

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-848-SB of 2010

Date of decision: 09.09.2015

Vishal

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Parminder Pal Sharma, Advocate
for Mr. Puneet Sharma, Advocate
for the appellant.
Mr. Gazi Mohd., DAG, Punjab.

R.P. NAGRATH, J.

The present case reflects an insensitive approach of local police, in not promptly reacting to an incident of rape of two girls, in their early teens, in disregard to the public outcry requiring quick action against the rapists. Such incidents leave a deep scar on the mind of girls in our society. It is high time that investigating agencies are properly oriented to be sensitive and react promptly to such situations and step into help and aid the victim and their families. The delay in police swinging into action swiftly would always leave scope of tinkering with the exact version than the one projected in the Court.

2. The first charge against the appellant is under Section 376 of Indian Penal Code (IPC), for committing rape on the prosecutrix between 26/27.01.2009. His co-accused Sanjeev Kumar @ Sanju said to have committed rape on the other girl, a classmate

and living in the locality of prosecutrix, was a juvenile and proceeded against separately before the Juvenile Justice Board. The other two charges are for illegally confining the minor girls and threatening them with dire consequences for causing injury to the person and reputation of the girls, attracting Sections 342 and 506 IPC.

3. The FIR was registered on the statement of father of the other girl, who is prosecutrix in the case against juvenile. That other girl (hereinafter referred to as 'G-2') was studying in 7th standard in the school at Nangal Township. On 26.01.2009, G-2 accompanied by other girls including the prosecutrix referred as G-1, went to the boy's school, for attending Republic Day Function. That function was over by 12 O'clock in the noon. It was reported that after attending Republic Day function G-1 and G-2 went near *Kangra* Club, at *Pahari* market, Nangal. They were then returning home that the appellant and the juvenile, started following the girls. Both these boys took the girls to a vacant house and committed rape on them. Thereafter, the accused persons bolted the room from outside and in the next morning left the girls near their houses and fled away.

4. The occurrence was narrated by the girls to their parents. In the statement Ex. PW-5/A dated 29.01.2009, the complainant further stated that he had been consulting with the family members but the condition of G-2 was deteriorating and she was admitted in BBMB Hospital. Written information was received by the police from the hospital. The police reached the hospital

where PW-5 the father of G-2 recorded his statement on the basis of which FIR Ex. PW-12/B was registered.

5. The appellant and his co-accused Sanjeev @ Sanju (juvenile) were arrested on the same day and also medically examined. It was found by the doctor that there was nothing to suggest that the appellant and his co-accused (juvenile) were incapable of performing sexual intercourse. PW-12/C is rough site plan of the place of occurrence, where the girls were raped. This was prepared by PW-12 ASI Jagan Nath the investigating officer, on 29.01.2009.

6. Sanjeev Kumar @ Sanju (juvenile) made disclosure statement Ex. PW-12/F, pursuant whereof he got recovered his *salwar* and underwear, stained with blood, from the disclosed place. These were prepared into separate parcels and sealed with seal bearing impression 'JN' for which *panchnama* is Ex. PW-12/E.

7. The vaginal swabs, pubic hair, *salwar*, *kameez*, *chunni*, undershirt and underwear in respect of both the victims were sent to the Chemical Examiner and vide reports Ex. PW-12/G and Ex. PW-12/H, spermatozoa were detected in the contents of Ex. I, II and VII i.e. vaginal swabs, pubic hair and underwear in respect of one of the girl and Ex. I, III and IV i.e. vaginal swabs, undershirt and underwear of the other victim. As per report of FSL, *salwar* of Sanju (juvenile) was found stained with human blood and there were stains of human semen on his underwear.

8. The prosecution examined 16 witnesses in support of its case. These include the examination of both the victims and their parents. (Note: the numbering of witnesses is from PW-1 to PW-14.

There is duplicate numbering of four witnesses. PW-9 is the numbering given to examination of mother of G-2, and to Sham Murari photographer, who will be referred hereinafter as PW-9/A. Similarly G-2 is described by the trial Court as PW-10 but the same numbering was given to HC Sardara Singh, which be read as PW-10/A hereinafter).

9. During his examination under Section 313 Cr.P.C., appellant denied all the incriminating circumstances appearing in the prosecution evidence against him. He pleaded that in fact both the victims were apprehended with 3/4 unidentified boys in a house. Those boys and the girls were spoiling the atmosphere of the locality. They were apprehended by appellant, appellant's parents who gave beating to them. Due to the fear and nursing grudge for beating, the victims have entangled the appellant in this case. The appellant did not lead any evidence in defence.

10. Learned trial Court convicted the appellant of the charges framed against him. He was sentenced to undergo rigorous imprisonment for 7 years and to pay fine of ₹ 2000/-, in default to further undergo rigorous imprisonment for 3 months under Section 376 IPC. He was also sentenced to undergo rigorous imprisonment for six months each under Sections 342 and 506 IPC. All the sentences were to run concurrently.

11. As per custody certificate placed on record by learned State counsel, the appellant has since been released on 15.01.2015 by the jail authorities on completion of sentence awarded to him.

12. I have heard learned counsel for the appellant, the State counsel and also gone through the record meticulously with their able assistance.

13. Learned appellant's counsel challenged the verdict of trial Court *inter alia* on the grounds that:-

- (i) There is huge delay in lodging the FIR;
- (ii) appellant has been falsely implicated due to thrashing of the girls and unidentified boys by parents of the appellant;
- (iii) medical evidence does not support the prosecution story; and
- (iv) there are serious contradictions in the prosecution version.

On the other hand, learned State counsel has supported the judgment of the trial Court recording conviction of the appellant.

14. In order to appreciate the contradictions highlighted in the testimony of prosecutrix and G-2 in comparison with the version stated before the Magistrate under Section 164 Cr.P.C., it would be necessary to narrate the facts recorded in the statement Ex. D-1, of the prosecutrix. This statement was recorded by the learned Magistrate on 11.02.2009.

15. The prosecutrix stated that they left the house, on 26.01.2009 to attend Republic Day function at boy's school at 09.00 a.m. The function was over by about 12 O'clock. On way to their house, Sanjeev Kumar @ Sanju (juvenile) met them behind *Shiv Mandir*. He stated that he would accompany the girls upto the house. Sanjeev Kumar @ Sanju is a neighbourer of the prosecutrix.

After traveling for some distance, Sanjeev @ Sanju stopped the girls. 3 or 4 more boys came there and they surrounded the victims and took them forcibly in a *kothi* (house) near *Shiv Mandir*. The room was bolted by them and then went away. During the night, Sanjeev Kumar @ Sanju aforesaid and the appellant Vishal served them burgers. On eating burgers, the girls started feeling drowsiness. Thereafter, both these boys did wrong act with the girls. Before that the girls had cried and raised alarm but there was no one to help them. They woke up at 10.00 a.m. on the next morning. At 11.00 a.m., the owner of Saini Tent House came there alongwith father of Sanjeev Kumar @ Sanju and his brother. The girls were threatened with dire consequences in case the incident is disclosed to anyone. They had also given beating to both the girls and then took them towards their houses. They left them near the house of girls. Almost similar is the version put-forth by G-2 in her statement Ex. D-2 recorded by the Magistrate. In the statement of G-2, it was also stated that when she regained consciousness in the morning she saw her clothes soiled and she was feeling pain in her body. When they got up in the morning, the room was found bolted from outside. Then the incident about the visit of father and brother of Sanjeev Kumar @ Sanju and one Saini has been narrated that these persons gave beating to the girls.

16. PW-14 Sh. Kapil Aggarwal, Judicial Magistrate recorded statements of the victims under Section 164 Cr.P.C. The Magistrate as PW-14 stated that the girls were initially produced before him on 03.02.2009. Since the girls were accompanied by police and their parents, proceedings were adjourned to 11.02.2009 for recording

their statements. These girls were produced before him on 11.02.2009, when learned Magistrate recorded their statements. This indicates that the Magistrate wanted the girls to be beyond any outside influence before their statements were to be recorded.

17. First question to be determined is about ages of the girls at the time of incident. The prosecution projected age of G-2 as 13 years on the date of occurrence and that of the prosecutrix (G-1) as 14 years. There was in fact no challenge to the evidence with regard to ages of the girls. PW-3, the prosecutrix, stated her age as 14 years and similar is the statement of PW-4 her mother.

18. PW-7 Amarjit Kaur, Lecturer, Government Senior Secondary School, Nangal where the prosecutrix (G-1) studied brought admission register of the school. As per record, the prosecutrix was admitted in the school on 07.04.2008 against entry at serial no. 9728. The date of birth of the girl as per record is 06.01.1995. Copy of the record is Ex. PW-7/A. In cross-examination PW-7 stated that this girl studied in this school upto 6th standard. From the above evidence, it is proved beyond any challenge that the prosecutrix was about 14 years and 3 weeks old, at the time of occurrence.

19. Most important evidence in support of the charge comes from the testimony of prosecutrix herself examined as PW-3, corroborated by the other girl (G-2) (PW-10).

20. Narrating the sequence of events, PW-3 stated that while they were coming back from *Pahari* market near Kangra Club, the two boys, namely; appellant and Sanjeev Kumar @ Sanju met them. Sanjeev Kumar @ Sanju is their neighbourer. Sanjeev Kumar @

Sanju told them for leaving them upto their houses and started following them. In the meantime, 3/4 unidentified boys came and surrounded the girls. The appellant Vishal and Sanjeev Kumar @ Sanju forcibly took the girls inside the vacant house. The girls had resisted but the appellant committed sexual intercourse with the prosecutrix.

21. PW-10 is G-2 who also testified against the appellant and Sanjeev Kumar @ Sanju (juvenile) to have committed sexual intercourse in the manner projected in the prosecution story. PW-10 stated that Sanjeev Kumar @ Sanju also threatened them not to disclose the incident to anyone and detained them in the said house. Sanjeev Kumar @ Sanju committed rape on PW-10. PW-10 even stated that father of Sanjeev Kumar @ Sanju, his brother and one Saini who came there next morning, threatened them with dire consequences in case the incident is disclosed to anyone or the police.

22. Despite an extensive and elaborate cross-examination of both the girls, there is nothing for suspecting their testimony for bringing doubt in the story for suggesting false implication of the appellant.

23. It would be relevant to refer to certain responses coming from both the girls in cross-examination, which make the entire story truthful and worthy of acceptance. PW-3 stated that *Shiv Mandir* is at a distance of 20 ft. from the place of occurrence and according to PW-10 the distance may be about 5/7 ft. PW-3 further stated that there is a *pujari* in the temple but they had not gone to the temple that day.

24. The defence has itself put certain photographs of the building where the occurrence is said to have taken place. These photographs are Mark B to Mark F. It is quite obvious that this is an abandoned house and would support the version of girls that despite raising alarm there was no help coming to them from surrounding area. These photographs having been put by the defence in cross-examination should have been rather exhibited on record. Anyhow these photographs stand proved being admitted.

25. PW-3 in cross-examination stated that *Shiv Mandir* can be seen at point 'A' in the photograph mark 'B'. She also admitted the suggestion as correct that Mark C to Mark F are the photographs of the place of occurrence.

26. The prosecution also examined PW-9/A Sham Murari who went to the spot and took the photographs of the said *kothi* and those photographs are from Ex. PW-9/A to PW-9/C.

27. Now the sequence of events as given in cross-examination of PW-3, the prosecutrix, can also be briefly described. PW-3 stated that they raised alarm from 02.00 p.m. to 03.00 p.m. When they ate burgers, it was dark. She did not lose consciousness after eating burger. The factum of the girls having been actually raped was not disputed, but it was suggested that 3 or 4 unidentified boys who had dragged the victims inside the abandoned house, sexually ravished the girls. PW-3 was confronted with the statement made before the Magistrate about having fallen unconscious by eating burger. I am of the considered view that the said story of 3-4 unidentified boys surrounding the girls alongwith the two accused persons was propounded by the investigating

agency either to blackmail some more boys in the occurrence or to help out the accused persons during the trial. But so far as identity of appellant, for whom the attempt was made to dispute it initially, cannot be doubted. PW-10 is also consistent about identity of appellant. She stated that they ate the burgers offered to them by the accused. The burgers were wrapped in polythene bag and packed in silver foil paper. After eating burgers, they had thrown the silver foil and polythene bag at the place of occurrence. The above act of the accused was an inducement of the minor girls who come from poor families and belong to the low strata of society. It was suggested to PW-3 that parents of Sanjeev Kumar @ Sanju and Vishal (appellant) gave beating to the victims as they were found wandering with 3-4 boys and on account of beating by the family of appellant and his co-accused that they have been implicated falsely in this case. In this way there was no question of suspecting the identity of appellant.

28. PW-10 in cross-examination stated that parents of appellant beat them both with slaps for about 30 to 45 minutes and thereafter left them in front of their houses. They were, however, not given beating in front of their houses while leaving them.

29. PW-3 stated in cross-examination that they woke up next morning at 06.00 a.m. Saini, father of Sanjeev Kumar @ Sanju and his brother had come by themselves at that place and they beat them. She denied the suggestion that parents of Sanjeev Kumar @ Sanju gave them beating because the girls were found in the company of 3-4 unidentified persons. She further stated that parents of Sanjeev @ Sanju did not threaten them of being handed

over to the police, but threatened the girls not to disclose the incident to any body or the police. She reached home next morning at 11.00 a.m. Parents of Sanjeev Kumar @ Sanju alighted her from the motor-bike near their house. From there it took about 10 minutes in reaching her house.

30. Learned counsel for the appellant referred to certain other contradictions or inconsistencies appearing in the cross-examination of PW-3 and PW-10 for trying to take advantage, but I am of the view that such contradiction would always arise when the child witnesses are subjected to such a lengthy cross-examination.

31. The learned counsel for appellant contended that PW-10 admitted the suggestion as correct that her mother and mother of G-2, asked from parents of appellant and the juvenile as to why they beat the girls. She stated that her mother and mother of PW-3 quarreled with parents of accused for beating them. She further stated as under:-

“Then the parents of the accused told our respective mothers that we were apprehended with three four unidentified persons in a house and we were spoiling the atmosphere of the Mohalla. My mother and mother of Nisha got enraged on hearing this and then my mother and mother of Nisha told the parents of accused and Sanju that it is none of their concern. It is correct that myself and Nisha named Sanju and Vishal on account of fear and as a grouse of beating by parents of both, in fact they are assailants. It is correct that when we got fainted and went to sleep on account of eating burger then we

don't know what happen in between till we regained conscious in the morning."

32. I am of the firm view that when the child witnesses are subjected to such a lengthy cross-examination, the responses to the questions, which are in the suggestive form, are very likely to be of the above nature. There is absolutely nothing on record to doubt the testimony of both PW-3 and PW-10 about involvement of the appellant in the incident of committing rape on the girls as projected by the prosecution.

33. From the careful scrutiny of testimony of PW-3 and PW-10, it cannot at all be inferred that the family of prosecutrix would make use of two girls who were in their early teens, to falsely implicate two accused persons one of whom resides in the same locality and a neighbourer of the family of prosecutrix. The present incident would leave an un-ending trauma on the mind of girls, and it would not be possible for them to forget the sordid incident throughout their lives.

34. The serious adverse impact on the psychology of the prosecutrix is very much apparent from record as she stopped going to the school after the occurrence. It would have been extremely difficult for the girls from a low strata of society, to face the world because of the incident which has taken with the small children. PW-4 mother of the prosecutrix stated in cross-examination that her daughter had not gone to school on the day following her return home and is not going to the school even till the date PW-4 was examined in the Court on 29.08.2009 i.e. for 7 months after the occurrence. From the clinching evidence available on record, it is

not possible to say that the girls have falsely implicated these two boys, including the appellant, for the offence of rape.

35. With regard to value and prominence to be attached to the statements of child witnesses Hon'ble Supreme Court held in **Ratansinh Dalsukhbhai Nayak vs. State of Gujarat, (2004) 1 SCC 64**, that the decision on the question whether the child witness has sufficient intelligence primarily rests with the trial Judge who notices his manners, his apparent possession or lack of intelligence, and said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the trial court may, however, be disturbed by the higher Court if from what is preserved in the records, it is clear that his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make beliefs. Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shake and moulded, but it is also an accepted norm that, if after careful scrutiny of their evidence the Court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness. In the instant case the credibility of the victims has really been tested by such a lengthy and elaborate cross-examination.

36. In **State of Punjab vs. Gurmit Singh, 1996 (2) SCC 384**, Hon'ble Supreme Court held as under:-

"The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self respecting

woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge leveled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an

accused. The evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind a probable".

37. In this case there is no scope of finding suspicion in the testimony of both the girls who categorically named the appellant and other accused Sanjeev Kumar @ Sanju (juvenile) to have committed rape on them despite such an extensive cross-examination.

38. The testimony of both the girls is further supported from their parents, examined by the prosecution. PW-4 is mother of the prosecutrix. She also stated that her daughter had gone for attending Republic Day function in the morning and she did not return till 02.00 p.m. When till the evening the girl did not come home they kept on searching for the girls and also went to the police station and informed about her missing daughter. In the next morning at 11.00 a.m. her daughter was dropped by one Saini and elder brother of Sanjeev Kumar @ Sanju alongwith the appellant to their house and whole incident was narrated by the girl to them.

39. PW-5 is the father of G-2 who recorded his statement Ex. PW-5/A before the police on 29.01.2009. There is then the statement of PW-9 mother of G-2, bringing the sequence of events.

40. Both the girls were medically examined on 29.01.2009 by PW-2 Dr. Jatinder Kaur. There was no mark of injury or signs of violence or struggle. That would not help the appellant because even if the girls, who were in their early teens, had gone at the said place with their own will that would still constitute an offence. Consent of the girl below 16 years of age is no consent in the eyes of law. 6th Explanation to Section 375 IPC, says as under:-

375. Rape – A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual

intercourse with a woman under circumstances falling under any of the six following descriptions:-

*first to
fifthly*

xx

xx

xx

xx

Sixthly - With or without her consent, when she is under sixteen years of age.

41. The doctor stated that vagina admitted right index finger quite easily. Hymen was distensible. Vaginal swabs were taken for examination. Opinion of the doctor is that possibility of sexual intercourse cannot be ruled out. Similar is the opinion with regard to examination of G-2.

42. It was, vehemently, contended by learned counsel for the appellant that the name of culprits are not mentioned in the history of patient in the MLR but it was only mentioned that she was forcibly taken to an abandoned house by the boys who gave some eatable and the girl became unconscious. As already observed this is only because of the apathy of police shown to this case relating to the girls belonging to a lower strata of society. Father of PW-3 is a rickshaw puller and that of PW-10 a labourer.

43. Learned counsel for the appellant further contended that the huge and unexplained delay in lodging the FIR would make the story tainted and projected after due deliberation and consultation. As I have already observed that the delay has been caused deliberately by the police, though family of the girls had promptly approached the police for narrating the incident which was not recorded despite the fact that the girls had come home at 11.00 a.m. on the next day.

44. PW-12 ASI Jagan Nath, the investigating officer, stated in cross-examination that none of the family members of the victims approached the police on 27.01.2009 or 28.01.2009. It is quite strange that the statement of PW-5 was recorded for the first time on 29.01.2009 at 03.10 p.m. as per endorsement made thereon, which is after the girls were medically examined by the doctor. PW-3 in cross-examination stated that she had gone to the police station on the next day and met the police but cannot tell the time of meeting the police.

45. PW-4 mother of the prosecutrix stated that when the prosecutrix did not come home, they went to Chander Bajaj who gave telephonic call to the police. Thereafter, they went to the police station where the police met them. On the next day, when her daughter came and narrated the incident they again went to the police station and informed about the whole occurrence. Attempt was made to confront the witness with her previous statement where the factum of going to the police station on 26/27.01.2009 was not mentioned. This contradiction in the circumstances of the case would be quite insignificant. In further cross-examination, PW-4 stated that her husband came back home at about 10.00 p.m. on 26.01.2009. Then they went to the police station. The police officials did not record her statement nor obtained complaint from them and told to go back on the pretext that the police would be coming on the next day. Anyhow, the police did not come on the next morning. The police met them at 11.00 a.m. on 27.01.2009. They remained with the police for about 3 hours.

46. Even PW-5 the father of G-2 stated that on the next day i.e. 27.01.2009 he informed the matter to the police at 08.30 a.m. regarding the missing girls but the police did not obtain his signatures on any paper. The police remained at his house for about half an hour. When the police came, there were 40-50 persons present.

47. Even PW-9 the mother of G-2 stated that since her daughter did not return on time, she went to the shop where her husband was working at about 03.00 or 04.00 p.m. on 26.01.2009. Then her husband with an acquaintance Raju went to the police station and police was informed about the missing girl. Her daughter had returned home at 11.00 a.m. on the next day. The police came at 11.30 a.m. or 12 O'clock noon on 27.01.2009. Thereafter, the police took them all to the police station where they remained upto 09.00 or 10.00 p.m.

48. PW-10 also stated that on the next day on coming home she disclosed whole occurrence to her mother. Then they went to the police station and police met them in the way where the incident was narrated to the police.

49. The above discussion indicates that there is consistent evidence of the police having been informed at the earliest. The statement of PW-12 ASI Jagan Nath that they had no such information of the occurrence till 29.01.2009 cannot be justified and that is how at the beginning I have expressed my concern about the insensitive attitude of the police, for providing some latitude to the accused persons for a possible patch up.

50. Anyhow, the delay in such cases of heinous crime of rape, the delay of 3 days cannot demolish the prosecution story, otherwise proved to the hilt. Hon'ble Supreme Court held in **Gurmit Singh's case (supra)** that the Courts cannot overlook the fact that in sexual offences delay in the lodging of FIR can be due to variety of reasons, particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family. It is only after giving it a cool thought that a complaint of sexual offences is generally lodged. Hon'ble Supreme Court further observed in the said case that even the manner in which the prosecutrix was made to reveal the whole facts to her mother especially in view of the dominating authority of the appellant being her step father; the age difference between the appellant and prosecutrix's mother who was about 7/8 years elder to appellant and the manner in which mother of the prosecutrix faced difficulties to get medical examination of the girl by approaching the Court of Judicial Magistrate, are the valid reasons in explaining the delay of reporting the matter to police counted from the date when the appellant for the first time committed rape on the prosecutrix. So far as the report of Chemical Examiner is concerned wherein no spermatozoa were detected, it is quite obvious that after a lapse of so many days of the last act of sexual intercourse the girl was medically examined. In the said case, PW-2 Dr. Jaswinder Kaur who medico-legally examined the prosecutrix had stated that the alleged assault took place about 15 days before the prosecutrix was medically examined.

51. In view of the aforesaid discussion I find that there is absolutely nothing to find fault with the conclusion reached by the trial Court and the appeal merits dismissal. The appellant having already undergone the sentence awarded to him and otherwise also the minimum sentence provided for the offence having been imposed, there is no scope of interference on the quantum of sentence as well.

Dismissed.

September 09, 2015

jk

**(R.P. NAGRATH)
JUDGE**