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

Date of Decision: 07.02.2025

+ **CRL.L.P. 667/2018**

STATE

.....Petitioner

Through: Mr. Yudhvir Singh Chauhan, APP
with SI Suraj, PS Hauz Khas and SI
Ashish, PS Roop Nagar.

versus

SATPAL SINGH @ TALWAR

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition seeking leave to appeal to challenge the judgment dated 31.07.2018 passed in SC No. 11/2016 arising out of 692/2015 by the learned ASJ/SFTC-2 (central), Tis Hazari Courts, Delhi AGA wherein the learned Trial Court acquitted the respondent under sections 342 and 376 of IPC.
2. Brief facts of the case are that prosecutrix visited Chandni chowk to buy some articles, there she met one lady who started conversing with her. The prosecutrix inquired about vacant shop for running a beauty parlour, the lady gave the mobile number of the respondent/accused. On calling the respondent, the prosecutrix was informed about a



vacancy of one shop to run a beauty parlour. Thereafter, the respondent started talking to her on her mobile phone and used to pay the prosecutrix to come and see the shop.

3. On 31.05.2015, the prosecutrix reached the shop and met accused, during the course of discussion while the prosecutrix was having her phone in her hands, the respondent took her phone and kept in his pocket and clung with her. The prosecutrix tried to get released and during that course, the prosecutrix sustained injuries in her back and the respondent committed rape on her while making her lying on the floor. Hence the FIR.
4. After completion of investigation, a chargesheet was filed against the respondent and charges were framed under section 342 and 376 of IPC.
5. The prosecution examined total 16 witnesses and one witness was examined by the defence.
6. Learned Trial Court, after analysing the evidence placed on record, acquitted the respondent under said sections.
7. Hence the present appeal.
8. Learned APP for State submits that in view of clear testimony of prosecutrix i.e. PW-2 regarding the incident of rape, the prompt information provided to the police, the impugned judgment rendered by the learned Sessions Court is based on incorrect appreciation of evidence, and hence, the same must be set aside.
9. It is true that in the cases of sexual offences, the sole testimony of the prosecutrix can form the basis of the conviction of the accused. However, the Courts have to be extremely careful while examining



the sole testimony of the prosecutrix as cautioned in the case of *Sadashiv Ramrao Hadbe v. State of Maharashtra, (2006) 10 SCC 92*. In this case, the Hon'ble Supreme Court has observed that the accused can be convicted solely on the testimony of the prosecutrix, if the same is inspiring confidence of the Court. Since both the prosecutrix as well as the accused have a right for a fair trial, thus, if the statement of the prosecutrix does not inspire confidence and creates a doubt, the court must look for corroborative evidence, such as, medical evidence or the surrounding circumstances. The relevant para is extracted below:-

“9. It is true that in a rape case the accused could be convicted on the sole testimony of the prosecutrix, if it is capable of inspiring confidence in the mind of the court. If the version given by the prosecutrix is unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, the court shall not act on the solitary evidence of the prosecutrix. The courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen.”

10. The cross-examination of the prosecutrix examined as PW2 is extracted below:-

“I am high school fail. Today I am 30-31 years of age. I was married in the year 2003. I am having two children. I am housewife.

It was 3:00 p.m. or 04:00 p.m. when I was going to Chandni



Chowk from Seelampur by Metro. I did not ask the name of said lady with whom I had spoken in Metro. I cannot tell her name even today. It is correct that the aforesaid lady had given me the mobile phone number of the accused. I did not ask from the lady about her relation with accused. I did not take mobile phone number of the aforesaid lady. I never did the job of beauty parlour. I cannot tell the date of journey when I was traveling in Metro between Seelampur to Chandni Chowk. I cannot tell the date when I had called accused on his mobile phone. It is correct that there are many other shops situated near the said shop of accused and the area was thickly populated. I do not remember the time when I had called the accused on his mobile phone. There was a sign board in the name of Talwar at that shop but I cannot tell the number of the shop even today. Shops around the shop of the accused were opened and it was day time of about 04:00 p.m. I had gone alone at the shop of accused. I had called accused only once on his mobile phone. Again said, maybe I had called accused two times on his mobile phone. I remained at the shop of the accused for about 2-3 hours. During this time neither customer nor neighbouring shopkeeper had come at the shop of the accused. It was a hall and some scrap material was lying there. Accused came out from the shop after about 1-2 hours after committing rape with me. Shutter of the shop was opened when accused had committed rape with me.



Road was situated at the distance of 10 steps from the shutter of the shop. Road was situated at the distance of 25 steps from the place of rape. I had raised alarm. No one came there. When the accused put the lock on shutter I was outside the shop. I had raised alarm even after coming out of the shop of the accused but one came there to help me. I had called police on number 100 from my mobile phone at about 06:00 p.m. Police had reached there within 10-12 minutes. Police had recorded my statement on the spot. I do not remember if I had asked the police officials not to call my husband. Police had recorded my statement only once. I do not remember its date, month and year. I do not remember as to how many papers I had signed in the presence of police at the spot. Police did not examine any neighbouring shopkeepers of the accused in my presence. No public witness had come forward in my presence. It is wrong to suggest that I was not intending to get registered the present case or that same has been registered on the suggestion of counsellor. I had met counsellor only once on the day of incident. Police officials did not examine my husband or any of my family members.

I had not informed my husband that I was going to see a shop for my beauty parlour. I had told my husband about the incident but he did not ready to become a witness. It is correct that I was living separately during the days of incident from my husband due to some temperament. Again



said, since the case was registered my husband was living separately from me.

.....

Lock of the shutter of the shop of the accused was not broken in my presence. After the incident I did not come to the shop again. My wearing clothes were seized in the hospital on the same day of the incident. Accused was not arrested in my presence. I do not remember its date, month and year.”

11. In the present case, there are material contradictions by the prosecutrix examined as PW2 in her evidence and statements made during investigation, thus the allegations made by the prosecutrix have to be examined to determine the question of quality of the testimony of the prosecutrix.
12. The prosecutrix, during her testimony, has stated that while she was going to Chandni Chowk by metro, one lady sitting besides her started conversing and during that conversation, she asked her that if there is any shop for running a beauty parlour, the lady gave the number of the respondent. The prosecutrix while taking the number of the respondent didn't asked the name of that lady and furthermore, went to meet the respondent being unknown person. The CDR reflects that before the date of the incident, the prosecutrix and the respondent had telephoned each other at various times. The said fact was never disclosed by the prosecutrix that they both were on talking terms.
13. In addition, the prosecutrix did not mention the name of the respondent when she called the police on number 100 and made



complaint about the incident despite the prosecutrix and the respondent were on talking terms. Therefore, the false implication of the respondent cannot be ruled out.

14. Furthermore, during the medical examination of the prosecutrix, the name of the respondent is again not mentioned and the prosecutrix failed to state about the manner of the rape. FSL report shows that no semen was detected on the clothes of the prosecutrix.
15. In my considered view, learned Trial Court has correctly analysed the testimony of the prosecutrix and has observed that the same does not inspire confidence.
16. Learned Trial Court was also of the view that from the physical appearance of the respondent, it seems that he was incapable of running away from the spot as he was walking with the help of stick and is aged about 66 years.
17. In view of the facts and circumstances noted above, the prosecution failed to prove the charges against the respondent beyond reasonable doubt. Further, I am unable to hold that the testimony of the prosecutrix can be solely relied with aforementioned contradictions and without any corroborating evidence to convict the respondent and hold that he was guilty of the offence.
18. Therefore, in view of major inconsistencies and contradictions and lack of any corroborating evidence, medical or otherwise, the learned Trial Court has committed no error in acquitting respondent.
19. For the said reasons, I am of the view that the impugned judgment is well reasoned based upon the evidence and material on record and has correctly acquitted the respondent.



20. The present petition is dismissed as being devoid of merits.
21. Consequently, the appeal has become infructuous and is disposed of.

JASMEET SINGH, J

FEBRUARY 7, 2025/pratibha
(Corrected and released on 17.02.2025)

Click here to check corrigendum, if any