

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON : 23rd MARCH, 2015

DECIDED ON : 1st MAY, 2015

+ CRL.A. 499/2008

BALBIR CHAND

..... Appellant

Through : Mr.Vivek Sood, Advocate with
Mr.Rakesh Sharma, Advocate.

VERSUS

STATE (NCT OF DELHI)

..... Respondent

Through : Ms.Kusum Dhalla, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. The appellant - Balbir Chand impugns a judgment dated 01.05.2008 of learned Addl. Sessions Judge in Sessions Case No. 41/07 arising out of FIR No. 122/05 PS Vivek Vihar by which he was held guilty for committing offences under Sections 376/506 IPC. By an order dated 05.05.2008, he was awarded RI for ten years with fine ₹ 10,000/-

under Section 376 IPC and RI for one year under Section 506 IPC. Both the sentences were to operate concurrently.

2. Briefly stated, the prosecution case as set up in the charge-sheet was that on 13.02.2005 and 03.04.2005, the appellant committed rape upon her daughter 'X' (assumed name) aged around 16 years against her wishes. 'X' filed a complaint case in the Court and under Section 156 (3) Cr.P.C., the instant case was registered. 'X' was medically examined; she recorded her statement under Section 164 Cr.P.C. The accused was arrested and medically examined. Statements of the witnesses conversant with the facts were recorded. After completion of investigation, a charge-sheet was filed against the appellant in the Court for committing the aforesaid offences to which he pleaded not guilty and claimed trial. The prosecution examined nineteen witnesses to bring home its case and to establish the appellant's guilt. In 313 Cr.P.C. statement, the accused denied his involvement in the crime and claimed himself to be innocent. He examined S.P.Singh as DW-1 and S.K.Nigam as DW-2 in defence. The trial resulted in his conviction as mentioned previously. Being aggrieved and dissatisfied, the appellant has preferred the appeal.

3. I have heard the learned counsel for the parties and have examined the file. Learned counsel for the appellant urged that the Trial

Court did not appreciate the evidence in its true and proper perspective and ignored vital discrepancies, contradictions and omissions emerging in the statements of prosecution witnesses. 'X' is not a reliable witness and her statement has not been corroborated from any other source. She lodged the instant case to falsely implicate the appellant who did not permit her to marry one Deepak with whom she had affairs and was found in physical relation. To get rid of him, 'X' in connivance with her step-brother PW-2 (Deepak), PW-3 (Khajan Singh) and Brijesh levelled false allegations against him. Learned counsel urged that 'X' was habitual to sex and avoided pregnancy test deliberately; she did not bear good character. On the pretext to attend school, she used to bunk her classes. She remained absent for about fifteen days at a stretch and her name was struck off the rolls in 2004; she also failed in 9th standard. Learned counsel pointed out that there was inordinate delay in lodging the report with the police. At no stage, 'X' raised alarm / hue and cry when physical relations were allegedly established against her wishes forcibly. No marks of injuries were found on her body. 'X' did not inform her maternal uncle / grand-father about the occurrence. She even did not report the incident to the police and directly filed a complaint case under Section 156 (3) Cr.P.C. The appellant has already served out the sentence awarded to him.

Learned Addl. Public Prosecutor urged that there are no valid reasons to disbelieve the prosecutrix who gathered courage to expose her father for her nefarious design; she had no extraneous consideration to implicate her own father.

4. Admitted position is that after the death of his wife Rajrani on 27.04.1999, the appellant used to live at C-153, pocket – A, Telecom Staff Quarters, Vivek Vihar, Delhi along with ‘X’ and his two sons Himanshu and Pankaj. ‘X’ was studying in 9th standard at Central School, Vigyan Vihar and her date of birth is 07.07.1989. PW-2 (Deepak) X’s step-brother who after the death of his mother Rajrani lived with his maternal grand-father. Rajrani had married the appellant and PW-2 (Deepak) never lived with them at the matrimonial home of her mother. It is also not denied that PW-3 (Khajan Singh) was acquainted with the appellant and his family members. They all used to go to attend ‘satsang’ at Radha-Swami sect.

5. The instant FIR was lodged on the directions of learned ACMM, Karkardooma Courts, vide order dated 11.04.2005 under Section 156(3) Cr.P.C. In her complaint, ‘X’ gave detailed account as to how and under what circumstances, she was sexually assaulted by her father on 13.02.2005 and 03.04.2005 against her wishes forcibly and criminally

intimidated. She reiterated her version in her 164 Cr.P.C. statement (Ex.PW-1/C) recorded on 16.04.2005. It is significant to note that 'X' was sent to Nari Niketan and her statement under Section 164 Cr.P.C. was recorded when she was in Nari Niketan. Apparently, there was no possibility of any influence to have been exerted upon her to make 164 Cr.P.C. statement. In her Court statement, she proved the version given in complaint case and 164 Cr.P.C. without major variations. Elaborating the incident dated 13.02.2005, she deposed that at around 02.00 or 02.30 P.M., the appellant came in her bedroom where she was sleeping along with her brothers and asked her to accompany him to his room. She accompanied the appellant and enquired as to why she was brought there. The appellant bolted the door from inside; removed her clothes and established physical relation with her. Regarding the incident of 03.04.2005, she deposed that, that day, the appellant had gone to attend 'satsang' at 05.00 a.m. and came back at around 11.00 or 11.30 a.m. She along with her brothers and PW-3 (Khajan Singh) had also gone to 'satsang' and returned before noon. PW-3 (Khajan Singh) took food in the house and left at around 12.00 or 12.30 noon. When she was sleeping in her bedroom, at around 03.00 P.M. the accused came and took her to his room. Again, he committed rape upon her after removing her clothes.

When she tried to raise alarm, the appellant gave beatings to her and gagged her mouth. She came out of the room at about 03.45 P.M. on the pretext to go to toilet. The appellant threatened her not to disclose the incident or else he would kill her and her brothers. Apparently, allegations levelled by 'X' against her own father are very serious and cannot be ignored lightly. In normal circumstances, a girl aged around sixteen years dependent for all her needs on her father is not expected to level such serious allegations against him sacrificing her chastity and economic support. The appellant has not given any cogent reasons forcing 'X' to take the extreme step in exposing him. Before 13.02.2005, 'X' and her brothers lived happily with the appellant in the house barring a few incidents of beatings by the appellant on certain petty issues. For that, 'X' or her brothers never lodged any such serious complaint. Even when the incident of rape occurred for the first time on 13.02.2005, 'X' did not report it to anybody. When again on 03.04.2005 the appellant repeated the act, 'X' was left with no alternative but to expose the appellant to avoid further sexual abuse. She opted to take into confidence her father's 'satsangi' friend PW-3 (Khajan Singh) who was earlier in the house during noon time and had left after taking lunch. PW-3 (Khajan Singh) did not believe 'X' initially and as a matter of precaution asked her to give

in writing about the incident. 'X' wrote letter (Ex.PW-1/A) to instil faith in her. After getting the letter (Ex.PW-1/A), PW-3 (Khajan Singh) took PW-2 (Deepak), her step-brother and Brijesh, the other religious 'satsangi' friend into confidence. The matter was discussed with Mr.Ram Kumar, Advocate and on 11.04.2005, a complaint case was lodged in the Court.

6. 'X' has been cross-examined in detail on various dates. All sorts of question relevant or irrelevant have been put to her in the cross-examination. She, however, boldly stood the test of cross-examination and despite searching cross-examination, no material infirmities could be extracted to dent her version. Feeble attempt was made to project 'X' to be a girl of bad character and her name was associated with one Deepak (Indu's brother). 'X' admitted that Indu and her brother Deepak lived at B-54, Telecom Flats, Zhilmil Colony at a distance of five minute walk from her flat. She, however, vehemently denied if Deepak used to meet her in the absence of her father in her house, or that she had physical relations with him or that she wanted to marry him to the disliking of her father. She categorically denied that to remove the appellant from the way, she conspired with PW-3 (Khajan Singh), Brijesh and Ram Kumar, Advocate to implicate the appellant. The appellant did not produce any

evidence to infer if 'X' had objectionable relations any time with Deepak (Indu's brother) or wanted to marry him. It is unbelievable that after seeing 'X' and Deepak in physical relations at around 12.00 or 12.30 noon inside the house, as suggested in the cross-examination, the appellant would remain mum and not initiate any action against Deepak or 'X'. Nothing has come on record if after the appellant's arrest, 'X' and Deepak proceeded further to marry each other. Admittedly, the appellant used to go to his office at around 10.00 a.m. and return in the evening at about 07.00 / 08.00 p.m. X's brothers used to go to school. In that eventuality, there was no hitch for 'X' to continue with her alleged love affairs with Deepak.

7. It is true that in April, 2004, 'X' had bunked her classes. She fairly admitted that in April, 2004, she did not attend her classes and remained absent for about 10 / 12 days and her name was struck off from the school. She was re-admitted by depositing re-admission fee. The appellant has examined DW-2 (S.K.Nigam), UDC, Kendriya Vidyalaya, Vigyan Vihar to prove that 'X' remained absent from the school from 12.04.2004 till 17.07.2004. The witness, however, admitted that 'X' was present in the school on 22.06.2004. Perusal of the record produced by the witness reveals that there were summer vacations in May / June.

Apparently, 'X' was not expected to attend classes during summer vacation and it cannot be taken that she was absent from 12.04.2004 till 17.07.2004. Moreover, the application seeking readmission has not been produced by the witness to find out as to what was the reason for her absence in the said application. Lapses to attend her classes regularly in April, 2004, cannot be a factor to nurture grudge against her father and to rope him in a false case at a subsequent stage. Despite beaten for indiscipline to avoid her classes by the appellant, she did not raise an accusing finger against him that time. It is not uncommon for school going students of tender age to bunk classes on various dates for certain reasons. In the instant case, 'X' has given logical and plausible explanation for missing her classes as she had failed in 9th class and felt uncomfortable to face her co-students. During this period, she enjoyed the company of other friends on the roof of her house with her younger brother Pankaj. The incidents of rape had occurred much later on in February, 2005. There are no allegations that after her readmission, she again missed her regular classes.

8. 'X' had to take support from PW-3 (Khajan Singh) to approach the authorities. Indisputably, the appellant and his family members had visiting terms with PW-3 (Khajan Singh) who lived along

his wife, son and his family members. Certain differences between PW-3 (Khajan Singh) and his son / daughter-in-law did not impact their relations with him. Even on 03.04.2005, appellant and PW-3 (Khajan Singh) had attended 'satsang' as usual, PW-3 (Khajan Singh) had even taken lunch at appellant's house that day. Apparently, the relations between the families were cordial. For the first time in the cross-examination, suggestions were put to 'X' for hatching conspiracy with PW-3 (Khajan Singh) to falsely implicate the appellant. Nothing was suggested as to why PW-3 (Khajan Singh) would hatch a conspiracy of this magnitude. Nothing was suggested to 'X' if PW-3 (Khajan Singh) had taken any loan from her father and had declined to return it. PW-3 (Khajan Singh), in the cross-examination, categorically denied that he had taken a loan of ₹ 30,000/- from the appellant or he had put pressure upon him to pay ₹ 50,000/- at the time of marriage of his younger daughter. The appellant did not furnish any details of the said transaction and its mode of payment. It was not revealed as to when a loan of ₹30,000/- was given to the appellant. Nothing is on record to infer if PW-3 (Khajan Singh) ever declined to pay any such loan on demand. The allegations are obviously after thought. PW-3 (Khajan Singh) alone did not move the authorities. He discussed the matter with PW-2 (Deepak), X's step-brother and Brijesh. For his timely

help to expose the appellant; his conduct cannot be faulted. It has surfaced that on 03.04.2005 itself 'X' along with her brothers had left the appellant's home to stay with PW-3 (Khajan Singh) and Brijesh. Admittedly, she stayed along with her brothers for about 7 / 8 days there. At no stage, the appellant bothered to bring them back to the house despite being reminded of his obligation by PW-3 (Khajan Singh). The appellant has not given any reason as to what had prompted or compelled 'X' and her brothers to take refuge in the house of PW-3 (Khajan Singh) for number of days and why he did not deem it fit to bring them back. 'X' who had to spend number of days in Nari Niketan had no ulterior motive to falsely implicate the accused to deprive her shelter. PW-8 (Pankaj) and PW-4 (Himanshu) have fully supported X's action to bring the appellant to book. Had 'X' been a girl of easy / low virtue as alleged, her brothers must not have come to her support. They both have in one voice complained the appellant's conduct and attitude. PW-2 (Deepak) and PW-3 (Khajan Singh) have corroborated the version given by the prosecutrix before the Court. They had facilitated 'X' to seek justice. In the absence of prior animosity or ill-will, they were not expected to make false statements against the appellant at the behest of a minor child.

9. 'X' was medically examined vide MLC Ex.PW-12/A by PW-12 (Dr.Upvan Chauhan) and by PW-18 (Dr.Ravinder). No injuries were found on her private part. Observations at point 'X' on Ex.PW-12/A are in the handwriting of PW-18 (Dr.Ravinder). In the cross-examination, he admitted that he suspected pregnancy after coming to know that last LMP was on 22.01.2005 and had referred her for pregnancy test. He admitted that the victim was not co-operative during her medical examination. He was, however, not aware if 'X' underwent pregnancy test or not. Medical report heavily relied upon appellant to show his innocence does not exonerate the appellant's crime. She was examined after about 7 / 8 days of the incident. She had suffered rape earlier also on 13.02.2005. 'X' never alleged that she resisted appellant's attempt or suffered struggle marks. She was criminally intimidated and was under fear. There was no question of 'X' sustaining marks of violence on her body. Moreover, in the case of '*Ranjit Hazarika vs. State of Assam*', 1998 (8) SCC 635, the Apex Court has observed that merely because there were no injuries on the person of the victim and the hymen was intact, does not lead to a corollary that there was no coitus. It was held as under :

“5. The argument of the learned counsel for the appellant that the medical evidence belies that testimony of the prosecutrix and her parents does

not impress us. The mere fact that no injury was found on the private parts of the prosecutrix or her hymen was found to be intact does not belie the statement of the prosecutrix as she nowhere stated that she bled per vagina as a result of the penetration of the penis in her vagina. She was subjected to sexual intercourse in a standing posture and that itself indicates the absence of any injury on her private parts. To constitute the offence of rape, penetration, however slight, is sufficient. The prosecutrix deposed about the performance of sexual intercourse by the appellant and her statement has remained unchallenged in the cross-examination. Neither the non-rupture of the hymen nor the absence of injuries on her private parts, therefore, belies the testimony of the prosecutrix particularly when we find that in the cross-examination of the prosecutrix, nothing has been brought out to doubt her veracity or to suggest as to why she would falsely implicate the appellant and put her own reputation at stake. The opinion of the doctor that no rape appeared to have been committed was based only on the absence of rupture of the hymen and injuries on the private parts of the prosecutrix. This opinion cannot throw out an otherwise cogent and trustworthy evidence of the prosecutrix. Besides, the opinion of the doctor appears to be based on "no reasons"."

10. In another case '*B.C.Deva vs. State of Karnataka*', 2007 (12) SCC 122, in spite of the fact that no injuries were found on the person of the prosecutrix, yet finding her version to be reliable and trustworthy, the Apex Court upheld the conviction of the accused.

11. The plea that no marks of injuries were found either on the person of the accused or the person of the prosecutrix, does not lead to any inference that the accused has not committed forcible sexual intercourse on the prosecutrix. Though, the report of the Gynaecologist pertaining to the medical examination of the prosecutrix does not disclose any evidence of sexual intercourse, yet even in the absence of any corroboration of medical evidence, the oral testimony of the prosecutrix, which is found to be cogent, reliable, convincing and trustworthy has to be accepted.

12. Nothing has surfaced if 'X' was pregnant at any stage. Her refusal to undergo pregnancy test is not very relevant. She never considered herself to be pregnant.

13. Delay in lodging the report with the police is inconsequential. Soon after the incident on 03.04.2005, 'X' brought it to the notice of PW-3 (Khajan Singh) and even gave it in handwriting (Ex.PW-1/A). 'X' had to gather courage to implicate her father. She was nervous to lodge the report on 03.04.2005. She was taken to an advocate on the same day for consultation. Under these circumstances, delay of eight days in filing the complaint case cannot be considered unreasonable or fatal. In '*State vs. Gurmit Singh*', AIR 1996 SC 1393, the Supreme Court stated :

“The courts cannot overlook the fact that in sexual offences delay in the lodging of the 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 offence is generally lodged.”

14. It is not easy for the victim of tender age to take immediate steps particularly when she had no protection of her father and her siblings were minor. It is common knowledge that incidents like rape, more so when the perpetrator of crime happens to be a member of the family, involve the honour of the family and there is a reluctance to report the matter to the police. Simply because the victim lodged complaint case before the Trial Court without directly approaching the police to register FIR, no adverse inference can be drawn. ‘X’ had availed legal remedy available to her in law. She did not trust the police and was of the view that they would not believe her. Moreover, she being of immature age was guided by her counsel to directly file a complaint case in the Court. The Court wasting no time directed under Section 156(3) Cr.P.C. the police authorities to investigate the matter.

15. 'X' emphatically claimed that she never indulged in physical relations except on these two occasions. MLC (Ex.PW-12/A) reveals that the victim was habitual to sexual intercourse and her vagina admitted two fingers. No inference can be drawn from this circumstance alone that 'X' was a woman of loose moral character as alleged. Even a woman of easy virtue cannot be raped by any person for that reason. In '*State of Punjab vs. Ramdev Singh*', AIR 2004 SC 1290, Supreme Court held that even if the prosecutrix in a given case has been promiscuous in her sexual behaviour earlier, she had right to refuse to submit herself to sexual intercourse to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. In the instant case, the appellant being victim's father having responsibility to take care of her was not expected to exploit her innocence. Moreover, character of a prosecutrix is not relevant under Sections 53 and 54 of the Evidence Act; her evidence cannot be discarded on that score.

16. Certain omissions, improvements and contradictions highlighted by the appellant's counsel are not fatal. The discrepancies pointed out by the counsel are absolutely minor. It is well settled in law that minor discrepancies, inconsistencies or improvements on trivial matters not touching the core of the case or not going to the root of the

matter could not result in rejection of the evidence as a whole. It is also well accepted principle that no true witness can possibly escape from making some discrepant details but the Court is to bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his / her version that it would be justified in jettisoning his / her evidence. Discrepancies which do not shed the basic version of the prosecution are to be ignored. It is true that in 164 Cr.P.C. statement (Ex.PW-1/C) in so many words 'X' did not reveal commission of rape but if read in its entirety, it leads no doubt in mind that 'X' had revealed in her own words that on both these two occasions she was sexually assaulted.

17. The version given by the victim is consistent throughout. She had implicated her father in a letter (Ex.PW-1/A) dated 03.04.2005 given to PW-3 (Khajan Singh). She lodged complaint case (Ex.PW-1/B) on 11.04.2005. She also lodged complaint (Ex.PW-1/DB) with Commissioner of Police on the same day. In all these documents, she named the appellant to be the perpetrator of the crime. In her Court statement, she did not deviate from her earlier version. She was duly supported by her maternal grand parents and record reveals that she and her brothers were living with them. In her 164 Cr.P.C. statement, she had

expressed her desire to go to her maternal grand parents. No adverse inference can be drawn for not taking them into confidence at first instance. Record reveals that the appellant had strained relations with them even before lodging of the FIR.

Settled position of law is that conviction for offence under Section 376 can be based on the sole testimony of a rape victim if her evidence is found to be credible and convincing. It is settled proposition of law that a victim of rape is not an accomplice; her testimony can be acted upon without corroboration in material particulars; a victim of rape is treated at a higher pedestal than an injured person; and a conviction in a rape case can safely be awarded on the sole testimony of the prosecutrix. The only caveat here is that her version should be reliable, trustworthy and should inspire confidence. In case the Court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony. In the case of '*Madho Ram and Anr. v. The State of U.P.*', AIR 1973 SC 469, the Apex Court observed that:

"The only rule of law is the rule of prudence, namely, the advisability of corroboration should be present in the mind of the judge or the jury, as the case may be. There is no rule of practice that there must, in every case, be corroboration before the conviction can be allowed to stand."

18. In the case of ‘*State of Rajasthan v. N.K.*’, (2000) 5 SCC 30, the Supreme Court has observed:

“A plethora of decisions by this Court as referred to above would show that once the statement of the prosecutrix inspires confidence and is accepted by the Courts as such, conviction can be based only on the solitary evidence of the prosecutrix and no corroboration would be required unless there are compelling reasons which necessitate the Courts for corroboration of her statement. Corroboration of testimony of the prosecutrix as a condition for judicial reliance is not a requirement of law but a guidance of prudence under the given facts and circumstances. It is also noticed that minor contradictions or insignificant discrepancies should not be a ground for throwing out an otherwise reliable prosecution case. Non-examination of doctor and non-production of doctor's report would not be fatal to the prosecution case, if the statements of the prosecutrix and other prosecution witnesses inspire confidence.”

19. Similarly, in ‘*State of Rajasthan v. Biram Lal*’, (2005) 10 SCC 714, the Supreme Court held that if the sole testimony of the prosecutrix is free from blemish and implicitly reliable, then a conviction can be recorded on that basis. It was observed as follows :

“It is not the law that in every case version of the prosecutrix must be corroborated in material particulars by independent evidence on record. It all depends on the quality of the evidence of the prosecutrix. If the Court is satisfied that the evidence of the prosecutrix is free from blemish and is implicitly reliable, then on the sole testimony of the prosecutrix, the conviction can be recorded. In appropriate cases, the Court may look for corroboration from independent source or from the circumstances of the case before recording an order of conviction.”

20. In the case of ‘*State of Punjab v. Gurmit Singh*’, (1996) 2 SCC 384, regarding a rape victim, the Apex Court held:

“8. ...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 levelled 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....

21. ...It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault - it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it

must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.”

21. Unless such an offence has really been committed, an unmarried little girl would be extremely reluctant to make such allegations which are likely to reflect on her chastity against her own father.

22. Appellant's conduct throughout is unreasonable. It has come on record that after the death of his previous wife Rajrani, he married one Nikki who lived at the matrimonial home for about one or two months. 'X' was given beatings on petty issues. When she lodged complaint and left the house with her brothers, the appellant did not make any effort to find / search them. When PW-3 (Khajan Singh) informed him about the children, the appellant did not bother to bring them back and they had to stay at the residence of Khajan Singh and Brijesh for number of days. The appellant even attempted to suspect the character of her own daughter. He

abdicated his obligation to maintain 'X' and other children during custody or after release from jail.

23. The Trial Court has considered all the relevant contentions of the appellant in the impugned judgment and has given cogent reasoning to base conviction. The findings of the Trial Court warrant no interference.

24. In the light of above discussion, the appeal lacks merit and is dismissed. The Trial Court record be sent back forthwith with the copy of the order. A copy of the order be sent to the Superintendent Jail for information.

(S.P.GARG)
JUDGE

MAY 01, 2015 / *tr*