



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

% Date of Decision: 14.08.2025

+ **CRL.A. 115/2016**

STATE OF NCT OF DELHIAppellant
Through: Mr. Pradeep Gahalot, APP for State
versus

NAVEEN KUMAR GOYALRespondent
Through: Respondent through VC.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal, the State has assailed the judgment dated 15.01.2015 and the order on sentence of even date passed by the learned ASJ (Special Fast Track Court), Dwarka Courts, New Delhi in SC No. 174/2013, arising out of FIR No. 110/2013, registered under Sections 376/500/506 IPC at P.S. Najafgarh, Delhi. Vide the impugned judgment, the respondent was acquitted of all charges.
2. The case of the prosecution, briefly put, is that the respondent (brother-in-law of the prosecutrix), allegedly committed rape upon her for the first time in 1992 when she was about 13–14 years old, and thereafter repeatedly over a prolonged period. The allegations further include threats extended by the respondent and his wife. The prosecutrix was thereafter married to Mr. *Jai Prakash Goyal* on 07.11.2000. According to her, the respondent continued to exploit her sexually even after marriage, and later



claimed paternity of her children, while defaming her character in the locality. On this basis, the FIR came to be registered in 2013 following the prosecutrix's written complaint, and charges under Sections 376, 500, and 506 IPC were framed.

3. In her statement under Section 161 Cr.P.C., the prosecutrix alleged that when she was about 13-14 years old, the respondent, took her to his house on the pretext of helping her sister (his wife) who was unwell. She stated that after being given a tablet, she woke up the next morning to find herself unclothed and the respondent was lying beside her without his clothes, she claimed that he had done "*galat kaam*" with her. Allegedly, he threatened to kill her if she disclosed the incident. She further deposed that during her 15-day stay, the respondent had repeatedly established physical relations with her under threats, and when she informed her sister and mother, they dismissed her version and asked her to remain silent. She also stated that even after her marriage in 2000, the respondent continued to force sexual relations with her for many years, threatening her with social disgrace. In 2010, the respondent allegedly told her and her husband that her husband suffered from hormonal deficiencies and admitted that her two children were fathered by him.

4. At trial, the prosecution examined 12 witnesses including the prosecutrix (PW-5), her husband *Jai Prakash Goyal* (PW-4), medical experts (PW-8 to PW-10), DNA expert (PW-11), and police witnesses. The prosecutrix reiterated her allegations of repeated sexual assault since childhood. The DNA report (Ex. PW-11/A) indicated that the respondent was the biological father of the prosecutrix's two children. PW-11, DNA expert *Shashi Bala*, tendered report Ex. PW-11/A which confirmed that the



respondent was the biological father of the prosecutrix's two children. Reports of PW-8 and PW-9 suggested that the prosecutrix's husband suffered from hormonal deficiency and erectile dysfunction. The rest were formal witnesses who deposed as to various aspects of the investigation.

The statement of the respondent was recorded under Section 313 Cr.P.C. He denied all allegations and asserted false implication at the instance of his wife's family. No defence evidence was led.

5. A perusal of the trial court record shows that, material inconsistencies emerged in the testimonies of the prosecutrix (PW5) as well as her husband (PW4). A significant part of the record is that the prosecutrix had earlier filed a petition under Section 125 Cr.P.C. claiming maintenance for her two children from the respondent. This proceeding was relied upon by her to support her claim that the respondent was their biological father. The prosecution had also moved an application under Section 173(8) Cr.P.C. read with Section 311 Cr.P.C. for a direction to conduct a DNA test in order to establish paternity. The DNA report (Ex. PW11/A) (STR analysis) established that the respondent and the prosecutrix are the biological parents of the two children, while her husband (PW4) is not their biological father. The prosecutrix admitted filing and signing the Section 125 Cr.P.C. petition (Ex.PW5/D1), stated that her first lawyer omitted the rape allegations despite her instructions, whereafter she changed her counsel and, on the advice of her new lawyer, lodged the police complaint.

6. In her testimony, the prosecutrix, regarding the first incident in 1992–93, gave varying accounts: at one stage merely stating that her brother in law did “*galat kaam*” with her, claiming she awoke nude beside the respondent.



Yet she never mentioned pain, bleeding, or any physical signs, and admitted that about 20–24 family members lived in that house, making it implausible that repeated assaults could occur undetected. Her version of subsequent rapes at her parental home was equally vague, with no particulars of time, place, or circumstances, and despite alleging years of repeated intercourse before marriage.

For the post-marriage period, she alleged regular assaults until 2010, but her conduct belied this claim as she travelled freely with the respondent's family to Haridwar, Vaishno Devi, and Jammu & Kashmir celebrated Holi at his house, and even shifted into a rented accommodation near his residence. She admitted that she never told her husband (PW 4) for a decade, and the timing of disclosure was itself contradictory—she claimed it was in 2011, while her husband said 2012.

The most damaging contradiction lay in her petition under Section 125 Cr.P.C., where she admitted her children were born from her “intimate relations” with the respondent, without any mention of rape. Her explanation that her lawyer omitted details was unconvincing, especially since no amendment was ever made. Further, although she claimed threats and continuous assaults, she delayed filing an FIR until April 2013, over two years after alleged disclosure.

Altogether, considering the contradictory statements, improbable circumstances, unexplained silence and delay, and her own prior admission of intimacy—the Trial Court held that the relationship was consensual rather than coercive. Her testimony was deemed not credible, thereby acquitting the Respondent. With respect to the testimony of her husband (PW4), it was



also deemed unreliable. While initially supportive, he later denied hormonal deficiency and admitted his wife never disclosed rape for over a decade of marriage.

7. The learned APP for the state contended that since the respondent denied having sexual relations in his statement under Section 313 Cr.P.C., consent cannot be inferred. However, the burden lies on the prosecution to prove guilt beyond reasonable doubt, irrespective of the respondent's defence. The learned APP argued that the prosecutrix's complaint, statements, and deposition consistently show that she was raped by the respondent since childhood, but could not complain earlier due to threats from the respondent and lack of family support. She stressed that the DNA report (Ex.PW11/A) conclusively proves the respondent is the biological father of the prosecutrix's two children, while medical evidence (Ex.PW8/A) confirms her husband's impotence, thereby establishing the prosecution case beyond doubt. Further, he stated that the testimony of the prosecutrix, though delayed, should have been relied upon. It was contended that threats and family pressure explained the delay.

8. I have gone through the records with the assistance of learned APP for the State. I find that the prosecutrix gave materially varying versions of the alleged first incident of rape at different stages. Despite residing in a crowded household with 20-24 family members, no alarm or resistance was ever raised, making her version inherently improbable. Her prolonged silence, the unexplained delay of nearly two decades in lodging the complaint, and her continued association with the respondents family and travelling with them to religious places, celebrating festivals, and even



residing in close proximity, further weaken the prosecution case. The testimony of the prosecutrix does not inspire confidence, particularly in view of her own admission in proceedings under Section 125 Cr.P.C. that her two children were born out of her “intimate relations” with the respondent, without any reference to rape. The explanation offered by the prosecutrix, that her earlier lawyer omitted allegations of rape from the maintenance petition, is unconvincing, especially as despite changing lawyers, no amendment was ever sought to incorporate the allegations of rape in the maintenance petition. The defence further relied upon the diagnosis of post-polio residual paralysis for the respondent. Though PW-1, the medical officer, opined that the disability did not render sexual intercourse impossible, the condition nevertheless lends weight to the improbability of the prosecution version. Taken together, the inconsistencies in her depositions, the contradictions with the testimony of PW-4, the unexplained delay, and her own prior admissions, cumulatively render her testimony unreliable and insufficient to establish the charge beyond reasonable doubt.

9. The law pertaining to double presumption of innocence operating in favour of a respondent at the appellate stage after his acquittal by the Trial Court is fortunately a settled position, no longer *res integra*. A gainful reference may be made to the Supreme Court’s decision in Ravi Sharma v. State (NCT of Delhi), reported as (2022) 8 SCC 536, wherein it was observed, as hereunder:

“8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala [Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows : (SCC p. 454, para 25)

“25. While dealing with an appeal against



acquittal by invoking Section 378CrPC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the respondent . Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the respondent does not get weakened but only strengthened. Such a double presumption that enures in favour of the respondent has to be disturbed only by thorough scrutiny on the accepted legal parameters.””

10. At this juncture, it is also deemed apposite to refer to the decision of the Supreme Court in Anwar Ali v. State of H.P., reported as **(2020) 10 SCC 166**, wherein it has been categorically held that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of the respondent in an appeal to an acquittal. The relevant portions are produced hereinunder:

“14.1. In Babu [Babu v. State of Kerala, (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] , this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)

“ ...

13. In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42 : (1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] , the Privy Council observed as under: (SCC Online PC: IA p. 404)

‘... the High Court should and will always give proper weight and consideration to such matters as



(1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the respondent, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the respondent to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.'

...

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the respondent. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the respondent having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.'

11. In the absence of any recovery or corroborative material, the case of the prosecution rests entirely on these inconsistent testimonies. In the present case, the inconsistencies and contradictions in her depositions, coupled with the surrounding circumstances, are sufficient to rebut the presumption even without independent defence evidence.

12. I find no illegality in the trial court's appreciation of evidence. The prosecution has failed to establish the charges under Section 376/500/506 IPC beyond reasonable doubt.

13. In view thereof, the appeal is dismissed.



2025:DHC:6995



14. A copy of this judgment be communicated to the learned Trial Court as well as to the Jail Superintendent concerned.

**MANOJ KUMAR OHRI
(JUDGE)**

AUGUST 14, 2025
k/ry