

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

**CRA (SB) 43 of 2024
With
CRAN 2 of 2024**

**Subir Jana @ Sanjay
Vs.
The State of West Bengal & Anr.**

With

**CRA (SB) 8 of 2024
With
CRAN 1 of 2024**

**Surya Pradhan @ Sankar
Vs.
The State of West Bengal**

For the Appellant
in CRA(SB) 43 of 2024

:
Mr. Apalak Basu
Mr. Akash Ganguly
Mrs. Swarnali Gupta

For the Appellant
in CRA(SB) 8 of 2024

:
Mr. Habibur Rahaman
Mr. Archisman Singh

For the Respondent No. 2

:
Ms. Jharna Biswas

For the State
in CRA(SB) 43 of 2024

:
Ms. Sreyashee Biswas
Ms. Manisha Sharma

For the State
in CRA(SB) 8 of 2024

:
Ms. Z.N. Khan
Mr. Subham Bhakat

Heard on : 15.05.2025

Judgment on : 09.09.2025

Dr. Ajoy Kumar Mukherjee, J.

1. By the impugned judgment and order dated 18th December, 2023 and 19th December, 2023, Court below convicted Appellant Subir Jana @ Sanjay and Surya Pradhan @ Sankar, for committing offence punishable under section 370/366/366B/370A(2)/120B and sentenced to suffer rigorous imprisonment for each offence and also to pay fine in Sessions Case no. 125 of 2013. Being aggrieved by the said judgement and order, convict Surya Pradhan @ Sankar has preferred instant CRA(SB) 8 of 2024 and convict Subir Jana @ Sanjay preferred instant CRA(SB) 43 of 2024 and both the appeals were conjointly taken up for hearing for the sake of convenience and brevity.

2. The instant Jorabagan PS case no. 165 of 2013 dated 07.08.2013 was started under section 366A/366B/370/372/373/120B of IPC read with section 14 of the Foreigners Act against three accused persons namely the present two Appellants and also against one Manoj Bera on the basis of a written complaint lodged by complainant Sikha Devi @ Purnima Chatterjee, on behalf of Durbar Mahila Samanwaya Committee, wherein she alleged that on 07.08.2013 at about 2:15 P.M, the accused Manoj Bera brought a minor girl in his house at Rabindra Sarani. In course of routine visit by the members of their committee, they got the victim girl from the house of accused Manoj. Manoj informed that the girl was brought by one Subir Jana. Accordingly Subir Jana was called and was brought before the

committee. On being asked, the victim girl disclosed that one Sumi brought her from Bangladesh and handed her over to the accused Sankar/appellant and then Sankar handed her over to Subir/another appellant. She also told that the appellant Sankar engaged her in prostitution at Odisha. Thereafter she was handed over to Subir Jana by Sankar. She further stated that on 06.08.2013 Subir brought her back and kept her in his house at Baguihati and on 07.08.2013, she was brought by Subir at Rabindra Sarani. After getting such information the complainant informed the fact to Lalbazar police station who came and rescued the girl. On the basis of said compliant the instant FIR was lodged and the investigation started.

3. During investigation police arrested all the aforesaid three accused persons and examined accused Subir Jana and the victim girl and recorded their statement under section 161 Cr.P.C., arranged to send the victim girl to safe custody. Prior to that he seized the wearing apparels, the cosmetics and the contraceptive (19 tablets) from the victim girl under proper seizure list in presence of the witnesses. During investigation the victim was examined under section 164 Cr.P.C by the Magistrate and after receiving the said statement of the victim girl, the investigating officer prayed for Test identification parade (in short T.I. parade) of accused Subir Jana, Monaj Bera and Sankar. The victim girl identified all the three accused persons in T.I Parade. I.O. also produced the victim girl for medico-legal examination and after collecting report he arranged to send her in a shelter home.

4. After completion of investigation police submitted charge sheet against all the three accused persons under sections 120B /366 / 366B /370(1)/ 370A(2) of IPC showing the accused Sumi of Bangladesh as absconder.

Thereafter accused Manoj Bera absconded and ultimately on 09.02.2015 the case was filed for the present against accused Manoj Bera and the charge was framed against present two appellants on 28th march 2015 under section 366/366B/370/370A(2)/120B of Indian penal code, as both the accused persons pleaded not guilty and claimed to be tried. During trial the prosecution examined 12 witnesses and also proved 12 documents which are marked exhibit 1 to 12 in this case. The material object produced before the court were also marked as MAT exhibit. Learned court below after scanning evidence and materials placed before her passed the impugned judgment

5. Being aggrieved by the impugned judgment and order Mr. Aplok Basu learned counsel appearing on behalf of appellant Subir Jan @ Sanjay argued before this court that on plain comparison of the narration of the event, forthcoming from first information report, statement made by victim under section 164 and the deposition of the victim girl before the court, it appears that they are contradictory to each other. He further argued that from the seizure list it can be inferred that no money trail or bus ticket or any ticket in support of transportation or any other document was recovered from the Appellant to establish a direct relation between the appellant and the victim girl. It also indicates that the appellant Sanjay was not involved in the transportation of the victim girl and as per statement made by the victim girl, it is evident that the other accused Sankar has forced her to make illicit sexual relationship with other men and sexually exploited her. There is nothing in record nor anything disclosed from the evidence of the prosecution witness that appellant Subir Jana had sexually exploited her.

There is also nothing to suggest that either Sumi or the victim girl are Bangladeshi national nor any document was seized to suggest that she came from a different country.

6. So far as identification of appellant Subir Jana in T.I. parade is concerned Mr. Basu submits that it was conducted at a belated stage in presence of police officer and the alleged victim was also tutored by the police officer. Moreover, the police officers have failed to collect any SDR /CDR or any tower location to show that the appellant Subir Jana travelled to Bhubaneswar. There is nothing to show from phone records or call records to prove that victim girl has contacted the appellant from Bhubaneswar. He further submits that police had made no effort to arrest aforesaid Sumi nor had made any further effort to suggest that Manoj Bera was also involved in the crime. PW6 in her deposition stated that victim girl disclosed to her that one girl namely Sumi took her to Bhubaneswar for flesh trading and thereafter she was brought back to Calcutta and if that be so then the present Appellant Subir cannot be entangled with the alleged offence. She also did not disclose that she stayed in Baguihati or that she was rescued from Sonagachi. The victim girl did not mention the name of any person as "Shankar" at the time of making her statement before the Magistrate/PW-4.

7. Mr. Basu further argued that it is quite astonishing that the victim girl during her transportation from Bangladesh or from Kolkata to Bhubaneswar did not raise any alarm nor did she make any statement before Magistrate that she had sought for help from anyone. PW-12 stated that the Magistrate who held the TI parade, did not issue summon to the victim before holding

the TI parade, directing her to appear before the Magistrate for the same. PW-12 in course of his examination found that the victim did not seek for help of any person or informed any person regarding troublesome situation. Though the Baguihati area where the victim was allegedly kept is densely populated area and surrounded by many shops.

8. He further argued that it is well settled that the oral testimony are classified into three categories viz. (i) wholly reliable(ii) wholly unreliable (iii) neither wholly reliable nor wholly unreliable. He further contended that the first two category of cases may not pose serious difficulty for the courts in arriving at its conclusion, however in the third category of cases the court has to be circumspect and look for corroboration of any material particulars by reliable testimony, direct or circumstantial as a requirement of the rule of prudence. In this context he relied upon the judgment of ***Nirmal Prem Kumar and another Vs. State*** reported in **2024 SCC Online SC 260**. Since in the instant case the statement of the prosecutrix is not consistent from the very beginning to the end, it creates doubt in the prosecution case and it is difficult to record conviction against the said appellant. Accordingly Mr. Basu has prayed for setting aside the impugned judgment of conviction.

9. Mr. Habibur Rahaman learned Counsel appearing on behalf of the appellant Surya Pradhan @ Shankar argued on behalf of his client that PW1 stated that the girl was rescued from 413, Rabindra Sarani and she signed on the rescue memo but the rescue memo marked exhibit 3 reveals that the place of rescue is at 12/5 Neel Moni Mitra Street under Bartala P.S. and as such the case of rescuing victim girl is doubtful. He further argued that PW2 who is the alleged victim girl who stated that she was induced and

imported from foreign country by one of her friend namely Sumi. But there is nothing to show that she had intruded to India.

10. The identification of the said appellant during TI Parade is also suspicious as she had stated that she was brought to the place where many other persons were present by the police and she was produced to that place for identification where about 50-60 persons were present. After identification she was again brought back to home by police. Moreover, in her statement under section 164 Cr.P.C., which is marked as exhibit 5, she stated that she worked in a beauty parlour in Bhubaneswar for one month and she never taken the name of present appellant Shankar. She also never stated the case of inducement or that she was recovered from Sonagachi nor she ever cried for help from common people at the time of transportation from Dhaka to Bhubaneswar via Kolkata. Since she has not taken the name of Shankar while she was examined under section 164 Cr.P.C. and since recording of such statement is an admissible evidence, so the appellant can very well use it to contradict the statement made in the court by the victim in the manner provided under section 157 and 145 of the Evidence Act. and in this context he relied upon the judgment of ***Ram Prasad Vs. State of Maharashtra*** reported in **(1999) 5 SCC 30**. It was further argued that from the facts and circumstances of the case and the materials placed before the court, it reveals that the police always had been with the identifying witness who took her to the place of T.I parade and had entered in the jail and had talked with learned Magistrate and as such the presence of such police personnel at the place of TI parade with the witness, vitiates the identification and in this context he relied upon the judgment of this court

in ***Provash Kumar Bose and another Vs. The King*** reported in AIR 1951 Cal 475.

11. In this context Mr. Rahaman further submitted that learned Magistrate admitted that he did not specify the height of the persons brought in the TI parade along with the suspect, their physique complexion, formation of hair or any special identity mark, which is bad in law. PW4 who has recorded the statement of victim under section 164 Cr.P.C. stated that victim did not disclose that she was recovered from Sonagachi and she also did not mention the name of the present appellant Shankar before the Magistrate PW5 in her report stated that no injury was found either in victim's body or private parts. PW6 is the police constable who stated that she heard from victim girl that one Sumi took her to Bhubaneswar and thereafter brought her to Sonagachi which implies that the present appellants had no role to play in committing the alleged offence, if any.

12. PW8 has also stated the same thing and PW12 who is the investigating officer stated that he went to the place of TI Parade and had talked with the learned Magistrate that the identifying witness is present. He stated that victim girl did not tell before the learned Magistrate that she was handed over to Shankar. In his cross examination he admitted that he personally took responsibility to arrange the TI parade and to produce the victim girl. Accordingly Mr. Rahaman submits that the appellant herein was charge sheeted only on the basis of the alleged identification by the victim in TI parade but the manner and procedure of TIP and the evidence of witnesses reveals that the TI parade vitiated due to the presence of the

police personnel at the place of TI parade which creates doubt in the prosecution case. Therefore, the allegation against the appellant Surya Pradhan @ Shankar has not been proved beyond reasonable doubt and therefore, he is liable to be acquitted after setting aside the order of conviction.

Decision

13. It appears from the impugned judgement that the counsel for the appellant herein argued all the above mentioned points before the trial court namely

- (i)** the victim girl did not disclose the name of appellant Shankar before learned magistrate, therefore whatever she has stated in the evidence is her subsequent development of mind and is not trustworthy.
- (ii)** the written complaint has not be proved by the prosecution, only the signature of the complainant was proved.
- (iii)** that the victim girl as well as the IO stated that the girl was taken to the correctional home to identify the accused persons by the IO and as such the identification is bad in law.
- (iv)** the complainant as PW1 has stated that the victim girl was rescued from 13B Rabindra Sarani but the rescue memo marked exhibit 3/2 states that the place of rescue of the victim girl is from the office of Durbar Mahila Samonnaya Committee at 12/5 Nilmoni Mitra Street.

- (v) The prosecution has not assigned reason for withdrawal of the seizure witness CSW2 and CSW9
- (vi) the anomaly in the seizure list makes it clear that the seizure list dated 07.08.2013 was prepared by the police for the purpose of this case and as such the seizure witness as shown in the seizure list was withdrawn by the prosecution.
- (vii) the prosecution also failed to explain as to why it withheld the local independent witnesses to prove its case.
- (viii) the IO in his cross examination did not state that the victim sought for any help or informed any person regarding her troublesome situation, which raises a serious doubt in the prosecution case. In fact nobody brought her in India nor anyone took her to Baguihati or from Baguihati to Bhubaneswar or from Bhubaneswar to Sonagachi and as such she could not say anything before the Magistrate and as such the sole testimony of the victim girl is not reliable and the appellant cannot be held liable for committing any offence as alleged.

14. It further appears that the court below answered the aforesaid arguments in para 23 and 24 of the judgment which runs as follows:-

23. *I have carefully examined Exhibit-5, the statement of the victim girl, recorded by Ld. Magistrate u/s 164 Cr.P.C. I find that before Ld. Magistrate she has clearly stated that she was working in a place to stitch garments in Bangladesh. Sumi brought her in India with an assurance to give her same job but she did not give her the job. She handed her over to Sanjay and Sanjay took her to Bhubaneswar and handed her over to a boy. There she was working in a beauty parlour. That boy handed her over again to another boy. That boy engaged her in bad work. About 10 to 12 days later, Sanjay again came and brought her in a place to manufacture her identity card. Those people asked her age and she told that she was 14. They informed the*

matter to the police at lalbazar. It is again told by her before Ld. Magistrate that Sumi and Sanjay sold her and she wants to go back to Bangladesh.

24. *Therefore, I find that the victim girl before Ld. Magistrate though not told the fact in verbatim, which she told before this court but she told before the Magistrate the gist of the fact which is sufficient to corroborate her substantive evidence. The statement recorded by Ld. Magistrate u/s 164 Cr.P.C. can only be used for the purpose of material corroborations or contradictions. It is felt that the defence intended to take the contradictions between the evidence of the victim girl with her statement recorded by Ld. Magistrate, but unfortunately, these contradictions will not help the defence. The victim girl as PW2 has deposed clearly about the occurrence in this court. This particular fact could not be controverted or shaken by the defence. While facing cross-examination, defence could not extract any relevant material to that effect that the accused persons did not traffic her or did not engage her forcibly for commercial sexual exploitation. The statement before Ld. Magistrate, Exhibit-5 has sufficiently corroborated the evidence of the victim girl before this court. It is well settled position that, if the testimony of a victim is a voluntary expression and is an accurate impression of the same no corroboration of testimony is required. I do not feel any necessity to give undue importance regarding omissions, contradictions and discrepancies which do not touch the root of the case. I, therefore do not find any reason to disbelieve the substantive evidence of the victim girl.*

15. Now the issue raised by the appellants questioning the veracity of the TI parade on the ground that victim and the investigating officer admitted presence of police during TI parade which vitiates the entire identification learned Court below has also dealt with the same in details in para 26 and 27 of the judgment. Para 26 and 27 of the judgment runs as follows:-

“26. *Here in this particular case Ld. Metropolitan Magistrate, 9th Court, Calcutta appeared before this Court as P.W-3. He conducted the Test Identification Parade in the Presidency Correctional Home. He has proved in evidence his report of Test Identification Parade, Exhibit-6. I have carefully examined the document and I find that Ld. Magistrate has given reflections in his report that thirty under trials of same height, built, stature, dress, appearance, colour, complexion were standing in a row. Ld. Magistrate observed all the legal formalities as prescribed. The victim girl identified the accused Subir Jana by touching his head stating that Sumi handed over her to Subir. The victim again identified the accused Surya Pradhan @ Sankar by touching his head stating that Sumi and Subir took her to Bhubaneswar and handed her over to Surya Pradhan. The victim further identified Manoj Bera by touching his head stating that Subir taking her to Sonagachi in front of Manoj.*

27. *The plea of the defence is that the victim girl was guided by the I.O prior to identifying the accused persons in Correctional Home but on very careful scrutiny I find that it is not told by the victim girl before this Court that the police took her to the Correctional Home for identification. It is only told by her in her examination-in-chief that while she was at Home, she was asked by the police as to whether she will be able to identify those persons who are involved and*

her reply was positive. Then she was taken to one place where many other persons were there for the purpose of identification. This particular statement of the victim girl does not specifically give out that the I.O took her to the Correctional Home for the purpose of identification of the accused persons. Her statement is that she was taken for identification. Her statement is not that the I.O took her personally for identification in the Correctional Home prior to identifying the accused persons. The I.O (P.W-12) was also cross-examined elaborately by the defence and it is directly taken by the defence that the I.O personally took responsibility to arrange and to produce the victim before the Magistrate prior to holding the T.I Parade, Therefore, it means that the I.O made the arrangements to take the victim girl to the Correctional Home but it does not mean that the I.O personally took her to the Correctional Home prior to identifying the accused persons. This particular question put by the defence went against the defence and unfortunately it is taken by the defence that the I.O took the responsibility to arrange and to produce the victim before the Magistrate before holding T.I Parade. I do not find any illegality in this point as the Law gives out that the I.O is supposed to make all arrangements to take the witness to identify the accused persons in Correctional Home but he will not take the witness personally prior to holding the T.I Parade. Here the I.O did not take the victim personally to identify the accused persons in the Correctional Home and he made arrangements so that the victim can reach the Correctional Home to identify the accused persons. This is absolutely not beyond the position of Law. That apart in course of cross-examination of the I.O (P.W-12) the defence has repaired its own plea unfortunately. It is taken directly by the defence that prior to holding the T.I Parade, he told Ld. Magistrate that the witness is present and after making proper inquiry of the entire fact including the presence of the witness, he intimated the Magistrate who conducted the T.I Parade that the witness is present. Therefore, the defence has taken clear statement from the I.O that the I.O only inquired into the matter that the witness/victim is present to identify the accused persons. He intimated the fact to Ld. Magistrate and then Ld. Magistrate conducted the T.I Parade. The I.O has correctly made the arrangements and the identification by the victim is absolutely proper. Therefore, this very vital document, Exhibit-6 makes it clear that the victim girl has successfully identified the accused persons in Correctional Home before Ld. Magistrate. So the spirit of the decision *Satrughana @ Satrughana Parida and others Vs. State of Orissa, 1994 SCC (Cri) 1424* went against the defence. The only thing is that there was some delay in holding the T.I Parade by Ld. Magistrate in this case but this will not in any way become fatal for the prosecution. Conducting the identification process promptly is essential. An early opportunity to identify the accused tends to minimize the chances of the witness's memory fading due to long lapse of time. In this case the victim girl identified the accused persons in the T.I Parade on 11/09/2013 appropriately and as such the report of the T.I Parade (Exhibit-6) can safely be used for the purposes of corroboration with the evidence of the victim girl."

16. Furthermore the medico legal examination report marked exhibit 4 also corroborates which states that the doctor found multiple old healed

tears at 3,5 and 7 O' clock position in hymen. The doctor opined that she is habituated in sexual intercourse.

17. On careful examination of evidence of the victim girl, who stated in evidence that one of her friend Sumi allured her and thereafter introduced with appellant Sanjay and thereafter Sumi and Sanjay took her to Bhubaneswar and thereafter Sumi left them and then Sanjay took her to appellant Shankar at Bhubaneswar, who forced her to take very little dresses and forced her to make sexual intercourse after making physical relations with her forcibly, which was continued for about one month and thereafter she was again brought to Baguithati by Sanjay, remain unshakened and there was nothing to say that the victim's statement is subsequent development of her mind. The victim in course of cross examination stated that she disclosed the entire incident to the police and the appellants herein did not contradict such statement of the victim by putting suggestion that she did not tell the police the entire fact or that what actually happened. Accordingly this part remains unchallenged that the victim girl told the police what actually happened and despite taking contradiction between the evidence of the victim girl and the IO, the defence did not take contradictions of the statement of the victim girl from PW12 who is the investigating officer and as such there is nothing to disbelieve that the victim girl told the entire incident to the investigating officer and that is why the appellants did not take any contradiction. Therefore, the court has reason to believe that the statement of the victim girl is not a subsequent development of her mind and it is sufficiently trustworthy. Moreover all the accused persons/appellants are FIR named and also

identified during TI parade. Even if victim could not recollect the name of appellant Surya Prasad @ Shankar during her statement made before the magistrate but she has stated that appellant Subir brought her at Bhubaneswar to one person and during her testimony before the court she has stated the name of Shankar and infact there is no material contradiction what has been stated in FIR, statement made under section 164 and the evidence adduced by victim before court.

18. The complainant also deposed as PW1 and proved her signature in the complaint and she also stated that the complaint was written by her. I also find from the TI parade report that the magistrate has specially stated in his report that at the time of TI parade both the IO and the witness were kept outside the boundary wall of presidency correctional home and the place of TI parade was neither visible nor audible from outside and after arrangement of TI parade the witness was called for identification. He has specifically stated in his report *'no police personnel or outsider were present at the time of holding TI parade' the arrangement of TI parade was satisfactory*'. Said magistrate had also faced the dock as PW4 and I find that no suggestion was put to that witness that the TI parade was held in presence of police personnel. Therefore, I find no reason to disbelieve the evidence of PW4 which were never shakened during cross examination. In this context trial court rightly came to a finding that it is true that the contents of seizure list dated 07.08.2013 was not read over and explained to the seizure witnesses but such defect in investigation by itself and/or non-examination of certain witnesses cannot be a ground for acquittal,

when the chain of circumstances relating to commission of offence has been proved.

19. After going through the facts and evidence on record, it is seen that the victim is a lady who had just attended majority at the time of alleged occurrence. Both the accused persons have played direct role in procurement and importation of victim girl from foreign country, in making conspiracy with each other and exploited such trafficked woman.

20. In ***Gurmeet Singh*** case reported in **(1996) 2 SCC 384**, the court observed that the testimony of the victim of such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement the court should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Infact seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury and why should the evidence of a girl or a women who complains of rape or sexual molestation be viewed with doubt disbelief or suspicion. It was further observed in the said judgment that it must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with certain amount of suspicion treating her as if she were an accomplice.

21. In the instant case I find that the victim touching the head of the appellants Subir Jana identified and stated that Sumi handed over her to Subir and thereafter by touching her hand at the head of appellant

Shankar, she stated that Sumi and Subir took her to Bhubaneswar and hand over her to the hand of Surya Pradhan@ Shankar.

22. It is no more *res integra* that conviction can be based upon the testimony of solitary witness, if it is found to be trustworthy, without blemish and inspires the confidence of the court. The submission of learned Counsel appearing on behalf of the appellant Surya Pradhan @ Shankar that the victim did not say his name while she was examined under section 164 Cr.P.C. and therefore he was convicted on the basis of suspicion, do not deserve acceptance considering the facts and evidence led by the victim in the present case. Since her initial statement under section 164(5) Cr.P.C. till her testimony during the course of trial, she was demonstrably found to be very consistent in making the allegation that has been reflected in the FIR, the argument advanced by learned Counsel for the appellant that the identification of the appellant was extremely doubtful in the presence of police personnel could not attract me as I do not find any discrepancy in the report or in the evidence of PW4. The victim in this case is a vulnerable lady who fell prey to the lust of the appellants, who overpowered the victim by taking advantage of the fact that she was alone.

23. The court is also entitled to presume existence of natural events, human conduct in relation to the facts of this case. The fact that the victim's hymen was highly ruptured and the opinion of the doctor that she was habituated in the sexual intercourse corroborates the allegations levelled in the FIR. The evidence elicited during the trial before the trial court inspired confidence of the court and it is also noticed that while the appellants were examined under section 313 Cr.P.C. they have only denied the allegations

as false and at the time of sentencing hearing of the appellants, they merely preyed before the court for awarding lesser amount of sentence, while court recorded their statement under section 235 (2) Cr.P.C.

24. In ***Rajinder @ Raju Vs. State of Himachal Pradesh*** reported in **(2009) 16 SCC 69** the court observed in para 19 as follows:-

19. In the context of Indian culture, a woman—victim of sexual aggression—would rather suffer silently than to falsely implicate somebody. Any statement of rape is an extremely humiliating experience for a woman and until she is a victim of sex crime, she would not blame anyone but the real culprit. While appreciating the evidence of the prosecutrix, the courts must always keep in mind that no self-respecting woman would put her honour at stake by falsely alleging commission of rape on her and therefore, ordinarily a look for corroboration of her testimony is unnecessary and uncalled for. But for high improbability in the prosecution case, the conviction in the case of sex crime may be based on the sole testimony of the prosecutrix. It has been rightly said that corroborative evidence is not an imperative component of judicial credence in every case of rape nor the absence of injuries on the private parts of the victim can be construed as evidence of consent.

25. In ***Manga Singh Vs. State of Himachal Pradesh*** reported in **(2019) 16 SCC 759** the Hon'ble Apex Court has observed that the conviction can be sustained on the sole testimony of the prosecutrix if it inspires confidence and minor contradiction or small discrepancies should not be ground for throwing the evidence of the prosecutrix. It may be that the evidence adduced by the victim is not the narration of the entire version with photographic memory but such evidence of PW2 in noway negate or contradict the main and incriminating evidences involving the ingredients of the offence which establishes beyond reasonable doubts and does not consistent with the appellants plea of innocence.

26. In ***Vinod Kr. Garg Vs. State***, reported in **(2020) 2 SCC 88** Supreme Court reminded that minor contradictions on some details are bound to occur and are natural when the evidence are taken at a time gap of few years and the witnesses are not required to re-collect and narrate the entire

version with photographic memory notwithstanding the hiatus and passage of time.

27. In view of aforesaid factual background of the case and as observed herein above I find no reason to disbelieve the credibility and or trustworthiness of the testimony of victim and the other witnesses which are found to be reliable and trustworthy. Therefore, the conviction and sentence awarded to both the appellants are sustainable and does not call for interference.

28. For the reasons stated above both the appeals being **CRA (SB) 43 of 2024** and **CRA (SB) 8 of 2024** are dismissed. Connected Applications accordingly stand disposed of. The conviction and sentence awarded to both the appellants by the court below is hereby affirmed.

29. Send a copy of this judgment along with the Trial Court record to the court below forthwith.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)