IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 2160 of 2026

With
R/CRIMINAL APPEAL NO. 2345 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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XYZ (VICTIM/ORIGIONAL COMPLAINANT)
Versus
STATE OF GUJARAT & ANR.

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Appearance:
NIMIT Y SHUKLA(8338) for the Appellant(s) No. 1
MS VRUNDA SHAH, APP for the Opponent(s)/Respondent(s) No. 1

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

Date : 04/11/2026

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

1. Both the Appeals are filed by the complainant victim under Section 413 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (corresponding section 372 of Cr.P.C.) against the judgment and order of acquittal.

2. Since the facts of the case and issue involved in both the appeals are identical and arise out of the same judgment, the appeals are taken up together and are being disposed of by this common judgment.

3. Being dissatisfied by the judgment and order passed by the learned Additional Sessions Judge, City Court, Ahmedabad passed in Sessions

Case Nos.33 & 32 of 2024, dated 20.04.2026, acquitting the respondents accused from the offence punishable under Sections 376(2)(N), 354(D), 506(1), and 114 of the IPC, the original complainant – victim has preferred instant appeals.

4. This Court has heard Mr.Nimit Y. Shukla, learned advocate appearing for and on behalf of the appellant – victim and Ms.Vrunda Shah, learned APP for the State.

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

The appellant – victim aged about 35 years old, having two kids living with her husband at Ahmedabad, came into contact via facebook with the accused Parth Panchal and maintained relationship with him approximately three years prior to the complaint dated 07.05.2022. In other words, in 2019, after conversation with the accused, she took to the Sai Guesthouse, Ahmedabad where the accused engaged in sexual intercourse against her will and took photograph of her. Subsequently, the accused threatened to make these photographs viral, she was forced to maintain sexual intercourse at the Sai Guesthouse as well as Midway Hotel at Gandhinagar. It is further alleged that after the said incident, the matter was not end but accused harassed her and roaming near the house of the victim. So far as accused no.2 Kishan Chauhan is concerned, it is alleged that he came to know about the nude photographs of the victim and on that basis, he was demanding sexual favour from the victim.

In the aforesaid context, the victim had informed her husband and accordingly, on 07.05.2022, an FIR came to be filed by her before Vadaj Police Station, inter alia, alleging that she was blackmailed by accused Parth Panchal and forced to maintain relationship.

The offence for the rape criminal intimidation was registered with Vadaj Police Station, against two accused persons. After completion of the investigation, the first chargesheet dated 08.07.2022 was filed against the accused no.2 Kishan Chauhan and thereafter, chargesheet came to be filed against the principal accused.

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

7. In order to prove the charge, the prosecution has examined 13 witnesses and relied upon 22 documentary evidence. During the trial, the accused has produced and proved the documentary evidence (Exhs.42 to 46).

8. On conclusion of oral evidence, the Trial Court recorded further statements of the accused as provided under Section 313 of the Code, wherein, they claimed their innocence and stated that they have been falsely implicated in the offence.

9. The learned Sessions Judge, after appreciating and examining the oral as well as documentary evidence, acquitted the accused herein for the offences with which they were charged, on the ground that, the victim was consenting party and relationship was consensual in nature. So far as accused no.2 Kishan Chauhan is concerned, the Trial Court acquitted him mainly on the ground that day before the lodging of the FIR, a quarrel took place between the accused and husband of the victim on the issue of parking of the car, and therefore, the charge for demanding sexual favour against him is not proved and established.

10. Mr.Nimit Shukla, learned advocate appearing for the appellant – victim, assailing the judgment and order of acquittal, has submitted that;

(i) 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;

(ii) that the Trial Court failed to appreciate that ordinarily, the evidence of victim should not be suspected and should be believed, more so, as her statement has to be evaluated at par with that of injured witness and if the evidence is reliable, it is the accused to substantiate the allegation of rape under the guise of marriage is not proved and believable;

(iii) that the Trial Court failed to appreciate the fact that the victim having two kids and considering the photographs of her allegedly kept by the accused, she was compelled to file an FIR after delay of three years and the reason for delay is self-explanatory and, on that ground, the entire prosecution case cannot be discarded. It required to be appreciated that the victim being married woman having two kids was under social pressure and fear of ruining marital life and children's futures and therefore, the delay in lodging the FIR cannot be a fatal to the case of the prosecution.

(iv) that the statement of the victim recorded under Section 164 has been corroborated to the evidence of the victim as well as the evidence of the husband and there is no reason to falsely implicate the accused in a serious charge of rape.

(v) that the findings of the Trial Court about the relationship are

contrary to the evidence on record as the consent of the victim obtained under duress, threat or at the cost of her reputation. The evidence of the victim clearly demonstrates that she surrendered to the accused only because of repeated threats to viral her photos which clearly proves that there was no consent.

(vi) that the Trial Court should not have considered the earlier case proceedings because at the relevant time, the parties have arrived at amicable settlement and subsequently, the present proceedings came to be filed. Thus, the earlier proceedings wherein no investigation was proceeded and it could not have been taken as evidence to evaluate and/or analyses the truthfulness of the victim's evidence.

(vii) that the Trial Court was wrong in holding that no photos and/or videos found from the accused's mobile and thereby, this crediting the claim of threat, etc. The Trial Court failed to appreciate the fact that after the offence, no accused would keep the incriminating evidence with him and therefore, in absence of such material does not automatically impact on the credibility of the evidence of the victim.

(viii) that the acquittal of the accused no.2 based on the surmises and conjectures.

11. In such circumstances, as referred above, it has been submitted that while acquitting the respondent accused, the trial Court has discarded and ignored the truthful, reliable and acceptable evidence and as such, no cogent reasons being assigned while discarding such evidence. Therefore, it is submitted that the victim's evidence is credible and trustworthy and the same can be acted upon to convict the accused herein. Thus, it is

prayed that it is a fit case to admit the appeal.

12. On the other hand, learned APP Ms.Vrunda Shah, has fairly stated that the State has not filed acquittal appeal.

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

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

15. 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.

16. In the facts of the present case, the entire prosecution case rests on the testimony of the victim PW:1. 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.

17. 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. <u>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</u>

> 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."

18. 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.
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> 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."

19. In the case on hand, the victim PW:1, when offence arose, she was aged about 35 years old and being a married woman, having two children living with her. She has stated on oath that she came into contact with the accused on social media facebook and gradually, came closure to the accused and in the year 2019, the accused took her photographs and then, taken her to City Hotel where under the threat to viral her photographs, the accused engaged her with physical sexual intercourse and then repeatedly for a twice she was called upon at the hotels. She has also deposed against the accused no.2 that she was blackmailed by him and demanded sexual favour. The evidence of hotelier PW:8 shows that on 19.02.2019, the victim and the accused no.1 stayed at Hotel Sai for about two hours. In the cross examination, victim has admitted that in April-2022, *she made a complaint against the accused with the Adalaj Police Station inter alia alleging act of blackmailing and sexual intercourse and in the said proceedings, her statement dated 24.04.2022 came to be recorded wherein she had admitted that she fell into love with the accused, as a result, the photographs were captured by the accused. The victim has further admitted that after the thorough investigation of the mobile of the accused, she did not find any photos and/or videos of her. She has further admitted that now there is no grudge or any enmity with him and he is not harassing her and therefore, in order to save her marriage life, she does not want to proceed with the*

complaint.

On further scrutiny of evidence of the victim, it appears that during the time of her relationship, she did not have raised any complaint against the accused nor informed her husband. It is relevant to note that the accused herein has relied upon the transcript of call details produced at Exh.44 which shows that out of love and affection towards the accused, she accompanied him at the hotels for two to three times and as such, nothing comes on record to show that after the incident of hotels, she was harassed continuously for about three years with an object to compel her for sexual intercourse. The incident of sexual abuse occurred in the year 2019 was reported before Vadaj Police in the year 2022 (07.05.2022). Before the FIR, the victim had approached the Vadaj Police Station in the month April-2022 and submitted a complaint of rape and harassment against the accused. In the said proceedings, her statement was recorded on 26.04.2022 at Exh.43. In the statement, she has clearly disclosed that the accused was not having any photograph and/or videos of her and as such, she has no any grudge against him. Thus, after the settlement with the accused, what would be the reason or ground to initiate the present proceedings for which no any satisfactory explanation comes forward. Thus, after 2019, when there was no threat to the victim about making viral of her photographs by the accused and the relations between them clearly established a consensual in nature, the evidence of the victim on the same ground alleging that her consent was taken on the threat of making viral her photographs cannot be believed and accepted and therefore, in our opinion, the evidence of the victim, does not fall under the category of wholly reliable and cannot be said to be a “sterling

witness". Thus, the evidence of the victim on the aspect of allegation of blackmailing and sexual abuse does not inspire confidence and cannot be acted upon as trustworthy, reliable and worthy of credence to convict the accused for the charge of rape and criminal intimidation. We may profitably refer the observations of the Supreme Court in **Prasant Vs. State of NCT of Delhi, 2025 (5) SCC 764,** wherein it was observed that mere a break of relationship between consenting couple cannot result in the initiation of criminal proceedings when the said relationship does not fructify into a marriage. In another judgment, the Supreme Court **(Samadhan Vs. State of Maharashtra, 2025 SCC Online 2528**, observed that the offence of rape being the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence or pre-consent. To convert every soured relationship into an offence of rape not only trivializes the seriousness of the offence, but also inflicts upon the accused indelible stigma and grave injustice. The misuse of criminal justice machinery in this regard is a matter of profound concern for the judiciary already facing heavy load and calls for condemnation.

20. So far as accused no.2 is concerned, in our opinion, the husband of the victim had a fight with him on the issue of parking before day one of registration of the FIR and considering the non-availability of incriminating material, like photographs, etc., the theory projected by the victim about asking sexual favour by the accused cannot be accepted.

21. In the result, we do not find any perversity in the impugned judgment and in absence of substantial and compelling reason, no ground exists to interfere with the findings of acquittal recorded by the Trial

Court and therefore, the Trial Court was justified in acquitting the accused.

22. With the observations as aforesaid, both the appeals, at the admission stage, are **dismissed**.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

Rakesh

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: RAKESH MAHESHKUMAR KOSHTI(HC00950), Principal Pvt. Secretary, at High Court of Gujarat on 04/11/2026 16:20:51