



2026:AHC:191092-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 346 of 2026

Smt. Shashikala Chauhan

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Anamika Singh, Soni Gupta, Sunil Kumar
Counsel for Respondent(s)	: G.A., Praveen Kumar Singh

Court No. - 43

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

Order on Criminal Misc. (Leave to Appeal) Application No. 346 of 2026

1. Heard Ms. Anamika Singh, learned counsel for the appellant; Sri Praveen Kumar Singh, learned counsel for the informant and learned A.G.A-I for the State and perused the record.
2. The above noted criminal appeal has been filed against the judgment and order dated 16.04.2026 passed by the court of learned Additional Session Judge/Fast Track Court no. 2, Varanasi in Session Trial case no. 255 of 2023 (State Vs. Ajay Yadav) arising out of Case crime No. 241 of 2022 under section 376, 506 I.P.C., Police Station Phoolpur, District- Varanasi, thereby acquitting the Opposite Party Nos. 2.
3. The brief facts of the case giving rise to the present appeal are that the appellant is a resident of village Bharouli Allah, Police Station- Karindipur, Ghazipur, Uttar Pradesh. Her maternal home is village Banjrawa, Police Station-Phoolpur, District-Varanasi. Opposite party no. 2, Ajay Yadav son of Bhagwan Yadav, Resident of complainant's Maternal Home, is a very arrogant person. A year before complainant's marriage, Ajay Yadav threatened to kill complainant younger brother, Deepesh (about 10 years old) and forcibly raped the appellant and made complainant's video film threatened her to make the video viral. He continued to rape complainant repeatedly. After complainant's marriage he threatened her to have sex with him else he would defame her by sending the video to all complainant's relatives on mobile phone. He repeatedly black mailed her and raped her.

4. Learned counsel for the appellant submits that after registration on the case the Investigating Officer examined the various witnesses and collected the evidence on the basis of which he found the accused-opposite party no. 2 to be guilty of the offences and accordingly he submitted the charge-sheet dated 23.07.2022 under Sections 376, 506 I.P.C., Police Station Phoolpur, District-Varanasi. On aforesaid charge-sheet the learned trial court took cognizance of offence and on 19.3.2014 framed the charges against accused-opposite party no. 2 which were denied by the accused opposite party no. 2 and he sought trial. The prosecution examined P.W. 1, Smt. Shashikala Chauhan; P.W. 2, Dr. Anuja Smriti; P.W. 3, Lady Constable, Chanda; P.W. 4, Investigation Officer Inspector, Jagdish Kushwaha.

5. Learned counsel for the appellant submits that a bare perusal of statements aforesaid established the offences against accused. That so far as the statements of P.W. 1 i.e. complainant was started on 16.07.2025 and it was completed on 04.11.2025. Thus it was taken period of about 4 months by the Trial Court.

6. The Hon'ble Supreme Court in case of **State of Himachal Pradesh Vs. Hukum Chand @ Monu (2026) 2019 (16) SCC 759** has categorically held that minor contradictions cannot be a ground to discard the testimony of the prosecutrix. In the present case, the learned trial court has committed grave illegality by rejecting the testimony of the prosecutrix on trivial discrepancies, which is contrary to settled law. It is settled proposition of law that the conviction can be based solely on the testimony of the prosecutrix, if it inspires confidence. In the case of **State of Punjab Vs. Gurmit Singh 1996 (2) SCC 384**, where the Hon'ble Supreme Court has held that the testimony of the prosecutrix requires no corroboration if it is reliable. In the present case, the prosecutrix has remained consistent throughout in F.I.R., in statement under section 161 Cr.P.C. and in deposition before the trial court. Yet, the trial court has discarded her testimony of appellant on trivial contradictions, which is legally unsustainable. The trial court also erred in giving undue importance to medical evidence. It is settled law that medical evidence is only corroborative in nature. In the case of **Phool Singh Vs. State of Madhya Pradesh 2022 (2) SCC, 74**, it has been held that conviction can be based solely on the testimony of the prosecutrix even in the absence of strong medical evidence.

7. The findings recorded by the learned trial court are perverse and against

the weight of evidence. The case of **Chandrappa Vs. State of Karnataka, 2007 (4) SCC 415** lays down that the appellate court can interfere where the findings of acquittal are perverse or unreasonable. In the present case, the testimony of prosecutrix is reliable the version is consistent and the reasoning of acquittal is weak. Thus, the judgment suffers from serious legal infirmity and deserves to be set aside.

8. Learned counsel for the appellant has submitted that trial court has misread the evidence on record and wrongly acquitted the respondents.

9. The appellate Court is usually reluctant to interfere with a judgment acquitting an accused on the principle that the presumption of innocence in favour of the accused is reinforced by such a judgment. The above principle has been consistently followed by the Constitutional Court while deciding appeals against acquittal by way of Article 136 of the Constitution or appeals filed under Section 378 and 386 (a) Cr.P.C. in **State of M.P. Vs. Sharad Goswami, (2021) 17 SCC 783; State of Rajasthan Vs. Shera Ram, (2012) 1 SCC 602, Shivaji Sahabrao Bobade Vs. State of Maharastra, (1973) 2 SCC 793.**

10. The Supreme Court in the case of **Ramesh Babulal Doshi Vs. State of Gujarat, (1996) 9 SCC 225** has observed that the High Court must examine the reasons given by the trial Court for recording their acquittal before disturbing the same by re-appraising the evidence recorded by the trial court. For clarity, para 7 is extracted herein below:

"Before proceeding further it will be pertinent to mention that the entire approach of the High Court in dealing with the appeal was patently wrong for it did not at all address itself to the question as to whether the reasons which weighed with the trial Court for recording the order of acquittal were proper or not. Instead thereof the High Court made an independent reappraisal of the entire evidence to arrive at the above quoted conclusions. This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellant Court is first required to seek an answer to the question whether the findings of the trial Court

are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellant Court answers the above question in the negative the order of acquittal is not to be disturbed. Conversely, if the appellant Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then - and then only - reappraise the evidence to arrive at its own conclusions. In keeping with the above principles we have therefore to first ascertain whether the findings of the trial Court are sustainable or not."

11. The Supreme Court in the case of ***Sadhu Saran Singh Vs. State of U.P., (2016) 4 SCC 357*** has observed that an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity.

12. The Supreme Court in the case ***Basheera Begam Vs. Mohd. Ibrahim, (2020) 11 SCC 174*** has held that the burden of proving an accused guilty beyond all reasonable doubt lies on the prosecution. If, upon analysis of evidence, two views are possible, one which points to the guilt of the accused and the other which is inconsistent with the guilt of the accused, the latter must be preferred. Reversal of a judgment and other of conviction and acquittal of the accused should not ordinarily be interfered with unless such reversal/acquittal is vitiated by perversity. In other words, the court might reverse an order of acquittal if the court finds that no person properly instructed in law could have, upon analysis of the evidence on record, found the accused to be "not guilty". When circumstantial evidence points to the guilt of the accused, it is necessary to prove a motive for the crime. However, motive need not be proved where there is direct evidence. In this case, there is no direct evidence of the crime.

13. The Supreme Court in the case of ***Kali Ram Vs. State of H.P., (1973) 2 SCC 808*** has observed as under:

"25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence."

14. The Supreme Court again examined in ***State of Odisha v. Banabihari Mohapatra & Ors, (2021) 15 SCC 268*** the effect of the probability of two views in cases of appeal against acquittal and held that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused, and the other to his innocence, the view which is favourable to the accused should be adopted.

15. The Supreme Court in ***Sujit Biswas v. State of Assam, (2013) 12 SCC 406*** has reiterated the position that suspicion, however strong, cannot replace proof. An accused is presumed to be innocent unless proven guilty beyond a reasonable doubt.

16. In the background of the law discussed herein above, we will examine the trial court's findings and evidence adduced during the trial by the witnesses to test the legality and validity of the impugned order.

17. After hearing learned counsel for the appellant and going through the material on record, we find that the appellant was major at the time of the commission of alleged offence. She has admitted having physical relationship with opposite party no. 2 since a year before her marriage and only after her marriage, she has made a complaint against him to save her honour. She never disclosed to anyone that she was being compelled to enter into a physical relationship by opposite party no. 2 under the threat of murder of her brother. No time, place, or details of the first incident and subsequent incidents were pleaded or proved before the trial court. The trial court has considered the material on record and found serious contradictions in the statement of the victim/appellant and has disbelieved her version. We do not find any infirmity in the findings recorded by the trial court.

18. Counsel for the appellant has relied upon by the judgment in the case of ***Vijayakumar vs. State of Tamilnad, Criminal Appeal No. 2859 of 2025*** which has no application to the present case since it was a case of establishment of physical relationship by the accused on false promise of marriage and threatening her of uploading her incriminating videos on social media. In this case no such video was recovered nor any false promise of marriage was extended to the appellant by the opposite party no. 2.

19. Leave to appeal application is rejected.

Order on Criminal Appeal

20. The criminal appeal is accordingly dismissed.

21. Office is directed to return the trial court record and not by this judgment to the trial court.

September 11, 2026
Rohit

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)