

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

**CRIMINAL APPEAL NO. 1084 OF 2022
WITH
INTERIM APPLICATION NO. 3659 OF 2022
WITH
CRIMINAL APPEAL NO. 1105 OF 2022
WITH
INTERIM APPLICATION NO. 3745 OF 2022
WITH
INTERIM APPLICATION NO. 4214 OF 2023**

Dhananjay Shrikant Tiwari .. Appellant
Age. 32 years, Occ. Nil, [original
Residing at House No.69, Sector No.3, accused]
Kurukshetra, Huda, Haryana,
At present – Yerwada Central Prison.

Versus

1. The State of Maharashtra .. Respondents
Through MIDC Bhosari Police Station,
Vide C.R. No.114/2017
2. Mrs. XX
[first informant]

**WITH
CRIMINAL REVISION APPLICATION NO. 507 OF 2022
WITH
CRIMINAL REVISION APPLICATION NO. 509 OF 2022**

Miss XX .. Applicant
Aged about 34 years, Occ. None,
Present Resident of Flat No. 36, Abhishek Co-op.
Housing Society, Shahunagar, Chinchwad,
Pune, Maharashtra.

Versus

1. The State of Maharashtra .. Respondents
Through Office of Attorney General
Bombay High Court, Mumbai.
2. Dhananjay Shrikant Tiwari
Through Jail Superintendent
Yerwada Jail Pune.

Mr.Vaibhav Kulkarni a/w. Mr. Ajinkya Kamble and Mr. Ruturaj Bothe, Advocate for the appellant/accused.

Mr.A.R. Patil, APP for the respondent/State.

Ms.Kanika Ahuja, Advocate for respondent No.2/Victim/Informant.

CORAM	: KISHORE C. SANT, J.
RESERVED ON	: 02.02.2024
PRONOUNCED ON	: 20.03.2024

J U D G M E N T :-

01. Criminal Appeal No. 1084 of 2022 is filed by the original accused challenging the judgment and order passed by the learned Additional Sessions Judge, Pune, in Sessions Case No.721 of 2019 dated 25.08.2022. By way of the impugned judgment and order the accused is held guilty for the offences punishable under sections 376(2)(f), 354-A, 506 of the Indian Penal Code. He is sentenced to undergo rigorous imprisonment of 10 years and to pay fine of Rs.2500/-, in default, to suffer simple imprisonment for two months for the offence punishable under section 376 (2)(f) of the IPC. He is directed to

suffer rigorous imprisonment for two years and to pay fine of Rs.500/-, in default, to suffer simple imprisonment for seven days for the offence punishable under section 354-A of the IPC. He is further directed to suffer rigorous imprisonment for three years and to pay fine of Rs. 500/-, in default to suffer simple imprisonment for 15 days for the offence punishable under section 506 of the IPC. The sentences are directed to run concurrently.

02. So far as Criminal Appeal No. 1105 of 2022 is concerned, challenge is raised to a judgment dated 25.08.2022 in Sessions Case No. 1 of 2018 for the offences punishable under sections 307, 354-B, 504 and 506(2) of the IPC. He is sentenced to suffer R.I. for seven years & fine Rs.2500/- in default to suffer S.I. for two months. For Section 506 (2) of IPC to suffer R.I. for three years & fine Rs.500/- in default to suffer S.I. fifteen days.

03. Criminal Revision Application No. 507 of 2022 is filed seeking compensation to the victim. It is contention that looking to the gravity of the offence, the Trial Court ought to have granted compensation to the victim. Criminal Revision Application No. 509 of 2022 is filed for modification of the sentence on the ground that both the incidents are separate incidents and two

different offences were registered. In such a case, the Court ought to have directed sentences to run consecutively and not concurrently.

04. The facts in short are that the prosecutrix and the appellant happens to be cousins. The mothers of the victim and the accused are sisters. On 14.07.2015, the accused and the victim were travelling along with maternal aunt from Haridwar to Pune by Yashwantpur Sampark Kranti express in bogie No. S-3 in sleeper coach. At around 7 p.m. when train was near Bhopal railway station, the prosecutrix went to toilet to answer natur's call. The accused followed her and was standing outside the toilet. The prosecutrix when tried to come out of the toilet, it is alleged that the accused immediately shut mouth of the prosecutrix and pushed her in the toilet and locked the door from inside. He untide the Salwar of the victim by another hand. Thereafter, the accused by threatening to kill her inserted his fingers in her private part. Thereafter, held her hairs and made her to sit on the knee and inserted his private part in her mouth. The victim somehow managed to escape from the accused. The accused immediately went outside the toilet. The prosecutrix properly adjusted her clothes out of the toilet and came to the berth in frightened condition. Because of fear of the accused the prosecutrix

could not immediately disclose the incident to her aunt. At around 11 p.m. the aunt on seeing the victim weeping on her berth made enquiry, on that the victim narrated the incident to her aunt. The victim also sent a message to her friend Kirti Ahuja and asked to contact aunt. On that Kirti made phone call to aunt, who told incident to her. Kirti asked immediately to report the incident to the police by dialing No. 100. On that the aunt told that since the victim and the accused are related to each other, she will try to solve the dispute at home and asked Kirti to come to her house at Pimpri Chichwad, Pune.

05. On reaching to Pune, Kirti Ahuja came with her two friends at the house of the aunt at about 05.00 p.m. on 15.07.2015. The prosecutrix was in her bed room, the accused was sitting in the hall. When the prosecutrix started narrating the incident to Kirti Ahuja and others, the accused suddenly entered the bed room & asked as to why in spite of his instructions she is disclosing the incident. The accused held the prosecutrix and toppled her on the ground and pressed her neck by force with intention to kill. He even torn clothes of the prosecutrix and sat on her chest. He also assaulted her by kick and fist blow by pressing her mouth. The aunt and friends of the prosecutrix

tried to save the prosecutrix. While scuffle was going on in the house, husband of the aunt came from the office. He saw the incident and held the accused. The accused also bite the fingers of the prosecutrix. After this incident it was decided to lodge information with the police. The accused on listening this, ran away by threatening that if the prosecutrix would have alone there, he would have killed her. It is, thereafter, late in the night the FIR came to be lodged at MIDC Bhosari Police Station. The prosecutrix was thereafter taken for medical examination and was admitted in the hospital from 16.07.2015 to 20.07.2015. Since the incident of rape was alleged near Bhopal Railway Station, the FIR came to be lodged as '0' and was transferred to Bhopal Police Station.

06. The prosecution on the basis of said information lodged two offences, one in respect of the incident that took place in the railway i.e. under sections 376, 354-A, 324, 504 and 506 of the IPC. Another incident that took place in the house was registered as distinct offence under section 307, 354-A, 504 and 506 of the IPC. For the offence under section 376 (2)(f) of the IPC, after filing charge-sheet, the accused was tried in Sessions Case No.721 of 2019. After the trial, the learned Sessions Judge held the accused

guilty as stated above and awarded the punishment.

07. On hearing the submissions, with the help of both the parties, this Court has gone through the evidence on record.

08. PW-1 is maternal aunt of the victim, who was travelling in the train along with the victim and the accused. She stated in her evidence that on 14.07.2015, they were travelling in Sampark Kranti express from Ambala to Pune in S-3 coach. She was sleeping in the train. At about 8.00 p.m. to 9.00 p.m. she woke up hearing the shouts of the accused. The accused was shouting on the victim telling that if she speaks more, he will throw her out from the train. She did not make enquiry thinking that it was quarrel between the cousins. After some time, the victim told her about the incident. She asked the victim to send message to her friend Kirti Ahuja to call her on mobile. Said Kirti called PW-1 on her mobile phone at about 11.30 p.m. She informed said incident to Kirti. On that Kirti asked her to dial No.100 to inform the police. On that she told Kirti that it is a family matter and they will settle it.

. In the cross-examination, she was asked about proceedings between the mother and father of the accused, in the Court at Haridwar. She was further asked about one Radha Mohan Mishra who runs an institution of Spiritual Academy and Research Center and about other disputes. It is further taken that the train was full of passengers. She admitted in the cross-examination that though the incident was serious, she did not thought it fit to lodge FIR immediately.

09. PW-2 - Kirti Ahuja is a friend of the prosecutrix who was immediately informed about the incident in the train. She stated about receiving a message from PW-1 on 14.07.2015 and on that she talked to PW-1. It was informed by PW-1 that the prosecutrix requires counseling as she is frightened and asked her to come to her help at Pune. She narrated the incident that happened at the house of PW-1. Thereafter she narrated the incident and recording of FIR. She further deposed that she was called by Bhopal Police for recording statement. She gave audio, video clips and photographs along with 65B certificate to the police in investigation.

. In the cross-examination it is taken that she was residing with

Radha Mohan Mishra and Rukmani Mishra and other members of Kakkad family, since prior to 8 years. It is tried to show that she was secretary of the trust run by Radha Mohan. She was also appointed as special power of attorney to handle the cases of the institution. Nothing much is taken out from the cross-examination to disbelieve her version. She was asked about taking of the photographs of the incident at the house of PW-1.

10. PW-3 is the prosecutrix. She stated about going to police station on 16.07.2015 for recording her statement. She deposed about the maintenance proceedings filed by mother of the accused before the Family Court at Haridwar against his father. The accused booked three tickets for himself, aunt of the prosecutrix and the prosecutrix from Ambala to Pune. On 14.07.2015 they boarded the train at about 04.00 to 04.30 a.m. from Ambala station in S-3 coach. When the train was near Bhopal station, she went to attend nature's call in the train's toilet and stated about further incident that took place at the house of PW-1 at Pune. She thereafter stated about her hospitalization and giving another complaint, recording of statement later on by Bhopal police etc.

. In the cross-examination, she was asked about the passengers in the train, about sending of message to her friend Kirti, that she did not make any hue and cry in the train. Certain omissions are taken about her attempts to release herself from the toilet. However nothing has come in cross so as to disbelieve her version in chief.

11. PW-4 – Ishant Kakkad is a panch of search of flat where the later incident took place. He has proved search of pieces of hair and yellow coloured Kurta in the house of PW-1. He proved said panchanama at Exh.77.

. In the cross-examination, nothing much is taken on record.

12. PW-5 – Dr. Deepali Santosh Jadhav is the Doctor who examined the prosecution. She stated about the story narrated by the victim. She stated about the injuries. She proved following injuries, on the person of the prosecutrix.

- 1) Contusion over mid parietal region of size 6 x 1 cm.
- 2) Contusion over right parietal eminence of size 5x5 cm.
- 3) Contusion over frontal area, right side rear hairline of size 8x7 cm, bluish colour.
- 4) Contusion over right zygoma, bluish in colour of size 2 x 2 cm.
- 5) Scratch abrasion over area below left lower eyelid, horizontal

and reddish of size 1.00 cm.

- 6) Scratch abrasion over root of nose, left side of size 0.5 cm.
- 7) Scratch abrasion over left, zygoma horizontally of size 1.5 cm.
- 8) Scratch abrasion over tip of nose, on left side of size 5 cm.
- 9) Scratch abrasion over left ala of nose of size 0.5 cm, dried scab present.
- 10) Scratch abrasion over right lateral aspect of neck of size 2 x 0.5 cm, situated 6 cm from angle of mandible.
- 11) Scratch abrasion over right lateral aspect of neck of size 5 x 0.4 cm. Approximately 2 cm, below the injury No.10.
- 12) Contusion over right occipital region of size 2 x 1 cm.
- 13) Scratch abrasion over left lateral aspect of neck of size 2 x 0.5 cm, 3 cm, from the angle of mandible.
- 14) Laceration of size 0.5 cm, on medial aspect of middle phalanx of right index finger with swelling, redness and tenderness.
- 15) Laceration of size 0.5 cm, on dorsal aspect of middle phalanx of right index finger with swelling, redness and tenderness.
- 16) Laceration of size 1 cm., on medial aspect of proximal phalanx of right index finger with swelling, redness and tenderness.
- 17) Laceration of size 1.5 cm., on lateral aspect of proximal phalanx of right middle finger.
- 18) Laceration of size 1 cm. on lateral aspect of distal phalanx of right middle finger with swelling, redness and tenderness.
- 19) Scratch abrasion over ventral aspect of right wrist on lateral side of size 2.5 cm.
- 20) Scratch abrasion over dorsum of right hand, on lateral aspect of size 4 cm.
- 21) Scratch abrasion over back, on right side oblique of size 8 cm.
- 22) Scratch abrasion (vertical) below injury No. 21 of size 7 cm.
- 23) Contusion over inner aspect of lower lip of size 0.5 x 0.5 cm.

. In the cross-examination, nothing is taken to disbelieve the version of PW-5.

13. PW. - 6 – Jagdish Prasad Chawdhari was working as ASI at GRP

Bhopal. He deposed that on 30.07.2015 ASI Shriram Thakur registered one FIR that was transferred from Pune with '0' number as Crime No.746 of 2015. He investigated into the offence. He drew panchanama. During the course of investigation he visited Pune. Another ASI Parvati Maji recorded statements of PW-1, 2 and 3. He thereafter stood retired and handed over the case diary to P.I. Hemant Shrivastav.

. From his cross-examination nothing much is taken by the accused.

14. PW. - 7 – Sandhya Mishra is Thana In-charge Khajuri Prabhag, Bhopal. She completed investigation and filed charge-sheet.

15. PW-8 is Ranesh Gaikwad, who was working as Assistant Police Inspector in MIDC, Bhosari Police Station. He deposed that on 16.07.2015 at about 2.30, PW-3 and 2-3 other persons came to police station and informed the incident of rape committed in the train near Bhopal. He recorded statement and registered the FIR at '0' number and forwarded the diary to Bhopal Railway Police Station. He deposed about visiting the place of second

incident i.e. the house of PW-1, preparing panchanama etc. He collected and seized pen-drive in which photographs and video recording were stored.

. In the cross-examination, certain omissions are taken about the accused pressing mouth of the victim by right hand, her entering in toilet and closing door of the toilet from inside. It is further taken that in the statement the victim did not state about taking out Salwar by the accused and that she tried to save herself.

16. PW-9 is Nisha Raghunath Nikam PSI, Bhosari MIDC, Pune, who proved the FIR recorded by PSI Bochara on 21.07.2015. She conducted the investigation. She collected colour photocopies of two railway tickets and one mobile of the accused found on the spot of the incident at Pune. She prepared seizure panchanam. She proved the same in the Court.

17. PW-10 is Rupali Pralhad Bobade, Police Inspector (Crime) Pimpri Chinchwad Police Station, who stated about recording of the statement, collecting of certificate under section 65-B of the Evidence Act from PW-2. She proved the photographs Exhs. 46 to 52, the certificate under section 65-B.

18. After completion of evidence, the statement of the accused came to be recorded under section 313 of the Cr.P.C. He has answered all the questions put to him as false. His case is of false implication, because of family dispute between his mother and father. He was made to sign affidavit prepared by his mother in her favour. He was not agreeable to the contents of the affidavit. He refused to file the affidavit in the Court. On that PW-1 was not happy and she scolded him there. Because of the incident that took place in the house of PW-1 on 15.07.2015, he has been falsely implicated in the offence of rape. So far as second incident is concerned, it is his case that, in fact, he was assaulted by the prosecutrix, PW-1, PW-3 and others and because of that he ran away. When he ran away, PW-1 snatched mobile phone and later-on lodged false case against him.

19. Thus, on this evidence, the learned Advocate for the appellant argued that the delay in lodging the FIR itself creates doubt about the story of the prosecution, so far as allegation of rape is concerned. The prosecutrix is a well educated person, aware of her rights. She surprisingly maintained silence till the alleged another incident in Pune took place. Even, the

maternal aunt, who was present and was reportedly told about the incident by the prosecutrix also did not lodge the complaint immediately. The FIR was lodged on 16.07.2015 without assigning specific reason for delay in lodging the FIR. It is only after the alleged incident in the house at Pune, this FIR came to be lodged to falsely implicate the appellant. Had the incident really taken place, immediately FIR could have been lodged. The conduct of the prosecutrix and the aunt is very unnatural. The aunt of the prosecutrix thereafter called a family gathering at her residence on 15.07.2015. Even after altercation in the said meeting, no immediate FIR was lodged. In the cross-examination, the Investigating Officer denied that the incident of rape was stated before him. There is no independent witness examined. It has come on record that the train was full of passengers. There is no CA report proved by the prosecution. No medical evidence is produced by the prosecution. The Court has not considered that there was possibility of false implication because of the dispute pending between the parents of the appellant, in which he refused to take side of his mother. The maternal aunt, therefore, was against the accused. He, thus, prays for acquittal by setting aside the conviction.

20. The learned APP and the learned Advocate for respondent No.2 vehemently opposed the criminal appeals. They submit that there is consistent credible and trustworthy evidence. The victim and the maternal aunt have corroborated the evidence of each other. Their evidence is further corroborated by PW-3. There is nothing taken in the cross-examination to disbelieve the witnesses. About the delay, it is submitted that since the accused and the prosecutrix happened to be maternal cousins, it was but natural to not lodge any complaint immediately. It is also because of the fact that the maternal aunt who was an elderly person travelling in the train wanted not to lodge the criminal prosecution immediately. There are no contradictions brought on record. The medical evidence is corroborative so far as second incident is concerned. After second incident, the accused ran away and was absconding for about a year. This subsequent conduct shows guilty mind of the accused. There is also statement recorded under section 164 of the Cr.PC. of the prosecutrix. They submit that the Trial Court has rightly appreciated the evidence.

21. This Court, after hearing the parties and after going through the evidence needs to decide as to whether the prosecution has proved the guilt of

the accused and whether there is sufficient evidence to prove the offence of rape & the offence under Section 307, 354-B, 504 & 506(2) of the Indian Penal Code.

22. It is seen that the evidence of PW-1 i.e. aunt of the prosecutrix and PW-3 corroborates with each other. The second incident at Pune is also corroborated the case of the prosecution. This Court does not find anything to doubt the depositions of the witnesses. PW-3, who was present at the time of second incident also has stated that she was immediately informed about rape that took place in the train. She had in-fact advised to lodge the complaint immediately. So far as submission that the train was full of passengers and still no one examined is concerned, it is to be considered that the alleged incident has taken place in the toilet where there is no question of any passenger witnessing the said incident. The submission that why no offence was immediately reported is concerned, we have to keep in mind that the prosecutrix was not in proper state of mind as she received shock that her maternal cousin had committed such act that too in most unexpected manner. She was also knowing that till Pune she had to travel with the accused only. Even thereafter, she was with the accused and the maternal aunt. The accused

had threatened her of dire consequences, if she files a complaint. From the second incident, it is clear that the accused tried to over-power her. He even assaulted the victim thereafter in the second incident.

23. Under such circumstances, the conduct of the prosecutrix and the maternal aunt cannot be said to be unnatural. So far as other submission that the witnesses were tutored is concerned, the same also cannot be accepted, as both these witnesses are well matured and did not give version due to prompting by someone else. Merely, because the accused was not taking side of his mother in the dispute between the parents, cannot be taken as motive to implicate him falsely in the crime like rape.

24. Reliance is placed by the appellant on the judgment in the case of Avtar Singh and Another Vs. State of Punjab reported in (2023) 8 SCC 322.

In that case the Hon'ble Supreme Court had considered that there were factions in the village and out of that the prosecution was lodged. The prosecution case was not believable on the crucial aspect. The co-accused was already acquitted by the Trial Court. In the facts of that case, the accused was acquitted. In the present case, the facts are different. Said judgment cannot

come to the help of the accused in this case.

25. Another judgment relied upon is in the case of **Santosh Prasad alias Santosh Kumar Vs. State of Bihar, reported in (2020) 3 SCC 443**. In that case the conviction was recorded solely by relying upon the deposition of the prosecutrix. Material contradictions were there in the deposition of the prosecutrix. There was no independent witness. The medical evidence was also not supporting the prosecution case. The evidence of witness was not of sterling quality. There was also a delay in lodging complaint. The parties were in inimical terms as there was dispute pending over landed properties. It is in such circumstances, the acquittal was recorded. Here though the case is made out that there was dispute, but that dispute was between the parents of the accused. There is no reason to doubt that the dispute between the parents of the accused will prompt the prosecutrix to lodge false case against the accused.

26. The last judgment the learned Counsel for the appellant relied upon is in the case of **Omkara Zalte Vs. State of Maharashtra, reported in 2008 SCC OnLine Bom 1776**. This Court in the said case observed that the

version of the prosecutrix found to be unreliable and was not worthy of credit. There was delay of six months in lodging the FIR and in that view the appeal was allowed acquitting the accused.

27. As against that the prosecution has produced on record the evidence. The statement under section 164(5) of the Cr.P.C. recorded at MIDC, Bhosari Police Station is also proved. Taking the incident that has taken place in the toilet, there is no question of any independent person seeing the said incident. The second incident took place on 15.07.2015. Thereafter, she immediately went to the police station. Since she was not well, as she had suffered injuries in the assault, she was admitted to the hospital and thereafter proper complaint is taken. Naturally, some time is taken in the whole process. The learned Advocate for the victim and the learned APP relied upon following judgments:-

- i) Dr. Vishal Baban Wanne Vs. The State of Maharashtra, Criminal Appeal No. 203 of 2013 (Bombay High Court at Principal Seat).
- ii) State of Punjab Vs. Gurmit Singh and Others, reported in AIR 1996 SC 1393.
- iii) Phool Singh Vs. State of Madhya Pradesh, reported in 2022 Cri.L.J.616.

- iv) Balwant Singh and Others Vs. State of Punjab, reported in AIR 1987 SC 1080.
- v) The State of Maharashtra Vs. Satyendra Dayal Khare, reported in 2004 Cri.L.J. 3399.
- vi) Ganesh Jadav & Three Others Vs. State of Assam, reported in (1995) 1 Gauhati Law Reports 111.
- vii) State of Maharashtra Vs. Balram Bama Patil & Ors., reported in (1983) 2 SCC 28.
- viii) R. Prakash Vs. State of Karnataka, AIR 2004 SC 1812.

28. In the case of Dr. Vishal Baban Wanne (Supra), the Division Bench of this Court dismissed the appeal by recording that the evidence of the victim was found to be trustworthy. In that case, there was no medical evidence to assist the prosecution case. This Court had held that absence of corroboration from the medical evidence would not be fatal to the prosecution case, when the credibility of the victim is not affected even in absence of corroboration. This Court finds that said judgment is applicable to the present case.

29. The next case cited is Gurmit Singh (Supra). In the said case, the victim had not immediately informed the incident in the school to a teacher or other students. She narrated the incident only to her mother after she

reached the home. Her conduct was taken to be natural. While abducting the prosecutrix by pushing her in the car, she was threatened by the accused to keep quiet and not to raise any alarm, otherwise she will be killed. It is held that in such circumstances, the conduct of the prosecutrix in not raising alarm cannot be taken to discredit her evidence. In the present case also, there was a reason for the prosecutrix not to immediately raise alarm. In-fact, she did tell aunt immediately. It is because of her aunt, she kept quiet and also for the reason that the accused was with her.

30. The next judgment relied upon is in the case of Phool Singh (Supra). The Hon'ble Apex Court, in the said case noted that the prosecutrix fully supported case of the prosecution. She was consistent right from the beginning. Nothing was brought on record to disbelieve her version, even after thorough cross-examination. Her evidence was taken as credible and conviction was maintained by dismissing the appeal. Though other judgments are also relied upon by the prosecution, those are on the lines of judgments discussed. This Court has come to a conclusion that the prosecution evidence is consistent and the statements are corroborative and nothing is brought on record by the defence to discredit the version of the witnesses. No case is

made out by the appellant to allow the appeal.

31. So far as offence under sections 307 and 506 (2) of the IPC are concerned, it is submitted by the learned Advocate for the appellant/accused that the offence under section 307 of the IPC is not proved. There is also no sufficient material to convict the accused for the offence punishable under section 506(2) of the IPC. In-fact, it is the accused who was assaulted by the witnesses. While escaping he received injuries. The injuries on the person of the victim were simple in nature. No inference can be drawn that there was intention to commit murder of the victim. The judgment and order is based upon insufficient evidence.

32. The learned APP so also the learned Advocate for the respondent/victim submit that there were 23 injuries found on the person of the victim. There is sufficient evidence as the witnesses have seen the incident. The photographs produced on record would clearly show that the accused pressed neck of the victim. He was separated by the husband of the aunt (PW-1). Had the witnesses not intervened and stopped the accused, certainly the accused would have killed the victim. All the injuries are duly proved. The

action of the victim coupled by utterances clearly show that the accused wanted to kill the victim. Had the witnesses not been there, the accused would have finished the victim. It is, thus, submitted that from all these facts and circumstances it clearly shows that the accused had intention to kill the victim.

33. Considering that there is sufficient evidence to prove the offences punishable under section 307, 506(2) of the IPC. Subsequent conduct of accused also shows his guilty mind. Accused was absconding for about a year.

34. So far as Criminal Revision No. 507 of 2022 is concerned, looking to the scheme of section 357 of the Cr.P.C., it was necessary to consider that the victim has suffered great trauma. Not only that she was raped, but even thereafter the accused tried to commit murder of the victim after reaching to Pune. The gravity of the incident is more, looking to the fact that the accused happens to be cousin of the victim. After committing a rape till the second incident and running away of the accused, the victim was constantly under fear. Such trauma lost confidence of the victim, which cannot be compensated fully. The only way in such cases is to try to compensate the victim in terms of

money. This is a fit case to grant compensation. This Court feels that Rs.1,00,000/- (Rupees One Lakh Only) would be proper compensation to be paid to the victim by the accused.

35. So far as Criminal Revision Application No. 509 of 2022 is concerned, this Court finds that the learned Trial Judge has rightly passed order to run the sentences concurrently, in view of Section 31 of the Cr.PC. Section 31 of the Cr.PC. clearly provides for concurrent punishment, when a person is tried for two or more offences at one trial. There are no special reasons to direct the sentences to run concurrently. Thus, Criminal Revision Application deserves to be dismissed.

36. In the result, the following order is passed :-

ORDER

- i) Criminal Appeal No. 1084 of 2022 and Criminal Appeal No. 1105 of 2022 are dismissed.
- ii) In view of dismissal of Criminal Appeals, connected Interim Application No. 3659 of 2022, 3745 of 2022 and 4214 of 2023 do not survive and are disposed of accordingly.

- iii) Criminal Revision Application No. 507 of 2022 is allowed.
The accused shall pay an amount of Rs.1,00,000/- (Rupees One Lakh Only) to the victim as a compensation.
- iv) Criminal Revision Application No. 509 of 2022 is dismissed.

[KISHORE C. SANT,J.]