

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

CRAA No.9900010/2007

Reserved on: 06.08.2026

Pronounced on: 20.08.2026

Uploaded on: 20.08.2026

Operative part or

*Full judgment: **Full***

State (now UT) of J&K

.....Appellant(s)

Through: Mr. Eishaan Dadhichi, GA

Vs

1. Showket Hussain

S/O Hussan Mohd.
R/O Mohra Bachhie,
Tehsil Surankote
District Poonch

2. Imtiaz Ahmed,

S/O Mohd. Aslam
R/O Mohra Bachhie,
Tehsil Surankote
District Poonch

3. Mohd. Hanief

S/O Wali-ul-Rehman
R/O Mohra Bachhie
A/P Samote,
Tehsil Surankote
District Poonch

4. Kaneez Begum

W/O Mohd. Hanief
R/O Mohra Bachhie
A/P Samote,
Tehsil Surankote
District Poonch

..... Respondent(s)

Through: Mr. Rohit Bhalwal, Advocate for R-1&2.
Mr. K. M. Bhatti, Advocate for R-3&4.

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

JUDGMENT

01. This Criminal Acquittal Appeal has been preferred by Appellant-State
(now UT) of J&K, against judgment dated 30.03.2007 ('impugned judgment')

passed by learned Sessions Judge Poonch ('Trial court') in File No.5/Sessions titled ' 'State V/S Showket Hassain & Ors', whereby, the respondents were acquitted of the charges of the offences punishable under Sections 366/376/109 RPC .

02. Having been aggrieved of the acquittal, the appellant-State (now UT) of J&K, after obtaining sanction to file appeal vide Govt. Order No. 1329-LD(ACQ) of 2007 dated 22.05.2007, preferred this appeal, assailing the impugned judgment passed by the Trial Court, on the following grounds:

- a) That the learned Trial Court has mis-appreciated the evidence on record;*
- b) That there is sufficient evidence on record to convict and sentence the accused for commission of offence under Sections 366/376/109 RPC;*
- c) That the learned Trial Court has erred in critically examining the statement of the prosecutrix and other evidence;*
- d) That it is settled law that the statement of the prosecutrix if it inspires confidence is sufficient to convict and sentence the accused; and*
- e) That the prosecution has successfully proved the allegations leveled against the accused/respondent but even then the learned Judge has ordered his acquittal.*

03. Mr. Eishaan Dadhichi, learned GA argued that the trial court has passed not only an erroneous but also illegal judgment, while mis-appreciating the evidence brought on record, though the appellant while prosecuting the respondents had brought on record sufficient oral and documentary evidence, which established the commission of the alleged offences by the

respondents/accused and prayed that the appeal be allowed by setting aside the impugned unsustainable judgment dated 30.03.2007, passed by the learned Trial Court, whereby the accused have been acquitted for commission of offences punishable under Sections 366/376/109 RPC.

04. Learned counsel for the respondents, on the other hand, argued that there was no credible evidence against the respondents to bring home the charge against them; that the respondents had been falsely implicated in the case due to previous enmity between the parties; that the prosecution could not prove its case, by leading cogent and reliable evidence incriminating the respondents; that there was no evidence of its worth to record conviction against the respondents, by holding that offences of which they were charged had been proved; and that the trial court has rightly recorded the acquittal of the respondents, by a reasoned judgment. It was finally prayed that appeal be dismissed and the impugned judgment passed the Trial court be upheld.

05. Heard learned counsel for the parties, perused the record and considered.

06. Shorn of minute details, the factual matrix of the case is that on 30.12.2004, one-Mohd Ameen, brother of the prosecutrix lodged report with Police Station Surankote against Showket Hussain, Abdul Ghani, Mohd. Hanief, Kaneez Begum and Haji Mumtaz, leveling allegations against them that on 28.12.2004, they abducted his sister when she had gone to Samote market, while his sister (prosecutrix) was carrying Rs.30,000/- and a set of gold ornaments with her. Based on said report, a case vide FIR No.198/2004 U/S 366/109 was registered at Police Station Surankote and investigation was entrusted to HC Suresh Kumar; that the statements of the witnesses were recorded under Section

161 CrPC and the prosecutrix was recovered from Bus Stand Rajouri; that she was got medically examined in the Hospital at Rajouri; that after the completion of investigation, the charge sheet under Sections 376/366/109 RPC was laid against the accused except Abdul Gani and Mumtaz Ahmad, against whom no offence was established, as such, they were given up; that the case against other accused was committed for trial before the court of learned Sessions Judge, Poonch.

07. Respondent No.1 was charged under Section 366/376 RPC, and other accused respondents 2 to 4 were charged under Sections 366/109 RPC, who denied the charge, pleading innocence and claimed trial; that the learned Trial Court after conducting trial, vide impugned judgment dated 30.03.2007, acquitted all the accused persons. Aggrieved of the acquittal of the respondents, the present Criminal Acquittal Appeal has been filed.

08. To appreciate the rival submissions in the context of grounds of challenge, this court would have to revert to the evidence brought on record. The prosecution case in nutshell is that the prosecutrix, when she had visited Samote market on 28.12.2004, was abducted by the respondents. The complaint was lodged on 30.12.2004, and a case was registered vide FIR No.198/2004 for the commission of offences punishable U/S 366/109 RPC; that the complainant had alleged in his complaint that the respondents wanted his sister to be forcibly married to one of the accused-Showkat Hussain; that the prosecutrix was abducted on 28.12.2004 at 2.30 PM, from Surankote market, where, she had gone from her home situated at Samote; that when she reached lane near Masjid, respondents-Showkat Hussain and Imitiaz caught hold of her and extending threats to her life, made her to accompany them on foot up to Jogi Morh, where

she was forcibly made to board a civil vehicle and taken to Rajouri, where they stayed in a hotel overnight and she was subjected to rape by accused- Showkat Hussain till morning of 31.12.2004, when he went to purchase some travelling tickets but did not return and the Rajouri police finding the prosecutrix standing alone at Bus Stand Rajouri, noticed her suspicious presence, shifted her to Police Station Rajouri and on an information, Surankote Police took over the possession of the prosecutrix from Rajouri Police.

09. It was prosecution case that all the accused entered into a conspiracy to get prosecutrix married to accused-Showkat Hussain, abducted her and, as such, a charge sheet was laid against all the respondents for the commission of offences punishable U/Ss 366/109 and 376 RPC, whereas no offence was made against two of the accused Abdul Ghani and Mumtaz Ahmed, who were given up.

10. After framing of charge against all the respondents and denial of charge by all of them, the prosecution examined 11 out of the listed 14 prosecution witnesses. The prosecution succeeded to examine informant Mohd. Ameen, Sabzar Ahmed, Abdul Aziz, Sharifa Begum, Mohd. Bashier, Dr. Neeru Gupta, Principal Higher Secondary School Lathoong and I.O. Suresh Kumar. The respondents did not lead any defense evidence and after final hearing, the case was dismissed and all the accused were acquitted of the charge.

11. The Trial Court, on the basis of the record, has rightly recorded that there was nobody, who knew as to how the prosecutrix was abducted; that her brother, who lodged the FIR had also no personal knowledge about the occurrence, as such, it was only the prosecutrix, who knew under what circumstances, she was alleged to have been kidnapped. In her statement

recorded before the police, she had stated that on 28.12.2004 at about 2.30 PM, when she was in Surankote market, reached near Masjid lane and, in the meanwhile, accused Showkat and Imitiaz, caught hold of her and exerting pressure and extending threats to her life, managed to take her to Jogi Morh, where a vehicle was brought by Showkat Hussain; that her money and ornaments were snatched. Thereafter, both the accused forced her to board the vehicle and took her to Rajouri, where they stayed in a hotel and accused Showkat Hussain committed rape upon her three times; that next day, she was also subjected to rape by him. Thereafter, she was left inside the hotel and both the accused went out to bring travelling tickets but did not return; that after a long wait, she went to the Bus Stand wherefrom she was apprehended by the police and she narrated whole of the incident to the Rajouri police, who handed over her to the Surankote police. In her statement during trial, she had stated that, while returning from the market to her home, accused-Showkat Hussain and Imitiaz met her at some distance from market near Jogi Morh, which as per the statement of the IO was a distance of about 2 Kms, whereas her own brother had stated the distance to be of 3 to 4 Kms.

12. There were discrepancies in prosecutrix's statement, on various aspects, with regard to carrying of money in the amount of ₹30,000/- and the golden ornaments, which were alleged to have been snatched by the accused. There are also contradictory statements of other witnesses with regard to these facts. The prosecutrix was alleged to have been kidnapped on 28.12.2004, whereas the FIR was lodged on 30.12.2004 on third day and there was no explanation to the delay in lodging the FIR. It is also not understandable as to how the kidnapping of the prosecutrix in those days of militancy, when there

were frequent naka points on every road for checking by the police, she was not noticed by any security personnel on way from Surankote to Rajouri. It is also apparently not plausible to believe as to how two accused, who had kidnapped the prosecutrix, had left her alone in a hotel, kept her waiting for a long time, telling her that they would go to purchase travelling tickets and then the prosecutrix of her own, came out to the Bus Stand, was found in suspicious circumstances by the local police, who shifted her to the police station concerned. Had it been a case of kidnapping by any of the accused on security forces check-points, the prosecutrix could have raised an alarm on way from Surankote to Rajouri, confided in the hotel staff where she was kept for two days with regard to her alleged kidnapping and finding her alone, could have come out to report the same to the police at Rajouri. It appears that the prosecutrix had moved of her own with the accused Showkat and, later, echoed the story of kidnapping lodged by her brother. The trial Court has passed a very lucid judgment assigning reasons recording acquittal of all the accused based on the prosecution evidence.

13. The Trial Court has recorded the findings, which are based on meticulous appreciation of evidence available on record. It is well settled in law that this Court, while hearing an acquittal appeal, can re-appreciate the evidence, however, it should not interfere with the order of acquittal if the view taken by the court below is also a reasonable view of the evidence on record and the findings recorded by it are not manifestly erroneous, contrary to the evidence on record or perverse. (See ‘Ram Swaroop and others. Vs. State of Rajasthan, reported as **(2002) 13 SCC 134**, ‘Vijay Kumar v. State by Inspector General’,

(2009) 12 SCC 629 and ‘Upendra Pradhan vs. State of Orissa’ reported as (2015) 11 SCC 124.

14. For the foregoing reasons and observations made hereinabove, the acquittal appeal fails as the impugned judgment having been passed in consonance with law by the court below, does not warrant any interference by this court while exercising the appellate jurisdiction. The impugned judgment is upheld. As a result, the appeal fails and is **dismissed**, alongwith application. Bail/personal bonds executed by the respondents during the pendency of this petition are discharged.

15. Copy of this judgment shall be sent down forthwith, to the Trial Court along with record, for information.

(MA CHOWDHARY)
JUDGE

JAMMU
20.08.2026
Raj Kumar

Whether the order is reportable: Yes
Whether the order is speaking: Yes