

Court No. - 45

Case :- CRIMINAL APPEAL No. - 550 of 2011

Appellant :- Ashok Nai

Respondent :- State of U.P.

Counsel for Appellant :- Abhay Nitin, Alok Krishan Tripathi, Kamal Kumar Kesarvani, Ramesh Chandra Gupta 2, Shyam Sunder Mishra

Counsel for Respondent :- Govt Advocate

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard Sri Akhilesh Kumar Mishra, learned counsel for the appellant and Ms. Archana Singh, learned AGA for the State.

2. Present criminal appeal arises from the judgment and order dated 30.11.2010 passed by the learned Additional District & Sessions Judge, Court No.3, Fatehpur in Sessions Trial No. 421 of 2009 (State Vs. Ashok Nai), arising out of Case Crime No. 177 of 2009, under Section 376(2)(f) I.P.C., Police Station - Hussainganj, District - Fatehpur. By that order the learned trial court has convicted the appellant and sentenced him to undergo life imprisonment and to pay fine Rs. 10,000/- for the offence under Section 376 I.P.C. and in default of payment of fine to further undergo simple imprisonment of one year.

3. The present prosecution story emerged on the Written Report dated 14.06.2009 submitted by 'R' (P.W.-1) at the trial - the mother of the victim (hereinafter referred to as the 'X'). It is Ex.Ka-1. On that Written Report, FIR was registered on 14.06.2009 at about 2:00 p.m. at the Police Station - Hussainganj, Sub-District - Sadar, District - Fatehpur, reporting occurrence under Section 376 I.P.C. According to that FIR, X (a minor daughter of 'R') aged about eight years had gone to her neighbour's house on 13.06.2009 at about 7:30 p.m. There she involved in child play with other children. She fell asleep on the terrace of Shankar Morai. In that

state, she was assaulted by the present appellant who first gagged her mouth with a cloth and committed penetrating sexual assault on 'X'. Thereafter, 'X' returned to her mother 'R' and narrated the occurrence. In such circumstances, an FIR came to be lodged, the next day. The victim 'X' was subjected to medico legal examination on 14.06.2009 wherein it was reported as below :

"No mark of injury on the body. L/C vulva swollen. Redness clot recorded. Integedian vaginal smear be taken. Conclusion - examination under Anesthesia to be done. X-ray of the wrist joint for the assessment of the age."

The injury report is Ex.Ka-9.

4. On 15.06.2009, the undergarment of 'X' was also recovered. It is Ex.Ka-3, at the trial. It was subjected to forensic examination by the F.S.L. Lucknow. Vide report dated 30.01.2010, it was confirmed that the said undergarment of 'X' bore bloodstains and stain of semen. That report is Ex.Ka-5 at the trial. Vide Supplementary Report dated 16.07.2009, the age of 'X' was opined to be 7 years. It is Ex.Ka-10. The pathology report of the vaginal smear of 'X' was also obtained. It is dated 01.07.2009. It reported as below :

"Smear show red blood cells. There is no evidence of living or dead spermatozoa in the provided smear slide."

That report submitted by the Pathologist, District Hospital, Fatehpur is also on record.

5. During investigation, statement of the victim 'X' and the first informant 'R' were also recorded. Upon completion of investigation, Charge Sheet was submitted. Upon the case being committed to the Court of Sessions, the following charge was framed against 34the appellant :

'यह कि दिनांक 13.06.2009 को समय 7.30 बजे सायं, बहद ग्राम दीवान का पुरवा, मजरे मोहम्मदीपुर में शंकर मौर्य के मकान की छत थाना हुसेनगंज, जनपद फतेहपुर में आपने

अभियोगनी 'X' आयु 08 वर्ष उसकी इच्छा के विपरीत व उसकी सम्मति के बिना, उसका मुंह कपड़े से दाबकर उसके साथ मैथुन कर बलात्संग किया। एतद्द्वारा आपने धारा-376(2)(च) भारतीय दण्ड संहिता के अन्तर्गत दण्डनीय अपराध किया जो इस न्यायालय के प्रसंज्ञान में है।”

6. At the trial, 'R' (P.W.-1) proved the occurrence as narrated to her by 'X'. She also disclosed that the present appellant is her nephew being son of a relative of her husband. In her statement she wholly supported the FIR narration, the time, manner and place of occurrence, being after 'X' had gone to house of Shankar Morai and was playing on the terrace with other children.

7. During her cross-examination, she stated that the actual occurrence took place in the house of Ramesh - to the west of the house of Shankar Morai. During her further cross-examination, she made a statement that the occurrence did not take place in the house of Shankar Morai. However, she maintained that the occurrence took place on the terrace.

8. Next, 'X' was examined as P.W.-2. She gave intelligent responses to the questions first put to her - to ascertain if she was competent to make a statement before the Court. Once the competence of 'X' was ascertained, her statement was recorded wherein she described the occurrence consistent to the FIR narration. During her extensive cross-examination, she disclosed that she reached the terrace by climbing on a bamboo ladder. She reached the terrace at about 4:00 p.m. At that time, Ramesh was sprinkling water on his terrace. On further questioning, she did clarified that at the time of the actual occurrence, the said Ramesh was not present.

9. It so happens that the victim 'X' - a minor barely 10 years of age was allowed to be cross examined extensively, as to the occurrence. Yet, she maintained her stand as disclosed in the FIR.

She further disclosed that she narrated the occurrence to her mother after climbing down from the terrace, using a bamboo ladder.

10. Thereafter, Sub-Inspector Sitaram Mishra was examined who proved statements recorded during the trial and also the recovery of undergarment was made. Next, Constable Ram Asrey Kuswaha was examined as P.W.-4. He proved the lodging of the FIR.

11. Thereafter, Dr. Saroj Kalra was examined as P.W.-5. She proved the injuries suffered by 'X' on her genital area. In that, she further proved presence of blood clots. She proved, blood was removed and thereafter vaginal smear was prepared. She proved the Supplementary Report wherein it was specifically recorded that genital area of 'X' was swollen and there was presence of blood clots. During her cross-examination she further elaborated that such injury could have been caused due to penetrative sexual assault committed on 'X'. As to the treatment offered, she also explained that 'X' had been administered medicines to stop bleeding from her genital area.

12. Thereafter, Dr. K.C. Gupta was examined as P.W.-6. He proved the age of 'X' to be about 7 years.

13. Upon closure of prosecution evidence, statement of the appellant was recorded under Section 313 Cr.P.C.

14. Thereafter, upon hearing the parties, the learned court below has convicted the appellant for the offence committed under Section 376(2)(f) of I.P.C., as it then stood in the statute book, and has sentenced him, as noted above.

15. At present, it has been submitted though the occurrence may not be denied, the place of occurrence is in dispute inasmuch as contrary statements have been made by the two prosecution

witness, as to the place of occurrence. Relying on the cross-examination statement of P.W.-1 and P.W.-2, it has been strenuously urged that the place of occurrence as originally disclosed being the terrace of Shankar Morai has been changed. In that, P.W.-1 first claimed that the occurrence took place at the under construction house of one Ramesh and then during her further cross-examination she further denied such occurrence took place in any under construction house. Further, reliance has been placed on the cross-examination of 'X' (P.W.-2) to submit, according to her ('X') the occurrence took place after around 4:00 p.m. when she had gone to the terrace of Ramesh.

16. Second, it has been submitted that the appellant has been falsely implicated for reason of other dispute.

17. On the other hand, learned AGA would submit, the present is an open and shut case. The prosecution evidence is wholly consistent, from the beginning to end. Thus, according to the prosecution, the victim 'X' had gone to the terrace of Shankar Morai, at about 7:30 p.m. There she fell asleep at around 8:00 p.m. The appellant committed offence on the victim 'X' after gagging her mouth, with a cloth.

18. Having heard learned counsel for the parties and having perused the record, the F.I.R. is wholly prompt. The short delay in lodging the F.I.R. is wholly explained by the very nature of the occurrence wherein the minor child of seven years of age had been subjected to penetrative sexual assault by her relative. In that nature of occurrence, time is expected to have been consumed, in dealing with the extraordinary circumstance that arose upon such occurrence.

19. Then, the F.I.R. narration is wholly clear and categorical. In

that, it is described that the victim 'X' had gone to play, on the terrace of Shankar Morai, at about 7:30 p.m. There, she fell asleep, as the other children left. At that time, she was subjected to sexual assault by the appellant who is a relative. She returned home and described that assault to her mother 'R' (P.W.-1). At the trial, the said narration was fully supported by 'R' (P.W.-1). During her cross-examination, merely because she stated that the actual occurrence took place on the terrace of an under construction building belonging to Ramesh, it may not be inferred that there is any material contradiction in the prosecution story. Insofar as the said witness clearly described that the said under construction building of Ramesh was located to the west of the house of Shankar Morai and no further cross-examination was offered by the defence to establish any other fact as may suggest that the said place of occurrence was not accessible from the terrace of Shankar Morai, no hypertechnical submission may arise or be accepted with respect to the place of occurrence. Then, upon extensive cross-examination one stray sentence emerged at the end of the cross-examination, of 'R' that the occurrence had not taken place in any under construction building/house. Unless the defence was seeking to establish that the occurrence did not take place while 'X' had gone to the terrace of Shankar Morai, merely by reading one or two sentences recorded during a lengthy cross-examination statement, that were not even pursued further, (by the defence), to bring out any other fact as may materially contradict the prosecution story, we are not inclined to disbelieve the prosecution story, as to the basic occurrence.

20. In State of **Punjab Vs. Gurmit Singh**, (1996) 2 SCC 384, the Supreme Court underscored the importance (for Courts) to be not swayed by minor contradictions or insignificant discrepancies in

the statement of the prosecutrix/rape victim. Where the evidence of the prosecutrix/victim inspire confidence with the Court, it must be relied (by Courts) without seeking corroboration of her statement in her material parts. In that regard, it was observed as below:

"21. Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating woman's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault — it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

21. In the case of **Bhagwan Jagannath Markad Vs. State of Maharashtra, (2016) 10 SCC 537**, the Supreme Court summarized the principles for the appreciation of the credibility of witnesses where there are discrepancies or infirmities in the statement. It observed:

"19. While appreciating the evidence of a witness, the court has to assess

whether read as a whole, it is truthful. In doing so, the court has to keep in mind the deficiencies, drawbacks and infirmities to find out whether such discrepancies shake the truthfulness. Some discrepancies not touching the core of the case are not enough to reject the evidence as a whole. No true witness can escape from giving some discrepant details. Only when discrepancies are so incompatible as to affect the credibility of the version of a witness, the court may reject the evidence. Section 155 of the Evidence Act enables the doubt to impeach the credibility of the witness by proof of former inconsistent statement. Section 145 of the Evidence Act lays down the procedure for contradicting a witness by drawing his attention to the part of the previous statement which is to be used for contradiction. The former statement should have the effect of discrediting the present statement but merely because the latter statement is at variance to the former to some extent, it is not enough to be treated as a contradiction. It is not every discrepancy which affects the creditworthiness and the trustworthiness of a witness. There may at times be exaggeration or embellishment not affecting the credibility. The court has to sift the chaff from the grain and find out the truth. A statement may be partly rejected or partly accepted. ..."

22. In short, it has not been proven that the house of Shankar Morai and Ramesh, were not interconnected at terrace level or that they were inaccessible to the other from their terrace. Where exactly on the terrace, the assault may have taken place is not decisive of the assault. Insofar as the prosecution successfully proved that the occurrence took place on the terrace area, where 'X' had reached by climbing a bamboo ladder, and since there is no reason to doubt that, the hypertechnical objection as to the exact place of occurrence on the terrace is of real relevance.

23. Insofar as 'X' (P.W.-2) is concerned, she narrated the assault with consistency. She also explained that she reached the terrace by using a bamboo ladder. She also established the presence of the present appellant on the terrace area, from before. He was thus described to be lying on the terrace listening to a transistor radio.

The appellant being known from before, 'X' also disclosed that she fell asleep on that terrace. In that state, she further disclosed, she was gagged by the appellant and was sexually assaulted by him. There is absolutely no reason to doubt the presence of the appellant on that terrace at the time of occurrence. That fact was clearly proven by 'X'.

24. During her cross-examination, 'X' maintained - at the time and place of the occurrence, Ramesh was not present. Therefore, the fact, she stated Ramesh was present when she first reached the terrace, is of no relevance. Also, the fact that 'X' may have first reached the terrace at 4:00 p.m. is not decisive to the extent, there is no reason to disbelieve her presence on the terrace at the time of the occurrence. She disclosed, she first engaged in child play on the terrace with other children. Later, she fell asleep there. In any case, as to the time when she may have reached the terrace, we are not impressed by the submission advanced by the learned counsel for the appellant that the victim reached the terrace at about 4:00 p.m.

25. The age of the victim was about seven or eight years she may not be expected or be burdened to know and disclose the hourly time, with any precision. Merely because she disclosed that she reached the terrace at 4:00 p.m., it cannot be accepted as a fact that she reached that terrace three and a half hour before the occurrence. Neither any other or further question was put to 'X' nor any other circumstance is shown to exist as may lead us to the infer that the victim 'X' reached the terrace of Shankar Morai, at about 4:00 p.m. Even if we accept the submission being thus advanced, it is of no relevance.

26. So long as the prosecution successfully established that the occurrence took place at about 8:00 p.m. on the terrace area where

'X' was alone after other children had left, it is wholly immaterial to the prosecution story, if the child 'X' had reached the terrace at 7:30 p.m. or earlier. At the time of the occurrence, the presence of the appellant was also established. In a heinous offence of penetrative sexual assault that too on a child of tender age, once evidence of such occurrence is led, the Courts may carefully evaluate the prosecution evidence before entertaining any reasonable doubt. In such occurrences, an innocent child who suffers the personal trauma and shock must also live it through their life. The Courts may not give easy margins to clever cross-examination to which such a child is subjected to, by relying on a sentence here or a sentence there.

27. In **Dattu Ramrao Sakhare Vs. State of Maharashtra, (1997) 5 SCC 341**, it was clearly observed, once a child witness is found competent to depose to the facts and is a reliable witness, their evidence could form the basis of conviction. However, evidence of a child witness and its credibility would depend on the circumstances of each case. It was further emphasised, there exists no rule of practice that in every case the evidence of a child witness must be corroborated. In that regard it was observed as below:

"5. The entire prosecution case rested upon the evidence of Sarubai (PW 2) a child witness aged about 10 years. It is, therefore, necessary to find out as to whether her evidence is corroborated from other evidence on record. A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while

assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored. There is no rule or practice that in every case the evidence of such a witness be corroborated before a conviction can be allowed to stand but, however as a rule of prudence the court always finds it desirable to have the corroboration to such evidence from other dependable evidence on record. In the light of this well-settled principle we may proceed to consider the evidence of Sarubai (PW 2)."

28. Specifically in the context of testimony of a prosecutrix/victim of rape, in **Bharwada Bhognibhai Hirjibhai Vs. State of Gujarat, (1983) 3 SCC 217**, a victim of sexual assault was treated to be at par with an injured witness for the purpose of weight to be given to the testimony of such a witness. In that regard, it was observed as below:

"11. In view of these factors the victims and their relatives are not too keen to bring the culprit to books. And when in the face of these factors the crime is brought to light there is a built-in assurance that the charge is genuine rather than fabricated. On principle the evidence of a victim of sexual assault stands on par with evidence of an injured witness. Just as a witness who has sustained an injury (which is not shown or believed to be self-inflicted) is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of a sex offence is entitled to great weight, absence of corroboration notwithstanding. And while corroboration in the form of eyewitness account of an independent witness may often be forthcoming in physical assault cases, such evidence cannot be expected in sex offences, having regard to the very nature of the offence. It would therefore be adding insult to injury to insist on corroboration drawing inspiration from the rules devised by the courts in the western world (obeisance to which has perhaps become a habit presumably on account of the colonial hangover). We are therefore of the opinion that if the evidence of the victim does not suffer from any basic infirmity, and the "probabilities factor" does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from the medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming, subject to

the following qualification : Corroboration may be insisted upon when a woman having attained majority is found in a compromising position and there is a likelihood of her having levelled such an accusation on account of the instinct of self-preservation. Or when the "probabilities factor" is found to be out of tune."

29. 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."

30. 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...."

31. Applying the above principle, in **Gurmit Singh (supra)**, 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...."

32. Once assessment was made by learned court below, that the child understood the facts that they may address and there is no challenge to that assessment made, we may not look for any unnecessary corroboration, as to the occurrence. In any case, in the present facts, wholesome evidence exists in the shape of medical evidence. Both, injuries were received by 'X' on her genital area and as per the forensic report and blood and semen stains were found on her undergarment. Thus, the test of "assurance" laid down in **Gurmit Singh (supra)**, is satisfied.

33. Thus, we have no hesitation to reach a firm conclusion that in the present case, aggravated penetrative assault had been committed on 'X' by the appellant. That, the finding returned by the learned court below, calls for no interference.

34. As to sentence, we note, in the first place, the minimum sentence prescribed by law at the relevant under Section 376(2)(f) of I.P.C., was seven years with maximum being life sentence. Here, besides the fact that there is no previous conduct of the appellant and there is no other injury noted on the body of the victim 'X' no attempt was made or proven to the life of the victim. Therefore, on the issue of sentence, some relief may be meritted. At present, we note, the appellant had remained confined for ten years. Thereafter he was granted bail by this Court, vide order dated 26.07.2019.

35. Accordingly, the present appeal stands **partly allowed**. The impugned order dated 30.11.2010 of conviction under Section 376(2)(f) to life sentence is modified to 15 years imprisonment. The appellant – Ashok Nai is on bail. His bail bonds are cancelled and his sureties discharged. He may surrender forthwith. Failing that, Chief Judicial Magistrate, Fatehpur is directed to get the

appellant arrested and to send him to jail, to serve out the remaining sentences.

36. Let a copy of this order be communicated to the Chief Judicial Magistrate, Fatehpur through Registrar (Compliance) of this Court, for necessary compliance.

37. Let the trial court record be returned forthwith alongwith a copy of this order.

Order Date :- 2.4.2025
Abhilash

(Dr. Gautam Chowdhary, J.) (S. D. Singh, J.)