

**HIGH COURT OF TRIPURA
AGARTALA**

**CRL.A(J)No.23 of 2023
CRL.A(J)No.24 of 2023
CRL.A(J)No.28 of 2023**

In CRL.A(J)No.23 of 2023

1. Md. Dudhu Miah,

Son of Md. Rafik Miah,
Resident of Shibnagar,
P.S. Melaghar, District: Sepahijala Tripura
(Sl. No.4 of the judgment and order dated 04.03.2023)

2. Md. Samiman Hossain Alias Nayan,

Son of Md. Suruj Miah,
Resident of Rangamati, P.S. Sonamura,
District: Sepahijala, Tripura
(Sl. No.5 of the judgment and order dated 04.03.2023)

-----**Convict-Appellant(s)**

Versus

The State of Tripura

-----**Respondent(s)**

In CRL.A(J)No.24 of 2023

1. Md. Saddam Hossain,

Son of Late Safik Miah,
Resident of Khedabari,
P.S. Sonamura, District: Sepahijala Tripura
(Sl. No.2 of the judgment and order dated 04.03.2023)

2. Md. Rabban Ali, Age: 30,

Son of Md. Bajlu Miah,
Resident of Kdedabari,
District: Sepahijala, Tripura
(Sl. No.3 of the judgment and order dated 04.03.2023)

-----**Convict-Appellant(s)**

Versus

The State of Tripura

-----**Respondent(s)**

In CRL.A(J)No.28 of 2023

Md. Tajul Islam,

Son of Late Safik Miah,
Resident of Khedabari,
P.S. Sonamura, District: Sepahijala Tripura

-----**Convict-Appellant(s)**

Versus

The State of Tripura

-----**Respondent(s)**

For Appellant(s) : Mr. P.K. Biswas, Sr. Adv.
Mr. T. D. Majumder, Sr. Adv.
Mr. J. Bhattacharjee, Adv.
Mr. P. Majumder, Adv.
Mr. P. Biswas, Adv.
Mr. S. Ghosh, Adv.
Mr. R. Nath, Adv.
Mr. T. Halam, Adv.

For Respondent(s) : Mr. Raju Datta, P.P.

Date of Hearing : 22.04.2024

Date of delivery of Judgment and Order : 19.06.2024

Whether fit for Reporting : YES

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

[B. Palit, J]

These three appeals have been preferred challenging the common judgment dated 04.03.2023 and also against the date of sentencing order dated 06.03.2023 delivered by the Special Judge, Court No.2, Gomati Judicial District, Udaipur of convicting the appellants in Case No.Special 01 of 2022. By the said judgment the convict appellants Md. Tajul Islam, Md. Saddam Hossain, Md. Rabban Ali, Md. Dudhu Miah and Md. Samiman Hossain have been sentenced to suffer simple imprisonment for a period of one month with fine of Rs.500/- each under Section 341 of IPC in default to suffer R.I. for three days. All the convicts also have been sentenced to suffer R.I. for two years with fine of

Rs.2,000/- each under Section 324 of IPC in default to suffer R.I. for one month and the convicts have been sentenced to suffer R.I. for a period of seven years with fine of Rs.5,000/- each under Section 366 of IPC in default to suffer R.I. for three months and the convicts have been further sentenced to suffer imprisonment for life which shall mean imprisonment for the remainder of those convicts natural life and with fine of Rs.50,000/- each under Section 376 D of IPC in default to suffer R.I. for six months. The convicts have been further sentenced to suffer R.I. for life with fine of Rs.5,000/- each under Section 120B of IPC in default to suffer R.I. for three months. Further they were sentenced to suffer R.I. for a period of three years with fine of Rs.3000/- each under Section 3(1)(w)(i)(ii) of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 in default to suffer R.I. for three months. They were further sentenced to suffer R.I. for five years with fine of Rs.5,000/- under Section 2(2)(va) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 in default to suffer R.I. for four months. By the said judgment of conviction and sentence it was ordered that all the sentences shall run concurrently and the fine money if realized shall be handed over to the victim as compensation.

02. Heard Mr. P.K. Biswas, Learned Senior counsel assisted by Mr. P. Majumder, Learned counsel, Mr. P. Biswas, Learned counsel and Mr. R. Nath, Learned counsel

representing the appellant Md. Tajul Islam, Mr. T. D. Majumder, Learned Senior counsel assisted by Mr. T. Halam, Learned counsel appearing for the appellants Md. Saddam Hossain and Md. Rabban Ali and Mr. J. Bhattacharjee, Learned counsel along with Mr. S. Ghosh, Learned counsel representing the appellants Md. Dudhu Miah and Md. Samiman Hossain alias Nayan and also heard Mr. Raju Datta, Learned P.P. representing the prosecution/state-respondent.

03. Before entering into the merit of the case let us discuss about the subject matter of the prosecution before the Learned Trial Court. On 19.11.2021 in the evening at about 7.00 p.m. the first informant Rana Bahadur Jamatia along with his wife (victim) had gone to Patichari Rash Mela under Santirbazar PS by riding his motorbike bearing registration No.TR-03H-6702 and in the midnight of 20.11.2021 at around 2.30 a.m. they were returning back to their house by riding that motor bike. On the way while they were crossing the Tepania Eco Park, Udaipur over Agartala-Sabroom NH-8 Road suddenly one silver coloured Maruti Alto 800 vehicle bearing registration No.TR-04A-0370 after coming from back side twice dashed against the motorbike of first informant resulting which the wife of the informant (the victim) fell down on the earth from the motor bike. That time five miscreants alighted from the said Maruti Alto vehicle armed with weapons to their hands

snatched away the mobile set of the informant. Thereafter they started assaulting the informant on the back side of head with an iron rod and as a result he fell down on the road. Thereafter those miscreants abducted the wife of the informant with the said Maruti Alto vehicle and fled away from the scene of occurrence.

04. Another FIR was lodged by the victim prosecutrix on 24.11.2021 while she was undergoing treatment at Khumlung Hospital under PS Radhapur, West Tripura District wherein it was alleged by her that in the midnight of 20.11.2021 at about 2.30 a.m. the prosecutrix (the victim) and her husband were returning back to their house by riding their motorbike. On the way while they were crossing Tepania Eco Park, Udaipur over Agartala-Sabroom NH-8 road suddenly one silver coloured Maruti Alto 800 vehicle after coming from back side dashed against the motorbike of the husband of the victim twice resulting which the victim fell down from the motorbike on the earth. That time four miscreants alighted from the said Maruti Alto 800 vehicle and attacked the husband of the prosecutrix with an iron rod and thereafter they also forcefully abducted from the NH-8 road that vehicle and inside the vehicle she was undressed by those miscreants for sexual and physical assault and also taken towards a jungle. There she was raped by those miscreants. The prosecutrix further alleged that those miscreants also given bite injuries of teeth on her breast and inserted finger inside her vagina. Then she lost her

sense and regained her sense in the early morning and then she called her family members. Subsequently she was recovered and taken to Women PS, Udaipur as well as to the Tepania Hospital for treatment. O/C, Radhapur PS, West Tripura District on receipt of ejahar of the prosecutrix on 24.11.2021 at around 2030 hours forwarded the same to O/C R.K. Pur PS for taking necessary action. Accordingly O/C R.K. Pur PS received the ejahar on 25.11.2021 but forwarded the same to the O/C R.K. Pur Women PS as the offence related to crime against women. The O/C R.K. Pur Women PS received the ejahar on 25.11.2021 and registered a case vide RKP WMN PS case No.2021WRP077 under Section 376B of IPC and the case was endorsed to the WSI of Police Smti. Sumitra Kapali for investigation. The first IO during investigation visited the P.O. on 25.11.2021 and prepared hand sketch map with separate index, recorded the statement of the witnesses under Section 161 of Cr.P.C., arranged for recording the statement of victim under Section 164(5) of Cr.P.C. and on 05.12.2021 handed over the case to the Inspector of Police namely Smt. Mina Debbarma of Crime Branch, Tripura Police, Agartala for investigation.

05. The I.O. of the Crime Branch during investigation recorded the statement of victim and her husband, had seized some materials such as black coloured flower printed tops, grey coloured bra, black coloured jeans, jeans jacket, prescription of Kherengbari Hospital, Khumlung, prescription

of AGMC & GB Hospital and one ear ring by preparing seizure memo dated 08.12.2021, prepared hand sketch maps of two PO's with separate indexes, also seized some articles such as one leather ladies belt, two pieces of broken bangles, one towel, one iron rod, one iron wheel spanner and "5" logo of silver colour by seizure memo dated 08.12.2021, collected dry leaf, soil from the PO by seizure memo dated 12.12.2021. During investigation I.O. also received the case docket of another case bearing No. R.K. Pur PS Case No.179/2021 and on the same day she submitted a prayer before the court of Learned Chief Judicial Magistrate, Gomati, Udaipur for tagging R.K. Pur Women PS Case No. 177/2021 and the R.K. Pur PS Case No.179/2021 and the prayer was allowed by the Learned C.J.M., Gomati Udaipur. The I.O. also collected medical report of the victim from different hospitals, wearing apparels of the accused persons by preparing seizure memo and also prayed for adding of Sections 3(1)(W)(i) and 3(2) of the SC & ST (Prevention of Atrocities) Act, 1989, also collected potency test report of all accused persons from the TS District Hospital and thereafter handed over the case docket to the Deputy SP, Ajoy Kumar Das for completion of investigation.

06. The last I.O. Ajoy Kumar Das, Deputy SP during investigation collected report from SFSL, finger print report from Finger Print cell of SCRB, Agartala and also collected report from Biology Division, SFSL, Narsingarh. The I.O.

also received the screening report of the offending vehicle from the office of the JTC, Agartala and seized the vehicle bearing No.TR-04A-0370 and after completion of the investigation the I.O. being prima facie satisfied laid chargesheet against accused Tajul Islam, Saddam Hussein, Rabban Ali, Dudhu Miah and Samiman Hussein for their prosecution before the court. Accordingly cognizance of offence was taken by Learned C.J.M and after that the case was committed to the court of Learned Sessions Judge, Gomati District, Udaipur who in turn transferred the case to the Court of Learned Addl. Sessions Judge, Gomati District, Udaipur for disposal according to law.

07. Before the Learned Trial Court charge against the appellants were framed in the following manner by the Ld. Special Court on 17.03.2022:

Firstly, that all of you on or about 20.11.2021 night time at around 3.00 am nearby the Tepania Park over NH 8 under R.K. Pur PS, Udaipur, Gomati District in furtherance of all of yours common intention wrongfully restrained the informant namely Shri Rana Bahadur Jamatia and his wife Smti. X (name withheld) and that all of you thereby committed an offence punishable under section 341 read with section 34 of the Indian Penal Code and within the cognizance of this court.

Secondly, that all of you on the same date, time and place in furtherance of all of yours common intention voluntarily caused grievous hurt to the informant namely Shri Rana Bahadur Jamatia by means of an iron road and that all of you thereby committed an offence punishable under section 326 read with section 34 of the Indian Penal Code and within the cognizance of this court.

Thirdly, that all of you on the same date, time and place in furtherance of all of yours common intention abducted a woman, to wit Smti. X (name withheld) in order that the said women will be forced or seduced to illicit intercourse or knowing it to be likely that she will be forced or seduced to illicit intercourse and that all of you thereby committed an offence punishable under section 366 read with section 34 of the Indian Penal Code and within the cognizance of this court.

Fourthly, that all of you constituted a group and committed rape on Smti. X (name withheld) on or about 20.11.2021 night time at around 3.00 am nearby the Tepania Park over NH 8 under R.K. Pur PS, Udaipur, Gomati District acted in furtherance of common intention and that all of you thereby committed an offence punishable under section 376 of the Indian Penal Code and within the cognizance of this court.

Fifthly, that all of you on the same date, time and place an furtherance of all of yours common intention committed dacaity and that at the time of committing the said dacaity used a deadly weapon, to wit dao, iron road and sharp cutting knife and caused grievous hurt to Shri Rana Bahadur Jamatia and that all of you thereby committed an offence punishable under section 397 read with section 34 of the Indian Penal Cede and within the cognizance of this court.

Sixthly, that all of you on the same date, time and place belonging to a gang of persons associated for the purpose of habitually committing of dacaity and that all of you thereby committed on offence punishable under section 400 of the Indian Penal Code and within the cognizance of this court.

Seventhly, that all of you on the same date, time and place agreed to do an illegal act, to wit abduction of Smti. X (name withheld), committing gang rape upon her, causing grievous hurt to Shri Rana Bahadur Jamatia and that off of you thereby committed an offence punishable under section 120B of the Indian Penal Code and within the cognizance of this court.

Eighthly, that all of you on the same date, time and place, not being a member of a Schedule Tribe intentionally touches a woman belonging to a Schedule Tribe knowing that she belongs to a Schedule Tribe, such act of touching is of a sexual nature and is without the recipients consent and that all of you thereby committed an offence punishable under section 3(1)(w) (1) of the SC and ST (Prevention of Atrocities) Act, 1989 and within the cognizance of this court.

Ninethly, that all of you on the same date, time and place, not being a member of a Schedule Tribe acts or gestures of a sexual nature towards a woman belonging to a Schedule Tribe and that all of you thereby committed an offence punishable under section 3(1)(w)(II) of the SC and ST (Prevention of Atrocities) Act, 1989 and within the cognizance of this court.

Lastly, that all of you on the same date, time and place, not being a member of a Schedule Tribe commits offence specified in the schedule against a person knowing that such person as a member of a Schedule Tribe and that all of you thereby committed an offence punishable under section 3(2)(va) of the SC and ST (Prevention of Atrocities) Act, 1989 and within the cognizance of this court.

And I do hereby direct that all of you be tried by this Court of Special Judge on the said charges."

08. To substantiate the charge the prosecution in this case has adduced as many as 41 numbers of witnesses and the prosecution also relied upon some documentary evidences which were marked as exhibits in this case:

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE
PW 1	Shri Rana Bahadur Jamatia	Other witness
PW 2	The victim (name withheld)	Other witness
PW 3	Shri Surja Mohan Jamatia	Other witness
PW 4	Smti Barnabala Jamatia	Other witness
PW.5	Shri Gaya Sadhan Jamatia	Other witness

PW 6	Shri Sahadeb Dutta	Other witness
PW.7	Shri Joy Saha	Other witness
PW.8	Smti Manibala Das	Police witness
PW 9	Shri David Jamatia	Other witness
PW.10	Smti Sabi Rani Debbarma	Medical witness
PW.11	Dr. Aniruddha Roy	Medical witness
PW 12	Shri Pradip Debbarma	Police witness
PW 13	Shri Chandan Das	Police witness
PW 14	Shri Makhan Debnath	Police witness
PW 15	Dr. Mummun Debbarma	Medical witness
PW 16	Dr. Pradipta Narayan Chakraborty	Medical witness
PW 17	Dr. Madhumita Roy	Medical witness
PW 18	Shri Haradhan Bhattacharjee	Other witness
PW 19	Shri Supriya Ghosh	Police witness
PW 20	Shri Santanu Debbarma	Expert witness
PW 21	Smti Purabi Jamatia	Other witness
PW 22	Dr. Subhankar Nath	Expert witness
PW 23	Dr. Sujit Chakma	Medical witness
PW 24	Smti Debjani Majumder	Other witness
PW 25	Dr. Sabyasachi Nath	Expert witness
PW 26	Dr. Narenjit Das	Medical witness
PW 27	Shri Jayanta Das	Police witness
PW 28	Dr. Jayashri Debbarma	Medical witness
PW 29	Smti Jangal Debi Jamatia	Medical witness
PW 30	Dr. Arino Mohan Jamatia	Medical witness
PW 31	Smti Archana Reang	Other witness
PW 32	Shri Debabrata Biswas	Police witness
PW 33	Smti Mina Debbarma	Police witness
PW 34	Shri Rajarshi Chakraborty	Other witness
PW 35	Shri Ajoy Kumar Das	Police witness
PW 36	Dr. Ajitesh Paul	Expert witness
PW 37	Dr. Uma Debbarma	Medical witness
PW 38	Smti Sumita Sen	Other witness
PW 39	Shri Goutam Dey	Other witness
PW 40	Smti Alpana Sarkar	Police witness
PW 41	Smti Sumitra Kapali	Police witness

B. Defence witnesses, if any: Nil

C. Court witnesses, if any: Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

SL. No.	Exhibit Number	Description
1	Exhibit P-1 (PW 1)	Signature of PW 1 in seizure memo dated 20.11.2021
2	Exhibit P-1/1 (PW5)	Signature of PW 5 in seizure memo dated 20.11.2021
3	Exhibit P-1/2(PW32)	Seizure memo dated 20.11.2021 prepared by PW32
4	Exhibit P-2 (PW 1)	Signature of PW 1 in seizure memo dated 20.11.2021
5	Exhibit P-2/1 (PW 9)	Signature of PW 9 in seizure memo dated 20.11.2021
6	Exhibit P-2/2 (PW 18)	Signature of PW 18 in seizure memo dated 20.11.2021
7	Exhibit P-2/3 (PW 32)	Seizure memo dated 20.11.2021 prepared by PW32
8	Exhibit P-3(PW1)	Signature of PW 1 in seizure memo dated 20.11.2021
9	Exhibit P-3/1 (PW12)	Signature of PW 12 in seizure memo dated 20.11.2021
10	Exhibit P 3/2 (PW13)	Signature of PW 13 in seizure memo dated 20.11.2021
11	Exhibit P-3/3 (PW32)	Seizure memo dated 20.11.2021 prepared by PW 32
12	Exhibit P-4 (PW 1)	Signature of PW 1 in another seizure memo dated 20.11.2021
13	Exhibit P-4/1 (PW12)	Signature of PW 12 in another seizure memo dated 20.11.2021
14	Exhibit P-4/2 (PW13)	Signature of PW 13 in another seizure memo dated 20.11.2021
15	Exhibit P-4/3 (PW32)	Seizure memo dated 20.11.2021 prepared by PW 32
16	Exhibit P-5 (PW 1)	Signature of PW 1 in his ejahar to the O/C, R.K.Pur PS
17	Exhibit P-6 (PW 1)	Signature of PW 1 in seizure memo dated 08.12.2021
18	Exhibit P-6/1(PW2)	Signature of PW 2 in seizure memo dated 08.12.2021
19	Exhibit P-6/2(PW 4)	Signature of PW 4 in seizure memo dated 08.12.2021
20	Exhibit P-6/3 (PW33)	Seizure memo dated 08.12.2021 prepared by PW 33
21	Exhibit P-7 (PW 1)	Signature of PW 1 in seizure memo dated 08.12.2021
22	Exhibit P-7/1 (PW 2)	Signature of PW 2 in seizure memo dated 08.12.2021
23	Exhibit P-7/2 (PW 4)	Signature of PW 4 in seizure memo dated 08.12.2021
24	Exhibit P-7/3	Seizure memo dated 08.12.2021 prepared by PW 33

	(PW33)	
25	Exhibit P-8 (PW 1)	Signature of PW 1 in memo of TI parade
26	Exhibit P-8/1 (as a whole) (PW 24)	TI parade report prepared by PW 24
27	Exhibit P-9 (PW 1)	Signature of PW 1 in memo of TI parade dated 01.12.2021
28	Exhibit P-9/1 (PW 24)	TI parade report prepared by PW 24
29	Exhibit P-10 (PW 1)	Signature of PW 1 in memo of TI parade
30	Exhibit P-10/1(series) (PW 31)	TI parade report dated 26.11.2021 prepared by PW 31
31	Exhibit P-10/2(PW31)	Signature of PW 31 in the TI parade report
32	Exhibit P-11(series) (PW 2)	Signatures of PW 2 in two sheets of her complaint
33	Exhibit P-11/1(PW27)	Note of PW 27 in the written complaint
34	Exhibit P-11/2 (PW 32)	Endorsement of PW 32 in the written complaint Filed by the victim
35	Exhibit P-11/3 (PW40)	Receipt and registration note by PW 40 in the written complaint filed by the victim
36	Exhibit P-12(series) (PW 2)	Signatures of PW 2 in two sheets of her statement recorded u/s 164(5) of Cr.P.C.
37	Exhibit P-12/1(series) (PW 21)	Signatures of PW 21 in two sheets of her statement recorded u/s 164(5) of Cr.P.C
38	Exhibit P-12/2(series) (PW 34)	Statement of the victim u/s 164(5) of Cr.P.C. in two sheets recorded by PW 34
39	Exhibit P-12/3 (series) (PW 34)	Signatures of PW 34 in two sheets of statement of victim recorded u/s 164(5) of Cr.P.C.
40	Exhibit P-13 (PW 2)	Signature of PW 1 in memo of TI parade
41	Exhibit P-13/1(as a whole) (PW 24)	TI parade report prepared by PW 24
42	Exhibit P-14 (PW 4)	Signature of PW 4 In seizure memo dated 24.11.2021
43	Exhibit P-14/1(PW30)	Signature of PW 30 in seizure memo dated24.11.2021
44	Exhibit P-14/1(PW 27)	Seizure memo dated 24.11.2021 prepared by PW 27
45	Exhibit P-15 (PW 4)	Signature of PW 4 in seizure memo dated 20.12.2021
46	Exhibit P-15/1 (PW10)	Signature of PW 10 in seizure memo dated20.12.2021
47	Exhibit P-15/2 (PW33)	Seizure memo dated 20.12.2021 prepared by PW 33
48	Exhibit P-15/3	Signature of PW 37 in seizure memo dated20.12.2021

	(PW37)	
49	Exhibit P-16(PW 8)	Signature of PW 8 In seizure memo dated 12.12.2021
50	Exhibit P-16/1(PW14)	Signature of PW 14 in seizure memo dated 12.12.2021
51	Exhibit P-16/2(PW33)	Seizure memo dated 12.12.2021 prepared by PW 33
52	Exhibit P-17(PW 10)	Signature of PW 10 in the Blood Sample Authentication Form of the victim
53	Exhibit P-17/1(PW37)	Blood Sample Authentication Form of the victim issued by PW 37
54	Exhibit P-17/2(series) (PW 37)	Signatures of PW 37 in Blood Sample Authentication Form of the victim
55	Exhibit P-18/PW 11)	Medical report of the victim prepared by PW 11 dated 20.11.2021
56	Exhibit P-19(PW 11)	Another medical report of the victim prepared by PW 11 dated 20.11.2021
57	Exhibit P-19(series) (PW 11)	Signatures of PW 11 in the medical report.
58	Exhibit P-20(PW 12)	Signature of PW 12 in seizure memo
59	Exhibit P-21 (PW 15)	Medical report of the victim prepared by PW 15
60	Exhibit P-21/1(series) (PW 15)	Signatures of PW 15 in 4 pages of the Medical report of the victim
61	Exhibit P-21/2(series) (PW 16)	Signatures of PW 16 in 4 pages of the Medical
62	Exhibit P-21/3(series) (PW 17)	Signatures of PW 17 in 4 pages of the Medical report of the victim
63	Exhibit P-22(PW 20)	Expert report dated 21.12.2021 prepared by PW 20
64	Exhibit P-22/1(PW20)	Signature of PW 20 in his report dated 21.12.2021
65	Exhibit P-23(PW 20)	Expert report prepared by PW 20
66	Exhibit P-23/1(PW20)	Signature of PW 20 in his report
67	Exhibit P-24(PW 22)	Medical report of the victim prepared by PW 22 dated 20.12.2021
68	Exhibit P-24/1(series) (PW 22)	Signatures of PW 22 in the Medical report of the victim
69	Exhibit P-25(PW23)	Expert report prepared by PW 23 dated 24.12.2021
70	Exhibit P-25/1(series) (PW 23)	Signatures of PW 23 in the Expert report dated 24.12.2021
71	Exhibit P-26(PW 23)	Another expert report prepared by PW 23 dated

		24.12.2021
72	Exhibit P-26/1 (series) (PW 23)	Signatures of PW 23 in another expert report dated 24.12.2021
73	Exhibit P-26(as a whole) (PW 25)	Expert report prepared by PW 25 dated 09.12.2021
74	Exhibit P-27(as a whole) (PW 25)	Expert report prepared by PW 25 dated 23.12.2021
75	Exhibit P-28(as a whole) (PW 25)	Expert report prepared by PW 25 dated 24.12.2021
76	Exhibit P-29(as a whole) (PW 25)	Expert report prepared by PW 25 dated 06.01.2022
77	Exhibit P-30(as a whole) (PW 26)	Medical report prepared by PW 26
78	Exhibits P-31 and 32(PW 27)	Extract copies of GD entries
79	Exhibit P-31/1(PW27)	Signature of PW 27 in the GD entry No.22
80	Exhibit P-31/2 (PW27)	Signature of O/C of Radhapur PS in the GD entry No.22
81	Exhibit P-32/1 (PW27)	Signature of PW 27 in the GD entry No.25
82	Exhibit P-32/2 (PW27)	Signature of O/C of Radhapur PS In the GD entry No.25
83	Exhibit P-33 (PW 28)	Potency test report of accused Saddam Hussein prepared by PW 28
84	Exhibit P-33/1 (PW28)	Blood sample authentication form in respect of accused Saddam Hussein
85	Exhibit P-34 (PW 28)	Potency test report of accused Rabban Ali with blood sample authentication form prepared by PW 28
86	Exhibit P-34/1 (PW28)	Blood sample authentication form in respect of accused Rabban Ali
87	Exhibit P-35 (PW 28)	Potency test report of accused Dudhu Miah with blood sample authentication form prepared by PW 28
88	Exhibit P-35/1 (PW28)	blood sample authentication form in respect of accused Dudhu Miah
89	Exhibit P-36 (PW 28)	Potency test report of accused Samiman Hussein with blood sample authentication Form prepared by PW 28
90	Exhibit P-36/1 (PW28)	Blood sample authentication form in respect of accused Samiman Hussein
91	Exhibit P-37 (PW 28)	Potency test report of accused Tajul Islam with blood sample authentication form prepared by PW 28
92	Exhibit P-37/1 (PW28)	Blood sample authentication form in respect of accused Tajul Islam
93	Exhibit P-38 (PW 28)	Signature of PW 28 in the seizure memo dated 28.12.2021
94	Exhibit P-38/1 (PW29)	Signature of PW 29 in the seizure memo dated 28.12.2021

95	Exhibit P-38/2 (PW33)	Seizure memo dated 28.12.2021 prepared by PW 33
96	Exhibit P-39 (PW 30)	Medical report of the victim dated 03.12.2021 prepared PW 30
97	Exhibit P-39/1 (PW30)	Signature of PW 30 in the Medical report of the victim dated 03.12.2021
98	Exhibit P-40 (PW 30)	Final Medical report of the victim dated 18.12.2021 prepared PW 30
99	Exhibit P-40/1 (PW30)	Signature of PW 30 in the Final Medical report of the victim dated 18.12.2021
100	Exhibit P-41(as a whole) (PW 30)	Information in writing dated 24. 11.2021 by PW30
101	Exhibit P-42 (PW 32)	Extract copy of GD entry No. 03 and 04 dated 20.11.2021
102	Exhibit P-43 (PW32)	Hand sketch map of PO dated 20.11.2021 prepared by PW 32
103	Exhibit P-44 (PW32)	Index of hand sketch map of PO dated 20.11.2021 prepared by PW 32
104	Exhibit P-45 (PW 33)	Hand sketch map of PO dated 08.12.2021 prepared by PW 33
105	Exhibit P-46 (PW 33)	Index of hand sketch map of PO dated 08.12.2021 prepared by PW 33
106	Exhibit P-47 (PW 33)	Another hand sketch map of PO dated 08.12.2021 prepared by PW 33
107	Exhibit P-48 (PW 33)	Index of another hand sketch map of PG dated 08.12.2021 prepared by PW 33
108	Exhibit P-49 (PW33)	Seizure memo dated 23.12.2021 prepared by PW 33
109	Exhibit P-50 (PW33)	Seizure memo dated 28.12.2021 prepared by PW 33
110	Exhibit P-51 (PW33)	Another seizure memo dated 28.12.2021 prepared by PW 33
111	Exhibit P-51/1 (PW38)	Signature of PW 38 in seizure memo dated 28.12.2021
112	Exhibit P-51/2 (PW39)	Signature of PW 39 in seizure memo dated 28.12.2021
113	Exhibit P-52 (PW35)	Signature of PW 35 in the forwarding note of exhibits to the SFSL
114	Exhibit P-52 (PW 36)	Expert report prepared by PW 36
115	Exhibit P-52/1 (PW36)	Signature of PW 36 in the expert report
116	Exhibit, P-53 (PW 35)	Certificate issued by PW 35
117	Exhibit P-54 (PW 35)	Signature of PW 35 in another forwarding note of exhibits to the SFSL
118	Exhibit P-55 (PW35)	Another certificate issued by PW 35
119	Exhibit P-56 (series)	Check list in 2 sheets (PW 35)

120	Exhibit P-57 (series) (PW 35)	Forwarding note dated 23.12.2021 by PW 35
121	Exhibit P-58 (series) (PW 35)	Forwarding note dated 22.12.2021 by PW 35
122	Exhibit P-59 (PW 35)	Requisition dated 14.12.2021 sent by PW 35 for certified copy of CDR and CAF to the Nodal Officer, Bharati Airtel Limited.
123	Exhibit P-60 (as a whole) (PW 40)	Printed FIR form in 3 sheets filled up by PW 40
124	Exhibit P-61 (PW 41)	Hand sketch map of PO dated 29.11.2021 prepared by PW 41
125	Exhibit P-62 (PW 41)	Index of hand sketch map of PO dated 29.11.2021 prepared by PW 41

B. Defence : Nil

C. Court Exhibits: Nil

D. Material Objects:

Sl. No.	Exhibit No.	Description
1	Exbt. MO 1	Black coloured helmet
2	Exbt. MO 2	Pink coloured ladies woolen cap
3	Exbt. MO 3(series)	Black coloured money bag, election ID card, PAN card, Debit card
4	Exbt.MO 4	Mobile phone of PW 1
5	Exbt.MO 5 (series)	Chappal and bangles of the victim
6	Exbt.MO 6	Golden coloured ear ring
7	Exbt.MO 7 (series)	Ladies belt and broken bangles
8	Exbt.MO 8 (series)	Wearing apparel of the victim
9	Exbt.MO 9 (series)	'Towel, "S" logo of car and iron wheel spanner

09. To decide the case Learned Trial court below determined the following points:

POINT'S FOR DETERMINATION

(i) Whether the accused persons namely Tajul Islam, Saddam Hussein, Rabban Ali, Dudhu Miah and Samiman Hussein alias Nayan on or about 20.11.2021 night time at around 3:00 AM nearby the Tepania Park over NH 8 road under R.K. Pur PS, Udaipur, Gomati District in furtherance of their common intention wrongfully restrained the informant namely Shri Rana Bahadur Jamatia and his wife Smti X (name withheld) and thereby all of them committed an offence punishable under section 341 read with section 34 of the Indian Penal Code and within the cognizance of this court:

(ii) Whether all the accused persons as named above on the same date, time and place in furtherance of their common

intention voluntarily caused grievous hurt to the informant namely Shri Rana Bahadur Jamatia by means of an iron rod and thereby all of them committed an offence punishable under section 326 read with section 34 of the Indian Penal Code and within the cognizance of this court:

(iii) Whether all the accused persons as named above on the same date, time and place in furtherance of their common intention abducted a woman, to wit Smti X (name withheld) In order that the said woman will be forced or seduced to Illicit intercourse or knowing it to be likely that she will be forced or seduced to illicit intercourse and thereby all of them committed an offence punishable under section 366 read with section 34 of the Indian Penal Code and within the cognizance of this court:

(iv) Whether all the accused persons as named above constituted a group and committed rape on Smti X (name withheld) on or about 20.11.2021 night time at around 3:00 AM nearby the Tepania Park over NH 8 road under R.K. Pur PS, Udaipur, Gomati District acted in furtherance of common intention and committed an offence punishable under section 376 of the Indian Penal Code and within the cognizance of this court:

(v) Whether all the accused persons as named above on the same date, time and place in furtherance of their common intention committed decoity and that at the time of committing the sold decoity used a deadly weapon, to wit deo, iron rod and sharp cutting knife and caused grievous hurt to Shri Rana Bahadur Jamatia and thereby committed an offence punishable under section 397 read with section 34 of the Indian Penal Code and within the cognizance of this court

(vi) Whether all the accused persons as named above on the same date, time and place belonging to a gang of persons associated for the purpose of habitually committing of dacoity and thereby committed an offence punishable under section 400 of the Indian Penal Code and within the cognizance of this court

(vii) Whether all the accused persons as named above on the same date, time and place agreed to do an illegal act, to wit abduction of Smti X (name withheld), committing gang rape upon her, causing grievous hurt to Shri Rana Bahadur Jamatia and thereby all of them committed an offence punishable under section 1208 of the Indian Penal Code and within the cognizance of this court;

(viii) Whether all the accused persons as named above on the same date, time and place, not being a member of a Schedule Tribe intentionally touches a woman belonging to a Schedule Tribe knowing that she belongs to a Schedule Tribe, such act of touching is of a sexual nature and is without the recipients consent and thereby all of them committed an offence punishable under section 3(1) (w)(1) of the SC and ST (Prevention of Atrocities) Act, 1989 and within the cognizance of this court.

(ix) Whether all the accused persons as named above on the same date, time and place, not being a member of a Schedule Tribe acts or gestures of a sexual nature towards a woman belonging to a Schedule Tribe and thereby committed an offence punishable under section 3(1)(w)(ii) of the SC and ST (Prevention of Atrocities) Act, 1989 and within the cognizance of this court:

(x) Whether all the accused persons as named above all of you on the same date, time and place, not being a member of a Schedule Tribe commits offence specified in the schedule against a person knowing that such person as a member of a Schedule Tribe and thereby committed an offence punishable under section 8(2)(va) of the SC and ST (Prevention of Atrocities) Act, 1989 and within the cognizance of this court.

10. To substantiate the aforesaid points as already stated prosecution has adduced in total 41 numbers of witnesses. Now let us revisit the evidence on record of the

prosecution before conclusion of the appeal. It is to be noted here that in this case excepting PWs 1 i.e. informant and PW-2, the victim, there is/are no other eye witnesses of the alleged occurrence of offence. PW-1, Rana Bahadur Jamatia is the husband of the prosecutrix/victim as well as the informant also. He deposed that on 19.11.2021 they went out from their house to attend Rash Mela at Patichari under Garjee outpost at around 7.00 p.m. and they reached at Mela at about 10.00 p.m. and after attending mela he along with his wife at about 2.30 a.m. were returning back to their residence at Jalema by riding a motor bike. On the way after crossing the Tepania Park suddenly one silver coloured Maruti Alto car dashed against his motor bike. Initially he thought that it was a mere accident, but again the said car dashed against his motor bike for which his wife fell down on the ground from the bike. Then he stopped the motor bike to see the injuries of his wife. When the said car turned towards them immediately he lifted his wife on his bike to run from the place. But one of the accused persons forcefully dragged the hand of his wife and pulled her down. Then he also got off from his motor bike and saw three persons inside the car. Then and there he was hit on his head by an iron rod and fell down on the road. However, he managed to rise again and proceeded towards their car and found one person was holding his wife and pushing her inside the car with the aid of another person. Two persons came forward to attack him with a knife and iron rod in their

hands, inside the car there was one man sitting at the wheel. He again fell down on the road and go backward to save himself from assault. That time he noticed those persons took away his wife after dragging her inside the car. He further identified the accused persons at serial No.2 and 3 standing, that they were holding iron rod and knife in their hands on the alleged night of incident. He also indicated his finger to the accused at serial No.1 stating that the accused was dragging and holding his wife. He indicated his finger to the accused persons in the dock at serial No.4 and 5 stating that they were aiding accused at serial No.1 for taking his wife inside the car after coming out from the car and finally told there were in total five accused persons. He further stated that those miscreants ran the car very hurriedly towards Udaipur and he tried to follow them by his bike, but failed on turning and finding no other alternative way he had gone to Tepania District Hospital and there he found one official to whom he narrated the incident. Then said official informed the matter to the PS and in the meanwhile Police came to the hospital. The police gone for searching his wife, but failed to recover her and again police returned to hospital with empty hands and again proceeded to search his wife. Then he was instructed by the hospital official to go to the PS. After visiting PS he was taken to the PO by the police. There police found his mobile, chappal and bangle of his wife which was seized by police by preparing seizure list wherein he put his signature. Witness identified

his signature on the seizure list marked Exbt.P-1. He was again taken to the PS and waited therein till 8.00 a.m. in the morning when he could know about the fact of recovery of his wife. He also put his another signature on the seizure memo after the seizure of black coloured money bag, election ID card, PAN card, Debit card of himself etc. Witness identified his signature marked as Exbt.P-2. He also put his another signature on the seizure memo at around 1230 hours after the seizure of one Maruti Alto car, black coloured helmet, woolen cap and three mobile phones. He identified his signature which is marked as Exbt.P-3. He identified black coloured helmet and pink coloured ladies woolen cap marked Exbt.MO P-1 and MO P-2. He further identified black coloured money bag, election ID card, PAN card, Debit card. On being identified those were marked as Exbt.MO P-3 (series). He further identified his mobile, chappal and bangles of his wife which were marked Exbt. MO P-4 and Exbt.MO P-5 (series). He put his signature on another seizure memo at around 1245 hours after the seizure of golden coloured ear rings and two mobile sets. Witness identified his signature marked as Exbt.P-4 and identified the seized golden coloured ear ring marked as Exbt.MO P-6. After that he laid the FIR to the O/C R.K. Pur PS and identified the same marked Exbt.P-5.

He further deposed that his ejahar was prepared by one Rajat Jamatia as per his narration. He met his wife at around 1.00/2.00 p.m. There she was unable to speak

due to her injuries. Then his parents came to the PS and at around 3.00 pm they left the PS for their house. He found several injuries on different parts of the body of his wife as well as her wearing apparels also torned in several place very badly. On the next day morning his wife was taken to Tepania District Hospital for treatment. Due to crowd they took her to Khumulung Hospital, Jirania where she received treatment for around 3/4 days and later she was referred to GB Hospital, Agartala. At Khumulung Hospital, Jirania his wife narrated the entire incident to him and further stated that she was brutally assaulted by the accused persons and received knife injury on her buttock. She also stated that the accused persons gave her bite injuries on her chest and cheek. He further stated that accused persons threatened her to open her private parts else they will give knife injury there and the accused persons also inserted their fingers inside of her private parts and they committed the indecent acts as per their volition without any obstruction and thereby his wife had lost her sense. When she regained her sense she found herself alone without any dresses on her body. Then she hide herself inside the jungle, but accused persons were searching for her and telling each other that if she could not be found it would be harmful for them. During this period his wife very scared to come out and finally after rising the sun she came out from the jungle towards a village at Barabhaiya. There she found one villager to whom she asked for help who appointed one boy to assist his wife

for reaching nearby Bagma Choumuhani. Then his wife called him to his mobile phone, but it was received by police and accordingly she was taken to PS by police. His wife did not admit in GB Hospital though they visited the same in the morning at around 10.00 a.m. and in the evening they get back towards their house. On 08.12.2021, police had seized one ladies belt, broken bangles by preparing seizure memo wherein he put his signature. He identified his signature marked as Exbt.P-6. He identified the ladies belt, broken bangles which were marked Exbt.MO P-7 (series). He also put his signature in the seizure memo after the seizure of wearing apparels of his wife. He identified his signature marked as Exbt.P-7. He also identified the wearing apparel of his wife which were marked as Exbt. MO P-8 (series). He also put his signature as an identifying witness in the TI parade and identified his signature marked Exbt.P-8. On 01.12.2021 he also put his another signature in the TI parade as an identifying witness and identified his signature marked Exbt.P-9. On 10.12.2021 he also put his another signature on the TI parade as an identifying witness and identified the same marked Exbt.P-10 and identified all the accused persons present in the court in the dock.

During cross-examination by the appellants the informant husband was confronted with the statement that he stated to I.O. that he stopped the motor bike to see the injuries of his wife. Then said car rushed towards them, immediately he lifted his wife on his bike to run from the

place, but one of the accused person forcefully dragged the hand of his wife and pulled her down. On drawing attention such statement was not specifically found to the statement of witness recorded by I.O. He was further confronted with the statement that after visiting the PS he was taken to the P.O. by the police. There police found his mobile, chappal and bangle of his wife at the P.O. which was seized by police with seizure memo. On drawing attention such statement of the witness was not found to the statement recorded by I.O. He also stated that the ejahar was filed in the PS before meeting with his wife. He was further confronted with the statement that he stated to I.O. on the next morning his wife was taken to Tepania District Hospital for treatment and due to crowd they were taken towards Khumulung Hospital, Jirania and there she received treatment for 3/4 days. Later on, she was referred to GB Hospital, Agartala. On drawing attention of the statement of the witness recorded by I.O. such statement was not specifically found in the statement of witness recorded by I.O. under Section 161 of Cr.P.C. He was further confronted with the statement that he stated to I.O. that his wife narrated to him that she received knife injury on her buttock. On drawing attention such statement was not found in the statement recorded by I.O. He was further confronted with the statement that he stated to I.O. that when his wife regained her sense then she found herself alone without any dresses on her body. But on drawing

attention such statement was not found in the statement of witness recorded by I.O. Again he was confronted with the statement that he stated to I.O. that his wife did not admitted G.B. Hospital though they visited the same in the morning at around 10.00 a.m. and in the evening they returned back to their house. But on drawing attention of the statement of witness such statement was not found. Being asked by the court the appellant accused persons disclosed their identity as Tajul Islam, Saddam Hossen, Rabban Ali, Samiman Hossen and Dudhu Miah. The witness further identified the seized Maruti Alto vehicle which was seized by police with seizure memo on 20.11.2021 and the same was marked as Exbt.MO P-9.

11. PW-2 is the victim. She deposed on oath that on 19.11.2021 at around 7.00 pm she along with her husband went to Rash Mela at Patichari and at about 2.30 a.m. while they were returning back towards their house situated at Jalema from Rash Mela by motor bike, that time on the way after crossing the Tepania Park, Udaipur over on Agartala-Sabroom NH one Alto silver coloured car dashed against the motor bike of her husband. Thereafter said car again dashed against the motor bike for which she fell down on the ground and after that the vehicle stopped. That time three persons came out from the car and out of them two persons started assaulting her husband with an iron rod and one of them hold her forcefully. That time two more persons were inside the car and came out to help the man who was

holding her to take her inside forcefully. Inside the car she was brutally assaulted by them and kept at the foot space instead of seat. She was taken towards Tepania Gas godown and further taken towards a jungle. There she was taken out from the car by the accused persons and they were assaulting her incessantly. After taking her inside the jungle they forcefully undressed her and pulled down her panty and all of them one by one committed rape upon her. They also gave bite injuries on her breast and cheek. They also inserted their fingers on her private part. She lost her sense and after regaining her sense she found herself alone inside the jungle without any cloth on her body. Then she found her clothes nearby and dressed herself. Then all of them came in search of her but she concealed herself inside the jungle. Second time they again came in search of her and started calling her *"'kaki' 'kaki', come out, we will drop you nearby the road."* They also whispered them if she was spared then she may cause harm to them. Somehow she managed to conceal herself inside the deep jungle after pressing her mouth so that sound may not come out. After rising of the Sun she heard sound of motorcycle and hearing that she tried to come out but again hide herself. After that she came out from the jungle again and in the sunlight she found one road and there she found an old man with a bicycle to whom she narrated entire incident and requested him to help her. He accordingly helped her and took her towards Barabhaiya school. There they found one boy was

coming with a scooty and the old man requested the boy to help her to reach at Bagma bazaar. There she made a call to the mobile of her husband with the mobile of that boy. His mobile phone was responded by one Darogababu. That time she was asked by Darogababu about her location to which she informed that she was located at Barabhaiya. Then she was dropped at the Bagma main road by that boy with his scooty. Meanwhile she found one of her villager namely David Jamatia coming with a scooty who lifted her from there and on the way she found police vehicle and she was taken inside of that vehicle for Women PS. At around 1.00/1.30 pm she met with her husband there. Though police asked her about the incident but due to fear and shame she failed to say elaborately the entire episode to the police. Then she was taken to Udaipur Hospital for her treatment. At around 2.00/3.00 pm she along with her husband and other family members proceeded for their house. After reaching the house at the time of bath her husband and her mother found injury marks on her body to which they asked her about those injuries. But she could not tell them due to fear and shame. On 21.11.2021 she was taken by her family members for treatment to the District Hospital, Tepania, but due to huge crowd they failed to visit any doctor and then came back to house. On 22.11.2021 her husband took her to Khumulung Hospital, Jirania for treatment and till 25.11.2021 she received treatment therein. During that time she narrated her incidents to her

husband, other family members and Doctor of such hospital. She was advised by the attending Doctor to lodge complaint and accordingly police came at Hospital. There she lodged her complaint as written by her husband with the help of police as per her version wherein she put her signature. Witness identified her signatures in two sheets which are marked as Exbt.P-11(series). On 25.11.2021 she was referred to GB Hospital, Agartala and accordingly she visited the same wherein she was advised for admission. There CT scan was done and some medicines were given to her. Due to fear she did not take admission at GB Hospital and returned back to house at night. After 3/4 days she was produced before the court for recording her statement. There she narrated the incidents to the court and it was recorded as per her version wherein she put her signature. She identified her signatures on the statement recorded by the court which were marked as Exbt.P-12 (series). After that one TI Parade has been conducted wherein she put her signature as an identifying witness. The witness identified her signature which was marked as Exbt.P-13 and also put her signature on the seizure memo after the seizure of wearing apparels. Witness identified her signature which was marked as Exbt.P-7/1. She also put another signature in another seizure memo after the seizure of ladies belt, broken bangles, towel, iron rod etc. She identified her signature marked Exbt.P-6/1 and confirmed the seized ladies belt which already been marked as Exbt.MO P-7

(series). She also identified towel, "S" logo of car and iron wheel spanner which were marked as Exbt.MO P-9(series). She identified all the accused persons in the court dock. She identified the accused as serial No.1 by pointing finger and stated that said accused gave bite injuries on her breast and on cheek. She further identified by indicating her finger to another accused at serial No.3 stating that said accused has given rod blow to her husband accused standing at serial No.2 tried to give dao blow to her husband and rest others standing at serial No.4 and 5 forcefully dragged her inside the car with accused standing at serial No.1.

During cross-examination she stated that she has seen the accused persons in the court first time after the incident. She was confronted with the statement that at that time two persons were inside the car and helped the man who was holding her to take her inside of that car forcefully. On drawing attention such statement was not found in her statement recorded by I.O. under Section 161 of Cr.P.C. and also under Section 164(5) of Cr.P.C. specifically. She further stated that she stated to I.O. that she was taken towards Tepania Gas godown but on drawing attention such statement was not found to her statement recorded by I.O. under Section 161 of Cr.P.C. and also by court. She was confronted with the statement that she stated to Magistrate that the accused person inserted their fingers in her private part. But on drawing attention to the statement recorded under Section 164(5) of Cr.P.C. the

witness stated that such statement was not there although she stated only '*he inserted finger*'. She was further confronted with the statement that he stated to I.O. that after meeting with one villager namely David Jamatia he lifted her in his scooty from there. On drawing attention such statement was not found to the statement of witness recorded by I.O. She was again confronted with the statement that she stated to I.O. that after reaching the house at the time of bath her husband and her mother found injury marks on her body to which they asked her about the injuries. But she could not tell them due to fear and shame. But on drawing attention same part of statement was not found in the statement of witness recorded by I.O. under Section 161 of Cr.P.C. She also stated that her ejahar does not speak who had written the same and it does not contain about the place of his lodging to the police and it does not contain that it was written as per her version. Being asked by the court the accused persons standing on the dock disclosed their name one by one. Nothing more came out relevant from her cross-examination.

12. PW-3, Surya Mohan Jamatia is the father of the informant, Rana Bahadur Jamatia i.e. PW-1 has stated that on 19.11.2021 at around 7/7.30 p.m. in the evening his son and his wife (the victim) had gone to attend one Rash Mela at Patichari, but they did not return home at night. On the next morning PW-3 along with one villagers namely David

Jamatia were on morning walk that time one police Constable namely Rajkumar Debbarma called him to his mobile and asked him about his son and his wife and told him to visit to R.K. Pur PS as early as possible and accordingly he informed the matter to his wife and along with David Jamatia and another villager 'Jamai' proceeded towards R.K. Pur PS at 6.00 a.m. in the morning. When he reached there he saw his son and he has narrated the whole incident to his father. He lodged one ejahar at 9.00 a.m. in the morning. At around 10.00 a.m. one phone call has come to the informant's mobile and the police has received that call of his daughter-in-law who stated that she was at Barabhaiya at Bagma. Subsequently his daughter-in-law has been recovered and taken to R.K. Pur Women PS and at around 1.30 p.m. he went to R.K. Pur Women PS where he found his daughter-in-law was crying continuously. His daughter-in-law was also not in a condition to say anything and further she was taken to hospital for treatment. He further stated that at around 5.00 p.m. in the evening she was taken to her house and while her mother-in-law gave her bath she found some bite injury marks on different parts of her body. Subsequently on the next morning she was taken to Tepania district Hospital for treatment but she refused to admit in that hospital due to huge crowd. On the next morning she was taken to Khumulung Hospital, Jirania where she admitted for 4/5 days. In that particular hospital the victim informed the whole incident. The victim also

stated that after a prolong torture upon her she lost her sense and when she regained her sense she saw herself in a deep jungle. According to the victim she was brutally assaulted by all the miscreants. After that, the accused persons returned to the PO and asks for coming out after addressing to her as "kaki kaki come out, we will drop you at your desired place", but she refused and hide herself inside the deep jungle. The victim has further stated after getting dawn she came out from the jungle and found one old man proceeding with a bicycle and requested him to found a road for her so that she can proceed. Meanwhile, one school boy came out there with a scooty and his daughter-in-law requested him to call in a mobile number and accordingly call was made which was received by the police. The victim girl refused to narrate the incident earlier as she was just a newly married woman of about 9-10 days.

During cross-examination he stated that after getting call from police Constable along with David Jamatia he proceeded towards R.K. Pur PS via Bagma from their village Jalema. He further stated to the I.O. that after reaching to the house his wife gave bath to his daughter-in-law when she saw several injury marks on different parts of her body. Nothing more came out relevant except denial.

13. PW-4, Barnabala Jamatia is the mother-in-law of the victim. She deposed that on 19.11.2021 at around 7/7.30 p.m. the informant i.e. her son and the victim had gone to attend one Rash Mela at Patichari, but they did not

come back at night. On the next day in the morning her husband i.e. PW-3 after coming from morning walk informed her that an incident took place with her son and for that he has to go to R.K. Pur PS. Accordingly he along with David Jamatia and another villager known as 'Jamai' rushed to R.K. Pur PS at around 9/9.30 a.m. in the morning where he found his son. He asked him what happened to which he informed him i.e his father that on the previous day night while he along with his wife were returning from Rash Mela by his motorbike and when they crossed the Tepania Park at around 2/2.30 a.m. their motorcycle has been dashed twice from the backside by an Alto car. He also stated that at the first time nothing was happened but at the second time his daughter-in-law i.e. the victim dashed by that car and fell down from the motor cycle. Then three persons came out from that Alto car and gave a rod blow upon her son. His son informed him that the other two persons came out from that car and brutally assaulted his son and his daughter-in-law and they had taken away his daughter-in-law forcefully inside the Alto car for Udaipur. Subsequently at around 1/1.30 p.m. his daughter-in-law was brought to the R.K. Pur Women PS and met with her and asked her about the incident to which she could only say that she was brutally assaulted by the accused persons who has taken her into the Alto car. After that his daughter-in-law was taken to Udaipur Hospital by the police and at around 5/5.30 p.m. they left the PS for their house. After

reaching to the house when she was taking bath she (PW-4) saw severe bite injuries on her breast, private parts, face and on backside of her body. She also found swollen injuries on different parts of her body including on the eyes. She also stated that after completion of bath she was not able to dress her as she was crying due to pain and PW-4 wrapped her on the shoulder with a soft cloth and taken her to the bed for sleeping. Her daughter-in-law was not able to sleep whole night due to pain and she was continuously screaming. After that, the family members on the next day morning took her to the Tepania District Hospital for treatment but failed to admit therein due to crowd. On 22.11.2021 they had taken her to Khumulung Hospital, Jirania for further treatment wherein she was admitted for few days. On 23.11.2021 her daughter-in-law stated her (PW-4) in presence of her husband and her son that on the alleged night of incident after taking her inside the deep jungle all the five persons brutally assaulted her with fist and blows as well as kick blows and then all of them committed rape upon her. Due to the incident her daughter-in-law lost her sense and those accused persons left her in anticipation of her death. She also stated that the victim told them that after the commission of rape the accused persons also inserted the blunt back side of a knife inside her private parts. Meanwhile she regained her sense and she had gone further inside a deep jungle for hiding herself where she could heard the voice of accused persons nearby

of her calling her "kaki kaki, come out, we will drop you at the main road". After the end of the night her daughter-in-law came out from the jungle and recovered a route where she found one old man coming with a bicycle. She requested him to help her for reaching to main road and that time one school boy was also coming with a scooty to whom the old man requested to drop her daughter-in-law at the main road. Accordingly she was dropped at the main road by that school boy with a scooty and after reaching at the main road she made a call with the mobile of said school boy to the mobile of her husband which was received by the police. As a result of which she was recovered by the police and taken to R.K Pur Women PS. PW-4 stated that the daughter-in-law i.e. the victim could not say anything earlier about the incident as she was in fear and in hesitation being just newly married of just 9/10 days from the alleged incident. On 24.11.2021 she put her signature on the seizure memo after the seizure of vaginal swab of her daughter-in-law marked as Exbt.P/14 and also put her signature on the seizure of wearing apparels seized by the police which was marked as P-7/2. She also put her signature in the seizure memo after the seizure of some articles along with iron rod, one iron wheel and one "S" logo of vehicle marked as Exbt.P-6/2. Witness confirmed the seized articles which were marked as Exbt.M.O.P-8(series) and Exbt.M.O.P/7 (series) respectively. She also put her

signature after the seizure of blood samples marked as Exbt.P-15.

During cross-examination she deposed that she has met with the I.O. along with her daughter-in-law at around 1/1.30 p.m. She also stated to I.O. that after completion of bath she was not able to dress her as she was crying due to huge pain and as such she wrapped her on the shoulder with a soft cloth and took her to the bed for sleeping. She also stated that her daughter-in-law was not able to sleep whole night due to pain. She also deposed to I.O. that on 21.11.2021 she was taken to the Tepania District Hospital for treatment but she could not admit therein as she became nervous after hearing Bengali conversation. She deposed that on 23.11.2021 her daughter-in-law in presence of her husband and her son told that on the alleged night of incident after taking her inside the deep jungle all the five persons brutally assaulted her with fist and blows as well as kick blow and then all of them committed rape upon her. Attention of the witness was drawn to her previous statement recorded by the I.O. to which witness stated that on which date, to whom and in whose presence her daughter-in-law stated about her incident are not there. She was further confronted with the statement that she stated to the I.O. that the accused persons inserted blunt back side of a knife inside the private parts of her daughter-in-law. Attention of the witness was drawn to her previous statement recorded by the I.O. to

which witness stated that such statement was not there. Nothing more came out relevant.

14. PW-5, Shri Gaya Sadhan Jamatia is the elder brother of the victim. He deposed that on 19.11.2021 evening time at around 7.00/7.30 p.m. he met his younger sister and her husband at Khamar Para, Bagma while they were proceeding towards Rash Mela at Patichari by a motor cycle. On the next day i.e. 20.11.2021 at around 5.30 a.m. the mother of Rana Bahadur (the informant) informed him that one call has come from the PS in the mobile of the father of Rana Bahadur. Then he along with the father of Rana Bahadur and another David Jamatia rushed towards the R.K. Pur PS, but on arrival he found only Rana Bahadur there and could not find his younger sister. On being asked Rana Bahadur told that on the previous night while he (the informant) along with his wife (the victim) were returning back from Rash Mela on the way after crossing the Tepania Park at around 2.00/2.30 a.m. their motor cycle has been dashed twice from the back side by a Alto silver colour car. After dashing second time his younger sister fell down from the motor cycle and then three accused persons came out from that car and out of them one accused person chased his younger sister and other two accused persons assaulted Rana Bahadur with an iron rod. Rana Bahadur further informed them that then two other accused persons came out from that car and all of them forcefully taken away his younger sister inside of that Alto car towards Udaipur. Then

Rana Bahadur went to the District Hospital, Tepania and there he narrated the incident to one police constable who asked him to visit the R.K. Pur PS. Then he visited the R.K. Pur PS. In the PS at around 9.00/10.00 a.m. one call had come to the SIM of Rana Bahadur Jamatia installed in the mobile of one police which was called by his younger sister who stated that she was at Bagma crossing. Then he accompanied with the police proceeded towards Bagma crossing and recovered his younger sister and brought to the R.K. Pur Women PS. Subsequently she was taken to Udaipur Sub-Divisional Hospital for treatment. Later on, at around 5.00 p.m. in the evening they left the PS for their house at Jalema. After reaching to the house when mother of Rana Bahadur gave bath to his younger sister that time severe injury marks were found all over the body of his younger sister which he came to know from the mother of Rana Bahadur. On the next morning they had taken her sister to the Tepania District Hospital for treatment, but failed to get her admitted therein as she became nervous after seeing unknown faces there. On the next morning i.e. on 22.11.2021 his younger sister was taken to Khumulung Hospital, Jirania for further treatment. He stated that he had gone to Khumulung Hospital on the next day i.e. on 23.11.2021. There his younger sister stated to them in front of doctor and police about her incident that on the alleged night of incident after taking her inside the deep jungle all the five persons brutally assaulted her with fist and blows as

well as kick blow and then all of them committed rape upon her one by one. On being asked, his younger sister told that due to newly married as well as out of shame she could not state earlier about her incident to them just after the incident. He returned back from the Khumulung Hospital in the evening. He put his signature on the seizure memo after the seizure of one VIVO mobile phone, broken ladies shoes and broken pieces of white 'shakha'. He identified his signature marked as Exbt.P-1/1. Witness also confirmed the seized articles which already been marked as Exbt. MO. P-4 and Exbt. MO. P-5 (series).

During cross-examination he stated that he stated to the IO that Rana Bahadur told them about the incident. On drawing attention such statement was not found to the statement of witness recorded by I.O. He also stated to the IO that after reaching to the house when mother of Rana Bahadur gave bath to his younger sister that time severe injury marks were found all over the body of her which he came to know from the mother of Rana Bahadur. On drawing attention such statement was not found to the statement of witness recorded by I.O. He has further stated in the cross-examination that he stated to the IO that on 23.11.2021 he had gone to Khumulung Hospital, Jirania. He also stated to the IO that at Khumulung Hospital, Jirania in presence of them, doctor and police, she (victim) told her incident. On drawing attention such statement was

not specifically found to the statement of witness recorded by I.O. Nothing more came out relevant.

15. PW-6, Sahadeb Dutta posted as Forest Guard of Tepania Forest Range. He deposed that on 20.11.2021 morning time at around 7.00/7.15 a.m. while he was proceeding towards his house after completing his night duty by using the road below of Tepania District Hospital on the way near Tepania Smriti Ban (jungle) Forest Range he could hear the voice of one lady calling him from back side after saying "Uncle, uncle, save me." Then he stopped his bicycle and turned towards the lady. After reaching nearby to her he saw several bleeding injury marks on her whole face and asked her about those marks. Then she told him that on the previous night while she was returning with her husband from Rash Mela on the way nearby Tepania Park they were detained by 4/5 persons and she was taken by those persons after being beaten by them towards the jungle. She also told him that her husband also beaten by those persons. She further told him that inside the jungle she was sexually assaulted by those 4/5 persons and after getting dawn she came out from jungle. He stated that the lady also requested him to drop her to her house, but in the meantime, one of his village nephew namely Joy Saha arrived there with his scooty. Then he requested his said nephew to drop the lady at the Bagma Hospital Choumohani. Then one phone call also been made by said lady with the mobile of Joy Saha wherein she stated that by

10 minutes she might be on the Highway road. Said Joy Saha took the lady towards the Bagma Hospital Choumuhani.

During cross-examination he stated that he told to the I.O that the lady told him that inside the jungle she was sexually assaulted by 4/5 persons. On drawing attention such statement was not specifically found to the previous statement. Nothing more came out relevant.

16. PW-7, Joy Saha was a student of Class XII of Ramesh School deposed that on 20.11.2021 morning time at around 8.10 a.m. while he was returning towards his house from tuition by using the road of below Tepania District Hospital, on the way he found one of his village uncles namely Sahadeb Dutta with one lady nearby the down road just ahead of Barabhaiya School. There he also saw the lady with severe swollen injuries all over on her face who also requested him to make a mobile call to her family. There on being asked to the lady he came to know that on the previous night while they were returning towards house from Rash Mela on the way they were detained by 4/5 persons nearby Tepania Park and she was taken by those persons after being assaulted by them. She further stated that her husband also been assaulted by those persons. Then she called to her family with his mobile. He also talked to one person from other side and he requested him to come at Barabhaiya School to which that person replied that he do not know the address of said

school. Then it was agreed that the lady will be dropped at Bagma Hospital Choumuhani. Then he took the lady towards Bagma Hospital Choumuhani with his scooty, but on the way she was requesting him to drive the scooty slowly as she was having pain all over on her body. Then he dropped her at Bagma Hospital Choumuhani. There the lady was taken by her known persons. During cross-examination nothing came out except denial.

17. PW-8, Mani Bala Das was posted as Constable in the R.K. Pur Women PS on 12.12.2021 and on that date she was performing duty with the Inspector of Police namely Mina Debbarma along with Forensic Team. On that date said Inspector of police had seized dry leaves, soil from the PO by preparing seizure memo wherein she put his signature. Witness identified her signature marked as Exbt.P-16. During cross-examination nothing came out except denial.

18. PW-9, David Jamatia deposited that on 20.11.2021 police has seized money bag, PAN card, Debit card, voter I-card of Rana Bahadur by preparing seizure memo at Barabhaiya, Bagma wherein he put his signature and identified his signature marked as Exbt.P-2/1. In the cross-examination he stated that he could not say the case number as well as the GD entry number. He also stated that he put his signature in the PS on 20.11.2021 at around 6.00/6.30 a.m. in the morning.

19. PW-10, Sabi Rani Debbarma was posted as the Staff Nurse at TSSD Hospital Udaipur on 20.12.2021 and on

that date the Inspector Police namely Smti. Mina Debbarma has seized blood sample of victim in gauze cloth by seizure memo wherein she put her signature. Witness identified her signature marked as Exbt.P-15/1. She also put her another signature in the blood sample authentication form of the victim. Witness identified her signature marked as Exbt.P-17. Nothing came out relevant during the cross-examination.

20. PW-11, Dr. Aniruddha Roy was posted in the TSSD Hospital, Udaipur, Gomati District as the Medical Officer on 20.11.2021 and on that date he received a prayer from the O/C, R.K. Pur Women PS, Udaipur for arranging formal medical check-up of the victim in connection with R.K. Pur Women PS GDE No.09 dated 20.11.2021. At around 12.17 pm he examined the victim medically with complaint of alleged history of physical assault yesterday night blunt trauma over right hand, face, back, chest and both legs. On local examination he found the followings:

- 1. Black eye present in right eye with sub conjunctival hemorrhage in right eye,**
- 2. Multiple abrasion over neck right side ranging over 1 cm x 0.1 cm. No pattern found.**
- 3. Both nipple lacerated injury present over measuring 1 cm x 0.1 cm each.**
- 4. Multiple scratch abrasion over back and chest ranging 2 cm x 0.1 cm to 1 cm x 0.1 cm. No specific pattern.**
- 5. Tenderness present in right forearm with bruise in upper 1/3rd.**
- 6. Multiple abrasion and scratch mark over inner side of thigh and buttock ranging from 3 cm x 0.1 cm to 1 cm x 0.1 cm.**
- 7. Bruise over right leg 2 cm x 3 cm recent. No joint deformity.**

The above findings was given by her in the back page of such prayer of the Duty Officer of R.K. Pur Women

PS, Udaipur and the signature has been marked as Exbt. P-18.

Subsequently he prepared a report in connection with R.K. Pur GDE No.09 dated 20.11.2021 connecting case No.2021 RKP 179 dated 20.11.2021 on the examination of the victim. He had mentioned in his injury report that at around 12.17 pm he examined the victim medically with complaint of alleged history of physical assault yesterday night of blunt trauma over right hand, fact, back, chest and both legs. On local examination he found the followings:

1. Abrasion in the right side of neck linear, no exact pattern multiple in numbers measuring 1x 0.1 cm to 2x 0.1 cm, recent in age caused by blunt or semi sharp object.
2. Abrasion in the inner side of both upper thigh linear, no exact pattern multiple in numbers measuring 3x 0.1 cm to 1x 0.1 cm, recent in age caused by blunt or semi sharp object.
3. Sub conjunctival hemorrhage with black eye on right eye conjunctiva and around right eye in irregular shape, recent in age, caused by blunt object.
4. Bruise on the right forearm anterior aspect in upper 1/3rd area measuring 5 cm x 5 cm, recent in age, caused by blunt object.
5. Bruise on the right leg in middle 1/3rd area measuring 2 cm x 3 cm, recent in age, caused by blunt object.
6. Laceration around right nipple of the right breast over areola measuring 1 cm x 0.1 cm x skin depth curved, recent in age, cause by semi sharp or blunt object.
7. Laceration around left nipple of the left breast over areola measuring 1 cm x 0.1 cm x skin depth curved, recent in age, caused by semi sharp or blunt object.
8. Multiple abrasion over upper chest around both breast linear no exact pattern, multiple in numbers measuring 1x 0.1 cm to 2x 0.1 cm recent in age, caused by blunt or semi sharp object.
9. Abrasion over upper back linear no exact pattern, multiple in numbers measuring 3x 0.1 cm to 1 x 0.1 cm recent in age, caused by blunt or semi sharp object.

This was his report in three sheets bearing his official seal and signatures. On being identified by the witness the report is hereby marked as Exbt.P-19 and signatures are marked as Exbt.P-19/1 (series).

During his cross-examination he stated that in his report all the injuries are simple in nature except the injury at Sl. No.3. It is not possible to receive such type of injuries after falling from running motor cycle. There might be abrasion if the injured got fallen from running motor cycle.

21. PW-12, Pradip Debbarma deposed that on 20.11.2021 he accompanied SI of Police namely Debabrata Biswas towards Khedabari under PS Sonamura into the house of one Tajul Islam and at around 12.30 hours said SI of Police had seized one Maruti Alto 800 vehicle bearing registration No.TR 04 A 0370 (silver colour), one black coloured helmet, one pink coloured ladies woolen cap, 4/5 nos. of mobile phones by preparing seizure memo wherein he put his signature. He identified his signature which is marked as Exbt.P-3/1. He stated that on that date said Daragababu also seized one golden coloured ear ring and mobile phones by preparing separate seizure memo wherein he put his signature. He identified his signature which is marked as Exbt.P-4/1 and confirmed the seized articles which already been marked as Exbt. MO P-1, P-2, P-4, P-5, P-6 and P-9. He further stated that on 26.11.2021 Darogababu namely Debabrata Biswas also seized one black colour mobile from the possession Dudhu Miah at Shibnagar under PS Melaghar by preparing seizure memo wherein he put his signature and identified his signature marked as Exbt.P-20. Nothing more came out relevant during cross-examination.

22. PW-13, Chandan Das stated that one of his brothers namely Nirmal Das was the previous owner of Maruti Alto car bearing registration No.TR 04 A 0370 who sold the same to one Tajul Islam of Sonamura, Khedabari approximately one year back. He was the middleman of such transaction. Said Tajul Islam was previously known to him being his customer who sometimes visited his garage at Sonamura Motor Stand for repairing of his vehicle. After that all the vehicular documents has been transferred in the name of Tajul Islam. On 20.11.2021 police had seized said Maruti Also car, one black coloured helmet, mobile phones and other articles by preparing seizure memos wherein he put his signatures. He identified his signatures marked as Exbt.P-3/2 and Exbt.P-4/2 and confirmed the seized articles marked as Exbt.MO P-4, P-5 and P-9, but he was not sure about the colour of the seized helmet which is marked as Exbt. MO P-1.

In the cross-examination he deposed that only the seized car and other articles were shown to him on the road and being asked by police he put his signatures. Nothing more came out relevant in the present context.

23. PW-14, Makhan Debnath, SI of Police stated that on 12.12.2021 he was posted in the Crime Branch, SCRB, Agartala, West Tripura and on that date the Inspector of Police namely Smti Mina Debbarma of Crime Branch had seized dry leaf, soil at Udaipur Smritivan under Killa Forest Range, Udaipur by preparing seizure memo wherein he put

his signature and he identified his signature marked as Exbt.P-16/1. Nothing came out relevant in the cross-examination.

24. PW-15, Dr. Munmun Debbarma stated that on 13.12.2021 she was posted being the Sr. Resident, Dept. of Psychiatry at AGMC & GBP Hospital, Agartala and he was also one of members of one Special Medical Board along with two other members. On that day they had examined the victim in connection with R.K. Pur Women PS Case No.2021 WRP 0077 dated 25.11.2021 under Section 376(D) of IPC after receiving the requisition from Women Inspector of Police namely Smti Mina Debbarma of Crime Branch, Agartala. The examination was commenced at 3.45 pm and concluded at 4.25 pm. Victim was examined at Labour room, Dept. of Obstetrics and Gynecology, AGMC & GBP Hospital. The victim was accompanied by one Women Head Constable namely Smti Bela Rani Debbarma and one relative namely Smti. Barna Bala Jamatia. The brief history has been stated in the report itself. The victim stated that she had taken bath and changed her clothes several time following the incident, she was complaining of sleep disturbances, weakness, palpitation, body ache and fearfulness. She was having repeated crying spells. PW-15 stated that she (the victim) was conscious, cooperative, well oriented to time, place and person and her gait was normal.

After examination they found mental status of victim as follows:

Her mood and affect is sad, her psychomotor activity is decreased and she is having repeated crying spells.

Development of secondary sexual characters:-

Auxiliary hair present, adult type.

Breast: Breast mount is well developed.

Details of injury present over the body:-

1. 3 nos. of crescentic shaped healed abrasions are present adjacently over an area of 3 cm x 0.8 cm on the right areola of breast surrounding the nipple.
2. nos. of crescentic shaped healed abrasions are present adjacently over an area of 3.5 cm x 0.8 cm on the left areola of breast surrounding the nipple.
3. One healed scar, 3 cm x 1 cm is present on the lower part of right breast which is situated 4 cm below the nipple.
4. Multiple healed scratch abrasions, 7 in number are present on the inner aspect of left leg and left thigh over an area of 8 cm x 6 cm, ranging in measurement from 0.5 cm x 0.2 cm upto 1 cm x 0.5 cm.
5. Multiple healed scratch abrasions, 8 in number are present on the outer aspect of both buttocks over an area of 14 cm x 10 cm, ranging in measurement from 0.5 cm x 0.2 cm upto 1 cm x 0.5 cm.
6. One yellowish coloured contusion, 1 cm x 0.5 cm is present on the outer aspect of the right upper eye lid.

On local examination tenderness is elicited in right buttock and right wrist region.

- i. injury No.1, 2 and 3 are possible by human bite.
- ii. Injury No.4 is possible by human finger nail tip.
- iii. injury No.5 is possible by friction over uneven surface.
- iv. Injury No.6 is possible by hard and blunt force impact.

All the injuries mentioned above are 3 weeks to 4 weeks in duration at the time of examination.

Examination of the private parts:-

Pubic hair present, adult type, non matted.

Hymen: Old healed tears are present at 3 O'clock, 5 O'clock, 6 O'clock and 9 O'clock positions. The victim was discharged after examination with advice's.

After receiving the vaginal swab analysis report they had given final opinion that there is presence of genital and physical injuries. Although semen/spermatozoa of

human origin could not be detected in the vaginal swab, there are signs suggestive of forceful sexual intercourse.

The report containing 4 pages bearing her signature. She identified the report which is marked as Exbt.P-21 and her signatures including initials are hereby marked as Exbt.P-21/1 (series).

During cross-examination she stated that the report does not contain any official seal. Her initial also does not contain official seal. She also stated that at the time of examination of the private parts of victim she was present being one of the members of the Medical Board. She did not examine the private parts of the victim which was done by the Gynecologist namely Dr. Madhumita Roy. She has no specialization in Gynecology and Forensic Medicine. Being an MBBS doctor She can say about the age of any injury though she has no specialization in Forensic Medicine. She has no idea about formation of Medical Board with MD doctors which was formed by the Health Department since any MBBS doctor can given opinion about the age of injury after examination. She further confronted with the statement that they did not find any injury in the private parts of the victim though they opined finally that there are signs suggestive of forceful sexual intercourse.

25. PW-16, Dr. Pradipta Narayan Chakraborty deposed in the same manner like PW-15, Dr. Munmun Debbarma.

During cross-examination he stated that the report does not contain any official seal. His initial also does not contain official seal. He has specialization in Forensic Medicine. He was aware that the victim was a married woman as stated by her. He further stated that all the injuries mentioned in injury Nos. 1 to 6 are 3 weeks to 4 weeks in duration at the time of examination. It is possible to tear the hymen in case of married woman. They opined finally that there are signs suggestive of forceful sexual intercourse.

26. PW-17, Dr. Mdhumita Roy reiterated the same version like PWs 15 and 16.

During cross-examination she stated that the report does not contain any official seal and it also does not contain any official seal. She has specialization in Obstetrics and Gynaecology. He was aware that the victim was a married woman as stated by her. She further stated that all the injuries mentioned in injury Nos. 1 to 6 are 3 weeks to 4 weeks in duration at the time of examination. It is possible to tear the hymen in case of married woman. They opined finally that there are signs suggestive of forceful sexual intercourse. Nothing more came out relevant from her cross-examination.

27. PW-18, Haradhan Bhattacharjee deposed that on 20.11.2021 morning time at around 6.00/6.15 am at Barabhaiya in between Barabhaiya High School to Barabhaiya PHC, one Darogababu has seized one black

colour money bag, election ID card, PAN card, Debit card of one Rana Bahadur Jamatia by preparing seizure memo wherein he put his signature. He identified his signature marked as Exbt.P-2/2. On that day during morning time he found those articles while going to his house from Udaipur rented house and then he informed to the R.K. Pur P/S.

28. PW-19, Supriya Ghosh, Constable of Police stated that on 20.11.2021 he was performing the guard duty in night shift at Tepania District Hospital, Gomati from 2.00 am onwards. At around 3.15 am one person namely Rana Bahadur Jamatia came there and informed him that on that night while he was returning to house along with his wife in a motor cycle after attending one mela at Patichari, on the way at Tepania Eco Park some miscreants dashed twice on his motor cycle in its back side by one Alto car (silver colour). As a result his wife fell down from the motor cycle and both Rana Bahadur Jamatia & his wife assaulted by those miscreants there. He (Rana Bahadur Jamatia) further informed him that those miscreants taken away his wife towards Udaipur by said Alto car. He ran towards the car for few minutes, but failed to catch the same. Then he came at Tepania District Hospital and informed him (PW-19) about the incident. Then he immediately informed the matter to R.K. Pur PS as well as to the District Control Room about the incident for taking necessary action.

During cross-examination he told that he stated to the IO that on the alleged night while Rana Bahadur

Jamatia was going to house after attending one mela at Patichari, on the way at Tepania Eco Park some miscreants dashed twice on his motor cycle in its back side are not there. On drawing attention such statement was not specifically found to the statement of witness recorded by I.O. to which he stated that returning from mela at Patichari and dashing twice on the motor cycle in its back side are not there. Nothing more came out relevant during his cross-examination.

29. PW-20, Santanu Debbarma stated that on 12.12.2021 he was posted as the Sr. Scientific Assistant at District Mobile Forensic Science Laboratory, is short DMFSL, Dhajanagar, Udaipur and on that date he visited the spot at around 1230 hours accompanied by the Crime Branch in connection with R.K. Pur Women PS case No.77/2021 under Section 376(D) of IPC dated 25.11.2021. The brief history of the crime were stated in the report itself.

Observations at the PO: सत्यमेव जयते

1. The PO is located at Udaipur Smritivan under Killa Forest Range, Udaipur, Gomati, Tripura.
2. No exhibit available at the PO.
3. Soil samples collected from the front and back sides of the vehicle bearing registration No. TR 04 A 0370 kept at R.K. Pur PS.
4. Control soil collected from the PO.

Three exhibits such as sample soil collected from the front side and back side of the vehicle bearing registration No.TR-04 A-0370 and control soil collected from the PO.

Instructions at serial Nos. 1 to 5 were given to the IO.

He identified the report dated 21.12.2021 in 3 sheets. On being identified by the witness the report is marked as Exbt.P-22 and the signature of witness marked as Exbt.P-22/1.

He further stated that on 23.12.2021 at about 1530 hours he again visited the R.K. Pur PS along with the Inspector of Crime Branch to make observation over the vehicles in connection with the above mentioned R.K. Pur Women PS case number.

Observations over the vehicles:

The incident took place on 20.11.2021 and the requisition was given on 23.12.2021 by Woman Inspector of Police, Serious Crime Unit, Tripura Police Crime Branch for inspecting the vehicles bearing registration No.TR-03H-6702 (Bike) and TR-04A-0370 (Alto Maruti Suzuki).

Both the vehicles are carefully examined at PS and observed that on the back side of the vehicle bearing registration NO.TR 03 H 6702 (Bike) the mudguard (the height of the broken part of mudguard from the ground was 1ft. 5 inch approx.) partly broken and respective height of the vehicle bearing registration No.TR-04A-0370 (Alto Maruti Suzuki) has very faint mark without paint on the area were observed.

The nature of physical evidence suggesting that the possibilities of mild hitting from the back side of the vehicle cannot be ruled out.

The report prepared in two sheets bearing his signature and he identified the report marked as Exbt.P-23 and the signature marked as Exbt.P-23/1.

During cross-examination nothing came out relevant.

30. PW-21, Purabi Jamatia deposed that on 29.11.2021 she was posted as a Head Clerk in the Gomati District Judiciary, Udaipur and on that date she had performed the duty to interpret the version of victim from Kokborok to Bengali and vice versa while recording the statement of victim by the Learned J.M. 1st class, Shri Rajarshi Chakraborty, Udaipur, Gomati in connection with R.K. Pur Women PS case No.2021 WRP 0077. After completion of recording the version of victim she put her two signatures therein. She identified her signatures marked as Exbt.P-12/1(series). During cross-examination nothing came out relevant.

31. PW-23, Dr. Subhankar Nath deposed that on 20.12.2021 he was posted as the Deputy Director, DNA Typing Division, at SFSL, Narsingarh, Agartala and on that date he received the Exhibit marked 'K' from Biology/Serology Division as received by them on 16.12.2021 in connection with R.K. Pur Women PS case No.77/2021 under Section 376(D) of IPC dated 25.11.2021 and R.K. Pur PS case No.2021/RKP/179 dated 20.11.2021

under Sections 397/400/367 of IPC and added Section 354(B) of IPC.

The period of examination was from 20.12.2021 to 24.12.2021. The description of Exhibit 'K' was described in details in his report.

Results of examination:-

The Exhibit mark 'K' was subjected for DNA test as per standard protocol and the details of methodology was mentioned in page 2 of his report.

Conclusion:

The blood stain detected in Exhibit K (source: cloth pieces of one brassiere of victim) belongs to human female.

This is his report dated 24.12.2021 in 4 sheets bearing his signatures in every pages. He identified the report marked as Exbt.P-25 and also identified the signatures marked as Exbt.P-25/1(series).

On 21.12.2021 he received one sealed parcel forwarded by the Deputy SP (Crime Branch, Tripura Police, Agartala in connection with R.K. Pur Women PS case No.77/2021 under Section 376(D) of IPC dated 25.11.2021 and R.K. Pur PS case No.2021/RKP/179 dated 20.11.2021 under Sections 397/400/367 of IPC and added Section 354(B) of IPC.

The period of examination was from 21.12.2021 to 24.12.2021.

The description of Exhibit 'O' was given in details in the report itself.

Results of examination:

The sealed parcel contained one Exhibit – 'O' which was the control blood sample of victim. DNA test was conducted on Exhibit – 'O' as per standard protocol and such detailed methodology was mentioned in the page No.2 of the present report.

Observation:

After DNA test (1) a female genetic profile was generated from Exhibit 'O' (source: control blood sample of victim)

(2) The alleles of the amplified loci of DNA profile of Exhibit 'O' (source: control blood samples of victim) and Exhibit K (source: cloth pieces of oen brassiere of victim matches with each other)

Conclusion:

On the basis of the above observations it is concluded that the blood stain detected in Exhibit 'K' (source: control blood sample of victim).

He identified his report dated 24.12.2021 in 4 sheets bearing his signatures in each pages marked as Exbt.P-26 and also identified his signatures marked as Exbt.P-26/1 (series).

Nothing came out relevant during cross-examination.

32. PW-24 Debjani Majumder deposed that on 01.12.2021 she was posted as the J.M. 1st class, Court

No.1, Udaipur, Gomati and on that date she had conducted the TI parade in connection with R.K. Pur PS case No.2021/RKP/179. The date, time and venue of such TI parade was on 01.12.2021 at around 3.10 pm at Udaipur District Jail. The witness namely Rana Bahadur Jamatia stated that he has seen the accused by face and he can identify the accused person. The manner of conducting TI parade has been mentioned in the para No.7 of his report elaborately. The result of TI parade was that the witness identified the suspect Dudhu Miah by pointing towards him and touching his shoulder. The suspect also stated that he is innocent and he has no idea about this case. Then she prepared the TI parade report dated 01.12.2021 after obtaining signatures of witnesses. The TI parade report contained in 3 sheets and she identified the report marked as Exbt.P-8/1 (as a whole). On the same date she again conducted another TI parade in connection with the same PS case number. The date, time and venue of such TI parade was on 01.12.2021 at around 3.25 pm at Udaipur District Jail. The suspect was Dudhu Miah who was kept inside of lock up No.4 at Udaipur District jail. The witness/victim stated that she has seen the accused by face and she can identify the accused person. The manner of conducting TI parade has been mentioned in the para No.7 of her report elaborately. The result of TI parade was that the witness identified the suspect Dudhu Miah by pointing towards him. The suspect also stated that he is innocent

and he has no idea about this case. Then she prepared the TI parade report dated 01.12.2021 after obtaining signatures of witnesses. This TI parade report contained in 3 sheets and she identified the report marked as Exbt.P-13/1 (as a whole). Again on 10.12.2021 she conducted another TI parade in connection with the same PS case number. The date, time and venue of such TI parade was on 10.12.2021 at around 3.10 pm at Udaipur District complex. The suspect was Samiman Hossein who was kept inside the lock up No.4 at Udaipur District jail. The witness namely Rana Bahadur Jamatia stated that he has seen the accused by face and he can identify the accused person. The manner of conducting TI parade has been mentioned in para No.7 of her report elaborately. The result of TI parade was that the witness identified the suspect Samiman Hossein by touching his shoulders. The suspect stated that he is innocent and he has no idea about this case. Then she prepared the TI parade report dated 10.12.2021 after obtaining signatures of witnesses. The TI parade report contained in 3 sheets and she identified the report marked as Exbt.P-9/1 (as a whole).

During cross-examination WV that she conducted the TI parade after passing necessary order in the supplementary file during police file after receiving the order of Learned CJM in this regard which is available with the case record. She further stated in the cross-examination in para No.8 of her TI parade report dated 10.12.2021 she

made correction of the word 'touching' without putting her initial. Nothing came out relevant in the present context.

33. PW-25 Sabyasachi Nath deposed that on 01.12.2021 he was posted in the SFSL, Narsingarh, Agartala as the Sr. Scientific Officer cum ACE (Biology/Serology Division) and on that date he received one sealed parcel bearing gala seal impressions (SDPO, Udaipur) containing following exhibits in connection with R.K. Pur Women PS case No.2021/WRP/077 dated 25.11.2021 under Section 376D of IPC. The period of examination was 02.12.2021 to 09.12.2021. Details of parcels of exhibits received are mentioned in the para No.10 of his report elaborately. The result of examination: semen/spermatozoa of human origin could not be detected in the exhibits A1 and A2. His report dated 09.12.2021 contained in 1 sheet and which is marked as Exbt.P-26 (as a whole).

On 16.12.2021 he also received 2 sealed parcels in connection with same PS case number and R.K. Pur PS case No.2021/RKP/179 dated 20.11.2021 under Section 397/400/367 of IPC and added section 354B of IPC. The period of examination was 17.12.2021 to 21.12.2021. Details of parcels and exhibits received are mentioned in para No.10 of his report.

The results of examination:-

- i) human blood was detected in the exhibit K and its group could be determined as "B" group
- ii) blood stain could not be detected in the exhibit H, I, J, L and M.

- iii) semen, spermatozoa/saliva/hair of human origin could not be detected in the exhibits H, I, J, K, L and M.
- iv) epithelial cell could not be detected in the exhibit M.

In the note No.3 he had mentioned that after examination/sub-sampling of the exhibits the stained portion of one exhibit marked as K was forwarded to DNA typing Division for generation of DNA profile and report. The report dated 23.12.2021 in 1 sheet and identified the report which is marked as Exbt.P-27 (as a whole).

On 23.12.2021 he again received one sealed parcel in connection with the same PS case number. The period of examination was 23.12.2021 to 24.12.2021. The details of parcel and exhibits received are mentioned in para No.10 of his report elaborately. The results of examination: blood stain was not detected in the exhibit P. The report dated 24.12.2021 contained in 1 sheet marked as Exbt.P-28 (as a whole).

On 29.12.2021 he further received two sealed parcels in connection with the same PS case numbers. The period of examination was 30.12.2021 to 05.01.2022. The details of parcel and exhibits received are mentioned in para No.10 of his report elaborately. The results of examination: semen/spermatozoa/saliva/epithelial cell/hair of human origin could not be detected in the exhibits V, W, X, Y, Z, AA and BB. The report dated 06.01.2022 contained in two pages which is marked as Exbt.P-29 (as a whole).

34. PW-26 Dr. Narenjit Das deposed that on 18.12.2021 he was posted as the Medical Officer in the District Hospital, Tepania, Gomati District and on that date he prepared the injury report of the injured namely Rana Bahadur Jamatia in connection with R.K.Pur PS case No.179/2021 under Section of IPC. The report was prepared as per the OPD ticket of Gomati District Hospital, Udaipur to which it was revealed that it was the case of alleged physical assault. He found that injured Rana Bahadur Jamatia received contusion injury on neck. The injury was simple. He identified his report marked as Exbt.P-30 (as a whole). Nothing came out relevant during cross-examination.

35. PW-27 Jayanta Das stated that on 24.11.2021 he was posted in the Radhapur PS as I/C Inspector. On that date at around 6.30 pm their PS received one requisition from the Medical Officer namely Dr. Aranyamohan Jamatia of Kherengbari CHC, Khumulung, Jirania. Then he visited the said CHC with one woman Constable namely Smti Sumati Debbarma and other staff. Then he received one written complaint of the victim dated 24.11.2021 at 2030 hours which was noted in the GD vide Radhapur PS GD Entry No.25 dated 24.11.2021 and forwarded the same to the O/C of R.K. Pur PS along with two extract copies of GD entry Nos.22 and 25 for taking necessary action. He identified the note in the written complaint marked as Exbt.P-11/1, the extract copies of those GD entries are

marked as Exbt.P-31 and Exbt.P-32. He also identified his signature in the GD entry No.22 marked as Exbt.P-31/1 and the signature of the O/C of Radhapur PS marked as Exbt.P-31/2. He also identified his signature in the GD entry No.25 which is marked as Exbt.P-32/2. Then he arranged for medical examination of victim in the Kheregbar CHC by Medical Officer. Then he prepared one seizure memo dated 24.11.2021 in connection with Radhapur PS GD Entry No.22 dated 24.11.2021 after the seizure of two nos of plastic containers containing vaginal swab of the victim in presence of witnesses. He identified the seizure memo dated 24.11.2021 marked as Exbt.P-14/1. He also forwarded the two nos. of plastic containers along with the written complaint to the O/C of R.K. Pur PS.

36. PW-28 Dr. Jayashri Debbarma deposed that on 28.12.2021 he was posted as the Medical Officer in the Tripura Sundari Sub-Divisional Hospital, Udaipur and on that date he had conducted potency test of the accused persons namely Saddam Hussein, Rabban Ali, Dudhu Miah, Samiman Hussein and Tajul Islam in connection with R.K. Pur Women PS case No.2021 WRP 0077 dated 25.11.2021 under Section 376(D) of IPC. After potency test he found there was nothing to suggest that the above persons are incapable of performing the sexual act. He also filled up the printed blood sample authentication form of each of the above named accused persons after collecting blood sample for the purpose of potency test. Then he prepared the

potency test reports. He identified those reports along with blood sample authentication form are hereby marked as Exbt.P-33 (Saddam Hussein) , Exbt.P-34 (Rabban Ali), Exbt.P-35 (Dudhu Miah), Exbt.P-36 (Samiman Hussein) and Exbt.P-37 (Tajul Islam). He also identified the blood sample authentication form which are marked as Exbt.P-33/1 (Saddam Hussein), Exbt.P-34/1 (Rabban Ali), Exbt.P-35/1 (Dudhu Miah), Exbt.P-36/1 (Samiman Hussein) and Exbt.P-37/1 (Tajul Islam). He also put his signature in the seizure memo dated 28.12.2021 after the seizure of blood samples of above named accused persons by the Inspector of Police of Crime Branch namely Mina Debbarma. He identified his signature marked as Exbt.P-38.

During cross-examination he stated that the incident took place on 20.11.2021 and he examined the accused persons on 28.12.2021. He stated that his opinion regarding potency test of those accused persons are of similar nature. He further stated that all the accused persons are brought before him by the attending police namely Inspector Mina Debbarma which he already mentioned in his report. Nothing more came out relevant in the present context.

37. PW-29 Jangal Debi Jamatia deposed that on 28.12.2021 she was posted in the TSSD Hospital as a Staff Nurse and on that date the Inspector of Police, Crime Branch namely Smti Mina Debbarma had seized blood samples of 5 persons by preparing seizure memo wherein

she put her signature in the seizure memo marked as Exbt.P-38/1. The blood samples was collected by her and handed over to the said Inspector of Police through Medical Officer Dr. Jayashri Debbarma of TSSD Hospital, Udaipur.

During cross-examination she stated that in the seizure memo the date was overwritten and she volunteered that she was posted in the TSSD Hospital since 1st August, 2012. She had to put signature in the attendance register when she attended the office, but no signature at the time of leaving the office though he handed over the duty. Nothing more came out relevant.

38. PW-30 Dr. Araino Mohan Jamatia deposed that on 24.11.2021 he was posted as a Medical Officer in the Kherengbari CHC, Khumulung and on that date he examined the victim at Kherengbar CHC as per the requisition of IO. He had also taken the signature of victim in the consent for medical examination. The victim was brought and identified by Woman Constable namely Smt. Sumati Debbarma. On general examination he found multiple bite marks were present over both nipples. On systemic examination he found multiple abrasion present over inner aspect of thigh and gluteal region. On pre-vaginal examination he found healed hymen. Investigation was advised for vaginal swab and HCG for urine. The victim had taken bath and changed dress at home before attending Kherengbari CHC. He prepared the report on 03.12.2021 after keeping pending his opinion there. The report contained in two sheets

bearing his signatures and official seal. He identified the report marked as Exbt.P-39 and also identified the signature marked as Exbt.P-39/1. Thereafter, on 18.12.2021 he submitted his final opinion wherein he opined that there is evidence of vaginal penetration by adult penis or penis sized object. Though the vaginal swab analysis report is negative for the presence of spermatozoa of human origin, however possibility of sexual assault cannot be ruled out. He identified the report of his final opinion dated 18.12.2021 marked as Exbt.P-40 and signature marked as Exbt.P-40/1. He put his signature in the seizure memo dated 24.11.2021 after the collection and handing over of vaginal swab of the victim to the IO. He identified his signature marked as Exbt.P-14/2. He also informed the matter of victim in writing to the O/C of Radhapur PS as victim admitted into the CHC with history of sexual assault. He identified the said information in writing dated 24.11.2021 marked as Exbt.P-41 (as a whole). Nothing came out relevant.

39. PW-31 Archana Reang deposed that on 26.11.2021 she was posted as the J.M. 1st Class, Court No.2, Udaipur, Gomati and on that date he had conducted the TI parade in connection with R.K. Pur PS case No.2021/RKP/179. The date, time and venue of such TI parade was on 26.11.2021 at around 3.20 pm in Library/School room of Udaipur District Jail. The name of the suspects were Tajul Islam, Saddam Hussein and Rabban Ali. The identifying witness namely Rana Bahadur Jamatia

has identified all the three suspects by face only and stated that accused Rabban Ali has chased them with dao during the incident. The manner of conducting TI parade has been elaborately mentioned in para No.7. The result of TI parade as mentioned in para No.8 that the witness has identified two suspects by pointing fingers and one by touching on the chest of suspect. Then she certified the TI parade with her seal and signature. The memorandum of TI parade report contained in 5 sheets and she identified the report and her signature marked as Exbt.P-10/1(series) and Exbt.P-10/2 respectively.

During cross-examination she stated that on 21.11.2021 three accused persons were produced before her and as per prayer of the IO three days' police remand was allowed. On that date TI parade prayer was also there. Regarding TI parade prayer she passed an order that "effective order in this regard may be given on 23.11.2021." On 23.11.2021 they were produced before the then regular Chief Judicial Magistrate, Gomati, Udaipur on completion of police remand. In her memorandum of TI parade in column No.5 she had written that all the three accused persons were produced from police remand and they were kept in one office room before TI parade.

40. PW-32 Debabrata Biswas deposed that on 20.11.2021 he was posted as the SI of police at R.K. Pur PS being the in-charge of that PS. On that date at around 0320 hours the Duty Officer of R.K. Pur PS namely ASI Prabir

Chanda received an information by telephone from the police guard of Gomati District Hospital, Tepania that one Rana Bahadur Jamatia came there and informed that on that night at around 0300 hours some unknown miscreants kidnapped his wife by one silver coloured Alto 800 vehicle from Tepania area near Eco Park, that time those miscreants also assaulted said Rana Bahadur Jamatia and his wife. The matter was brought to his knowledge being the In-charge of R.K. Pur PS and also to the night Mobile Officer over telephone for taking necessary action. The said facts was entered in the GD vide R.K. Pur PS GD Entry No.03 dated 20.11.2021. Then he along with other staff left the PS to verify the information by entering into the GD vide No.04 dated 20.11.2021. He identified the extract copy of GD vide entry No.03 and 04 dated 20.11.2021 marked as Exbt.P-42. Then he proceeded towards Gomati District Hospital, Tepania wherein he met with Rana Bahadur Jamatia who stated to him the facts already entered vide GD entry No.03 and in addition further stated that his helmet (black colour) written as "Auto green" and one Vivo mobile phone were taken by those miscreants. Then he proceeded towards the spot along with Rana Bahadur Jamatia at NH-8 road near Tepania Eco Park. There he found some scuffling marks and it appears to him some incident of cognizable offence, as such he started investigation there. Then he sent SMS to the SP, DIB, Gomati for tracking the location of accused persons through mobile of informant which was taken by

them. Subsequently the mobile was recovered as broken from the NH-8 road nearby the PO. After searching nearby the PO he found one broken ladies slipper and broken pieces of bangle (white colour) of victim. Then he had seized those articles by preparing seizure memo dated 20.11.2021 at around 0458 hours in connection with R.K. Pur PS GD entry No.03 dated 20.11.2021. He identified the seizure memo dated 20.11.2021 marked as Exbt.P-1/2 and also confirmed the seized mobiles, ladies slipper and bangles marked as Exbt.Mo P-5 (series). Then at around 0545 hours he received a telephonic information from one Haradhan Bhattacharjee of Barabhaiya that he found suspected articles in front of his house. Then he proceeded there and found black coloured money bag, election ID card, PAN card, 2 nos of Debit Card of SBI and Corporation Bank of Rana Bahadur Jamatia which he had seized by preparing seizure memo dated 20.11.2021 at around 0615 hours. He identified the seizure memo marked as Exbt.P-2/3. After that he received a secret information that the offending car has proceeded towards Khedabari under Sonamura PS and immediately he rushed to Khedabari to the house of one Tajul Islam. There he found the suspected vehicle TR-04D-0370 Maruti Suzuki Alto 800 (silver colour) parked in the courtyard of Tajul Islam. They also detained Tajul Islam from his house when he tried to flee away after seeing them. Then he inspected the suspected vehicle and after opening the door he found the helmet (black colour) marked

as "Auto green" and one ladies woolen cap (pink colour) inside the vehicle on the back seat. The suspected behicle was found in haphazard condition and the engine was also found overheated. Then he took the photograph of helmet and ladies woolen cap in his mobile and sent the same to the PS for verification by Rana Bahadur Jamatia, who subsequently confirmed that the helmet was of himself and woolen cap was belongs to his wife. Then he had seized the suspected vehicle bearing registration NO.TR 04 A 0370, Maruti Suzuki Alto 800 (silver colour), black coloured helmet, pink coloured ladies woolen cap, three mobile phones in the possession of Tajul Islam by preparing seizure memo. The seizure memo dated 20.11.2021 marked as Exbt.P-3/3. On preliminary investigation of Tajul Islam he came to know the name of other associates who were involved in the alleged incident. On query Tajul Islam also stated that the victim woman was pushed off from the moving vehicle nearby gas godown of Tepania Park. Then he shared the information with the R.K. Pur PS. Then he rushed towards the house of other associates namely Saddam Hussein and Rabban Ali both of Khedabari and detained them. From the pant pocket of Rabban Ali he found one ear top of golden colour which he had seized by preparing seizure memo dated 20.11.2021 along with tow mobiles from the possession of accused Rabban Ali. He identified the seizure memo dated 20.11.2021 marked as Exbt.P-4/3.

After that he proceeded towards the PS along with those three persons after covering their face. Then after reaching the PS he made GD entry vide No.16 dated 20.11.2021 at around 1340 hours for coming back to the PS. In the PS he received the specific complaint of informant Rana Bahadur Jamatia and registered the same vide R.K. Pur PS case No.2021/RKP/179 under Sections 397/400/367 of IPC. The receipt and registration of ejahar marked as Exbt.P-5/1. There he came to know further that wife of Rana Bahadur Jamatia i.e. the victim already been recovered and taken to the R.K. Pur Women PS in the custody of Woman SI of police namely Smti. Sumitra Kapali. Then he collected the statement of victim recorded by the said Woman SI of Police namely Smti Sumitra Kapali and tagged in connection with R.K. Pur PS case No.179/2021. After medical examination of victim she was handed over to the custody of her family members. On that date he had recorded the statement of informant Rana Bahadur Jamatia under Section 161 of Cr.P.C. Again he visited the PO on 20.11.2021 at around 1515 hours and prepared the hand sketch map with separate index. He identified the hand sketch map marked as Exbt.P-43 and index is marked as Exbt.P-44. On the basis of material collected during his investigation he had arrested accused persons namely Tajul Islam, Saddam Hussein and Rabban Ali. He has also seized one motor cycle bearing registration No.TR-08D-7696 Bajaj Pulsar 125 CC from the residence of Rabban Ali which was

stolen from Patichari Rashmela under Santirbazar PS and it was informed to Santirbazar PS accordingly. The said motor cycle was handed over to the Santirbazar PS after its seizure along with seizure memo.

On 21.11.2021 he had forwarded the arrested three accused persons on face covered (SO) to the court along with police remand prayer and for adding section 354B of IPC. On the same date he had recorded statement of some witnesses. After the expiry of police remand period all the accused persons again brought to the court on 23.11.2021. The Learned court had allowed the TI parade prayer which was to be held on 26.11.2021. Accordingly on 26.11.2021 TI parade was conducted at Gomati District Jail in the presence of Learned Magistrate Smti Archana Reang. During his investigation it was also revealed that the mobile phone i.e. Infix mobile (already marked as Exbt.M.O.-P-5 series) which was found in the possession of Tajul Islam was snatched away from the house of one Haripada Shil of Bagma, Barabhaiya on 11.09.2021 at night and there was a specific case in connection with that incident vide R.K. Pur PS case No.2021/RKP/141 dated 12.09.2021 under Sections 448/384/34 of IPC. On 26.11.2021 he had arrested another accused namely Dudhu Miah and had seized one mobile phone from his possession by preparing seizure memo dated 26.11.2021. He identified the seizure memo marked as Exbt.P-20/1. Then accused was forwarded to the court with police remand prayer having face cover and TI parade

prayer. On 01.12.2021 the TI parade was done at Gomati District Jail by Learned Magistrate Smti Debjani Majumder. On 05.12.2021 he again arrested another accused Samiman Hussein and forwarded him before the Learned court on 06.12.2021 with police remand and TI parade prayer. On 10.12.2021 the TI parade was done at Gomati District Jail by Learned Magistrate Smti. Debjani Majumder. On 25.11.2021 he received one zero FIR from Radhapur PS of informant Smti Alani Sakhi Jamatia along with some seized articles which he registered vide R.K. Pur PS GD entry No.25 dated 25.11.2021. The original complain petition along with some seized articles was forwarded to the O/C, R.K. Pur Women PS as the offence was crime against woman. The endorsement in the FIR of informant/victim marked as Exbt.P-11/2. On 12.12.2021 he handed over the case docket to the Inspector of Crime Branch Smti Mina Debbarma. He identified all the accused persons in the court dock.

During cross-examination he deposed ASI Prabir Chanda, the Duty Officer after receiving the information from the Police guard of District Hospital, Tepania has entered the facts in GD No.3 dated 20.11.2021. He had gone out from the PS vide GD No.4 dated 20.11.2021 at around 0330 hours and all the actions taken by him till returning to the PS was in connection with that GD No.4. He prepared seizure memos by mentioning GD entry No.3 dated 20.11.2021. He had mentioned Khedabari in his

seizure under PS R.K.Pur mistakenly. He had mentioned in the seizure memo dated 20.11.2021 at around 1245 hours that the place of seizure was at Khedabari in the house of Tajul Islam. He further stated that in the seizure memo dated 20.11.2021 prepared at around 1245 hours name of witnesses in the serial (ii) only father's name was mentioned. The seizure memo dated 20.11.2021 prepared at around 1230 hours revealed under the description of seized articles that the seized item No.(ii) and (iii) recovered from inside of vehicle TR-03H-6702. WV he had mentioned as enclosed in the forwarding in the Sl. No.4 about 4 copies of seizure lists. He further stated that the order dated 21.11.2021 passed by the Learned JM 1st Class, Gomati, Udaipur does not speak specifically about tagging of those 4 nos. of seizure memos in case No.2021/RKP/179. He had given information in his forwarding dated 21.11.2021 about the course of his investigation though did not make a prayer for tagging the GD entry No.4 with R.K. Pur PS case No.179 of 2021. Till 26.11.2021 all the three accused persons namely Tajul Islam, Saddam Hussein and Rabban Ali were on police remand after the completion of first period of police remand on 23.11.2021. On 26.11.2021 all the three accused persons produced before the court. He expressed his views before this court when he received the ejahar of Rana Bahadur Jamatia that time it was within his knowledge that wife of Rana Bahadur has already been recovered. He also made conversation with the wife of Rana

Bahadur Jamatia at R.K. Pur PS though did not write the same in black and white. So far as he remember the eyes of the victim was swollen with red colour, abrasion marks over the face and she was having anxiety due to the incident and she also could not speak properly and was very fragile.

41. PW-33 Mina Debbarma deposed that on 05.12.2021 he was posted in the Crime Branch of Tripura Police, Police Head Quarter, Agartala and on that date he received one R.K. Pur Women PS vide No.2021/WRP/077. After that he recorded the statement of previous IO namely Smti Sumitra Kapali under Section 161 of Cr.P.C. On 07.12.2021 she examined three witnesses and recorded their statements under Section 161 of Cr.P.C. On 08.12.2021 she had seized some articles such as black coloured flower printed top, gray coloured bra, black coloured jeans, jeans jackets, prescription of Kherengbari hospital, Khumulung, prescription of AGMC & GB Hospital and one ear ring by preparing seizure memo. She identified the seizure memo dated 08.12.2021 marked as Exbt.P-7/3. She confirmed the seized articles on being produced before her marked as Exbt.M.O.P-8 (series). On that date she had visited the PO as accompanied by the victim and prepared two hand sketch maps with separate indexes. The hand sketch maps marked as Exbt.P-45 and Exbt.P-47, the indexes are marked as Exbt.P-46 and Exbt.P-48. On the same date he also seized some articles such as, one leather ladies belt (black colour), two pieces of broken bangles

(sakha in white colour), one towel, one iron rod, one iron wheel spanner and "S" logo of silver colour by preparing seizure memo which he identified marked as Exbt.P-6/3. She confirmed the seized articles marked as Exbt.M.O.P-7 (series). On 12.12.2021 he examined two more witnesses by recording their statements. On the same day he again visited the PO along with forensic team and collected dry leaf, soil from PO by preparing seizure memo. He identified the seizure memo dated 12.12.2021 marked as Exbt.P-16/2. On 13.12.2021 she made a prayer before the authority of AGMC & GB Hospital to examine the victim with a Medical team which was allowed and victim was examined accordingly. On 14.12.2021 he received the case docket of another case vide R.K. Pur PS case No.179/2021. On the same date she made a prayer before the Ld. CJM, Gomati, Udaipur for amalgamation/clubbing of R.K. Pur Women PS case No.2021/WRP/0077 dated 25.11.2021 and R.K. Pur PS case No.2021/RKP/179 dated 20.11.2021 which was allowed by the Ld. CJM vide order dated 31.12.2021. On 16.12.2021 the seized leaf and soil has been sent to SFSL for forensic examination. On 17.12.2021 he received the report of victim of the team of Medical Officers from AGMC & GB Hospital. On 18.12.2021 again she collected another medical report of victim from the Medical Officer of Kherengbari CHC, Khumulung, collected SCD from Radhapur PS and recorded the statement of Medical Officer of Kherengbari CHC. On 20.12.2021 blood of victim was

collected and seized at TSSD Hospital, Udaipur by preparing seizure memo. She identified the seizure memo marked as Exbt.P-15/2. Then she also collected the medical report of victim from TSSD Hospital, Udaipur and recorded the statements of Medical Officer along with others. On 21.12.2021 the collected blood has been sent to SFSL for examination. On 23.12.2021 she had collected one ST certificate of victim by preparing seizure memo. She identified the seizure memo dated 23.12.2021 marked as Exbt.P-49. On 24.12.2021 she received three numbers of SFSL reports. On 27.12.2021 she received the court order for collecting the blood of all the accused persons and accordingly on 28.12.2021 blood has been collected at TSSD Hospital, Udaipur. She identified the seizure memo marked as Exbt.P-38/2. On 28.12.2021 the wearing apparels of all the accused persons has been seized by preparing seizure memo. She identified the seizure memo dated 28.12.2021 marked as Exbt.P-50. On 28.12.2021 she again visited the PO along with the Deputy Collector and Magistrate Smti Sumita Sen. There she found one light grey coloured round neck T-shirt of accused Tajul Islam which was seized by her by preparing seizure memo dated 28.12.2021. She identified the seizure memo dated 28.12.2021 marked as Exbt.P-51. On the same date the potency test of all the accused persons has been done at TSSD Hospital, Udaipur. On 29.12.2021 the blood samples of all the accused persons has been sent to SFSL for

forensic examination. On 31.12.2021 her prayer for adding Section 3(1)(w)(i) and 3(2) of the SC & ST (Prevention of Atrocities) Act, 1989 was allowed. On 31.12.2021 she collected the potency test report of all the accused persons from the TSSD Hospital, Udaipur. On 01.01.2022 she handed over the case docket to the Deputy SP namely Ajoy Kumar Das after adding of sections under the SC & ST (Prevention of Atrocities) Act, 1989. She identified all the accused persons in the court in the dock.

During cross-examination she stated that on 05.12.2021 she received the case docket of R.K. Pur Women PS case No.2021/WRP/077 along with the statement of victim wherein victim did not speak about rape. On 14.12.2021 she received the case docket of R.K. Pur PS case No.179/2021 along with some seizure memos and articles. She further stated that after the seizure of soil, leaf and other articles covered in an envelop she had put mark over the envelop that those are collected from the PO. Nothing came out relevant in the present context.

42. PW-34 Rajarshi Chakraborty deposed that on 29.11.2021 he was posted as J.M. 1st Class, Court No.3, Udaipur, Gomati and on that date he had recorded the statement of victim under Section 164(5) of Cr.P.C. in connection with R.K. Pur Women PS case No.2021/WRP/0077 on oath as per the version of the witness. Then the same was read over to the witness to which she admits to be correctly recorded and then the

witness put her signature therein. One interpreter namely Smti Purabi Jamatia, Head Clerk of DJ establishment has been appointed on oath to interpret the version of witness and vice versa. The interpreter also put her signature therein. Then he put his signatures in the statement of witness as the Recording Magistrate. He identified the statement of victim/witness recorded by him marked as Exbt.P-12/2 (series) and also identified the signature of witness marked as Exbt.P-12/3 (series). Nothing came out relevant during cross-examination.

43. PW-35 Ajay Kumar Das deposed that he was the Supervising Officer as per the order of the SP (SC and EO), TPCB based on the order of DGP, Tripura vide No.20653-58(3)/F.6(20)-PHQ(CS)/2019 (Loose) dated 02.12.2021 when previous IO namely Smti Mina Debbarma, I/C-Inspector of Police, Crime Branch, Agartala took up the case bearing No.R.K. Pur Women PS 77 of 2021 (SO). On 28.12.2021 the I/C-Inspector of Police namely Smti Mina Debbarma forwarded note of exhibits to the Director, SFSL, Narsingarh, Agartala wherein he put his signature as the forwarding authority and also issued the certificate. He identified the signature marked as Exbt.P-52 and the certificate marked as Exbt.P-53. He again put his signature in the forwarding note of exhibits to the Director, SFSL, Narsingarh, Agartala on the same date as the forwarding authority along with certificate and check list in two sheets. He identified the signature marked as Exbt.P-54, the

certificate marked as Exbt.P-55 and check list marked as Exbt.P-56 (series). On 23.12.2021 he again forwarded the material exhibits to the Director, SFSL with the enclosure of forwarding proforma, copy of two FIRs and copy of seizure lists marked as Exbt.P-57 (series). On 20.12.2021 he again forwarded the material exhibits with the enclosure of forwarding proforma, copy of two FIRs and copy of seizure list 1 number marked as Exbt.P-58 (series). On 14.12.2021 he had sent a requisition for providing certified copy of CDR and CAF to the Nodal Officer, Bharati Airtel Limited, Guwahati, Assam which is marked as Exbt.P-59. On 01.01.2022 they received the report of CDR from Jio, Guwahati Branch along with 65B Evidence Act certificate in respect of the mobile of complainant namely Rana Bahadur Jamatia bearing mobile No.8088980825. On 07.01.2022 he received the report from SFSL, Physics Division, Narsingarh wherein it was mentioned that the soil found in the shoes of accused Rabban Ali seized from Udaipur Jail matched with the soil collected from the place of occurrence. On that date he also received the finger print report from Finger Print Cell of SCRB, Agartala. On that date he again received report from Biology Division, SFSL, Narsingarh after sending wearing apparels of accused persons. On 29.01.2022 he had sent a requisition to the JTC, Agartala to provide vehicle details of seized vehicle bearing No.TR-04A-0370 and on 31.01.2022 he received the screening report from the office of JTC wherein it was found that vehicle was registered in

the name of accused Tajul Islam. On 04.02.2022 he laid down the charge sheet vide R.K. Pur CS No.14 of 2022 under Sections 397/327/347/366/376(D)/400/506/34/120B of IPC and under Sections 3(1)(W)(i)/3(1)(w)(ii)/3(2)(va)/7(1) of the SC and ST (Prevention of Atrocities) Act, 1989 against the accused persons namely Tajul Islam, Saddam Hussein, Rabban Ali, Dudhu Miah and Samiman Hussein alias Nayan. In his charge sheet sub-para No.23 he had specifically mentioned about the involvement of FIR named accused persons in various cases. He identified all the accused persons in the court in the dock.

During cross-examination he stated that as per order of SP (SC & EO), Tripura Police Crime Branch vide DO No.15883-89/SP(SC&EO)/TPCB/2021 dated 31.12.2021 the case was endorsed to him and accordingly on 01.01.2022 he received the case docket and took up investigation. Nothing more came out relevant from cross-examination.

44. PW-36 Dr. Ajitesh Paul deposed that on 29.12.2021 he was posted as the Scientific Officer-cum-Asstt. Chemical Examiner, SFSL, Narsingarh, Agartala and on that date he received one sealed parcel from the Deputy SP (Crime Branch), Tripura Police Crime Branch, Agartala in connection with R.K. Pur PS case No.2021/WRP/0077 dated 25.11.2021 under Section 376(D) of IPC and R.K. Pur PS case No.2021/RKP/179 dated 20.11.2021 under Sections 397/400/367 and added Section 354B of IPC. The

descriptions of the parcels are mentioned elaborately in the report itself at column No.9. After examination of the said Exhibit "CC" and Exhibit "D" he opined that the physical and microscopic examination revealed that the soil detected on the Exhibit marked as "CC" and the soil sample marked as "D" are similar with respect to their physical properties like colour, particle structure, particle density, distribution, pattern etc. He identified his signature and specimen seal marked as Exbt.P-52 and signature marked as Exbt.P-52/1.

45. PW-37 Dr. Uma Debbarma deposed that on 20.12.2021 she was posted as the Medical Officer in the TSSD Hospital, and on that date blood sample of victim was collected in connection with R.K. Pur PS case No.2021/WRP/0077 under Section 376(D) of IPC. Then one blood sample authentication form also been issued for the purpose of SFSL examination wherein she put her signatures one covering the photograph of the victim. She identified the authentication form marked as Exbt.P-17/1 and signature of the witness marked as Exbt.P-17/2(series). She also put her another signature in the seizure memo as the producer of blood sample of victim. She identified her signature marked as Exbt.P-15/3. Nothing came out relevant from the cross-examination.

46. PW-38 Sumita Sen stated that on 28.12.2021 she was posted as the DCM, office of the SDM, Udaipur, Gomati and on the date the Woman Inspector of Police namely Mina Debbarma had seized one gray colour T-shirt

by preparing seizure memo wherein she put her signature. She identified her signature marked as Exbt.P-51/1. She also put another signature in the same copy of seizure memo dated 28.12.2021. The seizure memo was marked as Exbt.P-50.

During cross-examination she stated that for performing field duty the concerned SDM passing order to the subordinate officer and on that date for her performance the SDM, Udaipur also passed an order in this regard. But the IO did not seize such order from her. She put her signature in the seizure memo after being produced by the IO of the same in her office i.e. at SDM, Udaipur. Nothing more came out relevant.

47. PW-39 Goutam Dey deposed that on 28.12.2021 he was performing his duty as a PLV under the DLSA, Gomati in the RK Pur PS and on that date the Woman Inspector of Police namely Mina Debbarma had seized one gray colour T-shirt by preparing seizure memo wherein he put his signature. He identified his signature marked as Exbt.P-51/2. He also put another signature in the same copy of seizure memo dated 28.12.2021. Nothing more came out relevant during cross-examination.

48. PW-40, Alpana Sarkar deposed that on 25.11.2021 she was posted being the O/C of R.K. Pur Women PS, Gomati District, Udaipur and on that date she received an ejahar from the O/C of R.K. Pur PS vide GDE No.25 dated 25.11.2021 on being forwarded to the O/C of

R.K. Pur Women PS as the offence revealed was a crime against woman. After receiving the same she registered a case vide RKP Women PS 2021WRP0077 dated 25.11.2021 under Section 376D of IPC and endorsed the same for its investigation to the WSI of police namely Sumitra Kapali. She identified the receipt and registration of ejahar marked as Exbt.P-11/3. The printed FIR format also been filled up by her containing the endorsement to the WSI of Police Sumitra Kapali. She identified the printed FIR format in 3 sheets marked as Exbt.P-60 (as a whole).

49. PW-41, Sumitra Kapali deposed that on 20.11.2021 she was posted in the R.K. Pur Women PS being the SI of police. On that date in the early morning at around 4.30/5.00 am she received a call from the Duty Officer of R.K. Pur PS for recovery of the victim from Tepania area. Then she proceeded along with her staff and other staff of R.K. Pur PS towards Tepania area. After crossing the Tepania District Hospital they recovered the victim from the main road and she could see severe injuries on her different parts of the body. Then the victim was taken to R.K. Pur Women PS and sent her for medical examination to TSSD Hospital, Udaipur. She also recorded the statement of victim under Section 161 of Cr.P.C. at Women PS. All the above performance was done by her in connection with R.K. Pur PS case No.179/2021. On 25.11.2021 at around 2032 hours she received the case record in connection with 2021WRP077 under Section 376D of IPC for its investigation

on being endorsed by the O/C of R.K. PUr Women PS along with the ejahar of victim and seizure memo as forwarded by the O/C of Radhapur PS. On 26.11.2021 she had recorded the statements of victim, her husband and father-in-law under Section 161 of Cr.P.C. On 29.11.2021 she arranged for recording of statement of victim by the Ld. Magistrate under Section 164(5) of Cr.P.C. and after that visited the PO by preparing hand Sketch map with separate index. She identified the hand sketch map and index which are marked as Exbt.P-61 and Exbt.P-62 respectively. On 27.11.2021 she made a prayer before the Ld. Court for showing arrest of three accused persons namely Tajul Islam, Saddam Husseing and Rabban Ali in connection with R.K. Pur Women PS case No.077 of 2021. On 30.11.2021 she had send the seized vaginal swab, blood etc. for forensic examination. On 05.12.2021 she received the medical report from the Kherengbari Hospital, Khumulung. On 05.12.2021 she handed over the case docket to the Inspector of Police namely Smt. Mina Debbarma of Crime Branch, Tripura Police, Agartala.

During cross-examination she stated that she recorded the first statement of victim under Section 161 of Cr.P.C. On 20.11.2021 perhaps after the medical examination of victim, but at this moment she could not recollect the exact time of recording her statement. She has sent the victim after the recovery for medical examination to TSSD Hospital. At that time she was not the I.O. In the

first statement recorded on 20.11.2021 the victim disclosed no incident of rape upon her and she recorded the same at R.K. Pur Women PS though she mentioned the camp at R.K. Pur PS. The distance between R.K. Pur PS and Women PS could be 100/50 meters away approximately. Further the WV that she had conducted several investigations in respect of crime against women specifically in sexual assault cases. She was instructed by the then O/C namely Debabrata Biswas to record the statement of victim under Section 161 of Cr.P.C. as there was no female officer in the R.K. Pur PS. She was also instructed by him to make a formal prayer for the medical examination of victim by any Medical Officer at TSSD Hospital, Udaipur, Gomati.

50. These are the synopsis of the evidence on record of the prosecution in respect of determination of the points framed by the Learned court below. At the time of hearing of argument Learned Senior Counsel Mr. P.K. Biswas assisted by Mr. P. Majumder, Learned counsel submitted before the court that the prosecution before the case at hand failed to prove the charge of committing rape by the convict appellant to the victim on the alleged date because the prosecution in this case could not adduce any independent eye witness to sustain the charge against the convict appellants rather Learned Senior counsel submitted that from the evidence on record only the charge of committing dacoity may be inferred. Learned Senior counsel further submitted that since the prosecution has failed to

prove the charge beyond reasonable doubt against the appellants. So he urged for interference by this court and prayed for acquitting the appellants from the charge of this case.

51. Mr. J. Bhattacharjee, Learned counsel at the very outset reiterating the same submission made by Learned Senior counsel Mr. P.K. Biswas submitted that in this case prosecution has failed to prove the FIR on the basis of which the prosecution was set into motion. So in absence of proof of FIR there was no scope to presume the convict appellants to be guilty. Furthermore, the statement of the victim suffers from various infirmities which the prosecution has failed to explain. Most of the witnesses specifically the informant and the victim during their examination made improved version before the court i.e. the statements first time they made before the court and on the basis of that there was no scope to take any adverse presumption of guilt against the appellants. So as per law for non-explanation of the improved version of evidence the convict-appellants are entitled to get the benefit of doubt in this case. Furthermore, the TI parade was conducted not accordance with the established procedure of law. So due to the infirmity in the evidence on record there is no scope to affirm the conviction and according to Learned counsel the prosecution has utterly failed to prove the charge against the convict-appellants and urged for acquitting the appellants from the charge of the case. Mr. Bhattacharjee,

Learned counsel further submitted that from the evidence on record it appears that the alleged victim undergo treatment at Khumulung but why she did not divulge the fact to anybody soon after the incident no explanation was given in this regard by the prosecution and furthermore why inspite of undergoing treatment at Udaipur she went to Khumulung there is also no explanation in this regard from the side of the prosecution for which a doubt creates about the genuineness of the prosecution story.

52. Another Learned Senior counsel Mr. T. D. Majumder assisted by Mr. T. Halam, Learned counsel representing the appellants namely Saddam Hussein and Rabban Ali submitted that there is no evidence on record against his clients. But the Learned court below on the basis of such omnibus statements in absence of clear and cogent evidence on record convicted the appellants without any basis. So Learned Senior counsel Mr. Majumder urged for acquitting the appellants from the charge in this case.

53. Learned Senior counsel Mr. P.K. Biswas referred few citations in support of his contention which would be discussed in due course of time.

54. On the other hand, Learned PP Mr. Raju Datta representing the prosecution submitted that in this case except the informant and the victim there is/are no other eye witnesses who had the occasion to see the alleged occurrence of offence and the evidence of informant and the victim is so trustworthy that there is no room to disbelieve

their evidence and furthermore, the convict-appellants by the trend of cross-examination could not raise any ground to disbelieve the evidence of the informant as well as the victim. Even by the trend of cross-examination the convict-appellants could not unshake the evidence on record and the other witnesses of the prosecution. So according to Learned PP the Learned Trial court below rightly and reasonably after elaborate discussions of the evidence on record found the appellants to be guilty and urged before the court to uphold the sentence and order of conviction awarded by the Learned court below. He also referred few citations. Learned PP further submitted that the allegation against the appellants were so serious and heinous that there is no scope to show any lenient view to them and submitted that the prosecution case is well proved against the appellants and as such the present appellants deserves punishment and urged for upholding the sentence awarded by the Learned court below.

55. We have heard detailed submission of Learned counsels of the appellants as well as Learned PP representing the state-respondents and also gone through the record of the Learned court below. To substantiate the charge as already stated prosecution has adduced in total forty one numbers of witnesses. The synopsis of the evidence on record of the prosecution is already discussed above. In this case excepting the victim and her husband no other witnesses were present at the time of alleged

occurrence. PW-1 is the informant and PW-2 is the victim of this case. They in course of their examination narrated the entire incident as to how the accused persons have committed the offence. The appellants by the trend of cross-examination could not raise any circumstances to disbelieve their evidence. Similarly, PW-3 is the father of the informant and PW-4 is the mother of the informant as well as mother-in-law of the victim. The informant and victim after lodging of the FIR after returning back to home narrated the entire prosecution story to them. The accused persons by the trend of cross-examination also could not discard their evidence. Similarly, PW-5 is the elder brother of the victim. He also supported the prosecution story. The accused persons also in course of cross-examination could not raise any circumstances to disbelieve his evidence. He met the informant and the victim when they were proceeding towards the Rash Mela on the relevant date and on the following day being informed by the mother of the informant he could know the entire evidence. Similarly, PW-6 is the Forest Guard to whom the victim met on the following day of the alleged occurrence of offence. She also supported the version of the informant and found injury marks on the body of the victim. Similarly PW-7 who escorted the victim by his scooty on the following day of the incident and gave lift to her towards Bagma Hospital Chowmuhanani also found injury on the person of the victim. PW-8 is the seizure list witness. PW-9 also another seizure

list witness in whose presence some articles were seized by I.O. from the P.O. PW-10 is a Staff Nurse of TSSD Hospital. She is also another seizure list witness in whose presence the blood sample of the victim was seized by I.O. PW-11 Dr. Aniruddha Roy examined the victim in connection with R.K. Pur Women PS GDE No.09 dated 20.11.2021. After examination he found some injury on the person of the victim. During his cross nothing came out relevant. PW-12 is the seizure list witness. PW-13 is another seizure list witness in whose presence the police seized the Maruti Alto Car and took his signature. PW-14 is another seizure list witness being police personnel in whose presence Smt. Mina Debbarma, Inspector of Crime Branch seized dry leaves, soil at Udaipur Smritivan. PW-15, Dr. Munmun Debbarma examined the victim along with two other doctors on 13.12.2021 and after examination she gave the findings and she opined that apart from injuries as mentioned in the report they also found signs of forceful sexual intercourse upon the victim. Similarly, PW-16, Dr. Pradipta Narayan Chakraborty and PW-17 Dr. Madhumita Roy also deposed in the same manner like PW-15 and they reiterated the same story before the court and identified the injury report and they also opined that there were signs of forceful sexual intercourse upon the victim. PW-18, Haradhan Bhattacharjee is another seizure list witness in whose presence Darogababu seized one black colour money bag, election ID card, PAN card, Debit card etc. of the informant

and he identified his signature. PW-19 was performing duty of night shift at Tepania District Hospital. On that day he met the informant when informant narrated the entire story and after that he informed the matter to the R.K. Pur PS and District Control Room. PW-20 deposed that on 12.12.2021 he was posted as the Senior Scientific Assistant and on that day he visited the P.O. and gave his finding about the P.O. and also he examined the victim and gave his report. PW-21 Smti Purabi Jamatia as a Head Clerk did the job of interpreter at the time of recording the statement of the victim as per direction of the concerned Judicial Magistrate. PW-22, Dr. Sujit Chakma deposed that on 25.11.2021 he examined the victim with the history of physical and sexual assault happened on 19.11.2021. PW-23, Dr. Subhankar Nath examined the seized exhibits and he gave his report. During his cross-examination nothing came out relevant. PW-24 Debjani Majumder, J.M. 1st Class, Udaipur who conducted the TI parade and submitted her report. Similarly PW-25, Sabyasachi Nath, a Senior Scientific Officer was posted in the SFSL, Narsingarh, Agartala also examined some exhibits and gave his report. PW-26, Dr. Narenjit Das examined the informant. According to him the informant sustained contusion injury on his neck and he identified his report marked Exbt.P-30. PW-27, Jayanta Das was posted as Radhapur PS as I/C Inspector on 24.11.2021. On that day he also received another FIR of the victim at Radhapur PS and identified his endorsement. PW-

28 Dr. Jayashri Debbarma conducted potency test of the accused persons and according to her there was nothing to suggest that the accused persons were incapable of performing sexual acts. PW-29 is another seizure list witness in whose presence the blood samples were collected by I.O. PW-30 also examined the victim. On examination he found multiple bite marks were present over both nipples. On systemic examination he found multiple abrasion present over inner aspect of thigh and gluteal region. On pre-vaginal examination he found healed hymen. On 18.12.2021 he submitted his final opinion wherein he opined that there was evidence of vaginal penetration by adult penis or penis sized object. He deposed that although the vaginal swab analysis report is negative for the presence of spermatozoa of human origin, however possibility of sexual assault cannot be ruled out. PW-31, Archana Reang posted as the J.M. 1st Class, Court No.2, Udaipur Gomati on 26.11.2021 and on that day she conducted the TI Parade in connection with R.K. Pur PS Case No.2021/RKP/179 and she identified her report as made by her. PW-32 narrated that on 20.11.2021 he was posted as SI of Police of R.K. Pur PS and on that day at around 0320 hours the Duty Officer of R.K. Pur PS namely ASI Prabir Chanda received an information by telephone from the police guard of Gomati District Hospital, Tepania that one Rana Bahadur Jamatia came there and informed that on that night at around 0300 hours some unknown

persons kidnapped his wife by one silver colour Alto 800 vehicle from Tepania area near Eco Park and that time those miscreants assaulted said Rana Bahadur Jamatia and his wife and he immediately rushed to TSSD Hospital after entering the fact in the GD and he narrated how the victim was recovered and he also visited the P.O. and also seized some materials. PW-33, Smti Mina Debbarma was posted in the Crime Branch of Tripura Police, Police Head Quarter, Agartala on 05.12.2021 and on that day she received the case docket of R.K. Pur Women PS vide No.2021/WRP/077. After that she recorded some statements and also examined some witnesses. PW-34, Rajarshi Chakraborty, J.M. 1st Class, Udaipur recorded the statement under Section 164(5) of Cr.P.C and he identified the statement of the victim and also identified his signature. PW-35 is the last I.O. who after completion of the investigation laid chargesheet against all the accused persons. PW-36, Dr. Ajitesh Paul being the Scientific Officer-cum-Asstt. Chemical Examiner, SFSL, Narsingarh, Agartala submitted report after examination of the soil and he identified his report. PW-37, Dr. Uma Debbarma deposed that on 20.12.2021 she was posted as Medical Officer in the TSSD Hospital, Udaipur and on that day blood sample of the victim was collected in connection with R.K. Pur PS case No.2021/WRP/0077 and she identified her report. PW-38, DCM attached to the office of the SDM, Udaipur Gomati deposed that on 28.12.2021 the Women Inspector of Police Mina Debbarma had seized one gray

colour T-shirt by preparing seizure memo wherein she put her signature and identified her signature marked as Exbt.P-51/1. PW-39 is a PLV under the DLSA Gomati who also was a seizure list witness in whose presence the I.O. seized one gray colour T-shirt by preparing seizure memo. PW-40 deposed that on 25.11.2021 being the OC of R.K. Pur Women PS she received an ejahar and entered the same vide GD entry No.25 dated 25.11.2021 and thereafter she registered R.K. Pur Women PS Case No.2021WRP077 under Section 376D of IPC and she identified the printed FIR Format and identified her signature on the margin of ejahar. PW-41 Sumitra Kapali deposed that on 20.11.2021 in the morning at around 4.30/5.00 am after receiving a call from Duty Officer of R.K. Pur PS she proceeded towards Tepania area along with staff when she recovered the victim from the main road and she found severe injuries on different parts of her body. After that the victim was brought to R.K. Pur Women PS and after that she was sent to TSSD Hospital, Udaipur for medical examination and recorded the statement of the victim.

56. All those witnesses were thoroughly cross-examined by the appellants-accused but their evidence could not be shattered at any length by the accused persons. From the evidence on record it appears that just 8/9 days back prior to the date of alleged occurrence of offence the victim got married with the informant. Her condition was so critical with pain that due to social stigma

she could not divulge those facts just after the incident to any person even to the police station also. After returning back to home when her family members noticed her injuries that time she had divulged everything to her husband and in laws. She went to TSSD Hospital but considering the crowd she could not take admission therein. After that she went to Khumulung Hospital wherein she narrated everything to the police and her FIR was also lodged and finally she was sent to AGMC & GBP Hospital where a team of three doctors examined her and finally they opined that there were signs of forceful sexual intercourse upon the victim. In course of hearing of argument Learned counsels for the accused appellants tried to draw the attention of the court that there was delay in lodging the FIR. So the prosecution story was not true. Even the allegation of rape could not be proved. But after going through the entire evidence on record it appears that the witnesses of the prosecution specifically PWs-1, 2, 3, 4, 5, 6 and 7 in course of their examination deposed in such a manner that there was no room to disbelieve their evidence. Learned court below after elaborate discussion of the evidence on record came to the observation that the appellants committed the crime on the date as alleged.

57. In course of hearing Learned Senior counsel Mr. P.K. Biswas referred some citations. In **State of Karnataka vs. Venkatesh and Others** reported in **1992 Supp (1)**

SCC 539 Hon'ble the Supreme Court in para No.3 observed as under:

"3. We have perused the evidence of all the witnesses referred to above. They do not inspire any confidence at all. The denial by PW 23, Madadevamma, of having had any illicit intimacy with the deceased coupled with the fact that PW 15, Cheluvamma, the ace witness of the prosecution, having not disclosed the information at the earliest opportunity to anyone till November 10, 1978, has created serious doubts about the genuineness of the prosecution case. Since, the Sub-Inspector admitted that he had not even visited the house of any one of the accused-respondents on November 9, 1978 to arrest them, the failure of the accused-respondents to appear before the police cannot give rise to any inference of their guilt and therefore the alleged circumstance of absconding was not rightly used by the learned Sessions Judge against the accused-respondents. The conduct of PW 8, Madaiah, PW 14, Javariah, and PW 25, Cheluvaraju, is so unnatural that it would not be safe to place any reliance on their testimony. No explanation, much less a satisfactory one, has been given by the prosecution for their long silence."

Referring the same Learned Senior counsel submitted that there was delay in lodging the FIR, which the prosecution has failed to explain in this case.

58. In **State of Orissa vs. Mr. Brahmananda Nanda** reported in **AIR 1976 SC 2488**, in para No.2 Hon'ble the Apex Court observed that:

"2. The entire prosecution case against the respondent rests on the oral evidence of Chanchala (PW. 6) who claimed to be an eye-witness to the murder of Hrudananda, one of the six persons alleged to have been killed by the respondent. The learned Additional Sessions Judge believed her evidence, but the High Court found it difficult to accept her testimony. The High Court has given cogent reasons for rejecting her evidence and we find ourselves completely in agreement with those reasons. We have carefully gone through the evidence of this witness, but we do not think we can place any reliance on it for the purpose of founding the conviction of the respondent. The evidence suffers from serious infirmities which have been discussed in detail by the High Court. It is not necessary to reiterate them, but it will be sufficient if we refer only to one infirmity which, in our opinion, is of the most serious character. Though according to this witness, she saw the murderous assault on Hrudananda by the respondent and she also saw the respondent coming out of the adjoining house of Nityananda where the rest of the murders were committed, she did not mention the name of the respondent as the assailant for a day and a half. The murders were committed in the night of 13th June, 1969 and yet she did not come out with the name of the respondent until the morning of 15th June, 1969. It is not possible to accept the explanation sought to be given on behalf of the prosecution that she did not disclose the name of the respondent as the assailant earlier than 15th June, 1969 on account of fear of the respondent. There could be no question of any fear from the respondent because in the first place, the respondent was not known to be a gangster or a confirmed criminal about whom people would be afraid, secondly, the police had already arrived at the scene and they were stationed in the Club House which was just opposite to the house of the witness and thirdly, A.S.I. Madan Das was her nephew and he had come to the village in connection with the case and had also visited her house on 14th June, 1969. It is indeed difficult to

believe that this witness should not have disclosed the name of the respondent to the police or even to A.S.I. Madan Das and should have waited till the rooming of 15th June, 1969 for giving out the name of the respondent. This is a very serious infirmity which destroys the credibility of the evidence of witness. The High Court has also given various other reasons for rejecting her testimony and most of these reasons are, in our opinion, valid and cogent. If the evidence of this witness is rejected as untrustworthy, nothing survives of the prosecution case."

Referring the same Learned Senior counsel submitted that the evidence of prosecution specifically the evidence of the victim and her husband are found suffers from various infirmities and there is no scope to place any reliance upon their evidence and prayed for acquittal of the accused appellants.

59. In **Satyapal vs. State of Haryana** reported in **(2009) 6 SCC 635** Hon'ble the Supreme Court observed in para No.21 as under:

"21. This Court can take judicial notice of the fact that ordinarily the family of the victim would not intend to get a stigma attached to the victim. Delay in lodging the First Information Report in a case of this nature is a normal phenomenon. Both the courts below apart from relying on a part of the testimony of the prosecutrix found the evidence of PW-5 to be absolutely reliable. The medical evidence itself being a part of the evidence is required to be appreciated in the context of ocular evidence and other circumstances surrounding thereto. There was some time gap between the occurrence and the examination of the witnesses. Some lapse of memory on the part of the child witness, therefore, is possible."

Referring the same Learned Senior counsel submitted that in this case the TI Parade was not conducted properly and the entire proceeding of TI Parade was not in accordance with law.

60. In **Durbal vs. State of U.P.** reported in **2011 CRI.L. J. 1106**, Hon'ble the Apex court observed in para No.15 as under:

"15. It is also required to note that all the eyewitnesses had stated in their evidence that lantern was burning in the verandah and Kaldhari (PW 1), Sheo Kumar (PW 2) and Sonai (PW 3) were having torch lights in their hands

and only with the help of the lantern and the torch lights they could recognize and identify the assailants. The lantern and the torch lights though were alleged to have been seized vide seizure mahazar Exts. Ka-2 and Ka-3 respectively, were not produced in the Court. The seizure memos Ext. Ka-2 and Ka-3 did not contain the crime number and other recovery particulars. In the circumstances, it becomes highly doubtful as to whether those torch lights and lantern were actually seized during the course of investigation by the Investigating Officer. The Investigating Officer (PW 8) did not explain as to why the crime number was not noted on Ext. Ka-2 and Ka-3 and as to why the material objects if at all seized, were not produced in the Court. The very fact that the lantern and torch lights were pressed into service for the purpose of identifying the accused, itself suggests that it was a pitched dark night during the mid winter and it was not possible to identify the assailants without the aid of lantern and torch lights. It is highly doubtful as to whether PWs 1, 2 and 3 had actually torch lights in their hands as stated by them, in the absence of their recovery details in the seizure memo and their not production before the Court. Moreover, Kaldhari (PW 1) refused to state as to whether the assailants were covering their faces with chadar. His evidence does not inspire any confidence."

Referring the same Learned Senior counsel submitted that in this case the prosecution could not satisfy the court how the victim and her husband could identify the present appellants as the alleged accused persons on the day of commission of offence. No explanation in this regard was made by the prosecution.

61. In **Jayanta Kalai & Ors. vs. State of Tripura** reported in **2013 (2) GLT 450**, the Agartala Bench of Gauhati High Court in para Nos.24 and 54 observed as under:

"(24) Mr. Biswas, learned counsel for the appellants further pointed out that the T. I. Parade as conducted for establishing the identification of the offenders cannot be accepted as from the examination-in-chief of the prosecutrix (P. W. 2) it appears that she stated that she had seen the accused persons in the police station and she had also shown the persons in the jail. She further admitted that "it is true that they had shown the miscreants in the jail according to the showing of the police officer in the police station and other prosecutrix (P. W. 5) was with her on all the dates when she went to the police station." But in the examination-in-chief the prosecutrix (P. W. 2) categorically stated that five miscreants committed rape on her. Mr. Biswas further stated that the T. I. Parade, as conducted, was full of flaws, in breach of the procedure guaranteeing assurance from the outcome of the T. I. Parade. Learned counsel drawing attention of this Court to the statement of the P. W. 15, Sri T. C. Roy Bhowmik, Judicial Magistrate, who conducted the T. I. Parade, stated that the said witness had candidly admitted in the cross-

examination that he had not mentioned in the order sheet dated 03. 07. 2003 as regards the circumstances of identification of the suspects by the witness though he had mentioned it in the printed T. I. Parade Form. He further admitted that he had not brought any person from koloi community to mix up the suspects of Koloi community before holding the T. I. parade. Mr. Biswas ultimately submitted that the judgment of conviction is liable to be interfered with for the reason that there is no legal evidence against the appellants and their identification as accepted by the Court is shrouded by serious doubt. As such the appellants are entitled to benefits.

54. P.W. 2 also stated that four miscreants are present in the Court and identified. However, she denied to identify the three persons in the dock, who were identified during test identification parade. But she made a statement which is fatal for the prosecution case so far it relates to identification of the offenders. She stated in the cross-examination that "I have seen the accused persons in the P.S. and I have shown these persons in the jail". Even though the statement has not been confirmed by PW.5 and PW. 16. But it generated two versions in the prosecution case. She further stated that it is true that we have shown the miscreants in the jail according to showing of the police officer in the P.S. She further stated PW. 5 accompanied her whenever she visited the police station. In view of this, the purpose of test identification parade has been debased. Therefore, it would not be safe on the basis of such identification to affirm the finding of conviction against the appellant Nos. 1, 3 and 4 inasmuch as P.W. 16 did not disclose anything how and in what manner the appellant Nos. 1, 3 and 4 were arrested for their involvement in the offence. So far the appellant No. 5 is concerned, he was identified in the dock after lapse of about 3 years from the date of occurrence first time in the dock. Such identification as well cannot be made the basis of returning the finding of conviction in consideration of time and place of occurrence."

Referring the same Learned Senior counsel further submitted that in this case the prosecution failed to prove the proceeding of TI Parade, as to how the victim and her husband could identify the accused appellant to substantiate the charge against the present appellants of this case. Because in absence of clear evidence on record regarding identification of the alleged accused persons there was no scope to convict the appellant but the Learned court below in absence of such evidence failed to appreciate the evidence on record properly and convicted the appellants for which the interference of the court is required and finally Learned Senior counsel along with other counsels representing the appellants submitted that the prosecution

case suffers from various infirmities and on the face of evidence on record there was no scope to presume the appellants to be guilty and prayed for allowing the appeal by setting aside the judgment of the Learned court below.

62. In course of hearing of argument Learned Senior counsel for the appellants although submitted that in this case prosecution could not give any explanation as to why the victim inspite of taking admission in TSSD Hospital, Udaipur went to Khumulung for her medical examination in this regard due explanation is given by the prosecution in course of hearing of argument that she was newly married and after attending PS on the alleged day she returned back to her home and at the time of her bath her family members noticed severe injuries on her persons and being enquired she had divulged those facts to her family members and ultimately she went to consult a Doctor at Udaipur Hospital but showing crowd therein she went to Khumulung Hospital. It is on record that the victim was newly married. May be because of mental trauma and shame she could not divulge the fact of such barbarous act by the appellants being a rustic lady. So the argument of Learned Senior counsel that the evidence of victim suffers from infirmity cannot be accepted.

63. Per contra, Learned PP representing the State prosecution in course of hearing referred some citation as already discussed above. In **Santosh Kumar vs. State of**

M.P. reported in **(2006) 10 SCC 595** in para No.11 Hon'ble the Supreme Court observed as under:

"11. The medical examination report of the victim shows that she received injuries on front portion of the body and also on her hands. The mere fact that no injuries were found on private parts of her body cannot be a ground to hold that no rape was committed upon her or that the entire prosecution story is false. It may be noted that Halki Bai is a married grown up lady and in such circumstances the absence of injuries on her private parts is not of much significance."

Referring the same Learned PP submitted before the court that from the total facts and circumstances of the case there was no scope to disbelieve the evidence on record of the victim and there was no scope to disbelieve the medical injury report of the victim examined by the three doctors and there is clear evidence of forceful sexual intercourse upon the victim by the present appellants. So Learned PP urged for exemplary punishment against the appellants upholding the sentence imposed by Learned Trial court below.

64. In **State of Chhattisgarh vs. Derha** reported in **(2004) 9 SCC 699** Hon'ble the Apex court in para-7 observed as under:

"7. We have noticed the fact that there has been some delay in filing the complaint which according to us has been explained by PW-1, the mother. The fact that their father was out of station on the date of occurrence is not disputed. In such circumstances since it is a minor who was violated, the possibility of there being hesitation on the part of mother to lodge a complaint cannot be over ruled. Even otherwise the mere factum of delay in filing complaint in regard to an offence of this nature by itself would not be fatal so as to vitiate the prosecution case. The fact that the accused did not suffer any injury on his private part also will not be of much help to him because he was medically examined 4 days after the incident in question. For the reasons stated above, we are satisfied that the High Court was in error in taking a view different from that of the trial court and acquitting the accused."

Referring the same Learned PP submitted that although there were two FIRs in this case. One was made

by the informant after the occurrence and another was lodged by the victim at Khumulung Hospital and later on, both the FIR clubbed together and from the contents of the FIR and the corroborative statement of the informant and victim there was no scope to disbelieve the evidence on record of the informant i.e. the victim of this case and more so, the accused appellants as already stated by the trend of cross-examination could not raise any doubt or cloud to disbelieve their evidence. So according to Learned PP, the Learned court below after elaborate discussions of the evidence on record has rightly found the appellants to be guilty and convicted them accordingly and there was no scope to interfere with the judgment awarded by the Learned court below.

65. In **Birbal Nath vs. State of Rajasthan and Ors.** reported in **2023 SCC OnLine SC 1396** Hon'ble the Apex court observed in para No.20 and 21 as under:

"20. No doubt statement given before police during investigation under Section 161 are "previous statements" under Section 145 of the Evidence Act and therefore can be used to cross examine a witness. But this is only for a limited purpose, to "contradict" such a witness. Even if the defence is successful in contradicting a witness, it would not always mean that the contradiction in her two statements would result in totally discrediting this witness. It is here that we feel that the learned judges of the High Court have gone wrong.

21. The contradictions in the two statements may or may not be sufficient to discredit a witness. Section 145 read with Section 155 of the Evidence Act, have to be carefully applied in a given case. One cannot lose sight of the fact that PW-2 Rami is an injured eye witness, and being the wife of the deceased her presence in their agricultural field on the fateful day is natural. Her statement in her examination in chief gives detail of the incident and the precise role assigned to each of the assailants. This witness was put to a lengthy cross examination by the defence. Some discrepancies invariably occur in such cases when we take into account the fact that this witness is a woman who resides in a village and is the wife of a farmer who tills his land and raises crops by his own hands. In other words, they are not big farmers. The rural setting, the degree of articulation of such a witness in a Court of Law

are relevant considerations while evaluating the credibility of such a witness. Moreover, the lengthy cross examination of a witness may invariably result in contradictions. But these contradictions are not always sufficient to discredit a witness. In *Rammi v.State of M.P.* (1999) 8 SCC 649, this Court had held as under:

"24. When an eyewitness is examined at length it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. Perhaps an untrue witness who is well tutored can successfully make his testimony totally non-discrepant. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence. But too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny."

Referring the same Learned PP submitted that in a criminal prosecution it cannot be expected that all the witnesses in toto support the versions of each other because the witnesses in course of their examination may gave different statements because their maturity of understanding, observance and their knowledge about the alleged occurrence may vary from persons to persons.

66. Learned P.P. further submitted that although in this case there are some minor improvements i.e. the witnesses in course of their examination made some improvements before the court and also there are some minor contradictions, but for those improvements and minor contradictions there was no scope to disbelieve the evidence on record of the prosecution because the accused-appellants as already stated inspite of thorough cross-examination of the informant and his wife i.e. the victim could not raise any circumstance in any manner to disbelieve their evidence because excepting them no other witnesses had any scope to see the occurrence and there is

no other evidence on record that some other persons were present at that time excepting them . So Learned PP urged for dismissal of the appeal.

67. From the aforesaid principles of law laid down by the Hon'ble Supreme Court it appears to us that the citations as referred by Learned Senior counsels appearing for the appellants are not relevant for decision of this present appeal so we do not find any scope to apply the principle of the aforesaid citations in delivering this judgment. On the other hand the citations as referred by Learned PP appears to be more reasonable and appropriate for decision of this case considering the facts and circumstances of this case. So we have taken note of those judgments at the time of preparation of judgment of this appeal. As already stated in this case the evidence of victim, her husband and her in laws and also PWs 5, 6 and 7 are so convincing and trustworthy that there is no room to disbelieve their evidence and for minor contradictions there is no scope to disbelieve the prosecution story because the appellants by the trend of cross-examination could not raise any circumstance to believe that they have been falsely implicated in this case. Rather from their act and conduct it appears that on the alleged day they have committed such heinous crime for which there is no scope to show any mercy to them and thus in our considered opinion the Learned court below after elaborate discussions of the evidence on record has rightly convicted the appellants of

this case and also we do not find to scope to show any lenient view in regard to sentence imposed by the Learned court below.

68. In the result, the three appeals filed by the appellants deserve no interference and accordingly stands dismissed and rejected being devoid of merit. The judgment and order of conviction and sentence imposed by Learned Addl. Sessions Judge, Gomati Judicial District, Udaipur in connection with Case No. Special 01 of 2022 is hereby upheld and accordingly it is affirmed.

Send down the LCRs along with a copy of this judgment.

JUDGE

JUDGE



**MOUMITA
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