



2026:CGHC:31092-DB

**Reserved on : 10.07.2026**

**Delivered on : 22.07.2026**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**ACQA No. 290 of 2018**

**1 - The State Of Chhattisgarh Through- District Magistrate, District-  
Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh  
... Appellant(s)**

**versus**

**1 - Leelakram Kurmi S/o Kanhaiya Lal Kurmi Aged About 47 Years R/o-  
Village Kuriyari, P.S.- Shivrinarayan, District- Janjgir-Champa,  
Chhattisgarh., District : Janjgir-Champa, Chhattisgarh**

**... Respondent(s)**

For Appellant/State: Mr. Rishi Raj Pithawa, Dy. Govt. Advocate  
and Ms. K. Radhika, Panel Lawyer

For Respondent : Mr. Ravindra Sharma with Mr. Sahil Sahu,  
Advocates

**Hon'ble Shri Sanjay S. Agrawal, Judge and**  
**Hon'ble Shri Justice Narendra Kumar Vyas, Judge**

## C.A.V. JUDGMENT

**Per Narendra Kumar Vyas,J.**

1. The acquittal appeal has been filed by the State against the judgment of acquittal passed by learned Additional Sessions Judge, (F.T.C.), Janjgir District – Janjgir-Champa (C.G.) dated

14.06.2016, in Sessions Trial No. 88/2016, whereby the respondent/accused has been acquitted of the charges punishable under Sections 342 and 376 of the IPC.

2. This acquittal appeal has been admitted by this Court on 25.07.2018.
3. The prosecution case in brief is that the victim lodged FIR (Ex.P/2) before the Police Station, Shivninarayan, District – Janjgir-Champa on 08.02.2016 alleging that, on 08.02.2016 itself, she had gone to the house of the accused, to collect rice and money customarily distributed on the occasion of the tenth day ritual of a death ceremony (Dashgatra). The accused, handed over the rice to her and finding her alone, forcibly lifted her and took her into his room. He bolted the door from inside, made her lie on the bed, and committed rape upon her. After committing the offence, the accused attempted to lure her by offering money and he also gave threat to her for not disclosing the incident to anybody. On the basis of the FIR, the police started investigation into the matter.
4. The prosecution has prepared the spot map as per the information given by the victim with regard to place of incident vide Ex.P/1. The victim was sent for medical examination and she was examined by Dr. Anvita Dhruv (PW/5) who has given her MLC report (Ex.P/8). The undergarments of the victim and accused were seized vide Ex.P9 and Ex.P/10 and sent to Forensic Lab for analysis, who has submitted its report

(Ex.P/13). After completion of the usual investigation, the charge-sheet was filed under Section 342 and 376 of the IPC before the Judicial Magistrate First Class, Pamgarh and on committal the matter was allotted to the Additional Sessions Judge (FTC), Jangir. The accused abjured the charges and faced trial.

5. On the basis of evidence and material on record, the learned trial Court has recorded its finding that the prosecution has failed to prove, beyond all reasonable doubt, that on 08.02.2016, the accused wrongfully confined the victim in a room and committed rape upon her without her consent and as such, acquitted the accused extending benefit of doubt. Being aggrieved with this judgment, the State has filed this acquittal appeal.
6. Learned counsel for the appellant/State would submit that the learned trial court has failed to appreciate the evidence available on record and wrongly acquitted the accused. He would further submit that learned trial Court has erred in disbelieving the statement of the victim wherein she has categorically narrated the incident. He would further submit that the victim has promptly lodged the FIR, therefore, the impugned judgment of acquittal is contrary to law and evidence on record and deserves to be set aside by allowing the present appeal.
7. Per contra, learned counsel for the respondent supports the impugned judgment and submits that the learned trial Court has meticulously appreciated the entire evidence on record and

rightly recorded an order of acquittal. He would further submit that the prosecution has failed to establish the guilt of the respondent beyond reasonable doubt and the view taken by the trial Court is a plausible and reasonable one. It is further contended that the prosecution case rests mainly on the sole testimony of the victim, which is not of sterling quality. There are material contradictions, inconsistencies, and inherent improbabilities, in the statement rendering it unsafe to base the conviction. It is further submitted that unless the findings recorded by the learned trial Court are shown to be manifestly illegal or perverse, the order of acquittal warrants no interference by this Court. Accordingly, it is prayed that the appeal be dismissed.

8. We have heard learned counsel for the parties and perused the record with utmost circumspection.
9. The victim (PW/3) in examination in chief has reiterated the incident as mentioned in the FIR and stated that the accused first closed the door, lifted her, and took her into a room where a bed was placed, on which the alleged act was committed. In the cross-examination she has denied that the accused has assaulted her husband for committing theft and admitted that at the time of last ritual of the accused's father the family members of the accused and other members of the community were present. She has also admitted that accused told her husband to look after the last ritual of his father and also admitted that before death of father of the accused, they have no talking

terms. She has also stated that she has informed to the police at the time of recording of her statement that the accused demanded sex from her, then she told that she will not do this illegal work, but, if it has not been mentioned in Ex.D/1, then she cannot give any explanation.

10. Dr. Anvita Dhruv (PW/5) who has examined the victim has stated that there was no injury on the external part of the victim or private part of the victim. The urinal test was also found negative. She has given opinion that she was habitual of sexual intercourse. Priti Jaiswal, Sub-inspector (PW/6) has stated in her examination in chief that she has recorded the statement as per the statement of the victim.
11. Roshan Kashyap (PW/7) has admitted in his cross-examination that before the incident, accused had assaulted the victim's husband and at the time of the incident, accused's father expired, and his last rituals were performed. He has also admitted that he has heard that a dispute with regard to money arose between the accused and the victim regarding works performed by her on the eve of the ceremony.
12. A perusal of the FSL Report (Ex.P/13) would show that on the petticoat and the undergarment of the victim, human sperm was found but the specimen was not found sufficient for serological test and on the undergarment of the accused and the slide, human sperm was not found.
13. From perusal of record of map Ex.P/1 which was prepared as

per the information given by the victim regarding place of incident, it is quite vivid that the place of occurrence is Parchi an open accessible Veranda whereas in her evidence she has stated that the accused first closed the door, lifted her, and took her into a room where a bed was placed, on which the alleged act was committed. Thus, there is contradiction in the statement with regard to place of incident. The importance of preparation of map in criminal justice system plays a significant role as it depicts the physical features of the place of occurrence and enables the Court to assess the probability of the prosecution version. Though a site plan is not substantive evidence by itself, it serves as an important corroborative piece of evidence for appreciating the oral testimony of witnesses.

14. Any omission to depict material physical features or circumstances relevant to the prosecution case may, depending upon the facts of the case, create doubt regarding the veracity of the prosecution version. In the present case, a careful perusal of the map belies the prosecution version and demonstrates that the alleged incident is inconsistent with the topography of the spot. The site plan, when read conjointly with the evidence of the prosecution witnesses, creates serious doubt regarding the manner of occurrence as alleged by the prosecution. The Hon'ble Division Bench of High Court of Madhya Pradesh in case of **Vijay Singh Vs. State of MP {2005 Cr.L.J 299 DB}** ruled that "We can safely say that preparation of site plan is not a mere formality, but, it is an essential feature

in order to reach the firm conclusion by the Court in order to ascertain whether the offence has been committed by accused or not."

15. In the present case, the victim herself identified the place of occurrence as an open veranda. However, in her substantive deposition before the police as well as the Court, she stated that the accused had taken her into a room where the alleged incident occurred. This material inconsistency regarding the very place of occurrence strikes at the core of the prosecution case and adversely affecting the credibility and reliability of the victim's testimony.
16. Further, appreciation of the medical evidence does not lend corroboration to the prosecution case. Referring to the testimony of PW/5, the doctor, it is amply clear that no external injury was found on the body of the victim. In the facts and circumstances of the case, the absence of any external injury assumes significance, particularly when the prosecution alleges that the victim was forcibly lifted, taken to some distance and subjected to sexual assault. This circumstance, though not conclusive by itself, is a relevant factor while appreciating the overall evidence on record and lends support to the view taken by the learned trial Court. Thus, from the fact that there is discrepancy in the place of occurrence, no injury was found on the body of the victim or on the body of the accused though the FIR was lodged on the same date and they were medically

examined on the very next date, where no human sperm was found on the seized undergarment of the accused and also no serological test was conducted due to insufficiency of human sperm, and, further the evidence that victim's husband was assaulted by the accused prior to the date of alleged incident, coupled with the evidence that there was some money dispute between the accused and the victim, and that by considering further the evidence of her that she has not stated in her evidence at any stage what attempts she made to rescue herself from the clutches of the accused before commission of offence or at the time of commission of alleged offence, we may safely deduce that the testimony of the victim is not absolutely trustworthy, unblemished and of sterling quality which are sufficient to invite conviction of the accused. The law in this regard has been considered by the Hon'ble Supreme Court in the matter of **Santosh Prasad Vs. State of Bihar {2020 (3) SCC 443}**, wherein the Hon'ble Supreme Court has held as under :-

6. Having gone through and considered the deposition of the prosecutrix, we find that there are material contradictions. Not only there are material contradictions, but even the manner in which the alleged incident has taken place as per the version of the prosecutrix is not believable. In the examination-in-chief, the prosecutrix has stated that after jumping the fallen compound wall accused came inside and thereafter the accused committed rape. She has stated that she identified the accused from the light of the mobile. However, no mobile is recovered. Even nothing is on record that there was a broken compound wall. She has further stated that in the morning at 10 O'clock she went to the police station and gave oral complaint. However, according to the investigating officer a written complaint was given. It is also required to be

noted that even the FIR is registered at 4:00 p.m. In her deposition, the prosecutrix has referred to the name of Shanti Devi, PW1 and others. However, Shanti Devi has not supported the case of the prosecution. Therefore, when we tested the version of PW5 -prosecutrix, it is unfortunate that the said witness has failed to pass any of the tests of “sterling witness”. There is a variation in her version about giving the complaint. There is a delay in the FIR. The medical report does not support the case of the prosecution. FSL report also does not support the case of the prosecution. As admitted, there was an enmity/dispute between both the parties with respect to land. The manner in which the occurrence is stated to have occurred is not believable. Therefore, in the facts and circumstances of the case, we find that the solitary version of the prosecutrix – PW5 cannot be taken as a gospel truth at face value and in the absence of any other supporting evidence, there is no scope to sustain the conviction and sentence imposed on the appellant and accused is to be given the benefit of doubt.”

17. Again Hon’ble Supreme Court in case of **Nirmal Premkumar**

**vs. State Represented by Inspector of Police {(2024) 20 SCC**

**293}** has examined the issue and recorded its finding as under:-

24. What flows from the aforesaid decisions is that in cases where witnesses are neither wholly reliable nor wholly unreliable, the Court should strive to find out the true genesis of the incident. The Court can rely on the victim as a “sterling witness” without further corroboration, but the quality and credibility must be exceptionally high. The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistencies excepted), from the initial statement to the oral testimony, without creating any doubt qua the prosecution’s case. While a victim’s testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded.”

18. Thus, as per the aforesaid law laid down by the Hon’ble Supreme Court, the statement of the victim ought to be consistent without creating any doubt qua the prosecution’s case. In the present case, a careful appreciation of the

testimony of PW/3, the victim, reveals circumstances which render the prosecution case improbable.

19. Thus, the prosecution has not been succeeded in proving the charges against the accused beyond reasonable doubt. The evidence on record falls short of the standard required for recording a conviction and leaves a reasonable doubt as to the guilt of the appellant. Since the prosecution has failed to prove its case beyond all reasonable doubt, the conviction cannot be held while hearing acquittal appeal. Hon'ble Supreme Court in case of **State of Haryana vs. Bhagirath and Other {(1995) 5 SCC 96}** in paragraph 8 as under :-

8. It is nearly impossible in any criminal trial to prove all elements with scientific precision. A criminal court could be convinced of the guilt only beyond the range of a reasonable doubt. Of course, the expression reasonable doubt is incapable of definition. Modern thinking is in favour of the view that proof beyond a reasonable doubt is the same as proof which affords moral certainty to the judge.

20. Even otherwise, it is well settled position of law that if one view has been taken by the prosecution which is in favour of the accused, normally the appellate Court should not interfere in the case of acquittal, unless the finding is so perverse that only one view of conviction is possible for the appellate Court. Hon'ble Supreme Court in case of **Constable 907 Surendra Singh and Anr vs. State of Uttarakhand {2025 INSC 114}** dealt with the issue when an appellate Court can interfere in the order of acquittal passed by the trial Court and held in

paragraph 12 as under:-

12. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge 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.

21. Considering the aforesaid law on the subject and looking to the facts and circumstances of the case, we find that the finding of acquittal recorded by the learned trial Court is neither perverse, arbitrary, nor contrary to the record. The findings recorded by the learned Trial Court do not suffer from any patent illegality, misappreciation of evidence, or manifest error of law warranting appellate interference. Consequently, the order acquitting the respondent of the charges levelled against him is fully justified and calls for no interference by this Court in exercise of its appellate jurisdiction.
22. In view of the foregoing discussion, this Court finds no merit in the appeal. Accordingly, the appeal is dismissed.

Sd/-  
**(Sanjay S. Agrawal)**  
**JUDGE**

Sd/-  
**(Narendra Kumar Vyas)**  
**JUDGE**