



CRA-S-1755-SB-2004

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

01

**CRA-S-1755-SB-2004
Reserved on : 01.04.2026
Pronounced on: 29.05.2026**

RAJESH KUMAR

.....APPELLANT

Versus

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Sidharth Grover, Advocate
for the appellant.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SURYA PARTAP SINGH, J.

1. This is appeal against conviction.
2. The appellant is aggrieved of the judgment of conviction dated 22.07.2004, hereinafter being referred to as impugned judgment, and order on quantum of sentence dated 24.07.2004, hereinafter being referred to as 'impugned order'. By virtue of impugned judgment, the appellant has been held guilty and convicted for the commission of offence punishable under Sections 376/452 IPC. By virtue of order on quantum of sentence (impugned order) the following sentence has been awarded to the appellant;-

Under Sections	Sentence
376 IPC	to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.3000/- and in default of payment of fine, to further undergo rigorous imprisonment for one year.
452 IPC	to undergo rigorous imprisonment for three years and to pay a fine of Rs.1500/- and in default of payment of fine, to further undergo rigorous imprisonment for six month.



3. In nut-shell, the facts emerging from record are that for the commission of offence punishable under Sections 376/452/506 of Indian Penal Code, FIR No.145 dated 20.06.2002 was lodged in Police Station Chandimandir. The above-mentioned FIR came into being on the basis of statement of xx, hereinafter being referred to as prosecutrix only. The pith and substance of the statement of prosecutrix was that:-

“she being 20 years old was married to yy, and residing with her husband, father-in-law, mother-in-law and brother-in-law in a rented accommodation in village Beer Ghaghar. The name of the landlord of above-mentioned house was ‘Jagdish’. Her husband was a labourer.

On 19.06.2002, he had left home at about 8.00 PM for labour work in HMT Colony, Beer Ghaghar. She was sleeping in her room alongwith her four month old child, and the door of the room was not bolted from inside, as it had no latch. Her father-in-law and mother-in-law were sleeping in the adjoining room.

At about 2.00 AM ‘Rakesh @ Bablu’, son of landlord i.e. appellant, entered her room, caught hold of her, and performed sexual intercourse against her wishes. She tried to resist and raised an alarm, but being weak, she was successfully gagged by the appellant. After committing rape, when appellant was leaving the spot, she caught hold of his undershirt, but he managed to escape.

When she cried for help, her father-in-law and mother-in-law came on the spot. They also saw the appellant, while running from the spot. The appellant had threatened to kill them if incident



was brought into the notice of anybody else. Meanwhile her husband came back from work, she narrated the entire episode to him and then she alongwith her husband and parents-in-law reported the matter to the police.”

4. It is the case of the prosecution that pursuant to above-mentioned statement, formal FIR of this case was lodged and the investigation taken up. As per prosecution pursuant to above-mentioned FIR, first of all prosecutrix was sent for medical examination and after medico-legal examination her medico-legal report and the packets containing her clothes and other articles, handed over by the medical officer in sealed packets, were collected. According to prosecution, the appellant, too, was arrested on the same day and got examined medically and his underwear was also collected and kept in a sealed packet by the medical officer. According to prosecution, the above-mentioned packets were sent to FSL, the spot inspection was made by the investigating officer and its scale site plan got prepared. On completion of investigation, the final report was filed.

5. Although the FIR and final report under Section 173 Cr.P.C. were filed for the commission of offence punishable under Sections 376, 452 and 506 of IPC, and for the same offences, appellant was tried, but he has been convicted for the commission of offence punishable under Section 376/452 IPC only.

6. In order to prove its allegations, following witnesses were examined by the prosecution during the course of trial;-

PW-1 ASI Hawa Singh

PW-2 HC Rajinder Kumar



PW-3	EHC Harish Chand
PW-4	HC Ramesh Kumar
PW-5	Nirmala Devi
PW-6	Constable Girdhari Lal
PW-7	SI/SHO Amar Singh
PW-8	Pawan Kumar
PW-9	Dr. Renu Pahal
PW-10	Gulshan Kumar Patwari Halqa Ramgarh

7. The above-mentioned witnesses during the course of examination had proved certain documents. Those documents were;-

EX. PA:	Police application dated 20.2.2002
EX.PB:	Recovery memo dated 20.6.2002
EX.PC:	Recovery memo dated 20.6.2002
EX.PD:	Recovery memo dated 20.6.2002
EX.PE:	Formal FIR
EX.PF:	Rough site plan
EX.PG:	Police application dated 27.6.2002
EX.PH:	FSL report
EX.PJ:	Copy of MLR of prosecutrix Nirmala Devi
EX.PK:	Scaled site plan
EX.PL:	Copy of MLR of accused Rajesh Kumar

8. Once the prosecution evidence was closed and the statement of accused under Section 313 was recorded, the appellant exercised his right to lead defence evidence. In his defence evidence the appellant had examined following witnesses:-



DW-1 Dinesh Walia

9. The appellant had also proved the following documents:-

EX:D1 The affidavit dated 17.07.2002 sworn by the
prosecutrix

10. Heard.

11. While assailing the impugned judgment, it has been contended by learned counsel for the appellant that instant case is one of the rare cases, wherein the factual matrix of the case coupled with the prosecution evidence makes it apparent that a false case has been planted upon the appellant. As per learned counsel for the appellant, although the evidence available on record, i.e. the evidence adduced by the prosecution vis-a-vis the defence evidence, proved that a false story was cooked up by the prosecutrix to implicate the appellant in a false case, yet the learned trial Court ignored all the above-mentioned elements and simply by following a general rule that the sole testimony of prosecutrix is sufficient to prove charge under Section 376 IPC, it returned the judgment of conviction.

12. According to learned counsel for the appellant, the impugned judgment is against the fact as well as law, and that the learned trial Court has failed to properly appreciate the evidence available on record. As per learned counsel for the appellant the learned trial Court ignored the settled principles of law, that there could not have been any presumption of guilt of the appellant. The learned counsel for the appellant has further contended that merely on the basis of conjectures and surmises, the learned trial Court has believed the unreliable and contradictory evidence adduced by the prosecution, and that the story set-out by the prosecution has been wrongly believed. It has



also been contended by learned counsel for the appellant that merely on the basis of presumptions and assumptions, it has been observed that prosecution was successful in discharging its duty with regard to proving of charge against the appellant, whereas the record speaks otherwise.

13. In addition to above, the learned counsel for the appellant has also contended that the instant case is the perfect example, wherein this legal principle stands proved to be true that a man may lie, but the circumstances do not. According to learned counsel for the appellant, in the present case except the sole testimony of prosecutrix, there is no corroborative evidence to prove that the offence of rape had been committed with the prosecutrix by the appellant. According to learned counsel for the appellant, the manner in which the offence was narrated to have taken place, was in itself too unnatural to convince a prudent mind. As per learned counsel for the appellant the withholding of material witnesses, including eye-witnesses of the incident, further supported the above-mentioned opinion. The learned counsel for the appellant has further contended that *firstly*, the manner in which the rape had been alleged to have taken place was not humanly possible; *secondly*, it was next to impossible that in the adjoining room in-laws of the prosecutrix were sleeping and the appellant gagged her in such a manner that she could not raise alarm and convey her distress to her parents-in-law.

14. The learned counsel for the appellant has also contended that in the present case, it was specifically stated by the prosecutrix before the police that when appellant was leaving the spot after rape, upon her call for help, her parents-in-law arrived and they saw the appellant leaving the spot. According to learned counsel for the appellant in addition to above-mentioned facts, the



prosecutrix had also stated before the police that the appellant had extended a threat to the prosecutrix and her in-laws, to the effect that if the incident was disclosed to anybody else, they would be done to death. With regard to above, the learned counsel for the appellant has contended that in the above-mentioned fact situation the parents-in-law of the prosecutrix were material witnesses, but they were not examined by the prosecution and this lapse of the prosecution demolished the prosecution theory with regard to rape of the prosecutrix.

15. The learned counsel for the appellant has also referred to other lacunas/lapses during the course of trial, such as the medical officer, who examined the appellant and collected his underwear had not been examined. There was no evidence to prove that husband of the prosecutrix, being on duty, was not present in the house at the time of occurrence. As per learned counsel for the appellant prosecutrix herself had sworn an affidavit dated 17.07.2002, Ex.D1, wherein she specifically mentioned that the FIR was lodged by her on the basis of some misconception.

16. In view of above, the learned counsel for the appellant has contended that although the general law prescribes that the sole testimony of prosecutrix duly supported with medical evidence is sufficient to discharge the burden of the prosecution to prove a charge under Section 376 IPC, but in the present case due to above-discussed multiple lapses, committed by the prosecution, the above-mentioned general law is not applicable. Rather in the present case without proper corroboration from any independent evidence, the sole testimony of prosecutrix cannot be believed.

17. It has also been pointed out by learned counsel for the appellant



that the appellant/accused had also examined one witness, namely 'Dinesh Walia', also in his defence, as DW-1, who deposed that he was a tenant in the same building under the same landlord, and that no such incident as alleged by the prosecutrix had taken place. In view of above, the learned counsel for the appellant has sought for the indulgence and interference in the impugned judgment by this Court, by exercising the appellate jurisdiction vested in this Court. By invoking the above-mentioned jurisdiction, the learned counsel for the appellant has contended that by accepting the appeal, the impugned judgment of conviction be set aside and the appellant be acquitted.

18. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel, the present case is a pure and simple case, wherein the prosecutrix has levelled very specific and categorical allegations with regard to commission of rape with her, and that the above-mentioned allegations have been reproduced by the prosecutrix in the witness box at the time of deposition has recorded by the learned trial Court, during the course of trial. The learned State counsel has further contended that not only the statement made by the prosecutrix before the police and the Court are consistent in all material particulars, but also the deposition of prosecutrix, in the Court, as PW-5. As per learned State counsel the PW-5 had successfully faced the test of cross-examination, and thus, unless there are some exceptional circumstances to impeach the credibility of the above-mentioned testimony of prosecutrix, the above-mentioned sole testimony in itself is sufficient to warrant conviction of the appellant.

19. According to learned State counsel since the testimony of prosecutrix was duly supported by the medical evidence and also by the



testimonies of official witnesses, and the FSL report, a right conclusion had been drawn by the learned trial Court while believing the case set-out by the prosecution qua the charges for the commission of offence punishable under Sections 376/452 IPC.

20. While defending the impugned judgment of conviction, the learned State counsel has contended that there is no illegality or perversity in the opinion rendered by the learned trial Court, with regard to the fact that the charge against the appellant had been proved. According to learned State counsel, there is no scope for indulgence or interference in the impugned judgment, and that the present appeal being devoid of merits deserves dismissal.

21. The record has been perused carefully.

22. In the present case in order to prove above-mentioned allegations, the prosecution had primarily relied upon the testimony of ten witnesses. Amongst them the most material testimony was the testimony of PW-5 i.e. prosecutrix. The PW-5 during the course of her-examination had reproduced the same chain of events as mentioned in the FIR. However, the chain of events which unfolded just after the rape had been described in a different manner by the prosecution.

23. With regard to testimony of PW-5, another relevant aspect to be noted is that the PW-5, in her cross-examination, had admitted that she had filed an application before the Duty Magistrate for recording of her statement under Section 164 Cr.P.C. However, the PW-5 voluntarily explained, in the very next line of her deposition, that the above-mentioned application was filed at the instance of maternal uncle of the appellant, who had promised to pay,



whatever, she wanted for resiling from the complaint. According to prosecutrix, the above-mentioned application was filed under a compulsion.

24. In her testimony, the PW-5 also admitted that she had sworn an affidavit on 17.07.2002, Ex. DW1, and that the above-mentioned affidavit was bearing her thumb-impression. However, with regard to above documents also the similar explanation was given by the PW-5. According to PW-5, she was offered money by the maternal uncle of the appellant, and that her husband had pressurized her to affix her thumb impression on the affidavit Ex. P1.

25. In her cross-examination, the PW-5 also admitted that in the family of her in-laws in addition to her parents-in-laws, there were three brothers-in-law aged about 18, 20, 23 years and two sisters-in-laws aged about 15, 20 years respectively. According to PW-5, they all used to stay in the adjoining room and she (PW-5), alongwith her husband used to live in a separate room. According to PW-5, their house comprised of two rooms and it was part of a building having many rooms.

26. In order to provide support and corroboration to the testimony of PW-5 another material witness examined by the prosecution was the medical officer, who had examined the PW-5, medico-legally. The medical officer was examined by the prosecution as PW-9. The PW-9 in her testimony supported the prosecution case by deposing the fact that on 20.06.2002, she had examined the prosecutrix medico-legally and prepared her medical report Ex. PJ. According to PW-9, there was no mark of injury anywhere over the body of prosecutrix, and that secondary sex character, breasts were fully developed and milk was present upon pressure. The PW-9 further testified that pubic and axillary hair were present, but were scanty in growth. With regard to external



genitalia, the PW-9 deposed that they were well developed and there was no mark of injury thereupon. The PW-9 further deposed that no stains on the genitalia, pubic hair were not matted, and that pubic hairs was cut, sealed, labelled and signed and handed over to the police. With regard to Hymen, the PW-9 testified that it was torn and replaced by healed tag of tissue. According to PW-9, there was no redness, swelling, tenderness or bleeding point over hymen.

27. In addition to above, the PW-9 also testified that two vaginal swab slides were taken, sealed, labelled and handed over to the police. It was also stated by the PW-9 that the garments of the prosecutrix i.e. Saree, petticoat and blouse were also seized by her and after securing them in a sealed packet handed over to the police.

28. However, in her cross-examination it was deposed by the PW-9 that there was no mark of injury over the body of the prosecutrix, and that she was not in a position to state as to whether the semen detected belonged to the husband of prosecutrix, or to the appellant.

29. In the present case, the report of FSL is also a material piece of evidence. The report was proved by the prosecution as Ex.PH. A perusal of contents of above-mentioned report shows that on saree, petticoat and slides semen was detected. However, the serological report prepared by the FSL with regard to the semen group, was inconclusive.

30. In order to provide support and corroboration to the testimony of above-mentioned two material witnesses several formal witnesses, too, were examined by the prosecution.

31. Amongst them, PW-1, ASI Hawa Singh had deposed that he had



accompanied the prosecutrix to the hospital and got her examined medico-legally.

32. The PW-2, Head Constable Rajinder Kumar had deposed that in his presence a gadda/gudri was seized by the Investigating Officer and that with regard to seizure a memo was prepared.

33. The next witness, PW-3, Head Constable Harish Chand, had deposed that on 20.06.2002 in his presence, ASI Hawa Singh had taken over packets handed over to him by the medical officer, and that with regard to above-mentioned events the memo Ex.PB was prepared, which was signed by him.

34. The PW-4, Head Constable Ramesh Kumar, had deposed that the packets and envelopes handed over by the medical officer, were deposited in the storeroom of the police station, and that being incharge of the storeroom, he had collected the same and recorded relevant entries in the Register No.19.

35. Another formal witness examined by the prosecution was PW-6 Constable Girdhari Lal, who deposed that he had delivered the special report to the learned Area Magistrate and other Senior police officers on 20.06.2002.

36. The next witness, Sub Inspector Amar Singh, who had been examined as PW-7, had deposed that for a limited period he was the Investigating Officer of this case, and that during his tenure as Investigating Officer of this case, PW Gulshan Kumar had handed over the scaled site plan of the place of occurrence to him.

37. The PW-8 Sub Inspector Pawan Kumar, being the Investigating Officer, was a material witness. The PW-8 had proved each and every step taken by him during the course of investigation and supported the prosecution



case in toto.

38. The last witness examined by the prosecution, PW-10 Gulshan Kumar, was only a formal witness, who had proved the scaled site plan of the place of occurrence, as Ex. PK.

39. As far as the above-mentioned evidence adduced by the prosecution was concerned a careful scrutiny of the same shows that;-

- i. there were material contradictions in the testimony of prosecutrix in comparison to her statement made before the police. Those contradictions were as under:-

Statement before the police	Deposition in the Court
After committing rape, when appellant was leaving the spot, she caught hold of his undershirt, but he managed to run away.	No such deposition in the Court.
When she cried for help, her parents-in-law arrived on the spot and saw the appellant, while fleeing from the spot.	When appellant ran away, she woke up her parents-in-law and narrated the incident.
Meanwhile her husband returned home.	Her husband came at 4.30 AM
While leaving the spot the appellant extended a threat that if the incident was disclosed to anybody, they would be done to death	No such allegation.

- ii. the prosecution had failed to prove the statement recorded by the police, which served as a foundation for the FIR. The contents of the FIR showed that the statement made by the prosecutrix was reduced into writing and she had thumb marked the same. However, the above-mentioned statement was not proved by the prosecution, and marked with exhibit. Thus, the very foundation which set the wheel of



criminal justice into motion, was not proved by the prosecution.

- iii. the medico-legal report of the appellant Ex.PL was not proved in accordance with law. The medical officer, who had medico-legally examined the appellant was not examined, and thus, for want of proof of above-mentioned record the prosecution faltered on two account. *Firstly* that it failed to prove that the appellant was capable of performing sexual intercourse. [However, for the sake of argument, the above-mentioned lapse can be ignored because such plea was not taken by the appellant in his defence]; and *secondly* the prosecution failed to prove that the underwear of the appellant was seized by the medical officer, and that it was secured in a sealed packet. Thus, the prosecution has failed to establish link between the appellant and the underwear examined by the Forensic Science Laboratory as Ex.4 (as mentioned in EX.PH).
- iv. another serious lapse on the part of the prosecution is that as per contents of FIR, the parents-in-law of the prosecutrix were eye-witness of the events which occurred immediately after the rape, i.e. when the appellant was running away from the spot and extended threat to kill them. However, both the parents-in-law were not examined to support the above-mentioned chapter of the prosecution case.
- v. in the present case as per case set-out by the prosecution the



husband of prosecutrix, at the time of commission of offence was on duty. However to prove above-said fact no witness, whatsoever had been examined.

40. The above-mentioned deficiencies in the prosecution evidence were sufficient to arrive at a conclusion that in the present case the prosecution evidence which was solely founded on the sole testimony of prosecutrix, deserved to be analyzed with utmost care and caution. The above-mentioned contradictions and deficiencies in prosecution evidence could lead to two conclusions only. *Firstly*, that the important piece of evidence had been withheld by the prosecution without any proper explanation; and *secondly* that the contradictions and deficiencies made it mandatory that the sole testimony of prosecutrix must have been corroborated by independent evidence. However, such evidence was missing in this case.

41. In the present case, one of the relevant aspect which was necessary to be taken into consideration was the circumstances, wherein the offence had allegedly taken place. It was an admitted fact, as admitted by the prosecutrix in her deposition, that the family of her in-laws comprised of seven persons i.e. father-in-law, mother-in-law, three brothers-in-law and two sisters-in-law. According to prosecutrix, all the above-mentioned seven persons were sleeping in the adjoining room. Thus, the prevailing circumstance in itself made it very improbable, rather impossible, that the incident of rape could have taken place in the adjoining room, and that, too, by one person only. It fails to convince a prudent mind that the resistance was made by the prosecutrix, but it did not attract the attention of seven grown up persons sleeping in the adjoining room.



42. One more component which needs to be taken into consideration is the admission of the prosecutrix, in her cross-examination as PW-5. She had admitted that she had sworn the affidavit Ex.D1. The contents of Ex.D1 shows that it contained following recitals:-

“That the deponent by misunderstanding lodged the present case against the accused Rajesh Kumar alias Bablu son of Shri Jagdish Kumar vide FIR No.145/2002 under Section 376, 452, 506 IPC.”

43. In addition to above, the PW-5 also admitted that at the instance of maternal uncle of the appellant, she had filed an application in the Court for recording of her statement under Section 164 Cr.P.C, for withdrawal of the complaint.

44. With regard to above discussed factual matrix of the present case, the principles of law propounded by Hon’ble Supreme Court of India in the case of ‘State (GNCT of Delhi) vs. Vipin @ Lalla’ 2025 SCC Online SC 78 is relevant. In the above-mentioned case the respondent-accused was tried for the commission of offence punishable under Sections 363, 366, 376, 342, 506 IPC. However, he was acquitted by the learned trial Court and the judgment of trial Court was upheld by the High Court. Against the order of High Court the State approached the Supreme Court of India. In the above-mentioned case, it was observed by the Hon’ble Supreme Court of India that the testimony of the prosecutrix in a rape case holds high value as an injured witness and it must inspire the confidence of the Court to secure conviction. However, in the above-mentioned case it was held that the contradictions in the testimony of the prosecutrix and lack of corroborative evidence resulted into failure to establish the case beyond the reasonable doubt. According to Hon’ble Supreme



Court of India the contradictions in such crucial testimony can weaken the prosecution case and affect the reliability of the witness. It was also observed by the Hon'ble Supreme Court of India that testimony must be credible, consistent and sufficient to inspire confidence.

45. Similarly in the case of 'Md. Ali @ Guddu vs. State of U.P.' 2015(2) RCR (Criminal) 206, the sole testimony of prosecutrix, who lodged FIR for the commission of offence punishable under Sections 363/376 IPC was disbelieved by the Hon'ble Supreme Court of India by appreciating the prevailing circumstances.

46. In the case of 'State of State of Karnataka vs. F. Nataraj' 2015(4) RCR (Criminal) 641, the Hon'ble Supreme Court of India observed that there were gaps in the evidence of the prosecutrix and no injury was found on the private part of the prosecutrix. In the above-mentioned case, the Hon'ble Supreme Court of India disbelieved the sole testimony of the prosecutrix, despite the fact that she had supported the same.

47. In the case of 'Radhu Vs. State of Madhya Pradesh' 2007(4) RCR(Criminal) 158 it has been held that finding of guilt in a case of rape can be based on the uncorroborated evidence of the prosecutrix, as the very nature of offence makes it difficult to get direct corroborating evidence. According to Hon'ble Supreme Court of India, the evidence of the prosecutrix should not be rejected on the basis of minor discrepancies and contradictions, and that if the victim of rape states on oath that she was forcibly subjected to sexual intercourse, her statement should normally be accepted, even if it is uncorroborated. However, as per Hon'ble Supreme Court of India if the material on record requires drawing of an inference that there was consent or



that the entire incident was improbable or imaginary, the above-mentioned sole testimony can be disbelieved.

48. It is also relevant to mention here that in another judicial pronouncements the duty of the appellate Court has been explained by the Hon'ble Supreme Court of India. In the case of 'Rama vs. State of Rajasthan' (2002) 4 SCC 571, the Hon'ble Supreme Court of India has observed that it is well settled that in a criminal appeal, a duty is enjoined upon the appellate court to reappraise the evidence itself and it cannot proceed to dispose of the appeal upon appraisal of evidence by the trial court alone, especially when the appeal has already been admitted and placed for final hearing. As per Hon'ble Supreme Court of India upholding of such procedure would amount to negation of valuable right of appeal of an accused, which cannot be permitted under law.

49. A three-Judge Bench of Hon'ble Supreme Court of India in the case of 'Majjal vs. State of Haryana', 2013(4) RCR (Criminal) 474, ruled as under:-

“It was necessary for the High Court to consider whether the trial court’s assessment of the evidence and its opinion that the appellant must be convicted deserve to be confirmed. This exercise is necessary because the personal liberty of an accused is curtailed because of the conviction. The High Court must state its reasons why it is accepting the evidence on record. The High Court’s concurrence with the trial court’s view would be acceptable only if it is supported by reasons. In such appeals it is a court of first appeal. Reasons cannot be cryptic. By this, we do not mean that the High Court is expected to write an unduly long treatise. The judgment may be short but must reflect proper application of mind to vital evidence and important submissions



which go to the root of the matter.”

50. In the present case a lot of thrust of argument of learned State counsel has been upon the plea that the sole testimony of prosecutrix is duly supported and corroborated by medical evidence. However, in the present case this fact cannot be ignored that prosecutrix is a married lady, and therefore, in the present case, it was necessary for the prosecution to show that in the facts and circumstances of the case this possibility was ruled out that the semen found on the clothes of the prosecutrix could have been of her husband. With regard to above, two relevant circumstances are very material. *Firstly*, the prosecution has not proved the fact that the underwear which was examined by the FSL actually belonged to the appellant [as the medical officer who collected the same was not examined] and *secondly*, it failed prove that husband of the prosecutrix was on duty at the time of occurrence.

51. Sexual violence is a dehumanizing act which degrades and humiliates the victim. Cases relating to crimes against women are, therefore dealt with utmost sensitivity. The courts shoulder a great responsibility while trying an accused on charges of rape, one of the most heinous and reprehensible of all crimes that can be committed on a women. It is for this reason that the courts lean heavily in favour of victims of sexual assaults. In a plethora of judgments, the Hon'ble Supreme Court of India has observed that ordinarily, evidence of a prosecutrix should not be suspected and should be believed, and such statement has to be evaluated at par with that of an injured witness. If evidence of the prosecutrix is found reliable and creditworthy, no corroboration is necessary.

52. Uncorroborated testimony of the prosecutrix can be relied upon to



record finding of guilt. In all cases of sexual violence, the Courts cannot insist on corroboration given the nature of the offence which makes it difficult to get corroborating evidence. Even absence of injuries on the private organs cannot, by itself, falsify the charge of rape though bruises, abrasions, scratches on a victim would suggest struggle and support the allegations of sexual assault.

53. Though, the above observations carry greatest weight, they cannot be mechanically applied to every case of sexual assault which comes before the court. The courts while dealing with cases of sexual assault, also must bear in mind that false charges of rape are not uncommon. Rape indeed causes great humiliation and distress to the victim, at the same time, a false allegation of rape can cause equal distress, psychological trauma, societal stigma and humiliation to the accused as well, besides the agony of incarceration. Instances are replete where false allegations of rape have been levelled to extort money, to wreak vengeance, for self preservation or for any other extraneous reasons. In appropriate cases, the accused should also be protected against false implication. Therefore, whether or not there was rape would ultimately depend on facts and circumstances of each case.

54. The broad principle that prosecution is required to prove its case beyond shadow of reasonable doubt applies equally to a case of rape and there can be no presumption that prosecutrix would always tell the story truthfully [Abbas Ahmad Choudhary vs. State of Assam, (2010) 12 SCC 115]. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence [The State of Punjab vs Gurmit Singh and others, (1996) 2 SCC 384, State of Himachal Pradesh vs. Asha Ram, AIR 2006 SC 381 and Rajinder @ Raju vs. State of



Himachal Pradesh, (2009) 16 SCC 69]. No doubt, uncorroborated testimony of the prosecutrix is sufficient to sustain conviction of an accused of rape but such testimony should be unflinching, consistent, infallible and should inspire confidence of the court. Evidence of the prosecutrix has to be examined as that of an injured witness, but it is not the law that her statement should, without exception, be taken as a gospel truth. The veracity of the story projected by the prosecution qua allegations of rape has to be examined in the facts and circumstances of each individual case.

55. In the light of above-mentioned principles of law, if the factual matrix of the present case is analyzed, it transpires that the above-mentioned discrepancies, contradictions and deficiencies, if appreciated co-jointly, leads to the conclusion that:-

- i. the story developed by the prosecution with regard to the circumstances in which the alleged rape had taken place is un-natural and improbable.
- ii. there are very glaring lapses on the part of the prosecution as material witnesses have been withheld.
- iii. there are material contradiction in the testimony of prosecutrix, when compared with her statement given to the police.
- iv. that link evidence is missing.
- v. the semen found on the clothes of the prosecutrix has not been linked with the appellant.

56. Thus, it is hereby observed that the sole testimony of prosecutrix despite being supportive to the prosecution case and corroborated by medical



evidence, is not good enough to discharge the burden of prosecution to prove charge for the commission of offence punishable under Section 376 IPC against the appellant.

57. Taking into consideration the above-mentioned observations, it is hereby held that in the present case while relying upon the sole testimony of prosecutrix and holding the appellant guilty for the commission of offence punishable under Sections 376/452 IPC, a wrong conclusion was drawn by the learned trial Court, and therefore, there is need for indulgence and interference in the above-mentioned verdict by this Court by exercising the appellate jurisdiction.

58. As a sequel to above-mentioned observations, the present appeal is hereby **allowed** and the impugned judgment of conviction vis-a-vis order on quantum of sentence are hereby set aside and the appellant is hereby acquitted, accordingly.

(SURYA PARTAP SINGH)
JUDGE

29.05.2026

vipin

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No