



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

% Date of Decision: 08.09.2025

+ **CRL.A. 505/2017**

CHOOTU

..... Petitioner

Through: Ms. Saahila Lamba, Advocate.

Versus

STATE

..... Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Preeti Ahlawat, P.S. Kotwali.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 04.05.2011 and order on sentence dated 11.05.2011 passed by the learned Additional Sessions Judge-01 (North), Tis Hazari Courts, Delhi in Sessions Case No. 56/2010 arising out of FIR No. 325/2009 registered under Sections 328/376(2)(g) IPC at P.S. Kotwali.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 10 years alongwith fine of Rs.10,000/-, in default whereof he would undergo SI for 6 months, for the offence punishable under Section 376(2)(g) IPC. The Trial Court further directed that the fine, upon realization, be paid to the prosecutrix by way of fixed deposit in her name at the Children's Home where she was residing.

2. The case of the prosecution, in brief, is that the prosecutrix, a girl



aged about 14 years, left her house in Kanpur in November 2009 to come to Delhi and live with her relatives at *Bhajanpura*. On 24.11.2009, upon arrival at New Delhi Railway Station, she met the co-convict *Babloo*, a rickshaw puller, and sought his assistance in reaching *Bhajanpura*. As she had no money, *Babloo* assured her of help without fare. Instead of taking her to her destination, he took her from place to place throughout the day and by evening brought her near the railway lines. It was at this stage that the appellant joined him. Both accused thereafter, wrongfully kept the prosecutrix in their company for two days, until on 26.11.2009, she encountered police officials and narrated the incident, leading to registration of the concerned FIR No. 325/2009.

3. The prosecutrix was medically examined at Aruna Asaf Ali Hospital, and her statement under Section 164 Cr.P.C. was recorded before the concerned Magistrate. Clothes worn by her were recovered at the instance of the accused and sent for forensic examination, and her age was also determined during investigation. Upon completion of investigation, a charge-sheet was filed against the appellant and the co-convict, whereafter the Trial Court framed charges against them under Sections 328/34 and 376(2)(g) IPC.

4. The prosecution examined 13 witnesses, including the prosecutrix, medical officers, and police officials. The prosecutrix deposed that *Babloo* misled her at the railway station and kept her in his company, and that the appellant later joined him. She stated that she was compelled to remain with them and was not allowed to reach her destination. On the morning of 26.11.2009, when both accused were taking her in a rickshaw, she found police personnel and disclosed the facts to them. In Court, she identified the



appellant and the co-accused. The doctors who examined her proved that her hymen was torn and there was fresh bleeding, and the forensic reports confirmed the presence of human blood and semen on her clothes recovered during investigation.

5. In their statements under Section 313 Cr.P.C., both accused denied the allegations and pleaded false implication. However, no defence evidence was led to substantiate the same.

6. Learned counsel for the appellant contended before this Court that the testimony of the prosecutrix does not inspire confidence. It was argued that she remained with the accused for two days without raising any alarm, that there was delay in lodging the FIR, and that the absence of external injuries cast doubt on the prosecution case. It was further contended that since the charge under Section 328 IPC was not proved, the entire prosecution version ought to be disbelieved.

7. Learned APP for the State, on the other hand, submitted that the testimony of the prosecutrix is cogent, consistent, and stands corroborated by the medical and forensic evidence on record. He further submitted that at the time of the incident the prosecutrix was a child of about 14 years of age in a new city and had no motive to falsely implicate two strangers.

8. On a perusal of the record and upon consideration of the rival submissions, this Court finds that the prosecutrix consistently narrated that the co-convict *Babloo* first lured her at the railway station and did not take her to *Bhajanpura* as assured, and that the appellant subsequently joined him. Her account of being wrongfully kept is corroborated by her recovery in the company of both accused on 26.11.2009. She identified both the appellant as well as the co-accused in Court. The medical evidence showed



that her hymen was torn with fresh bleeding, and the FSL report confirmed the presence of blood and semen on the clothes seized during investigation. The appellant has offered no explanation as to why he was found in the company of the prosecutrix at the time of arrest or how her clothes came to be stained with such incriminating material.

9. It is settled law that the conviction of an accused can rest on the sole testimony of the victim of sexual assault if that testimony is found credible and trustworthy. In the present case, the testimony of the prosecutrix satisfies this standard. Moreover, it does not stand alone. It is supported by the medical evidence, the forensic findings, the recovery of the clothes during investigation, and the circumstance of her being apprehended with the appellant and the co-convict *Babloo*. These factors lend assurance to her version and strengthen the prosecution case.

10. The contention regarding delay in lodging the FIR is without merit. The prosecutrix was a young girl, alone in an unfamiliar city and under the control of two adult strangers. Her failure to raise alarm immediately cannot detract from the credibility of her testimony. Equally untenable is the submission that the acquittal under Section 328 IPC undermines the case. The absence of medical proof of administration of an intoxicant does not dislodge the consistent and corroborated testimony of the prosecutrix regarding the offence under Section 376(2)(g) IPC.

11. Notably, the appeal preferred by the co-convict/*Babloo* against the judgment impugned in the present appeal was disposed of vide judgment dated 06.02.2015 by a Coordinate Bench of this Court in **CRL.A. 390/2012** titled “Babloo Vs. State (NCT of Delhi)”. By said decision, the conviction and substantive sentence of co-convict/*Babloo* were upheld, though the



default sentence for non-payment of fine was modified to SI for 1 month.

12. In view of the foregoing discussion, this Court is satisfied that the prosecution has proved its case beyond reasonable doubt. The conviction of the appellant under Section 376(2)(g) IPC is upheld. The sentence of 10 years rigorous imprisonment with fine of Rs.10,000/- is the statutory minimum and warrants no interference.

13. The latest nominal roll dated 02.09.2025 on record shows that the appellant completed his substantive sentence on 09.02.2018, deposited the fine amount on 17.04.2018, and was released from prison on the same date.

14. As the conviction and sentence stand affirmed, and the appellant has already undergone the substantive sentence and deposited the fine, nothing further survives in this appeal. The present appeal is, accordingly, disposed of.

15. The Trial Court is directed to ensure that the fine amount deposited by the appellant is disbursed to the prosecutrix as compensation, if not already done.

16. A copy of this judgment be communicated to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

SEPTEMBER 08, 2025/na