



2026:AHC:193677

Judgement reserved on 04.08.2026

Judgement delivered on 16.09.2026

A. F. R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 525 of 1988

Ramesh

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	Harish Chandra, Pawan Kumar Shukla, Pradeep Kumar
Counsel for Respondent(s)	:	A.G.A., Indra Narayan

Court No. - 78

HON'BLE HARVIR SINGH, J.

1. Heard learned counsel for the appellants, learned counsel for the informant and learned A. G. A. for the State.

2. The instant appeal has been filed against the judgment and order dated 09.03.1988, passed by 2nd Addl. Sessions Judge, Ghaziabad, by which the appellants, namely Ramesh and Kalu were convicted under Section 376 IPC and they were sentenced to undergo rigorous imprisonment for a period of ten years.

3. The prosecution story, as briefly disclosed in the written report Ext. Ka 1, submitted by Khami at P.S. Noida on 02.08.1985, at 06.10 P.M. is to the effect that, his wife Smt. Munni and his sister-in-law (bhabhi), Smt. Roshani had gone to bring fodder from their field on 02.08.1985, at about 10 A.M. Smt. Roshani was accompanying her, while Smt. Munni was going just behind her. It is said that, as soon as, Smt. Munni reached near the maize field of PW3 Ram Kumar, the accused, who were hidden in the said field, came out of the field and they caught hold of Smt. Munni and dragged her to the field. They also gagged her mouth, while dragging her to the field. Thereafter, they raped her one by one. It is also stated that, when one of the accused committed rape, the other accused caught hold of the prosecutrix

Smt. Munni. First of all accused Kalu committed rape and thereafter Ramesh committed rape upon her. When Ramesh was committing rape, Smt. Munni Devi cried, as a result of which, Smt. Roshani, Ram Kumar and Tej Singh arrived there and they witnessed the occurrence and they became successful in apprehending the accused Ramesh on the spot. The other accused, Kalu, however, made his escape good. The arrested accused Ramesh was taken to the village along with the prosecutrix and the other witness Khami, the husband of the prosecutrix, after knowing the facts of the incident from his wife Smt. Munni and other witnesses, got prepared the report through Dharambir Singh. Thereafter, he took his wife Smt. Munni Devi and the arrested accused Ramesh with the help of the prosecution witnesses to the police station and there he submitted written report and handed over the accused Ramesh to the police station. A case under section 376 IPC was registered against both the accused. The distance between the police station and the place of occurrence, is about four and half Kms. The investigation of the case was entrusted to S. I. Ganesh Prasad Notiyal. P.W. 6. On 02.08.1985, he recorded the statement of Head Mohaarir Sohan Pal Singh, Complainant Khami and Smt. Munni Devi. He also recorded the statement of accused Ramesh on the same day at the police station. Thereafter, he went to village Bahallolpur along with constable in search of the other accused Kalu, but he could not apprehend Kalu, as he was not available in the village. On the next day, he recorded statement of Smt. Roshani Devi and thereafter visited the place of occurrence and prepared the site plan marked as Ext. Ka 4. On 07.08.1985, he recorded the statement of Ram Kumar. On 13.10.1985 accused Kalu surrendered before the court and thereafter he proceeded on leave and the investigation of the case was completed by S.O. Jagbir Singh, who submitted charge sheet (Ex. Ka 5) against both the accused.

4. Ramesh and Kalu, resident of village Bahallolpur, P.S. Noida, District Ghaziabad, have been committed to the Court of Sessions by IVth Additional Munsif / Judicial Magistrate, Ghaziabad vide his order dt. 09.10.1985 to face trial under Section 376 IPC, P.S. Noida, District Ghaziabad.

5. The charge against accused is that on, 02.08.1985 at about 10 A. M. in the maize field of Ram Kumar situated in village Bahallolpur, P.S Noida Sector-24, the accused persons committed rape upon Smt. Munni W/o Khami P.W. 1.

6. Charge under section 376 IPC was framed against both the accused by the then IInd Additional Sessions Judge, Ghaziabad, to which both the accused pleaded not guilty and claimed to be tried. They also denied the prosecution

allegations in their statement under section 313 Cr.P.C. and attributed their false implication in this case on account of enmity. Ramesh has further stated that, he was arrested from his residence and was assaulted and thereafter was falsely implicated in this case. None of the accused adduced any evidence in defence.

7. The prosecution examined Khami P.W. 1, Smt. Munni Devi P.W. 2, Ram Kumar P.W. 3, Smt. Roshani Devi P.W. 4, H.C. Sohan Pal Singh P.W. 5, Ganesh Prasad Notiyal P.W. 6, Dr. P.K. Malhotra P.W. 7 and lady Dr. Mrs. A. Prasad P.W. 8 in support of the prosecution case.

8. The husband of the prosecutrix Smt. Munni Devi, P.W. 1 Khami, who is the complainant of this case, has submitted written report (Ext. Ka 1) at the police station and proved the same.

9. The prosecutrix P.W. 2 Smt. Munni Devi has given details, as to how she was raped by both the accused. She has also proved the petikot (Ext.1), which she was wearing at the time of occurrence.

10. P.W. 3 Ram Kumar, who is said to be one of the eye witnesses of the occurrence, deposed, that the occurrence is alleged to have taken place in his maize field, was going to his field at the time of occurrence and when he reached near the field, he heard the cries of some woman and when he reached to the field, he saw accused Ramesh committing rape upon Smt. Munni Devi, while accused Kalu was holding her. He also apprehended accused Ramesh on the spot with the help of other persons.

11. PW 4, Smt. Roshani Devi is also another witness of fact. She has also witnessed Ramesh, committing rape upon Smt. Munni, who is sister-in-law (Bhabhi) of PW 2. She has also corroborated the prosecution story that accused Ramesh was apprehended on the spot and other accused Kalu ran away from the spot.

12. PW 5 Head Constable Sohan Pal, who is the scribe of F. I .R. (Ext. Ka 2), which he has registered on the basis of written report Ext. Ka 1. He also made necessary entries in the G.D. regarding the registration of the case and proved its copy (Ext. Ka 3).

13. P. W. 6 S. I. Ganesh Prasad Notiyal is the Investigating Officer of this case. His evidence has already been discussed above during the narration of the facts of the case. P. W. 7 Dr. P.K. Malhotra, medically examined accused Ramesh and proved the injury report (Ext. Ka 6).

14. P. W. 8 Dr. Mrs. Aruna Prasad, who examined the prosecutrix Smt.

Munni Devi, proved her medical report.

15. P. W. 7 Dr. P. K. Malhotra also medically examined apprehended accused Ramesh Chand on 03.08.1985 at 00.30 ??. and he noted following seven injuries on him-

- (i) Abrasion of 4 cm. x 3cm, on the posterior medial aspect of it, side of fore arm 9 m. above wrist joint, with interception.
- (ii) Abrasion of 3 cm. x 1 cm. on the posterior medial aspect of left fore arm 6 and a half cm above to wrist joint horizontal directive.
- (iii) Contusion of 6 cm. x 1 cm. on the posterior aspect of left thigh, red colour and horizontal direction and 20 cm. above to popliteal fossa.
- (iv) Contusion of 9 cm. x 1 and a half cm. the posterior aspect of lower third left thigh, red colour and 15 cm. below to injury No. 3 with horizontal direction.
- (v) Contusion of 6 cm. x 1 and a half cm. on the posterior aspect of left popliteal fossa, red colour.
- (vi) Contusion of 9 cm. x 2 cm. on posterior aspect of Rt. Leg, red colour.
- (vii) Contusion of 13 cm. x 2 cm. on the upper posterior of Rt. leg on the posterior aspect red in colour and with horizontal direction 6 cm. above to injury No. 6.

No injury was found on his penis. Injury Nos. 3 to 7 were alleged to have been caused by a blunt object, while the first two injuries were caused by friction / abrasion.

16. During investigation, the petikot of Smt. Munni Devi, Vaginal slide prepared from the vaginal swab of Smt. Munni Devi and underwear belonging to accused Ramesh, were sent to chemical examiner and semen stains were found on the petikot belonging to Smt. Munni Devi.

17. In the instant case, it is alleged by the prosecution that, the accused Ramesh and Kalu committed rape upon Smt. Munni on 02.08.1985 at about 10 A. M. in the maize field of Ram Kumar situated in village Bahalloipur, P. S. Noida. The accused, on the other hand, denied the prosecution allegations and contended, that a false and fabricated case has been concocted against

them. So the main question to be determined in this case is, as to whether, the accused committed rape upon Smt. Munni, in the manner, as alleged by the prosecution.

18. Smt. Roshani Devi P.W. 4 has stated that, she was going to bring fodder along with her Bhabhi Smt. Munni Devi. She was walking a little ahead of Smt. Munni Devi and when she reached near the field of Ram Kumar, she saw that Smt. Munni Devi was not coming behind her. After some time, she heard the cries of Munni Devi from inside the field of Ram Kumar, she went there, along with other witnesses Ram Kumar and Tejpal and there she witnessed the occurrence.

19. The accused Ramesh, who was apprehended on the spot, was medically examined by P. W. 7 Dr. P. K. Malhotra on 03.08.1985 at 10.30 A. M. and seven injuries were found on his person. The first two injuries are abrasions; one on the right side and the other, on the left side of his forearms, who opined that the abrasions could be caused at the time of the commission of the rape in the maize field.

20. The prosecution story has been assailed on several grounds by the defence.

21. Learned counsel for the appellants / accused has submitted that neither there was any injury on the person of Smt. Munni Devi nor on her private part and therefore, the prosecution case is not corroborated by any medical evidence.

22. In the instant case, it is undisputed that Smt. Munni Devi was habitual to sexual intercourse, being a married woman.

23. It has been next argued by learned counsel for the appellants that, the F.I.R. of the case has been lodged with undue delay and therefore, the prosecution case should be looked with doubt.

24. Learned counsel for the appellants / accused submitted that the occurrence took place at about 10 AM in the jungle of Bahallolpur and thereafter the prosecutrix was brought home by the prosecution witnesses and then she was taken to the police station on foot. The report of the occurrence has been lodged at 06.10 P.M on that the same day or the next very day, is not clear from the evidence on record. The distance between the police station is about four and half kms. from the place of occurrence.

25. Learned counsel for the appellants has also argued that, the F.I.R. of this case has been lodged after the arrival of the police in the village and

therefore, it is doubtful.

26. This argument has been advanced on the basis of the statement of Smt. Munni Devi in her cross- examination, wherein she has stated that the police arrived in the village in the day hours on the date of occurrence and thereafter she was taken to the police station.

27. It is true that, the police visited the place of occurrence in the noon on the next day of the occurrence, as recorded in the testimony of the Investigating Officer and other witnesses, on this basis it is stated that, the F.I.R. of this case is a suspicious document or the police visited the place of occurrence prior to the lodging of the F. I. R.

28. Learned counsel, for the appellants / accused lastly submitted that there are major discrepancies and contradictions in the testimony of the prosecution witnesses.

29. Learned counsel for the appellants / accused submitted that, the prosecutrix got misplaced on two vital counts and these are highly relevant and have an impact on the veracity and correctness of the offence, allegedly committed by the appellants / accused. PW 2 prosecutrix stated that, at first, Ramesh committed the act of rape, while Kalu was holding her hands, while taking a different stand, PW2, the prosecutrix stated that, at first, Kalu committed the offence, while Ramesh was holding her hands. PW2, the prosecutrix has deliberately stated that, Kalu committed the act first and then Ramesh did it in second turn, for the reason that, by the time PW 3 Ram Kumar, arrived, he has allegedly seen Ramesh Kumar committing the offence, while Kalu was holding her hands. Secondly, PW4 also stated that, Ramesh was committing the offence and Kalu was holding her hands. If the statements of PW2, PW3 and PW4 are read together, then the statements have far reaching implications, resultantly leading to the conclusion and proving that, a false story has been concocted and the appellants have falsely been implicated.

30. Learned counsel for the appellants / accused also submitted that, if Kalu has committed rape first, then no hue and cry was made by the prosecutrix / victim and the offence was allegedly over. It was only when Ramesh was committing the offence, the prosecutrix made hue and cry. However, none of the witnesses saw that Kalu was committing offence and only the false allegation of holding the hands of victim has been attributed to Kalu. If such an instance has taken place with a victim, she cannot forget as to, who committed the offence first. As per the version of F. I. R., Kalu is alleged to have committed the act first and it was the most earliest occasion that, the

victim could remember, as to who committed the act first and would have raised hue and cry, but she therefore, changed her stand during the course of trial for the reason, as stated above in the preceding paragraph.

31. Learned counsel for the appellants/accused further submitted that, when two ladies are accompanying each other, they normally continue talking and speak to each other, while moving in the field, as it was near the field, then if one escapes, the other will take the notice of, who disappeared immediately. Further, it cannot be a case that, one lady out of two, continues to walk for a long distance and could not see, as to what has happened to the other lady (victim), who was accompanying her continuously. Moreover, by the time both the appellants grabbed the victim PW2, she did not make any hue and cry till the offence was committed by Kalu, as the victim was having sufficient occasion and time immediately, when the appellants tried to drag her to the maize field and if that was so, then another witness PW4, i. e. Roshani Devi, who was accompanying the victim, did not make any hue and cry that, the appellants/accused have dragged the prosecutrix / victim to the maize field and they were likely to commit any wrong act, such as rape with the victim PW2. Moreover, PW4 did not follow both the appellants / accused, as the maize crop is not very thick and measuring in height, so that the hue and cry could not be heard or seen from nearby. It is interesting to note that, PW 3 Ram Kumar, when he reached near his field, then he heard the cry of the woman, whereas PW 4 was already there and she did not hear any hue and cry of the victim. It is also interesting to note that, if a person is committing rape, he cannot be seen committing the offence from outside the field, unless the person reaches near the spot of incident. Since PW3 and PW4 have allegedly seen the committing of the offence at the hands of Ramesh, it is nowhere have come on record that, both have seen together, while Ramesh was committing the offence or from how far and what distance, PW3 and PW4 Ram Kumar and Roshani Devi have seen the incident taking place inside the maize field. The story appears to be concocted, as there is no consistency of the witnesses particularly, PW3 and PW4, as to where both have seen the commission of offence together, or separately or at the same time inside the maize field or outside the field or from what distance, and have merely stated that, PW3 has seen the commission of offence and PW4 has also stated that, she has seen the offence being committed with the victim.

32. Learned counsel for the appellants/accused has also submitted that, the appellants have taken away the victim to the police station and thereafter the F.I.R. was lodged. If that was so, then victim PW2 has herself stated that, she was taken to the police station and thereafter the F.I.R. was lodged.

PW2, victim further stated that, she was taken by the police the very next day of the incident. In this regard, learned counsel for the appellants submitted that, if the victim was taken to the police station the next day, then the FIR was ante-dated and if she was not taken to the police station, then police arrived on the very same day of the incident, as per the statement of the victim herself. Therefore, both the statements given by the victim cannot be truthful and therefore, are unbelievable. Had the victim gone to the police station, then it was the next day and if it was on the same day of the incident, then victim has gone on the same day with the police.

33. The third argument advanced by learned counsel for the appellants / accused is that, another witness Tej Singh has also seen the incident, but he was not produced as a witness for the reason that, he was treated to be made and planted witness, as Tej Singh was not present at the time of the commission of the offence. Though presuming, but not admitting, that, Tej Singh was instrumental in catching hold the accused Ramesh, then at least Tej Singh would have been produced to prove that, he was the one, who helped in catching hold of accused Ramesh, but if Tej Singh was not produced to prove the fact of catching hold of Ramesh, then how and in what circumstances PW 3 Ram Kumar and PW 4 Roshani Devi caught hold of accused/ appellant Ramesh, as he was confined in the field, as one male and one female cannot be presumed to catch hold of a person and bringing him back to the village, as if during the scuffle, Ramesh would have tried to get rid of Ram Kumar and Roshani Devi and during the struggle of the three, accused Ramesh, witness Ram Kumar and witness Roshani Devi, all of them would have sustained some injuries, but in the instance, while Ramesh was caught hold by Ram Kumar and Roshani Devi, neither of them sustained even any minor injury, but Ramesh has sustained seven injuries during the scuffle, meaning thereby only one accused sustained seven injuries and none other, which demonstrates that Ramesh was assaulted by a group of several persons with some blunt weapon and that is why accused/appellant Ramesh sustained seven injuries.

34. It is not the case of the prosecution that, while Ramesh was committing the offence, the victim would have struggled and she would have tried her best to save her from his clutches and during the process, she would have caused injuries upon the person of accused/appellant Ramesh and thereby Ramesh could not have sustained injuries at the hands of the victim PW2.

35. These sequence of incident and the injuries sustained by the accused / appellant Ramesh falsify the story of the commission of the offence at the hands of Ramesh and Kalu both. It is a matter of record and as suggested by the medical examination report, which was conducted by P. W. 8 Dr. Aruna

Prasad that, the victim/prosecutrix did not sustain any external injury on the person or any internal injury on her private part, which shows that, there was no struggle, when the offence was being allegedly committed and even if that was so, it was a consented matter, otherwise some minor injuries were bound to be noticed or recorded during the commission of the offence of rape. Learned Counsel for the appellants further submitted that, so far as the sample of vaginal smear were taken for pathological test, nothing came out with the fact that, the offence was committed by the appellants and none other than them, whereas the fact remains that, the prosecutrix/victim was a married lady and mere presence of semen on her clothes, does not suggest that, it would have been as a result of the commission of the offence of rape, but would have been collected during the course, when the husband and wife would have been busy in the compromising position willingly, as such the sample of the accused were not taken for testing.

36. Learned counsel also submitted that, the accused Ramesh was assaulted by a group of persons for wreaking vengeance, as the victim and her husband were in the business of preparing and making country made liquor. Learned counsel for appellants/accused persons also submitted that, though, no witness is required to prove the offence of rape and the testimony of the prosecutrix is sufficient, but contrarily, if the witnesses were found to be present there, and they had witnessed the occurrence of the incident, then their consistency and homogeneity is required to be proved, as far as the testimony of the prosecutrix and the other witnesses is concerned and planting mere witness i. e., a witness who has seen the incident, is not sufficient.

37. Learned counsel for appellants/accused further submitted that, nothing has been stated that, if the police arrived the next day, as to how and where the said accused Ramesh was kept in the custody of whom, whether the witnesses or anybody else and the names of the persons, as to by whom the accused Ramesh was taken to the police station or handed over to the police, were not discussed at all and the fact, where accused Ramesh was taken to the police station or he was handed over to the police in the village or there has been a quarrel, explicitly shows that, Ramesh has been falsely implicated in the offence of rape, whereas it was a case of rivalry, wherein the victim and her husband used to prepare and sell the liquor, which was objected by Ramesh and Kalu and it was that incident in which, some quarrel took place between the two parties, in which Ramesh was assaulted and was inflicted injuries and the said instance of assault was given colour of rape and the accused persons/appellants were falsely implicated.

38. Learned counsel for the appellants / accused also submitted that, a false

story has been created to give it colour of the offence of rape, whereas it was a case of assault and beating the accused/appellant Ramesh, contrarily accused/appellants have been falsely implicated in the offence of rape. If at all the offence of rape was not to be proved, none other than the prosecutrix, then the catching hold of Ramesh at the behest of Ram Kumar, Roshani Devi and Tej Singh would have been proved categorically and explicitly, which was not done in the present case and hence, the same vitiates the prosecution story.

39. Learned counsel for the appellants placed reliance upon the following judgments of the Hon'ble Supreme court :-

"(I) Rajoo and Ors. vs. State of M.P. (03.12.2008 - SC) : MANU/SC/8353/2008, in para 9.

Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the Court. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also be protected against the possibility of false implication, particularly where a large number of accused are involved. It must, further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration.

(ii) Sadashiv Ramrao Hadbe vs. State of Maharashtra and Ors. (17.01.2006 - SC) : MANU/SC/0607/2006.

It is true that in a rape case the accused could be convicted on the sole testimony of the prosecutrix, if it is capable of inspiring of confidence in the mind of the court. If the version given by the prosecutrix is unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, the court shall not act on the solitary evidence of the prosecutrix.

The courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen."

In the case in hand, Dr. Aruna Prasad (PW-8) found zero injuries (external or internal) on the prosecutrix, even though two men allegedly overpowered, dragged, and pinned her down in a rough agricultural field.

"(iii) Tameezuddin vs. State of (NCT) of Delhi (26.08.2009 - SC) : MANU/SC/1621/2009, in para 7.

It is true that in a case of rape the evidence of the prosecutrix must be given predominant consideration, but to hold that this evidence has to be accepted even if the story is improbable and belies logic, would be doing violence to the very principles which govern the appreciation of evidence in a criminal matter. We are of the opinion that story is indeed improbable.

(iv) Santosh Prasad vs. The State of Bihar (14.02.2020 - SC) : MANU/SC/0192/2020

5.4.2. In the case of Rai Sandeep alias Deepu (supra), this Court had an occasion to consider who can be said to be a "**sterling witness**". In paragraph 22, it is observed and held as under:

22. In our considered opinion, the "sterling witness" should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the Accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the Accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a "sterling witness" whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

40. On the other hand, learned AGA and learned counsel for the informant have submitted that the prosecutrix was forced to sexual inter-course under pressure by the accused persons, is clear from the evidence on the record. When one of the accused was committing rape, she was caught by the other accused, who pinned her down on the ground and gagged her mouth. Thus, she succumbed to the pressure and surrendered herself to the accused

persons. In such circumstances, it was not necessary that she would sustain injuries on her person or on her private part.

41. The occurrence took place at about 10 A.M. in the jungle of Bahallolpur and thereafter the prosecutrix was brought home by the prosecution witnesses and then she was taken to the police station on foot. The report of the occurrence has been lodged on that very day at 06.10 P.M. The distance between the police station is about four and half kms. from the place of occurrence. In such cases, the prestige of the family members is on stake and therefore the family members of the prosecutrix would think hundred times to lodge a report and consequently it cannot be said that, the report was lodged with delay.

42. Having considered the rival contentions and the facts, evidence and entire material, a fair conclusion can be drawn that, the prosecution has failed to prove its case, beyond reasonable doubt, as such there are inconsistencies in the statements of witnesses, the manner in which, the beginning of catching hold of the victim, which she was moving along with another witness, the sequence of events, testimony of the witnesses produced and not producing another important witness, namely Tej Singh, as narrated in the preceding paragraphs, the present appeal is liable to be allowed.

43. In view of the foregoing discussion, the Court finds that the prosecution has failed to prove its case against the accused/appellants beyond all reasonable doubts.

44. Consequently, the appeal succeeds and is allowed. The appellants are acquitted of all the charges. The judgement and order dated 09.03.1988, passed by 2nd Addl. Sessions Judge, Ghaziabad, by which the appellants, namely Ramesh and Kalu were convicted under Section 376 IPC in S. T. No. 351 of 1985 is hereby set aside. The appeal against appellant no. 1 / co-accused Ramesh stands abated, as he died on 09.10.2025, as per the death certificate available on record. Since appellant No. 2 Kalu is already on bail, his personal bonds are cancelled and sureties are discharged.

45. A copy of this judgement shall be sent to the concerned Trial Court for further compliance and reference.

September 16, 2026
HR

(Harvir Singh,J.)