



2026:DHC:1657



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 16.02.2026

Judgment pronounced on: 25.02.2026

+ **CRL.A. 352/2017 and CRL.M.(BAIL) 8093/2020**

MANOJ

.....Appellant

Through: Mr. Azhar Qayum, Advocate.

Versus

STATE

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Lokesh Kumar, PS - Govindpuri.
Mr. Anindya Malhotra, Mr. Shaurya
Lamba and Ms. Ishita Sehrawat,
Advocates for the prosecutrix.

+ **CRL.A. 887/2017**

MUKESH

.....Appellant

Through: Mr. Rohan J. Alva, Advocate
(DHCLSC).

Versus

STATE NCT OF DELHI

.....Respondent

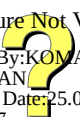
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CRL.A. 352/2017 & CRL.A. 887/2017

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CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In these appeals filed under Section 374(2) of the Code of Criminal Procedure, 1973 (the Cr.P.C.), accused nos. 1 and 3 in Sessions Case No. 16/2013 and 2301/2016 on the file of the Additional Sessions Judge- Special, Fast Track Court, Saket Courts, New Delhi assail the judgment dated 20.12.2016. By the said judgment, accused no. 1 (A1) has been convicted and sentenced for offences punishable under Sections 342, 323, 34, 376, 376(2)(g) read with 34 of the Indian Penal Code, 1860 (the IPC). Accused no. 3(A3) has been convicted and sentenced for the offence punishable under Section 376(2)(g) IPC.

2. The prosecution case is that A1 to A3, in furtherance of their common intention, kept PW3 wrongfully confined at House No. 1188/13, First Floor, Govind Puri, New Delhi for about one year immediately before her rescue on 12.06.2012, and repeatedly



subjected her to rape, physical assault, intimidation, and sexual exploitation by multiple persons. It is further alleged that A4, an auto driver, facilitated the commission of the offences by taking PW3 to the said house and leaving her there. Hence, the accused persons are alleged to have committed offences punishable under Sections 323, 342, 366, 376(e), 376(2)(g), 341 read with 34 IPC.

3. Based on Ext. PW3/A FIS of PW3, crime no. 284/2012 Govind Puri Police Station, that is, Ext. PW10/A FIR, was registered by PW16, Sub Inspector. PW16 conducted investigation into the crime and on completion of the same, submitted the chargesheet/final report before the Court, alleging the commission of the offences punishable under the aforementioned Sections.

4. When the accused persons were produced before the trial court, all the copies of the prosecution records were furnished to them as contemplated under Section 207 Cr.PC. Thereafter, in compliance of Section 209 Cr.P.C, the case was committed to the Court of Session concerned.



5. On appearance of the accused persons before the trial court and after hearing both sides, as per order dated 05.11.2012, a Charge under Sections 342 read with Section 34, 323 and 376(2)(g) IPC against A1; Sections 342 read with Section 34, 109 and 366 IPC against A2 and 376(2)(g) IPC against A3 was framed. *Vide* Order dated 14.05.2013, a Charge under Sections 366, 109, read with 376 IPC was framed against A4. The Charges were read over and explained to the accused persons, to which they pleaded not guilty.

6. On behalf of the prosecution, PWs. 1 to 20 and CW1-2 were examined and Exts. PW1/A-B, PW2/A, PW3/A, PW16/B, PW4/A-B, PW5/A-C, PW9/A-B, PW10/A-B, PW11/A-B, PW13/A, PW16/A-L, PW18/A, PW19/A and Mark X, Ext. CW2/A-C and Ext. CW1/A to CW1/B were marked.

7. After the close of prosecution evidence, the accused persons were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the



evidence of the prosecution. The accused persons denied all those circumstances and maintained their innocence. During the trial, A2 absconded and hence, was declared a proclaimed offender on 20.07.2015.

7.1. A1 submitted that PW3 was working as a maid, and that there was a dispute over her salary, which led to her making a false story implicating all the accused persons without any basis. He also submitted that she was a habitual liar.

7.2. A3 submitted that he has been falsely implicated in the case.

7.3. A4 submitted that on 21.08.2013, while he was waiting in his auto at the auto stand, by about 04:00 pm- 4:30 pm. Angesh and PW3, whom he did not know earlier, asked him to drop them at Gali No. 13, Govind Puri. On the way, Angesh and PW3 started quarrelling and he told them to stop as it might cause a problem for him. He dropped them at the aforesaid address. PW3 and Angesh met A1 and A3. They all started quarrelling amongst themselves.



He asked them to pay his fare, A3 slapped and threatened him and asked him to leave, or else he would be beaten up severely. Thereafter, A1 paid him ₹50/- and he left. On 20.11.2012, at about 10:00-10:30 a.m., the person-in-charge of the auto stand came to his house and informed him that his vehicle was involved in a road accident and the former insisted that he should accompany the former to the police post near Hamdard Auto Stand. From the police post, after about half an hour, he was taken to Govind Puri Police Station, where he was made to sign few blank papers and was questioned regarding the case. He told the police that that he only had dropped PW3 and Angesh at Gali No. 13 on their request. A4 alleged that PW16, the IO, demanded ₹10,000/- for releasing him, which he could not pay. Thereafter, his friends Miraj and Krishna, residents of Sangam Vihar, and later his elder sister Sira and mother Ruksana, were called to the police station. They paid a sum of ₹4,000/- to PW16. Despite the payment, he was arrested, kept in the lock-up, produced before the court the next day, and



remanded to judicial custody. As he was unable to pay ₹10,000/- to PW16, he has been falsely implicated in the case.

8. After questioning the accused persons 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 Cr.P.C is seen made by the trial court. However, non-compliance of the said provision does not, ipso facto vitiate the proceedings, unless omission to comply with 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 persons have no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to them.

9. DW1 and DW2 were examined on behalf of A4. No oral or documentary evidence was adduced by A1 and A3.

10. On consideration of the oral and documentary evidence and after hearing both sides, the trial court *vide* the impugned



judgment dated 20.12.2016, held A1 guilty of the offences punishable under Sections 342 read with 34, 376, 376(2) (g) and 323 read with 34 IPC; A2 (proclaimed offender) of the offences punishable under Sections 342 read with 34, 366, 109 and 323 read with 34 IPC and A3 of the offence punishable under Section 376(2)(g) IPC. A4 has been acquitted under Section 235(1) Cr.P.C. of the offences charged against him. A1 has been sentenced to rigorous imprisonment for eleven years and fine of ₹20,000/- and in default of payment of fine, to simple imprisonment for a period of six months for the offence punishable under section 376(2)(g) IPC; rigorous imprisonment for a period of 7 years and fine of ₹10,000/- and in default of payment of fine, to simple imprisonment for a period of three months for the offence punishable under section 376 IPC; rigorous imprisonment for a period of one year for the offence punishable under section 342 read with 34 IPC and imprisonment for a period of one year for the offence punishable under Section 323 read with 34 IPC. A3 has



been sentenced to rigorous imprisonment for ten years and fine of ₹20,000/- and in default of payment of fine, to simple imprisonment for six months for the offence punishable under section 376(2)(g) IPC. The sentences have been directed to run concurrently. Aggrieved, A1 and A3 have preferred these appeals.

11. It was submitted by the learned counsel for A1 that the testimony of PW3 is inconsistent and has undergone material improvements at every stage, and therefore, she cannot be treated as a sterling witness. It was further submitted that there were multiple occasions when PW3 had the opportunity to raise an alarm, yet she failed to do so. Accordingly, it was submitted that the prosecution has failed to establish the guilt of A1 beyond reasonable doubt, and that the benefit of doubt must necessarily accrue in his favour.

12. It was submitted by the learned counsel for A3 that the latter was never named and no role attributed to him either in Ext. PW3/A FIS or in Ext. PW2/A MLC of PW3. The allegations



against him surfaced only later, by way of material improvements in the testimony of PW3 during the trial. It was submitted that there is a serious and unexplained inconsistency with respect to the duration of the crime. As per one version, the alleged incident occurred about a week before 12.06.2012, whereas in another version it is stated to have continued for nearly one year. The allegations of physical assault and administering injections are not supported by Ext. PW2/A MLC of PW3, which records no external or internal injuries on PW3. The testimony of independent witnesses PW12 and PW14 does not support the prosecution case against A3. Lastly, the prosecution case suffers from fundamental deficiencies and inconsistencies at every stage.

13. It was submitted by the learned Additional Public Prosecutor that even assuming that PW3 is not a sterling witness, her testimony is corroborated and proved from the testimony of other prosecution witnesses as well as the evidence on record. He



submitted that there is no infirmity in the impugned judgment calling for an interference from this Court.

14. Heard both sides and perused the materials on record.

15. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the appellants/ A1 and A3 by the trial court are sustainable or not.

16. I shall briefly refer to the evidence relied on by the prosecution in support of the case. The gist of the case of PW3 in Ext. PW3/A the FIS, seen recorded on 12.06.2012 reads as follows: She was with her parents at the address mentioned in the FIS. Immediately before *Holi*, she eloped with her paternal uncle's son, Angesh, who lived in her neighbourhood, because she loved him. Both of them came to Saharanpur. There, Angesh left her in a hotel room and never returned. After waiting for him, she wandered from place to place and later took a train to Delhi. At the railway station, she met a boy whose name she does not know. He took her to a bungalow (*kothi*), where she started working as a



cook. The people living there treated her well, but she does not know their address. While working there, she met a girl named Sunita, who worked in another bungalow. Sunita lived in Pul Prahladpur, but she does not know her exact house address. Sunita helped her get a rented room in Sangam Vihar. While living in Sangam Vihar, she met Zakir (A4). She met A4 on the road and asked him where she could find an auto. A4 told her that he drives an auto. She met A4 two to three times and they became friends. About seven days back, A4 met her in the evening in Sangam Vihar and told her that he would take her to meet his sister-in-law (*bhabhi*). She went in his auto. A4 took her to the house of Manoj (A1) and Babita(A2) in Govindpuri. At their house, A1 and A2 gave her alcohol to drink. A4 also drank alcohol with them and then left for his home. A2 stopped her from leaving, saying it was late and that she should go in the morning. After that, A1 forcibly removed her clothes and raped her. They also beat her. The next morning, when she tried to leave, A2 stopped her, slapped her, and



told her that she would not be allowed to go and must do as they said. Both of them kept her locked inside the house. A1 continued to rape her repeatedly, and A2 fully assisted him. Last night, A2 brought her to another house by threatening her. A1 also came to the house after a little while. A man named Mukesh (A3) was also present in that house. A1 and A2 beat her very badly. A2 told her that she would have to sleep naked with A1 (..तुझे मेरे आदमी के साथ नंगी होकर सोना पड़ेगा). Both A1 and A2 forcibly removed her clothes, and A1 raped her three to four times against her will at A3's house. She kept crying and pleading with A1, A2, and A3 to let her go, but none of them listened. In the morning, she saw a person through the bathroom window. She threw her toothbrush at him and signalled him to call the police and help her escape. That person called the police. The police arrived and rescued her from the house.

17. PW3, when examined before the trial court, deposed that she could not recollect the exact date, however, about ten days



after Rakshabandhan, around three years ago, her neighbour Angesh brought her to Dehradun and thereafter brought her to Delhi. Angesh had promised to marry her. Initially, Angesh took her to the house of A1, A2 and A3 at Govind Puri. Angesh introduced her to them as his wife. A4 told Angesh to leave her, as she was a minor. Thereafter PW3 deposed that Angesh first took her to the house of A4, an auto driver. At the request of Angesh, A4 took her to the house of A1, A2, and A3. Angesh told A4 that he would pay the money/auto fare and that she should be dropped at the house of the A1 to A3. In the said house, A1 forcibly removed her clothes and raped her. Thereafter, Angesh also raped her at the same house. When she raised an alarm, A2 shut her mouth and facilitated the commission of rape by Angesh. During her stay at the said house, A3 used to give her injections and also used to bring boys to rape her. About 10 to 20 boys came to the said house through A3, and they also raped her. A1 to A3 confined her in the said house for about one year, during which time A1, Angesh, and



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A3 repeatedly raped her. During this period, Angesh used to visit the said house every Saturday, stay overnight, and leave on the following Sunday. A4 did not do any wrongful act on her, but he only left her at the house and went away. Whenever boys used to come to the house to rape her, she used to raise alarm, but A2 used to shut her mouth and help the boys rape her. During the said period, A1 to A3 and Angesh took her to three other places and forced her to have sexual intercourse with boys whom they had called there. She repeatedly requested them to let her go, but they did not allow her to leave. Whenever she wept, they told her that they would shift her to some other place. One day, when A1 to A3 were sleeping, she sought permission to go to the bathroom at about 5:00 a.m. on the pretext of taking a bath. From the bathroom window, she threw her toothbrush at a boy (PW12), who was going to college. When the boy looked at her, she gestured to him to call the police. Two police officers arrived at the scene of occurrence and apprehended A1 to A3. Angesh had introduced her to A4 for



the first time at an auto stand in Sangam Vihar. She further stated that she could not recollect the date on which she was rescued by the police, but it was about three years ago. She also had not seen the boys who had visited the house paying any amount to the accused persons after they had sexual intercourse with her. According to PW3, A1, A2, and Angesh used to beat her every month. She was confined in the said house for about one year before the filing of the FIR. PW3 further deposed that a child was born to her due to the physical abuse/rape by the aforesaid persons. But she does not know who the biological father of her child is. The Prosecutor then sought the permission of the Court to “cross-examine” PW3 *qua* A4. On further examination by the prosecutor, PW3 denied that A4 met her for the first time at Sangam Vihar, or that he had taken her to the house of A1 and A2. She also denied that A4 had consumed liquor with the rest of the accused at the house of A1 and A2.



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17.1. PW3 in her cross-examination deposed that A3 used to give her injections three times a day. She did not tell the doctor about the injections at the time of her medical examination. A3 and other accused persons used to take her outside the house on foot, and the walking distance was about two to three minutes. She used to be taken outside the house during late-night hours. Whenever she was taken outside, the accused persons used to tie her mouth with a dupatta and tie her hands behind her back with another chunni. A3 used to call boys by making phone calls. There were other houses near the said house. She could not raise any alarm or call the neighbours as she was kept in a room with the door bolted. She further stated that there was a house in front of the window of the room where she was kept, through which she had thrown the toothbrush. When she had tried to raise an alarm from the said window, A2 gagged her mouth, due to which she could not seek assistance from outside the house. PW3 denied the suggestion that she had eloped with Angesh on her own free will or that she had



conceived her child through Angesh. She denied the suggestion that she has falsely implicated A3 in order to save Angesh. PW3 denied having gone to Dehradun before coming to Delhi, but she had gone to Saharanpur. She denied the suggestion that Angesh had left her at Saharanpur and that she had come to Delhi alone. She had stated to the police that Angesh introduced her to the accused persons as his wife and that A4 told Angesh to leave her, stating that she was a minor. She further deposed that Angesh first took her to the house of A4 and thereafter, on the request of Angesh, A4 took her to the house of A1 to A3. She further deposed that she had stated to the police that Angesh had also raped her at the said house after A1. According to PW3, A1 first raped her, at which time his wife, A2, caught hold of her hands. At the said time A3 was cooking in another room. The accused persons never gave her any money. During her stay, Angesh used to come to the house every Saturday and after staying overnight, he used to leave on the following Sunday. PW3 deposed that she had raised an alarm at the



time of rape, but no one from outside came to save her. She could not run away from the clutches of A2 while she was taken outside, as A2 used to hold her hand. PW3 deposed that once she was taken to a doctor by the accused persons for medical treatment, as she had swelling on her body due to beatings with a belt. The accused persons told her that they were taking her to a market to purchase footwear, but instead took her to the doctor. They reached the doctor's place at about 8:00 PM in Govindpuri, where A1 and A2 held her hands. No other patient was present at the clinic. The accused persons were present when the doctor prescribed medicine. The doctor did not ask her anything, PW3 was unable to recall the name of the doctor. She did not tell the doctor about the offences committed on her as the accused persons had threatened her not to disclose anything, failing which they would kill her. She denied the suggestion that she stayed at the said house on her own free will or that she was working as a maid there. She further denied the suggestion that she was deposing falsely due to a



dispute regarding salary. She denied the suggestion that despite having opportunities, she did not escape or raise any alarm. She denied the suggestion that she went to live with the accused persons of her own accord and that no offence was committed against her.

18. PW12 deposed that on 12.06.2012, at about 08:20 AM, while he was standing on the ground floor of his house, a toothbrush fell on him from the first floor of the building opposite to his building. He went upstairs to the *chhajja* and saw a girl seeking help from the bathroom. He called PW14, his mother and as instructed by his mother he informed the police. He took the police officials to the floor from which the girl had sought help. PW12 in his cross-examination, deposed that he had not seen PW3 prior to the date of the incident. He does not know the people who had visited the house. He had not heard any cries of PW3.

19. PW14, the mother of PW12 supports the version of her son. She noticed that a girl was standing in the bathroom of the flat



and crying. The girl requested her to inform the police. She asked her son to call the police. She could not remember the number of the flat. In her cross-examination, PW14 deposed that she did not notice anyone accompanying the girl. She further stated that she had never met the girl earlier. PW14 was unable to identify PW3 in Court.

20. PW16, Sub-Inspector, Kalkaji Police Station, deposed that on 12.06.2012, upon receiving information regarding a rape, she reached Govind Puri Police Station, where SI Hansraj produced the prosecutrix and A1, A2 and A3. She made inquiries from PW3 and recorded Ext. PW3/A FIS and sent her to AIIMS for medical examination. She interrogated the accused persons and arrested them. PW16 deposed that she also made inquiries regarding Angesh at Haridwar, against whom allegations had been levelled by PW3, but no incriminating evidence was found against him. She completed the investigation, prepared the supplementary chargesheet, and submitted it in court.



20.1. PW16 admitted in her cross-examination that in the MLC, the name of one Najib is referred to but in the statement of PW3, there was no mention of Najib, instead the name Zakir was mentioned. PW16 admitted that she did not verify whether Najib and Zakir (A4) are one and same person or different persons and did not seek any clarification from the prosecutrix on that aspect. According to PW16, her investigation did not reveal any clinching evidence against Angesh. PW16 admitted that a crime has been registered against Angesh based on the complaint of the father of PW3 at Haridwar. She denied the suggestion that she falsely implicated A4 in the case or that she obtained his signatures on blank papers and had later manipulated them.

21. The prosecution case primarily rests on the testimony of PW3. It is well settled that a conviction for an offence under Section 375 IPC can be founded on the sole testimony of the prosecutrix, if such testimony is of sterling quality. Where the evidence of the prosecutrix suffers from material contradictions,



inconsistencies, or improvements going to the root of the prosecution case, the Court is duty-bound to seek corroboration. 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. Under no circumstances should there be 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 correlation with every one of the 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 the version of every other



witness. (**Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21**).

22. In Ext. PW3/A FIS, PW3 alleges that the incident had taken place about seven days prior to her rescue. However, in her deposition before the Court, she altered her version and deposed that she had been wrongfully confined and sexually exploited for nearly one year. Such a drastic variation cannot be treated as a minor discrepancy. Further, PW3 did not attribute any clear or specific role to A3 in Ext. PW3/A FIS. However, in her deposition before the Court, PW3 alleged that A3 used to administer injections, arrange for multiple men to sexually assault her, and repeatedly committed rape upon her. These allegations surfaced for the first time before the trial court and constitute material improvements, rendering her testimony unsafe to rely upon without corroboration. In Ext. PW3/A FIS, she states that she was taken to the house of the accused and subjected to sexual assault about seven days prior to her rescue. However, in her deposition



before the trial court, she alleged that she was confined for approximately one year, and during this period, she was repeatedly raped by multiple persons.

23. Ext. PW2/A MLC of PW3 records the history as narrated by PW3 to the doctor. A perusal of the MLC reveals that PW3 stated she had left her house about one year earlier, had worked as a maid for a brief period, and thereafter came into contact with one Najib in Sangam Vihar, who took her to his house. Further, Najib and A2 allegedly forced her to stay and A1 committed sexual assault on her. The name of A3 does not find mention in the medical history. It is true that non mention of the name(s) of an accused or mention of some others in the MLC is not a ground to disbelieve the prosecution case because the duty of the doctor is to treat the patients brought before him and not to find out the details of the persons involved in the crime. (**Pattipati Venkaiah v. State of A.P., (1985) 4 SCC 80**) But in the case on hand, the entries



made in the MLC also assume importance in the light of the inconsistent testimony of PW3.

24. The learned Additional Public Prosecutor as well as the learned counsel appearing for PW3 vehemently argued that even if PW3 is not a sterling witness, her version has been corroborated by the testimony of the other prosecution witnesses. The testimony of PW12 and PW14 only establishes that PW3 was found inside a bathroom and sought police assistance. Their evidence does not corroborate the allegations of confinement, repeated sexual assault, etc. as spoken to by PW3. It is true that PW12 and PW14 are independent witnesses and there is nothing to disbelieve their testimony. It appears that PW3 was in fact rescued by the police from the house of the accused persons. But the reason for her presence in the said house does not appear to be as deposed by PW3.

25. Further, PW3 admitted in her cross-examination that she was frequently taken outside the house. She was taken to a doctor,



was moved to other places, and that neighbouring houses were situated close by. Despite these circumstances, she claimed that she could neither escape nor raise an effective alarm for nearly one year. She is also seen to have given birth, which even according to her was during the period of confinement and abuse by the accused persons. It is not clear as to whether the delivery was at home or at any hospital. But the materials on record show that PW3 did have several opportunities to go out as well as raise alarm. Therefore, her case of wrongful confinement for the purpose of sexual assault and abuse is doubtful.

26. There is also drastic change in the version of PW3 while in the box. I have already referred to Ext. PW3/A FIS as well as her testimony. In Ext. PW3/A, she has no case that Angesh with whom she had eloped had raped her. Infact, her case in Ext. PW3/A is that Angesh had abandoned her in a hotel room at Saharanpur and that she had travelled to Delhi on her own. After coming to Delhi she got acquainted with A4 who on the pretext of



taking her to his *bhabhi*'s house took her to the house of A1 to A3 where the sexual abuse ensued. But, PW3 in the box gives a clean chit to A4. The trial court also acquitted A4. In Ext. PW3/A, A3 is only alleged to have been present in the house when A1 repeatedly raped her with the active assistance of his wife A2. But in the box her case is that not only A1, but A3, Angesh and several other persons had also raped her. As noticed earlier, PW3 admits that she gave birth to a child, which was apparently after she reached Delhi and before she was rescued by the police. She admits that she was taken out several times and even to a doctor. It is difficult to believe that in none of the instances including the time of her delivery, she was unable to bring the abuse to the notice of any person and that it was impossible for her to escape or raise alarm.

27. Hence in the aforesaid circumstances, it can only be held that the prosecution has failed to establish the guilt of the accused persons beyond reasonable doubt, and so they are entitled to the benefit of doubt.



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28. In the result, the appeals are allowed. The impugned judgment is set aside and A1 and A3 are acquitted under Section 235(1) Cr.P.C. of the offences charged against them. A1 and A3 shall be set at liberty and their bail bonds shall stand cancelled.

29. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

FEBRUARY 25, 2026

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