

“(1) Briefly stated the case of the prosecution is that on 18.04.2013, a call regarding quarrel at C-526, Gate No. 1, DDA Market, Saraswati Vihar, was received at PS – Rani Bagh and was reduced to writing vide DD No. 22-A, which was entrusted to ASI Bhupender Singh, who proceeded to the spot for inquiry. On reaching the spot, ASI Bhupender Singh met complainant Shanti Devi and her daughter i.e. victim child J. The complainant also produced accused Manoj before the IO and informed him that accused had committed wrong act with her daughter. The ASI Bhupender Singh informed the SHO about these facts and thereafter, as directed, took the complainant Smt. Shanti Devi, victim J and accused Manoj to PS Rani Bagh and handed them over to IO W/ASI Upkar Kaur. The victim was taken to Bhagwan Mahavir Hospital by W/ASI Upkar Kaur. The mother of the victim and lady Ct. Kuldeep was directed to bring accused Manoj Ram to hospital. Simultaneously, Ct. Kuldeep was directed to bring accused Manoj Ram to hospital. The victim as well as accused were got medically examined and the exhibits collected from them, by the respectively doctor, were seized by the IO. Thereafter, the IO recorded statement of complainant Shanti Devi and got the case FIR registered in the case.

During the course of investigation, the Investigating Officer prepared the site plan of the place of incident at the pointing out of the victim child. She also arrested the accused in the case and recorded his disclosure statement. The statement of the victim was got recorded u/s 164 Cr.P.C., after which, the victim was produced before concerned CWC, from where, the victim was handed over in custody of her mother. During the course of further investigations, IO collected the age proof of the victim from her school, got sent exhibits of the case to FSL and recorded statement of the witnesses, who had joined the investigations of the case with her. After

completing the investigations, charge sheet was prepared and filed before the concerned court.

(ii) Upon committal of this case to the court of Sessions, charges for the offence under Sections 363/366 IPC and 5 (i) punishable u/s 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as POCSO Act), were framed against the accused Manoj Ram. An alternate charge u/s 376 (2) (n) IPC is also framed against the accused. However, the accused pleaded not guilty and claimed trial and thereafter, the case was fixed for prosecution evidence.”

3. Upon Committal of the case to the court of Sessions, the respondent was charged with having committed the offences under Section 363, 366 and 376 of the Indian Penal Code and Section 5 (1) punishable under Section 6 of the POCSO Act, 2012. The respondent pleaded not guilty to the aforementioned charges and accordingly prosecution was called upon to lead evidence.
4. To bring home the guilt of the respondent, the prosecution examined 15 witnesses in all. The respondent was examined under Section 313 of the Code of Criminal Procedure wherein he denied all the incriminating evidence led by the prosecution. He claimed to be innocent and submitted that he had been falsely implicated in this case by the mother of the prosecutrix as he had not agreed to marry the prosecutrix to a person of her mother's choice. He further stated that he had also told them that he was already married and has a male child out of his wedlock but on 18.04.2013 the mother of the prosecutrix again approached him for a marriage proposal for her daughter but he refused the same on which the mother of the prosecutrix falsely

implicated him in the present case. The respondent however did not lead any evidence in his defence.

5. Ms. Aashaa Tiwari, learned APP for the State opened her submissions by contending that the impugned judgment was erroneous in law, suffered from serious infirmities and the view taken by the learned Trial Court is contrary to the established principle laid down by the Hon'ble Apex Court wherein the accused can be convicted on the sole testimony of the prosecutrix.
6. Learned counsel further submitted that the Trial Court failed to appreciate the testimonies of material witnesses PW3 prosecutrix, PW4 Principal, PW9 mother of the victim, PW10 Doctor, PW14 Assistant Sub Inspector and PW15 Investigating Officer in the right perspective and wrongly acquitted the respondent.
7. The learned counsel for the state also submitted that the trial court has failed to appreciate that there are no major contradictions in the testimonies of the witnesses warranting acquittal of the respondent and the minor contradictions, discrepancies, variations and improvements are bound to occur in detailed narration of facts by a witness.
8. Counsel further contended that the delay in registering the First Information Report has been satisfactorily explained and such delay would not be fatal to the case of the prosecution.
9. Per Contra, supporting the impugned judgment, it was submitted by Mr. Jatin Rajput, counsel for the respondent that while recording the findings of acquittal in favour of the respondent very sound and cogent reasons have been assigned by the Trial Judge.

10. Counsel further contended that the testimonies of the witnesses suffer from serious contradictions and inconsistencies and they can not be said to be reliable.
11. We have given our thoughtful consideration to the contentions urged by the counsel for the parties and perused the impugned judgment and material placed on record.
12. It is true that conviction in a case of rape can be based solely on the testimony of the prosecutrix as she is in fact a victim of the crime. The Evidence Act nowhere requires that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and if there is absence of circumstances which militate against her veracity. If for some reason the court finds it difficult to place reliance on her testimony, it may look for corroboration which may lend assurance to her testimony.
13. Having said so, let us examine the earlier statements and testimony of PW3 prosecutrix in detail.
14. In Ex.PW3/A statement under Section 161 of Code of Criminal Procedure the prosecutrix stated as under:

“... Main 5 vi kaksha me padhti hoon. Meri mummy C-block kothiyon me bhi kaam karti hai. Jo hum teeno behane apni mummy ke saath C-block kothiyon me kaam

karne aati hai. 15/4/13 ko, main bhi kothiyon me kaam karne aai thi. Us din meri mummy Ashok Vihar HO me kuch kaam ke liye gait hi, jo main ghar wapis aa rahi thi, tab ek ladka Manoj, jo road roller chalata hai, mujhe behla- phusla kar apne saath le gaya, aur raat ko bhi mujhe apne ghar nahi jane diya. Uske baad usne jabardasti apne paas rok kar rakha. Uske baad usne mere saath jabardasti 2-3 bar galat kaam kiya. Main ro rahi thi, to usne mujhe chhor diya. Agle din meri mummy mujhe doondhte hue mili, jo main apni mummy ke saath ghar chali gai. Jo main ghabra rahi thi, isliye maine apni mummy ko kuch nahi batlaya. Ghar aakar, maine apne pahne hue kachchi achchi terah dho lit hi, aur main achchi terah naha lit hi. Dt. 18/4/13 ko, main mummy ke saath C-block pahunchi, jahan par mujhe wanhi ladka dikhai diya, to maine apni mummy ko ishara karke batlaya ki, ye wahi ladka hai, jisne 15/4/13 ko mujhe apne saath jabardasti rakha that, va mere saath 2-3 baar galat kaam kiya, jo meri mummy ne 100 number par phone kiya, aap log aa gaye, phir aap log mujhe va meri mummy ko hospital lekar gaye. Jahan meri jaanch hui, va mere batane par hi, apne naksha mauka banaya. Apne mera bayan likha, sun liya, thik hai, va farig taftish kiya.”

15. In Ex.PW1/B the prosecutrix in her statement under Section 164 of Code of Criminal Procedure stated as under:

“mera naam Jyoti hai. Mere alawa meri 3 behan aur ek bhai hai. Main uprokat pate par apne bhai behan aur mata pita ke saath rehti hoon. Main panchvi kaksha me padti hoon. Meri mummy kothiyon me kaam karti hai. Us din, mummy ko kuch kaam tha, to mummy ne mujhe kothiyon me kaam karne ke liye bhej diya. Main tarikh 15/4/13 ko jab kaam karke waapas aa rahi thi, tab ek ladka Manoj, jo road- roller chalata hai, mujhe bahla- phusla kar apne saath le gaya. Usne raat ko bhi mujhe

apne ghar nahi jaane diya. Usne mujhe jabardasti apne paas rok kar rakha. Uske baad usne jabardasti mere saath galatkaam kiya. Main ro rahi thi, par usne mujhe nahi chora, aur 3 baar mere saath galat kaam kiya.

Agle din, meri mummy mujhe dhoondhte hue mili. Maine apni mummy ko kuch nahi bataya. Main ghabrai hui thi, par jab main apni mummy ke saath thi 18/4/13 ko, tab vo Manoj mujhe dikhai diya. Maine ishare se apni mummy ko bataya, ki is ladke ne mere saath galatkaam kiya hai”.

16. PW3 prosecutrix in her examination in chief deposed as under:

“I do not know my age. At the time of my admission in school. I was more than five years of age and my parents got recorded my age in the school record on lesser side.

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On the day of incident, my mother had to go to Head Office and I had to work in her Kothis. My sisters were present at home. When I was coming back home after finishing my work at Saraswati Vihar, accused Manoj, present in the court today (witness has correctly identified the accused through the design in the wooden partition), met me on the way. Accused Manoj was working in constructing roads (road banata hai). He told me to go along with him in a park (‘Chalo ghum kea ate hai park me’). He also offered me something to eat. Thereafter, accused took me to a park which is near to my school at C- Block. It was evening time. I was asking accused to let me go to my house as I was late but the accused did not let me go and made me to stop in the park. By that time it became night. Accused did galatkaam with me in the park 3-4 times during that night and he did not let me go for the whole night.

Accused took out my jeans pant which i was wearing at that time and he also took out his clothes. Thereafter he did galatkaam with me.

Q. What do you mean by ‘galatkaam’?

Ans: Usne meri izzat loot lit hi (committed rape upon me). He made physical relations with me like husband and wife.

Since it was odd night hours at 1:00/2:00 AM, no one was present in the park and so I did not raise any alarm in the park. I kept on weeping and was asking accused to leave me at my house but accused did not let me go. In the morning, someone known to my mother saw me in the said park and informed my mother about me. My mother came in the said park searching me. Out of fear, I did not tell anything to my mother. However, on next day, I told each and everything to my mother but at that time my mother did not lodge any complaint.”

17. Prosecutrix in her cross examination stated as under:

“I had stated to the learned MM as well as police that accused took me to a park at C- Block. Confronted with statement Ex.PW-1/B u/s.164 CrPC and statement u/s 161 CrPC now exhibited as Ex. PW-3/A where it is not so recorded. Vol. However, it is recorded that accused took me along with him. I did not tell either to the police or learned MM that in the morning someone known to my mother saw me in the park and informed my mother. I had stated to the police as well as learned MM that my mother had reached in the said park while searching me. Confronted with Ex.PW-1/B and Ex.PW-3/A where word ‘Park’ is not so recorded.

The said park is a big park. Accused did not take me to park at 6:00 PM. First he took me to a shop/food corner where we ate something. I did not tell the owner of the shop that accused had forcibly brought me to that shop. There were other women present at the shop which was run by a man. I did not take help from the women present at the shop where accused had taken me. There was darkness in the park in which accused took me. It is wrong to suggest that there was sufficient light from electricity poles in and around the park.”

18. Hon'ble Supreme Court in catena of judgments held that the testimony of victim of rape needs no corroboration and conviction can be founded on prosecutrix testimony alone if it is unimpeachable and beyond reproach. ***In Mohd Ali vs State of U.P : (2015) 7 SCC 272*** it was held as under:

“22. Be it noted, there can be no iota of doubt that on the basis of the sole testimony of the prosecutrix, if it is unimpeachable and beyond reproach, a conviction can be based. In the case at hand, the learned trial Judge as well as the High Court have persuaded themselves away with this principle without appreciating the acceptability and reliability of the testimony of the witness. In fact, it would not be inappropriate to say that whatever the analysis in the impugned judgment, it would only indicate an impropriety of approach. The prosecutrix has deposed that she was taken from one place to the other and remained at various houses for almost two months. The only explanation given by her is that she was threatened by the accused persons. It is not in her testimony that she was confined to one place. In fact, it has been borne out from the material on record that she had travelled from place to place and she was ravished number of times. Under these circumstances, the medical evidence gains significance, for the examining doctor has categorically deposed that there are no injuries on the private parts. The delay in FIR, the non-examination of the witnesses, the testimony of the prosecutrix, the associated circumstances and the medical evidence, leave a mark of doubt to treat the testimony of the prosecutrix as so natural and truthful to inspire confidence. It can be stated with certitude that the evidence of the prosecutrix is not of such quality which can be placed reliance upon. True it is, the grammar of law permits the testimony of a prosecutrix can be

accepted without any corroboration without material particulars, for she has to be placed on a higher pedestal than an injured witness, but, a pregnant one, when a Court, on studied scrutiny of the evidence finds it difficult to accept the version of the prosecutrix, because it is not unrepachable, there is requirement for search of such direct or circumstantial evidence which would lend assurance to her testimony. As the present case would show, her testimony does not inspire confidence, and the circumstantial evidence remotely do not lend any support to the same. In the absence of both, we are compelled to hold that the learned trial Judge has erroneously convicted the accused-Appellants for the alleged offences and the High Court has fallen into error, without re-appreciating the material on record, by giving the stamp of approval to the same.”

19. Perusal of the statement of the prosecutrix under Section 161 and 164 of Code of Criminal Procedure and the testimony of the prosecutrix before the Court show that according to the prosecution the alleged rape was committed in a park in C-block at Saraswati Vihar, however this material fact was not mentioned in her earlier statements. If she was a victim of rape it would be highly improbable that she would not have raised an alarm in a public place like a park wherein she claimed to be overnight. She neither made any hue and cry nor raised any alarm at the time of alleged incident. Such conduct of the prosecutrix creates a doubt on the prosecution story. Also, the prosecutrix did not disclose in her earlier statement that prior to the alleged incident of rape the respondent was taken to a food corner. Had the respondent taken her at all she would have intimated this fact to the people around the shop/ food corner especially when she admitted that other women

were present at that time. Thus, her statements at different stages are full of improvements and improbabilities and for these reasons we shall now examine the testimonies of the other relevant witnesses as also the medical evidence.

20. PW9, mother of the prosecutrix deposed as under:

*“At about 7:00 PM, I went to the park for search of my daughter but she was not found available there. I also made efforts to search my daughter here and there and came back home at 9:00PM. On 16.04.2013, I again went in search of my daughter at about 7:00 AM and kept on searching her in the nearby areas. **During the search of my daughter, I was informed by someone that my daughter was seen by her in C- Block Park at about 4:00 PM.**”*

21. This witness in her cross examination stated as under:

“My statement was recorded on 18.04.2013 by the IO. I did not tell the police in my statement that on 16.04.2013, I did not talk to my daughter and did not offer her food etc. I had not stated to the police in my statement that on 16.04.2013, I brought my daughter to my home and thereafter on inquiry she told me everything about the incident. Confronted with statement Ex.PW-9/A where it is so recorded. I cannot tell the distance between my house and the PS as I am illiterate. It is correct that prior to 18.04.2013, I did not approach the local police of PS. I did not make any call at 100 number regarding the missing of my daughter.”

22. As per MLC report Ex.PW9/B PW10 Dr. Preeti Sahu was examined who stated in her deposition before the Court that **on general examination, no external injury was found** and on local examination,

no injury marks was found and external genitalia was normal, hymen admitted two fingers.

23. PW14 ASI Bhupender Singh, in his deposition before Court stated as under:

“It is correct that the said DD is regarding a quarrel. When I reached the spot, there was no gathering of any public persons. It is correct that Smt. Shanti, mother of the victim child, victim child J and the accused were present there when I reached the spot. When I reached the spot, all the above said persons were not quarrelling...”

24. PW15 W/SI Upkar Kaur in her examination in chief deposed as under:

“It is correct that there was good/sufficient light arrangement in the C-Block park. I made inquiry from the security guard posted at the C-Block park. Vol. But he told me that no such incident took place in his presence. It is correct that C-Block park is surrounded by residential houses. I also made inquiry from the chowkidar of the said locality. Vol. But he told me that no such incident came in their knowledge. I made inquiries from the person who saw the victim child in the company of accused at C-Block park. Vol. But the said person refused to join investigations. The said person did not tell me his name and address. The victim child J did not tell me that prior to the alleged incident, accused took her to a food corner.”

25. According to the prosecution case, the prosecutrix went missing on 15.04.2013. If the prosecutrix went missing on the aforesaid date the mother who is expected to have necessitous concern, should have gone to the police station to lodge a missing report which could have prompted the Investigating Officer to act accordingly. It is

worthwhile to mention that in rape cases the delay in filing FIR by the prosecutrix is not unusual on account of trauma and agony suffered as also the fear of social stigma. However, what prevented the mother of the prosecutrix to lodge a missing report remains unanswered. PW9 stated that on 15.04.2013 in the evening she searched for her daughter here and there and returned home. Again on 16.04.2013, she searched for her daughter in the morning and found her inside the park. Since she was disturbed she did not talk with the victim. On 17.04.2013 in the evening when she asked her daughter about 15.04.2013 she disclosed the fact of rape. On 18.04.2013 she caught hold of the accused and reported the matter to police.

26. In ***Thulia Kali vs. State of Tamil Nadu*** reported in (1972) 3 SCC 393, this Court held as under:-

“12...First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused.

The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eyewitnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or

concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained..."

27. In ***Andhra Pradesh v. M. Madhusudhan Rao*** reported in 2008 (14) SCALE 118, the Hon'ble Apex Court observed that :

"18. Having gone through the depositions of PW-1 and PW-3, to which out attention was invited by learned Counsel for the State, we are convinced that in the light of the overall evidence, analysed by the High Court, the order of acquittal of the Respondent is well merited and does not call for interference, particularly when the First Information Report was lodged by the complainant more than one month after the alleged incident of forcible poisoning. Time and again, the object and importance of prompt lodging of the First Information Report has been highlighted. Delay in loding the First Information Report, more often than not, results in embellishment and exaggeration, which is a creature of an afterthought. A delayedreport not only gets bereft of the advantage of spontaneity, the danger of the introduction of coloured version, exaggerated account of the incident or a concocted story as a result of deliberations and consultations, also creeps in, casting a serious doubt on its veracity. Therefore, it is essential that the delay in loding the report should be satisfactorily explained."

28. In view of the settled propoosition of law as well as on the above conduct of the mother, no reasonable and plausible explanation has been tendered as to why the FIR was lodged belatedly by the complainant after knowing from her daughter about the alleged rape.

The delay in lodging FIR creates a suspicion about the version of the prosecution.

29. It is pertinent to note here that PW14 recorded DD No. 22A regarding a quarrel and not of the alleged rape committed on the prosecutrix. It was clarified by PW15 that there was sufficient light arrangement in the park and according to the security guard no such incident had taken place in his presence. Moreover, the park where the alleged offence is said to have been committed was surrounded by residential houses. Pertinently, the person who claimed to have informed the PW-9 to have seen the prosecutrix in the company of the respondent was not examined. Perusal of the MLC report suggests that no rape was committed on the prosecutrix as no internal or external injuries were found. There are contradictions, material improvements and when the evidence is read in its totality the story projected by the prosecution seems so improbable that it cannot be believed.
30. It is noteworthy that there is no medical evidence to connect the respondent with the offence of rape. As for charge framed under Section 5 (I) punishable under Section 6 of POCSO Act, 2012 is concerned we find that the prosecution was not able to establish the charges under Section 363, 366 and 376 of the Indian Penal Code and therefore the question of determination of age of the prosecutrix does not arise.
31. In ***Raju v. State of Madhya Pradesh: (2008) 15 SCC 133***, the Hon'ble Supreme Court has held that testimony of the victim of rape cannot be presumed to be a gospel truth and observed that false allegations of

rape can cause equal distress, humiliation and damage to the accused as well, in para 11, the Apex Court echoed the sentiments as under:-

"11. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also be protected against the possibility of false implication, particularly where a large number of accused are involved. It must, further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration."

32. In ***Tameezuddin @Tammu vs State of (NCT) of Delhi : (2009) 15 SCC 566*** it was held as under:

"It is true that in a case of rape the evidence of the prosecutrix must be given predominant consideration, but to hold that this evidence has to be accepted even if the story is improbable and belies logic, would be doing violence to the very principles which govern the appreciation of evidence in a criminal matter. We are of the opinion that story is indeed improbable."

33. In ***Abbas Ahmad Choudhary vs State of Assam: (2010) 12 SCC 115*** it was held as under:

"We are, therefore, of the opinion that the involvement of Abbas Ahmad Choudhary is doubtful. We are conscious of the fact that in a matter of rape, the statement of the prosecutrix must be given primary consideration, but, at the same time, the broad principle that the prosecution

has to prove its case beyond reasonable doubt applies equally to a case of rape and there can be no presumption that a prosecutrix would always tell the entire story truthfully.”

34. In the present case, on a cumulative reading and appreciation of the entire evidence on record, we are of the considered view that the quality of the testimony of prosecutrix as also the testimonies of the other witnesses is not such which is sufficient for the conviction of respondent for such alleged heinous offence.
35. The law with regard to the grant of leave is well settled by a catena of judgments. Leave to Appeal can be granted only where it is shown that the conclusions arrived at by the Trial Court are perverse or there is misapplication of law or any legal principle.
36. The Apex Court in the case of ***Ghurey Lal v. State of U.P. reported at 2008 (10) SCC 450***, has laid down the following principles before granting leave to appeal against an order of acquittal:

"1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has 'very substantial and compelling reasons' for doing so.

A number of instances arise in which the appellate court would have 'very substantial and compelling reasons' to discard the trial court's decision. 'Very substantial and compelling reasons' exist when:

- i) The trial court's conclusion with regard to the facts is palpably wrong;*
- ii) The trial court's decision was based on an erroneous view of law;*

iii) *The trial court's judgment is likely to result in "grave miscarriage of justice";*

iv) *The entire approach of the trial court in dealing with the evidence was patently illegal;*

v) *The trial court's judgment was manifestly unjust and unreasonable;*

vi) *The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the Ballistic expert, etc.*

vii) *This list is intended to be illustrative, not exhaustive.*

2. *The Appellate Court must always give proper weight and consideration to the findings of the trial court.*

3. *If two reasonable views can be reached-one that leads to acquittal, the other to conviction-the High Courts/appellate courts must rule in favour of the accused."*

37. In ***Mrinal Das and Ors. Vs. The State of Tripura*** reported in **AIR 2011 SC 3753**, the Hon'ble Apex Court held that :

"It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, being the final court of fact, is fully competent to re-appreciate, reconsider and review the evidence and take its own decision. In other words, law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person

is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial Court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed."

38. In the case of ***State of Madhya Pradesh v. Dal Singh & Ors.***, reported in **2013 (8) SC 625**, the Hon'ble Supreme Court has held that the appellate court while considering the appeal against the judgment of acquittal shall interfere only when there are compelling and substantial reasons for doing so and if the judgment is unreasonable and relevant materials have been unjustifiably ignored, it would be a compelling reason for interference.

39. While deciding the present leave to appeal, the aforestated principles culled out by the Apex Court are to be kept in view. In the present case from the evidence which has emerged on record, we conclude that the learned Trial Court has rightly observed that the prosecution failed to prove its case against the respondent beyond reasonable doubt, the prosecution has not made out a case to grant the leave to appeal and the view taken by the learned Trial Court for acquitting the respondent was possible and plausible.
40. In totality of the facts and circumstances, we do not find any infirmity in the impugned judgment. Accordingly, no grounds are made out to interfere in the impugned judgment passed by learned Trial court and the leave to appeal petition is dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

May 03, 2016
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