

**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA**

Cr. A. No. 361/2015

Reserved on: 16.12.2025

Decided on: 31.12.2025

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State of Himachal Pradesh .....Appellant

Versus

Lal Singh ....Respondent

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**Coram:**

***The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.***

***The Hon'ble Mr. Justice Romesh Verma, Judge.***

*Whether approved for reporting?<sup>1</sup>*

For the Appellant: Mr. Raj Negi, Dy. Advocate General.

For the Respondent: Mr. R.M. Bisht, Advocate.

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**Romesh Verma, Judge**

The present appeal arises out of judgment of acquittal, as passed by the learned Sessions Judge, Kinnaur, Sessions Division at Rampur Bushahr, dated 25.3.2015, whereby the accused/respondent has been acquitted in case FIR No. 149/2013, dated 10.9.2013, registered at Police Station Rampur Bushahr, District Shimla, under Sections 376 and 506

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<sup>1</sup>Whether reporters of the local papers may be allowed to see the judgment? Yes.

of the Indian Penal Code (for short, “IPC”) & Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, “SC & ST Act”).

2           The story, as projected by the prosecution, is that on 10.9.2013, the prosecutrix along with her brother-in-law and sister-in-law went to the Police station and submitted a report that on 10.9.2013, at about 3.00 P.M., the prosecutrix along with her 1 ½ years old daughter had gone to cut grass in the field near Kitgari Nallah. Her husband had gone to Rohroo for the past one month during apple season, where he was working as labourer and she was residing with her mother-in-law at home. At about 3.30/4.00 P.M., when she was cutting grass, beneath the path in the Kitgari Nallah, the respondent, Lal Singh came from the above side and asked her is there anyone in the house and she replied that no one is at home. Thereafter, he caught hold of the prosecutrix from her arm and pushed her, as a result of which she fell on the ground. She started crying and the accused opened her headscarf (Dhatu) and tied her mouth with it. Thereafter, he committed wrong act with her. She stated that in order to save herself, she tried to resist, however the accused caught hold of her both the arms and committed wrong act with her for about 10-15 minutes. Thereafter, he threatened her that in case she

informed about the incident to anyone in that event she shall be killed. Thereafter, she went to her house and narrated the incident to her mother-in-law PW3 Sodhu Devi. She also informed about the occurrence to her sister-in-law, Anita. In the evening, her brother-in-law, PW10 Pyare Lal came to the house and the prosecutrix also narrated the incident to him. On the basis of the aforesaid statement of the prosecutrix, FIR No. 149/2013 dated 10.9.2013 came to be registered against the respondent under Sections 376, 506 I.P.C. and Section 13(1)(xii) of the SC & ST Act.

3           Thereafter, the prosecutrix was medically examined at MGMSC, Khaneri on 11.9.2013 by PW1 Dr. Anupam Gupta. The clothes of the prosecutrix were preserved along with her pubic hair, vaginal slides and vaginal swabs. The cloths and the samples after being sealed were handed over to the police for chemical and forensic examination.

4           On 13.9.2013, the police visited the spot along with prosecutrix and got identified the spot where the alleged offence was committed. The respondent was arrested and he was also subjected to medical examination. The police also recovered 'Darati' and 'Dhatu' from the spot. The photographs were taken and videography was also conducted during investigation. The statements of witnesses were recorded as per their respective

version. Spot map was prepared and the forensic report from FSL, Junga was also obtained.

5           After completion of the investigation, final report under Section 173 of the Code of Criminal Procedure, 1973 was filed in the Court and on finding a prima facie case, the respondent was charged for commission of offences punishable under Sections 376, 506 IPC and Section 3(1)(xii) of the SC & ST Act, to which he pleaded not guilty and claimed to be tried.

6           In order to prove its case, the prosecution examined as many as 17 witnesses in support of its case. Thereafter, the respondent was examined under Section 313 Cr.P.C., in which he denied all set of incriminating evidence led by the prosecution against him and claimed himself to be innocent. Even though the respondent was given opportunity to lead evidence in his defence and he opted to do so, however, he did not lead any evidence in defence.

7           The learned Sessions Judge, after evaluating the oral as well as documentary evidence, acquitted the respondent, as aforesaid. The appellant-State feeling dissatisfied by the impugned judgment has preferred the present appeal.

8           Before adverting to the rival contentions of the parties, first of all, we would like to reiterate the principles laid down by the Hon'ble Supreme Court governing the scope of

interference by the High Court in an appeal filed by the State challenging the acquittal of the accused.

9           The Hon'ble Supreme Court in ***Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471*** has encapsulated legal position governing the field after considering various earlier judgments and held as under:

*“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] , SCC p. 432, para 42)*

*‘42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:*

*(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*

*(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*

*(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”,*

*“glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.*

*(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*

*(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’*

10            Similar reiteration of law can be found in **H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581** , **Ballu @ Balram @ Balmukund vs. The State of Madhya Pradesh, 2024 (4) Scale 513** and **Constable 907 Surendra Singh vs. State of Uttarakhand, (2025) 5 SCC 433**

11           Perusal of the judgments, as passed by the Hon'ble Supreme Court, demonstrates that scope of interference in the case of acquittal is very limited and the same would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record. It has further been held that the prosecution in order to prove its case must establish the guilt of the accused from the oral as well as documentary evidence placed on record. It is a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. The facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has also been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the

accused and must show that in all human probabilities the act must have been done by the accused.

12 Mr. Raj Negi, learned Deputy Advocate General, has vehemently argued that the impugned judgment rendered by the learned Sessions Judge is perverse and, therefore, deserves to be set aside, whereas Mr. R. M. Bisht, learned counsel for the respondent would support the impugned judgment having been rendered on right appreciation of oral as well as documentary evidence available on record.

13 It is now well settled principle of law that conviction can be founded on the sole testimony of the prosecutrix, unless there are compelling reasons for seeking corroboration. It is also equally settled that corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under the given circumstances. (***Refer State of Punjab Vs. Gurmit Singh (1996) 2 SCC 384, State of Himachal Pradesh Vs. Asha Ram AIR 2006 SC 381, Rajinder Vs. State of Himachal Pradesh, (2009) 16 SCC 69.***) However, it has to be borne in mind that a case of sexual assault has to be proved beyond reasonable doubt as any other case and there is no presumption that the prosecutrix would always tell the entire story truthfully.

14 In **Rajoo Vs. State of Madhya Pradesh (2008) 15 SCC 133**, the Hon'ble Supreme Court held that the testimony of a victim of rape has to be treated as if she is an injured witness but cannot be presumed to be a gospel truth. It was held that:-

*“9. The aforesaid judgments lay down the basic principle that ordinarily the evidence of a prosecutrix should not be suspect and should be believed, the more so as her statement has to be evaluated at par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the Court. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also be protected against the possibility of false implication, particularly where a large number of accused are involved. It must, further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration. Reference has been made in Gurmit Singh's case to the amendments in 1983 to Sections 375 and 376*

*of the India Penal Code making the penal provisions relating to rape more stringent, and also to Section 114A of the Evidence Act with respect to a presumption to be raised with regard to allegations of consensual sex in a case of alleged rape. It is however significant that Sections 113A and 113B too were inserted in the Evidence Act by the same amendment by which certain presumptions in cases of abetment of suicide and dowry death have been raised against the accused. These two Sections, thus, raise a clear presumption in favour of the prosecution but no similar presumption with respect to rape is visualized as the presumption under Section 114A is extremely restricted in its applicability. This clearly shows that in so far as allegations of rape are concerned, the evidence of a prosecutrix must be examined as that of an injured witness whose presence at the spot is probable but it can never be presumed that her statement should, without exception, be taken as the gospel truth. Additionally her statement can, at best, be adjudged on the principle that ordinarily no injured witness would tell a lie or implicate a person falsely. We believe that it is under these principles that this case, and others such as this one, need to be examined.”*

15           In **Tameezuddin @ Tammu Vs. State (NCT of Delhi), (2009) 15 SCC 566**, the Hon’ble Supreme has held as under:-

*“7. It is true that in a case of rape the evidence of the prosecutrix must be given predominant consideration, but to hold that this evidence has to be accepted even if the story is improbable and belies logic, would be doing violence to the very principles which govern the*

*appreciation of evidence in a criminal matter. We are of the opinion that story is indeed improbable. ....”*

16 In ***Dinesh Jaiswal Vs. State of MP, (2010) 3 SCC***

**323**, the Hon’ble Supreme Court held as under:-

*“10. Mr. C.D. Singh has however placed reliance on Moti Lal’s case (supra) to contend that the evidence of the prosecutrix was liable to be believed save in exceptional circumstances. There can be no quarrel with this proposition (and it has been so emphasised by this Court time and again) but to hold that a prosecutrix must be believed irrespective of the improbabilities in her story, is an argument that can never be accepted. The test always is as to whether the given story prima facie inspires confidence. We are of the opinion that the present matter is indeed an exceptional one.”*

17 In ***Abbas Ahmad Choudhary Vs. State of Assam,***

**(2010) 12 SCC 115**, the Hon’ble Supreme Court observed that:-

*“5. We are however, of the opinion that the involvement of Abbas Ahmad Choudhary seems to be uncertain. It must first be borne in mind that in her statement recorded on 17th September, 1997, the prosecutrix had not attributed any rape to Abbas Ahmad Choudhary. Likewise, she had stated that he was not one of those who kidnapped her and taken to Jalalpur Tea Estate and on the other hand she categorically stated that while she along with Mizazul Haq and Ranju Das were returning to the village that he had joined them somewhere along the way but had still not committed rape on her. It is true that in her statement*

*in court she has attributed rape to Abbas Ahmad Choudhary as well, but in the light of the aforesaid contradictions some doubt is created with regard to his involvement. Some corroboration of rape could have been found if Abbas Ahmad Choudhary too had been apprehended and taken to the police station by P.W. 5 - Ranjit Dutta the Constable. The Constable, however, made a statement which was corroborated by the Investigating Officer that only two of the appellants Ranju Das and Md. Mizalul Haq along with the prosecutrix had been brought to the police station as Abbas Ahmad Choudhary had run away while en route to the police station. Resultantly, an inference can be rightly drawn that Abbas Ahmad Choudhary was perhaps not in the car when the complainant and two of the appellants had been apprehended by Constable Ranjit Dutta. We are, therefore, of the opinion that the involvement of Abbas Ahmad Choudhary is doubtful. We are conscious of the fact that in a matter of rape, the statement of the prosecutrix must be given primary consideration, but, at the same time, the broad principle that the prosecution has to prove its case beyond reasonable doubt applies equally to a case of rape and there can be no presumption that a prosecutrix would always tell the entire story truthfully.”*

18            In ***Rai Sandeep @ Deepu Vs. State of NCT of Delhi (2012) 8 SCC 21***, the Hon’ble Supreme Court commented about the quality of the sole testimony of the prosecutrix, which would be made basis to convict the accused and it was held:-

*“15. In our considered opinion, the sterling witness should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have correlation with each and everyone of other supporting such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a sterling witness whose version can be accepted by the Court*

*without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”*

19           Now, coming to the oral as well as documentary evidence available on record, it would be apposite to first refer to the deposition of the prosecutrix. She entered the witness-box as PW11 and reiterated somewhat similar contents of the FIR. She stated that on 10.9.2013, she had gone to Kitgari Nallah to cut grass, which was at some distance from her house. Her daughter, aged 1.5 years was also with her. The respondent came there and caught hold of her from her arm and gave a push to her and thereafter put her down on the ground. She cried, but the respondent shut her mouth by tying her ‘Dhatu’ on her mouth. Thereafter, he raped her there. The respondent threatened her not to disclose the incident to anyone or else he would kill her. Thereafter, she went to her mother-in-law, Shodu Devi, who was working in the field and at that time, Bimla Devi was also with her. She told her mother-in-law about the incident. They all came back to the

house and on the arrival of Pyare Lal, she told the incident to him. She, Anita and Pyare Lal visited the Police Post Taklech and thereafter, Police Station, Rampur. The police visited the spot and lifted from there her 'Dhatu' and 'Drati' from there and the same were taken into possession vide memo Ext. PW10/A.

20            In her cross-examination, she denied that houses of Shukru Ram and Karam Dass were situated nearby the alleged place of occurrence. She stated that 'kucha' mule road passes below the place of occurrence and below Kucha road, there exists a motorable road. 'Kucha' mule road leads towards Darkali, Marala, Radoli, Sharnala villages. She stated that people use that mule road. The place of occurrence is about 20-25 mtrs away from her house. The houses of Shukru and Karam Dass were also at a distance of 20-25 metres from the said place. She denied the suggestion that respondent had been meeting her prior to this incident. The field, where her mother-in-law was working, was also at a distance of 20-25 metres from the alleged place of occurrence. Self stated that the place of occurrence was not visible from the said field where her mother-in-law was working. She was having 'Drati' with her. She stated that she did not receive any injury on her body. No villager had seen the respondent while raping her. She denied

the suggestion that her mother-in-law had asked her on reaching home as to why the respondent was sitting with her in the field. She stated that her daughter was also in the field and she was weeping at that time loudly. She informed her husband telephonically about this incident around 6 P.M. She denied the suggestion that while leaving the place of occurrence, she had taken her 'Drati' and 'Dhatu' with her. Pyare Lal had reached in the house around 5 P.M.

21 PW3 Shodu Devi, is mother-in-law of the prosecutrix. She deposed that she is having two sons, namely, Pyare Lal and Singhi Ram. Singhi Ram is younger and is married to the prosecutrix. During last apple season, Singhi Ram had gone to Rohru. On that day, the prosecutrix had gone to the field to bring grass. She came to her weeping later on in the field and told that when she was in the field and cutting grass, the respondent came from behind and after giving a push to her, he shut her mouth and committed rape with her. Thereafter, the prosecutrix came to Taklech police post to report the matter.

22 In her cross-examination, PW3 stated that she and Bimla Devi were in the fields when the prosecutrix came weeping. She stated that there were two paths, just close to the field where the prosecutrix had gone to cut grass. She did not

see the respondent there on that day. She stated that she cannot recognize the respondent by face. According to her, the prosecutrix told that blood was coming from her tooth.

23 PW10 Pyare Lal is brother-in-law of the prosecutrix to whom she also disclosed the incident when he reached at home in the evening. According to PW10, on 10.9.2013, at about 5.30 P.M.. when he reached at home, he found the prosecutrix weeping. On being enquired, she told that she had gone to the field to cut grass and the respondent came there, gave her a push, put her down on the ground and raped her. Thereafter, he, his sister Sunita and prosecutrix came to police post, Taklech where they were informed to go to police station, Rampur. They visited Police Station, Rampur and reported the matter. The police officials sent the prosecutrix to Khaneri Hospital for medical check-up. The police visited the spot during investigation. He also associated the police. The police took photographs and also lifted 'Drati', Ext.P2 and 'Dhatu', Ext. P3 from there and thereafter the same were taken into possession vide seizure memo Ext. PW-10/A. The prosecutrix had identified the place of occurrence to the Investigating Officer in his presence. The respondent also identified the place of occurrence in his presence and that of Bhag Chand and memo in this regard Ext. PW-10/B was prepared.

24 In his cross-examination, he deposed that houses of Shukru Ram and Kanji Ram were nearby the place of occurrence. A 'Kucha' road also passes nearby the said place. He stated that a motorable road also passes below the said 'Kucha' path. The respondent is a local man.

25 PW2 Singhi Ram is husband of the prosecutrix. He deposed that in the year 2013, he had gone to Rohru during apple season. On 10.9.2013, his brother Pyare Lal informed him telephonically that the respondent had committed rape with the prosecutrix. He informed his brother to tell his wife to report the matter to the police. On 11.9.2013, he came to his house from Rohru. The prosecutrix was weeping and she told him that she was sexually assaulted by the respondent.

26 In his cross-examination, he denied that his wife (prosecutrix) did not tell him at any point that she was sexually assaulted by the respondent.

27 PW12 Bimla Devi, deposed that on 10.9.2013, she was in a field with Shodu Devi, Kui Devi and Sunita and they were sowing wheat. At about 4.00-5.00 P.M., the prosecutrix came there and she was weeping. On being asked, the prosecutrix told that when she was cutting grass in a Nallah, one person came there and gave her a push. The prosecutrix continued weeping and she did not ask much from her. She

stated that the prosecutrix did not tell the name of person who had given her push.

28           The Public Prosecutor after seeking permission to declare PW12 hostile, cross-examined her, however nothing incriminating against the respondent could be extracted from her cross-examination.

29           In her cross-examination conducted by the defence counsel for the respondent, she stated the houses of Shukru and Karam Dass were adjoining to the house of Singhi Ram. She stated that if somebody cries, those can be heard. She stated that there is 'Kucha' mule road by the side of house of Singhi Ram. People use that road for going towards Darkali including children of school.

30           PW14 Kui Devi deposed that on 10.9.2013, she was in the field of Bimla Devi and ploughing her land. Bimla Devi was also there. At about 3 P.M., prosecutrix came there and she was weeping. On being asked, she told that she had been raped by the respondent. Thereafter, her husband, Anita and the prosecutrix came to Police Post, Taklech and from there to Police Station, Rampur.

31           In her cross-examination, she denied that she met the prosecutrix in the house and not in the field. She also

denied that the prosecutrix was having Dhatu and Drati with her when she came to the field.

32 Now coming to the statements of official witnesses, who are directly or indirectly connected to the investigation of the instant case.

33 PW8 Inspector Manish Chauhan deposed that in the year 2013, he was posted as SHO, Police Station, Rampur. He stated that the prosecutrix came to police station with her brother-in-law (Jeth) and Bhabhi and on her statement, FIR Ext. PW-8/A was recorded by him. Thereafter, he prepared police file and handed over the same to Dy. S.P. Sunil Negi for investigation.

34 In his cross-examination, he stated that the incident was narrated to him in the presence of a lady constable. It took half an hour for recording FIR.

35 PW17 Sunil Negi is the Investigating Officer in the instant case, who deposed that on 11.9.2013, he went to the spot along with the prosecutrix and other officials and prepared site plan Ext.PW-17/A and took photographs of the spot, Ext.PW-9/A-1 to Ext.PW-9/A-5. A CD Ext.PW-9/B was also prepared. Dhatu of the prosecutrix and Darati were also recovered from the spot vide memo Ext.PW-10/A. The prosecutrix was produced before ACJM Rampur and her

statement under Section 164 of Cr.P.C. Ext.PW-11/A was got recorded. The articles were lifted from the spot, sealed with seal impression 'T' and handed over to the MHC through ASI Karam Chand. The partial investigation was conducted by ASI Karam Chand.

36 In his cross-examination, he stated that they reached at the spot on 11.9.2013 around midday time. There is Darkali Taklech road that crosses through the village of the prosecutrix. He feigned ignorance that a mule road also passes between the main road and the house of prosecutrix. As per site plan Ext.PW-17/Á, mule road is above the house of the prosecutrix. The spot is sloppy. The house of the prosecutrix was about 50 metres from the place of occurrence. There were two houses adjoining to the house of the prosecutrix and other houses were at a distance.

37 PW 13 ASI Karam Chand deposed that he remained posted as I.O. in Police Station, Rampur from 9.4.2013. On 13.9.2013, the respondent led police police party to the place of occurrence and identified it in the presence of Bhag Chand and Pyare Lal vide memo, Ext. PW-10/B. He also prepared spot map, Ext. PW-13/A and also recorded statements of the witnesses.

38            In his cross-examination, he denied the suggestion that there was a 'Kucha' mule road below the alleged place of occurrence. Self stated that it was above the place of offence. The metalled road was around 500 metres down from the place of occurrence. The 'Kucha' mule road was about 50-60 metres above the place of offence. Volunteered that it was not a road but it was a path. He stated that the place of occurrence was sloppy. He feigned ignorance that the house of Bhag Chand was about 2-3 Kms. from that place. He stated that there were about 2-3 houses nearby the place of offence.

39            PW4 Ashok Mehta stated that he remained posted as Patwari in Patwar Circle, Taklech since January, 2012. During the course of investigation, he handed over to the police caste certificates of respondent as well as the prosecutrix, Ext. PW-4/A and Ext. PW-4/B respectively, which show that the victim belongs to 'Koli' community and accused is 'Rajput' by caste. He stated that in Himachal, 'Koli' community is a scheduled caste.

40            PW5 Kewal Ram stated that he remained posted as Reader to Tehsildar, Rampur, Distt. Shimla since 2006. He brought Land Record Manual State of H.P., extract whereof is Ext. PW5/A. As per this record, 'Koli' community has been declared Scheduled Caste by the State Govt.

41 PW6 Prem Singh Negi, deposed that he remained posted as Naib Tehsildar, Rampur since September, 2007 to May, 2011. He had countersigned certificates Ext. PW-4/A and Ext. PW-4/B.

42 PW9 Constable Mohar Singh stated that during the course of investigation, he went to village Kukhi with Dy. S.P. Sunil Negi and took photographs of the spot, Ext. PW9/A-1 to Ext. PW9/A-5 and also conducted videography vide C.D Ext. PW-9/B.

43 PW1 is Dr. Anumpam Gupta, who had conducted medical examination of the prosecutrix. He deposed that he remained posted as Medical Officer in MGMSC Khaneri since July, 2005. He stated that on the application moved by the police Ext. PW-1/A, on 11.9.2013 at 10.30 A.M., he examined the prosecutrix with history of having been sexually assaulted. On local examination, there was no sign of injury or struggle present on any part of her body. Per vaginal examination, no signs of injury or bleeding on private part were found. He prepared vaginal slides of the prosecutrix and gave it to the police. He issued MLC Ext. PW-1/B.

44 In his cross-examination, he stated that if there is forcible sexual intercourse, then normally there are internal as well as external injuries on the victim. He further stated that it

is difficult to say that sexual intercourse was done with the victim.

45 PW7 is Dr. Rajesh Rana, who had medically examined the respondent. He deposed that he remained posted as Medical Officer, MGMSC Khaneri since July, 2012. On 11.9.2013, on an application moved by the police, Ext. PW-7/A he medically examined the respondent. According to him, no marks of struggle, bruises, scratches or abrasions were noted on the body and genital organs of the respondent. Brown coloured underwear and red coloured T shirt of the respondent were taken into possession, which were sealed and thereafter handed over to the police for getting the same examined in SFSL, Junga. Parcel S-2 containing swab from coronal circle, swab from penile shaft, pubic hair combing was also handed over to the police official for getting it examined in SFSL, Junga. On the basis of examination of the respondent, he opined that there was nothing to suggest that he was not capable of performing sexual intercourse. He also issued MLC Ext. PW-7/B.

46 In his cross-examination, he stated that if a person commits forcible sexual intercourse, there must be some injuries on his body. No injury was found on the body of the respondent.

47 PW15 ASI Bhagat Ram deposed that on 9.1.2013,  
on the receipt of FSL report, he recorded statement of  
Constable Aditya and HC Krishan Lal, as per their version.

48 PW16 SI Tilak Chand, stated that on receipt of FSL  
report, he prepared supplementary charge-sheet.

49 It needs to be observed here that rape is the most  
morally and physically reprehensible crime in a society, as it is  
an assault on the body, mind and privacy of the victim. While a  
murderer destroys the physical frame of the victim, a rapist  
degrades and defiles the soul of a helpless female. Rape shakes  
the very soul of the victim. By no means can a rape victim be  
called an accomplice. Rape leaves a permanent scar on the life  
of the victim, and therefore a rape victim is placed on a higher  
pedestal than an injured witness.

50 There are catena of judgments passed by the  
Hon'ble Supreme Court wherein it has been held that only the  
deposition of the prosecutrix by itself is also sufficient to record  
conviction for the offence of rape if that testimony inspires  
confidence and has complete link of truth.

51 This Court is well aware that minor contradictions  
or insignificant discrepancies should not be a ground for  
throwing out an otherwise reliable prosecution case. A victim  
complaining of having been a victim of the offence of rape is not

an accomplice after the crime. Her testimony has to be appreciated on the principle of probabilities just as the testimony of any other witness; a high degree of probability having been shown to exist in view of the subject matter being a criminal charge. However, if the court finds it difficult to accept the version of the victim on its face value, it may search for evidence, direct or substantial, which may lend assurance to her testimony.

52           Now adverting to the facts and merits of the case, from the above depositions of the prosecution witnesses, veracity of the evidence has not been corroborated by the prosecution in order to link and hold the respondent guilty for the commission of the offences in question. The evidence which has been led by the prosecution is shaky, suspicious and doubtful, thus, the prosecution has failed to bring home the guilt of the accused/respondent and the oral as well as documentary evidence placed on record do not at all establish on record that the respondent was involved in the alleged commission of offence.

53           Perusal of FIR, Ext. PW8/A, narrates a story that the respondent all of a sudden caught hold of her from her arm and thereafter pushed her and she received a fall on the surface. When she cried, then the respondent opened her

headscarf and tied it on her mouth. Thereafter, he forcibly opened string of her salwar and thereafter, he took off his pants and underwear and sexually assaulted her. She tried her level best to escape from the clutches of the respondent, but all in vain as the respondent is alleged to have caught hold of her from her both arms. According to the prosecutrix, the respondent committed sexual intercourse with her for about 10-15 minutes. Thereafter, the respondent put on his clothes and left the place of occurrence while threatening her that in case she narrated the incident to anyone, he would kill her. Thereafter, the prosecutrix put on her salwar and came back to her house along with her daughter, where she disclosed the incident first time to her mother-in-law PW3 Sodhu Devi.

54           It appears that there was no one to witness the alleged occurrence as there were only three persons on the spot namely, the respondent, prosecutrix and her 1.5 years old daughter.

55           However, PW3 Shodu Devi did not confirm the factum of disclosure of incident to her at the instance of prosecutrix, as mentioned in FIR, at home, rather she has specifically deposed that on that day, the prosecutrix had gone to the field to bring grass. She came to her later on in the field weeping and told that when she was in the field and cutting

grass, the respondent came from behind and after giving a push to her, shut her mouth and committed rape with her.

56 In the FIR, the prosecutrix has nowhere stated that she met her mother-in-law at the field where she disclosed the incident to PW3 Shodu Devi, her mother-in-law, where Bimla Devi was also working in the field.

57 As regards Bimla Devi, though she deposed that at about 4.00-5.00 P.M., the prosecutrix came to the field and she was weeping. On being asked by PW12 Bimla Devi, the prosecutrix told that when she was cutting grass in a Nallah, one person came there and gave her a push. The prosecutrix continued weeping and she did not ask much from her. PW12 specifically stated that the prosecutrix did not tell the name of person to her who had given her push. Even though PW12 was declared hostile and was cross-examined by the Public Prosecutor, however nothing incriminating against the respondent could be extracted from her cross-examination.

58 Even statement of the prosecutrix recorded under Section 164 Cr. P.C. also does not suggest that the prosecutrix visited her mother-in-law Shodu Devi in the field where PW12 was also working and she narrated the incident for the first time there.

59           There is variation in the contents of FIR and statements of the prosecutrix, PW3, PW12 and for that matter even PW14 that how and when they came to know that the prosecutrix was sexually assaulted by the respondent. Their statements are not in tune with the contents of FIR, thus, testimonies of PW3, PW12 and PW14 are of no avail to the prosecution rather their testimonies cast a serious doubt on the story of the prosecution.

60           The evidence reveals that neither the prosecutrix nor the respondent sustained any kind of injury on their bodies, whereas it has come on record that the place of occurrence was sloppy.

61           Medical report of the prosecutrix is Ext. PW1/B, in which it has been opined by the Doctor that there was no sign of injury or struggle present on any part of her body. Even per vaginal examination, no signs of injury or bleeding on her private part were found. To the similar extent is statement of PW1 Dr. Anupam Gupta, whereby he has categorically stated that *“if there is forcible sexual intercourse, then normally there are internal as well as external injuries on the victim. He further stated that it is difficult to say that sexual intercourse was done with the victim”*.

62 Even the prosecutrix in her statement has admitted that she did not sustain any injury on her body. The said version of the prosecutrix seems to be highly improbable and shaky.

63 As per story of the prosecution, the occurrence had taken place in the field, which was admittedly sloppy and in case any force, that was alleged to have been used by the respondent, then certainly some injuries, be it internal or external, would have occurred, but in the entire evidence led by the prosecution, it has come that neither the prosecutrix nor the respondent had sustained any injuries on their persons. Even in her examination-in-chief, the prosecutrix has categorically stated that she had tried to resist the act of the respondent, however the respondent shut her mouth by tying headscarf of the prosecutrix on her mouth.

64 The alleged place of occurrence is at Kitgari Nallah, just adjacent to the residential houses of the co-villagers. It has come in the statements of the witnesses, more particularly in the cross-examination of brother-in-law of the prosecutrix, PW10 that there were houses of Shukru Ram and Kanji situated nearby the alleged place of occurrence.

65 Even PW12 in his cross-examination conducted by the defence counsel, has categorically deposed that the houses

of Shukru and Karam Dass were adjoining to the house of Singhi Ram (husband of the prosecutrix). She has stated that if somebody cries, those can be heard.

66 PW13 ASI Karam Chand has also stated in his cross-examination that there were about 2-3 houses nearby the place of occurrence.

67 I.O. of the case PW17 SDPO Sunil Negi has also stated that the house of the prosecutrix was about 50 metres from the place of occurrence. There were two houses adjoining to the house of the prosecutrix and others houses were situated at a distance.

68 The story of the prosecutrix seems to be improbable because once it has come on record in the evidence that the spot of occurrence was just adjacent to the houses of the co-villagers and in that case, resistance and sound of the weeping of the prosecutrix could have been heard certainly by the co-villagers when she claimed to have resisted the act of the respondent for about 10-15 minutes and tried her level best to escape herself from the clutches of the respondent coupled with the fact that the prosecutrix has categorically stated that at the time of alleged incident, her daughter, aged about 1.5 years, was also with her in the field and her daughter was weeping at that time loudly. Being a busy area having houses, path and

fields, story of the prosecution does not inspire confidence. The occurrence at such a busy place seems to be improbable and shaky.

69           It has also come in the evidence that there were two paths just close to the fields where the occurrence had taken place. PW3 Sodhu Devi in her cross-examination has stated that there were two paths just close to that field where the prosecutrix had gone to cut grass. The said statement is corroborated by PW10 that a 'Kucha' road also passes nearby the said place of occurrence. He has further deposed that a motorable road also passes below the said 'Kucha' path.

70           Even the prosecutrix though denied in earlier part of her cross-examination that houses of Shukru Ram and Karam Dass were situated nearby the alleged place of occurrence. But in later part, she stated that the houses of Shukru and Karam Dass were also at a distance of 20-25 metres from the place of occurrence. She stated that 'kucha' mule road passes below the place of occurrence and below Kucha road, there exists a motorable road. She has further deposed that 'Kucha' mule road leads towards Darkali, Marala, Radoli, Sharnala villages. The people use that mule road.

71           From the said factual matrix, it is revealed that adjacent to the place of occurrence, there were path/mule road

and such path and mule road must be used by the villagers. Therefore, probability of the story, which has been tried to be projected does not inspire confidence as it cannot be expected in common parlance that a person being local would commit the offence in such busy place that too adjoining to the road/path, which are leading to the villages.

72           The prosecution has placed on record copy of the site plan, Ext. PW13/A and Ext. PW17/A and perusal of the same shows that it is busy road being surrounded by the houses, therefore, the prosecution has failed to substantiate the allegations as levelled against the respondent in its true perspective.

73           It has come in the evidence that the exhibits containing samples of prosecutrix and respondent were subjected to biological analysis in the laboratory. Even 'Benzedine test was performed to detect the presence of blood. Acid phosphatase test and microscopic examination were carried out for the detection of semen, however neither the semen nor blood was detected on the exhibits sent to FSL Junga, as is evident from the result of the FSL report, Ext. PX, which reads as under:-

Blood and Semen was not detected on exhibit-1 (sample pubic hair, prosecutrix), exhibit-2 (vaginal slides,

prosecutrix), exhibit-3 (Salwar, Ganga Devi), exhibit-5a (swab from coronal sulcus, Lal Singh), exhibit-5b (swab from penile shaft, Lal Singh), exhibit-5c (pubic hair, Lal Singh), exhibit-6a (underwear, Lal Singh) and exhibit-6b (T-shirt, Lal Singh).

74 FSL report does confirm that the prosecution has failed to link or indicate commission of forcible sexual intercourse by the respondent against wish of the prosecutrix. The prosecution story in its entirety is not trustworthy and the same is highly improbable which does not inspire confidence in common parlance. The prosecution has failed to prove its case beyond reasonable doubt.

75 The case of the prosecution is full of inconsistencies and material contradictions and the evidence as led by the witnesses is not trustworthy, cogent and convincing. The Hon'ble Supreme Court has consistently held that when there are material contradictions in the statements of the witnesses, adverse inference has to be drawn against the prosecution and in favour of the accused.

76 In ***Krishnegowda and others vs. State of Karnataka (2017) 13 SCC 98***, the Hon'ble Supreme Court has held as under:

*“32. It is to be noted that all the eyewitnesses were relatives and the prosecution failed to adduce reliable*

*evidence of independent witnesses for the incident which took place on a public road in the broad day light. Although there is no absolute rule that the evidence of related witnesses has to be corroborated by the evidence of independent witnesses, it would be trite in law to have independent witnesses when the evidence of related eyewitnesses is found to be incredible and not trustworthy. The minor variations and contradictions in the evidence of eyewitnesses will not tilt the benefit of doubt in favour of the accused but when the contradictions in the evidence of prosecution witnesses proves to be fatal to the prosecution case then those contradictions go to the root of the matter and in such cases accused gets the benefit of doubt.*

77           The Hon'ble Apex Court in its decision in **Special Leave Petition No.6066 of 2024, titled as Paritala Sudhakar vs. State of Telangana** has held that in case there are material contradictions and inconsistencies, in that event, the benefit of doubt has to be given to the accused. The relevant para reads as under:

*“17. Having heard learned counsel for the parties, perused the Judgment(s)/Orders(s) of the Courts below and the material on record, it transpires that there are material contradictions in the evidence of the witnesses. In this connection, it would not be out of place to take note of the observations in Yogesh Singh v Mahabeer Singh, (2017) 11 SCC 195 to the following effect:*

'29. It is well settled in law that the minor discrepancies are not to be given undue emphasis and the evidence is to be considered from the point of view of trustworthiness. The test is whether the same inspires confidence in the mind of the court. If the evidence is incredible and cannot be accepted by the test of prudence, then it may create a dent in the prosecution version. If an omission or discrepancy goes to the root of the matter and ushers in incongruities, the defence can take advantage of such inconsistencies. It needs no special emphasis to state that every omission cannot take place of a material omission and, therefore, minor contradictions, inconsistencies or insignificant embellishments do not affect the core of the prosecution case and should not be taken to be a ground to reject the 10 prosecution evidence. The omission should create a serious doubt about the truthfulness or creditworthiness of a witness. It is only the serious contradictions and omissions which materially affect the case of the prosecution but not every contradiction or omission. (See *Rammi v. State of M.P.* [*Rammi v. State of M.P.*, (1999) 8 SCC 649: 2000 SCC (Cri) 26], *Leela Ram v. State of Haryana* [*Leela Ram v. State of Haryana*, (1999) 9 SCC 525: 2000 SCC (Cri) 222] , *Bihari Nath Goswami v. Shiv Kumar Singh* [*Bihari Nath Goswami v. Shiv Kumar Singh*, (2004) 9 SCC 186: 2004 SCC (Cri) 1435], *Vijay v. State of M.P.* [*Vijay v. State of M.P.*, (2010) 8 SCC 191: (2010) 3 SCC (Cri) 639],

*Sampath Kumar v. Inspector of Police [Sampath Kumar v. Inspector of Police, (2012) 4 SCC 124: (2012) 2 SCC (Cri) 42], Shyamal Ghosh v. State of W.B. [Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646: (2012) 3 SCC (Cri) 685] and Mritunjoy Biswas v. Pranab [Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796: (2014) 4 SCC (Cri) 564].)*

78           The Hon'ble Supreme Court has repeatedly held that in order to prove a person guilty of the offence, he has to be associated and connected with the alleged offence. Merely on the assumption and presumption, a person cannot be convicted without any corroborative evidence when veracity of complainant is doubtful and is not trustworthy. The prosecution has miserably failed to link and connect the accused/respondent with the alleged commission of offence.

79           Therefore, we are of the considered opinion that the learned Sessions Judge has rightly appreciated the oral as well as documentary evidence placed on record after thrashing the entire evidence and material for the determination of the case and thus has rightly acquitted the respondent of the charges framed against him and passed the judgment of acquittal in favour of the respondent.

80           Consequently, the instant appeal is dismissed, so also the pending application(s), if any.

81           The       bails       bonds       furnished       by       the  
accused/respondent are discharged.

82           Records be sent down.

**(Vivek Singh Thakur)**  
**Judge**

**(Romesh Verma)**  
**Judge**

**31.12.2025**  
*(pankaj)*