



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on: 16.02.2026*
Judgment pronounced on: 20.02.2026

+ **CRL.A. 192/2016**

MUKESH SINGHAL

.....Appellant

Through: Ms. Sapna Chauhan and Mr. R. Advocates.

Versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Loveleen, P.S. Moti Nagar
Mr. Siddhant Nath, Advocate
(Amicus Curiae) for the victim.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374 of the Code of Criminal Procedure. 1973 (the Cr.P.C), the sole accused in SC No. 89/2010 on the file of the Additional Sessions Judge, Tis Hazari Court, Delhi, assails the judgment dated 28.01.2016 and order on sentence dated 30.01.2016 as per which he has been convicted and

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sentenced for the offences punishable under Sections 363, 506 Part II and 376 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that on 04.08.2010 at about 4:15 PM outside Bharti College, Janakpuri, New Delhi the appellant/accused forcibly pulled PW1, inside his car and threatened to kill her if she raised an alarm. Thereafter, the accused raped her inside the car.

3. On the basis of Ext. PW1/A FIS of PW1, given on 04.08.2010, crime no. 248/2010, Moti Nagar Police station, that is, Ext. PW6/A was registered by PW6 Sub-Inspector. PW14, Sub-Inspector conducted investigation into the crime and on completion of the same filed the charge-sheet/final report alleging commission of the offences punishable under Sections 363, 506 and 376 IPC.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under Section 207 Cr.P.C. After hearing both sides,



the trial court as per order dated 14.12.2010 framed a Charge under Sections 363, 506 Part II and 376 IPC, which was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs.1 to 16 were examined and Exts. PW1/A-E, PW1/DX, PW2/A-B, PW3/A, PW4/A-B, PW5/A, PW6/A-B, PW8/A-B, PW9/A, PW11/A-F, PW12/A, PW14/A-F, PW15/A-D, PW16/A, P-1, P-2, P3, Mark A and Mark X were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. He submitted that he had just given lift to PW1. He never threatened or raped her.

7. After questioning the accused under Section. 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 CrPC



is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89: 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him.

8. On behalf of the defence, DWs. 1 to 3 were examined and Exts. DW1/A1-12, DW2/A and DW3/A were marked in support of the case.

9. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 28.01.2016 held the accused guilty of the offences punishable under Sections 363, 506 Part II and 376 IPC. *Vide* order on sentence dated 30.01.2016 the accused has been sentenced to undergo rigorous imprisonment for a period of 03 years for the offence punishable under Sections 363 IPC and



to a fine of ₹2,000/-, and in default of payment of fine, to undergo simple imprisonment for 15 days; to rigorous imprisonment for a period of 03 years for the offence punishable under Section 506 Part II IPC and to a fine of ₹2,000/-, and in default of payment of fine, to undergo simple imprisonment for 15 days, and to rigorous imprisonment for a period of 07 years for the offence punishable under Section 376 IPC and to a fine of ₹5,000/-, and in default of payment of fine, to undergo simple imprisonment for 01 month. The sentences had been directed to run concurrently. Aggrieved, the accused has preferred the present appeal.

10. It was submitted by the learned counsel for the appellant/accused that in the light of the unsatisfactory evidence on record, the trial court went wrong in convicting the accused under the aforementioned Sections. According to her, there are several contradictions and inconsistencies in the statements of material prosecution witnesses. It is submitted that as per the prosecution case, the incident took place around 04:15 PM whereas as per



Ex.PW11/D arrest memo, the accused/appellant is shown to have been arrested at 2:00 PM. This cannot be termed as a clerical mistake. She further submitted that there are stark contradictions in the statements made by PW1. It is evident from the 164 statement, that PW1 was not alone on the street from where she was allegedly pulled inside the car. As per the statement of PW1, she was pulled inside the car by the accused which led to bruises on her wrist. However, Ext. PW2/A MLC of PW1 says that there were no bruises/injuries. It was further urged that the MLC, which notes hymen tear and a small perineal tear on posterior *fourchette* without any external injury, does not corroborate the allegation of penetrative sexual assault. Further, referring to the testimony of DW2, Territory Service Manager, Maruti Suzuki it was submitted that it cannot be a case where PW1 was unable to escape as the car of the accused had no central locking system installed. She further submitted that the appellant/accused has already undergone



imprisonment for a period of about 06 years and hence the sentence may be confined to the period already undergone by him.

11. *Per contra*, it was submitted by the learned *Amicus Curiae* on behalf of the victim that the testimony of PW1 is well corroborated by Ex.PW2 /A MLC whereby it is mentioned that the hymen was not intact and there was bleeding on the posterior fourchette. He further submitted that the contradictions and inconsistencies pointed out by the accused/appellant are quite immaterial and irrelevant, which have not affected the core prosecution case. The testimony of PW1 has not been discredited in any way, and hence the trial court was right in finding the accused/appellant guilty of the aforesaid offences. There is no infirmity in the impugned judgment calling for an interference by this Court, goes the argument.

12. The learned Additional Public Prosecutor submitted that the medial evidence is well corroborated by the statements of



PW1 and so the trial court was right in convicting the appellant/accused.

13. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. The incident in this case is alleged to have taken place on 04.08.2010 at 04:15 p.m. at a bus stand, near Bharti College while PW1 was on her way home from college after attending classes. Exhibit PW1/A FIS of PW1 was recorded on the very same day of the incident. In the FIS, she has stated thus:- “Today, at around 4:15 PM, I was walking towards my college bus stand when a grey-coloured WagonR car (Registration No. DL 2C AC 4901) stopped near me. A man was sitting inside it. He began asking me for directions to DDU Hospital. When I told him I didn’t know, he started asking for directions to Subhash Nagar. Upon my refusal, he grabbed me by my hand, pulled me inside, and forced me onto the co-passenger seat. He threatened me by saying, "I will kill you if you scream." He kept driving the car around Hari Nagar. Eventually, he parked



the car on a street in Bali Nagar. I tried to open the car door and run away. He threatened me and told me to take off my clothes. When I didn't take them off, he forcibly removed all my clothes. Then, he unzipped his pants and raped me. There was lot of blood on my undergarments. He started driving the car again. I opened the window of the moving car and jumped out. I screamed, and a person from the public caught him and beat him up. Upon asking his name, it was revealed to be Mukesh Singhal.”

13.1. In Ext. PW1/B, the 164 statement of PW1, seen recorded on 09.08.2010, she states thus:- On 04.08.2010 at about 4:15 PM, after leaving College while crossing the road, she noticed a silver-grey Wagon-R car bearing number DL-2CAC-4901. The man inside the car asked her for directions to DDU Hospital to which she replied she does not know. Thereafter, the man asked the way to another passerby, who also replied that he does not know. The accused then again asked her for directions to Subhash Nagar and when she asked him to ask somebody else, he grabbed



her, gagged her by covering her mouth with his hand and forcibly pulled her inside the car. The accused drove the car to Clock-Tower Road, Hari Nagar and then to Mahatma Gandhi Marg. She tried to unlock the car and escape but was unable to do so. Further, he stopped the car in a deserted lane near Bali Nagar Beat Box and when she tried to escape again, he threatened to kill her. He forcibly removed all her clothes and raped her which caused pain and bleeding. He also told her that she would become pregnant. The accused then reversed the car at which time two police officials on patrol, arrived at the scene. Taking advantage of the same, she jumped out and informed them of the incident. The accused was apprehended.

13.2. PW1 when examined before the trial court stood by her case in Ext. PW1/A FIS and Ext. PW1/B 164 statement. PW1 was extensively cross examined and the last part of her testimony reads thus:

“It is wrong to say that I myself took lift in the car of the accused and went with the accused with my own consent. It



is wrong to say that thereafter I started blackmailing the accused and demanding money. It is wrong to say that the accused did not accede my demand and was falsely implicated in the case. It is wrong to say that the accused had not extended threat to me at any point of time. It is wrong to say that the accused had not committed any rape on me and has been falsely implicated in this case. It is wrong to say that since I myself gone with the accused that is why I did not raise any alarm from my college to the alleged place of incident which took around 45 minutes to reach. It is wrong to say that I have deposed falsely”.

(Emphasis supplied)

14. As noted earlier, the accused has been charged with the offences punishable under Sections 363, 506 Part II and 376 IPC. Section 363 IPC deals with punishment for kidnapping. Section 361 IPC, which defines kidnapping from lawful guardianship, says that whoever takes or entices any minor under sixteen years of age, if a male, or under eighteen years of age, if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, commits the offence of kidnapping from lawful guardianship.



15. From the materials on record, it is doubtful whether any kidnapping had taken place. If PW1 is to be believed, the accused while sitting in the driver seat of his car kept the left front door of the car open and then pulled her inside the car after gagging her by covering her mouth with his hand and then drove off with her. This incident is alleged to have taken place at about 04:15 p.m. near the college of PW1. The testimony of PW1 itself shows that there were other persons around because even according to PW1, when the accused first asked her for directions, she told him to ask somebody else. The accused then asked another person on the street behind her. But the said person was also unable to help the accused. Therefore, the accused again asked her and then she replied that the accused need to seek directions from somebody else at which point the accused pulled her inside the car. From the testimony of PW1, it appears that there were other persons also around at the time.



16. Further, PW1 deposed that after she was pulled inside the car by the accused, the latter drove the car around a few places. She tried to escape by opening the car door but she was unable to do so as the door of the car was locked by the accused. PW1 admits that while driving the car, accused had made calls on his mobile phone. PW1 deposed that she was unable to take her mobile phone from her jeans pocket, while the accused was driving her around as it was quite a tight and fitting jeans. Despite that the accused is alleged to have removed all her clothes while sitting in the front seat of the car and then raped her. This appears quite difficult and improbable and difficult to believe. It is here the suggestions that were made to PW1 in the cross examination to which I have already referred to assumes significance. Probably, PW1 might have taken a lift in the car of the accused as suggested to her during her cross examination. Therefore, the evidence on record is unsatisfactory to find the offence of kidnapping against



the accused. Hence, the trial court went wrong in convicting the accused for the offence punishable under Section 363 IPC.

17. Now coming to the medical evidence adduced by the prosecution. Ext. PW2/A is the MLC of PW1. No fresh external injuries were seen at the time of her examination. On examination, there were no signs of external fresh injuries on the whole body. A small perineal tear was found on the posterior *fourchette* and bleeding. The hymen was also found torn. PW2, Sr. Resident Doctor, Department of Casualty, DDU Hospital deposed that Dr. Awdesh, who had prepared the MLC of PW1 had left the services of the hospital and that his present whereabouts were not known. PW2 deposed that he can identify the signature and handwriting of Dr. Awdesh who had examined PW1. The MLC was marked as Exhibit PW2/A. PW2 deposed that as per the MLC her vitals were found normal.

18. PW 9, Sr. Gynaec, DDU Hospital deposed that on 04.08.2010, he had examined PW1, who was brought to the



hospital with alleged history of abduction and sexual assault. The patient was found frightened. On examination, her vitals were found normal and no abnormality was detected. On local examination we did not find any signs of external flesh injury on the body. However, a small perineal tear was present on the posterior *fourchette* and she was bleeding. Her hymen was found torn. PW9 deposed that Ext. P9/A is the detailed report prepared by him. In the cross examination PW9 deposed that he did not find any external injuries on PW1 except the perineal and hymen. The MLC coupled with the testimony of the doctors which has not been discredited in any way shows that physical relation did take place.

19. PW1 at the time of the incident on 04.08.2010 was 17 years of age and therefore apparently a minor. The age of PW1 has not been disputed. Therefore, even assuming that the physical relation was consensual that would not help the accused because consent of a minor is immaterial. That being the position the



offence of rape as contemplated under Section 375 IPC is certainly made out.

20. As noticed earlier the incident took place on 04.08.2010. Section 376 (1) IPC as it then stood reads thus:-

"376. Punishment for rape.—(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years."

(Emphasis supplied)

21. The trial court has sentenced the accused to a period of 07 years imprisonment for the offence punishable under section 375 IPC. The nominal roll dated 19.12.2025 says that as on 07.05.2016, the accused had served a period of 05 years, 08 months and 06 days imprisonment and that the unexpired portion



of the sentence is 01 year, 03 months and 18 days.

22. In the facts and circumstances of the case I find that the sentence of imprisonment can be confined to the period already undergone by the accused.

23. In the result, the appeal is partly allowed. The conviction and sentence of the accused for the offences punishable under Sections 363 and 506 Part-II IPC is set aside and the appellant/accused acquitted under section 235(1) Cr.P.C. for the said offences. The conviction for the offence under Section 375 IPC is confirmed. However, the substantive sentence of 07 years is modified to the period already undergone by the accused. The sentence of fine imposed for the offence under section 375 IPC shall stand confirmed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

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