

2025:PHHC:099701-DB



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

323

CRA-D-302-DBA-2005

Date of decision: August 01, 2025

STATE OF PUNJAB

...Appellant

Versus

KAKA RAM AND ANOTHER

...Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL  
HON'BLE MR. JUSTICE H.S. GREWAL**

Present: Mr. Mohit Kapoor, Sr. DAG, Punjab and  
Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Tapan Masta, *Amicus Curiae*  
for the respondent.

**MANJARI NEHRU KAUL, J.**

1. The State of Punjab has preferred the present appeal challenging the judgment of acquittal dated 23.11.2004 passed by the learned Sessions Judge, Patiala, in case FIR No.99 dated 20.09.2023 under Sections 376, 506, 363/34 of the Indian Penal Code, 1860, registered at Police Station Julkan, District Patiala, whereby the accused persons i.e. Kaka Ram and Raj Kumar @ Raju were acquitted of charges framed against them.

**CASE OF THE PROSECUTION**

2. The case of the prosecution, as unfolded during the trial, may be briefly summarized as follows: -

I. On the evening of 19.09.2003, the complainant-Pinky Rani was at her residence along with her husband and their 13 year-old daughter (the



victim). At around that time, accused Raj Kumar @ Raju (respondent No.2) visited the complainant's house and requested her assistance in submitting pension related documents for his mother. He approached in this regard because the complainant was serving as the President of the Local Mahila Mandal and was known to regularly visit Government offices. In response, the complainant informed Raj Kumar @ Raju that pension related camps were now being organized and advised him to submit the documents through such a camp. Following this conversation, Raj Kumar @ Raju left the premises.

II. Thereafter, the complainant resumed watching television, while her husband went into the kitchen to heat milk. Meanwhile, the victim began applying medicinal ointment to her mother's knees. After some time, the complainant dozed off to sleep.

III. When she awoke, she noticed that her daughter was no longer in the house. Upon inquiring from her husband about the whereabouts of the child, he responded that she might have gone to play at the house of her uncle-Om Prakash, located nearby. While the complainant and her husband were awaiting the return of the victim, she returned home, visibly distressed and crying. She was wearing only her shirt; both her *salwar* and *chunni* were missing.



IV. Upon being consoled and questioned by her parents, the victim disclosed that soon after Raj Kumar @ Raju had left their house, he had forcibly abducted her while she was playing outside. According to the victim, Raj Kumar @ Raju had gagged her by placing a hand over her mouth and dragged her away from the gate of their house. He then took her towards a nearby school, where accused-Kaka Ram (respondent No.1) was already present. There, both accused persons sexually assaulted and committed rape upon her. The victim stated that although she attempted to resist and escape, her efforts were in vain.

V. Following the alleged sexual assault, both accused fled the scene, issuing threats to the victim, warning her that if she disclosed the incident to anyone, she would face dire consequences.

VI. Upon learning about the incident from their daughter, the complainant and her husband immediately proceeded towards the place of occurrence. Upon reaching, they observed both the accused persons hastily walking away. On noticing the presence of the complainant and her husband, the accused persons ran away. It was also noted that the victim's lower garments, specifically her *salwar* and *chunni* were missing from the spot.

VII. Subsequently, the complainant and her husband visited the house of the Village Sarpanch, and attempted to contact other co-villagers for assistance. However, due to the late hour of the night, they were unable to secure any help. On the following morning, the complainant, along with



her husband and the victim, approached the police and reported the occurrence.

VIII. The complainant's statement (Ex.PA) was recorded by SI Balkar Singh. Based on this statement, a formal FIR (Ex.PA/2) was registered. Thereafter, SI Balkar Singh, accompanied by Surjit Singh, visited the site and prepared a rough sketch of the place of occurrence (Ex.PM).

IX. Both the accused were apprehended on 22.09.2003. During interrogation, accused Raj Kumar @ Raju made a disclosure statement (Ex.PQ), wherein he stated that he had concealed the *salwar* and *chunni* of the victim beneath a heap of bricks and offered to get the same recovered. Acting upon the said disclosure, the investigating officer effected the recovery of *salwar* and *chunni*. These articles were seized through a recovery memo (Ex.PQ/1) and a site plan of the place of recovery was prepared (Ex.PQ/2).

X. Upon completion of the investigation, police report was presented, and the accused were formally charged and committed to stand trial. Charges were framed against them under Sections 376, 506, 363/34 of the IPC. The accused pleaded not guilty and claimed trial.

XI. In support of its case, the prosecution examined a total of nine witnesses. The victim herself appeared as PW1, and the complainant (her mother-Pinki Rani) was examined as PW2. PW3-Dr. S.S. Oberoi testified regarding the medical examination of the victim conducted on 20.09.2003.



PW4-Dr. Meenakshi Gupta tendered her report (Ex.PD) concerning the determination of the age of the victim, opining that the victim was between 13-15 years of age at the relevant time. PW5-Dr. Manpreet Kaur also deposed that she had medically examined the victim on 20.09.2003, collected necessary vaginal swabs during the examination, and forwarded them for chemical analysis.

XI. The investigating officer, SI Balkar Singh appeared as PW9 and affirmed the recording of the complainant's statement (Ex.PA) as well as other procedural steps taken during the investigation.

XII. As per the Report of the Forensic Science Laboratory (Ex.PG), the case property sent for chemical examination tested positive, corroborating the sexual assault.

XIII. Upon closure of prosecution evidence, the accused were examined under Section 313 Cr.P.C. In their statements, the accused denied all incriminating circumstances put to them, and alleged false implication in the present case.

XIV. In their statements recorded under Section 313 Cr.P.C., the accused asserted that a doctor, who was a tenant in the shop owned by the parents of the victim, operated his practice in close proximity to the house of the victim. According to the accused, the victim was involved in an illicit relationship with the said doctor, and was allegedly caught red-handed with him inside the shop. The accused claimed that upon recovering the incidence



they, along with other co-villagers, raised a hue and cry, which led to embarrassment for the family of the victim. Consequently, they alleged that a false case was foisted upon them by the complainant as an act of vengeance.

XV. In support of their defence, the accused examined two witnesses. DW1-Chanan Singh, a draftsman proved a scaled map (Ex.DB) reflecting the relevant layout of the area. DW2-SI Balbir Singh, deposed regarding the geographical location and surroundings of the alleged place of occurrence.

XVI. Both the victim and the complainant, while deposing during trial, fully supported the case of the prosecution in all material particulars. However, despite the evidence adduced, the learned trial Court acquitted both accused persons, holding that the prosecution had failed to establish its case against them beyond reasonable doubt.

**SUBMISSIONS ON BEHALF OF THE STATE TO ASSAIL THE  
IMPUGNED JUDGMENT OF ACQUITTAL**

3. It has been submitted by the learned State counsel that the impugned judgment suffers from fundamental, legal and factual infirmities, and reflects a total misappropriation of facts, which has resulted in miscarriage of justice. The specific submissions made in support of this challenge by the learned State counsel are as follows:-



A. **Misplaced emphasis on minor contradictions in the testimonies of the prosecution witnesses:**

i. The first and foremost submission is that the learned trial Court committed a grave error in placing undue reliance on minor and inconsequential discrepancies in the statements of the victim and her mother, PW2-Pinki Rani, particularly with respect to the exact location of the occurrence. Learned State counsel contended that such minor inconsistencies are natural and do not detract from the overall credibility and consistency of the core narrative, especially in offences of such a traumatic nature involving a child-victim.

ii. The testimony of the victim is of unimpeachable character, having remained steadfast and consistent throughout, and stands duly corroborated by the version given by the complainant in the FIR. Furthermore, the surrounding circumstances – including medical and forensic evidence – lend unassailable support to the occurrence of the incident and the identity of the assailants. Therefore, the reliance placed by the learned trial Court on minor contradictions to discard the entire prosecution case was wholly misplaced and legally untenable.

B. **Corroborative medical evidence ignored:**

i. The second submission of the learned State counsel pertains to the erroneous finding by the learned trial Court that no injuries indicative of violence were found on the person of the victim. It was strongly urged that



on 20.09.2003 at about 2 p.m., the victim was medically examined by PW3- Dr. S.S. Oberoi, who documented multiple injuries sustained by the victim. These injuries were consistent with the assault and substantiated the account given by the victim.

ii. Learned State counsel submitted that the learned trial Court, in complete disregard of this vital corroborative medical evidence, erroneously concluded that the victim had not been assaulted. This approach reflected a palpable non-application of mind rendering the acquittal perverse and unsustainable.

C. **Baseless inference drawn from delay in the registration of the FIR:**

i. Learned State counsel further submitted that the learned trial Court placed unwarranted emphasis on the alleged delay in lodging the FIR. It was contended that the incident took place in the late evening hours of 19.09.2003, and the FIR was promptly registered at 9:45 a.m. the following morning on 20.09.2003. Thus, the FIR was lodged within a few hours of the incident and certainly within 24 hours, which cannot, by any legal standard, be construed as delayed.

ii. It was also argued that multiple judicial pronouncements are replete with settled principle that especially in offences involving sexual assault, and that too upon a minor, even some delay in lodging the FIR does not vitiate the case of the prosecution. In the present case, the prompt



registration of FIR negates any suggestion of fabricated or embellishment. The finding of the learned trial Court in this aspect was, therefore, both factually incorrect, and yet again, legally unsustainable.

D. **Determination of the age of the victim based on medical evidence:**

i. A crucial submission made by the learned State counsel was that the age of the victim, as determined by medical and radiological evidence, conclusively placed her within the age bracket of a minor. PW4-Dr. Meenakshi Gupta conducted a radiological examination and opined the victim was between 13-15 years of age. This medical finding, in conjunction with the consistent assertion of the parents of the victim that she was 13 years old, proved beyond reasonable doubt that she was below 16 years of age.

ii. Despite their being no challenge from the defence during cross-examination regarding the age of the victim, the learned trial Court surprisingly proceeded to cast doubt on her minority without any substantive basis. This approach was perverse and indicative of a miscarriage of justice.

E. **Fallacious observations by the learned trial Court regarding the recovery of the clothes of the victim:**

i. Another erroneous and unjustified observation by the learned trial Court, as per the learned State counsel, pertains to the recovery of the clothes of the victim. It was noted by the learned trial Court that the recovery



was not made at the instance of the victim but pursuant to a disclosure statement made by accused Raj Kumar @ Raju from a heap of bricks, thereby treating it as a suspicious circumstance.

ii. Learned State counsel strongly objected to this by arguing that the entire premise was illogical and fallacious. From the inception, the case of the prosecution was that the victim returned home in a distressed state, wearing only a shirt, which clearly demonstrates that her remaining clothes were not in her possession. The recovery of the clothes from the location disclosed by the accused in fact supported the case of the prosecution, rather than weakening it. The inference by the learned trial Court, therefore, was completely contrary to the weight of the evidence.

F. **Overlooking corroboration between medical, ocular and forensic evidence:**

i. It was further submitted that the learned trial Court committed a serious error in ignoring the consistent and mutually corroborative nature of the testimony of the victim, the medical evidence and the FSL Report. The statement of the victim was not only cogent and credible but also substantiated by the medical findings and the forensic analysis of the recovered articles. Despite the clear convergence of ocular and scientific evidence, the learned trial Court unjustifiably disregarded this body of material and proceeded to acquit the accused without assigning legally



sustainable reasons. This selective and flawed appreciation of evidence clearly undermines the rule of law.

G. **Unwarranted presumption of false implication:**

i. Lastly, the learned State counsel further submitted that no rational person, let alone biological parents of a minor girl, would concoct story of grave and irreversible social consequences to plant a false case upon a person, and that too, involving rape allegations upon a child.

In view of the above submissions, it was prayed by the learned State counsel that the judgment of acquittal rendered by the learned trial Court be set aside as it is clearly vitiated by misappropriation of evidence, misapplication of law and grave perversity in findings. Learned State counsel submitted that the learned trial Court had failed to draw reasonable inferences from the unimpeachable testimony of the victim and supporting medical and forensic evidence, resulting in a manifest failure of justice.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT-ACCUSED**

4. Learned *Amicus Curiae* appearing on behalf of the respondent-accused, while opposing the appeal filed by the State against their acquittal, strongly urged that the impugned judgment passed by the learned trial Court does not call for any interference, as it was a well-reasoned and thoroughly considered decision rendered after due appreciation of the evidence on record. It was submitted that the learned trial Court meticulously examined the prosecution evidence and rightly concluded that the case put forth by the



prosecution suffered from serious inconsistencies, material omissions, and evidentiary deficiencies, which cumulatively rendered the story of the prosecution doubtful and unworthy of credence.

5. The principal submission advanced by the learned counsel was that the testimonies of the victim and complainant, (PW2-Pinki Rani) were riddled with contradictions on material aspects, which went to the root of the matter. These inconsistencies were neither satisfactorily explained by the prosecution nor supported by any credible corroboration. The learned trial Court, it was submitted, rightly noticed these contradictions and arrived at a reasoned conclusion that the prosecution had failed to establish its case beyond reasonable doubt.

6. Learned counsel further contended that *albeit* the vaginal swabs of the victim were found positive for semen during forensic examination, the prosecution failed to undertake DNA profiling or any other form of conclusive scientific analysis to establish a direct link between the said biological material and the accused. The absence of DNA analysis or any comparable scientific evidence deprived the prosecution of the most critical form of corroborative proof. More significantly, the clothes of the victim, which could have potentially carried corroborative trace evidence, were never sent for chemical examination. This glaring lapse on the part of the investigating agency created a serious dent in the case of the prosecution and deprived it of vital link evidence that could have either supported or refuted



the allegation of sexual assault/rape. It was submitted that had the garments of the victim been examined for the presence of semen or any bodily fluids, and had the results matched with the forensic findings on the vaginal swabs, a strong evidentiary connection could then have been established. The omission in this regard was not merely procedural but fatal to the prosecution's effort to establish the identity of the assailants.

7. It was still further argued that the conduct of the complainant and her husband, following the alleged incident, was wholly unnatural and inconsistent with ordinary human behavior. As per their own version, upon coming to know about the alleged incident, they saw the accused hastily walking away. Despite this, they neither raised any hue and cry nor made any attempt to apprehend or follow the accused. Instead, they allegedly proceeded to the residence of the Sarpanch and a few villagers. The said conduct, it was urged, defies logic and reason. Even if, for some reason, the complainant and her husband were unable to secure the help of the Sarpanch or other villagers, there was nothing that precluded them from immediately reporting the matter to the police. However, the record reveals that the FIR was lodged only on the following day, after an unexplained delay of several hours. This delay in reporting the matter, coupled with the unnatural conduct of the complainant and her husband, casts a serious shadow over the authenticity of the prosecution version and was clearly suggestive of it being an afterthought and an embellished account.

***CRA-D-302-DBA-2005******-14-***

8. Attention was also drawn to the statements recorded under Section 313 Cr.P.C., wherein both accused had clearly indicated the existence of prior animosity between them and the family of the complainant. It was submitted that the victim and the tenant of the complainant had earlier been caught in an objectionable situation in the shop owned by the complainant's family. The accused along with some villagers, had objected to that incident, which led to a strain in their relations with the family of the complainant. This prior enmity, it was argued, provided a strong motive for the false implication of the accused in a fabricated and concocted case. The learned trial Court, it was submitted, rightly took note of this relevant background and correctly appreciated the possibility of false implication.

9. A further inconsistency in the case of the prosecution was highlighted in relation to the place of occurrence. While the victim deposed that the alleged incident took place near the main gate of the school adjacent to her house, the site plan (Ex.PM) prepared by the Investigating Officer marked the spot of occurrence as being behind the school, in the opposite direction. This contradiction regarding the exact place of occurrence remained unexplained and significantly undermined the credibility of the prosecution's version of events. It was submitted that such a discrepancy



was not trivial but fundamental to the case and its impact could not have been brushed aside.

10. Learned counsel also argued that the alleged recovery of the *salwar* of the victim at the instance of the accused, even if accepted, could not, by itself, be construed as incriminating evidence. In the absence of any forensic report linking the garment with the accused or the alleged act, such recovery, it was submitted, is inconsequential and does not advance the case of the prosecution. A recovery unaccompanied by scientific corroboration or independent evidence of possession lacks probative value in a case of this nature.

11. Learned counsel also cast serious doubt on the claim of the prosecution that accused Raj Kumar @ Raju had come to the house of the complainant under the pretext of collecting pension documents for his mother. It was pointed out that at the relevant time, the accused was not even in possession of any papers and had never previously visited the house of the complainant. It was, therefore, wholly improbable that the complainant would permit complete strangers to enter her house. The prosecution failed to offer any plausible explanation as to why the accused would seek entry into the house of the complainant under such an implausible pretext or how he was permitted access despite being a stranger.

12. It was additionally urged that the version of the prosecution is also weakened by the absence of any independent public witness. It was



argued that if, as alleged, the sexual assault occurred either on a public street or near the school, which was surrounded by a residential area, it is inconceivable that no one from the locality witnessed the incident or heard the cries of the victim. The failure to examine or even site any independent witness residing in the vicinity further raises grave doubts regarding the occurrence of the incident in the manner projected by the prosecution.

13. Finally, it was contended that even the testimony of the victim did not inspire confidence. It was pointed out that she was unable to state with any clarity or certainty the duration of the alleged sexual assault or whether she had sustained any bleeding injuries as a consequence thereof. Such vagueness in the testimony of the victim, particularly in a case of this nature, militates against the credibility of her version and renders it unsafe to form the sole basis for conviction. In view of the above submissions, it was prayed that the appeal filed by the State deserves to be dismissed and the judgment of the learned trial Court be upheld.

**FINDINGS OF THIS COURT**

14. We have heard learned counsel for the parties and perused the evidence on record.

15. The present appeal, filed by the State, calls into question the legality and propriety of the impugned judgment, whereby the respondents were acquitted of serious charges involving the sexual assault/rape etc. of a minor girl, aged about 13 years of age.

***CRA-D-302-DBA-2005******-17-***

16. The findings of the learned trial Court reflect a disturbingly superficial and patently flawed appreciation of the evidence on record, betraying a cavalier disregard for both factual material and binding legal principles. The conclusions arrived at in the impugned judgment are not only unsupported by evidence or grounded in law but, in several instances, stand directly contradicted by unimpeachable documentary and testimonial evidence. Upon a meticulous and exhaustive scrutiny of the record, this Court is constrained to observe—with utmost disapproval—that the impugned judgment is vitiated by a perverse appreciation of evidence, a fundamental misapplication of settled principles, and a troubling misapprehension of the jurisprudence governing sexual offences, particularly those involving minor victims. Far from demonstrating justice, the judgment under challenge perpetuates injustice, resulting in a serious miscarriage warranting appellate interference.

17. Upon a meticulous and exhaustive scrutiny of the evidence on record, this Court is constrained to observe – with the utmost disapproval – that the impugned judgment is not merely erroneous in fact and law, but is vitiated by an egregiously flawed and patently perverse appreciation of evidence, a fundamental disregard of binding legal principles, and a disturbingly superficial understanding of the jurisprudence governing sexual



offences, particularly those involving minor victims. The judgment under challenge not only fails to demonstrate justice – it perpetuates injustice.

18. ***Delay in lodging of FIR – Misplaced and Perverse Reasoning:***

The learned trial Court, in an astounding display of misplaced emphasis, treated the alleged ‘delay’ in lodging the FIR as a determinative infirmity in the case of the prosecution. This view is fundamentally misconceived. The incident occurred in the late evening of 19.09.2003. The FIR was lodged without any material delay at 9:45 a.m. the following morning.

19. This Court cannot countenance such artificial inflation of a non-issue. Unfortunately, the learned trial Court’s reasoning stands vitiated by its disregard of the settled law that delays in registering FIRs in cases of sexual assaults etc be approached with empathy, realism and contextual sensitivity.

20. In the present case, the so-called ‘delay’ – if it can even be characterized as such – was entirely and satisfactorily explained by the surrounding circumstances. The victim was a minor, reeling under severe psychological trauma. Her family had tried in vain to promptly reach out to the Village Community members for help, and significantly, as already mentioned earlier, the FIR was registered the very next morning. The learned trial Court was expected to recognize the emotional and psychological toll such an incident inflicts on a minor victim, as well as the understandable hesitation and delay that families often exhibit in cases of this nature –



responses that are entirely consistent with normal human behavior in the aftermath of such a traumatic event. Therefore, the insistence of the learned trial Court on the immediate registration of FIR, divorced from the realities of societal pressures and trauma is not only archaic – it is deeply unjust.

21. **Minor Inconsistencies – Misplaced Discrediting of Prosecution:**

The acquittal of the accused is substantially rooted in the over-reliance placed by the learned trial Court on trivial discrepancies in the testimonies of the victim and her mother (PW2-Pinki Rani). These minor variations relate to the precise location of the place of occurrence and the sequence of some events. Such discrepancies are neither uncommon nor unexpected, especially when the witness or the victim of an offence of sexual assault is a minor who has undergone an intensely traumatic experience.

22. It needs to be reiterated firmly and unequivocally that the law does not require photographic memory from witnesses, particularly from child victims of sexual assault. Trivial variations, if any, which do not go to the heart of the case of prosecution, are irrelevant and ought not to result in rejection of an otherwise credible and cogent version. The Courts are expected to look at the substance of the evidence – not sentence fragments taken out of context.



23. The approach of the learned trial Court in this regards clearly reveals a complete failure to apply the law with the nuance and circumspection it demands. This Court is compelled to note that such reasoning reflects a hyper-technical and mechanistic application of legal standards – an approach long discarded by modern criminal jurisprudence.

24. **Credibility of the testimony of the Victim – Disregard Without**

**Justification:**

In the present case, the foundational elements of the case of the prosecution – the abduction of the victim, the occurrence of sexual assault, the clear identification of the perpetrators and the corroboration through medical and forensic evidence – remain consistent, cogent, and unshaken. The testimony of the victim during the trial was direct, unwavering and carried the unmistakable ring of truth.

25. The learned trial Court's rejection of the ocular, medical and forensic evidence on flimsy grounds reflects a disturbing disregard for the legal standards and sensitivity required in adjudicating cases involving sexual offences. Alarming still is the reasoning advanced by the learned trial Court to doubt the case of the prosecution – namely that the victim failed to specify the duration of the sexual assault or furnish other precise details.

26. We are constrained to observe that such reasoning is not only wholly untenable but betrays a deep insensitivity to the psychological trauma suffered by the victims of sexual violence, particularly minors. It is



utterly misconceived to expect a victim of such a harrowing experience to recount minute or exact details of the incident. Such expectations are unrealistic and reveal a complete failure on the part of the learned trial Court to appreciate the profound emotional and psychological impact of sexual assault on a young victim.

27. **Medical and Forensic Evidence – Ignored without Reason:**

The medical evidence in the present case clearly corroborates the version of the victim. PW3-Dr. S.S. Oberoi, who conducted the medico-legal examination of the victim soon after the registration of the FIR, recorded the following injuries on her person, consistent and unambiguous with forcible sexual assault: -

- a) Two linear abrasions each 1 x .2 cm in healing phase .2 cm apart the medical one 3 cm middle from the mid line, present in the left side of back in its lower part at the level of iliac crest.
- b) Abrasion .5 x .2 cm in healing phase in the upper part of left side of leg. 3 cm behind the chin. For genital examination, the patient was admitted in Gynae Ward Rajindra Hosiptal, Patiala.

Both the injuries No.1 and 2 were declared to be caused by blunt weapon and probable duration of injuries was about 12 to 24 hours.

28. The presence of the above injuries on the victim, when considered alongside her consistent narrative, lends overwhelming credibility of the prosecution.



29. Further, PW4-Dr. Meenakshi Gupta, through radiological examination, opined that the victim was between 13 to 15 years of age. This evidence regarding the radiological opinion *qua* the age of the victim remained wholly unchallenged by the defence during trial. The learned trial Court's casual dismissal of this crucial corroborative medical opinion without any substantive reasoning or countervailing material is not merely erroneous but borders on judicial impropriety.

30. Similarly, the forensic evidence confirmed the presence of semen in the vaginal swabs collected from the victim, consistent with penetration. The argument of the learned *Amicus Curiae* that DNA profiling was not conducted and hence, it could not be cogently proved that it was the accused who were perpetrators of the crime in question, deserves to be rejected. The absence of DNA profiling does not nullify the probative value of the medical and forensic material. The evidentiary burden on the prosecution is not to prove its case with mathematical precision but to establish guilt of an accused beyond reasonable doubt. The Court cannot demand scientific infallibility in every case.

31. Therefore, the sweeping rejection of all corroborative material on the above grounds by the learned trial Court demonstrates a glaring non-application of mind.



32. **Place of Occurrence and Recovery of Clothes – Misconstrued and Misread:**

Furthermore, the learned trial Court's finding casting doubt on the place of occurrence is equally flawed. Whether the act occurred at the front or back of the school building does not affect the substance of the case of the prosecution. The general area of occurrence has been consistently described and the identity of the spot is not in serious dispute. Such hyper-technical parsing serves no useful purpose other than to discredit the prosecution on non-existent grounds.

33. Similarly, the recovery of the clothes of the victim at the instance of accused Raj Kumar @ Raju (respondent No.2) was wrongly disbelieved and dismissed as suspicious. The victim had returned home partially clothed, and this fact was corroborated by her mother, PW2-Pinki Rani and by medical evidence. The recovery in such context, lent significant credence to the prosecution version. The contrary view taken by the learned trial Court is irrational and reflects a perverse appreciation of basic facts.

34. **Absence of Forensic Examination of the Salwar and Chunni of the victim:**

An argument was advanced by the learned *Amicus Curiae* that in the absence of forensic examination of the *salwar* and *chunni* of the victim, no conclusive link could be established between the accused and the offence. This argument is devoid of merit. It stands negated by the consistent



case of the prosecution from the outset which is that the accused had removed the lower garments of the victim during the commission of the offence. Consequently, the absence of semen stains on garments not worn at the time is entirely inconsequential. It is further borne out from the record that the victim was clad only with a shirt when she returned to her house following the sexual assault on the fateful evening.

35. **Defence of Enmity and Absence of Public Witnesses – Unsustainable:**

The argument advanced regarding prior enmity, allegedly arising from a past rebuke by the accused, is both speculative and unsupported by any cogent evidence. It is beyond comprehension that the parents of a young girl would subject her to the trauma of invasive medical examination and social stigma to settle scores.

36. The absence of independent public witnesses as argued by the learned *Amicus Curiae* for discrediting the case of the prosecution also deserves to be rejected. The absence of independent public witnesses, while relevant in some context, cannot dilute the testimony of a child-victim, whose account is found reliable and corroborated by medical and forensic evidence. Sexual assaults, particularly those occurring in semi-public areas or at twilight, are often crimes of opportunity and may escape public notice. The instant crime took place near a school boundary during late evening hours – not in broad daylight amidst a crowd. Courts must be conscious that



in cases of sexual assault, the presence of independent witnesses is rare. The failure to examine someone from the vicinity cannot be treated as fatal when the version of the victim is otherwise consistent and duly corroborated.

37. The victim in the present case is a minor, and her testimony bears the hallmark of truth. Her account remained consistent and unshaken throughout, and it stood duly corroborated in material particulars by the version of the complainant (PW2-Pinki Rani), medical evidence, and the surrounding circumstances. It is a settled principle of law that the testimony of a child-victim, once found credible and trustworthy, requires no further corroboration. This case is no exception.

38. In view of the foregoing, we find no hesitation in concluding that the judgment rendered by the learned trial Court is vitiated by serious legal infirmities, a gross appreciation of evidence, and a disturbingly indifferent application of settled legal principles. The acquittal of both the accused is, therefore, not only unjustified but also manifestly perverse and wholly unsustainable in law.

39. The appeal filed by the State is, therefore, allowed. The impugned judgment of acquittal dated 23.11.2004 passed by the learned Sessions Judge, Patiala is set aside. The accused persons i.e. Kaka Ram and Raj Kumar @ Raju are held guilty of the charges framed against them. Hence, the accused-respondents stand convicted under Sections 376, 506, 363/34 of the Indian Penal Code, 1860.

40. Let the convicts be heard on the quantum of sentence. SSP concerned is directed to produce them in custody before this Court on 29.08.2025. A copy of this order be sent to the quarter concerned for immediate compliance.

(MANJARI NEHRU KAUL)  
JUDGE

August 01, 2025

*Jaspreet Kaur*

(H.S. GREWAL)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No