

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 601 OF 2017

Vishal Gopichand Tilore	 Appellant
v/s.	
The State of Maharashtra and anr.	 Respondents

Mrs. Anjali Patil with Mr. Abdeali Kothawala for the Appellant.
Mr. S.V. Gavand, APP for the State.
Mrs. Savita Yadav for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th OCTOBER, 2021.

ORAL JUDGMENT :-

. This Appeal assails the judgment and order dated 18/05/2017 delivered by learned Additional Sessions Judge, Thane in Sessions Case No.429/2016. By the impugned judgment, the learned Judge has held the Appellant and the co-accused guilty of offences under Section 452, 376(D), 506(2), 323 r/w. 34 of the Indian Penal Code (IPC) and sentenced as under:-

- (i) imprisonment for 20 years and to pay fine of Rs.2,000/- in default simple imprisonment for six months for offence punishable under Sections 376(d);

- (ii) rigorous imprisonment for 07 years and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for three months for offence punishable under Section 452 of IPC
- (iii) Rigorous imprisonment for 07 years and to pay fine of Rs.1,000/- each for offence punishable under Section 506(2) of IPC in default to suffer simple imprisonment for three months.

2. The prosecutrix, a young woman aged about 24 years is separated from her husband. She and her two minor children of 7 and 5 years of age were residing in a room of P.W.6 - Ravindra at Jai Bhim Nagar, Kalwa. She was working as a maid servant in about 4-5 houses in the said locality. It is the case of the prosecution that on 23/05/2016, between 01.15 a.m. to 01.50 a.m., the Appellant - Vishal and the co-accused - Vicky @ Vikas, who are residents of the same locality, entered the room of the prosecutrix armed with a knife and committed rape on her under threat to cause her death. The Appellant and the co-accused thereafter left the place of occurrence by latching the door from outside. The prosecutrix phoned the Pastor (PW8) – Shamvel Rajappa Manegan, and narrated the incident. PW8-Shamvel,

his wife and some neighbours came to the scene of occurrence. PW8 - Pastor Shamvel opened the latch of the outer door and thereafter telephoned the police on phone No.100.

3. PW9 – Santosh Manohar Dhadve, PSI, Kalwa Police Station came to the place of the incident along with some other police constables. The prosecutrix narrated the incident to the police and showed the house of the Appellant and the co-accused. PW9 - PSI Santosh took the Appellant, the co-accused and the prosecutrix to the police station. He recorded the FIR (Exhibit 13), registered the crime and placed the Appellant and the co-accused under arrest.

4. The Appellant, the co-accused and the prosecutrix were referred for medical examination. The clothes, blood sample, vaginal swab and other incriminating material were forwarded to CFSL for chemical analysis. Upon completion of investigation, charge sheet was filed against the Appellant and the co-accused for offences punishable under Sections 452, 376(d), 506(2), 323 r/w. 34 of the Indian Penal Code (IPC).

5. The learned Session Judge framed charge and recorded the plea.

The Appellant and the co-accused Vicky pleaded not guilty and claimed to be tried. The prosecution examined 11 witnesses. The statement of the Appellant and the co-accused came to be recorded under Section 313 of Cr.P.C. The defence of the Appellant and the co-accused was that of total denial. The learned Sessions Judge, Thane, upon considering the evidence on record, held the Appellant and the co-accused guilty of the offences and sentenced them as stated above. Being aggrieved by the conviction and sentence, the Appellant has filed this Appeal under Section 374 of the Code of Criminal Procedure, 1973.

6. Ms. Anjali Patil, learned Counsel for the Appellant has assailed the judgment mainly on the ground that the testimony of the prosecutrix does not inspire confidence and could not have been relied upon without corroboration. She submits that the medical evidence and chemical analysis report do not support the case of the prosecution. The prosecution has not examined material witnesses viz. children of the prosecutrix, who were allegedly present at the time of the incident and the neighbours, who had allegedly come to the scene of occurrence along with PW8. She further submits that the phone of PW8 – Pastor Shamvel was not seized and no reliance is placed on the

CDR to prove that the prosecutrix had infact called PW8 – Pastor Shamvel and that he had called the police. It is urged that the prosecutrix had not given the description of the knife and the knife allegedly recovered from the scene of the offence was not shown to the prosecutrix. She also submits that though the trial court has relied upon the medical certificate at Exhibit – 44 and drawn an inference that the Appellant had sustained injuries in the course of the scuffle, the said incriminating circumstance was not put to the Appellant in his statement recorded under Section 313 of Cr.P.C. She has relied upon the decision of the Apex Court in ***Pramila v/s. The State of Uttar Pradesh***, to contend that the procedure under Section 313 of Cr.P.C. is but a facet of the principles of natural justice to give an opportunity to the accused to present the defence. She submits that since the Appellant was not given an opportunity to explain the said circumstance, the learned Judge could not have relied upon the medical certificate at Exhibit – 41. She further urges that the evidence of the Investigating Officer indicates that the pancha witnesses are stock witnesses and hence the evidence of the said witnesses cannot be relied upon. She submits that considering the overall circumstances of the case, the learned Judge has erred in relying upon uncorroborated testimony of the prosecutrix. In support of this contention, she has

relied upon the decision of the Apex Court in ***Sadashiv Ramrao Hadbe v/s. State of Maharashtra and anr. (2006) 10 SCC 92*** and the decision of learned Single Judge of Madras High Court in ***Vijayan and ors. v/s. The State, 1993 Cr.L.J. 2364.***

7. Rebutting the submissions, Mr. S.V. Gavand, learned APP submits that the incident had occurred at mid-night. The victim had narrated the incident to PW8 and to the police immediately after the incident. The Appellant was apprehended and his name was disclosed in the FIR, which was registered immediately after the incident and this rules out possibility of false implication. He submits that the prosecutrix had washed herself before she was medically examined. This explains not-detection of semen. He further contends that absence of injuries on the person of the prosecutrix is no reason to doubt the testimony of the prosecutrix. He submits that the testimony of prosecutrix is trustworthy and can be relied upon without seeking corroboration. He contends that the decisions relied upon by the learned counsel for the Appellant are distinguishable and on facts. He further submits that the prosecution having established the guilt of the Appellant beyond reasonable doubt, the conviction and sentence does not warrant any interference.

8. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

9. The short point for consideration is whether the prosecution has established the guilt of the Appellant beyond reasonable doubt. The answer to which in my considered view is nothing but in the affirmative for the following reasons.

10. The case of the prosecution rests solely on the testimony of the prosecutrix. It is well settled that a prosecutrix, who is a victim of the crime cannot be put on par with an accomplice. The evidence of prosecutrix, if trustworthy and worthy of credence, can be relied upon and conviction case be based solely on her evidence, without further corroboration. In ***Ganesan V/s State represented by its Inspector of Police (2020) 10 SCC 573***, the Apex Court has reiterated the principle thus :-

“ 9.1 Whether, in the case involving sexual harassment, molestation etc., can there be conviction on the sole evidence of the prosecutrix, in the case of Vijay alias Chinee (supra), it is observed in paragraphs 9 to 14 as under :

“9. In State of Maharashtra v. Chandraprakash Kewalchand Jain, (1990) 1 SCC 550 this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same

amount of suspicion as that of an accomplice. The Court observed as under: (SCC p. 559, para 16)

"16. A prosecutrix of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence."

10. In State of U.P. v. Pappu, (2005) 3 SCC 594 this Court held that even in a case where it is shown that the girl is a girl of easy virtue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This Court further held that there can be conviction on the sole testimony of the prosecutrix and in case, the court is not satisfied with the version of

the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony. The Court held as under: (SCC p. 597, para 12)

"12. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars. She stands at a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. However, if the court of facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration as understood in the context of an accomplice, would do."

11. In State of Punjab v. Gurmit Singh, (1996) 2 SCC 384, this Court held that in cases involving sexual harassment, molestation, etc. the court is duty bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under: (SCC pp. 39496 & 403, paras 8 & 21)

"8. ... The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the

statement of the prosecutrix. ... 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. ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. ... 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. ...

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21. ... 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." (emphasis in original)

12. In State of Orissa v. Thakara Besra, (2002) 9 SCC 86, this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In State of H.P. v. Raghubir Singh, (1993) 2 SCC 622 this Court held

that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. A similar view has been reiterated by this Court in Wahid Khan v. State of M.P. (2010) 2 SCC 9 placing reliance on an earlier judgment in Rameshwar v. State of Rajasthan, AIR 1952 SC 54.

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix."

9.2 In the case of Krishan Kumar Malik v. State of Haryana (2011) 7 SCC 130, it is observed and held by this Court that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient, provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.

9.3 Who can be said to be a "sterling witness", has been dealt with and considered by this Court in the case of Rai Sandeep alias Deepu v. State (NCT of Delhi), (2012) 8 SCC 21. In paragraph 22, it is observed and held as under:

"22. In our considered opinion, the "sterling witness" should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as

well as the sequence of it. Such a version should have correlation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all 12 other such similar tests to be applied, can it be held that such a witness can be called as a “sterling witness” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”

11. In the instant case, it is not in dispute that the prosecutrix (PW1) and her two minor children were residing in a room at MIDC pipe line, Manisha Nagar, Kalva. PW1 has deposed that the Appellant resides in the same locality and was known to her. This fact has been admitted by the Appellant in his statement under Section 313 of Cr.P.C. The prosecutrix – PW1 has deposed that on 23.05.2016 at about 12.30 a.m., while she was sleeping in the room with her two minor children, she heard someone banging the door. When she woke up, she saw the Appellant and the co-accused entering the room. She has deposed that the co-accused had a knife in his hand. She was frightened and tried to

shout. The co-accused gagged her mouth and put the knife on her neck and threatened to kill her and her children if she raised an alarm. She has deposed that during the scuffle she sustained injuries on her right eye and fingers. She has deposed that the co-accused Vicky removed her leggings and that the Appellant herein committed rape on her. Thereafter the co-accused Vicky removed his pants, used a condom and committed rape on her. This witness has deposed that the Appellant and the co-accused had threatened her not to disclose the incident to anyone and left the scene of occurrence by latching the door from outside.

12. The testimony of the prosecutrix reveals that she had phoned PW8 – Shamvel, the Pastor of the Church at about 01.50 a.m. and narrated the incident. P.W.8, his wife and some other neighbors came to the spot and unlatched the door from outside & he disclosed the incident to them. They phoned the police, after which the police arrived at the place of the incident. She narrated the incident to the police and showed the house of the Appellant and the co-accused. The police apprehended the Appellant and the co-accused and took them to the police station. PW1 too went to the police station on the same night and lodged the FIR at Exhibit – 13, wherein she named the

Appellant and the co-accused as the persons who committed rape.

13. PW8 – Pastor Shamvel has deposed that he knew the prosecutrix as she had been visiting the church since last three years. He has stated that on 23.05.2016, at about 01.50 a.m., his wife Santoshi received a phone call from the prosecutrix. She was crying. She told that two persons had forcibly entered her room and committed rape on her under threat of death. This witness has deposed that he, his wife and some neighbors went to the room of the prosecutrix. The room was latched from outside. They unlatched the door and entered the room. They saw Laxmi weeping. He then called the police on 100 number. He has deposed that the police arrived at the scene of offence within 20 minutes.

14. The evidence of PW9 – Santosh Manohar Dhadve, PSI on duty at Kalwa Police Station, reveals that PW8 – Pastor Shamvel had phoned on 100 number at about 02:15 a.m. and immediately thereafter he along with other police constables visited the room of the prosecutrix. The prosecutrix narrated the incident. She had disclosed the name of the Appellant and the co-accused and shown their houses. He has deposed that the Appellant and the other co-accused were

apprehended the same night and were taken to the police station. He had referred the Appellant, the co-accused and the prosecutrix for medical examination.

15. The Appellant and the co-accused were also medically examined at Chatrapati Shivaji Maharaj Hospital at Kalwa. The doctor has opined that they had no impediment, congenital or acquired to preclude them from performing sexual intercourse. The Doctor had also opined that the Appellant had two incised wounds on right palm.

16. PW2-Dr. Shashank was the Medical Officer at Chatrapati Shivaji Hospital at Kalwa. He had examined the prosecutrix on 23/05/2016. He has deposed that the prosecutrix had given history of rape by two unknown persons. He has deposed that the prosecutrix had sustained injuries on right index finger, middle finger and thumb. There were old healed hymenal tears and no external injuries on her genitals. He had taken vaginal swabs and sample of pubic hairs.

17. The sample/swabs collected by the Doctor and the other incriminating material was sent to CFSL for chemical analysis. The CFSL report at Exhibit – 18 reveals that human blood was detected on

mattress cover, leggings, slip and knicker of the prosecutrix and semen was detected on underwears of the Appellant and the co-accused and leggings of the prosecutrix. Blood group was inclusive. The CA report further indicates that no blood was detected on the knife and no semen was detected on condom, allegedly recovered from the place of the occurrence.

18. The evidence on record thus amply proves that the Appellant was residing in the same locality and was known to the prosecutrix. Her evidence proves that the Appellant had entered her room along with the co-accused and committed rape on her. She narrated the incident of rape to PW8 - Pastor Shamvel and his wife. PW8-Pastor Shamvel has confirmed that the door of her room was latched from outside. He opened the door and saw the prosecutrix crying. This witness had phone the police on 100 number. Immediately thereafter PW9-PSI Santosh Manohar Dhadve and police staff came to the scene of occurrence and upon being informed of the incident, apprehended the Appellant and the co-accused on the same night. The prosecutrix had lodged the FIR spontaneously and immediately after the incident wherein she had named the Appellant and the co-accused. Naming the Appellant in the FIR, which was lodged promptly after the incident,

rules out possibility of false implication. The medical examination of the prosecutrix was subsequent to lodging of the FIR. Since the name of the Appellant was already disclosed in the FIR, non-disclosure of the name of the Appellant to the medical officer or referring to the perpetrators of crime as unknown persons, is hardly of any significance.

19. The conduct of the prosecutrix in calling PW8 – Pastor Shamvel, weeping and narrating the incident also appears to be most natural. Moreover, spontaneous and prompt narration of the incident to PW8 – Shamvel, falls in the category of *res gestae*, which is admissible under Section 6 of the Indian Evidence Act and lends assurance to the evidence of the prosecutrix and points out to the guilt of the Appellant.

20. It is true that PW8 has deposed that the prosecutrix had disclosed the name of only one person i.e. Vicky and that she had not disclosed the name of the Appellant. In this regard, it is pertinent to note that in the cross examination, PW8 – Pastor Shamvel was confronted with the statement under section 161 of the Cr.P.C. wherein he had stated that the prosecutrix had also disclosed the name of the Appellant. The Appellant/accused has also proved through the investigating Officer that this witness had in fact stated so in his statement under Section

161 of Cr.P.C. Thus, the Appellant/co-accused had brought on record the fact that in the statement under Section 161 of Cr.P.C., which was recorded immediately after the incident, the witness (PW8) had stated that the prosecutrix had disclosed the names of both the accused. Thus, the minor discrepancy in his evidence, which was recorded about a year after the incident, is not sufficient to discard or disbelieve the evidence of the prosecutrix, who had identified and named the Appellant in the FIR, which was lodged immediately after the incident. I see absolutely no reason to disbelieve the testimony of the prosecutrix who withstood the test of cross examination. Although the evidence of prosecutrix requires no corroboration, in the instant case, the evidence of the prosecutrix is corroborative by PW8 and PW9, who are natural and independent witnesses and who had no reason to falsely implicate the Appellant.

21. The medical evidence reveals that the prosecutrix had sustained injuries on thumb, middle finger lends credence to the testimony of the prosecutrix that the accused had pointed a knife and that she had sustained injuries in the course of scuffle. The leggings worn by the prosecutrix on the relevant day was seized under panchanama at Exhibit – 28 and the same was later forwarded to CFSL for

examination. The CA report reveals that semen stains of human origin was detected on the said leggings. It is pertinent to note that the prosecutrix was deserted by her husband and was living only with her children. In such circumstances, findings of semen stain on her leggings corroborates the version of the prosecutrix regarding commission of rape.

22. It is also pertinent to note that the prosecutrix has deposed that she had washed herself before she was medically examined. Hence, absence of semen on vaginal swabs is not the evidence of absence of sexual intercourse. Furthermore, the medical evidence indicates that there were no injuries on the genitals of the prosecutrix. Suffice it to say that absence of such injuries would not lead to an inference that prosecutrix was not subjected to rape or that she was a consenting party. It has to be borne in mind that the prosecutrix was a young lady with two minor children, deserted by her husband. She was earning her livelihood by working as a maid servant. The perpetrators of crime, who were able bodied youth, had entered her room in dead of night, with none around to help the prosecutrix. One of them was armed with a knife and threatened to cause her death and death of her children. Under such circumstances, the prosecutrix, overpowered by

infirmity and fear, may not have been in position to offer any resistance. Thus, absence of injuries on her genitals is no reason to doubt her statement on oath that she was subjected to forcible sexual intercourse.

23. The evidence on record does indicate that the Appellant had sustained incised wound on his palm. Learned Judge has relied upon this circumstance to conclude that he had sustained the injury in the course of the scuffle. It may be noted that the attention of the Appellant was not drawn to this inculpatory piece of evidence and the Appellant was not given an opportunity to explain this incriminating circumstance. In view of this lapse, the said circumstance which was not put to the Appellant in his examination under Section 313 of Cr.P.C, cannot be used against him and has to be excluded from consideration. It may however be noted that though strict adherence to the procedural requirement would have strengthened the case of the prosecution, exclusion of the said circumstance for breach of procedural mandate cannot *ipso facto* be the reason to discard the cogent and trustworthy evidence of the prosecutrix.

24. Upon evaluation of the evidence on record, I am satisfied that the

the evidence of the prosecutrix is cogent and consistent. There was no previous enmity between the Appellant and the prosecutrix and no motive has been attributed for false implication. Hence, the defence of false implication does not appeal to reason. The prosecutrix has emerged as a trustworthy and reliable witness. Her evidence which is duly corroborated by PW8 – Pastor Shamvel and other evidence on record amply proves the complicity of the Appellant in commission of the crime. Under the circumstances, I find no error in appreciation of evidence of the prosecutrix.

25. The prosecution has proved the charge of rape by the Applicant and the co-accused. Hence, there is no reason to interfere with the finding of guilt and consequent conviction. No challenge is raised to the quantum of sentence.

26. In the result, the Appeal is devoid of merits and is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

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