IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 2269 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and

HONOURABLE MR. JUSTICE R. T. VACHHANI

==========

Approved for Reporting	Yes	No

==========

BHAGUTDEVI @ BHAGVATIBEN MOHANSINH CHAUHAN
Versus
STATE OF GUJARAT & ANR.

==========

Appearance:
MS. BHAVNA D ACHARYA(6406) for the Appellant
MR LB DABHI APP for the Respondent No. 1

==========

CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 01/10/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)

1. Here is the Appeal by the original complainant under Section 413 of Bharatiya Nagrik Suraksha Sanhita, 2023 (corresponding section 372 of Cr.P.C.) against the judgment and order of acquittal.

2. Being dissatisfied by the judgment and order passed by the learned Additional Sessions Judge, Tapi - Vyara passed in Sessions Case No.6 of 2021, dated 11.08.2023, acquitting the respondent -

accused Udaysingh Rajput from the offences punishable under Sections 376(1), 354(A)(iii) and 506(ii) of the IPC., the complainant has preferred instant appeal.

3. We have heard learned counsel Ms. Bhavna Acharya and Mr.L.B. Dabhi, learned APP for the respondent - State.

4. Brief facts giving rise to file the present Appeal are as follows:

The appellant and her husband originally belong to the State Rajasthan and had settled at Vyara, Dist.: Tapi, State: Gujarat. According to the prosecution case, during the period from 01.07.2017 to 03.11.2019, the appellant prosecutrix was subjected to sexual intercourse against her will and wish, by the respondent accused Udaysingh Rajput, who happened to be her distant elder brother-in-law. The FIR, for the same, came to be registered on 18.12.2019 with Vyara Police Station being C.R.No.103 of 2019 for the offences referred in Para-1 of the judgment.

According to the prosecution case, the accused was having grocery shop at Village Degama. The husband of the appellant prosecutrix was running eatery shop near the railway station of the Vyara. The husband of the appellant, thereafter, joined with the respondent accused as helping hand in the grocery business. As a result, the accused used to come at the house of the victim. In these background facts, according to the prosecution case, on 01.07.2017, in the noon hours, when she was alone, the accused came to her house and forcefully engaged into sexual intercourse without her consent and she was threatened by the accused that if

she discloses to any one, then he will kill her husband. Again on 03.07.2017, the accused came in noon hours at home and compelled the victim appellant for intercourse. The victim had informed her husband about the incident allegedly occurred during the two days. Again on 06.07.2017, the accused called the victim on her mobile and asked her that whether she is alone or not. The husband of the victim was very much in the house and despite of this, she informed that she is alone at home. The accused thereafter came to her house and when he was in process to enter into physical relationship with the prosecutrix, the husband of the prosecutrix caught red handed the accused and upon scolding him, he requested to pardon him and had given written apology on a blank-sheet of paper. The matter ends here.

After a period of two years, i.e. on 03.11.2019, the accused respondent again came at the house of the appellant prosecutrix and asked for sexual favour, but she was firmed and refused to succumb his demand. At that time, the accused left the house of the victim. The victim then informed her husband about the conduct of the respondent accused. In order to settle the dispute permanently, the meeting was called on 25.11.2019 by the elderly persons of the family, wherein the husband of the victim agreed to pay Rs.12,50,000/- to the respondent accused. After the settlement, it is alleged that the accused was harassing the prosecutrix, as a result, the appellant by written complaint dated 18.12.2019, approached Vyara Police Station, inter alia alleging that the respondent accused committed a rape upon her without her consent and

subjected her sexual harassment and threatened to kill her husband by the accused. On the basis of written complaint, the offence came to be registered and accordingly, after completion of the investigation, the I.O. filed a chargesheet for the offences as referred above and case was committed to the Court of Sessions at Vyara, Dist.:Tapi.

5. The learned Sessions Judge framed charge to which the accused pleaded not guilty and claimed trial.

6. Before the Trial Court, the prosecution has examined as many as 21 witnesses and relied upon 27 exhibited documents, including two documents referred in the cross examination by the defence viz. the complaint dated 15.11.2019 filed by the victim before Vyara Police Station and settlement agreement, produced at Exhs.52 and 53 respectively.

7. On conclusion of oral evidence, the Trial Court recorded further statements of the accused as provided under Section 311 of Cr.P.C., wherein, he claimed his innocence and stated that he has been falsely implicated in the offence. It is further stated by the accused that he had given Rs.17 lakhs to the husband of the victim for purchasing the house for which, the victim and her husband had refused to pay the said amount and to escape from this liability, a false complaint of rape is being filed. The accused has denied the allegation of rape and other things.

8. The learned Sessions Judge, after appreciating and examining the

oral as well as documentary evidence, acquitted the accused herein for the offences with which he was charged. The Trial Court, after appreciation of the evidence on record, in Para-39 of the judgment, observed thus:

> *"It is evident that in the presence case, the complainant's husband fabricated the entire story, to avoid the amount claimed by the accused. He first obtained legal advice and had prepared and filed an application containing vague allegations whereupon he secured his wife's signature on it. He then used his wife as a tool to file the present complaint – despite the fact that, during the meeting with the community leaders held on 20.11.2019, it had already been agreed that the amount of Rs.12.5 lakhs were to be paid to the accused. Then, the FIR alleging commission of the rape was filed with a view to escape from liability of paying outstanding dues to the accused. This Court takes note of the fact that woman is used as a weapon in dispute between the parties to file a false rape complaint and this is nothing but misuse of legal provision and process of the Court."*

9. In such circumstances, the trial Court while acquitting the accused held and observed that the prosecution miserably failed to prove the charge of rape and sexual harassment against the accused beyond reasonable doubt.

10. Being aggrieved by the judgment of acquittal, the appellant-original complainant is before this Court.

11. Ms. Bhavna Acharya, learned counsel appearing for and on behalf

of the appellant-complainant, while assailing the judgment and order of acquittal, has submitted that the findings of acquittal are contrary to law and evidence on record and the findings recorded are palpably erroneous and based on the irrelevant material; that the Trial Court failed to appreciate that, the allegation of commission of rape and sexual harassment specifically stated by the victim and there is no reason for her to come up with the false story of being victim sexual assault, that too at the cost of the dignity and affecting her character; at the relevant time, she was having two young children and having regard to the relation of the parties, the delay caused in filing the complaint as due to the constant harassment and abuse, she was compelled to file a complaint; that the statement of the victim corroborated by the evidence of her husband and there is no any contradiction or inconsistency found in her evidence with regard to the alleged incident; that the appellant victim is illiterate person and at the relevant time, she was guided by social leaders; thus, in the first complaint due to illiteracy and ignorance the facts of rape having not been disclosed; that the Trial Court failed to appreciate the apology letter alleged to have been signed by the accused, whereby it clearly established and proved that the accused had committed a rape upon the victim; that the Trial Court ignored and discarded the deposition of the witnesses viz. Madansingh Vishashingh (Exh.18), Shankarsingh Motusingh (Exh.19), Sohansingh Motusingh (Exh.85), Mohansingh Pitasingh (Exh.44), who have supported the case of the prosecution; that, once the foundation facts of the offence is established, then it is incumbent upon the court to infer

the commission of offence under Section 114 of the IPC.

12. In such circumstances, it is submitted that the findings of acquittal arrived at by the trial Court are not based on the proper appreciation of the evidence and the court was not justified in arriving the conclusion that the prosecution has failed to prove the charge against the accused beyond reasonable doubt.

13. Thus, it has been prayed that, the appeal may be admitted.

14. Mr. L.B. Dabhi, learned APP fairly stated that the State has not preferred an appeal against the acquittal of the accused.

15 We have carefully examined the oral as well as documentary evidence and perused the findings of acquittal rendered by the Trial Court.

16. In the present case the issue falls for our consideration as to whether the trial Court was justified in acquitting the accused?

17. Before proceeding to address the rival submissions, we would like to place on record the scope of interference in an appeal against the acquittal and when the same is justified. In exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the judgment of acquittal. The Appellate Court should bear in mind the presence of innocence of the accused and further that, the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner, where the other view of possible should be avoided, unless there are reasons for interference.

18. We have carefully examined the evidence of victim PW-7 and husband of the victim Laxmansingh Ladusingh (PW-16). The victim in her evidence has categorically stated that, on 01.07.2017, 03.07.2017 and 06.07.2017, the accused being relatives, came to her house and asked for sexual favour and forcefully engaged in the sexual intercourse with her against her will and wish. It is alleged that, on 06.07.2017, the accused was caught raid handed by her husband because he was vigil on account of information given by her about the earlier incident. She has also stated that a written apology being tendered by the accused, when he was confronted by her husband about the act of rape. She has also stated that after 2 years i.e. on 03.11.2019, when she was alone at home, the accused again came to her house and attempted to commit an act of rape. The theory as projected by the victim has been supported by her husband PW-16. It is in these background facts, the issue to be determined as to whether the accused had committed a forceful sexual intercourse with the victim or not?. It is also relevant to note that on account of settlement arrived at between the parties, i.e. on 25.11.2019, the husband of the victim agreed to pay Rs.12,50,000/- to the accused as this amount was due to him. The amount was lent by accused to the husband of the victim to purchase a house and after passage of time, he failed to pay the due amount. It is admitted by the witnesses including the victim that, on 15.11.2019, a written complaint came to be filed with Vyara Police Station, wherein, the incident of rape occurred at different dates namely 01.07.2017, 03.07.2017 and 06.07.2017 having not been disclosed

before the police and subsequently on 18.12.2019, the factum of rape being disclosed by the victim.

19. It is settled position of law that, the sole testimony of the victim, if found reliable and trustworthy, requires no corroboration and may be sufficient to invite conviction of the accused. In ***Rai Sandeep Vs. State (NCT of Delhi) (2012 (8) SCC 21)***, the Supreme Court on the facts found totally conflicting version of the victim, from what was stated in the complaint and what was deposed before the Court, resulting in material inconsistency. Reversing the conviction and holding that, the prosecutrix cannot be held to be a 'sterling witness' , the court opined as under:

> "22. In our considered opinion, the 'sterling witness' should be of a very high quality and caliber 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 everyone 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 similar such tests to be applied, it can 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."

20. In ***Krishna Kumar Malik Vs State of Haryana***, ***(2011 (7) SCC 130)***, the Supreme Court in the matter related to sexual offence held that, the conviction cannot be sustained if the prosecutrix's testimony found unreliable and insufficient due to identified flows and lacuna. It was held thus :

> "31. No doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality. But, in the case in hand, the evidence of the prosecutrix, showing several lacunae, which have already been projected hereinabove, would go to show that her evidence does not fall in that category and cannot be relied upon to hold the appellant guilty of the said offences.
>
> 32. Indeed there are several significant variations in material facts in her Section 164 statement. Section 161 statement (CrPC), FIR and deposition in court. Thus, it was necessary to get her evidence corroborated independently, which they could have done either by examination of Ritu, her sister or Bimla Devi, who were present in the house at the time of her alleged abduction. The record shows that Bimla Devi though cited as a witness was not examined and later given up by the public prosecutor on the ground that she has been won over by the appellant."
>
> (emphasis added)

21. In light of the settled principle of law and applying to the facts of

the present case, the victim was married woman. The husband of the victim had received substantial amount from the accused to purchase the house. The incident of rape initially was not disclosed before the police and subsequently on advise, same was disclosed. The suppression of the incident in the initial stage has not been properly explained by the victim and her husband. It is relevant to note that, there is a delay of almost 2 years in filing the complaint. We are conscious about the settled position of law that delay in giving the FIR cannot be a ground to doubt the prosecution case. However, when there is a delay, it only puts the court on guard to search for and consider if any explanation has been offered for delay. Once it is offered, the court is to only to see whether it is satisfactory or not. Here in this case, Admittedly, there was a money dispute between husband of the victim and accused. Therefore, as such there is no explanation to the satisfaction of the Court that, what were the reasons preventing the victim to initiate the criminal complaint of serious nature.

22. In such circumstances, having regard to the delay of 2 years in lodging the FIR and not disclosing the factum of commission of rape in the earlier complaint dated 14.11.2019 and the admitted facts about the money dispute between the parties, we are of the considered opinion that the evidence of the victim and her husband on the aspect of commission of rape by the accused does not inspire confidence and in order to avoid financial liability, the possibility of false complaint at the instance of husband of the victim cannot be ruled out.

23. Thus, in our opinion, the trial Court on the issue of reliability of victim's evidence and truthfulness of the prosecution case, has assigned sufficient reasons based on the proper appreciation of the evidence and the finding of acquittal arrived at are not contrary to evidence on record and same are not found to be perverse and view taken by the trial Court is reasonable one.

24. In the result, on considering the evidence on record, the trial court was justified in arriving at the correct conclusion that prosecution has failed to prove the charge against the accused beyond reasonable doubt.

25. With the observations as aforesaid, the appeal, at the admission stage, is **dismissed**.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

P.S. JOSHI/05.10.2026.

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: PALLAV SUBHASHCHANDRA JOSHI(HC00177), Principal Pvt. Secretary, at High Court of Gujarat on 05/10/2026 12:25:01