

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 598 of 2013

- Seetaram Prajapati, S/o Lodharam, aged About 55 years, r/o village Rajkheta, Police Station Sitapur, District Surguja (CG), Ashram Adhikshak, Sanyukta Pahari Korva Aashram, Rajkheta, District Surguja, Chhattisgarh

---- Appellant

• Versus

- State Of Chhattisgarh Through Police Station Sitapur, Distric Surguja (CG).

---- Respondent

CRA No. 135 of 2014

- Arun Kumar Lathiya S/o Latelram Satnami Aged About 35 Years R/o Shivni Chowk, Naila, Distt. Janjgir-Champa, C.G., Shikshakarmi Grade-Iii, Primary School Patarpara, Thana Sitapur, Distt. Surguja C.G. , Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh Through Distt. Magistrate, Distt. Surguja, Ambikapur, Distt. Surguja C.G. , Chhattisgarh

---- Respondent

Criminal Appeal No.598/2013

For Appellant	:	Shri Sunil Tripathi, Advocate.
For Respondent	:	Shri Adil Minhaj, Panel Lawyer

Criminal Appeal No.135/2014

For Appellant	:	Shri Yogeshwar Sharma, Advocate.
For Respondent	:	Shri Adil Minhaj, Panel Lawyer

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice Sanjay Agrawal

Judgement

Per P. Diwaker, J

22/02/2018

1. The above appeals since arising out of a common judgment, are heard together and being disposed of by this common judgment.
2. Challenge in the above appeals is to the judgment of conviction and order of sentence dated 19.6.2013 passed by the learned Additional Sessions Judge (FTC), Ambikapur, District Surguja (CG) in Sessions Trial No.297/11 whereby the learned Additional Sessions Judge has convicted accused/appellant Anil Kumar Lathiya for the offence under Section 376 (1) of the Indian Penal Code (henceforth 'the IPC') and sentenced him to suffer rigorous life imprisonment with fine of Rs.1,000/-, in default to undergo additional RI for 1 month, whereas accused/appellant Seetaram Prajapati has been convicted for the offences punishable under Sections 201 & 202 of the IPC and sentenced to undergo RI for 3 years & fine of Rs.500/- and RI for 6 months, plus default stipulations, respectively.
3. In the present case, PW-1 is the victim girl, who at the time of occurrence was aged about 11 years and studying as Boarder in Class 5th in Sanyukt Pahadi Korva Ashram, Rajkheta, District Sarguja. Accused/appellant Arun Kumar Lathiya was working as 'Guruji', whereas accused/appellant Sitaram Prajapati was posted as 'Superintendent' in the Sanyukt Pahadi Korva Ashram, Rajkheta, District Sarguja.
4. Facts of the case, in brief, is that while the prosecutrix was studying in 5th Standard in Sanyukt Pahadi Korwa Ashram, Rajkheta, which is a residential school, on 21.2.2011 at about 11 in the night, accused/appellant Arun Kumar Lathiya came to her room, gagged her mouth by hands, threatened her by saying that if she will raise cries, he would kill her and thereafter committed forcible sexual intercourse with

her. Due to fear she did not disclose the said fact to anyone. Next day at about 11 in the night, accused/appellant Arun again committed forcible sexual intercourse/ rape with her. Accused Sitaram Prajapati was the Superintendent of said Ashram and since the aforesaid act of accused/appellant Arun Kumar Lathiya was within his knowledge, it was his bounden duty to inform the authorities but instead thereof he called the parents of the prosecutrix and asked them to withdraw the prosecutrix from the ashram and to take her back home. The father of the prosecutrix due to fear of being defamed took back the prosecutrix home. On coming to know that her room-mate had lodged a report against accused/appellant Arun for sexually exploiting her, she also went to the police station on 13.3.2011 and lodged report of the incident committed upon her based on which offence under Sections 506 Part II & 376 (1) of IPC was registered against accused/appellant Arun Kumar Lathiya. The prosecutrix was sent for medical examination which was conducted by Dr. Sanyogita Paikra (PW-3) vide Ex.P-3. Accused/appellant Arun was also medically examined vide Ex.P-8 by Dr. K.K. Dattar (PW-9) and he was found capable of performing sex. After completion of investigation, charge sheet was filed against accused/appellant No.1 under Sections 506 Part II & 376 (1) of IPC and against accused/appellant No.2 under Sections 201 & 202 of IPC.

5. The prosecution in order to bring home the charges levelled against the accused persons examined 11 witnesses in all. Statements of accused persons were recorded under Section 313 of Cr.P.C. in which they abjured their guilt and pleaded innocence & false implication. After hearing counsel for the parties and considering the material available on record, the trial Court convicted & sentenced the accused persons by the impugned judgment in the manner as described above.

6. Learned counsel for accused/appellant Arun Kumar Lathiya submits that:-

- no definite evidence regarding age of the prosecutrix has been collected by the prosecution. Testimony of father of the prosecutrix regarding her age is also vague inasmuch as he has also not gave exact date of birth of the prosecutrix and gave only her approximate age. Thus, there is no legally admissible evidence as regards the age of the prosecutrix and therefore the trial Court has committed an error in holding her to be aged about 11 years at the time of incident;
- there is no medical evidence to support the version of prosecutrix that she was raped. In the medical examination the prosecutrix was found habitual to sexual intercourse.
- No complaint was lodged by the prosecutrix on 21.2.2011. She made a complaint regarding the alleged offence for the first time on 13.3.2011. There is no valid justification for delay in lodging FIR.
- On the alleged date of incident the prosecutrix was not present in the Ashram and was withdrawn by her parents.
- the prosecutrix had come with two different stories, at some places she claimed that act of rape was committed by accused Arun in the month of February, whereas at some places she claimed to have been raped in the month of January.

7. Learned counsel for accused/appellant Sitaram submits that:-

- there is no proof about the knowledge of the appellant as regard commission of an offence much less the offence in question and only because he was posted as Superintendent at the relevant point of time is not sufficient to arrive at a conclusion he was guilty of the offence punishable under Sections 201 & 202 of IPC.
- there is no evidence to show that this appellant intentionally omitted to

give information regarding commission of offence by accused/appellant Arun Kumar Lathiya and therefore conviction of appellant under is not sustainable in law.

- this appellant is at the verge of retirement and during pendency of trial and appeal he was on bail, therefore, lenient view may be adopted towards him.

8. On the other hand, supporting the impugned judgment learned counsel for the respondent/State submits thus;-

- there is no discrepancy in the date of incident. Though initially in FIR date of incident was recorded as 21.2.2011 and thereafter on subsequent dates, but in the diary statement (Ex.D-3) the prosecutrix has clarified that on account of her nervousness and weak memory she mentioned the date of incident as '21.2.2011' and the incident had actually occurred about 7-8 days prior to 28.1.2011.
- the prosecutrix, at the relevant time, was a minor girl aged about 11 years and in view of her rustic background, the superficial inconsistencies in her evidence ought to be ignored. The prosecutrix has given consistent and vivid version of the incident.
- Incident occurred sometime in the last week of January, 2011, whereas the prosecutrix was medically examined after about more than one & half month of the incident. In this situation, the doctor examining the prosecutrix did not notice any sign of recent sexual intercourse. However, medical evidence does not completely exonerate the appellant from the commission of rape rather it confirms the fact that the prosecutrix was subjected to rape.
- school admission register (Article-AC) of the prosecutrix was seized vide seizure memo Ex.P-7 and according to which date of birth of the prosecutrix is 23.3.2000. Thus there is sufficient evidence on

record to show that at the time of incident the prosecutrix was 11 years of age. Even assuming that the prosecutrix was major at the time of incident, the accused/appellant Arun can be convicted under Section 376 of IPC because the plea of consent has not been taken taken by him.

- in case of an unmarried minor girl, her family members would not like to give publicity to the traumatic experience she had undergone and would feel embarrassed in relation to the incident to narrate it to others, overpowered by a feeling of shame. In such a situation, delay in lodging FIR by the parents or the prosecutrix in all circumstances is not of significance.
- the incident was within the knowledge of accused/appellant Seetaram and he being the Superintendent of Ashram was bound to give information regarding the commission of offence involved in this case, but he intentionally omitted to give that information to the police. Further, this appellant knew that preventing the prosecutrix from lodging report would amount to causing disappearance of evidence of rape and yet he asked her not to lodge report and kept mum. In these circumstances, the trial Court has rightly held this appellant guilty for the offence punishable under Sections 201 & 202 of IPC.

9. The prosecutrix (PW-1) has deposed that she knew the accused persons present in the Court. Incident is of about one year back when she was studying in Class 5th in Pahadi Korva Ashram, Rajkheta. It is a residential school. Many boys and girls were taking education in the said school and they reside in the hostel run by the said Ashram. On the date of incident at about 11 in the night, accused Arun came to my room and slept with her. She tried to raise alarm but he gagged her mouth from his hand.

She has further stated that next day when she was sleeping in her room, at about 12 in the midnight accused Arun again came to her room and started removing clothes. When she tried to raise alarm, he gagged her mouth and thereafter committed rape with. She has further stated that before committing rape with her, the accused had undressed her and himself. After committing rape, the accused fled from the room. Next morning she informed her friends about the incident. She also disclosed the incident to other teachers as a result of which the accused was ousted from the hostel. She has further stated that the accused was a teacher and staying in the hostel. He was also teaching the students. She has further stated that the accused used to come to her in the night and used to commit rape with her. She has further stated that when she informed accused Sitarama about the incident, he had thrown her out from the hostel. She has further stated that her parents were called by accused Sitaram and then she was sent with her parents. Report of the incident was lodged by her in the police station vide Ex.P-1. She has further stated that after obtaining her consent, she was medically examined by a lady doctor vide Ex.P-3. The prosecutrix was subjected to lengthy cross-examination and various tricky questions were put to her, but nothing could be elicited by the defence to its advantage.

10. Biharsai Kujur (PW-2), uncle of prosecutrix and father of other girl who too was subjected to sexual exploitation by accused/appellant Arun Kumar Lathiya. This witness did not support the prosecution and as such declared hostile.
11. Dr. Sanyogita Paikra (PW-3) is the doctor who medically examined the prosecutrix. She has stated that on examination she noticed that pubic & axillary hair were present and breasts were in developing stage. She did not notice any mark of injury on her person. On per-vagina examination,

she noticed that hymen tags were present and vagina was easily admitting two fingers. Uterus was retroverted, normal size and fornix clear. Two specimen were taken from posterior fornix and handed over to the Constable for chemical examination. This witness has opined that the prosecutrix appeared to be habitual to sexual intercourse, but no definite opinion regarding recent sexual intercourse could be given. She also advised radiological examination for ascertaining age of the prosecutrix.

12. Ishwar Dutt Khalkho (PW-4), who was posted as Block Education Officer at the relevant point of time, has stated that about eight months back when he had gone for inspection of educational institutes of Sanyukt Pahadi Korwa Ashram, Rajkheta, he was informed by the Incharge that incident of eve teasing had taken place with the girls staying in Sanyukt Pahadi Korwa Ashram, Rajkheta. Thereafter he enquired about the incident from 4-5 persons who disclosed that on 10.3.2011 accused/appellant Arun forcibly entered the ashram premises and attempted to commit rape with one girl. Next day the police personnel of Police Station Sitapur came and took accused/appellant Arun with them. He has further stated that on being instructed by higher officials, he again visited Rajkheta Ashram and enquired from the staff posted there who informed him that 3-4 times earlier also accused/appellant Arun had committed forcible sexual intercourse with the prosecutrix and accused/appellant Sitaram Prajapati had asked the parents of the prosecutrix not to lodge report of incident because if they disclose the matter, it would tarnish their social status. He has further stated that after collecting aforesaid information, he forwarded the same to the higher officials. He has further stated that he was not informed about the incident by accused/appellant Sitaram or anyone else.

13. Subaso (PW-5), mother of prosecutrix, has stated as to the manner in

which the prosecutrix had disclosed the incident to her at home after returning from the hostel. She has stated that accused Sitaram threatened her not to take any action in the matter else their daughter may face difficulty in getting education.

14. Jaipal (PW-6) is the person who at the relevant point of time was posted as Cook in the said Ashram where the prosecutrix was sexually exploited. He has stated that total strength of boys and girls in the ashram was 48, however, on account of some incidents, some boys & girls have left the ashram. He has further stated that in the night at about 1 a.m. accused Arun Lathiya had gone to the room of the prosecutrix. Though this witness has been declared hostile by the prosecution but in the cross-examination he has admitted that he had seen accused/appellant Arun committing bad work with the prosecutrix.
15. Rupani (PW-7) did not support the prosecution case and as such declared hostile, however, in the cross-examination of the Additional Public Prosecutor, she has supported the case of the prosecution to a large extent. She has admitted that accused/appellant Arun used to come and sleep with the prosecutrix and when the prosecutrix objected the same, he used to threaten her. She has further admitted that accused/appellant Arun used to ask them not to disclose anyone that he used to sleep with the prosecutrix and due to fear she did not disclose the same to anyone.
16. Mithilesh Kumar Sengar (PW-8) did not support the prosecution case and turned hostile.
17. Dr. K.K. Dutta (PW-9) is the doctor who medically examined accused/appellant Arun and found him capable of performing sex.
18. Agarsai (PW-10) is the father of prosecutrix. He has stated that on the date of incident the prosecutrix was studying in 5th standard in Rajkheta Ashram. He has further stated that on being called by accused/appellant

Sitaram Prajapati through one Jaipal, Peon of Rajkheta Ashram, he visited Rajkheta Ashram and met said Sitaram Prajapati who told him that the prosecutrix had done bad work with accused/appellant Arun and asked to take back home the prosecutrix. He has further stated that accused/appellant Sitaram Prajapati also asked him not to disclose the aforesaid fact to anyone else his reputation in the society would be lost and his daughter may face great difficulties in getting education. He has further stated that next day when he enquired from his daughter, she disclosed that she was subjected to forcible sexual intercourse by accused/appellant Arun Lathiya during her stay in the Ashram and on her resistance, he threatened to kill her. He has further stated that when accused/appellant Arun Lathiya attempted to outrage the modesty of his brother's daughter, they lodged the report of incident of rape occurred with the prosecutrix. At this stage though this witness has been declared hostile by the prosecution, but in the cross-examination by the Government Pleader he has duly supported the prosecution case.

19. C.S. Netam (PW-11) is the investigating officer who has duly supported the prosecution case.
20. As regards the age of the prosecutrix, the prosecution has produced admission register (Ex.P-7) maintained at Primary School, Rajkheta showing that the prosecutrix was admitted in 1st Standard in that school and her date of birth is 23.3.2000. From perusal of the impugned judgment, it is clear that genuineness of this document has not been disputed by the appellant. As such, her date of birth being 23.3.2000, she was aged about 11 years on the date of incident. Even otherwise, the doctor, who conducted medical examination of the prosecutrix, had noticed that the prosecutrix had total 28 teeth (14-14), her breast started developing while auxiliary & pubic hairs were semi developed. All this

goes to suggest that the prosecutrix was minor on the date of incident. While dealing with the age of the girl on the basis of teeth, the Hon'ble Supreme Court in **Dilip Vs. State of Madhya Pradesh** reported in **(2013) 14 SCC 331** found the teeth of victim 14/14 or the victim having 13 teeth in upper jaw and 14 in lower jaw and also considering other physical factors, held that the age of the victim as 14 years.

21. As regards the complicity of accused/appellant Arun Kumar Lathiya, the prosecutrix (PW-1) has specifically deposed that when she was studying in 5th Standard and staying in Pahadi Korwa Ashram, Rajkheta, at about 11 in the night this appellant had come to her room and slept with her. She tried to shout but the accused shut her mouth with the help of his hand. Next night at about 12, the accused again came to her room and started undressing her and when she tried to raise alarm, he again gagged her mouth and thereafter committed rape with her. After committing rape, the accused ran away. She has further stated that this appellant used to come to her during night time and commit rape upon her.

Version of the prosecutrix gets corroboration from the medical evidence. According to the prosecutrix, accused/appellant repeatedly used to rape her during night time. As per Modi's Medical Jurisprudence, 11th Edition, Chapter XVII, Page No.475, frequent sexual intercourse and parturition completely destroy the hymen, which is represented by several small tags of tissue, which are called carunculae hymenealis or myrtiformers. In the instant case also, on par-vagina test of the prosecutrix, old hymeneal tags were detected. Noteworthy to mention here that incident of rapes took place during the period January-February, 2011 and complaint to this effect was lodged with the police on 13.3.2011 i.e. after a gap of about two months. With such a wide gap, there could not

have been any fresh evidence of commission of the rape through medical examination of both the prosecutrix and the accused as well through other evidences including undergarments of both of them and therefore, the only evidence is the MLC (Ex.P-3) of the prosecutrix, in which hymeneal tags were detected which is suggestive of commission of frequent sexual intercourse with the prosecutrix. It is true that the doctor did not notice any external injury on the person of prosecutrix. It is important to note that in this case, the prosecutrix did not allege any violent act of forced sexual intercourse. What she stated was that the appellant came to her and committed sexual intercourse with her after undressing her and himself. Thus, absence of any external injury in such circumstances would not negate the allegation of repeated sexual intercourse with the prosecutrix against her consent.

Statement of the prosecutrix also gets corroboration from the testimony of Jaipal (PW-6) & Rupani (PW-7), hostile witnesses. According to Jaipal (PW-6), he saw from the orifice in the window of the room of prosecutrix that accused/appellant Arun Kumar Lathiya was doing wrong act with the prosecutrix and therefore he bolted the room from outside and informed the said fact to accused/appellant Sitaram Prajapati. Rupani (PW-7), room-mate of prosecutrix, has admitted that accused/appellant Arun used to sleep with the prosecutrix on her cot after switching off the light and on her refusal to sleep with him, he used to threaten her. She has further admitted that accused/appellant Arun used to prevent them from disclosing the said fact to anyone. She has further admitted that on seeing accused/appellant Arun sleeping with the prosecutrix, Jaipal (PW-6) had bolted the room from outside and called the Superintendent. It is well settled position of law that statement of hostile witness is not to be brushed aside in toto but the Court can consider evidence of hostile

witness to corroborate other evidence on record.

22. As far as the delay in lodging FIR is concerned generally in cases of rape, delay in lodging FIR is not of much consequence specially in cases of rape with young unmarried girls, in which the reputation of the family is at stake. The possibility of difficulty arising in marrying the girl is also there. In catena of judgements the Hon'ble Supreme Court noticed the delay in lodging FIR in rape cases and took a view that delay in lodging FIR in such cases is a normal phenomena. In *Satyapal v. State of Haryana* reported in AIR 2009 SC 2190, the Hon'ble Supreme Court while dealing with the aspect of delay in lodging FIR in a rape case has observed thus:-

“20. This Court can take judicial notice of the fact that ordinarily the family of the victim would not intent to get a stigma attached to the victim. Delay in lodging the First Information Report in a case of this nature is a normal phenomenon.....”

In the case in hand, at the time of incident the prosecutrix was of about 11 years of age and had been sexually exploited by her teacher. According to PW-10 Agarsai, father of the prosecutrix, when he was taking her daughter (the prosecutrix) back to the home, the Superintendent of Ashram (accused Sitaram) said to him that if he will tell anything about the incident to anyone, he would lose his reputation in the society and her daughter may face great difficulties in getting education. However, on coming to know that accused/appellant had tried to outrage modesty of his niece also, they mustered courage to lodge report against him. Thus, it is possible that initially the parents of the prosecutrix were hesitant in reporting the matter to the police due to fear of disgrace and thinking about girl's reputation/future, but immediately upon coming to know about the act of sexual assault committed by accused/appellant with another girl

of the family of the prosecutrix, the matter was reported to the police. Nothing has been brought on record by the defence to show as to why the prosecutrix would implicate the accused/appellant in a false case and why she would falsely depose against him and that too in such a matter where the question of her own character and dignity is involved. No girl or woman would go to such an extent and make false and baseless allegations against any person and say that the said person has committed rape on her. No parents would also make any such false statement which would put the entire future carrier and character of their daughter at stake. In these circumstances, we are of the view that delay in lodging the FIR is not material in the present case and this delay does not affect the case of the prosecution.

23. In view of afore-discussed background, we are of the considered view that the testimony of prosecutrix (PW-1), which was duly corroborated by the testimony of PW-6 & PW-7, was, by itself, sufficient to prove that appellant Arun Kumar Lathiya committed sexual intercourse with the prosecutrix without her consent. There is no illegality in the trial Court's judgment holding him guilty of the offence with which he was charged.

24. Now let us deal with the conviction of accused/appellant Sitaram Prajapati under Sections 201 & 202 of IPC. This accused/appellant was posted as Superintendent of an ashram known as 'Pahadi Korwa Ashram, Rajkheta' and his first and foremost assignment was to take care of the children housed in the said ashram. Such ashrams have been conceptualized by the State Government to make available quality education to the tribal children under the conducive and hassle-free environment and to ensure their evolution in all respects, be it social, economic etc. What happened in this case is that the prosecutrix herein was subjected to sexual intercourse by accused/appellant Arun Kumar Lathia, who was also

deputed in the said Ashram to impart education to its inmates, and when she approached this accused/appellant to bring such horrendous activity to his notice, he instead of sorting the matter at his own level for which he was legally obligated, he decided to remain a passive supporter of accused/appellant Arun Kumar Lathiya. To put it differently, as soon as present appellant was informed by the prosecutrix about the gruesome act of other accused, at once he should have reported the matter to the police by putting the criminal law in motion, but unfortunately, as stated above, he did something untoward not befitting to his position. What infact he did is that he called the father of the prosecutrix and asked him to take away his daughter with him and not to pursue the matter any further if he was interested in saving her image as well as that of his entire family and thus tried his best to make the case not to see the light of the day. Episode did not stop here. When accused/appellant herein remained indifferent to the complaint made by the prosecutrix, accused/appellant Arun Kumar Lathiya started pouncing on other innocent girl students of the said Ashram and by & by feeling insecure almost all the girls were constrained to leave for the security zones. Here the present appellant has acted as a Wolf towards the children put in his patronage and thereby he not only caused deleterious effect to the prosecutrix but also various other innocent to move away from such daredevil element. Having thus seen the entire conduct of the accused/appellant herein in turning a deaf ear to the agony of the prosecutrix, he displayed a nonchalant attitude and thus tried to cause disappearance of evidence, his conviction under Sections 201 & 202 of IPC does not seem to suffer from any legal flaw and accordingly the same are hereby maintained.

25. Our society has elevated the teacher as "*Guru Brahma, Guru Vishnu & Guru Devo Maheshwaraha*" and being so, the teacher is placed on the

pedestal below the parents. In other words, we, in our country, look upon teacher as *guru* or *acharya*. An *acharya* is one whose *aachar* (conduct) is exemplary. He must be an example of *sadachar* or good conduct. A teacher cannot be without a character. If he lacks it, he will be like salt without its savour. In substance, the character and conduct of a teacher should be more like *rishi* and as *loco parentis* and such is the duty, responsibility and charge expected of a teacher. Likewise, the education to the girl children is nation's asset and foundation for fertile human resources and disciplined family management, apart from their equal participation in social and economic development. The parents reposing faith & confidence in the management and teachers of the schools send their girl children to schools to look after the welfare and safety of the girls and for shaping them so as to be fit to face the world and bear the burden of life. Therefore, a greater responsibility is thrust not only on the management but also on the teachers of the schools to bring the girl students up with discipline, inculcate to abjure violence and to reform constantly to rise to higher levels in any walk of life. To put it differently, the student-teacher relationship is unique in more than one way as the trust and confidence reposed by the student on the teacher is rewarded in the form of rich knowledge from the teacher. The respective duties and responsibilities and line of control are clearly drawn on both sides and both are equally expected not to cross the *Laxman Rekha*. If a girl student is dragged into sordid affair of a male teacher of a school, it not only vitiates the atmosphere of the school but other girl students would live in fear with the idea that he can repeat the same thing with them also. School is a temple of education where relationship of students and teachers should be such that students have full faith in the teacher and take him or her as their mentor. When the faith itself gets shattered, a

breach comes in this pious relationship, which is definitely not in the interest of the girl students.

In the case in hand, the appellants, who were teaching/non-teaching staff of the ashram school where the prosecutrix was studying in 5th standard as Boarder, have totally betrayed the trust and confidence reposed in them by the parents of the victim as instead of taking care of the prosecutrix as a *protector*, one destroyed her chastity and shattered the said confidence by ravishing her dignity and honour, time and again, out of sheer lust for sex, whereas another had displayed nonchalant attitude by turning a deaf ear to the agony of the prosecutrix. As there was a fiduciary relationship between the accused persons and the prosecutrix being in their custody and they were trustees, it became a case where the fence itself eats the crop. Therefore, such cases have to be dealt with sternly. The Hon'ble Apex Court in catena of judgements has observed that the rape of a girl student by a teacher is a shocking and outrageous incident because a female student is supposed to be taught and taken care of by the teacher in a school, therefore, the rape committed by teacher on the minor student should be viewed seriously.

26. In the result, both the appeals have no substance, the same are liable to be and are hereby dismissed. Since accused/appellant Arun Kumar Lathiya is already in custody, no further direction regarding his surrender etc. is needed. However, accused/appellant Sitaram Prajapati is reported to be on bail, therefore, his bail bonds stand cancelled and he is directed to surrender immediately before the Court below concerned to serve out the remaining jail sentence imposed on him vide impugned judgment.
27. The judgment impugned reveals that while writing the judgment learned Court below has put in the name of prosecutrix which is against the legal ethics subsequently been forbidden by the Supreme Court on many

occasions. Even this Court has prohibited this practice of making the identity of the prosecutrix public so that she can live an unspotted life and is not required to face any socially forbidden hurdles in the form of victimization or ostracism in public eye. The learned Court below is henceforth expected not to be indulgent in making the disclosure of identity of the rape victim so as to avoid any infamy during her lifetime.

Let a communication with respect to this order passed today be made to the concerned Judge so as to make him cautious of refraining from putting the name of rape victim in the judgements to be passed in future.

Sd/-
(P. Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge

roshan/-