only if her statement inspires confidence and the same is free from all infirmities. Otherwise, the court will have to look for the corroboration of the statement of the prosecutrix.

68. In the present case, it is admitted case of the prosecutrix that while she was medically examined, there was no internal or external injuries found on her person as has been deposed by PW9 Dr. Sandhya Jain, who proved the MLC of the prosecutrix as Ex.PW9/A, wherein it is mentioned as under:

“That on examination, No bruises, No laceration, No abrasion on body surface were found, No local bleeding, No bruises and No laceration were found on the genitals of the prosecutrix. Further Hymen was found ruptured and public hairs not meted. No injury was found on the person of the prosecutrix.”

69. However, no opinion has been given by the Doctor as to whether prosecutrix was habitual to sexual intercourse or not, because in the MLC it has been mentioned that hymen ruptured and it is not mentioned that whether it was fresh rupture or an old one. Prosecutrix has not been medically examined to see whether she was habitual to sexual intercourse or not.

70. On the very next date of the incident, i.e., 08.09.2001, appellant Mohit Bansal was also examined by the Doctor and it was found that

there was no injury on his person. PW6, Dr. D.J. Kaushal, proved the MLC of appellant as Ex.PW6/A and has admitted in his cross-examination that no injury was observed on the genitalia of the patient and in case of forcible act, marks of struggle may be on the body of the offender.

71. PW3, Smt. Nirmal Chhabra deposed that she was sitting on the ground floor, where the prosecutrix met her after she was raped. In her cross-examination, she stated that the prosecutrix in a normal way and manner asked the way to Japanese Park. She guided her. Learned counsel submitted, the prosecutrix was not abnormal, nervous or perturbed at that time, which shows that she, was consenting party to the sexual intercourse.

72. It is settled legal proposition that even the uncorroborated testimony of the prosecutrix can be held to be sufficient to sustain the conviction of an accused of rape. But then such testimony should be unflinching, consistent and infallible and inspire the confidence of the court to believe her version. However, where such sole testimony of the prosecutrix is inconsistent, then the same by itself cannot be relied upon, unless it is corroborated by other circumstantial evidence including the medical evidence.

73. In case of ***Rajendra @ Raju Vs. State of Maharashtra*** reported in ***MANU-SC-0854-2002***, the Apex Court has held that it is difficult to understand the prosecution's story that if she was not inclined to go with the appellant, it was very easy for her to get down from the scooter from behind. It is clear that in course, the scooter passed many

a crossings, but she did not raise any cry and no attempt to flee away was made.

74. In the present case, the allegation on the appellant Mohit Bansal was that he forcibly took the prosecutrix on his motorcycle to a flat, which covers a distance of 6-7 Kms. and there was no resistance, no cry, no attempt to take help from anyone, when she was passing through full of traffic. Moreover, no attempt was made by the prosecutrix to invite the attention of the members of the public all along with road though she had crossed the distance of about 6-7 Kms. through the thick crowd.

75. On the other hand, Mr. Pawan Sharma, Id. Standing Counsel appearing on behalf of the State submitted that PW1/Prosecutrix has deposed that on the day of incident, i.e., 07.09.2001, she was going to bus stand from her house on foot to catch a bus for her college. At about 8.40 am, when she reached near Rajiv Gandhi Cancer Institute, she saw appellant Mohit Bansal on a motorcycle. On seeing her, the said appellant stopped her and threatened her that he would kill her father and brother, if she did not sit on his motorcycle. So she sat on his motorcycle out of fear. The said appellant forcibly took her to a flat at Sector 11, Rohini, Delhi and asked her to go upstairs after stopping his motorcycle there. She got down from the motorcycle and appellant Mohit Bansal followed her so that she may go to the flat and not run away.

76. She further deposed that when she entered into the flat, appellant Raju was also present in the room and appellant Rana entered into the

said flat thereafter. All the appellants have been identified by the prosecutrix. Appellant Mohit Bansal was already known to her. Appellant Raju was also known to her as he was the cable operator of the area.

77. PW1/ prosecutrix further deposed that as soon as appellant Rana entered into the room, appellant Mohit Bansal bolted the room from inside. Rana went inside the room, which was occupied by appellant Raju. There was a bed in that room and appellant Mohit Bansal forcibly pushed her on the bed and thereafter he removed his clothes. She started weeping. He removed her clothes and she wept bitterly. The appellant Mohit Bansal gagged her mouth with his friends and threatened her that if she raised alarm, he will kill her, then she stopped weeping. Thereafter, he committed rape on her without her consent.

78. Ld. Standing Counsel further submitted that PW1/ prosecutrix further deposed that after rape, she started wearing her clothes, but appellant Mohit Bansal snatched her clothes and opened the door of the room. Thereafter, from the other room both the appellants, i.e., Chander Prakash @ Raju and Vikas Rana entered in that room. She became perturbed and nervous, accordingly, she wrapped herself with a bed sheet which was lying on the bed. The appellant Raju sat beside her; she started weeping. At that time, appellant Raju threatened her not to cry, otherwise, they will kill her and nobody would come to know. Appellant Raju pressed her breasts with hands and kissed them and called appellant Vikas Rana. Appellant Vikas Rana became nervous and thereafter she put her clothes and came out of the flat to

come down. At that time Mohit Bansal again threatened her not to disclose the incident to anyone; otherwise, he will kill her. She further deposed that she got down from the flat and found a lady sitting there. She asked her the way to go to Japanese park and then she took a rickshaw and came back to her house.

79. Ld. Standing Counsel submitted that above facts have been corroborated by the PW3 Smt. Nirmal Chhabra. Keeping in view the sole statement of the prosecutrix, the appellants have been rightly convicted by the Trial Court.

80. On the issue of the blood report of the appellant, which was received by this Court during the pendency of the instant appeal, each and every fact has been established by the prosecution. However, this fact somewhere has gone unnoticed. If this was the fact, what prevented the appellant Mohit Bansal not to raise this issue during the trial? In that eventuality, the Ld. Trial Court would have sent the sample again to FSL and ascertained the correct report upon them.

81. The incident took place in 2001 and the appellant raised the issue of blood group on 07.12.2009 when this Court directed the Superintendent Jail to get his blood group determined in the Jail Hospital and send the report to the Court.

82. Ld. Counsel submitted that the blood group determined in the FSL report on semen is 'AB+'. May be there is an error on that. Now the blood group of the appellant has been determined as 'B+ve'. When all the witnesses have deposed and supported the prosecution case,

then this only lacuna may be ignored and the conviction by the Ld. Trial Court be affirmed.

83. Ld. Standing Counsel further submitted that it is believed by the learned Trial Court that the prosecutrix went with appellant Mohit Bansal on her own will, but that does not mean that she gave consent to sexually exploit her in the presence of other friends and allow friends to participate in the offence and outrage her modesty.

84. Besides, benefit of some contradictions in the statement of the prosecutrix should not be given in favour of the appellants especially when she has proved the incident. She was cross-examined at length, however, the appellants failed to get material which could demolish the prosecution case. Appellant Mohit Bansal has brought additional evidence on record belatedly. The benefit of the same cannot be given at this stage.

85. On additional evidence, Ld. Counsel for the respondent/State has relied upon a case of ***Chennakesha Bandage v. State of AP 2010 (2) Crimes HC 399*** wherein it is held as under:

“ The question under what circumstances retrial can be ordered came up for consideration before the Honourable Apex Court in a case between Ukha Kohle v. The State of Maharashtra AIR 1963 SC 1531. Section 391 of the Cr.P.C. empowers the Appellate Court to take additional evidence. However, it is also settled law that additional evidence cannot be taken to fill up the lacunas in prosecution case. Where the court comes to a conclusion that the additional evidence is necessary and if additional evidence is not taken there would be failure of

justice then the Appellate Court is empowered to take additional evidence. However, it is also settled law that the power has to be exercised sparingly and only in suitable cases. In this case, the Appellate Court has not adopted the procedure prescribed under Section 391 of Cr.P.C. but remanded the case for retrial. When only certain G.Os. have to be marked ordering of retrial appears to be not justified. Retrial cannot be ordered to fill up the gaps in prosecution cases.

Even, in case of taking additional evidence the Court must see whether the prosecution or the accused had no opportunity to produce such additional evidence before the trial Court. When the prosecution or the accused having in possession of the additional evidence failed to produce such additional evidence then they cannot be permitted to fill up the gaps in their case. Only in exceptional cases where the prosecution or the accused for compelling reasons could not produce the evidence before the Trial Court or where they had no knowledge about the existence of such additional evidence and when they had come to know about additional evidence after the closure of the prosecution evidence then only in such exceptional circumstances the Court may permit the prosecution or the accused to adduce additional evidence.”

86. Further relied upon a case of **Vijay @ Chinee Vs. State of MP, Crl. A. 660/2008** wherein the Apex Court has held as under:

“In State of Maharashtra Vs. Chandraprakash Kewalchand Jain AIR 1990 SC 658, this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Court observed as under:-

A prosecutrix of a sex-offence cannot be put on 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.

In State of U.P. Vs. Pappu @Yunus & Anr. AIR 2005 SC 1248, this Court held that even in a case where it is shown that the girl is a girl of easy virtue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This Court further held that there can be conviction on the sole testimony of the prosecutrix and in case, the court is not satisfied with the version of the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony.

In State of Punjab Vs. Gurmit Singh & Ors. AIR 1996 SC 1393, this Court held that in cases involving sexual harassment, molestation etc. the court is duty bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case.

Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice.”

87. I have heard the learned counsel for the parties at length and have perused the record.

88. Vide order dated 04.06.2004, charge under Sections 354/34 IPC and Section 376 (2) (g) IPC was framed against the appellants Chander Prakash @ Raju and Vikas Rana and charge under Sections 366/376(2) (g)/506-II IPC was framed against the appellant Mohit Bansal to which they all pleaded not guilty and claimed trial.

89. Vide judgment dated 23.09.2009 passed by the learned Trial Court, all the appellants were convicted for the offence punishable under Sections 376(2)(g) read with Explanation 1 and Section 506-II of the Indian Penal Code, 1860 (hereinafter to be referred as ‘IPC’). By order dated 29.09.2009, they all were sentenced to undergo RI for seven years with fine of Rs.25,000/- each and in default of payment of fine further directed to undergo SI for one year and nine months. Benefit of Section 428 of the Code of Criminal Procedure, 1973 has also been given to all the appellants by the learned Trial Court.

90. The allegations against the appellants are that on 07.09.2001, PW1 prosecutrix was going on foot to the bus stand from her house for going to college. At about 8.40 AM, when she reached near Rajiv

Gandhi Cancer Institute, appellant Mohit Bansal stopped her and threatened her that he would kill her father and brother if she did not sit on his motorcycle. Accordingly, she sat on his motorcycle out of fear. She was forcibly taken to a flat at Sector 11, Rohini. Appellant Raju was also present in the room and appellant Rana entered into the said flat thereafter. As soon as appellant Rana entered into the room, appellant Mohit Bansal bolted the room from inside. Appellant Rana went inside the other room, which was occupied by appellant Raju also. There was a bed in the room and appellant Mohit Bansal forcibly committed rape upon the prosecutrix against her will.

91. It is further alleged that after committing rape, when she was wearing her clothes, appellant Mohit Bansal snatched her clothes and opened the door of the room. Thereafter, from the other room, both the appellants, i.e., Chander Prakash @ Raju and Vikas Rana had entered in that room. She became perturbed and nervous and wrapped herself with a bed sheet. Appellant Raju pressed her breast with his hands and kissed them. Thereafter, she put her clothes and came down from the flat. At that time appellant Mohit Bansal again threatened her not to disclose the incident to anyone otherwise he would kill her.

92. PW1/prosecutrix further deposed that she got down from the flat and found a lady, namely, Smt. Nirmal Chhabra (PW3) sitting there. She asked her the way to go to the Japanese Park and then she took a rickshaw and came back to her house. Since her mother was not at home, she slept and thereafter when woke up by her mother she narrated the whole story.

93. The learned Trial Court apart from the evidence of PW1 prosecutrix and PW3 Smt. Nirmal Chhabra has also relied upon the FSL report, wherein semen of appellant Mohit Bansal was detected on the under garments of the prosecutrix. The learned Trial Court while acquitting the appellant Mohit Bansal of the offence punishable under Section 366 IPC has recorded that PW1 prosecutrix had gone with appellant Mohit Bansal of her own will because the prosecution has failed to prove from the statement of the prosecutrix that she was kidnapped or abducted by appellant Mohit Bansal.

94. However, he was convicted under Section 376 (2) (g) IPC on the ground that FSL report has proved that appellant Mohit Bansal has committed sexual intercourse with the prosecutrix. The Trial Court has read the FSL report that Ex.3, i.e., underwear of appellant Mohit Bansal was found having blood of AB group. Ex.1a, i.e., underwear of the prosecutrix was found having blood of AB group, Ex.1e, i.e., cotton wool swab was found having blood of AB group, Ex.2b, i.e., salwar was found having blood of AB group. Therefore, in view of the above discussion, it is held that the prosecutrix was neither induced nor abducted by appellant Mohit Bansal, rather she had gone with him of her own free will.

95. During the pendency of the appeal, vide order dated 07.12.2009, on an application moved on behalf of appellant Mohit Bansal, the Superintendent Jail was directed to get his blood group determined in jail hospital and send his report to the Court. Accordingly, report Ex.CW1/A was submitted before this Court, stating therein that the

blood group of prisoner/patient was 'B+ve'. The said report Ex.CW1/A has been proved by Dr. Rajan Verma (CW1), whose statement was recorded on oath by this Court on 16.05.2012. Further corroborated by CW2, Dr. Vijay Mohan Aggarwal, whose statement was also recorded on oath by this Court on 16.05.2012, who identified the signature of Dr. Harpreet Kaur, earlier Medical Officer, Incharge, Rohini District Jail, Delhi on the report Ex.CW2/A. He further deposed that as per the report, the blood group determination report of the prisoner/patient Mohit Bansal was found to be 'B'+ve'.

96. However, both the aforesaid doctors were not cross-examined by the learned APP for the State.

97. The question before this Court is whether the appellants are guilty of the offence punishable under Section 376 (2) (g) IPC.

98. The learned Trial Court has relied upon the FSL report, whereby it is stated that on Ex.1a, i.e., underwear of the prosecutrix semen of AB blood group was found and Ex.3, i.e., underwear of appellant Mohit Bansal was also found having blood of AB group.

99. While recording the conviction, the learned Trial Court has fell into a grave error that FSL report has proved that appellant/accused Mohit Bansal has committed sexual intercourse with the prosecutrix. According to biological report, on all the exhibits, human semen of AB blood group was found. The entire finding of the learned Trial Court is held to be wrong in view of the report Ex. CW1/A that the blood group of appellant Mohit Bansal is 'B+ve'. CW1 and CW2 who proved this

report have not been cross-examined by the prosecution, therefore, it is established that by none of the exhibits, appellant Mohit Bansal is connected with the sexual intercourse with the prosecutrix.

100. Moreover, PW9, Dr. Sandhaya Jain, who has proved the MLC of the prosecutrix as Ex.PW9/A, has opined that there was no bruises, no laceration, no abrasion on body surface were found. No local bleeding, no bruises and no laceration were found on the genitals of the prosecutrix. No injury was found on the person of the prosecutrix. Furthermore, there is no opinion as to whether the prosecutrix was habitual to sexual intercourse or not. It is also not established whether the hymen rupture was a fresh or an old one.

101. PW6, Dr. D.J. Kaushal has proved the MLC of appellant Mohit Bansal as Ex.PW6/A and has admitted in cross-examination that no injury was observed on the genitalia of the patient. He has specifically deposed that in case of forcible act, marks of struggle may be on the body of the offender.

102. It is settled law that additional evidence cannot be taken to fill up the lacunas in prosecution case. Where the courts come to a conclusion that the additional evidence is necessary and if additional evidence is not taken there would be failure of justice then the Appellate Court is empowered to take additional evidence. However, it is also settled law that the power has to be exercised sparingly and only in suitable cases. Even, in case of taking additional evidence the Court must see whether the prosecution or the accused had no opportunity to produce such additional evidence before the Trial Court.

When the prosecution or the accused having possession of the additional evidence failed to produce such additional evidence then they cannot be permitted to fill up the gaps in their case. Only in exceptional cases where the prosecution or the accused, for compelling reasons, could not produce the evidence before the Trial Court or where they had no knowledge about the existence of such additional evidence and when they had come to know about additional evidence, the Court may permit the prosecution or the accused to adduce additional evidence.

103. In the present case, PW1/prosecutrix has admitted that on the date of the incident, i.e., 07.09.2001 she had gone to her college to cast her vote in the Student's Union Election. DW1 Gulshan Kumar Sachdeva has proved the election notification as Ex.DW1/A and deposed that elections of the Union were held 07.09.2001 and the timing of voting was 8.30 am to 11.30 am for day classes. It is pertinent to mention here that her college, i.e., SPM College is a day classes college. If the prosecutrix had faced such a trauma, then it is not believable that after the said trauma, she would go for voting in Student's Union Election.

104. PW1/prosecutrix has deposed that as soon as appellant Rana entered into the room, appellant Mohit Bansal bolted that room from inside. Appellant Rana went inside the other room which was occupied by another appellant Raju. Whereas as per the site plan of flat Ex.PW16/A, it is clear that there was one room, one kitchen, one

bathroom-cum-latrine. There was no second room as it was only one room flat.

105. The prosecution has relied upon the FSL report, which has been completely negated by the appellants by establishing that blood group of appellant Mohit Bansal is not 'AB' but it is 'B+ve'. The Trial Court has misread the FSL report Ex.PW16/C. In the said report, blood group of appellant Mohit Bansal was not determined. However, learned Trial Court has erred in holding that Ex.3, i.e., underwear of Mohit Bansal was found having blood group of AB group and on Ex.1a, i.e., underwear of prosecutrix also semen of AB blood group was found. Thus, Mohit Bansal is wrongly connected with the sexual intercourse with the prosecutrix.

106. There is no delay to prove this fact for the reason that this finding has come on record while convicting the appellants, the learned Trial Court has erred in reading the FSL report. Therefore, the appellants had the opportunity only after the opinion of the Trial Court.

107. In view of the above discussion, if appellant Mohit Bansal is not connected with the rape committed, then the other appellants, i.e., Chander Prakash @ Raju and Vikas Rana are also entitled to have the same benefit as the main allegations are against appellant Mohit Bansal only and they were convicted for being present at the place of occurrence.

108. Therefore, from the above discussion, it is proved that no rape was committed by appellant Mohit Bansal upon the prosecutrix.

Therefore, all the appellants are discharged for the offence punishable under Section 376 (2) (g) IPC.

109. The defence of the appellants before the Trial Court and before this Court is that the prosecutrix went with appellant Mohit Bansal of her own will and if there was sexual intercourse, that was with her consent. The deposition of PW9, Dr. Sandhya Jain, has proved the MLC of the prosecutrix as Ex.PW9 /A, who deposed that there was no force used for having sexual intercourse with the prosecutrix. However, her presence with the appellants at the place of occurrence is proved by the corroborative evidence of PW3 Smt. Nirmal Chhabra, who deposed that she was sitting on the ground floor where the prosecutrix met her and asked the way to go to Japanese Park. It is also proved by the statement of the prosecutrix that when she was wearing her clothes, appellant Mohit Bansal snatched her clothes and opened the door of the room. Thereafter, both the appellants, i.e., Chander Prakash @ Raju and Vikas Rana entered in that room. She became perturbed and nervous and wrapped herself with a bed sheet. Both tried to hug her. However, appellant Raju pressed her breast with his hands and kissed them. Rana had seen the same. Thus, it is established that all three appellants had outraged her modesty.

110. Accordingly, all the appellants are convicted for the offence punishable under Section 354 IPC. Since, all the appellants have spent more than seven months in incarceration, therefore, they are sentenced for the period already undergone by them with fine of Rs.25,000/-

each. In default of payment of fine amount, appellants shall further undergo simple imprisonment for three months.

111. From the deposition of the PW1/prosecutrix, it is proved that she was threatened by appellant Mohit Bansal after the incident and thereafter appellant Chander Prakash @ Raju also threatened her when he pressed her breast and prosecutrix started weeping loudly. Later on while she was coming out from the flat, even at that time also appellant Mohit Bansal gave threats to her that not to disclose the incident to anyone otherwise he would kill her. Appellant Vikas Rana was present at that time.

112. I note, appellants Raju and Rana were not charged under Section 506-II IPC, despite that the learned Trial Court has convicted them for the offence punishable under Section 506-II IPC also. It is trite that a person cannot be convicted of an offence for which he was not charged. Therefore, appellants Raju and Rana are accordingly acquitted of the offence punishable under Section 506-II IPC.

113. However, I maintain the conviction of appellant Mohit Bansal of the offence punishable under Section 506-II IPC. Accordingly, he is sentenced for the period already undergone by him with fine of Rs.25,000/-. In default of payment of fine, he shall further undergo simple imprisonment for three months.

114. Impugned judgment dated 23.09.2009 and order on sentence dated 29.09.2009 passed by the learned Trial Court are modified accordingly.

115. In view of the above, all the appeals stand partially allowed.

SURESH KAIT, J.

OCTOBER 07, 2013

sb/jg