



\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 19th February, 2025

+ CRL.A. 78/2017

STATE OF NCT OF DELHI

.....Appellant

Through: Mr. Yudhvir Singh Chauhan, APP.

versus

BEER SINGH & ORS

.....Respondents

Through: Mr. Vineet Jain and Mr. Rahul Dhir,
Advocates for R-1 to 4.
SI Naresh Kumar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present appeal is directed against the order of acquittal dated 7th April, 2015 passed by Additional Sessions Judge, West District, Tis Hazari Courts, Delhi in the case emanating from FIR No. 198/2013, P.S. Khayala registered under Sections 354B/ 326B/ 34 of the Indian Penal Code, 1860.¹

Factual Background

2. Briefly stated, the case of the Prosecution, as set out in the chargesheet, is as follows:

2.1. On receipt of DD No. 49, SI Anand Prakash, along with Ct. Devender, went to the spot of the alleged incident, *i.e.*, M-227, Raghubir Nagar, Delhi. Upon making inquiry, it was revealed that the injured person

¹ "IPC"



had already been taken to Guru Gobind Singh Hospital. Accordingly, they went to the said Hospital, where the victim, Ms. Kamini, was found admitted under treatment *vide* MLC No. 31163.

2.2 The attending doctor at the Hospital recorded a history of assault observing “*H/O assault & thrown of acid over body in M-Block, Raghubir Nagar at or around 11.40 PM 26th May, 2013.*” Subsequently, the Investigation Officer recorded the statement of the victim, in which she alleged that on 26th May, 2013, she visited her sister’s house at M-227, Raghubir Nagar, Delhi. At approximately 11:30 PM, she observed the accused—Leela Ram (Respondent No. 3), his sons Mukesh Kumar @ Monu (Respondent No. 4) and Ramesh Kumar @ Sonu (Respondent No. 2), and Vir Singh (Beer Singh- Respondent No. 1)—standing in front of a mandir near the house. She alleged that Respondent Nos. 2 and 4 tore her shirt, while Respondent Nos. 1 and 3 poured acid on her. She further alleged that Respondent Nos. 3 and 4 stated they had assaulted her husband, Amit, with a knife, and that it was now her turn. Based on this statement, the present FIR was registered.

2.3 During the course of the investigation, the IO/SI inspected the site and prepared a site plan of the location where the incident allegedly took place. He also collected acid-contaminated soil samples, along with earth control samples, and seized them for forensic examination. Respondent No. 1 was arrested, and his disclosure statement was recorded. Efforts were made to apprehend the co-accused; but they remained untraceable, leading to the IO requesting for NBWs by the Court. The statement of the Complainant was recorded under Section 164 of the Code of Criminal Procedure, 1973². The

² “CrPC”



co-accused later surrendered, following which they were interrogated and arrested. Upon completion of the investigation, a charge sheet was filed against the accused persons under Sections 354B, 326B, and 34 IPC.

Proceedings Before The Trial Court

Prosecution Evidence

3. In order to prove their case, the Prosecution examined 11 witnesses, the details whereof are as under:

3.1 PW-1, HC Nawal Singh, who was the Duty Officer;

3.2 PW-2, Sh. Hemraj, the then Metropolitan Magistrate;

3.3 PW-3, Ct. Devender, who accompanied the Investigating Officer to the location where the alleged incident occurred, and is a witness to the arrest of Respondent No. 1;

3.4 PW-4, HC Sanjiv Kumar, who visited the spot where the acid was thrown on the victim, and collected a piece of earth stained with the acid, which was subsequently taken into police possession;

3.5 PW-5, Ct. Binod, the witness of arrest of Respondent Nos. 2 to 3;

3.6 PW-6, Dr. A.K. Kedia, Medical Witness, who deposed that the victim was brought to Guru Gobind Singh Hospital, New Delhi on 27th May, 2013, with an alleged history of assault and acid throwing. Upon local examination, there were burns on the victim's left forearm and redness of skin on the ventral aspect of the right hand. However, on account of unavailability of a plastic surgeon at the said Hospital, the victim was referred to DDU Hospital for further treatment. Further, as per the MLC, the injuries were categorized as simple in nature;

3.7 PW-7, ASI Bajrang Singh, who was stationed near the site of the alleged incident on the intervening night of 27/28th May, 2013. He assisted



in taking the victim to Guru Gobind Singh Hospital for her medical examination;

3.8 PW-8, HC Kuldeep Singh;

3.9 PW-9, the victim, Mrs. Kamini;

3.10 PW-10, SI Anand Prakash; the first Investigating Officer in the case; and

3.11 PW-11, SI Sarita, the subsequent Investigating Officer.

Statement of the Victim

4. The victim's statement was initially recorded under Section 164 CrPC, and she later testified as PW-9. Her account of the alleged incidents in her testimony is summarized as follows:

4.1 On 16th February, 2013, when, while on her way to her residence, the victim was confronted by Respondent No. 4, who began to verbally abuse her. In response, she went to P.S. Khayala and filed a complaint against him. Respondent No. 4 was subsequently arrested and taken into judicial custody. However, after his release, he, along with the Respondent No. 3, began threatening the victim with acid attack.

4.2 On 4th May, 2013, while the victim was heading towards her house, the accused, Respondent No. 3, and his son, Respondent No. 4, attempted to throw acid on her. However, she raised an alarm, causing both the accused to run away. After the incident, the victim informed the police about the attack at P.S. Khayala. The copies of the complaints registered by the victim on different occasions have been marked from Mark PW9/D-1 to PW9/D-4.

4.3 On the night of 26th July, 2013, as the victim was on her way to her house from her sister's, the Respondents started abusing her. Respondent Nos. 2 and 4 tore the victim's clothes, and Respondent No. 1 signalled



Respondent No. 3 to throw acid on her, who then poured acid on her. The victim raised her hands to protect herself, and started crying due to the burning caused by the acid. The accused persons ran away from the spot, thereafter.

4.4 In her examination in chief, the victim testified that her husband, Amit, and brother-in-law, Puneet, frequently visited the residence of the Respondent No. 4. She further stated that she had personally witnessed them engaging in unnatural sexual activities. When she reported this to her in-laws, they dismissed her concerns and, instead, began making dowry demands.

4.5 Respondent No. 4 had previously asked the victim to celebrate *Karva Chauth* with him, to which her husband, Amit, did not object. Respondent No. 4 and Puneet also requested the victim to engage in sexual relations with them. When the victim refused, her husband expelled her from the matrimonial home, after which she started staying at her parental home.

Statements of the accused persons

5. After the conclusion of the Prosecution evidence, the statements of the accused were recorded under Section 313 of the CrPC. They denied the allegations made by the Prosecution, asserting that they had been falsely implicated in the case. They argued that Respondent No. 3 and his niece had previously filed several complaints against the victim and her family concerning allegations of illicit liquor business, narcotic drugs, and eve-teasing. They contended that the victim filed the current case in retaliation to these complaints. Additionally, they pointed out that the accused persons had filed a case under Sections 326/354 IPC against a relative of the victim. Respondent No. 3 further deposed that, a day before the incident, he had



called on 100 number following a quarrel with the victim and another woman, leading to their booking under Section 107/150 CrPC. Respondent No. 4 deposed that he was not present in Delhi on the day of the alleged incident, as he was hospitalized in Patiala, Punjab.

6. In support of their defence, the accused persons examined the following witnesses:

6.1 DW-1: Constable Sunil Kumar – Deposed regarding official records and entries related to previous complaints;

6.2 DW-2: Head Constable Rohtash – Verified details concerning police intervention and prior complaints; and

6.3 DW-3: Mr. Amar Nath Singh (Nodal Officer, Idea Cellular Ltd.) – Provided call detail records (CDR) to support Respondent No. 4's claim that he was in Patiala on the relevant date.

7. Upon considering the aforementioned testimonies and the evidence presented by the witnesses, the Trial Court *vide* order dated 7th April, 2015, concluded that the charges brought against the accused persons could not be proved. The findings of the Trial Court are as follows:

“10. I have carefully heard the rival submissions of both the sides. I have also perused the entire material placed on record. 11. According to Ld. Addl. PP for the State the prosecution has been able to prove the guilt of the accused persons beyond the shadow of reasonable doubt. By the reading of the consistent, natural and trustworthy statement of PW-9 Kamini (injured/complainant) coupled with the medical evidence together with other evidence of police officials, the case of the prosecution is established beyond the shadow of doubt that it were the accused persons, who with intent to dis-rob the complainant, while assaulting and using criminal force against her, torn her shirt and inflicted burn injury on the person of complainant by throwing acid on her. PW-9 has corroborated her version given in FIR as well as in her statement recorded U/s 164 Cr.P.C. In her cross examination also, she maintained her stand. Even from, her earlier complaints, the case of prosecution is proved, in which she raised apprehension against the accused persons. The complainant was apprehending assault at the hands of accused persons, even prior to the



incident. It indicates about the conduct of accused persons. In this case, 10 lifted earth sample from the spot and he also seized the torn shirt of victim and the FSL result filed on record, shows that acid (H₂SO₄) was found present in both earth control and seized shirt. The plea of alibi as raised by accused Mukesh Kumar is not supported by any corroborative evidence and as such the same can not be believed upon. Even in their respective disclosure statements, accused persons have admitted about the commission of crime. Further the contradictions and short comings, as pointed out by Ld. Defence Counsel, are of minor and negligible nature and they have been failed to cause any dent to the case of prosecution. Besides, the medical evidence, the other documents like FIR, seizure memos, memo of arrest and personal search of accused persons and also their disclosure statements have been proved by the prosecution witnesses in their respective testimonies. From the aforesaid, the prosecution has been able to prove the guilt of accused persons beyond the shadow of reasonable doubt to draw an inference of guilt totally incompatible to the innocence of accused and it can be said that the case of the prosecution is firmly established.

Per contra, according to Ld. Counsel for accused persons, the prosecution has been miserably failed in its mission of proving its case beyond the shadow of reasonable doubt and therefore, accused persons are entitled for an order of acquittal in their favour. Firstly the prosecution has examined only witness to prove the case against the accused persons and there is no corroborative evidence to substantiate the claim of complainant. The evidence brought on record by the prosecution are incomplete and insufficient to conclude that they are only consistent with the guilt of accused and totally incompatible with the innocence of accused. The testimonies of prosecution witnesses are not fully trustworthy. There are material contradictions amongst them.

12. In the instant case out of the eleven witnesses examined on behalf of prosecution, complainant Smt. Kamini PW-9 being the injured the sole witness of occurrence and in the absence of any corroborative evidence/ material it requires to be appreciated very carefully and minutely.

Firstly, the very origin of the case is doubtful as according to the case " of prosecution, the incident had taken place on 26.05.2013 at about 11.30 PM, however, according to the DD No.49A Ex.PW10/A, vide which the information regarding pouring of acid on the complainant, recorded in the PS find mentioned the date therein as 27.05.2013 and no explanation in this regard has been furnished by the prosecution. Further as per the examination-in-chief of the complainant some one called the police, whereas the perusal of DD No.49A Ex.PW10/A reveals that the complainant herself called at 100 number. Relevant portion of DD No.49A



Ex.PW49.4 is reproduced as under:-

*"operator ne bajariye phone itia di
hai ki M-227 Raghbir Nagar caller keh
rahi hai ki padosi ne mere uper tejab daal diya.
....."*

In her cross examination, PW-9 (complainant) further improved and stated that one of her relatives had dialed the 100 number, if it was so then she must have known the name of that person but she could not tell the name of that relatives in her testimony.

Which version it to be believed upon?

Further perusal of the statements of complainant recorded U/s 161 Cr.P.C and U/s 164 Cr.P.C Ex.PW9/A and Ex.PW2/B respectively shews that on 26.05.2013 she had gone to the house of her sister at M-227,) Raghbir Nagar, New Delhi, whereas in her statement recorded before the court as PW-9 she stated that on 26.05.2013 in the night she was returning to her house from the house of her sister Meenu.

Further in her examination-in-chief, by mentioning about the existence of physical relationship between accused Mukesh Kumar, her husband and her jeth, the complainant has given a materially improved version than to the version given to the police and in these circumstances, the sole testimony of complainant can not be safely relied upon particularly in the circumstances where no FSL expert has been examined in this case to show that the acid was detected both from the earth control and torn shirt of complainant and even PW-6 Dr. A.K. Kedia could not confirm as to whether it was a case of self pouring of acid or someone had poured acid : on the patient.

Further, admittedly the place of incident is a residential area and at the place of occurrence several persons were present and they were easily available but the perusal of the record reveals that in this case, IO did not make any sincere effort to join any public person at any stage of investigation. IO has categorically stated in his cross examination that; he; did not take steps to join independent/public person, when he was, recording the supplementary statement of complainant at the spot. Even? PW-3 Ct. Devender, who accompanied IO SI Anand Prakash to the spot, ; stated that at the spot, public persons informed them that the injured was ' already removed to hospital by PGR van. it means public persons were ? very much available there. IO conceded that no notice was given to the; public persons, who refused to join the proceedings and he failed to give any cogent explanation for said failure on his part. The witnesses examined



by the prosecution have given a stereo type version that public persons were asked but they all refused to join the investigation and left away. There is nothing on record to show that whether any notice was served upon the persons who refused to join the investigation. Further, the proceedings of the police party were continued for quite a long time but despite that police party could not manage any independent witness from the spot despite the fact that admittedly public persons were available there at the spot.

*Further in the instant case, accused Beer Singh was arrested first and the factum of his arrest is also not free from doubt. Accused Beer Singh has been arrested in this case from his house by IO SI Anand Prakash at the instance of complainant but interestingly, complainant has not been cited as witness in the arrest memo of accused Beer Singh. Only one witness i.e. HC Sanjeev, who accompanied IO to the house of Beer Singh for his arrest has been cited as witness, and this creates doubt about the arrest of accused Beer Singh. Like wise, in the Personal Search Memo and disclosure statement of accused Beer Singh, no independent public person has been cited as witness. In **Megha Singh Vs. State of Haryana, AIR 1995, SC 2339**, it was observed by the Hon'ble Supreme Court that absence of a public witness under such circumstances creates doubt on the veracity of the prosecution case.*

I would also like to mention here that the Hon'ble Supreme Court in various judgments has passed such directives to ensure the fair play. In the present case, no such efforts were taken by the police officials which leaves a room for the doubt in the circumstances of alleged seizure of earth control from the spot. Moreover, the testimonies of the witnesses produced and examined before this court are not in consistent with each other and there are several contradictions in their statements in respect of time of reaching at the spot, time of apprehension as well as the arrest of the accused persons etc. and as such they can also not be safely relied upon.

13. For the reasons enumerated here in above, I have come to the considered opinion that the prosecution has been failed to prove the charges alleged against the accused persons beyond the shadow of reasonable doubt and therefore, they are acquitted of the offences charged with. They be set at liberty if not required to be detained in any other case. They are directed to furnish their personal bond in the sum of Rs. 10,000/- by each with one surety of like amount for each, within a week of their release from jail, in terms of the provisions of Sec.437A Cr.P.C.

14. File be consigned to Record Room after completion of necessary formalities.



Appellant's Case

8. Mr. Yudhvir Singh Chauhan, APP for State, impugns the aforementioned findings of the Trial Court. He seeks reversal of the impugned order of acquittal, pointing out that the Trial Court failed to consider the following aspects:

8.1 The victim, examined as PW-9, supported the Prosecution's case, providing specific details regarding the role of each accused person, which establishes the case of the Prosecution beyond a shadow of reasonable doubt;

8.2 The testimony of PW-9 was truthful and natural, and there was no reason for her to falsely implicate the accused persons, and allow the actual assailants to escape justice;

8.3 The testimony of PW-9 was fully corroborated by medical evidence, *i.e.*, the testimony of PW-6, Dr. A.K. Kedia, who had conducted the MLC of the victim (Ex. PW-6/A);

8.4 The FSL report clearly indicated that acid was found on the shirt worn by the victim at the time of the incident;

8.5 In addition to the medical evidence, other documents such as the FIR, seizure memos, and disclosure statements were all corroborated by the ocular testimony of PW-9 and other formal witnesses;

8.6 Minor contradictions and discrepancies in witness statements are natural, and do not undermine the core of the Prosecution's case, and therefore, cannot constitute grounds for acquittal;

8.7 The accused, in their attempt to assault and disrobe the victim, tore her shirt and inflicted burn injuries on her by throwing acid. The victim's testimony, in this regard, corroborated her initial version given in the FIR



and her statement under Section 164 CrPC. She maintained her stand during cross-examination, further supporting the Prosecution's case; and

8.8 The defence of alibi raised by Respondent No. 4 was not supported by any corroborative evidence and, therefore, cannot be considered credible.

Analysis And Findings

9. The Court has carefully considered the submissions of both parties and examined the impugned judgment in detail. The allegations against the accused persons pertain to grave offences, including acid attack and assault with intent to disrobe a woman. Given the seriousness of these charges, it is imperative to undertake a thorough evaluation of the grounds of challenge, the evidence on record, and the reasoning adopted by the Trial Court in acquitting the accused. The present analysis, therefore, will focus on assessing whether the findings of the Trial Court suffer from any material irregularity, legal infirmity, or perversity that would warrant interference in an appeal against acquittal.

Discrepancies in the statement of the victim

10. The Prosecution's case hinges on the testimony of the victim as there are no independent eyewitnesses to the alleged incident. It is well-established in law that an accused may be convicted solely on the basis of the victim's testimony; however, such a conviction must be founded on a statement that is credible, consistent, and free from material contradictions. If the testimony is found to be unreliable or insufficient, it cannot form the basis of a conviction. This principle has been clearly articulated by this Court in *State v. Afroz*,³ whereby a division bench of this Court observed as follows:

³ 2024 SCC OnLine Del 2324.



“87. It is the settled position of law that in cases of heinous crimes such like rape and acid attack, conviction can be solely premised upon the testimony of the victim/prosecutrix but the deposition has to be trustworthy, unblemished, credible and sterling quality.”

88. The Hon'ble Supreme Court in *Rai Sandeep v. State (NCT of Delhi)*, (2012) 8 SCC 21 has defined who can be a sterling witness in the following words:—

“22 In our considered opinion, the “sterling witness” should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a “sterling witness” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should



remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”

[Emphasis Supplied]

11. The Trial Court correctly applied this principle and conducted a meticulous examination of the victim’s testimony to determine whether it could form the basis of a conviction. However, the Court observed that the victim’s account was riddled with inconsistencies and contradictions, raising serious doubts about its reliability. Significantly, the very inception of the case became suspicious due to fundamental discrepancies in the victim’s statements. One of the most glaring contradictions in the victim’s account pertains to the date and time of the alleged incident. According to the Prosecution, the offence occurred on 26th May, 2013, at approximately 11:30 PM. However, DD No. 49, which recorded the first official report of the incident, inexplicably lists the date as 27th May, 2013. The Prosecution failed to provide any plausible explanation for this discrepancy, which is not a mere technical lapse, but a crucial inconsistency that calls into question the accuracy of the victim’s narrative.

12. Equally significant is the inconsistency regarding who first reported the crime. The entry in DD No. 49 attributes the statement “*padosi ne mere uper tejab daal diya*” to the victim, implying that she herself made the emergency call. However, during her cross-examination, the victim categorically stated that she was not carrying a mobile phone at the time of the incident and that a relative had made the call on her behalf. When asked to identify this relative, she was unable to provide a name. This



inconsistency is not a minor lapse, but a material contradiction, as it raises two critical concerns: first, whether the victim herself reported the offence or if someone else was present at the scene, and second, whether this unidentified relative was a potential eyewitness who was never examined during the trial. If such a person existed, their testimony could have been crucial in corroborating or contradicting the victim's account. The failure of the Prosecution to produce this alleged eyewitness further undermines the reliability of the victim's version and casts serious doubts on the Prosecution's case.

13. Another critical inconsistency in the Prosecution's case is the absence of the victim from the alleged place of the incident when the police arrived. This raises substantial doubts regarding the sequence of events as narrated by the victim. During cross-examination, the victim testified that her sister-in-law, Renu, arrived at the scene 20 minutes after the alleged incident and accompanied her to the hospital. However, she also stated that Renu was not present at the time of the offence and that she had no knowledge of how Renu was informed about the attack. This unexplained detail is particularly significant, as the victim also claimed that she was not carrying a mobile phone at the time. If she did not have a phone, the question naturally arises: How was Renu informed about the incident, and who contacted her? The Prosecution failed to address this crucial gap, leaving a serious lacuna in its version of events.

14. Further, the victim claimed that she was returning from her sister Meenu's house when the attack took place, yet it was Renu, not Meenu, who arrived at the scene shortly thereafter. This inconsistency creates further ambiguity—if Meenu was the last known person with the victim before the



attack, why was it not Meenu, but Renu who came to the spot? Was Meenu contacted at all? If not, why? These unexplained elements diminish the credibility of the victim's testimony.

15. Moreover, the Prosecution failed to produce Renu and Meenu as witnesses before the Trial Court. Given that the victim categorically mentioned that she was returning from Meenu's house when the alleged attack took place, and further testified about Renu's presence after the attack, the testimonies of Renu and Meenu could have provided crucial corroboration. The absence of their statements creates a serious evidentiary gap. Additionally, there is already an unresolved discrepancy regarding who actually made the call to the police on 100 number—whether it was the victim herself or an unidentified relative, as claimed during cross-examination. If it was indeed Renu who made the emergency call, her statement should have been recorded to establish the chain of events. These inconsistencies, when viewed collectively, are not minor lapses, but fundamental contradictions that go to the root of the Prosecution's case.

16. Furthermore, there are material improvements in the victim's version—between her initial statement, her statement under Section 164 CrPC, and her testimony before the Court. For instance, the victim, in her initial statement, alleged that Respondent Nos. 1 and 3 threw acid on her, while in her testimony before the Trial Court, she deposed that Respondent No. 1 signalled Respondent No. 3 to throw acid on her, following which the latter poured acid on her. Additionally, the victim's statement under Section 164 CrPC introduced new details to her original account, including allegations of sexual relations between Respondent No. 4, the victim's husband, and her brother-in-law, as well as accusations against her parents-



in-law for making dowry demands. Without corroborative evidence to support the Prosecution's narrative, these discrepancies substantially erode the evidentiary value of the victim's testimony.

17. In criminal trials, particularly in cases involving grave allegations such as acid attack and assault, a conviction cannot be based on an uncorroborated and inconsistent testimony of a sole witness, unless it inspires complete confidence. The Trial Court correctly identified these glaring gaps and inconsistencies, leading to the acquittal of the accused persons.

Failure to examine independent witnesses

18. One of the fundamental deficiencies in the Prosecution's case is their failure to examine independent witnesses, particularly given that the alleged incident took place in a residential area. Ordinarily, in such a setting, multiple individuals would be expected to be present or in close proximity, making it likely that at least some would have either witnessed the incident, or its immediate aftermath. Despite this, the Investigating Officer made no discernible attempt to include any independent witnesses in the investigation, raising serious doubts about the integrity and reliability of the Prosecution's case. The Trial Court rightfully flagged this issue, observing that the IO, SI Anand (PW-10), himself admitted during cross-examination:

"I did not take steps to join independent/public persons when I was recording the supplementary statement of the complainant at the spot."

19. Moreover, Ct. Devender (PW-3), who had accompanied SI Anand to the scene, testified that, *"we came to know that the injured Kamini was taken to Guru Gobind Singh Hospital by PCR van."* He further deposed in his cross examination that, *"At the spot, public persons informed us that the*



injured was already removed to the hospital by PCR van.” These statements confirm that public persons were very much present at the scene when the police arrived. However, despite this, there is no indication that the IO made any effort to identify and record statements from potential eyewitnesses. This omission is particularly significant given that no other direct witness, apart from the victim herself, was examined to establish the incident.

Medical Evidence

20. Another critical aspect of the case arises from the MLC report, read in conjunction with the testimony of Dr. A.K. Kedia, the attending doctor at Guru Gobind Singh Hospital. The MLC (PW-6/A) records that the victim was brought to the hospital with an alleged history of “*assault and acid over body.*” The MLC only indicates a burn on her forearm and redness on her hand, however it fails to specify the cause of these injuries. Pertinently, the MLC nowhere opines that the injuries were caused by acid. This omission is particularly relevant when considered alongside Dr. A.K. Kedia’s testimony, wherein he merely reiterated the findings in the MLC without confirming as to whether the injuries were the result of acid being thrown on the victim’s body. Moreover, the injuries inflicted upon the victim were classified as simple in nature. Therefore, the medical evidence relied upon by the Prosecution does not substantiate their case, in as much as it fails to even mention acid as the probable cause of the victim’s injuries.

21. The only reference to ‘acid’ in the entire medical record comes during the cross-examination of Dr. Kedia (PW-6), when he could not confirm the cause of injury, “*I cannot say as to whether it was a case of self pouring of acid or someone had poured acid on the patient*”. A careful reading of the entire medical record makes it abundantly clear that there is no conclusive



evidence suggesting that the victim indeed suffered an acid attack.

22. In view of the contradictions in the victim's statements, the absence of independent witnesses, the failure to examine key witnesses, and the inconclusive findings in the medical report, the sole remaining evidence, which could lend credibility to the charges of use of acid, consists of the kurta allegedly worn by the victim at the time of the alleged offense, and the sample earth control, both of which were submitted for testing to the FSL. The Prosecution has placed considerable reliance on the FSL report, arguing that it corroborates the victim's account and thereby, establishes their case beyond a reasonable doubt.

FSL Report

23. The Prosecution's reliance on the FSL report (Ex. PW-11/A) as corroborative evidence for the victim's version of events must be critically examined in light of serious procedural lapses in the seizure and preservation of exhibits. While the report does indicate that traces of acid were found on the earth control sample and the kurta allegedly worn by the victim at the time of the incident, the chain of custody and timing of the recovery introduce significant doubts regarding the reliability and authenticity of this evidence. In this regard, it is crucial to highlight that both of these exhibits were seized by the police on 27th May 2013, *i.e.*, a day after the alleged incident. In this context, the testimony of SI Anand becomes particularly significant, whereby he deposed as follows:

"On 27.05.2013 I along with HC Sanjiv reached at the spot where the complainant was also joined i.e. on the road M-Block, H.No. 227 near the temple in the gali where acid has been thrown and a piece of earth stained with acid was cut and taken in possession in a plastic container which was converted into pulanda. Plain / earth control sample was lifted from near the place of occurrence and put in a plastic container which was converted into pulanda. One shirt which



was produced by the complainant was also wrapped in a piece of cloth and converted into pulanda. All the the pulandas were sealed with the seal of AP. All the pulandas were taken into possession vide seizure memo already Ex.PW-4/B bears my signature at point C.”

[Emphasis Supplied]

24. This statement clearly demonstrates that both the earth control sample and the kurta worn by the victim were seized on 27th May, 2013, a day after the alleged incident. Another key concern is that the victim herself produced the kurta, one day after the incident. The fact that the victim kept the alleged evidence in her possession overnight, before handing it over to the police, undermines its probative value, as it was not preserved in a controlled environment to eliminate possibilities of interference or alteration. As for the earth control sample, it is pertinent to note that it was also collected and seized one day after the alleged incident, although the police were at the alleged crime scene shortly after the incident. There is no explanation as to why this evidence was only collected the following day, thereby raising concerns about potential alteration or modification of the evidence. Therefore, given these infirmities, the mere presence of acid traces on the exhibits cannot, in itself, be treated as conclusive proof linking the accused to the crime.

Prior disputes between the parties

25. While the State contends that the victim had no reason to falsely implicate the accused, it is imperative to evaluate the defence’s argument of history of prior disputes between the parties, which could have influenced the filing of the present complaint. The existence of prior conflicts is a material factor in assessing the credibility of the Prosecution’s case and determining whether the complaint was motivated by factors other than a genuine criminal grievance. The existence of such prior criminal complaints



filed by the accused persons against the victim's family suggests a history of enmity and hostility, which cannot be ignored while assessing the veracity of the present allegations. Courts have repeatedly held that where prior disputes exist, a heightened degree of scrutiny is required before convicting an accused.

26. The victim categorically stated that she had witnessed her husband, Amit, engaging in unnatural sexual activities with Respondent No. 4. The victim's allegations against her husband and Respondent No. 4 suggest deep personal animosity between her and the accused. Her husband and Respondent No. 4 attempted to involve her in their alleged sexual activities, to which she refused; and after this confrontation, her husband expelled her from the matrimonial home, forcing her to live with her parents. In cross-examination, the victim stated *"I cannot forgive even my husband Amit who made my life a hell, therefore, there is no question to forgive accused Mukesh. Amit had destroyed my life as well as the life of my two little kids"*.

Conclusion

27. The victim's testimony is fraught with numerous contradictions and discrepancies regarding several key aspects. These inconsistencies, coupled with the Prosecution's failure to examine independent witnesses despite their availability; the flawed seizure process; lack of corroboration by medical records; and allegations of prior disputes between the parties, collectively highlight the Prosecution's inability to prove the case beyond a reasonable doubt. In such circumstances, the accused must be afforded the benefit of doubt, and should not be subjected to imprisonment based on a potentially fabricated narrative, possibly motivated by prior conflicts.

28. As per well-established principles of criminal jurisprudence, when



doubt exists, the benefit must necessarily go to the accused. In light of the above-mentioned principles, it is observed that the Trial Court, based on the evidence available, including the testimonies of witnesses, rightly concluded that the Prosecution failed to establish the charges against the accused persons beyond the shadow of a reasonable doubt. Thus, the acquittal of the accused persons cannot be interfered with, as the Prosecution has failed to meet the standard of proof required in criminal cases.

29. In light of the foregoing, the Court finds no merit in the present appeal. Dismissed along with pending applications.

SANJEEV NARULA, J

FEBRUARY 19, 2025

as