



CRA-D-865-DB-2011 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-D-865-DB-2011 (O&M)
Date of decision:19.12.2024

Sonu ... Appellant

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Sahil Choudhary, Advocate and
Mr. Manjeet Gadhwal, Advocate for the appellant.

Mr. Sukhdeep Parmar, Sr. DAG, Haryana.

...

SUKHVINDER KAUR, J.

1. The present appeal has been filed by the sole accused/appellant – Sonu against his verdict of conviction dated 27.04.2011 and order of sentence dated 30.04.2011 passed by learned Sessions Judge, Yamuna Nagar, whereby the appellant has been convicted and sentenced as follows:

Sr. No.	Offence under sections	Imprisonment RI for	Fine	In default of payment of fine RI for
1.	Sections 376 IPC	Life imprisonment	Rs.2500/-	one month
2.	Section 307 IPC	7 years	Rs.2500/-	One month
3.	Section 342 IPC	Six months	--	--

All the substantive sentences were to run concurrently and the period of detention already undergone by the convict during the



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investigation, inquiry or trial was ordered to be set off against the sentence of imprisonment imposed upon him.

2. The factual scenario as unfolded by prosecution is that on 14.02.2010, a telephonic message was received at PS Sadar Yamuna Nagar from police control room that the prosecutrix had been admitted at Civil Hospital, Yamuna Nagar as a rape victim. On receiving the said information, SI Om Parkash along with HC Tarsem Singh and Ranbir Singh reached at Civil Hospital, Yamuna Nagar, where complainant Janak Singh father of prosecutrix met him and told him that his daughter was in the operation theatre. SI Om Parkash recorded statement of Janak Singh wherein he stated that he was a labourer having four children, two sons and two daughters. Youngest of them was prosecutrix, aged about 4³/₄ years. He has three brothers and all are residing in separate rooms in a common plot. His parents reside with his younger brother Purushottam and his father had gone to U.P. to attend some marriage while he (complainant), his wife Mukesh Rani and mother went to their duties at 9:00 A.M. At about 1:30 P.M., when his wife Mukesh Rani came back to their house, his younger son was weeping and told her that prosecutrix was missing. His wife made a telephonic call to him and he also came to his house from village Raipur. They searched for the prosecutrix and he along with his neighbour Rajesh S/o Nagina Ram went to the vacant house of Tota Ram in their vicinity and heard the noise of someone from inside an iron box lying there. When he opened the said box, he found that prosecutrix was lying in it. Her legs and private parts were stained with blood and she was not wearing any clothes including the lower

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at that time. In the meantime, his wife also reached at the spot. The prosecutrix told them that she had been given beatings by accused Sonu and after committing misdeed with her, he had put her inside the box. Thereafter, he, his wife and mother took the prosecutrix to Civil Hospital, Yamuna Nagar and got her admitted there. Accused Sonu S/o Satpal, who is their neighbour after committing rape upon his daughter had put her inside the iron box with an intention to kill her. On the basis of the aforesaid statement of complainant, the present case was registered. After completion of necessary investigation, challan was put in the Court of Illaqa Magistrate, who committed the case to the Court of Sessions for trial.

3. After finding a prima facie case against the accused, he was charge sheeted under Sections 342/307/376 IPC to which he did not plead guilty and claimed trial.

4. In order to prove its case, prosecution has examined PW1 Dr. Neeraj Bassi, Medical Officer, General Hospital, Yamuna Nagar, who submitted his affidavit Ex.PW1/A deposing that on 14.02.2010 at 4.15 P.M., he examined the prosecutrix, aged about 4¾ years and found that she was having 1 cm. wide ligature mark red in colour extending all around neck for which x-ray was advised, 2" x 2" contusion on the forehead blue in colour for which also the x-ray was advised, multiple abrasion on face red in colour and bleeding per vagina was present for which she was advised gynaecologist opinion. This witness has proved the carbon copy of MLR Ex.PA, his report Ex. PB/1 on police application Ex. PB regarding the fitness of the prosecutrix to make the statement vide which she was found



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fit to record her statement.

4.1 PW2, Dr. Arushi Gahlot Saini, Senior Resident, PGIMER, Chandigarh deposed that on 14.02.2010, the prosecutrix was brought by her father and grandmother to paediatric emergency department with alleged history of sexual assault on which she sent Ruqa Ex.PC to incharge Police Post, PGIMER, Chandigarh about the admission of the prosecutrix in their ward. As per her statement, the patient was treated by the team of Dr. Lyngdoh Soni, Dr. Sumit and Dr. K.L.N. Rao under paediatric surgery department and was discharged on 17.02.2010.

4.2 PW3, Dr. Shivinder Singh, Medical Officer, Mukand Lal General Hospital, Yamuna Nagar stated that carbon copy of MLR Ex.PD is correct as per original and bears his signatures.

4.3 PW4, Cr. Sanjana Dua, Medical Officer, Primary Health Centre, Sabapur, District Yamuna Nagar brought the summoned record regarding date of birth of prosecutrix. Entry regarding her date of birth was made at Sr. No.249 dated 19.05.2005 and as per the said entry, date of birth of prosecutrix is 12.05.2005. She proved on record birth certificate of prosecutrix Ex.PE issued by the Primary Health Centre, Sabapur.

4.4 PW5 EHC, Mulakh Raj, visited the place of occurrence on 17.02.2010 and prepared site plan Ex.PF at the instance of Mukesh Rani with correct marginal notes.

4.5 PW6 HC, Subhash Chand, submitted his affidavit Ex.PW6/A regarding depositing of parcels containing clothes of prosecutrix as well accused along with sample seals with him when he was posted as MHC at



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PS Sadar Yamuna Nagar. He sent the same to FSL, Madhuban through Constable Virender Kumar on 26.02.2010.

4.6 PW7, Contable Virender Singh, No.421 deposed that on 26.02.2010, he was posted at PS Sadar Yamuna Nagar. MHC Subhash Chand had handed over to him, parcels containing case property along with sample seal which were deposited by him with FSL, Madhuban on the same day and he handed over the receipt to MHC. He further deposed that so long the case property remained in his possession, he did not tamper with the same nor anybody else was allowed to do so.

4.7 PW8, Dr. Kavita Jain, Medical Officer, General Hospital, Yamuna Nagar, tendered affidavit Ex.PW8/A in her evidence deposing therein that on 14.02.2010 while being posted as Medical Officer, General Hospital, Yamuna Nagar, she examined the prosecutrix and on local examination found the patient, a child aged about 4 years, not wearing underwear or Pajami. It is further stated that fresh bleeding was present; that on labia majora and labia manora no injury was seen; that hymen was ruptured and fresh bleeding present; that lacerated tear was present in mucosa of post vagina wall at 6 O' clock; that upper apex could not be seen and not even located under anaesthesia; that rectum was intact; anterior rectal wall was clearly intact; that swabs were taken from post fornix and sent for chemical examination and that for management as well as treatment purpose, the child was referred to PGI/GMC, Sector-32 Hospital, Chandigarh. This witness also produced the copy of MLR as Ex.PG bearing her signatures.



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4.8 PW9, SI Jai Narain, registered formal FIR Ex.PH/2 on the basis of *ruqa* Ex.PH with endorsement Ex.PH/1.

4.9 PW10, Labh Singh, Photographer deposed that on 15.02.2010, he went to the spot and took photographs Ex.P2 to P6 with digital camera and he handed over these photographs to police on 26.02.2010.

4.10 PW11, HC Ranbir Singh, had joined investigation of this case along with SI Om Parkash on 14.02.2010. He along with SI Om Parkash went to Civil Hospital, Yamuna Nagar where IO recorded statement of Janak Singh. PW11 deposed about several investigation proceedings conducted in this case.

4.11 PW12, Janak Singh, who is complainant and father of the prosecutrix deposed that on 14.02.2010 at about 2:00 P.M. he received a telephonic message regarding missing of the prosecutrix. He along with his neighbour Rajesh went to the house of Tota Ram where they heard noise from inside of an iron box. After opening the same, they found the prosecutrix inside the box. He further deposed that prosecutrix was naked and blood was oozing out of her mouth. Prosecutrix disclosed to them that while playing with the other children, she had received injuries on her mouth and the children playing with her had confined her in the said box. She also stated that accused Sonu had not committed any sexual assault with her nor confined her in the box. He did not support the prosecution story and was declared hostile.

4.12 PW13, Rajesh, stated that on 14.02.2010 he along with Janak Singh went to trace the prosecutrix, 5 years old daughter of Janak Singh.



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They reached at the house of Tota Ram where they heard a noise coming from an iron box and after opening the said box, they found the prosecutrix inside it. She was naked and blood was oozing from her mouth. She disclosed that while playing with other children she had received injuries on her mouth and children playing with her had put her in the said iron box. Prosecutrix never disclosed to them that Sonu S/o Satpal had committed any sexual assault upon her and confined her in the iron box. As this witness did not support the prosecution version, he was also declared hostile at the request of learned Public Prosecutor.

4.13 PW14, Mukesh Rani, mother of the prosecutrix also suffered a statement on similar lines as PW12 Janak Singh and PW13 Rajesh. She also deposed that while searching for prosecutrix, they reached at house of Tota Ram where they heard a noise from an iron box and after opening the said box, they found the prosecutrix inside it. She was naked and blood was oozing from her mouth and private parts. She never told them that accused Sonu had committed sexual assault upon her and confined her in the iron box. She was also declared hostile at the request of learned Public Prosecutor for the State.

4.14 Prosecutrix herself appeared as PW15. She deposed that Sonu S/o Satpal put his mobile on the iron box and thereafter he put her inside the said iron box. He got her clothes removed. He did not do anything with her. Blood started oozing from her right eye and from no other part of her body. When she was put inside the iron box there were no clothes on her body. She was taken to the hospital and from there to Chandigarh. Her statement was



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not recorded by the Judge in the Court. She remained in the box and the said box was opened by one Chhota who resides in a house situated towards the house of her paternal aunt.

4.15 PW16, SI Om Parkash, deposed that on 14.02.2010 after receiving telephonic message from Civil Hospital, Yamuna Nagar regarding admission of prosecutrix as a rape victim he reached there along with HC Tarsem Singh and HC Ranbir Singh. There Janak Singh father of prosecutrix met him and he recorded his statement Ex.PH. He made endorsement Ex.PH/1 and sent it to the police station through HC Ranbir Singh for registration of a case. He also recorded statements of Mukesh Kumari mother of prosecutrix and Rajesh, who were also present there. He moved application Ex.PB to medical officer for seeking opinion regarding fitness of prosecutrix to make statement. Doctor gave his opinion Ex.PB/1 where she was declared fit to make her statement and he recorded her statement. Doctor handed over to him one sealed parcel containing bottle swab, one envelop alongwith sample seal which were taken into possession vide Memo Ex.PJ. SHO Naresh Kumar also reached at the hospital and he handed over the case file to him. He also deposed regarding other investigation proceedings conducted during investigation of the case.

4.16 PW17, SI/SHO Naresh Kumar, deposed that on 14.02.2010 on receiving telephonic message from ASI Om Parkash, he reached at Civil Hospital, Yamuna Nagar, where he was apprised regarding facts of this case by ASI Om Parkash. He also deposed regarding various investigation proceedings conducted during investigation of the case.

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4.17 Dr. Toijam Soni Lyngdoh, Senior Resident, Paediatric Surgery Department, PGIMER, Chandigarh has been examined as PW18 who stated that on 14.02.2010, the prosecutrix, aged about 5 years, was admitted in their hospital and was checked up by him at 11.00 p.m. and at that time, child was conscious with comprehensible voice but not following verbal command, though her vitals were stable. There was right subconjunctival haemorrhage with facial puffiness and ligature marks all around the neck above the cricoid. He stated that the ligature mark has been shown in Photo Ex.P7 and that there was no other external mark seen except for old scars on both the legs. Perineal examination revealed a dressing pad in the vagina and per vagina examination was done in the presence of Dr. Jyotsana, Senior Resident, Gynaecology on call and found that there was presence of torn hymen and Grade-II laceration (mucosa breached, posterior wall of vagina lacerated) with normal rectal mucosa. He has further stated that 7 vaginal swabs were sent for examination and the patient was managed conservatively who was ultimately discharged on 17.02.2010 with advice to follow up on 24.02.2010 by Dr. Sumit Aggarwal, Senior Resident, who also prepared the case summary as Ex.PS.

4.18 PW19, Ms. Jasmine Sharma, learned JMIC Karnal deposed regarding recording of statement of prosecutrix under Section 164 Cr.P.C. She deposed that she recorded statement of prosecutrix Ex.PT in her own hand which bears her signatures and after accepting correctness of the same prosecutrix put her thumb impression. She also gave certificate beneath the statement Ex.PT/1 and passed order Ex.PT/2.

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4.19 PW20, Dr. Sumit Kumar, Senior Resident, Paediatric Surgery, PGI, Chandigarh, tendered in evidence, his affidavit Ex.PW20/A. He produced case summary of prosecutrix Ex.PS. He stated that on 16.02.2010 police submitted an application, Ex.PU, before him for seeking his opinion regarding fitness of the prosecutrix to record a statement. He gave his opinion Ex.PU/1, regarding her fitness and thereafter police recorded statement of prosecutrix in his presence and he gave his opinion Ex.PV, underneath the statement, to the effect that patient was fit during statement which bears his signatures.

5. After closure of prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded, wherein he pleaded innocence and false implication. He pleaded that he had been falsely involved in this case due to some petty dispute that had taken place between his family and family of the complainant over last 2-3 years. However, no evidence in defence was led by the accused.

6. Learned trial Court on considering evidence on record, facts and circumstances concluded that prosecution proved its case beyond reasonable doubt, hence appellant was convicted and sentenced as detailed in foregoing paras. Aggrieved therefrom present appeal has been filed.

7. Learned counsel for appellant contended that prosecution has not been able to prove its case against accused beyond reasonable doubt. Even complainant Janak Singh, father of prosecutrix, has not supported prosecution case. Similarly Mukesh Rani, mother of prosecutrix and Rajesh neighbour of prosecutrix, have also not supported prosecution story and

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despite their cross-examination by learned public prosecutor for the State, nothing useful could be extracted to prove the case of prosecution. He vehemently contended that statement of prosecutrix while appearing as PW15 is also not reliable as she herself admitted in her statement that she had been tutored by her mother. He argued that even if statement of prosecutrix is examined, she has not spoken a single word that any attempt was made by the accused to murder her or that rape was committed upon her by the accused. So even from her statement, case of the prosecution is not proved. He further argued that none of the doctors who had medico legally examined or treated the prosecutrix at General Hospital, Yamuna Nagar and PGIMER, Chandigarh have stated that rape had been committed upon the prosecutrix on 14.02.2010 i.e. the date of alleged occurrence. He pointed out that even PW1, Dr. Neeraj Bassi admitted that injuries on the person of prosecutrix could be caused by fall on the hard surface which lends corroboration to statement of complainant and mother of prosecutrix that she received injuries while playing with children. Learned counsel urged that evidence on record is not sufficient to connect accused/appellant with the offences in question, therefore judgment of conviction passed by learned trial Court should be set aside being illegal, unjustified and arbitrary. Accused may thus be acquitted of the charges framed against him.

8. On the other hand, learned State counsel contended that sufficient evidence has been produced on record by prosecution to establish the guilt of accused beyond reasonable doubt and that accused has been rightly convicted by the trial Court.



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9. We heard learned counsel for the appellant as well as learned State counsel and have thoroughly perused the record of the case.

10. So far as age of prosecutrix being $4\frac{3}{4}$ years at the time of alleged occurrence is concerned, there is no dispute regarding the same. Moreover prosecution has examined PW4 Dr. Sanjana Dua, Medical Officer, PHC Sabapur, who has proved birth certificate of prosecutrix as per which date of birth of prosecutrix has been shown as 12.05.2005. Therefore, it is conclusively proved on record, that age of prosecutrix was $4\frac{3}{4}$ years on 14.02.2010 i.e. the date of occurrence in this case.

11. As per prosecution version, on 14.02.2010, when mother of prosecutrix Mukesh Rani returned home after performing her duty, she found that prosecutrix was missing, her younger son while weeping told her so, upon which she telephonically informed her husband Janak Singh, who also reached at the house. During search, complainant/father of the prosecutrix, mother of the prosecutrix and Rajesh neighbour found the prosecutrix inside an iron box in naked condition in the house of Tota Ram which was lying vacant. None of aforesaid persons, namely, Janak Singh complainant/father of prosecutrix, Rajesh neighbour and Mukesh mother of prosecutrix have supported the case of the prosecution, while appearing in witness box as PW12 to P14 respectively. In the given factual matrix, statement of prosecutrix is extremely material and relevant. In the present case the victim is a child of tender age. The child was found to be a competent witness. Learned Judicial Magistrate 1st Class, while recording statement of victim under Section 164 Cr.P.C. on 23.02.2010, after putting



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relevant questions to her, found that the victim had basic understanding and was competent to record the statement. Learned trial Court has also found the victim to be a competent witness having proper understanding of the facts and circumstances.

12. Doubtlessly parents of the victim, who have deposed as PW12 and PW14, respectively, as well as the neighbour in whose presence the victim was recovered PW13, deposed before the learned trial Court that the victim never disclosed about the appellant committing any sexual assault upon her or beating her or putting her in the iron box. It is however to be noted that even these three witnesses in one voice have stated that when the victim was found missing they went in search for her and she was recovered from an iron box from the house of Tota Ram and on opening the box, the victim was found naked with blood oozing from her mouth. PW14 mother of victim deposed as abovesaid and also stated that blood was oozing from her mouth as well as private parts and that the victim disclosed that while playing with other children she had received such injuries and the children playing with her had confined her in the said box.

13. It is pertinent to note at this stage that victim while deposing as PW15 stated that the accused put her inside the box. He got all her clothes removed. He did not do anything with her. Blood started oozing out from her right eye and no other part of the body. In her cross-examination, she duly identified the appellant in Court. She categorically stated that when she was playing with children, she did not receive any injury on her person at that time. She further stated in the cross-examination that whatever she was

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stating on that day, had been told to her by her mother. Victim has duly identified the appellant to be the person who had put her in the box. In her statement under Section 164 Cr.P.C. recorded on 23.02.2010, victim stated that the appellant who had a phone, took her to the house of neighbours that i.e. the house of Tota Ram and hit her in the eye and tied a rope around her neck. She further stated that appellant removed her pyjama and hit her lower part. She specifically stated that appellant untied his pant and untied her pyjama too. He confined her in a box and said that he would kill her. The rope was pulled after tying it around her neck. It is crystal clear that the child victim has given a consistent and categorical version throughout. Argument raised by learned counsel for the appellant that the victim has admitted that whatever she was stating had been tutored by her mother, therefore unacceptable is devoid of any merit, hence rejected. This is so for the reason, that the tutoring as such by the mother was clearly to the extent of the victim stating that appellant did not do anything with her. When the statement is examined in the given factual matrix, it is apparent that the child has otherwise stuck to the truthful version throughout. She duly named the appellant as the person who had put her inside the box after removing her clothes and that blood was oozing out her right eye. Factum of her stating that blood was not coming out from any other part of the body is negated by the cogent medical evidence on record. It is pertinent to note at this stage that prior to recording statement of prosecutrix on 17.12.2010 before the learned trial Court, her parents as well as the neighbour had recorded their statements in which they had absolved the appellant. Thus the response in

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the cross-examination of the prosecutrix that she was stating before the Court as had been told by her mother is clearly explained. The truth however was not as such suppressed by the victim. It is relevant to note that the factum of the victim going missing on 14.02.2010 and her being found in a naked and injured condition in the box in the house of Tota Ram is clearly evinced from the statements of both the parents and neighbour. It is to be reiterated that PW14 has admitted the factum of blood oozing out from the mouth as well as private parts of the victim. Version put forth by the parents and neighbour that victim had received injuries while playing with other children is falsified by the statement of the victim herself who stated that she never received any injuries when she was playing with the other children. No such child has been named or examined. Thus, the parents and neighbour having turned hostile is of no avail to the appellant. In the given factual matrix, factum of the victim stating that appellant did not do anything after putting her in the box subsequent to removal of her clothes does not in any manner dilute the prosecution case.

14. Case of the prosecution also stands duly proved by medical evidence adduced on record. For proving offences regarding commission of rape and attempting to murder prosecutrix by accused, statements of PW1 Dr. Neeraj Bassi, PW8 Dr. Kavita Jain, PW18 Dr. Toijam Soni Lyngdoh, and PW20 Dr. Sumit Kumar coupled with statement of prosecutrix made before the Court as PW1 as well as statement Ex.P2 recorded under Section 164 Cr.P.C. are relevant. All the aforesaid doctors who medico legally examined or treated the prosecutrix have clearly stated that she was having



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ligature mark all around her neck and bleeding from vagina was present. Dr. Neeraj Bassi has specifically stated that injuries on the person of prosecutrix were within duration of 6 hours of her examination.

15. PW8 Dr. Kavita Jain has stated in her affidavit Ex.PW8/A that “on local examination child was not worn underwear not even pazami fresh bleeding was present, on labia majora & labia minora no injuries seen, Hymen ruptured fresh bleeding present, lacerated tear present in mucosa of post. Vagina wall at 6 o' clock, upper apex could not be seen & not even located under anaesthesia, Rectum intact, anterior rectal wall seen clearly intact. Swabs taken from post. Fornix & sent for chemical examination. For management & treatment purpose child was referred to PGI/GMC Sec 32, Chandigarh.”

16. Dr. Toijam Soni Lyngdoh as PW18 and Dr. Sumit Kumar as PW20, both from PGIMER, Chandigarh, had also found the hymen of the prosecutrix torn and Grade II laceration (mucosa breached, posterior wall of vagina lacerated) with normal rectal mucosa. Sub-conjunctival hemorrhage with facial puffiness and ligature marks all around the neck were found. Both these doctors have proved the case summary Ex.PS prepared by PW20. Thus from the medical evidence also it is established that prosecutrix was sexually assaulted and attempted to be killed in a ruthless manner by the accused.

17. If during investigation, police did not obtain opinion of any doctor regarding commission of rape or attempt to murder the prosecutrix, it is of no consequence, when from the oral, medical and documentary



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evidence it is proved that prosecutrix was raped by accused and then put inside the iron box to die, after trying to kill her by strangulating with the help of rope. Defective investigation by the police cannot be taken into consideration by the Court if relevant evidence is present. The Hon'ble Apex Court in **Karnel Singh Vs. State of M.P. 1995 (3) RCR (Criminal) 526** has held that when the investigation conducted by the Investigating Officer is defective, then in such case court has to be circumspect in evaluating the evidence but it would not be right in acquitting the accused solely on account of defect and to do so, would tantamount to playing into the hands of the Investigating Officer.

18. Otherwise also the medical evidence is sufficient to prove factum of rape of prosecutrix at the hands of the accused. The Hon'ble Apex Court in another case titled as **Satyapal Vs. State of Haryana, 2009 (2) RCR (Criminal) 778** has held that absence of hymen is clear indication of the fact that there was penetration which may be partial and that the absence of hymen, cannot be explained by any other circumstances then the sexual intercourse. It has also been held therein that it is not necessary that there should be complete penetration.

19. Prosecution has also proved on record reports Ex.PL, Ex.PL/1 and Ex.PL/2 of FSL, Madhuban, Haryana. As per Ex.PL, blood mixed with semen was detected on pajami Ex.P7, Salwar Ex.P8 and blouse mentioned as cloth Ex.P9. It has also been mentioned in this report that blood was detected on vaginal swab, underwear Ex.P1 of accused as well as rope Ex.P3, human semen was also detected on underwear Ex.P1 of accused. As



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per serological analysis report Ex.PL/2, the blood found on cotton wool swab, cloth piece, pajami, blouse, salwar and rope to be of human. Thus as per FSL report, blood mixed with semen was detected on the clothes of the prosecutrix. Relevant portion of Ex.PL reads as under:

- “1. Blood mixed with semen was detected on exhibit-3 (Pyjjami), exhibit-4 (Blouse) & exhibit-5 (Salwar).*
- 2. Blood was detected on exhibit-1 (Vaginal swab) & exhibit-6 (Rope).*
- 3. Blood too small for serological testing was detected on exhibit-7 (underwear).*
- 4. Human semen was detected on exhibit-7 (Underwear). However, semen could not be detected on exhibit-1 (Vaginal swab), exhibit-2 (Cloth) & exhibit-6 (Rope).”*

20. As per serological report Ex.PL/1 and Ex.PL/2, human blood was detected on the pyjama, salwar, blouse of victim as well as on the pieces of rope (baan) of the cot lying alongside the box from which victim was recovered. Merely because semen was not detected on vaginal swabs, cannot be a ground for acquittal of appellant in the given facts and circumstances. Similarly, DNA testing not having been done, cannot in any manner come to aid of appellant. In the given facts and circumstances in our considered opinion, prosecution has successfully proved its case against the appellant. It bears reiteration that the victim has given a steadfast, consistent and categorical narration of the facts as they unfolded. Merely because the victim in her testimony before learned trial Court stated that the appellant did not do anything with her after putting her in the iron box in a naked condition does not in any manner dilute the prosecution case. Similarly parents of the



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victim and neighbour turning hostile also do not come to the aid of the appellant to earn him an acquittal. Statement of the victim who was found to be a competent witness along with the corroborating medical evidence clearly proves the prosecution case against the appellant. We have carefully scrutinized the entire evidence including the medical record, site plan, photographs and the evidence of the witnesses but find that learned counsel for the appellant was unable to point out any glaring discrepancy which would cast a doubt upon the prosecution case. It is also to be noted at this stage that the appellant has taken a bald plea under Section 313 Cr.P.C. that he has been falsely involved due to some previous disputes between his family and family of complainant. However, there is no such evidence on record to substantiate such a stand.

- 21. No other argument was addressed.
- 22. For the reasons recorded hereinabove, we find no merit in this appeal which is accordingly dismissed while affirming the judgment dated 27.04.2011 and order of sentence dated 30.04.2011 passed by learned Sessions Judge, Yamuna Nagar.
- 23. Pending application(s), if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

(LISA GILL)
JUDGE

19.12.2024
harjeet

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|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |