

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

Crl LP(D) No. 21/2023

Reserved on: 03.02.2026

Pronounced on: 12.02.2026

Uploaded on: 13.02.2026

Whether the operative part or
full judgment is pronounced: "FULL"

**Union Territory of Jammu and Kashmir
Through SDPO, Gandhi Nagar, Jammu**

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

Through: - Mr. Ravinder Gupta, AAG

v/s

- 1. Ashiq Ali S/o Fateh Mohd.
R/o Dougan Hara, Tehsil Gool,
District Ramban;**
- 2. Shabir Ahmad S/o Hussain
R/o Chaklas, Tehsil Mahor
District Reasi;**
- 3. Bashir Ahmad S/o Chiyian
R/o Chaklas, Tehsil Throo
District Reasi;**
- 4. Hussain Gujjar S/o Azeem Gujjar
R/o Chaklas, Tehsil Throo
District Reasi.**

...Respondent(s)

Through:- Respondent No. 3 present in person

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

J U D G M E N T

Sanjay Parihar-J

(Crl LP(D) No. 21/2023)

1. After hearing counsel for the appellant at length, we are persuaded to consider the appeal on merits. Accordingly, Crl LP(D) No.21/2023 is allowed and the leave is granted. Crl LP(D) No.21/2023 is *disposed of*.

2. Let the appeal be diarised. Having regard to the submissions made at Bar, we proceed to take up the appeal for final consideration. **Admit.** Post admission notice waived by the appearing respondent No.3.
3. The present appeal, preferred by the appellant, is directed against the judgment of acquittal rendered by the Presiding Officer, Fast Track Court, Jammu (hereinafter referred to as “the Trial Court”) in case titled *State vs. Ashiq Ali and others*, arising out of FIR No. 95/2018 registered at Police Station Gandhi Nagar, Jammu, for offences under Sections 376/109 of the Ranbir Penal Code. By virtue of the impugned judgment, the respondents, who were facing trial for the aforesaid offences, have been acquitted. The prosecution seeks setting aside of the acquittal on the ground that the Trial Court has failed to appreciate the evidence in its proper perspective. It is contended that the material witnesses, including the prosecutrix, had supported the prosecution case, but the Trial Court ignored crucial aspects of their testimony and magnified minor contradictions which ordinarily occur during examination of witnesses. It is further pleaded that the respondents were duly identified as perpetrators of the crime and the evidence on record was sufficient to bring home their guilt.
4. Briefly stated, respondent No. 3 is the husband of the prosecutrix, whereas respondent No.4 is her father-in-law. As per the charge-sheet, it transpires that the prosecutrix was allegedly abducted by respondent No.3 in the year 2012, whereupon her parents had lodged a report. Though she was recovered by the police, she claims to have voluntarily returned to respondent No.3 and subsequently married him. Initially a resident of Chaklas- Throo, District Reasi, the prosecutrix along with respondent

No.3 shifted to Jammu in the year 2018–19, where they started residing at Digiana. Respondent No. 3 was stated to be working as a waiter. It is alleged that during their stay at Digiana, respondent No. 3 forced the prosecutrix into prostitution by compelling her to engage in sexual intercourse against her will, with respondents No.1 and 2, who were acquaintances of respondent No.3, and that he received money for each such act. The prosecutrix further alleged that upon informing respondent No.4 about these acts, he supported the continuation of the said activity. It is also alleged that on one occasion respondent No.3 attempted to send her to a brothel at Jewel Chowk, Jammu, and upon her resistance, she was beaten. Fed up with such treatment, she allegedly left for her parental home at Gool along with her infant child and lodged a complaint on 22.03.2018. On the basis of the said complaint, FIR No. 95/2018 under Section 376/109 RPC came to be registered. After investigation, offences under Sections 452, 147 and 313 RPC were dropped and only offences under Sections 376/109 RPC were found to be established.

5. The charge-sheet was initially filed in the absence of the respondents, who later surrendered before the Trial Court. Respondent No. 1 was charged under Section 376 RPC on 30.04.2019, respondent No.3 on 06.03.2020, and respondents No.2 and 4 on 20.08.2021. Out of the seven cited witnesses, the prosecution examined only three witnesses, namely, PW-1 (the prosecutrix), PW-4 (Dr. Atula Gupta), and PW-6 (SI Kali Charan). The remaining witnesses, including the parents of the prosecutrix, did not support the prosecution case.

6. The Trial Court observed that the testimony of the prosecutrix suffered from material inconsistencies and contradictions and that the medical evidence did not support the allegation of rape. It was noticed that although the alleged occurrence took place at Digiana, no report was lodged at the local police station, and instead, the prosecutrix travelled to her parental home at Gool and lodged the complaint after a delay of two to three days. During examination-in-chief, the prosecutrix alleged forcible sexual intercourse by respondents No.1 and 2; however, during cross-examination, she contradicted herself by stating that she resisted their advances and that they failed in their attempt. She further stated that several persons were brought by her husband for exploiting her but she could identify only respondents No.1 and 2. The prosecutrix claimed to have obtained divorce from respondent No.3 but could not specify when the divorce had taken place. The Trial Court found her testimony to be unreliable, exaggerated, and lacking corroboration, particularly as her parents did not enter the witness box. Consequently, the Trial Court held that it was unsafe to rely upon her testimony and acquitted the respondents.

7. We have heard learned counsel for the appellant at length and have carefully perused the impugned judgment and the record of the Trial Court.

8. It is settled law that in cases of sexual offences, the testimony of the prosecutrix assumes great significance and ordinarily does not require corroboration. However, such testimony must inspire confidence. In ***Raju v. State of Madhya Pradesh, AIR 2009 SC 858***, the Supreme Court held

that while the statement of the prosecutrix is to be treated akin to that of an injured witness, it cannot be accepted as gospel truth without scrutiny, particularly where the possibility of false implication cannot be ruled out.

9. The Trial Court relied upon the judgment reported in **2015 SAR (Criminal) 274**, wherein the Supreme Court held that in the absence of medical corroboration and supporting testimony from close relatives, it would be unsafe to convict solely on the uncorroborated testimony of the prosecutrix. In the present case as well, the medical expert ruled out recent sexual intercourse, though opining that the prosecutrix was habituated to sexual intercourse, which is explainable by her marital relationship with respondent No. 3.

10. The prosecutrix's narrative reveals multiple inconsistencies. She alternately alleged and denied sexual exploitation by respondents No.1 and 2. She failed to specify dates or particulars of the alleged incidents and did not disclose the matter to neighbours or other tenants residing in the same premises. Her parents, though examined during investigation, did not support the prosecution case at trial. Her testimony regarding respondent No. 4 is also weak, as he admittedly did not reside with them at Digiana and only visited occasionally.

11. From the totality of the evidence, it appears that the prosecutrix was not forthcoming with a consistent and truthful account. Her testimony is riddled with contradictions and improvements and falls short of the standard required to sustain a conviction. The possibility of false implication, particularly in the backdrop of matrimonial discord and alleged divorce, cannot be ruled out.

12. The Trial Court has rightly appreciated the evidence and arrived at a well-reasoned conclusion. The presumption of innocence, which already stood in favour of the respondents, has been further reinforced by their acquittal. No perversity or illegality is discernible in the impugned judgment warranting interference by this Court. Accordingly, the appeal is devoid of merit and is ***dismissed*** along with connected application(s), if any.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
12.02.2026
Akshil Dev

Whether the order is speaking? : Yes
Whether the order is reportable? No

