

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRAA No. 9900001/2011

Reserved on: 20.12.2025
Pronounced on: 23.12.2025
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Whether the operative part or
full judgment is pronounced: "FULL"

State of J&K through Govt. Advocate

...Applicant(s)/Petitioner(s)

Through: - Mr. Bikram Deep Singh, Dy.AG

v/s

Mohammad Idrees Badana

...Respondent(s)

**Through:- Mr. Mohammad Ashraf Wani, Advocate with
Mr. Badrul Duja, Advocate and
Mr. Iman Mouiz, Advocate**

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

1. The present appeal assails the judgment of acquittal passed by the Trial Court in favour of the respondent in FIR No. 17/2009 registered under Sections 341, 323 and 376/511 RPC at Police Station Villgam. The appellant contends that the impugned judgment is perverse and suffers from serious infirmities inasmuch as the Trial Court has failed to properly appreciate the evidence on record. It is urged that the testimony of the victim was cogent, reliable and sufficient to establish an attempt to commit sexual assault by the respondent, yet the same was discarded without any justifiable reason. According to the appellant, the Trial Court committed a grave error in acquitting the respondent despite overwhelming evidence supporting the prosecution case.

2. Briefly stated, the prosecution case is that on 04-04-2009, when the victim was returning home from school, the respondent, who happened to be her teacher, intercepted her. It is alleged that the respondent took out a knife from his pocket and attacked her, causing an injury to her left hand. Thereafter, he allegedly took out some drug from his pocket and forcibly put it into her mouth; however, the victim continued to cry. The respondent then attempted to molest her by pulling down her trousers, but on noticing the arrival of a woodcutter at the spot, he fled away. The victim was thereafter taken home, where she narrated the entire incident to her parents. According to the prosecution, although the matter was initially brought to the notice of the police, no action was taken, compelling the complainant to approach the Court of the Chief Judicial Magistrate, Handwara. Consequently, FIR No. 17/2009 came to be registered under Sections 341, 376, 354, 324 and 511 RPC. Upon investigation, offences under Sections 354 and 324 RPC were found not made out, and the respondent was charge-sheeted for offences under Sections 341, 323 and 376/511 RPC.
3. During trial, the prosecution examined the victim as PW-1, her father Ghulam Mohi-ud-din Badana as PW-2, Ghulam Hassan Badana as PW-4, Sheer Wali Badana as PW-5, Dr. Mudasir Iqbal Wani as PW-6 and H/C Mohammad Yousuf, the Investigating Officer, as PW-7. The respondent, when examined under Section 342 Cr.P.C., denied the charges and set up a defence that the victim was his student and that on 04-04-2009 she had attempted to commit suicide by consuming poison, which led to the registration of FIR No. 13/2009 under Section 309 RPC against her. He further claimed that subsequently, under the influence of her father, a false

case was lodged against him on 16-04-2009 with the object of coercing him into marrying the victim.

4. The Trial Court, upon appreciation of the evidence, concluded that the victim had indeed consumed poison, which resulted in the registration of FIR No. 13/2009 under Section 309 RPC. The medical evidence, particularly the testimony of the medical expert, corroborated that the victim was suffering from food poisoning, thereby ruling out the allegation that the respondent had forcibly put any poisonous substance into her mouth. The Court further noted that although the alleged incident took place on 04-04-2009 and the victim was taken to the hospital for treatment, where the police were present, she did not make any allegation at that time against the respondent regarding molestation or forcible administration of poison. The FIR against the respondent was lodged after a considerable delay, which, according to the Trial Court, created a doubt about false implication. The Trial Court also found that the testimony of the victim was self-contradictory and lacking in material particulars, observing that she had vacillated on important aspects of the case. Additionally, although the victim claimed that a woodcutter had arrived at the spot and rescued her, neither was such person cited nor examined as a witness, which further weakened the prosecution case.
5. Heard both the counsels and also taken care of the record.
6. During the course of hearing, it was fairly conceded by learned counsel for the appellant that FIR No. 13/2009 under Section 309 RPC had also been registered in connection with the same incident dated 04-04-2009, though it was registered against the victim. However, it was not disclosed as to what ultimately happened to the said FIR after the respondent came to be

prosecuted on the basis of FIR No. 17/2009. It is noteworthy that both FIRs were registered at the same police station and pertain to the very same date of occurrence. Dr. Mudasir Iqbal Wani, Medical Officer, SDH Kralpora, who was examined during the trial, stated that the victim was brought to the hospital by her father with complaints of vomiting and loose stools. As per the medical history narrated, she had consumed vegetables sprinkled with insecticide. The doctor categorically deposed that the case was managed as one of food poisoning, which the victim tolerated well. He further admitted that the scratch noticed on her wrist could be self-inflicted. This medical evidence lends support to the version that the victim had consumed a poisonous substance on her own.

7. According to the prosecution version, on 04-04-2009, while returning from school, the victim was intercepted by the respondent, who allegedly attempted to molest her. It was alleged that the respondent was carrying a knife and inflicted an injury on her wrist and thereafter attempted to remove her clothes, but fled on the arrival of a woodcutter. Admittedly, the said woodcutter was neither cited nor examined as a witness. Moreover, the alleged use of a knife was not substantiated during investigation, nor was any attempt made by the complainant to pursue prosecution of the respondent under Section 324 RPC. Though initially offences under Sections 324 and 354 RPC were mentioned in the FIR, the investigation ultimately concluded that these offences were not made out, thereby ruling out possession or use of any dangerous weapon by the respondent or infliction of injury with such weapon.

8. The testimony of the victim also suffers from material inconsistencies. While she attempted to support the prosecution case in her examination-in-chief, she admitted during cross-examination that there was no animosity between her and the respondent and that, in fact, they shared cordial relations and had shown inclination towards marriage. However, she failed to explain the circumstances that led her to consume poison or the fate of FIR No. 13/2009 registered against her for attempt to commit suicide. It is not the case of the prosecution that the respondent had mixed any poisonous substance with food or forcibly administered it to the victim. After consumption of the poisonous substance, she was immediately rushed to the hospital by her father, where police officials were admittedly present. Yet, at that stage, she did not disclose that the respondent had administered poison to her. On the contrary, the medical expert consistently described the case as one of food poisoning. The investigation also failed to establish whether any insecticide was forcibly administered or even sprinkled on food, as that aspect remained completely unexplored, leaving the prosecution case bereft of essential details.
9. Though the prosecution sought to justify the delay in lodging FIR No. 17/2009 by alleging police inaction, the testimony of PW-7, Head Constable Mohammad Yousuf, does not clarify what transpired in FIR No. 13/2009 arising out of the same incident. The situation would have been different had the two FIRs pertained to distinct occurrences. While it is true that an incident may give rise to two different versions, one by the complainant and the other by the accused, it is the bounden duty of the investigating officer to unearth the true genesis of the occurrence. The evidence on record presents

two possible versions: one, that the victim voluntarily consumed a poisonous substance, leading to registration of FIR under Section 309 RPC, and the other, that the respondent forcibly administered poison and attempted to molest her. The former version appears plausible and is supported by medical evidence, whereas the latter remains shrouded in suspicion.

10. The victim is the sole witness to the alleged incident of molestation. When her testimony is tested on the touchstone of credibility, it emerges that she and the respondent shared a cordial relationship and had shown inclination towards marriage. Admittedly, the victim was a school-going student and the respondent was her teacher. In his statement under Section 342 Cr.P.C., the respondent asserted that he was falsely implicated after refusing to marry the victim, who had developed feelings for him. This explanation appears to carry a semblance of truth when read in conjunction with the prosecution evidence. The apparent attempt to suppress the genesis of FIR No. 13/2009 and the failure of the investigating officer to conduct a fair and thorough investigation further weakens the prosecution case. Even if the prosecution version is taken at face value, the non-examination of the alleged woodcutter, who was claimed to have rescued the victim, casts a serious doubt on the occurrence itself. The circumstances suggest that the victim may have consumed poison owing to emotional distress arising from the respondent's refusal, and subsequently, a story of sexual assault was projected to shield her from stigma.

11. Criminal trials cannot be founded on conjectures, surmises, or emotional narratives. The prosecution is under a legal obligation to prove the charge against the accused beyond all reasonable doubt. The presumption of

innocence, which operates in favour of the accused, can be displaced only by cogent, credible, and trustworthy evidence. In the present case, the prosecution has miserably failed to discharge this burden. For the aforesaid reasons, the finding of acquittal recorded by the Trial Court cannot be termed as perverse or based on any misappreciation of evidence. The appellants have failed to place any material on record that would warrant interference with the judgment of acquittal. It is a settled principle of law that once an accused is acquitted after a full-fledged trial, the presumption of innocence not only continues but stands reinforced, and an appellate court may interfere only where the judgment of acquittal is shown to be manifestly erroneous, illegal, or perverse.

12. The Trial Court, having had the advantage of observing the demeanour of the witnesses, was best placed to appreciate the evidence on record. Considering the inherent weaknesses in the prosecution case and the fairness reflected in the defence of the respondent, the Trial Court has rightly recorded an honourable acquittal in favour of the respondent. Consequently, the appeal is found to be devoid of merit and is, accordingly, *dismissed*.

(Sanjay Parihar)
Judge

SRINAGAR

23.12.2025

Akshil Dev

Whether the order is speaking? : Yes

Whether the order is reportable? : No