

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 2282 of 1999

**Ashis Kumar Pramanik
-Vs-
The State of West Bengal**

For the Petitioner	: Mr. Milon Mukherjee Mr. Biswajit Malakar
For the State	: Mr. Avishek Sinha
For the Victim	: Ms. Chandreyi Alam
Heard on	: 05.12.2025
Judgment on	: 24.03.2026

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner against the judgment and order dated 21.09.1999 passed by the Learned 8th Additional Sessions Judge, South 24-Parganas in Criminal Appeal No. 35 of 1998, upholding the order of conviction and sentence dated 11.08.1999 passed by the Learned 2nd Assistant Sessions Judge, Alipore in Sessions Trial No. 1(4)98 arising out of Sessions Case No. 5(2)98 whereby convicted the petitioner under Section 376 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for five (5) years and to pay a fine of Rs.10,000/- in default to suffer simple imprisonment for one (1) year.

2. The prosecution case precisely stated the complainant namely Arabinda Das, son of Govinda Das of village- Mahendragunge under Police Station- Sagar, to be a poor and handicapped person of the said village and his victim daughter aged about 14-15 years, was a student of Class-VII of Mahendragunge High School. According to the complaint, the daughter of the complainant out of penury, incapacitated to buy books used to go to the house of one Gour Pramanick, son of Hemanta Pramanick to study along with his daughter Kumari Sumitra Pramanick. The said Sumitra Pramanick and the daughter of the complainant studied in the same school in the same class. On the evening of 28th December, 1992 (Monday), the complainant's daughter as usual went to the house of Gour Pramanick to study along with Sumitra Pramanick and at about 8 P.M., while she was returning home, the 4th brother of Gour Pramanick and the petitioner caught hold of the victim girl on the road adjacent to the house and the petitioner tied the mouth of his daughter by his muffler which he was wearing around his neck and thereafter both the accused persons carried away the victim girl to the vacant land towards the southern side of the Boroj of the house of Gour Pramanick and ravished her. Thereafter the daughter of the complainant writhing in pain lost her consciousness manner described in the written complaint. When the complainant's daughter did not return home, the complainant went out to search her daughter throughout the night and informed the matter to the local people. The victim girl returned home before dawn in exhausted condition and reported the entire incident to her mother and a neighbouring lady. The complainant returned home after searching his

daughter in the houses of his relatives on 29.12.92 at about 9.30 A.M. and he learnt about the incident from his wife. On the same day at about 3 P.M. the complainant along with his victim daughter, his wife and nephew went to the police station and remained there till 9 P.M. The complainant reported the incident to the Officer-in-Charge and the Second Officer of the concerned police station in respect of the incident, but the police officer in spite of the incident being reported to them, did not record any diary. Under the circumstances, the complainant prayed for necessary action against the accused.

3. On the basis of the aforesaid complaint, Sagar P.S. Case No. 1 dated 01.01.1993 under Sections 376/114 of the Indian Penal Code was initiated against the accused persons.
4. After completion of investigation, charge was framed under Sections 376/114 of the Indian Penal Code against the accused persons to which they pleaded "not guilty" and claimed to be tried.
5. In order to prove its case, the prosecution examined 16 witnesses and exhibited certain documents.
6. The Learned Advocate representing the appellant/petitioner argued as follows:-

- i. On bare perusal of the impugned judgment of the Learned Appellate Court it would be evident that the Learned Appellate Court had attached great importance to the evidence of PW-2/victim girl and completely ignored the material contradictions in the evidence of the PW-2 and other witnesses. The prosecution case revolved around the

fact that PW-2, the victim girl after completing her studies in the house of PW-5 was returning to her house and the petitioner and another had intercepted her on the road and thereafter committed rape on her. However, PW-5 in her evidence had clearly stated that the victim girl never came to her house for studies on the relevant day and furthermore she never visited her house for studies regularly. It would also be pertinent to mention that such fact had been corroborated by PW-9 in her evidence. In such circumstances the very foundation of the prosecution case had been completely shaken by PW-5.

ii. The victim girl had further stated in her evidence-in-chief that soon after the incident she visited the house of Bankim Pramanick and reported the aforesaid incident to his daughter-in-law i.e. PW-8. However, PW-8 did not support the claim of PW-2 in this regard, which clearly suggested that PW-2 was deposing falsely before the Learned Trial Court. It would also be relevant to mention that PW-2 in her cross-examination stated that the petitioner had tried to rape her which was completely contradictory to her evidence -in-chief. PW-2 in her cross-examination had further stated that she was major at the time of incident.

iii. PW-4, the mother of the victim stated that soon after her daughter was brought back from the house of Bankim Pramanick, she told her that she was subjected to torture by the petitioner. However, on being specifically asked she narrated as to how the petitioner had committed rape upon her. PW-4 despite being a vital witness was never examined

by the Investigating Officer and whatever she had stated in Court was for the very first time. PW-5 namely Sumitra Pramanick happened to be a vital witness of the instant case as the alleged act of rape was perpetrated on the victim girl while she was on her way back to her home from the house of PW-5. It was also stated in the evidence of PW-2 and PW-4 that PW-5 was a classmate of the victim girl. However, PW-5 in her evidence of chief had stated that the victim girl was not a student of her school and she never came for studies to her house. PW-5 had further stated that she used to address PW-2 as 'didimani' as she was 3 years older. In the aforesaid circumstances, it can be safely concluded that the deposition of PW-2 does not inspire confidence at all.

iv. PW-6, sister of PW-2 the victim girl in her evidence had stated she was completely unaware of any such incident which took place about 6 years back. She also stated she was never examined by the investigating officer of the instant case.

v. PW-8, daughter-in-law of Bankim Pramanick in her evidence had stated she was completely unaware of the alleged incident of rape however, PW-1, 2 and 4 in their evidence had stated it was PW-8 who had informed PW-1 and 4 about the alleged act of rape perpetrated on PW-2. In such circumstances it became evident that the aforesaid witnesses distorted the truth and as such the said witnesses did not inspire confidence.

vi. PW-10, Dr. Subodh Ranjan Mitra had examined the victim girl on 09.01.1993. In his evidence he has stated there was no internal or

external injury detected on her breasts, private parts, or any part of the body. He further opined no foreign body was detected. PW-10 had examined PW-2 after 12 days of the alleged incident however, had the victim girl sustained grievous injuries on her private parts and breasts the same would have transpired in the evidence of PW-10. PW-10, further stated he could not ascertain that whether rape was committed on PW-2.

vii.PW-11, Manick Chandra Pahari the scribe of the complaint, wrote the same after 4 days of the alleged incident. The said witness had also stated the victim girl was a student of Class-VII.

viii.PW-12 Dr. Amanendranath Dey was posted as a radiologist in MR Bangur Hospital. The said witness had stated that he prepared his report after assessing the X-Ray plates. He further stated as per Modi's Jurisprudence, the fusion of distal end of radius in females took place between the age of 16 ½ - 18 years. He also stated that fusion of ulna as per Modi's Jurisprudence for Bengali girls' starts from 17 years.

ix.PW-14 Baidyanath Roy the Investigating Officer of the instant case in his cross-examination stated the prosecution witnesses who were declared hostile in the course of trial had in their statements recorded under Section 161 of the Code of Criminal Procedure had stated the petitioner and another had forcibly taken the victim girl to the southern side of the house of Sakti Pramanick and there she was raped. PW-14 had further stated they did not receive any complaint regarding the aforesaid incident on 28.12.92. He had further stated in the course of

his investigation he had not collected the vital documents like the birth certificate of the victim girl from the school of the victim girl.

x.PW 16 namely Ashok kumar Pal was the second IO of the instant case. In his cross examination he stated that he could not collect the FSL report and neither did he find any X-Ray plate in the Case Diary.

xi.From the foregoing discussions it is abundantly clear that the Learned Appellate Court failed to appreciate the evidence on record and as such passed the impugned judgment which is perverse, be it further mentioned that in the instant case, the evidence of the prosecutrix is completely distorted and the same cannot be contemplated to be of sterling nature. In such circumstances it would be just and proper for this Hon'ble Court to set aside the impugned judgment thereby allowing the instant revisional application.

7. The Learned Advocate for the State submitted that the prosecution was able to prove its case based on corroborative evidence of the prosecution witnesses supported by the medical evidence and the appeal should be dismissed.

8. Primarily this Court exercising its power in deciding a criminal revision will not assess the evidence on record significantly when the petitioner had been convicted by the Trial Court as well as this First Appellate Court. The instant case dealt with the victim girl being subjected to an offence of rape brutal, heinous and condemnable in its nature and object. However, a circumspection of evidence of the prosecution witnesses variable in nature

denoted the peculiarity revealing glaring inconsistencies in the evidence of the prosecution witnesses.

9. The father of the victim being PW-1 faltered and fumbled on different occasions contradicting himself in cross-examination vis-à-vis his examination-in-chief. The relationship between the family of the victim specifically the father of the victim and the appellant and his family had been constrained owing to acrimonious relationship whereby either side had been a witness to a criminal case instituted against each other. The victim being a minor girl in the estimation of her parents being PW-1 (father) and PW-4 (mother) did not return home from her destination of study in the evening to the knowledge of the mother of the victim who had been to the house of Sumitra Das (PW-5) and learnt the victim to have left her house for home who eventually did not return till the wee hours of night. Weirdly and astonishingly the parents of the victim being unaware of the victim's current whereabouts did not consider it imminent and necessary to inform the police or any other agency. The mother of the victim (PW-4) recounted to have been informed by daughter-in-law of Bankim Paramanick, i.e. Smt. Kanchan Paramanick (PW-8) that the victim after being ravished by the appellant sought refuge at their house throughout the night.
10. The mother of the victim thereafter reached the house of the said Bankim Paramanick being a neighbor and escorted the victim back home. The victim being PW- in her statement under Section 164 of the Code of Criminal Procedure before the Judicial Magistrate contradicted her statement to the testimony before the Court. The victim after describing the heinous offence to

which she had been subjected to and being abandoned by the appellant and another co-accused in a hapless and inexplicable miserable condition left the place of occurrence after 20 minutes and reached the house of Bankim Paramanick controverted her own statement of staying at the relevant place for the entire night. Pertinently, the prosecution did not examine Bankim Paramanick and his daughter-in-law Kanchan Paramanick turned hostile denying to have been knowledgeable of such an incident of rape sustained by the victim or to have stated to the Investigating Officer of such occurrence of offence.

11. The friend of the victim namely Sumitra Das (PW-5) a schoolmate deposed to have been younger to the victim by 3 years and denied of any relationship with the victim being a classmate to engage in regular studies in the evening. She too turned hostile denying of any knowledge of the incident of rape. The parents of the victim being PW-1 and PW-4 admitted the appellant to be financially well-off any comparison to the victim and her family. It was further disclosed that the appellant was good-looking and educated eligible to be a groom.
12. The evidence of PW-10 and PW-12 being the doctors to have conducted the medical examination of the victim as well as the ossification test respectively had distinct versions. PW-10 the doctor who had medically examined the victim with regard to the offence of rape being subjected to the victim filed his report which had been inconclusive in nature with generalized variabilities that the victim might have experienced physical contacts with the opposite sex which in absence of specific, coercive and compulsive marks

on the body after a lapse of 8-10 days could not be properly assessed in terms of commission of an offence of rape. The report of the doctor conducting the ossification test indicated the victim to be below the age of 18 years.

13. The Investigating Officers did not send the vaginal swab, spermatozoa for medical examination. The forensic examination report was not collected by the Investigating Agency. The birth certificate of the victim was not seized from the school to which she was a student of Class-VII. The victim deposed to have been forsaken by both the appellant and the co-accused tying a muffler on her mouth and removed to the place of occurrence and being thrust upon a stack of straw through bushes of betel leaves. Surprisingly such an act must have consumed a considerable period of time and could not have been accomplished momentarily or instantaneously.
14. The victim had ample opportunity and time to raise alarm and to resist such forcible act in order to prevent the appellant and the co-accused from exercising their physical stance upon her. Moreover, it was not revealed in the evidence of the prosecution witnesses either in the examination-in-chief or in the cross-examination that the area between the house of the victim girl being PW-2 and the place of occurrence was uninhabited or inaccessible by public. Sumitra Das i.e. PW-5 deposed that the stack of straw upon which the offence had been committed was non-existent at the described place of occurrence, moreover, the Investigating Officers too did not detect any such stack of straw as would have transpired from the evidence of the Investigating Officers being PW-14 and PW-16.

15. The scribe being PW-11 stated to have written the complaint after a delay of 2-3 days. The father of the victim being PW-1 reportedly visited the police station in the night thereby he was asked to visit the police station on the next day owing to the preoccupation of the Officer-in-Charge of the Police Station attending an eminent personality being the then Chief Minister of the State. The father of the victim thereafter prudently visited the Office of the SDPO and other administrative offices only to be refused therefrom and advised to lodge a complaint at the local police station.
16. The inconsistencies and contradictions in the evidence of the victim girl as well as her parents cannot be sacrosanct in terms of its trustworthiness and credibility. The controverted evidence of the victim with regard to the mode and manner of being subjected to the offence coupled with her subsequent acts to have been stationed at the place of occurrence throughout the night contrary to her own version of being left the said premises after a lapse of 20 minutes being in seclusion and seeking shelter at the house of Bankim Pramanick being threatened by the appellant and the co-accused to face dire consequences in the context of divulsion cannot be accepted.
17. The conduct and attitude of the parents of the victim having failed to trace out the whereabouts of the victim girl being a minor and being silent on such a serious circumstance had been suspicious and untrustworthy.
18. The sole testimony of a prosecutrix being a victim of rape can be relied upon in exclusion to corroborative evidence in cases where the evidence of the victim at sufferance exposes her trauma, injury to the body and mind to an indescribable, inexplicable and inherently deprecating episode despicable

and brutal to stir the conscience of the Court with consistency of sequence of events through narration of an indelible experience which devoid of any trace of deviation and contradiction illuminates grave repulsiveness and condemnation to which the victim was subjected to, destroying her physically, mentally, socially for the rest of her future. The Court under such statements of conviction need not assess or analyze other evidences on record but the desperately authenticated version of the prosecutrix in relating her deplorable pain and sufferings to the obscurity. The evidence of the prosecutrix must indubitably resonate impartial culpability in absence of false scope or biased, revengetic, acrimonious indictment.

19. The instant case, however, is a diversion from the aforesaid premise wherein the ambiguity in the version of the prosecution witnesses mainly the victim and the circumstances in which the alleged offences claimed to have been committed raised suspicion with regard to the contemporaneous circumstances and the involvement of the appellant in committing the offence.

20. The evidence of the prosecution witnesses specially the victim and her parents in absence of independent eye-witness did not instill confidence in the conscience of this Court to sustain the conviction of the appellant and, accordingly, the appeal is allowed.

21. In view of the above discussions, the judgment and order dated 21.09.1999 passed by the Learned 8th Additional Sessions Judge, South 24-Parganas in Criminal Appeal No. 35 of 1998, upholding the order of conviction and sentence dated 11.08.1999 passed by the Learned 2nd Assistant Sessions

Judge, Alipore in Sessions Trial No. 1(4)98 arising out of Sessions Case No. 5(2)98 is set aside.

22. Accordingly, the criminal revisional application being CRR 2282 of 1999 is disposed of.

23. There is no order as to costs.

24. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.

25. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)