



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

Date of decision: 24th December, 2025

IN THE MATTER OF:

+ CRL.A. 282/2014

STATE NCT OF DELHI

.....Appellant

Through: Mr. Aashneet Singh, APP for State.

versus

SUBODH KUMAR & ANR

.....Respondents

Through: Ms. Pallavi Garg, Adv. (DHCLSC)
with Ms. Sanjana Sharma Sahu, Adv.
R-1 and R-2 present in person.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. Conservative approach of appreciation of evidence of a rape victim, once echoed in *Rameshwar vs State of Rajasthan*, (1951) SCC 1213 and *Sidheshwar Ganguly vs State of West Bengal*, AIR (1958) SC 143, but thrown away subsequently in series of precedents handed down by the Apex Court, was resonating in the mind of the Trial Court. It was held therein that the rule which had hardened into one of law is not that the corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present in the mind of the judge. Subsequently, insistence of corroboration to her testimony was considered as adding insult to the injury. Through series of judgements, it was laid that a statement of a victim of rape cannot be brushed aside on mere technicality



and a radical pro-victim approach is to be taken. When a woman complains of rape and identifies the accused, it should be sufficient to convict him on the basis of her statement alone even if the medical evidence is not conclusive when evidence is otherwise credible and trustworthy. Despite the transformation in law, the Trial Court gauzed the evidence of the prosecutrix seemingly with the conservative approach, referred above, and discarded it from consideration of the guilt of the accused persons. Since the case was thrown out of the board, the acquittal order has been assailed by the State in the appeal, under consideration.

2. As borne out of the record, somewhere in the month of May 2011, “A” (the prosecutrix whose name has been withheld), a girl aged about 13 years, was present alone in her house. Subodh Kumar and Santosh committed criminal house trespass around 11:00 a.m. and committed rape on her. Since she was traumatized, she had not informed her step-mother about the crime. After about one month, her condition suddenly worsened since some substance came out of her womb, she felt uneasiness and became gloomy. She was taken to hospital as stated albeit no record is there. On insistence of her step-mother, she narrated the sequence of events relating to commission of crime on her person. Police was informed and a case for offences punishable under Section 376 read with Section 34 of the Indian Penal Code (*‘hereinafter referred to as the Code’*) was registered. Investigation was taken up which culminated into a charge sheet against the accused person.

3. To substantiate charge for offence punishable under Section 376 (2)(g) of the Code, framed against the accused persons, 13 witnesses were examined in the case.



4. When circumstances appearing in evidence against the accused persons were put to them, they denied their involvement in the case and claimed that the witnesses, being interested, have deposed false facts. They have not led any evidence in their defence.

5. As stated above, they were acquitted of the charge by the Trial Court, who insisted on the necessity of corroboration of the testimony of the prosecutrix. Since no corroborative evidence was available and there was delay of about one month in lodging the case, the Trial Court found her testimony to be unworthy of credence as also of other witnesses since discrepancies were pointed out and noted.

6. Much was spoken by the parties on facts testified by the prosecutrix, the State claiming her to be a trustworthy witness, contra to it the Respondents attempt to support the finding recorded by the Trial Court. Since it has been debated that the testimony of the prosecutrix was solitary and not sufficient, for want of corroboration from other evidence, medical or circumstantial, it would be expedient to detail as to when and in what particulars, corroboration of facts testified by her is needed.

7. Defence tried to buttonhole the testimony of the prosecutrix claiming that she has not explained as to why she had not reposed confidence in her step-mother, when she was sexually exploited, as alleged. For a long period of one month, why she kept the facts close to her breast. Unexplained delay is fatal in the present controversy argued Ms. Pallavi Garg. Mr. Aashneet Singh, APP, claimed that the prosecutrix was deterred from unfolding facts to her step-mother on account of her young age coupled with educational, social and economic background in which she was brought up where boldness and self-confidence often take backseat. When her condition



worsened she felt apprehensive and depressed. On insistence of her step-mother, she made a clean breast about the incident of sexual assault on her.

8. Various psychological, behavioral, feminine and social factors play role on the mind of a victim, subjected to sexual assault. It is a matter of common knowledge that inherent bashfulness, innocent naivete and feminine tendency may persuade a young girl to conceal outrage of masculine sexual aggression on her person. Tradition bound society and its mores make victim of sexual assault feel that she is at the receiving end. Though not at fault, yet she would be humbled down throughout her life on account of assault made on her dignity. Her normal life and marriage prospects would come to a naught. She would be looked down upon not by the members of the society alone but by her near and dear ones also. Such circumstances persuade the victim of sexual assault not to bring facts to the light of the day.

9. A victim of sexual assault would be conscious of the danger of being ostracised by the Society or being looked down by her own family members, relatives, friends and neighbours. She would have to brave the whole world. She faces the risk of losing the love and respect of her own husband and near relatives, and of her matrimonial home and happiness being shattered. If she is unmarried, she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family. It would almost inevitably and almost invariably result in mental torture and suffering to herself. The fear of being taunted by others will always haunt her. She would feel extremely embarrassed in relating the incident to others being over powered by a feeling of shame on account of the upbringing in a tradition bound society where by and large sex is taboo. Her natural



inclination would be to avoid giving publicity to the incident lest the family name and family honour is brought into controversy. She also faces the fear of being considered to be promiscuous or in some way responsible for the incident regardless of her innocence. Such pronouncement was made by the Hon'ble Supreme Court in *Bharwada Bhoginbhai Hirjibhai vs State of Gujarat*, (1983) 3 SC 753.

10. Again in *State of Punjab vs Gurmit Singh & Ors.*, (1996) 2 SCC 384, the Hon'ble Supreme Court re-affirmed that a girl, in a tradition bound non-permissive society in India, would be extremely reluctant even to admit any incident which is likely to reflect upon her chastity had actually occurred, conscious of the danger of being ostracized by the society or being looked down by the society.

11. Prosecutrix had testified that she had not disclosed the factum of sexual assault to her stepmother, she was under fear. This girl lives with her step-mother, father and other siblings. Behaviour of her step-mother towards her might have made her to feel that in case she would unfold the incident, she would consider her to be promiscuous and would look down upon her. She might have come under some sort of ostrich effect and felt that in case the incident would come to light she would lose love and respect from her near and dear ones and chance of securing an alliance with a suitable match would be difficult. Such consideration made her not to disclose the factum of incident to anyone. When some substance came out of her womb, she became apprehensive and felt depressed. At that juncture her step-mother inquired of her and she unfolded the factum of sexual assault on her person. These events make us to believe that the prosecutrix has given a reasonable explanation for delay in lodging the FIR.



12. When she faced the ordeal of cross-examination, testimony of the prosecutrix remained above board. The sequence of events in which she was subjected to rape by Santosh and Subodh, have been detailed by her. Though she raised an alarm for help but music at high volume was being played at the nearby house could not attract the attention of anyone. She must have been nervous and considerably shaken at the time of assault on her dignity. She might have felt helpless as she was all alone. She could not resist and she was ravished by Santosh and Subodh. Her testimony to this effect that after about one month some unknown substance came out of her womb had not been assailed.

13. The Respondents could not bring anything over the record to show that the prosecutrix had a sufficiently strong motive to involve them. The discrepancies in the testimony of the prosecutrix, which were pointed out at the bar, are on mere matters of detail. Those discrepancies nowhere relate to the substratum of the case, to throw out the otherwise reliable evidence. Facts narrated by the prosecutrix tell the tale of her woe. No circumstances were brought to our notice which may shake credit of her testimony.

14. As pointed out earlier ordinarily an Indian woman would be most reluctant to level false accusation of rape involving her own reputation and that of her family unless she has a very strong bias or reason to do so. An Indian woman attaches maximum importance to her chastity and would not easily be a party to any move which would jeopardize her reputation and lower her in the esteem of others. It can be said that rarely will a girl or a woman in India make false allegation of sexual assault.

15. The standard of proof to be expected by the Court in such cases must take into account the fact that such crimes are generally committed on the



sly and very rarely direct evidence of a person other than the prosecutrix is available. Courts must also realize that the social atmosphere, attitudes, mores and responses of the Indian society towards the victim of sexual assault would put her to guard in raising a voice against such crime at the cost of impairing her personal relations, losing love and affection of her near and dear once, shattering her future life, facing mental torture, fear of being taunted and ostracized by the society. Without a sufficient strong motive a girl or a woman would not dare to lodge a false case against anyone involving her own reputation and chastity. Here in the case the Respondents have not shown even an iota of fact to suggest that there was a motive with the prosecutrix to level false allegation against them. Her testimony brings the ingredients of gang rape over the record against Respondent Subodh and Santosh, since it has been established that at the date of sexual assault she was under 16 years of age and the Respondents had sexual intercourse with her against her will and without her consent.

16. Prosecutrix was medically examined on 09.06.2011 at GTB Hospital. On her clinical examination Dr. Nitasha Gupta finds her to be a girl of about 13 years of age. Since the sexual assault took place about a month back, she could not find any sign of physical assault at the time of examination. However, she found hymen of the prosecutrix torn. That fact lends corroboration to the facts unfolded by the victim. The Trial Court went wrong when it concluded that there was no corroborative evidence to support her testimony.

17. Formal and link evidence has been proved in the case. Every link, required to establish the charge of gang rape, has been brought over the record.



18. Ms. Garg placed reliance on the precedents in *Krishan Kumar Malik vs State of Haryana*, (2011) 7 SCC 130, *Lalliram vs State of Madhya Pradesh*, (2008) 10 SCC 69, *State (GNCT of Delhi) vs Vipin alias Lalla*, (2025) SCC Online SC 78 and *Nirmal Premkumar vs State Rep. Inspector of Police*, (2024) SCC Online SC 260. The law laid in those precedents speak that an offender can be convicted on solitary testimony of the prosecutrix, without seeking corroboration. As noted above testimony of the prosecutrix was found reliable and stood corroborated from facts noted during course of her medical examination by Dr. Nitasha Gupta. These precedents nowhere espouse the cause of the Respondents.

19. The findings of acquittal recorded by the Trial Court are hereby set aside and the Respondents are convicted for the offence punishable under Section 376 (2)(g) of the Code. They are sentenced to rigorous imprisonment (RI) of 10 years each and to pay fine of Rs. 2,000/- each. In default of payment of fine they shall further undergo RI for six months each.

20. The Respondents shall surrender forthwith the Trial Court to undergo the sentence, awarded to them.

21. The appeal is accordingly accepted.

22. Let the copy of this judgment to be transmitted to the concerned Trial Court for necessary action.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

DECEMBER 24, 2025

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