

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.674 of 2023

Arising Out of PS. Case No.-26 Year-2021 Thana- MAHILA PS District- Buxar

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Anil Ram @ Anil Kumar Ram, Son of Ishwar Dayal Ram, resident of village
- Babhani, P.S - Buxar Mufassil, Distt. - Buxar. Appellant.

Versus

1. The State of Bihar.
2. 'X' (informant), Wife of Upendra Kumar Ram, R/o Village- Bhavari, P.O.-
Pashra, P.S.- Buxar, District- Buxar. Respondents.

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WITH
CRIMINAL APPEAL (DB) No. 684 of 2023

Arising Out of PS. Case No.-26 Year-2021 Thana- MAHILA PS District- Buxar

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Bhuwar Ram, Son of Nakharu Ram, resident of village - Babhani, P.S. -
Buxar (M), Distt. - Buxar. Appellant.

Versus

1. The State of Bihar.
2. 'X' (informant), Wife of Upendra Kumar Ram, R/o Village- Bhavari,
P.O.- Pashra, P.S.- Buxar, District- Buxar. Respondents.

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Appearance :

(In CRIMINAL APPEAL (DB) No. 674 of 2023)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Ritwaj Raman, Advocate
Mr. Purushottam Kumar, Advocate

For the State : Mr. Binod Bihari Singh, APP

(In CRIMINAL APPEAL (DB) No. 684 of 2023)

For the Appellant/s : Mr. Jagjit Roshan, Advocate
Mr. Jayant Kr. Ray, Advocate
Mr. Anjani Kumar, Advocate

For the State : Mr. Binod Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

And

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA)

Date : 05-05-2026

As both these appeals arise out of the same Sessions



Trial No.253 of 2021 [arising out of Buxar (Mahila) P.S. Case No.26 of 2021], hence they have been finally heard together and are being disposed by a common judgment.

2. Heard Mr. Ajay Kumar Thakur, learned counsel for the appellant in Cr. Appeal (DB) No.674 of 2023, Mr. Jagjit Roshan, learned counsel for the appellant in Cr. Appeal (DB) No.684 of 2023 and Mr. Binod Bihari Singh, learned Additional Public Prosecutor for the State in both these appeals.

3. Despite valid service of notice on Respondent No. 2, no one has entered appearance on her behalf to oppose the appeals.

4. The appellants in these cases are seeking setting aside of the judgment of conviction dated 11.05.2023 (hereinafter referred to as 'impugned judgment') and the order of sentence dated 17.05.2023 (hereinafter referred to as 'impugned order'), passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Buxar (hereinafter referred to as the 'learned Trial Court') in Sessions Trial No.253/2021, arising out of Buxar (Mahila) P.S. Case No.26 of 2021, under Section 376D of Indian Penal Code (hereinafter in short as 'IPC').

5. By the impugned judgment, the learned Trial Court has been pleased to convict the appellants for the offence under Section 376D of the IPC and have been sentenced to undergo rigorous imprisonment for 20 years and to pay a fine of Rs. 40,000/- for the



offence under Section 376-D of the IPC and in default of payment of fine, the appellants have further been directed to undergo simple imprisonment for six months.

Prosecution story

6. The prosecution case, based on the written report (Ext-P2/PW-3) of the informant/victim dated 20.03.2021, unfolds with the narration of fact that the informant, a 22 years old woman, having a nine months old son, was alone in the house as her husband, who is a handicapped person, had gone for working as labour to the brick-kiln, Kulharia. It is alleged that on 18.03.2021 at about 9:00 p.m., when the informant went out of her house to attend the call of nature and when she reached near the field of one Baduri Tiwari, the two accused persons, namely, Bhuwar Ram (appellant no.2) armed with country made pistol and Anil Ram (appellant no.1) armed with a knife, who were already waiting there, caught hold of her and on the point of the said arms, they tied a black cloth on her mouth and pushed her on the ground and removed her clothes. Both the appellants thereafter committed rape upon her one after the other for ten minutes and also threatened her that in case she disclosed the incident to anyone or lodged a case, her handicapped husband and her son would be killed. The informant then came back to her house weeping and narrated the entire incident to her husband and on 19.03.2021 her husband returned home from the brick-kiln,



whereafter the present case was lodged.

7. On the basis of the aforesaid written application, the formal First Information Report (hereinafter referred to as ‘F.I.R.’) bearing Buxar (Mahila) P.S. Case No. 26 of 2021, was registered against the appellants for the offence punishable under section 376-D of the IPC.

8. After investigation, charge-sheet was submitted against the appellants under section 376D of IPC on 20.09.2021, whereafter cognizance was taken under the aforementioned provision on 22.10.2021 and the case was committed to the Court of Sessions.

9. Accordingly, the learned Trial Court on 03.12.2021, framed the charges against the appellants under section 376-D of the IPC, which was explained to them, to which they pleaded not guilty and claimed to be tried.

10. The prosecution in order to substantiate its case, has examined as many as seven witnesses and exhibited some documents on its behalf. List of prosecution witnesses and exhibits are being mentioned hereunder in tabular form: -

List of Prosecution Witnesses:

Rank	Name of the witnesses	Type of the witnesses
PW-1	Munna Ram	Hostile
PW-2	Upendra Kumar Ram	Victim’s husband
PW-3	Victim	Informant
PW-4	Dr. Geeta Kumari	Medical witness



PW-5	Dr. Arun Kumar Singh	Medical witness
PW-6	Dr. Yogendra Kumar	Medical witness
PW-7	Karuna Devi	Investigating officer

List of Exhibits on behalf of the prosecution:

Ext No.	Document	Witness
Ext-1	Signature of witness Upendra Kumar Ram on written application.	PW-2
Ext-2	The written application in the handwriting of Ajeet Kumar.	PW-3
Ext-2a	Signature of the informant on the written application.	PW-3
Ext-2b	Signature of Ajeet Kumar on the written application.	PW-3
Ext-3	Signature of informant on the medical examination report.	PW-3
Ext-4	Signature of informant on the statement recorded u/s 164 of Cr.P.C.	PW-3
Ext-5	Writing and signature of Dr. Geeta Kumari on Medical Report.	PW-4
Ext-5a	Signature of Dr. Yogendra Kumar on medical report.	PW-4
Ext-5b	Signature of Dr. Amlesh Kumar on medical report.	PW-4
Ext-5c	X-ray report with signature of Dr. Arun Kumar Singh.	PW-5
Ext-5d	Signature of Dr. Yogendra Kumar on the X-ray report.	PW-5
Ext-6	X-ray report prepared by Dr. Yogendra Kumar.	PW-6
Ext-7	Formal FIR	PW-7
Ext-8	Endorsement on the FIR	PW-7
Ext-9	Statement of witness Munna Ram in Para – 14 of the case diary.	PW-7

11. The accused/appellants were examined under section 313 of the Code of Criminal Procedure (hereinafter referred to as ‘Cr.P.C.’) on 07.05.2022, wherein the appellants denied all the allegations and took a plea of their innocence with a specific defence taken by appellant, Anil Ram that his brother, Ajay Ram, had given



some money to Jitendra Ram, the brother-in-law of the informant, for going abroad and on demanding the said money back, he was falsely implicated in the present case.

12. The defence did not adduce any oral or documentary evidence.

Findings of the Learned Trial Court

13. The learned Trial Court, upon appreciation of the entire evidence on record, recorded a finding that the prosecution had succeeded in proving the guilt of accused persons/appellants beyond reasonable doubt. It was observed that the accused persons were specifically named in the F.I.R and were admittedly co-villagers of the victim (PW-3). The testimony of the victim was found to be cogent, consistent and trustworthy as she has categorically stated that the appellants committed rape upon her, for ten minutes, on the point of country-made pistol and knife and her narration remained by and large consistent in her statement recorded under Section 164 Cr.P.C. (Ext.P-4/PW 3). Her testimony in Court also remained unshaken during cross-examination, thereby inspiring confidence on the prosecution case.

14. It has further been taken into account that the medical evidence adduced by PW-4 discloses injuries on the victim which is indicative of resistance and struggle thereby lending support to the prosecution case. The learned Trial Court has also considered



that the accused persons in their statements under Section 313 of Cr.P.C. have not given any satisfactory explanation to rebut the presumption under Section 114 A of the Indian Evidence Act.

15. Thus, upon considering all the facts and circumstances of the case and also considering the ingredients of Section 376 D of the IPC, the learned Trial Court has concluded that the evidence of victim read in its totality was found to be creditworthy and sufficient to record conviction, as the same stood supported by the medical evidence and some minor contradictions and insignificant discrepancies should not be a ground for throwing out the case of the prosecution. Thus, holding that the charges levelled against the accused/appellants stand proved beyond reasonable doubt, the appellants have been held guilty for the offence under Section 376D of the IPC.

Submission on behalf of the appellants

16. Mr. Ajay Kumar Thakur, the learned counsel for the appellants has submitted at the outset that the impugned judgment of conviction against the appellants has been passed without properly appreciating the evidence available on the record. It has been contended that the occurrence took place on 18.03.2021 and the FIR was lodged on 20.03.2021, hence, there is an inordinate delay of two days in lodging of the said FIR and that too, without any explanation.



17. It has further been submitted that the statement of the victim, which is the sole basis of conviction of the appellants, is not worth believing as the victim in this case is not a 'sterling witness', inasmuch as, her testimony suffers from material contradictions, with regard to the incident of rape, including facts relating to seizure of clothes and the condition of crops at the place of occurrence. It is pointed out that the victim is an adult married woman and also the medical examination report does not support the allegation of forcible sexual assault, as the doctor (PW-4) has clearly opined that no signs of forceful sexual act was found nor any injury was found over internal part of the victim. In such circumstances, where the medical evidence fails to support the ocular version, the case of prosecution becomes doubtful. It is also a fact that the accused persons in their statement recorded under Section 313 Cr.P.C. have stated that there was a monetary dispute between the parties which led to their false implication.

18. The learned counsel has further contended that the investigation suffers from serious lapses which go to the root of the cause as no seizure of clothes was made, no articles were recovered from the place of occurrence and no investigation with regard to the condition of the crops at the place of occurrence was done. The victim was also sent for medical examination after two days of the incident. In addition to this, the I.O. has not recorded the statement



of the owner of land of the place of occurrence. Also, the medical examination of the accused was not conducted and no statements of their defence were recorded. These material omissions indicate a defective and perfunctory investigation, thereby diminishing the authenticity of the prosecution.

19. Thus, on the basis of aforementioned grounds, it has been submitted that on account of lack of medical corroboration, defective investigation and unexplained delay in lodging of the F.I.R, the prosecution has miserably failed to prove its case beyond reasonable doubt rendering the impugned judgment of conviction and order of sentence liable to be set aside.

Submission on behalf of State

20. Learned Additional Public Prosecutor for the State has opposed the appeals by submitting that the testimony of the victim is consistent throughout the trial. There are no material contradictions or discrepancies affecting the core of the prosecution case. The victim has remained firm in her version, during her deposition and statement recorded under Section 164 Cr.P.C., and there is no reason to disbelieve her testimony.

21. It has further been submitted that the said offence is of very serious nature and the prosecution has proved its case beyond reasonable doubt and the minor contradictions arising in the case of natural witnesses, do not affect the substance of deposition.



Therefore, the learned trial court has rightly convicted the appellants by carefully considering the evidence available on the record.

Analysis and consideration:

22. Having heard learned counsel for the parties, considering the evidence led at the trial as well as upon perusal of the record, this court finds that out of seven witnesses examined on behalf of the prosecution, PWs 4 (Dr. Geeta Kumari), 5 (Dr. Arun Kumar Singh) and 6 (Dr. Yogendra Kumar) are the medical officers who have examined the victim and have also determined her age on the basis of radiological findings. Pw-3 ('X') is the victim herself while PW-2 (Upendra Kumar Ram) is her husband. While PW-1 (Munna Ram) has been declared hostile. PW-8 is the investigating officer (hereinafter referred as I.O.) of the case.

23. The evidence which primarily requires consideration is that of the victim PW-3 and her husband PW-2 vis-à-vis the medical evidence adduced by the prosecution, as also the objective findings of the I.O. From a perusal of the evidence of PW-2 (Upendra Kumar Ram), the husband of the victim, it is clear that his evidence is based upon the information given to him by the victim (PW-3). In his examination-in-chief, he has admitted that the occurrence is of 18.03.2021 at around 9:30 p.m. and he received a phone call from his wife around 10:00 p.m., stating the fact that the appellants Bhuwar and Anil had committed rape upon her on point of



country made pistol and knife, in the field of Baduri Tiwari, while she had gone for attending the call of nature. They also threatened to kill her husband and son, if she disclosed about the incident to anyone. He has also stated that he went to his house next morning and took his wife to Buxar Mufassil P.S. from where they were directed to Mahila P.S. Buxar. A written application with regard to the incident on behalf of his wife (victim) was given at Mahila P.S. Buxar whereupon he also appended his signature (Ext -P1/PW-2).

24. Strangely enough this witness PW-2, has stated in his cross-examination that the written application was prepared by his brother Narendra at his house itself and has also stated that the person who wrote the application also came to Mahila P.S. and made his signature thereupon. It would be evident from the FIR that the signature of one Ajeet Kumar appears on the written report, but his name is not mentioned by PW-2 and he has rather stated that it was his brother Narendra, who had prepared the said written report at home. It also does not stand to reason as to why the written report is dated 20.03.2021 while PW-2 has admitted in para-7 of his evidence that he had come home on 19.03.2021 (on the next date of the incident) itself and has admitted in his examination-in-chief that on the same day he had gone to the police station. The further statement of PW-2 in para-13 of his evidence that he has not given any statement with regard to the present incident earlier leads us to the



conclusion that his statement is being recorded for the first time in the court and this fact itself erodes the credibility of the statement of this witness. In any view of the matter, he has stated unambiguously that whatever he has stated in the court, the same is based on the information given by his wife (PW-3).

25. The case of the prosecution has thus been built up and only rests on the evidence of the victim (PW-3), who is also the informant of this case. While recording her examination-in-chief, besides narrating the story of commission of rape by the appellants Bhuwar Ram and Anil Ram, on the point of country made pistol and knife, she has added that she was pushed on the ground and was raped for ten minutes. This witness has however, clearly stated that at her instance one Ajeet Kumar had written her report at Mahila P.S. whereupon she put her signature (Ext-P2a/PW-3) and the signature of said Ajeet Kumar was marked as (Ext-P2b/PW-3). The deposition of this witness in her cross-examination shakes the very foundation of the case, in as much as, the authenticity of the contents of the FIR is itself shrouded in doubt. PW-3 has stated in her cross-examination that the written report was not written before her and in the same breath she states that the same was written before her at Mahila P.S. one day after the incident. However, she even admits that while the occurrence had taken place on 18.03.2021, the application forming basis of the FIR was written on 20.03.2021, which is actually not the



next day of the incident but two days after the incident. Further damage to the prosecution case has been done by her statement that she cannot state the contents of the written report by going through the same, when she was asked the said question in her cross-examination. Her narration of facts also varies in her statement under Section 164 Cr.P.C. where she has stated that she remained at Mahila P.S. for 3 days before medical examination. It thus appears that the victim (PW-3) has been giving vacillating statements, thereby raising a considerable suspicion on the veracity of her testimony.

26. It is now to be ascertained as to whether the story of the prosecution as narrated by the victim (PW-3) and her husband (PW-2) gains strength and support from other independent quarters, being other independent witnesses or the medical evidence and the objective evidence collected by the I.O., which is required in accordance with rule of caution and prudence. So far as other independent witnesses are concerned, there is absolutely no witness even on the point of having seen the victim going out of the house at the relevant time and the only independent witness being Munna Ram (PW-1) has not supported the case of prosecution and has been declared hostile. It is also a fact that neither Ajit Kumar, scribe of the written report nor the other family members like the father-in-law and brothers-in-law of the victim have been examined as witnesses, although they were the ones who were present in the house on the



date of occurrence as disclosed by the informant herself in para-13 of her evidence. As such, non-examination of independent witnesses and other material witnesses weakens the credibility of the prosecution case.

27. Adverting to the medical evidence adduced in the present case, one Dr. Geeta Kumari, examined as PW-4, has examined the victim on 20.03.2021 at around 6:00 p.m., and found injuries in the nature of abrasion on face, arm, and abdomen with no injuries on thighs and back. No injuries were found on perineum, vulva and buttock. However, an old hymen rupture was found, which would be natural as the prosecutrix is a married lady with child. The result of the vaginal swab examination indicates that no spermatozoa was found, either alive or dead, on low and high power of microscopic examination. The doctor has thus opined that it was a case of sexual intercourse apparent in past, and no evidence of forceful sexual act was found at present. This witness has reiterated in her cross-examination that she did not find any internal injury on the internal part of the victim and also not found any forceful sexual act on the person of the victim. The medical report bearing her signature along with the signature of two other medical officers, who were the members of the medical board, one of them being PW-6, has been marked as (Ext-P5/PW-4). PW-5 and PW-6 are also medical officers examined on the point of age of the victim, which



does not need much discussion as the informant has herself admitted that her age was 22 years and she was a married lady with a child.

28. On appraisal of the medical evidence, it is apparent that the same does not corroborate the story of the prosecution as the doctor has stated in unambiguous terms that no sign of any forceful sexual act was found on the person of the victim as against the specific averment of the victim (PW-3) that she had received injuries in her thigh as well, besides other internal injuries. The injury report (Ext-P5/PW-4) clearly reveals that no injury was found on her thigh and back, perineum and buttock which negates the story of the victim being pushed on the ground. Her further allegation of commission of rape also stands falsified by the specific opinion of the doctor in the medical report supported by his evidence in court that he did not find any injury over internal part of the victim and no sign of any forceful sexual act was detected on the person of the victim.

29. Further, from the evidence of the Investigating Officer (PW-7), it appears that the investigation suffered from several serious lapses and omissions which cast substantial doubt upon the fairness and credibility of the prosecution case. The I.O. admittedly neither prepared any seizure list with respect to the clothes of the victim, as against the averment made by the victim (PW-3), nor recovered any incriminating article from the alleged



place of occurrence. She further admitted that no videography, photography or sketch map of the place of occurrence was prepared during investigation and even the condition of the crops at the alleged place of occurrence was not noted in the case diary, though the occurrence is alleged to have taken place in an agricultural field and the victim (PW-3) has made a statement that the crops in the said field were pressed due to the incident. The I.O. also failed to examine the owners or cultivators of the adjoining fields who could have been material witnesses to the occurrence. It is also a fact that no statement of the family members of the accused persons was recorded and, despite surrender of the accused before the court, neither were they medically examined nor confronted during investigation for recording their defence. Such glaring omissions materially affect the fairness, completeness and reliability of the investigation.

30. In view of the aforesaid inconsistencies and contradictions emerging from the testimony of the victim (PW-3), the determinative issue that now arises for consideration is whether her evidence inspires such confidence so as to qualify her as a 'sterling witness.' In this regard reliance is placed on the case of **Nirmal Prem Kumar & Anr. Vs. State represented by Inspector of Police, (2024 INSC 193)** Cr. Appeal No. 1098 of 2024 dated 11.03.2024 and para 11 of the said judgment is quoted hereunder:



“11. It is a settled principle of law that witnesses may broadly be classified into three categories, namely, (i) wholly reliable, (ii) wholly unreliable, and (iii) neither wholly reliable nor wholly unreliable. In the first category, conviction can be safely based upon the sole testimony of such witness, whereas in the second, the testimony deserves outright rejection. However, where the witness falls in the third category, the Court is required to exercise greater caution and seek corroboration in material particulars as a rule of prudence before recording a finding of guilt.”

31. After having analysed the trend of evidence as disclosed by the victim (PW3), it would be difficult to place her in the category of ‘sterling witness’ whose evidence would be complete and sufficient in itself to base a conviction, as such, the evidence of victim (PW3) must undergo a strict scrutiny in accordance with the well-settled legal principles as established by law in a catena of decisions. The concept of a sterling witness has been succinctly discussed in the case of **Rai Sandeep alias Deepu Vs. State (NCT of Delhi)** reported in **(2012) 8 SCC 21** and para 22 of the said judgment of the Hon’ble Apex Court is being reproduced as hereunder:

“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.”

32. Further, in case of **Sadashiv Ramrao Hadbe Vs. State of Maharashtra** reported in (2006) 10 SCC 92 the Hon’ble Apex Court has emphasised that where the sole testimony of the prosecutrix suffers from material infirmities and does not inspire confidence, it would be unsafe to sustain conviction solely on such evidence without reliable corroboration. The relevant observations made in paragraph-9 is being reproduced hereinbelow:

“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.”

33. This view was further reiterated in the case of **Birka Singh Vs. State of Telangana** reported in **2025 SCC OnLine SC 1454**.

34. In support of the aforesaid proposition of law, it would also be apposite to refer to the judgment of **Santosh Prasad Vs. State of Bihar** reported in **(2020) 3 SCC 443**, wherein the Hon’ble Apex Court has clearly held that solitary version of prosecutrix in a case under Section 376 of the IPC, is not to be taken as gospel truth in absence of any other supporting or corroborative evidence. The Hon’ble Supreme Court had also considered the factum of delay in lodging of the First Information Report as also the fact that the medical report of the victim did not support the allegations made by her and considering all these facts cumulatively, the accused was acquitted giving him the benefit of doubt.

35. Similarly, in the present case, the testimony of the victim (PW-3) appears to be vacillating and suffers from material contradictions vis-à-vis the evidence of the medical officers as well as the I.O., thereby eroding the credibility and veracity of the prosecution case and failing to inspire confidence in the mind of the



Court. The prosecution case is further rendered doubtful in view of the unexplained delay in lodging the FIR. From the records of the case, it is evident that the prosecutrix (P.W.3) had informed her husband (PW.2) on phone call made through her brother-in-law (not examined) on the night of the incident itself, yet he came on the following day although his place of work was nearly 5 to 6 kilometres away. Further, despite the fact of his arrival on the following day of the occurrence, i.e. on 19.03.2021, the F.I.R. was lodged on 20.03.2021 and the prosecution has failed to tender any explanation, much less plausible, for the same.

36. It is well settled that a prompt F.I.R. is an assurance of truth while delay often results in embellishments and non-explanation of delay, coupled with other circumstances has the susceptibility of leading of collapse of prosecution case. Further, the accused persons in their statements recorded under Section 313 Cr.P.C., have specifically taken the plea of existence of monetary dispute between the parties and such suggestion has been given to the witness during cross-examination.

37. We have also noticed earlier that the case of the prosecution is not gaining any strength from the medical evidence, rather it runs in the contrary direction by non-lending of any corroboration to the ocular testimony of the prosecutrix (P.W.3) and



her husband (P.W.2). The circumstance of these appellants waiting for the victim to go out in the open field for attending the call of nature in the night at around 9 pm in the month of March, as has been alleged, does not seem probable enough to inspire confidence of this Court.

38. As an upshot of the entire discussion, it emerges that the cumulative effect of the aforesaid circumstances creates a serious dent in the prosecution case and renders it unsafe to sustain conviction solely on the basis of such evidence. In such view of the matter, taking an overall perspective of the case, this Court is constrained to conclude that the impugned judgment and order of conviction and sentence warrants interference and the appellants deserve to be acquitted.

39. We, therefore, set aside the impugned judgment dated 11.05.2023 and order of sentence dated 17.05.2023 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Buxar in Sessions Trial No.253 of 2021 [arising out of Buxar (Mahila) P.S. Case No.26 of 2021] and record acquittal of the appellants from the charges levelled against them, giving them benefit of doubt.

40. The appellants are said to be in custody. They shall



be released forthwith, if not wanted in any other case.

41. Both these appeals thus stand allowed.

42. Let a copy of this judgment together with the learned Trial Court’s records be sent down to the learned Trial Court.

(Rajeev Ranjan Prasad, J.)

(Soni Shrivastava, J.)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.05.2026
Transmission Date	13.05.2026

