

Court No. - 45

Case :- CRIMINAL APPEAL No. - 34 of 2014

Appellant :- Ramveer Pal

Respondent :- State of U.P.

Counsel for Appellant :- Amit Kumar Gaur, Amit Tripathi

Counsel for Respondent :- Govt. Advocate

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Sandeep Jain, J.

1. Heard Shri Amit Tripathi, learned counsel for the appellant and Shri Virendra Kumar Pal, learned A.G.A. for the State.

2. Present appeal arises from the judgment and order dated 25.10.2013 passed by Shri Pramod Kumar Mishra, learned Sessions Judge Farrukhabad, in Sessions Trial No. 79 of 2013 (State of U.P. v. Ramveer Pal), arising out of Case Crime No. 68 of 2013, under Section 376 IPC, P.S. Mohammadabad, District Farrukhabad. By that order, the learned court below has convicted the appellant under Section 376 IPC and sentenced him for rigorous life imprisonment together with fine of Rs. 20,000/-, in default thereof, one year additional rigorous imprisonment has been awarded in the event of non-payment of fine.

3. The prosecution story emerged on the Written Report dated 03.02.2013 submitted by 'R' (P.W.-1 at the trial) who is the father of the victim. It disclosed that on 02.02.2013, the victim 'M' aged about 14 years who was studying in Class VII had gone to attend to the call of nature about 3:00 PM, at the agricultural field of one Shrikrishna where the appellant was waiting from before. He caught hold of 'M' and committed rape on her. Upon the victim crying for help, other villagers namely Smt. Neeraj and Balakram arrived at that place and saw the appellant as he fled. The victim returned to her home, shaken by the occurrence. She narrated the occurrence to her parents namely P.W.-1 and her mother (not

examined at the trial). The FIR could not be lodged immediately for reason of societal pressures arising by way of consequences of public disclosure of such occurrences. When the victim's condition deteriorated, then the Written Report was lodged, the next day i.e. 03.02.2013 which is Ex.Ka-1 at the trial. On that, FIR was registered on the above described Case Crime number. It is Ext.Ka-8 at the trial. Upon the FIR being lodged, the clothes of the appellant as also the clothes of the victim were recovered by the police on 03.02.2013. The Recovery Memo of the underwear worn by the appellant (at the time of the occurrence), is Ex.Ka-11 at the trial. The Recovery Memo of the clothes of the victim (worn at the time of the occurrence), recovered by the police is Ex.Ka-2 at the trial. On 03.02.2013, the victim 'M' (P.W.-2 at the trial) was subjected to medical examination both to ascertain her radiological age as also injuries suffered by her, if any. The radiological age of the victim was opined to be about 15 years by Dr. Yogendra Singh (P.W.-3 at the trial). Her medical examination was conducted by Dr. Shobha Mishra (P.W.-4 at the trial). In that, she recorded as below :

“Private part examination- No mark of injury over private part. Hymen old torn. Vagina admits 2 fingers easily. Vaginal smear taken slide made and send to Pathologist for detection of any alive or dead sperm”.

4. The radiological report submitted by Dr. Yogendra Singh is Ex.Ka-4 at the trial whereas the medical report of Dr. Shobha Mishra is Ex.Ka-5 at the trial.

5. Twelve days after the occurrence, the statement of the victim 'M' was recorded under Section 164 Cr.P.C. In that, she supported the allegation of rape suffered by her, as narrated in the FIR. She further disclosed that after her aunt (*Chachi*) arrived at the scene, the appellant fled. She further specified that she did not suffer any bleeding in the occurrence.

6. Upon conclusion of the investigation, the Investigating Officer Prempal Singh (P.W.-6 at the trial) submitted Charge-sheet. Upon the case being committed for trial to the Court of Sessions, the learned court below framed the following charges :

"यह कि दिनांक 2-2-2013 को समय करीब 3 बजे दिन स्थान विनोद पाल का लाह का खेत स्थान ग्राम मरहला थाना मोहम्मदाबाद जिला फर्रुखाबाद में आपने वादी मुकदमा 'R' की पुत्री 'M' अवयस्क आयु 14 वर्ष के साथ बलपूर्वक उसकी मर्जी के विरुद्ध बलात्संग किया। इस प्रकार आपने एक ऐसा अपराध कारित किया जो भारतीय दण्ड संहिता की धारा 376 के अधीन दण्डनीय है तथा इस न्यायालय के प्रसंज्ञान में है।"

7. At the trial, besides the above documentary evidence, the prosecution relied on oral evidence of six witnesses. In that, the first informant 'R' who is the father of the victim 'M' was examined as P.W.-1. He is not an eye-witness of the occurrence. He proved the factum of the FIR being registered at his instance against Written Report dated 03.02.2013 (Ex.Ka-1 at the trial). Next, the victim 'M' was examined as P.W.-2. She disclosed that on 02.02.2013 she had gone to attend to the call of nature, at about 3 p.m. At that juncture, the appellant caught hold of her and committed rape on her. She narrated that the occurrence was witnessed by her aunt (*Chachi*) 'N' who had arrived at the scene. At that point, the appellant fled. The victim returned home and informed her mother about the occurrence.

8. Thereafter, along with her father 'R' (P.W.-1), she went to the Police Station, the next day-to lodge the FIR. She proved her statement recorded under Section 164 Cr.P.C. (Ex.Ka-3). During her cross-examination, she stated that the appellant first caught hold of her. She had cried for help, twice. However, none arrived to save her at that place. She also claimed that her clothes were torn in that occurrence.

9. She further proved that the house of the appellant was situated in

front of her own house. She denied the suggestion that there was any animosity between the parties. She denied the further suggestion that false case had been lodged at her instance. She denied knowledge of any other transaction between the parties.

10. Thereafter, Dr. Yogendra Singh, Radiologist, was examined as P.W.-3. He proved the radiology report. He opined that the victim was about 15 years of age on the date of occurrence. Next, Dr. Shobha Mishra was examined as P.W.-4. She proved the medical examination report (Ext.Ka-5). She specifically proved that the victim had not suffered any injury on her private part and that the hymen was old torn. She further proved, according to the Supplementary Medical Report (Ex.Ka-7 at the trial), no live or dead spermatozoa were detected in the vaginal swab drawn from 'M'. She also proved that the age of the victim was about 15 years, on the date of occurrence. According to her, no definite opinion regarding recent sexual activity could be given since the victim was accustomed to sexual activity.

11. Next, Head Constable Jitendra Singh Chandel, the then Constable Clerk was examined as P.W.-5. He proved the registration of the case. Last, S.I. Prempal Singh, the Investigating Officer was examined as P.W.-6. He proved the investigation.

12. Thereafter, the statement of the appellant was recorded under Section 313 Cr.P.C. Besides denying the adverse circumstances cited against him, he further stated that he had been falsely implicated for supporting one Manoj at the election for the Village Pradhan. According to him, the first informant was a relative of one Suresh who had also contested that election, but lost. Only for that reason, the appellant was falsely implicated. Thereafter, Smt. Renu was examined as D.W.-1, by the defence. She tried to state that the victim was about 22 years of age and was a person of a bad

character. She further stated that a false case had been lodged against the appellant with the support of Village Pradhan Suresh.

13. In such circumstances, the learned court below has convicted the appellant and sentenced him.

14. Submission is, the prosecution story is false. No such occurrence as narrated had occurred. The appellant was falsely implicated for reason of supporting a rival candidate Manoj, at the Pradhan election, against the wishes of the first informant 'R' who wanted his relative to win at that election. Since the relative of 'R' lost the election and Manoj supported by appellant had won that election, a wholly false prosecution was lodged.

15. Second, besides the oral evidence of the victim 'M' , there is no corroborative material to establish its correctness or truthfulness. Though the victim described forcible occurrence where she was overpowered, remarkably no injury, either external or internal was noted during her medical examination, though that was conducted promptly, the next day.

16. Third, it has been submitted, the statement of the victim was recorded with delay. Clearly, she was tutored and prepared by her family to make that statement to take revenge from the appellant. Thus, her statement came to be recorded after 12 days.

17. Fourth, it has been stated, even as to the time of occurrence, there is discrepancy inasmuch as in her statement recorded under Section 164 Cr.P.C., the victim 'M' indicated that the occurrence took place at 3 a.m. whereas later she modified that statement and materially altered it by stating that the occurrence took place at 3 p.m.

18. Fifth, it has been submitted, though the prosecution claimed that two other witnesses had reached the place of occurrence including

the aunt (*Chachi*) of the victim 'M' namely 'N' and another person Balakram. That narration made in the FIR was not supported by the victim 'M' in her statement recorded under Section 164 Cr.P.C. inasmuch as she did not name Balakram. In any case those persons were not examined at the trial.

19. Further, it has been submitted, there is no forensic evidence of rape suffered by the victim 'M' inasmuch as there is no report of the Forensic Science Laboratory with respect to the clothing of the parties. The pathology report does not support the occurrence of rape inasmuch neither any live nor dead spermatozoa was detected in the vaginal swab drawn from 'M'.

20. Alternatively, it has been submitted, even if such conviction were to be upheld, the learned court below has erred in awarding maximum sentence i.e. life imprisonment to the appellant. Against that sentence awarded, the appellant has remained confined for 10 years and 25 days (actual). He was released on bail by this Court (in this appeal) on 03.02.2023.

21. On such submission advanced, on the last date, we required the learned A.G.A. to produce the Custody Certificate of the appellant. Today, the Custody Certificate of the appellant has been produced. It discloses, he has remained confined for 10 years and 25 days (actual). That Custody Certificate has been marked as 'X' and retained on record.

22. On the other hand, learned A.G.A. would submit, present is a case of penetrative sexual assault. Independent witnesses are hard to come by in such cases. Also, the testimony of a rape survivor stands on a higher pedestal as that of an injured witness. Insofar as no material discrepancy or improvement was offered by 'M' in her testimony and insofar as that deposition made by 'M' is wholly consistent to the FIR allegation in material parts, and further

inasmuch as the FIR itself was lodged promptly i.e. the next day itself, no interference is warranted on minor inconsistencies and deficiencies (if at all), pointed out by learned counsel for the appellant. As to sentence, it has been further submitted that the occurrence being of rape on a minor girl, the award of maximum sentence may not be interfered with.

23. Having heard learned counsel for the parties and having perused the record, on the issue of conviction, we find, in the first place, the FIR was lodged within 24 hours of the occurrence. In that regard, 'M' (P.W.-2) during her examination-in-chief proved that the informant side had tried to lodge the FIR in the evening of 02.02.2013 itself, however, it remains a fact that such FIR was not lodged in the evening of 02.02.2013 but it was lodged on 03.02.2013 at about 4:10 P.M. The socio-economic profile of the parties (informant side) is that of simple villagers. It was further explained by 'M' (P.W.-2), during her cross-examination that she was shaken up by the occurrence, to the point, she had taken ill in the evening of 02.02.2013. Also, that part of her deposition further reveals that there was some discussion in the family whether to report the matter to the police or not. In the entirety of those facts, proven at the trial, it does not appear that there was any extraordinary delay in the FIR being lodged as may itself create a reasonable doubt in the truthfulness or completeness of the prosecution story.

24. In the first place, as to the delay in lodging the FIR that too in rape cases, the law is clear. In **State of Rajasthan Vs. Narayan (1992) 3 SCC 615**, in the context of delay of two days in lodging the FIR, it was noticed by the Supreme Court that in cases of sexual assault, amongst other, a woman and her relatives have to struggle with several situations before they may approach the

police. In that it was observed as below :

“6. ... True it is that the complaint was lodged two days later but as stated earlier Indian society being what it is the victims of such a crime ~ ordinarily consult relatives and are hesitant to approach the police since it involves the question of morality and chastity of a married woman. A woman and her relatives have to struggle with several situations before deciding to approach the police, more so when the culprit happens to be related. In such cases, therefore, the delay is understandable and hence merely on that account the prosecution version cannot be doubted.”

25. Then, according to the FIR, the appellant caused the occurrence during day hours. Though the time first disclosed by 'R' (P.W.-1), is not with reference to 'A.M.' or 'P.M.', at the same time, the first information report clearly disclosed that the occurrence was caused “*kareeb 3 baje din*”. Thus clearly, it was a day time occurrence reported by P.W.-1. In her statement recorded under Section 164 Cr.P.C., the victim 'M' (P.W.-2) described the time “*subah teen baje*”. That was not a material error in the description of the time of the occurrence by P.W.-1 and P.W.-2 (in her statement recorded under Section 164 Cr.P.C.). In any case, the same was wholly explained by the victim 'M' (P.W.-2) during her examination-in-chief. Then, 'R' (P.W.-1) consistently described the time as 3. That may not refer to 3 a.m. on 02.02.2013. To that extent, we find no material improvement or alteration or inconsistency in the evidence led by the prosecution.

26. Insofar as the occurrence is concerned, a wholly consistent account emerged during the trial wherein the victim 'M' (P.W.-2) narrated that she had gone to the agricultural field to attend to the call of nature where the appellant assaulted her, there. He first overpowered her; threw her to the ground and thereafter committed rape on her. Upon her crying for help, others reached the place.

27. The fact that the independent witnesses were not relied or examined by the prosecution, is not a principle in law that may lead

to a reasonable doubt. Nor it may be enforced by way of a rule of prudence in every case, by Courts. First, it has to be examined if the testimony of the rape survivor inspires confidence; is credible and trustworthy. Here, as noticed above, the deposition of 'M' P.W.-2 does not admit of any doubt. She was subjected to extensive cross-examination on behalf of the appellant. Without fail and without any material improvement or inconsistency emerging, she maintained that she had suffered the occurrence but no internal or external injury was received by her. In her statement recorded under Section 164 Cr.P.C., she had specified that she did not suffer from any bleeding in the occurrence. Merely because such injury may not have been suffered by the victim 'M' (P.W.-2), no reasonable doubt may arise as to the trustworthiness and truthfulness of her testimony. It may not be forgotten that the victim consistently narrated that she suffered the occurrence in an agricultural field where mustard crop was standing. By very nature of that place of occurrence described, no hard object or vegetation may be perceived to exist as may give rise to a presumption that injury would necessarily have been suffered by the victim at such a place of occurrence. In any case, during the cross-examination availed by the appellant, no doubt emerged as may allow the Court to entertain a possibility that if the occurrence had taken place in the manner described by the prosecution, external or internal injury would be a necessary concomitant of that occurrence.

28. It is not the law that a rape victim would suffer physical injury, either external or internal, by way of natural or necessary effect arising from sufferance of rape. In **Rafiq v. State of U.P., (1980) 4 SCC 262** the Supreme Court observed as below :

“5. We do not agree. For one thing, Pratap Misra case [(1977) 3 SCC 41 : 1977 SCC (Cri) 447 : AIR 1977 SC 1307] laid down no inflexible axiom of law on either point. The facts and

circumstances often vary from case to case, the crime situation and the myriad psychic factors, social conditions and people's life-styles may fluctuate, and so, rules of prudence relevant in one fact-situation may be inept in another. We cannot accept the argument that regardless of the specific circumstances of a crime and criminal milieu, some strands of probative reasoning which appealed to a Bench in one reported decision must mechanically be extended to other cases. Corroboration as a condition for judicial reliance on the testimony of a prosecutrix is not a matter of law, but a guidance of prudence under given circumstances. Indeed, from place to place, from age to age, from varying life-styles and behavioural complexes, inferences from a given set of facts, oral and circumstantial, may have to be drawn not with dead uniformity but realistic diversity lest rigidity in the shape of rule of law in this area be introduced through a new type of precedential tyranny. The same observation holds good regarding the presence or absence of injuries on the person of the aggressor or the aggrieved.

(emphasis supplied)

29. The same principle was analyzed and applied in **Balwant Singh v. State of Punjab, (1987) 2 SCC 27** wherein the Supreme Court observed as below :

15. "Lastly, it is submitted by the learned counsel for the appellants that the absence of any injury on the back of the prosecutrix or any part of her body falsifies the case of rape by the appellants on her. It is submitted that the prosecutrix was expected to offer resistance which would normally cause certain injury on her body and particularly on the back. As there was no such injury, it should be held that there was no such incident as alleged. This argument, in our opinion, is devoid of merit. It cannot be said that whenever resistance is offered there must be some injury on the body of the victim. The appellants were four in number and the prosecutrix being a girl of 19/20 years of age, she was not expected to offer such resistance as would cause injuries to her body. It is also not correct to say that there was no injury at all. It has been earlier noticed that as per the medical report she had red abrasions on her right breast. In the circumstances, the contention of the appellants is rejected. No other point has been urged on behalf of the appellants in these appeals."

(emphasis supplied)

30. Next, in **Ram Singh v. State of H.P., (2010) 2 SCC 445**, the absence of injuries was not considered relevant to disbelieve the prosecution story that was otherwise proven on the strength of ocular evidence. In that regard, it was observed as below :

“15. Much importance cannot be given to the absence of defence injuries, because it is not an inevitable rule that in the absence of defence injuries the prosecution must necessarily fail to establish its case. In the first information report and also in the evidence of PW 1, it has come on record that she could not cry out for help since her mouth was gagged by the accused. It has also come in the evidence that the victim was aged about 40 years and the accused persons were young and aged about 20 years and, therefore, she was not in a position of equal strength so as to resist the appellants. Even in the absence of any injuries on the person of the victim, in our view, with the other evidence on record, the prosecution is able to establish that the offence was committed.

17. It is also submitted that in the absence of any injury on the private parts of the victim, the High Court should have disbelieved the prosecution story. In our view, it is difficult to accept the submission of the learned counsel. The reason being the doctor who has been examined as PW 2 has found that the victim, PW 1 was used to sexual intercourse and as such absence of injury on the private parts of the victim may not be very significant. PW 1 was also used to sexual intercourse. The evidence of the victim has been corroborated by the evidence of PWs 2 and 3, the two post-occurrence witnesses, as well as by the FIR which was lodged without any delay. Therefore, it is difficult to differ from the findings of the High Court.”

(emphasis supplied)

31. Later, in **State of Rajasthan v. N.K., (2000) 5 SCC 30**, absence of visible marks of injuries on a rape survivor were not found relevant to doubt her ocular evidence. In that regard, it was observed as below :

“18. Absence of injuries on the person of the prosecutrix has weighed with the High Court for inferring consent on the part of the prosecutrix. We are not at all convinced. We have already noticed that the delay in medical examination of the prosecutrix was occasioned by the factum of the lodging of the FIR having been delayed for the reasons which we have already discussed. The prosecutrix was in her teens. The perpetrator of the crime was an able-bodied youth bustling with energy and determined to fulfil his lust armed with a knife in his hand and having succeeded in forcefully removing the victim to a secluded place where there was none around to help the prosecutrix in her defence. The injuries which the prosecutrix suffered or might have suffered in defending herself and offering resistance to the accused were abrasions or bruises which would heal up in the ordinary course of nature within 2 to 3 days of the incident. The absence of visible marks of injuries on the person of the prosecutrix on the date of her medical examination would not necessarily mean that she had not suffered any injuries or that

she had offered no resistance at the time of commission of the crime. Absence of injuries on the person of the prosecutrix is not necessarily an evidence of falsity of the allegation or an evidence of consent on the part of the prosecutrix. It will all depend on the facts and circumstances of each case. In Sk. Zakir [Sk. Zakir v. State of Bihar, (1983) 4 SCC 10 : 1983 SCC (Cri) 76 : 1983 Cri LJ 1285] absence of any injuries on the person of the prosecutrix, who was the helpless victim of rape, belonging to a backward community, living in a remote area not knowing the need of rushing to a doctor after the occurrence of the incident, was held not enough for discrediting the statement of the prosecutrix if the other evidence was believable. In Balwant Singh [Balwant Singh v. State of Punjab, (1987) 2 SCC 27 : 1987 SCC (Cri) 249 : 1987 Cri LJ 971] this Court held that every resistance need not necessarily be accompanied by some injury on the body of the victim; the prosecutrix being a girl of 19/20 years of age was not in the facts and circumstances of the case expected to offer such resistance as would cause injuries to her body. In Karnel Singh [Karnel Singh v. State of M.P., (1995) 5 SCC 518 : 1995 SCC (Cri) 977] the prosecutrix was made to lie down on a pile of sand. This Court held that absence of marks of external injuries on the person of the prosecutrix cannot be adopted as a formula for inferring consent on the part of the prosecutrix and holding that she was a willing party to the act of sexual intercourse. It will all depend on the facts and circumstances of each case. A Judge of facts shall have to apply a common-sense rule while testing the reasonability of the prosecution case. The prosecutrix on account of age or infirmity or overpowered by fear or force may have been incapable of offering any resistance. She might have sustained injuries but on account of lapse of time the injuries might have healed and marks vanished.”

(emphasis supplied)

32. In **Dastagir Sab v. State of Karnataka, (2004) 3 SCC 106**, the Supreme Court succinctly stated, presence of physical injuries were not a *sine qua non* to establish rape. In that regard, it was observed as below :

“26. Injury on the body of the person of the victim is not a sine qua non to prove a charge of rape. Absence of injury having regard to overwhelming ocular evidence cannot, thus, be the sole criterion for coming to a conclusion that no such offence had taken place.”

(emphasis supplied)

33. Recently, in **Lok Mal v. State of U.P., (2025) 4 SCC 470**, the Supreme Court observed as below :

“13. Merely because in the medical evidence, there are no

major injury marks, this cannot be a reason to discard the otherwise reliable evidence of the prosecutrix. It is not necessary that in each and every case where rape is alleged there has to be an injury to the private parts of the victim and it depends on the facts and circumstances of a particular case. We reiterate that absence of injuries on the private parts of the victim is not always fatal to the case of the prosecution. According to the version of the prosecutrix, the accused overpowered her and pushed her to bed in spite of her resistance and gagged her mouth using a piece of cloth. Thus, considering this very aspect, it is possible that there were no major injury marks.

15. In the present case, the prosecutrix was continuously threatened by the appellant that she will face his wrath if she creates a commotion. The prosecutrix was hence forced to submit to the lust of the appellant and was left with no other alternative than to submit to the evil wish of the appellant.”

(emphasis supplied)

34. Here, we also take note of the statement of Dr. Shobha Mishra (P.W.-4 at the trial). She had reported that hymen was old torn. However, she could not express any opinion as to the occurrence of penetrative sexual assault suffered by the victim 'M'. To the extent, the opinion of the doctor is inconclusive, it does not doubt the possibility of rape suffered by the victim 'M' or the evidence of 'M' (P.W.-2) who had clearly narrated from beginning i.e. from recording of her statements under Section 161 & 164 Cr.P.C. and which she proved at the trial-that the appellant had raped her and thereafter fled from the spot.

35. That nature of occurrence described did not narrate any prolonged occurrence as may give rise to a reasonable doubt as to the occurrence or that 'M' (P.W.-2) would have necessarily suffered external and/or internal injury in such occurrence. Plainly, she stated, she was overpowered at a vulnerable moment when she had gone to attend to the call of nature and that the appellant fled immediately after causing the occurrence. Here, it may not be forgotten, at the time of occurrence, the victim was about 15 years of age and the appellant was about 45 years of age. Considering

that age difference, no reasonable doubt may be entertained on account of no external injury suffered by such an underage female victim, as she may have been completely overpowered and sexually assaulted in that circumstance.

36. In view of the above, we find, the account offered by the victim 'M'/rape survivor to be wholly trustworthy. In **State of Maharashtra Vs. Chandraprakash Kewalchand Jain, (1990) 1 SCC 550**, the Supreme Court emphasised, unless compelling reasons necessitate corroboration, statement of the victim/rape victim should be acted upon by Courts and unnecessary corroboration may not be sought. To that extent, such a witness was described to be at par with an injured witness. In that regard, it was observed as below:

"16. A prosecutrix of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence. We have, therefore, no doubt in our minds that ordinarily the evidence of a prosecutrix

who does not lack understanding must be accepted. The degree of proof required must not be higher than is expected of an injured witness. For the above reasons we think that exception has rightly been taken to the approach of the High Court as is reflected in the following passage:

"It is only in the rarest of rare cases if the court finds that the testimony of the prosecutrix is so trustworthy, truthful and reliable that other corroboration may not be necessary."

With respect, the law is not correctly stated. If we may say so, it is just the reverse. Ordinarily the evidence of a prosecutrix must carry the same weight as is attached to an injured person who is a victim of violence, unless there are special circumstances which call for greater caution, in which case it would be safe to act on her testimony if there is independent evidence lending assurance to her accusation."

37. That principle was applied in **State of H.P. Vs. Raghubir Singh, (1993) 2 SCC 622**. There it was further observed as below:

"5. ... The High Court appears to have embarked upon a course to find some minor contradictions in the oral evidence with a view to disbelieve the prosecution version. In the opinion of the High Court, conviction on the basis of uncorroborated testimony of the prosecutrix was not safe. We cannot agree. There is no legal compulsion to look for corroboration of the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. In the present case the evidence of the prosecutrix is found to be reliable and trustworthy. No corroboration was required to be looked for, though enough was available on the record. The medical evidence provided sufficient corroboration...."

38. Applying the above principle, in **The State of Punjab v. Gurmit Singh and others, (1996) 2 SCC 384**, the Supreme Court further observed, to seek corroboration of the statement of such a witness i.e. a victim of sexual assault would be to add insult to the injury. At best, the Courts may look for some "assurance" of statement of such a witness- "to satisfy its judicial conscience". In that regard, it was observed as below:

8. ...The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires

confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. 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 given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable. ..."

39. In view of the above, lack of external injuries does not give rise to any reasonable doubt in the prosecution story as the prosecution story has been found proven on the strength of the trustworthy statement made by the victim 'M'.

40. In view of the above, the lack of corroboration pleaded by learned counsel for the appellant is also of no relevance, though clothing of the parties had been recovered and the same was sent for forensic examination, fact remains, no report was received from the forensic lab. Also, though no live or dead spermatozoa was detected in the vaginal swab of the victim, no adverse inference

may be drawn on the strength of that point as it is undisputed that the medical examination of the victim was conducted more than 24 hours after the occurrence, at about 7 p.m., on 03.02.2013.

41. It being the settled principle, deficiencies in the investigation may not give rise to any doubt in the prosecution story, we are not impressed by the submission advanced by learned counsel for the appellant, in that regard.

42. Resultantly, we find no defect in the order of conviction made by the learned trial court. That is **sustained**.

43. On the issue of sentence, we find, besides the fact that the victim was about 15 years of age on the date of occurrence, whereas the appellant was about 45 years of age, there is no other mitigating factor or circumstance proven by the prosecution. On the strength of prosecution story itself, it may be noted, no other physical injury was caused to the victim other than the penetrative sexual assault caused on her. Seen in that light, at the relevant time, against minimum sentence of seven years that may have been awarded to the appellant-the law having changed from the next day of occurrence i.e. 03.02.2013, the appellant has remained confined for 10 years and 25 days (actual).

44. For the reasons noted above, we find no good ground to interfere with the order of conviction offered by the learned trial Court. The same is therefore, **maintained**. However, against the punishment awarded of life imprisonment, no special reason has been recorded and no accentuating circumstance exists to award punishment exceeding ten years. For reasons noted above, since the appellant has remained confined for 10 years and 25 days, we modify the sentence awarded to sentence already undergone by the appellant. Appellant is on bail. The fine of Rs. 20,000/- imposed by the learned trial court is **maintained**. In case of default of payment

of fine to further undergo rigorous imprisonment of one year. The amount of fine so deposited by the appellant shall be paid to the victim.

45. The appellant shall pay fine of Rs. 20,000/- within two months, if not already paid, failing which he shall surrender in the trial court to undergo the default sentence in lieu of payment of fine as imposed by the trial court and affirmed by this Court. Upon payment of fine as above or upon suffering default sentence, as the case may be, bail bonds of the appellant shall stand cancelled and sureties discharged.

46. The appeal stands **partly allowed**, as above.

47. Let the trial Court record be returned back alongwith a copy of this order, forthwith.

48. The trial court is directed to submit compliance report to this Court within three months.

Order Date :- 23.5.2025
SA

(Sandeep Jain, J.) (S.D. Singh, J.)