KABC010337642024

IN THE COURT OF LXXXI ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH 82)

:PRESENT:

Sri Santhosh Gajanan Bhat, B.A.L., LL.B.,
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to elected former and sitting MPs/MLAs in the State of Karnataka)

Dated this the 1st day of August, 2025

Spl.CC. No. 2627/2024

COMPLAINANT:	State by Special Investigation Team, CID, Bengaluru. ***(Represented by Special Public Prosecutors Sri.Jagadish B.N. and Sri.Ashok Naik)***
	V/s
ACCUSED :	Sri. Prajwal Revanna S/o H.D.Revanna, Aged about 33 years, R/a.Chennambika Nilaya, Chennambika Circle, Holenarasipura, Hassan District

Also R/at. H.No.83,
Shivasmitha, Ranojirao Road
Basavanagudi, Bengaluru.

(Smt.Nalina.M, Learned Senior Counsel on behalf of Mr.Arun.G, Mr.V.K.Jain for the accused)

Date of offence	Based on the events happened between 01.01.2021 to 31.01.2022
Date of report of offence	05.05.2024
Name of the complainant	PW.1 victim
Date of commencement of recording of evidence	02.05.2025
Date of closing of evidence	28.06.2025
Offences complained of	Under Secs. 376(2)(n), 376(2)(k), 354-A, 354-B, 354-C, 201, 506 of IPC and Sec.66(E) of Information Technology Act 2008.
Opinion of the Judge	Found guilty
State represented by	Sri.Jagadish B.N. and Sri.Ashok Naik, Learned Special Public Prosecutors
Accused represented by	Smt.Nalina.M, Learned Senior Counsel on behalf of Mr.Arun.G, Mr.V.K.Jain for the accused

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:: JUDGMENT ::

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।
यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रियाः ।।

Yathra Naaryasthu Poojyanthe Ramanthe Thatra Devata|
Yathrethasthu Na Poojyanthe Sarvasthatraphala Kriya|

Which means that **"*wherever women are worshiped the divinity resides*"** is the basic edifice and thread running through the social fabric of Indian society. However, during the year 2024 a horrendous and acrimonious act wherein obscene and vulgar photos pertaining to personal liberty of respectable women in the society become viral in the social media and even circulated in the society through a pen-drive which created a havoc in the society and that had led to formation of Special Investigation Team by the Government of Karnataka. After the constitution of the SIT, several complaints came to be registered and one such complaint of the victim is the case which is tried at present.

2. The Police Inspector and Special Investigating Agency Officer, Special Investigating Team, CID, Carlton House, Bengaluru, had filed the Final Report against the accused Prajwal Revanna for committing the alleged offences punishable under Secs. 376(2)(n), 376(2)(k), 354(A), 354(B), 354(C), 506, 201 of IPC and Sec.66(E) of Information Technology Act 2008.

- **CHAPTER-I: ALLEGATIONS AGAINST THE ACCUSED**

3. The brief facts leading to the genesis of the case is that a criminal law set into motion on the basis of a complaint filed by the victim on 05.05.2024, wherein she had contended that she was working as a maid servant and also a labourer in the Farm House situated at Moole Kalenahalli village in Survey No.91/2 and 91/3 of Gannikada Farm House, Holenarasipura Taluk. It is her contention that during the period of 2019 to 2024, the accused Prajwal Revanna was the

Member of Parliament from Hassan Lok-Sabha Constituency and particularly in 2021 Covid Lock-down period he used to visit the Farm House at Gannikada and he use to stay there. The complainant had submitted that prior to 2021 Covid Lock-down on one afternoon; the accused had called the victim to his room when she was cleaning another room in the first floor of the Farm House at Gannikada by directing her to bring a tumbler of drinking water. When she had brought the same and placed inside his room, the accused had closed the door and latched it from inside and when she requested him to open the door, he had not headed to her request and had stated that nothing will happen and insisted her to remove her blouse. Further she has narrated that inspite of her continuous pleading, he had opened her blouse and had molested and disrobed her and even he had behaved in vulgar manner by recording the same in his mobile phone. Inspite of her request, he had pushed

her on to the bed and had forcible sexual intercourse with her. Due to fear and also by considering the political flout which the family of accused had, the complainant had not revealed about the same. Further it is submitted that after the said incident, the victim who was working in the Farm House was requested by the mother of the accused Smt.Bhavani Revanna, to clean the house situated at No.83, 'Shiva Smitha', Ranoji Rao Road, Basavanagudi, Bengaluru and as such the victim along with CW.9 Smt.Shobha and her sister CW.21 Smt.Shyamala were directed to join together and clean the same. Even when they had went to the said house at Bengaluru, the accused Prajwal Revanna was present and when she was cleaning the house, he had called her to his bed room which was on the third floor of the building and had directed her to collect the clothes for washing. When the victim had reluctantly entered his room, he had once again closed the room latched it from inside and insisted her to

remove her clothes, even though the victim had begged him, he had not acceded to her request and had forcible sexual intercourse with her. Immediately after the incident, she had not narrated the same to any other persons for the aforesaid reasons. Further she has narrated that even the second incident was recorded by him through a Mobile Phone which he was holding at the time of committing the offence.

4. The complainant has further narrated that after the aforesaid incidents, once again he had asked her to bring drinking water to his room on Gannikada Farm House and when she had taken the drinking water, he behaved in a similar manner, however she had escaped from his clutches. The complainant has further narrated that since the accused was a powerful person and was holding a high post in the society and as he was a people's representative by becoming a Member of Parliament and also by considering the reputation of their family, was afraid to lodge the

complaint. As such, she has decided to quit the work and later on she had quit the job by assigning some reasons. It has been narrated that off late during the Parliamentary elections in the year 2024, the victim was requested to hide herself by one Sathish Babanna who was known to them by contending that her name had surfaced in a criminal case and the Police were on search and on that premises she was taken to the house of Smt.Bhavani Revannna and later on she was taken to a Farm House at Hunsur and was kept in captive. However, she had escaped from there and had reached the house of one Smt.Pallavi at Hunsur and had intimated to her family members. Only then she came to know that certain videos involving her had become viral in the media and the same was also brought to the notice of her family members. As her family members had supported her, she had garnered courage to lodge the complaint. As such, she had visited Bengaluru along with her son-in-law PW.3

Devaraju and since she was illiterate person, she had dictated the contents of the complaint to him who had reduced the same into writing and later on the same came to be filed before the concerned Police.

5. On the basis of registration of the complaint, the FIR was registered in Crime No.2/2024 for the aforesaid offences. During the course of investigation, the Investigating Officer had recorded the statement of witnesses and also the statement of victim under Sec.161 of Cr.P.C., and further statements came to be recorded under Sec.164(5) of Cr.P.C., before the learned Magistrate. During the course of investigation, the victim had agreed to show the place of incident and as such the Investigating Officer along with independent witnesses had visited the Farm House at Gannikada and had drawn the Mahazar and thereafter she had shown the place of alleged incident that had taken place at Basavanagudi and even at that place a mahazar came to be drawn in presence of the

independent witnesses and also in presence of FSL team. At the time of drawing the mahazar at Basavanagudi, the FSL Team had noticed some stains on the bed in the room of accused Prajwal Revanna on the third floor of the building and the upper portion of the mattress were recovered under the mahazar as per the request of the FSL team. Thereafter, the Investigating Agency had proceeded to Gannikada Farm House along with the FSL Team and had searched the labour quarters. In the second room of the labour quarters certain materials belonging to women were found, out of which totally 11 articles including a hair sample came to be recovered by Investigating Agency with the help of the FSL Team under a detailed mahazar. The recovered articles were all sent to FSL, Madivala, Bengaluru, for the purpose of scientific examination. During the course of the aforesaid incidents, the accused Prajwal Revanna was not in the country and he had left the country

immediately on conclusion of the Parliamentary elections and an attempt was made by the Investigating Agency to issue a Red Corner Notice. The Investigating Agency had also sought the assistance of Central Agency i.e., CBI and also Minister of External Affairs to initiate necessary process for cancellation of his Diplomat Passport through which he had traveled abroad. However, during the midst of the same, the accused Prajwal Revanna had returned back to the country in the wee hours of night on 31.05.2024 and he was arrested in another connected case i.e., Crime No.107/2024 at Kempegowda International Airport, Bengaluru by Special Investigating Team, CID, Bengaluru.

6. The accused Prajwal Revanna was taken into Police custody for the purpose of investigation in the above case and he was subjected to medical examination. The victim was also subjected to medical examination as contemplated under Sec.53(a) of

Cr.P.C. The blood samples of the victim were collected in accordance with law and the accused was also medically examined by a Board of Doctors which was constituted by the State Government at Sri Atal Bihari Vajpayee Research and Medical Institute (Bowring Hospital), Bengaluru on 15.06.2024. The Board of Medical Officers had carried out the medical examination and even various photographs were taken during the course of medical examination by expert Photographers of FSL, Madivala, Bengaluru. On completion of the medical examination, the Investigating Officer had collected the voice samples of the accused and also that of the victim through a Mahazar in presence of independent panch witnesses and the voice samples which were collected were sent to FSL along with videos and photographs which had become viral and also which were recovered from the Samsung Galaxy J4 Mobile Phone of PW.10 Karthik Gowda. It is relevant to note that the aforesaid

Samsung Galaxy J4 Mobile Phone was recovered by the Investigating Officer i.e., PW.24 Smt.Suma Rani in connected case i.e., Crime No.107/2024 and by obtaining necessary permission from the jurisdictional Magistrate, the recovered Mobile Phone was secured in the above case by drawing a mahazar in presence of the independent panch witnesses. Thereafter, the extracted data along with the mobile phone were sent to FSL for the purpose of identification and also photographs which were obtained at the time of medical examination were also sent to the FSL for the purpose of identification of the accused. The FSL had furnished an opinion opining that the videos and photographs which were found were not marked and also the voice samples which were collected by the Investigating Agency had matched with the voice which were heard in the short videos which indicated of ravishing the victim. On completion of the investigation, the Investigating Officer had collected

necessary materials and had found that the allegations which were alleged against the accused for the aforesaid offences were all proved and accordingly necessary charge-sheet came to be filed.

7. On receipt of the charge-sheet, the committal court i.e., the learned 42nd Addl. Chief Metropolitan Magistrate at Bengaluru had taken necessary cognizance of the aforesaid offences and since the offences alleged were under Sec.376 of IPC, which is exclusively triable by the Sessions Court, the learned committal court had thought it fit to commit the above case to this Court. It is relevant to note that the accused Prajwal Revanna at the time of committal proceedings was secured under body warrant as he was in judicial custody in Crime No.107/2024.

8. This Court had received the records along with the committal materials on 30.12.2024 and immediately thereafter necessary steps were taken to

secure the accused persons before this court. On 04.01.2025, the accused had appeared before this Court and he was represented by his Counsel. Thereafter, the case records indicates that the accused had sought for an adjournment on the ground that certain documents in digital form were not furnished to him and hence they were intending to challenge the committal order passed under Sec.207 of Cr.P.C. The Court had granted ample opportunity and of late the Criminal Petition which was filed by the accused in Crl.Petition No.206/2022 before the Hon'ble High Court of Karnataka came to be disposed off wherein the Hon'ble High Court by its kind orders had only permitted the accused to view/inspect the digital records in the court since the same pertained to some other person and question of privacy was involved in that. The records indicate that the accused had filed application under Sec.227 of Cr.P.C., seeking for discharge. After hearing both the parties ostensibly on

the discharge application, this Court had found necessary materials to frame charges against the accused person and accordingly the discharge application came to be dismissed on 03.04.2025.

- **CHAPTER-II: CHARGE FRAMED AGAINST THE ACCUSED**

9. On the very same day, the charge came to be framed against the accused person which is as follows;

> "***That you accused Mr.Prajwal Revanna being the Member of Parliament from Hassan Constituency had visited your Gannikada farm house situated in Sy.No.91/2 and 91/3 at Moolekalenahalli village within the limits of Holenarasipura Rural Police Station of Hassan District during the COVID lock down period in the year 2021 and at that point of time you being in a position of control or dominance over the maid i.e., CW1 [redacted], had called her inside the room on the firt floorof the farm house under the pretext to bring drinking water and had latched the door and had forced her to remove her clothes and in spite of her resistance you had removed her blouse and had pressed her***

breast and touched her private parts inappropriately and had committed forcible sexual intercourse against her will and had recorded the incident in your mobile phone and thereby committed an offence punishable under Sec.376(2)(k) of Indian Penal Code, and within the cognizance of this Court.

Secondly, in the above facts and circumstances, you accused after committing the forcible sexual intercourse on CW1 [redacted], who was working as maid in your Gannikada Farmhouse had repeated the said incident and later on when she was requested by CW60 Smt.Bhavani Revanna to clean the house at Basavanagudi, Bengaluru, you had taken advantage of the situation and had made her to enter your bedroom on the 3rd floor of the building, latched the door and forced her to remove her clothes and had forcible sexual intercourse with her, which was also recorded with your mobile phone and also at another instance at Gannikada farm house during the aforesaid period you had repeated the forcible sexual intercourse on her and thereby you had committed an offence punbishable under Sec.376(2)(n) of IPC, and within cognizance of this Court.

Thirdly, in the above facts and circumstances, you accused had made the victim CW1 [redacted], to enter your bedroom on the 1st floor of your Gannikada Farm House at Holenarasipura and also in your bedroom at 3rd floor of your house at Basavanagudi, Bengaluru, you had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures and demanded for sexual favours and had touched her private parts inappropriately and also by disrobing her and capturing the image of forcible sexual act in your mobile phone, you had committed an offence punishable under Sec.354-A of IPC, and within cognizance of this Court.

Fourthly, in the above facts and circumstances, you accused had made the victim CW1 [redacted], to enter your bedroom on the 1st floor of your Gannikada Farm House at Holenarasipura and also in your bedroom at 3rd floor of your house at Basavanagudi, Bengaluru, you had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures by using criminal force to disrobe her and compelling her to be naked and had forcible sexual

intercourse with her and thereby committed an offence punishable under Sec.354-B of IPC, and within cognizance of this Court.

Fifthly, in the above facts and circumstances, you accused had made the victim CW1 [redacted], to enter your bedroom on the 1st floor of your Gannikada Farm House at Holenarasipura and also in your bedroom at 3rd floor of your house at Basavanagudi, Bengaluru, you had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures by using criminal force to disrobe her and had captured the sexual act in your mobile phone and thereby committing an act of voyeurism and committed an offence punishable under Sec.354-C of IPC, and within cognizance of this Court.

Sixthly, in the above facts and circumstances, you accused had made the victim CW1 [redacted], to enter your bedroom on the 1st floor of your Gannikada Farm House at Holenarasipura and also in your bedroom at 3rd floor of your house at Basavanagudi, Bengaluru, you had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome

and explicit sexual overtures by using criminal force to disrobe her and had captured the sexual act of forcible sexual intercourse in your mobile phone and had threatened her of dire consequences if she revealed the same to any other person by causing criminal intimidation to injure her reputation so as to cooperate with you for your unlawful sexual overtures and thereby committed an offence punishable under Sec.506 of IPC, and within cognizance of this Court.

Seventhly, in the above facts and circumstances, you accused had made the victim CW1 [redacted], to enter your bedroom on the 1st floor of your Gannikada Farm House at Holenarasipura and also in your bedroom at 3rd floor of your house at Basavanagudi, Bengaluru, you had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures by using criminal force to disrobe her and had captured the sexual act in your mobile phone and later on in order to screen the evidence you had destroyed the mobile phone which was used for recording the aforesaid explicit act and thereby you have committed an

offence punishable under Sec.201 of IPC, and within cognizance of this Court.

Eighthly, in the above facts and circumstances, you accused had made the victim CW1 [redacted], to enter your bedroom on the 1st floor of your Gannikada Farm House at Holenarasipura and also in your bedroom at 3rd floor of your house at Basavanagudi, Bengaluru, you had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures by using criminal force to disrobe her and had captured the sexual act in your mobile phone to pressurise the complainant to co-operate with you for your unlawful sexual overtures and was responsible for the explicit video to be viral in the society and thereby you have committed an offence punishable under Sec.66(E) of Information Technology Act, 2008, and within cognizance of this Court."

10. The accused had pleaded not guilty and had claimed to be tried. The submission came to be recorded and the trial came to be fixed.

- <u>CHAPTER-III: EVIDENCE BY THE PROSECUTION AND DEFENCE:</u>

11. The prosecution in order to prove their case, had examined totally 26 witnesses as PW.1 to 26 and Ex. P1 to Ex. P180, MO.1 to 9 and Ex. D1 and 2 were marked. The brief description of the witnesses who are examined on behalf of the prosecution are as follows;

12. **PW.1 is the victim** and she has deposed that about 8 years back she was offered to work as labourer in the Farm House belonging to Smt.Bhavani Revanna who is none other than the mother of accused Prajwal Revanna through one Babanna, who was the relative of Bhavani Revanna. Further it is her evidence that negotiations had taken place with respect to her salary and finally it was agreed that she would receive Rs.10,000/- per month and 20 Kgs of rice per month and they had also collected Rs.50,000/- to work as labourer along with her husband Dakshinachari and started to reside in the Farm House at Gannikada. She has deposed that the Farm House was being visited by

the family members of Bhavani Revanna and at times Prajwal Revanna was staying in the said house along with his brother Sooraj Revanna. Further she has deposed that during the Lock-down time, accused had misbehaved with her in Gannikada Farm House and on a particular day at 03.00 p.m., when she was cleaning the house, he had directed her to bring drinking water to his room and when she has brought the same, he had closed the door, latched it and had forcible sexual intercourse with her by behaving inappropriately. It is her evidence that though she had pleaded with him to leave her, he had not shown any mercy and he had also fingered her private parts and had recorded the entire incident in his mobile phone and had threatened to send the same to her son CW.8 Raju. It is her evidence that she was not in a position to narrate the incident to any person since the reputation of her daughters was at stake and also their economic condition was not good enough to challenge

the accused person. The witness has also deposed that after sometime Smt.Bhavani Revanna had taken them to clean their house at Basavanagudi, Bengaluru, along with her sisters Smt.Shyamala and CW.9 Smt.Shobha and Smt.Lakshmamma, wherein they had stayed for about 3 days and on the third day the accused had called her to his room in the third floor and when she entered the room to collect the clothes for washing, he had again closed the door and had forced upon her. She has deposed that though she had pleaded him not to do vulgar acts as she was having grandchildren, he did not listen to her and had ravished her. She has deposed that she did not explain the incident to any person and she kept quite though her sisters enquired about the same. Thereafter, again in the Farm House at Gannikada, Prajwal Revanna had called her to his bed room and had misbehaved with her and later on she thought it fit to quit the job and accordingly she visited Bhavani Revanna's house and

made some excuses and returned back to her village, however she had not collected her clothes and articles from the labour quarters. It is her evidence that during the last MP Elections, Babanna had come near her house and stated that she has to stay in the house of Bhavani Revanna for some time and thereafter she was dropped on the day of election and once again Babanna had stated that a case was registered against her and later on she was taken to a safe place and further Bhavani Revanna had scolded her for returning back to village on the day of elections and later on she was kept in some sort of confinement in a Farm House near Hunsur, from where she had escaped and had reached Gurupura and from there she reached Hunsur in an Auto-rickshaw and had reached the house of her relative Smt.Pallavi and there she called her daughter CW.26 Varalakshmi and her daughter narrated about the obscene videos being circulated and after that she came to Bengaluru along with PW.3 Devaraju and had

lodged a complaint which was drafted by Devaraju as per her narration at Ex.P1. She has also deposed about giving subsequent voluntary statements and also of affixing her signatures to the mahazars of Ex. P2 to 4 and also, she had identified the saree which she was wearing on the day of incident at Gannikada, which was marked at MO.1. The witness has also deposed about the recovery mahazar as per Ex. P5 and has identified the other articles i.e., MO.2 to 7 which were sarees, green colored blouse and also other articles. During the course of cross-examination, it was suggested that she had joined the work about 8 years back and it was specifically suggested that during the year 2014-15 she was working in the Farm House. The witness was feigned her ignorance and has also deposed that she does not know whether the Farm House belongs to Mr.Prakash. It was also suggested to her that H.D.Revanna had never purchased the Farm House nor it belonged to him, for which the witness

has deposed that it was through Babanna she came in contact with Bhavani Revanna and had negotiated for the salary. Apart from the blanket denial, nothing much was elicited from her.

13. **PW.2 Raju** is the son of victim and he has deposed that his parents had worked at Gannikada Farm House about 7 to 8 years back and after that they had returned back to Hebballa village and he had stopped attending the school. It is his evidence that during the time of MP Election, Sathish Babanna had come to his house and was conversing with their parents and later on he has directed his mother to come with him and she went reluctantly. Further he has stated that Sathish Babanna had stated that he was taking his mother at the instance of Bhavani Revanna and had assured that nothing will happen. After about 2 days, he had called upon Sathish Babanna on his mobile number, however he had stated that he should call only in case of emergency.

Thereafter, his mother was dropped back on the day of MP Election and at that time he had heard from his mother and sister that she would be caught by the Police. Again, after two days, his neighbour had called him and stated that some Police had come near their house and immediately he had intimated to Sathish Babanna and also to his sister Varalakshmi by stating that his mother should not get into the hands of Police. He has further deposed that he had contacted Sathish Babanna and later on that day at night he had taken his mother in a motor bike. After about two days, one of his neighbour Yeshwanth had enquired about his mother and also stated of forcible sexual intercourse committed on her by accused Prajwal Revanna and later on the same day evening his brother-in-law CW.25 Rangaswamy had also enquired about the video which was being circulated and after that he went to K.R.Nagar along with his brother Devaraju and consulted other family members, Abhi, Mahendra,

Narayanachar and Devaraj. Devaraj had stated that the video of his mother was being circulated in the media and it depicted that his mother was holding the feet of accused Prajwal Revanna and pleading for mercy. They had discussed about the issue with themselves and found that the statement of Sathish Babanna to take his mother on some other pretext was not having any nexus and accordingly they had drafted a complaint and waited for his mother till evening and later on they had lodged a complaint before the K.R.Nagara Police. He has further deposed that after two days, Smt.Pallavi who is the resident of Hunsur had informed about his mother visiting her house in a panic ridden condition to his sister Varalakshmi and after that he had visited the house of Pallavi along with his brother-in-law and later on they came to Bengaluru and had lodged the complaint. During the course of cross-examination, he has specifically deposed that he had joined the school at Gannikada when his parents

had joined for work in the year 2017 and later on, he had dropped out from the school. However, he has denied the suggestion that he had not seen Prajwal Revanna in the Farm House and he had voluntarily stated that the accused Prajwal Revanna use to visit the Farm House. Apart from denying the evidence which the witness has led in his chief-examination, nothing much was elicited from him.

14. **PW.3 Devaraju** is none other than the son-in-law of the victim and he has deposed that on 30.04.2024, he had returned to Hebballa at K.R.Nagara Taluk along with Rangaswamy and Mahendra and he had noticed that his mother-in-law was present and had enquired with his wife Varalakshmi in this regard and he was intimated that Sathish Babanna had taken her. Further he has deposed that on the next day he had been to Holenarasipura to collect his Bike from where he had parked and when they were reaching Holenarasipura,

Rangaswamy had received a telephonic call from one Prathap of Hassan and stated of spreading of video and on opening the same, they had seen a video wherein his mother-in-law was subjected to forcible sexual intercourse even though she was pleading to leave her. After that he had enquired with Raju about his mother, for which he had feigned his ignorance and he had discussed in the house with respect to the video and on the next day they had consulted CW.23 Narayanachar who was the elder member of the family and even at that time CW.2 Raju had insisted for lodging a missing complaint and accordingly he had drafted a complaint as per his say on 02.05.2024 they had visited K.R.Nagara Police Station and had lodged a complaint. He has deposed that subsequently on 04.05.2024 at about 12.00 p.m., Raju had called him through phone and had stated that his mother was in the house of Smt.Pallavi at Hunsur and immediately they reached the said place and came to know that

Prajwal Revanna had removed the clothes of his mother-in-law while she was working at Gannikada house and also at Basavanagudi house and had raped her. He has deposed of visiting SIT office at Bengaluru, wherein they were requested to come on the next day and he had accompanied her whenever she has visited the SIT Office and they had also lodged a complaint which he had drafted as per the say of victim at Ex.P1. During the course of cross-examination nothing much was elicited from him.

15. **PW.4 Smt.Shyamala** is the sister of victim and has deposed that Sathish Babanna who was the relative of Bhavani Revanna had joined them to work at Gannikada Farm House and he had also negotiated their salary and other remuneration at the time of joining. It is her evidence that about 3 years back she was sent to a Farm House at Kamenahalli with her husband and children and prior to that for about 3 years she had worked along with her husband at

Gannikada Farm House and at that time even her sister, the victim, was also working with her husband and they were staying in the labour room which was provided to them. Further she has deposed that about 3 years back she was called to the house of Revanna at Basavanagudi and she was accompanied by her sister, the victim, Smt.Shobha and two other persons to clean the house and on the third day the victim after completing her work in the upstairs was looking dull and on enquiring her she had stated to have head ache and was weeping silently by stating that they cannot do anything, after that they had returned back to their respective places and the victim had returned to Gannikada Farm House. She has further deposed that about one year back during the Parliament election, the elder brother of Bhavani Revanna had died and certain obsequies ceremony were performed in her house at Saligrama and she was also called to do some household work. On that night when they were in the

room of Smt.Bhavani Revanna at the second floor of the building, Sathish Babanna had brought her sister to that house and later on she was brought to the room of Bhavani Revanna and on seeing her she had started to scold her by stating that why she came back when she was placed in a safe place and later on her sister went with Sathish Babanna, Mani and Ajith. It is her evidence that she came to know that some incident wherein her sister was ravished by Prajwal Revanna which was also being spoken in the village and then she realized the reason for keeping dull by her sister at Basavanagudi house and after that she had also left the job in the Farm House of accused person. During the course of cross-examination, it was suggested that Mr.Revanna was not owning any Farm at Gannikada and it belonged to one Prakash. Further it was suggested that she had returned to work at Kamenahalli from 2018, for which she feigned her ignorance with respect to the year and she has deposed

that she worked for about 9 years out of which she had worked for about 3 years at Gannikada Farm House. Further it is elucidated from her that there were 5 rooms in the Gannikada Farm House and initially her family and victim's family were working in the Gannikada Farm House. It was also suggested to the witness that apart from their two families, other workers were also residing in the said room, which was denied by the witness. It is her evidence that when they had joined the work at Gannikada Farm House, the eldest daughter was 12 years and others daughters were aged 10 years and 9 years. It was also suggested to her that she had got her children admitted to school when she was working at Kamenahalli, the witness has deposed that she had got them admitted to school when they were working at Gannikada Farm House, for that it was further suggested that Gannikada had a Government School. Further it was suggested that three workers by name Shobha, Lakshmi and another

person were working in the house of Holenarasipura and she had denied the suggestion that they were only called to the house of Holenarasipura along with her sister. Apart from that, nothing much has been elicited from her.

16. **PW.5 Vanishree Rathod** is the mahazar witness for the Mahazar which was drawn on 09.05.2024 and she has deposed of visiting the SIT Office at about 10.30 a.m., and later on the victim has also arrived to the SIT Office and stated that she has shown the place of incident at Gannikada and as such they left to Gannikada Farm House and reached it by 04.00 p.m. She has also deposed the manner in which the mahazar was conducted and has stated that the victim had pointed out to a building and stated that there was a RCC building at that time and on its first floor she was ravished and, in that place, a new building was constructed. It is her evidence that in that place Mahazar was drawn as per Ex. P2, for which she

had affixed her signature. During the course of cross-examination it was suggested to her that the victim had shown the Gannikada Farm House and they had not entered any other building. However, the witness has also deposed that they sat in front of a building wherein the victim had shown the place and no seizures were made at that time. Subsequently, the witness was recalled once again and the entire evidence tendered by her during her chief-examination was denied by the defence.

17. **PW.6 Lingamurthy K.C.,** is also a mahazar witness and he has deposed that on 10.05.2024 he had visited the CID Office at about 12.00 p.m., and had met the Investigating Officer and later on at about 04.00 p.m., the victim had arrived to the office and had narrated that she was able to show the house at Basavanagudi where she was subjected to rape and after that they had reached the house at Basavanagudi at about 05.00 p.m., and at that time two workers by

name Harish and Manikanta were present and Investigating Officer has read-over the contents of the notice and also after entering the house, victim had identified a room on the third floor of the building and had shown the place where she was raped. He has also deposed about verifying the colour of the wall, flooring and it was reduced into writing and the contents were read-over and he has affixed his signature to the mahazar at Ex. P3. It is his evidence that at that time FSL persons were also present and they had scientifically examined the room and found some stains on the bed and accordingly they had cut down the upper portion of the bed and it was kept in a sealed bag and again the seizure proceedings were reduced into writing as per the recovery mahazar at Ex.P4 and he had identified the upper portion of the bed which was marked as MO.1 and also he has deposed about producing the sketch as per Ex.P12. During the course of cross-examination, he has deposed that at the time

of obtaining the upper portion of the bed cover, the workers of the house were present and they had given consent to collect the same. Subsequently, the witness was recalled and he was once again subjected to cross-examination. During the course of further cross-examination, he was questioned about carrying any kit and printer with him, for that he has deposed that Police were carrying printer when they had visited the house at Basavanagudi along with the persons of FSL Team. Further he has denied the suggestion that he has affixed the signature to the mahazar in the SIT Office itself.

18. **PW.7 Smt.Madhura** is another mahazar witness, who was present at the time of recovering the materials which was produced by the victim and accordingly she has deposed that on 23.05.2024, she has visited the SIT Office, wherein the victim had produced the clothes which she was wearing at the time of incident of rape at Basavanagudi and the said

materials were recovered by drawing a mahazar as per Ex.P13 and the photographs were identified by her as per Ex.P14 to 17 and also the yellow coloured saree and green coloured blouse were identified by her as MO.2 and 3. During the course of cross-examination, it was questioned to her that whether the victim had narrated the date of incident of rape, for which she has answered in the negative and also she was also questioned that whether the Investigating Officer had enquired anything from the victim when she had produced saree and blouse, the witness had deposed that the Investigating Officer had not enquired anything nor the victim had stated that the clothes were washed at the time of its production. The witness was once again recalled and subjected to further cross-examination and it was suggested that on that day no recovery was made with respect to yellow coloured saree and green coloured blouse.

19. **PW.8 T.N.Ravi** is the Senior Assistant at BESCOM, Bengaluru and he has deposed that on 28.05.2024 he had visited the SIT Office and he was requested to be a mahazar witness and accordingly they had visited Gannikada had about 06.00 p.m., in the evening and the Investigating Officer had called the caretaker and appraised him about the investigation and also shown the search warrant and as such they have left inside the Farm House by one Mr.Rakesh, who was the caretaker and they had commenced the search from the houses which were reserved for labourers and totally there were 5 separate rooms and in the first room some labourers were residing and as they have mentioned that the articles belonged to them, they have not recovered anything and in the second room they had collected the clothes belonged to ladies and also accompanied the FSL Team and on examination they had found some stains over the clothes by using some type of torch and had recovered

10 clothes out of which there were 4 sarees, 5 petticoats, 1 blouse and one hair sample. He has deposed about visiting the other labour quarters also and after that they had visited the main Farm House building and later on a mahazar as per Ex. P19 was drawn, for which he had affixed his signature at the place itself. He has also identified the photographs which were taken out at that point of time i.e., Ex. P20 to 34. He has also identified the articles which were recovered as MO.4 to 6 and MO.7 and also hair sample as MO.8. During the course of cross-examination, he has deposed that the SIT had shown the contents of the Kit which were carried by the FSL to the caretaker of the Farm House. Apart from the Kit, the SIT Team had carried a Camera to video graph the proceedings. Further it was suggested that all the 5 labour rooms were occupied by the workers. Further it was suggested that all the rooms were kept under lock and it was also suggested that SIT had checked all the

rooms, for which the witness has admitted. It was also suggested to him that the witness was standing near the door of the second room and the same was video graphed and the proceedings had taken place inside the room. The witness had deposed that the clothes and hair samples were enclosed in an envelope. The witness has admitted that he has not narrated in his statement that the clothes were collected in different envelope. Apart from that, nothing much was elicited from him.

20. **PW.9 Smt.Lakshmi K.S.,** is another mahazar witness who has deposed that on 15.06.2024, she had visited the SIT Office along with CW.31 Smt.Madhumathi and there she was requested to accompany the Investigating Officer to the house which was shown by the accused and accordingly they had reached the house at Basavanagudi which was situated in Ranoji Rao Road at about 05.40 p.m., and the accused himself has lead them to third floor of the

building and he had shown the room which was consisting of a round shaped cot and it did not had a upper layer on it and in his presence the mahazar was drawn as per Ex.P36, for which she has affixed her signature and she has also identified the photographs as per Ex.P37 to 39. During the course of cross-examination, it has been denied that the accused had not taken them to the house at Basavanagudi nor any mahazar was drawn.

21. **PW.10 Karthik.N** was the Driver of the accused and has deposed that initially he had applied for job at KMF and had met H.D.Revanna who was the President and at that time he had suggested to him that since no vacancy were available he could have join them as Driver and accordingly he had worked for Revanna for about one year and thereafter he had worked for Bhavani Revanna for about one year and it is his evidence that he had worked as Driver with Sooraj Revanna for about 2 years and after that he had

worked with the present accused Prajwal Revanna. It is his evidence that in the year 2019, Prajwal Revanna was elected as Member of Parliament and at that time he was drawing a salary of Rs.21,600/- per month from the Deputy Commissioner's Office at Hassan and the accused used to call him on his mobile or send message if his presence was required and he has narrated his Mobile Numbers and has deposed that the accused had a mobile phone which was having its last 5 digits as 44484 and another phone ending with mobile No.5657. He has specifically deposed that accused Prajwal Revanna was having house at Holenarasipura, Gannikada and also at Basavanagudi. It is his evidence that in the year 2019 when they use to travel to Bengaluru, the accused use to watch photos and videographs in his mobile phone and he use to hide the same when he turned towards him and he was shocked to notice that accused was watching nude photographs and videos of women. Further he

has deposed that one day the accused had left his mobile phone in the car and went inside the house of his girlfriend by name Ekta Rathod and out of curiosity he has browsed the mobile phone as he knew the password which was 8055 and when he has opened the same, he found sexually explicit videos of accused with JDS Party workers, maid servants etc., and it had contained more than 2000 photographs of women and about 40 to 50 videos of nearly 30 to 40 women. He has also deposed that he had intimated the same and shown the videos to Bhavani Revanna as he had copied it to his mobile phone. It is his evidence that the accused use to send them out from the house on one or the other pretext when he wanted to meet any persons and has deposed that one of the videos pertained to the victim. He has further deposed that when he has narrated the same to Bhavani Revanna, she has not believed the same initially and later on had

requested the same not to divulge the same to any other person.

22. Further he has deposed that the accused use to make telephonic calls to him and hence he had transferred the photos and videos into Samsung J4 Mobile Phone which the accused had given to him to throw away after the election. Further he has deposed that in the year 2021, he had lost his Vivo Mobile Phone when he went to medical shop to purchase medicines and accordingly, he had lodged a complaint on 14.08.2021 as per Ex. P40. He has also deposed that Smt.Bhavani Revanna was not speaking with Prajwal Revanna and at the time of his birthday he had insisted her to disclose the name of the person who had intimated her about the videos and as such she has revealed the name of the witness. In furtherance of the same, as quarrel had taken place between the witness and Prajwal Revanna and also his mother Bhavani Revanna and as such he had filed a civil suit

at Holenarasipura and also had filed a Police complaint, however, no action was taken in this regard. He has also deposed that the accused had called him to rejoin him as driver and also had assured that he will get the Civil dispute resolved within 15 days from returning back from the Parliament Sessions. However, during the midst of the same, he had filed a Civil suit and had obtained a restraining order and, in that case, he was arraigned as Defendant No.88 and approached Mr.Devaraje Gowda, Advocate and handed-over certain photographs in a Pen Drive to prepare defence on his behalf. Further he has deposed that about 3 years back, quarrel had taken place between Devaraje Gowda and H.D.Revanna and at that time Devaraje Gowda stated that he is having videos and photographs which he would reveal. At that time, the witness had approached Devaraje Gowda and had requested him to return back the Pen Drive, however he had stated that he would not give it to any other

person. It is the evidence of PW.10 that about 3 to 4 days prior to Parliamentary elections, in the year 2024, several videos and photographs were publicized in the media he has seen the videos which he had handed-over to Devaraje Gowda. He has also deposed that Prajwal Revanna was using I-Pad, I-Phone, watch and Samsung Mobile and laptop with him and he use to bring Sim Cards from a shop of one Manjunath from Rajarajeshwarinagar, Bengaluru and the accused use to purchase Mobile Phone from Mr.Kanti of Channel-9 Shop. He has deposed that he had got the videos transferred to his mobile phone on 2 to 3 instances when he had visited the house of his girlfriend. The witness was subsequently recalled and he had identified the Samsung Galaxy J4 Mobile Phone which he had handed-over to SIT and accordingly on his identification it was marked as MO.9. During the course of his cross-examination, he has admitted of registering of a case against him in Crime No.33/2024

of CEN Police Station, Hassan for circulating masked videos and photos. He has also admitted of filing anticipatory bail petition before the Sessions Court at Hassan and also of approaching Hon'ble High Court of Karnataka seeking anticipatory bail in Crl.Petition No.4505/2022 which was dismissed. He has denied the suggestion that he was a Congress party worker. Further he has admitted of lodging a complaint against Mr.Kiran to the Superintendent of Police, Hassan and witness had volunteered that he had also lodged complaint against Prajwal Revanna and Bhavani Revanna. It is his statement that Prajwal and others had coerced him to execute the Sale Deed in favour of Mr.Kiran pertaining to land in Sy.No.174, Sy.No.174/1 and other 9 survey numbers to an extent of 13.5 acres of land at Kallubyadrahalli village, Holenarasipura Taluk and the case came to be closed for want of evidence. He has also admitted of filing a Civil Suit in 2023 itself, which was pending and has deposed that

he cannot remember the case number. He has also admitted that he was using two Sim Numbers during the period 2020 to 2023. Further he has deposed of inserting one Sim Card of Samsung J4 Mobile Phone which was in his name and has admitted of using Mobile No.8147628203. Further it was suggested to him that he use to drop Prajwal Revanna to the Airport when he was traveling to Delhi and when he was MP. The witness categorically admitted the same and has deposed that several persons used to travel with him. He has also admitted the suggestion that H.D.Revanna was having Farm House at Kamenahalli, which was visited by Revanna, Bhavani Revanna, Suraj Revanna and Prajwal Revanna. He has also admitted the suggestion that accused use to be accompanied by his Gunman and Personal Assistant and has denied the suggestion that they use to accompany him everywhere by voluntarily stating that they use to accompany him only during the official visits. Apart from that, the

entire evidence which he has been tendered in his chief-examination has been denied. The witness has admitted that his Advocate Devaraje Gowda has contested the elections against H.D.Revanna. Further it was suggested to him that he had requested Devaraje Gowda to return back the Pen Drive which he had given only for the purpose of the case. Further it was suggested to him that the family members of Manjunath were using Sim numbers, the witness has feigned his ignorance and has deposed that on purchasing of the Sim Cards he used to hand-over to accused Prajwal Revanna.

23. **PW.11 Prasad B.R.,** is another mahazar witness and has deposed that on 13.06.2024, he had visited the SIT Office and there he was taken to a sound proof room in Section-1 of the CID office, there he was intimated the voice of Prajwal Revanna had to be recorded and at that time they had made the accused to narrate some transcriptions and his voice

sample was recorded in their presence and he had affixed his signature to the mahazar at Ex.P42. Further he has also identified the SD Card on which the recording was made and during the course of cross-examination, nothing much was elicited from him.

24. **PW.12 Manjunath H.N**., has deposed that in the year 2014 he was a JDS Party worker and also the President of Rajarajeshwari Nagar Constituency. Further he has deposed about his acquaintance with Prajwal Revanna and he used to create fan pages in the name of Prajwal Revanna by name Prajwal Revanna Brigade Karnataka, Prajwal Revanna Supporters, I support Prajwal Revanna, Team Prajwal Revanna, Prajwal Revanna for C.M., Hassana Zilla Janathadal, Akhila Karnataka Prajwal Revanna Balaga and in that they use to post the party activities. He has deposed that in the year 2019, Prajwal Revanna had become MP and he was handling the social media through Facebook, Twitter and Instagram and he was paid with

a sum of Rs.15,000/- per month towards the expenses incurred by him. Further he has deposed that accused Prajwal Revanna had enquired him that whether it would be possible to get fancy numbers for which he had answered in the affirmative and as such his Driver Karthik, Madhu and another person use to visit his store to collect some cards in their name stating that it was required for Prajwal Revanna and about 12 Sims were purchased in the same manner during the period 2016 to 2023. Further he has deposed that Sim cards were purchased in the name of Prajwal Revanna and at times he had also purchased the Sim Card in the name of his known persons and out of 12 numbers 6 Sim Cards were purchased in the name of the persons connected to him and two mobile numbers were standing in his name and two numbers were standing in the name of his cousin by name Santhosh one Sim Card was purchased in the name of his mother Radha.M., another Sim Card was purchased in the

name of his sister Bhavyashree H.N. He has also deposed that in the year 2024, they felt necessity of higher man power to handle the social media and had hired Pre-Poll Analytics Company and he stayed at Hassan in the year 2024. He has also deposed that on the polling day he was with the accused from morning till evening and after completion of the polling he had changed his dress and traveled to Bengaluru. At that time, accused had stated that he would return back on May 1st and directed them to go to Shivamogga for campaigning. He has also stated that his Personal Assistant Bharath had sent him a letter to his WhatsApp and requested him to post the same in his official social media and requested him to switch off the comment section and accordingly after posting the letter in his Facebook, Twitter and Instagram, he had done the needful and the letter was addressed by the Advocate of accused Prajwal Revanna to the SIT requesting for some more time to appear before them

for the purpose of investigation. Further he has deposed of identifying the letter which was marked subject to its admissibility as Ex. P44. During the course of cross-examination, apart from denial nothing much was elicited and it was suggested that he does not know who was using the Sim Card, the witness has specifically deposed that it was being used by Prajwal Revanna and sometimes he used to leave the phone in the car which was being used by his driver.

25. **PW.13 Hemesh Kumar.H** who is the Laboratory Assistant of Photography Division, FSL, Bengaluru, has deposed that on 10.05.2024, he had visited a house within Basavanagudi Town limits along with Assistant Director of DNA Section Shahanaz Fathima and Manjunath from Biology Section and at that time victim was also present in that house along with persons from PWD and they were collecting information for the purpose of Mahazar. He has deposed of capturing nearly 242 photographs and the

photographs were captured through Nikon D-7000 Camera given to him by their department and after returning to their office, he has transferred the photographs to the computer which was being used in the ordinary course of work. He has further deposed that on 28.05.2024, he had visited Gannikada at Moolekalenahalli, Holenarasipura and had reached at about 05.45 p.m. to 06.00 p.m., a shed was constructed on the left side consisted of about 5 to 6 rooms and in the first room a family was residing and in the second room clothes were kept. The experts had searched the clothes and had obtained photographs. He has deposed that the team had collected 10 clothes and hair sample which were packed and sealed and he had taken the photographs at that point of time. He has deposed of capturing nearly 276 photographs and after visiting all the rooms they had returned back to Bengaluru. The witness has further deposed that on 15.06.2024, he had visited Sri. Atal Bihari Vajpayee

Medical Institute, Bowring Hospital, Bengaluru, along with their existing team and Investigating Officer who was present there had collected their ID Card and prepared a letter which was handed-over to the Doctor. He has also deposed that he had obtained the photographs of the accused Prajwal Revanna by identifying him in the Court and had stated that he had taken the photographs of his forehead, legs, upper portion of his face, including private parts and private part in erectile form. He has deposed of issuing necessary Certificate under Sec.65(B) of the Indian Evidence Act as per Ex. P45. He has also identified the images which were captured by him and transferred to the DVD. The DVD was marked as Ex. P46 and also photographs of the Gannikada and Basavanagudi house were also identified by him. During the course of cross-examination, it was suggested to him that normally they check their digital still camera to ascertain that weather it was any default mode or real

time mode which is denied by the witness. It was also suggested to him that the System Officer of their Department would check the computer to ascertain whether it was in working condition and fire walls are inserted, the witness was deposed that no System Officer was working in their department, however there was one system being used in the ordinary course of business. He has also admitted the suggestion that he generated a file and folder name in the computer and also the file and folder can be edited. Apart from the suggestions, nothing much was elicited from him.

26. **PW.14 Dr.Guruprasad** is another Senior Scientific Officer of FSL, Bengaluru and he has deposed of analyzing the DNA and furnishing the Report. He has explained in detail about the procedures in which the materials will be collected to their office and has deposed that on 27.05.2024, they had received an intimation from the Deputy Director of FSL to visit the scene of crime and accordingly they

have visited the SIT Office and later on they had reached the Farm House at Gannikada at about 05.45 p.m. to 06.00 p.m. It is his evidence that at that time, the Investigating Officer was also present who had travelled in another vehicle and later on they had entered the Farm House and necessary notice was issued to the Care Taker of the Farm House i.e., Mr.Rakesh and they had entered into a servant quarter and also the labourers quarters. He has deposed of entering into the second room which was more like a store room and in the said room there were 3 to 4 bags kept and on enquiring the labourers, they stated that the bags were present prior to their joining the Farm House and on verifying the said bags, they found several clothes, saree, petticoats and by using UV Light source, they segregated 10 clothes which consisted of suspected stains. During the course of cross-examination, he has admitted that they had not mentioned the number of stains in each item. Further

he has admitted the suggestion that the Investigating Officer had not asked the exact number of stains in each item. He has also admitted that he has not enclosed in the letter of using UV Torch and also of finding stains in the cloths. Apart from that, nothing much has been elicited from him.

27. **PW.15 R.Kumara** is the Police Constable who was deputed to guard the residence of H.D.Revanna at Holenarasipura.

28. **PW.16 Dr.K.V.Sathish** is the Professor and HOD of Forensic Medicine Department, Atal Bihari Vajpayee Medical College and Research Institute, Bengaluru. He has deposed that as per the directions of the Government of Karnataka, they have received an information on 01.08.2024, wherein he was appointed to conduct medical examination along with Dr.Arvind M.N., Dr.Rohith, Dr.Housine Mubaraq Khan, Dr.Thejaswi, Dr.Darshan Yellappa. It is his evidence

that accused Prajwal Revanna was produced before them on 15.06.2024 and on the same day firstly he was examined by the General Physician Dr.Aravind and at that time all the members of the committee were present and also, he had examined Prajwal Revanna and he had identified necessary identification marks on his body and also, he had examined his genitalia. He has specifically deposed that the genitalia were well developed and there were pubic hairs which were black in colour and measured about 1 CM in length and shaft of the penis in flaccid state and stretch penile length measured 5 CM in length and 10 CM in circumference and rest aspects were normal and intact. On the basis of his examination, he had opined that there was nothing to suggest that the person was incapable of performing sexual intercourse and accordingly he had filed a Report which was as per Ex. P51, for which the accused had affixed his signature. He has also identified the out-patient report at Ex. P52

and it is his evidence that after his examination the other Doctor pertaining to Urology and Dermatology had examined the accused and necessary photographs were obtained at that time. It is his specific evidence that they had obtained necessary consent of the accused prior to subjecting him to medical examination. The witness has also deposed that the Committee which was formed had examined the queries of the Investigating Officer by pointing out to the matches which were found on the body of the accused in the photograph. He has also deposed about furnishing the Report in the DVD as per Ex.P56. During the course of cross-examination, it was elicited from him that they had not mentioned separately and findings of the individual Doctors, but the Report was issued collectively. Apart from that, nothing much was elicited from him.

29. **PW.17 Dr.Thejaswi.R.,** who is the Senior Specialist in Department of Dermatology, has deposed

that he was appointed as a Committee Member which was formed for the purpose of medical examination of Prajwal Revanna and on 15.06.2024, he was brought to the Hospital by the SIT and accordingly they had conducted the medical examination by opening an out-patient card as per Ex. P52. He has deposed of identifying the various queries of the Investigating Officer including the mole on his body which he had explained in detail. He has also deposed of furnishing the Report in DVD as per Ex. P54. During the course of cross-examination, apart from denial, nothing much was suggested to him.

30. **PW.18 Dr.B.M.Girish**, who is the Post Graduate Student of Forensic Science Department, Atal Bihari Vajpayee Medical College and Research Institute, Bengaluru, has deposed that he worked as Assistant to the Medical Board at the time of examination of Prajwal Revanna and it is his evidence that they had received 2 DVD's from SIT and based on

the opinion of the Board, they had identified the identification marks with respect to the photographs in the DVD. The DVD consisted of totally 65 photographs and by looking into the same, 6 photographs were selected for the purpose of identification and they were labeled and after that it was written on 3 DVD's and had obtained signature of the Board Members on it. He had identified the DVD which were marked as Ex. P57. Apart from denial, nothing was elicited from him.

31. **PW.19 Dr.Rohith**, who was also the Member of Medical Board, has deposed in consonance with the evidence of another Medical Officer. During the course of cross-examination, he has admitted the suggestion that the photographs of the erectile state of the pennis of Prajwal Revanna were taken after 01.35 p.m., on the same day.

32. **PW.20 Smt.Shanaz Fathima** is the Assistant Director, DNA Section to FSL and has deposed of

collecting the samples. It is her evidence that apart from that they had other duties like attending the crime scene to collect the scientific evidence to assist the Investigating Officer. She has further deposed that on 10.05.2024, she was intimated by the Deputy Director of SOC Wing to be present at the crime scene. Accordingly, on the same day she along with Manjunath, Hemesh Kumar, had directly came to CID Office at about 2.00 to 3.00 p.m. At about 05.00 p.m., the Investigating Officer had reached the Basavanagudi and even the witness was present at that time in the house which belonged to Prajwal Revanna at Basavanagudi. It is his evidence that he reached the third floor of the building and through naked eyes itself he could make out some stains on the upper layer of the mattress and had recovered the same under a mahazar at Ex. P4 and he had also identified the mattress at MO1. He has identified the DNA Report furnished by L.Purushotham who was no more and

she has identified the same as per Ex. P60. During the course of cross-examination, she was admitted that they had to follow the standard operating procedure when they use to visit the alleged scene of crime and they had to carry the forensic kit consisting of mask, gloves etc., It was also suggested to them that they carry UV Torch with them. It was also suggested that they had documented about the stains in the mattress, for which the witness has deposed that if the stains were available in a particular place, it could have been documented, in the instant case stains were available at several places and hence it was not documented. It was also suggested that sweat marks were also present which is denied by the witness. He has specifically stated of marking 21 stains on the mattress and he has deposed that the same were narrated in the mahazar.

33. **PW.21 Vedamurthy H.R.,** is another Scientific Officer of Mobile Forensic Division and has

deposed that he has received a sealed cover consists of Mobile Phone in their Department on 20.08.2024 and on 25.08.2024, he had commenced the analysis and the first article consisted of a Samsung Mobile Phone with 2 Sim Cards which he had marked as D-1 and D-1b. He has also deposed of subjecting Samsung Mobile Phone marked as D-1 to Forensic examination using cellebrite UFED4PC 7.69.0.1397 and digital data was analyzed using forensic science software by name Oxygen and he did not notice any video files existed in the Sim Card. He has also deposed of examining the Samsung Mobile Phone and on its careful examination he came to know that the photos were captured from the same mobile phone. Accordingly, he had mentioned it in the CD. He has also deposed of examining 4 video files and Investigating Officer had requested them to ascertain whether the video files were captured from the Samsung Mobile, even for which he answered in the negative by stating that it was not available in that

mobile. After completion of his examination, he had copied it to CD, seeing it he has given a Report to Investigating Officer along with necessary Certificates under Sec.65B of Indian Evidence Act. He has also identified his Report as Ex. P61 and Certificate as Ex. P62. During the course of cross-examination, he has specifically deposed of being notified as examiner of electronic evidence under Sec.79(A) of Information Technology Act. It was suggested to him that the Mobile had only internal storage capacity and did not have external SD Card facility. Further he has deposed and admitted the suggestion that path which was mentioned in the system generated report is "path data/media/0/Download/20210223_071653.mp". He has also admitted the suggestion that when once the hash value was generated, the contents could not be changed subsequently.

34. **PW.22 Kailash** is also an FSL Expert and has deposed that on 20.08.2024 his office had received

3 articles relating to Crime No.2/2024 and through intersection transfer he had received the materials and on the same day he had started the analysis of the sealed cover in which it was noticed that the sealed cover was intact and tallied with the sample seal. He has explained in detail about the procedure adopted by him to analyze the mobile phone. During the course of cross-examination, a firm suggestion has made with respect to his analysis.

35. **PW.23 Ramesh.K** is also an FSL Expert has deposed of verifying the sealed articles and on opening the sealed cover, he had found a DVD while the other materials was a Pen-drive, accordingly Article No.4 which was DVD and whereas Article No.5 was the Pen-drive, Article No.4 was pertaining to DVD of Basavanagudi scene of Crime and has deposed of receiving the questionnaire from the Investigating Officer, for which he had given the reply.

36. **PW.24 Rajesh.R,** is the Detective Police Inspector who was also in-charge of Cyber Crime Police Station and has deposed of registering the FIR on 05.05.2024 by receiving the complaint from the victim as per Ex. P1 and the FIR was marked as Ex. P78.

37. **PW.25 Suma Rani.B,** is the Investigating Officer who had conducted investigation in Crime No.107/2024 and she has deposed of recovering the mobile phone i.e., Samsung Galaxy J4 from PW.10 Karthik and later on handing over the same to PW.26 Smt.Shobha.N during the course of investigation.

38. **PW.26 Shobha.N** is the Investigating Officer who had collected the materials, recorded the statements and also materials from the FSL and since the allegations leveled against the accused was made out, she has filed the final report.

- **CHAPTER-IV: STATEMENT OF ACCUSED RECORDED UNDER SECTION 313 OF Cr.P.C:**

39. On completion of the evidence by the prosecution, the statement of accused came to be recorded, wherein he had denied all the incriminating materials leveled against him. During the course of his statement under Sec.313 of Cr.P.C., at Question No.111, it was put to him that PW.10 Karthik had stated of drawing salary of Rs.21,600/-, for which the accused has categorically admitted by stating that it was paid from the DC Office at Hassan but he never called PW.10 Karthik for any work but his Personal Assistant use to call him. To another question he has admitted of filing civil suit against PW.10 Karthik and also of obtaining stay against him. He has also admitted that the videos were circulated and published in the media just prior to parliamentary election. With respect to the medical examination at Question No.212, the accused has categorically admitted of

visiting the Hospital and has stated that he was taken for general medical examination. Finally, the accused had submitted that he had not committed any offences and due to political rivalry, a case was fixed against him and he had also filed written statement under Sec.313(5) of Cr.P.C. In the said statement, he had stated that he was made to sit during odd hours before the SIT Office and when he was feeling sleepy, taken to medical examination several times and was asked to provide blood samples, swabs of genitals etc., for the purpose of comparison. On completion of the statement under Sec.313 of Cr.P.C., the accused had initially obtained an adjournment by submitting that he would intend to lead the defence evidence and he had also summoned one witness on his behalf. However, on the day of his examination, the accused had submitted that he would drop the said witness and close his side. During the course of cross-examination, Ex. D1 and 2 came to be marked.

40. Heard the arguments of both parties and perused the records.

- **CHAPTER-V: SUBMISSIONS/ARGUMENTS MADE BY BOTH PARTIES:**

41. The learned Special Public Prosecutor Sri.Ashok Naik and Sri.Jagadeesh B.N., have vehemently argued that the prosecution has established beyond reasonable doubt all the allegations leveled against the accused person. It is their contention that the evidence of the victim/PW.1 is required to be read conjointly with the evidence of PW.4 Shyamala, who is none other than the sister of victim. Sri.Ashok Naik has also appraised the Court with the chronological event that had taken-place just prior to filing of the case is also required to be appreciated. It is his submission that on 22.04.2024, the obscene videos were viralled in the media as well as the public and on 26.04.2024 the polling to Parliament election of Hassan constituency in which accused

Prajwal Revanna was the contestant. It is further argued that immediately on the date of election i.e., after completion of the polling, the accused Prajwal Revanna had left the country which would indicate that he left the country immediately on report of the sexual assault signaling of fear seeing the consequences. That apart, it is his submission that at that time accused was a Parliamentarian and a case was initially registered against him. The learned Special Public Prosecutor by pointing out to the evidence of the victim has argued at length that victim had consistently deposed before the Court by narrating that she worked at Gannikada Farm House about 8 years and she came in contact with the family of the accused through one Sathish Babanna and also, she has specifically deposed about the overt-acts of the accused Prajwal Revanna in having forcible sexual intercourse with her at Gannikada Farm House. Further it is argued that the witness has deposed

about another sexual assault on her at the house of accused at Basavanagudi, Bengaluru and she has given graphic details with respect to the instances that had taken-place. Further he had pointed out to the portion of the evidence, wherein she has specifically deposed that she has not collected back her clothes from Farm House at Gannikada which would indicate that the subsequent recovery which was made on 24.08.2024 in presence of Panch witnesses were validly proved. The learned Special Public Prosecutors have also contended that though the victim is unable to narrate the exact date of forcible sexual assault on her, however the Court has to appreciate the fact that she is a rustic village women who had appeared before the court for the first time and also her demeanor was observed by the Court, wherein she was weeping while deposing about the sexual assault made by her by the accused person. It is also deposed that when the entire evidence would clearly indicate that the victim has

consistently given her statement in Sec.161 as well as 164(b) of Cr.P.C., against the accused person. It is further argued that the entire scheme of evidence nowhere the contradictions and omissions were pointed out by the defence by putting the contradictions to the witness at the time of her evidence. It has also been submitted by the learned Special Public Prosecutor that though there are minor discrepancies/variations in her statement, same cannot be considered as one which would negate her claim before the Court, but in other words it would indicate that she was truthful in her statement. In order to buttress the submission, he has argued that if only the victim had intended to improvise her statement, she would have sticked with her earlier version which she narrated in Ex. P1 that she was raped thrice. However, in her further statement as well as in her evidence before the Court, she has consistently narrated that she was subjected to forcible

sexual intercourse only twice and on third occasion an attempt was made by the accused person at Gannikada Farm House, she has successfully evaded. By pointing out to the various portions of cross-examination wherein as per the contentions of the learned Special Public Prosecutor, several suggestions were put-forth by the accused which would indicate that the victim was working at Gannikada Farm House was to be accepted. That apart, he has also argued that the forensic evidence in the form of DNA fully corroborates with the evidence of the victim. The learned Special Public Prosecutor has also taken this Court to the fact that the evidence of PW.2 Raju who is the son of victim, PW.3 Devaraju, who is none other than the son-in-law of the victim, fully corroborates with that of the evidence of victim. The learned Special Public Prosecutor has also pointed out to the suggestions made during the course of cross-examination and it is his argument that a bare denial

of the evidence is highly insufficient to disprove the evidence which has been placed before the Court by the prosecution. The learned Special Public Prosecutor has also pointed out to the photographs which were taken during the course of mahazar which would also fortify their case. That apart, the evidence of Medical Officer, who had examined the accused person and subjected him to medical examination on 15.06.2024 would indicate that a thorough medical examination had taken place and at that time certain photographs of private part of the accused i.e., of his genitals were taken and that photograph was used to mark the identification marks by the Medical Officers which were once again sent to FSL and when juxtaposed together would indicate that it was the accused person who had committed the offence. The learned Special Public Prosecutor has also argued that necessary Certificate under Sec.65-B of Indian Evidence Act has been produced before the Court which would indicate that

the documents which were marked subject to its admissibility has to be accepted. Lastly, the learned Special Public Prosecutor has taken this Court to the identification of the clothes by the victim. Though it is submitted that no proper mahazars were drawn towards recovery of the clothes at Gannikada Farm House, subsequently the victim herself has identified the clothes and even in her evidence before the Court she has given a pictorial description of the clothes which she was wearing at the time of incident and by relying upon the judgment of the Hon'ble High Court of Karnataka reported in **1983(2) Kar.L.J. 1 in the case of Eerabhadrappa alias Krishnappa Vs. State of Karnataka**, the learned Special Public Prosecutor has argued that even in that judgment it was held that women have a uncanny sense to identify their own belongings. By pointing out to the same, it is submitted that the identification is duly proved by the prosecution. The learned Special Public Prosecutor Sri.B.N.Jagadeesh,

has vehemently argued that the Gannikada and Basavanagudi houses were under the possession of the family members of the accused is undisputed. In order to point out the same, he has relied upon the document at Ex. P124, which indicates that initially the land was standing in the name of one Prakash, who is none other than the brother of Bhavani Revanna and also admitted by the accused person. Further it is argued that the Report which is furnished in Ex. P124 also involves the Revenue Inspector's Report which is not at all denied or disputed by the accused. It is his submission that when a particular document is not denied or disputed by other side, the same is required to be appreciated by the Court and as per the said document it indicates that accused Prajwal Revanna was residing in the house of Gannikada. That apart, he has also brought to the notice of the Court with respect to the suggestions which were put-forth and also the questions which

were asked during the course of cross-examination which would fortify their contention. The learned Special Public Prosecutor has also taken this Court to the 313 statement which was recorded by this Court. It is his submission that accused was fully aware of circulating the videos and as per Question No.132 in the statement recorded under Sec.313 of Cr.P.C., he has admitted that the photos were being circulated, which would in other words fortify the case of prosecution that on circulation of the videos immediately steps were taken by the Government for framing the SIT and thereafter materials were collected. It has also been argued by the learned Special Public Prosecutor that the evidence of PW.10 Karthik is required to be considered with a pragmatic approach, wherein he has specifically deposed that original videos which were available in the phone of the accused was transferred to his mobile and later on the same was lost, for which he has also registered a criminal case

and subsequently the videos which were available in Samsung J4 Galaxy Mobile phone was produced before the Investigating Agency. The said aspect is also not denied and even otherwise it is his submission that the accused himself had categorically admitted of having obscene videos with the witness PW.10 Karthik as he has filed a Civil Suit against him at an undisputed point of time in OS No.3394/2023 before the learned 20th Addl. City Civil and Sessions Judge, Bengaluru, and had obtained an interim order wherein PW.10 Karthik was arraigned as Defendant No.88. When all the aforesaid aspects are considered in its entirety and when it is read conjointly, it only fortifies the case of the prosecution of proving guilt of the accused person beyond reasonable doubt. Immediately after the incident. Further it is argued that the conduct of the accused is also required to be considered wherein he had left the country and thereafter necessary steps were taken to secure him by issuing Red Corner

Notice, and only when an initiative was made to get his diplomatic Passport cancelled, he had returned back to the country which would also fortify the claim of the prosecution that the accused had made an attempt to destroy the original mobile phone and hence the provision of Sec.201 of IPC would be attracted. While pointing out the same, he has taken the Court with the evidence of PW.12 Manjunath, who has deposed of purchasing several Sim Cards in the name of his family members and also known persons and even during the course of cross-examination, the aforesaid aspect was admitted by the witness. Under these facts and circumstances, it is vehemently argued by the learned Special Public Prosecutor that the incident of rape twice at Gannikada and Basavanagudi was established by the prosecution beyond reasonable doubt. Last but not the least, the DNA Report which was obtained also fortify the fact that seminal stains were found in the clothes of the victim and it indicate

that the seminal stains belonged to accused Prajwal Revanna and in order to appreciate the same, once again recourse is required to be taken to the Medical Examination Report, wherein it has been suggested that there were no materials to indicate that the accused was unable to indulge in sexual activities. By pointing out to the aforesaid aspects, he has vehemently argued that the prosecution has proved their case beyond reasonable doubt and accordingly sought for convicting the accused person. In order to buttress his submission, the learned Special Public Prosecutor has relied upon the following Authorities which is as follows:

Sl.No.	Citation	Para
I. SOLE TESTIMONY OF PROSECUTRIX CAN BE RELIED UPON		
1	(Phool Singh Vs. Stte of M.P.) (2022) 2 SCC 74	7, 8 AND 9
2	(State of Punjab Vs. Gurmit Singh) (1996) 2 SCC 384	22, 14 and 16

3	Lok Mal Vs. State of U.P. (2025) 4 SCC 470	13, 14 and 15
4	State of Maharashtra Vs. Chandraprakash Kewalchand Jain (1990)1 SCC 550	16
5	Bhojraj Vs. Sitaram, 1935 SCC Online PC 64	7
II. DEMEANOR OF VICTIM		
6	XYZ Vs. State of MP., (2021) 17 SCC 179	45
III. WHEN THERE IS OTHER EVIDENCE PRESENT, DNA SAMPLE BECOMES A CORROBORATORY EVIDENCE		
7	Pattu Rajan Vs. State of Tamil Nadu (2019)4 SCC 771	Para 33
8	Pantangi Balarama Venkata Ganesh Vs. State of Andhra Pradesh (2009) 14 SCC 607	Para 49
9	Ranjitsing Brahmajeetsing Sharma Vs. State of Maharashtra (2005)5 SCC 29	Para 78
IV. VOICE SAMPLE		
10	Ritesh Sinha (2) Case, (2019)8 SCC 1, 12: AIR 2019 SC 3592	Para 27
11	Kamal Pal Vs. State of Punjab, 2021 SCC Online P&H 1541	Para 18
12	Sudhir Chaudhary Etc. Etc	Para 12

	Vs. State (NCT of Delhi) 2016(8) SCC 307	
V. CONDUCT OF THE ACCUSED		
13	Kartarey Vs. State of UP, (1976)1 SCC 172	Para 43
VI. 65-B AND SECONDARY EVIDENCE		
14	Anvar P.V. Vs. P.K.Basheer (2014)10 SCC 473	Para 24
VII. PRIMARY EVIDENCE VS. SECONDARY EVIDENCE – WHEN THERE IS ABSENCE OF DOCUMENT WILL ORAL TESTIMONY SUFFICE		
15	Ma Mi Vs. Kallander Ammal, 1926 SCC Online PC 60	
VIII. MINOR INCONSISTENCIES IN TESTIMONY WILL NOT LEAD TO INVALIDITY		
16	State of A.P. Vs. Gangula Satya Murthy (1997) 1 SCC 272	Para 27
IX. CONTRADICTIONS, OMISSIONS REGARDS TO SECTION 161 CR.PC STATEMENT		
17	Vinod Kumar Vs. State (Govt. of NCT of Delhi) SC – Criminal Appeal No.2482 of 2014 : 2025 INSC 209	Para 11
18	Tahasildar Singh and another Vs. State of U.P., 1959 SCC Online SC 17 : 1959 Supp (2) SCR 875 : AIR 1959 SC 1012 : 1959 Cri.L.J.1231	Para 13 and 19

X. SCIENTIFIC REPORT CAN BE RECEIVED BY THE COURT WITHOUT EXAMINING THE AUTHOR		
19	Crl.P.No.6524 of 2018 – Saginala Venkateswarlu Vs. State of Andhra Pradesh (High Court of Telangana)	Para 8
XI. GEO-FENCING		
20	Writ Petition(s) (Civil) No(s).4677/1985 M.C.Mehta Vs. Union of India and others (Daily order)	

42. The accused is being represented by the learned Senior Counsel Smt.Nalina.M., has vehemently argued that the prosecution have utterly failed to prove their case beyond reasonable doubt. It is her submission that the prosecution has not explained when the incident had taken place i.e., whether it had been taken-place during the first Covid-19 wave in the year 2020 or in the year 2021. That apart, it is her submission that the prosecution should have established beyond reasonable doubt that the victim was employed in the Farm House at Gannikada which

was owned by accused Prajwal Revanna and his family members. She has argued at length that the revenue records when compared with the suggestions which were put-forth to the accused would clearly indicate that they were not in possession nor they were the owners of the Farm House, but instead it was one Prakash who was the distant relative of Smt.Bhavani Revanna was the owner of the Farm House. Further she has also taken this Court through the entire deposition of the victim and has compared the same with her complaint which was lodged at the inception of the case and also she has taken this Court to the statements which were recorded under Sec.161 of Cr.P.C., and has requested the Court to compare the same with the statement recorded under Sec.164(5) of Cr.P.C., in order to ascertain the discrepancies in the evidence. She has also argued that when the FIR is appreciated, it indicates the entire contents of the complaint has been incorporated in the FIR instead of

the summary of the complaint and hence it would indicate that it is not the statement of the victim, but it is the story which is created by the prosecution. It is her submission that when there were consistent suggestions being made by the accused person that the aforesaid Farm House did not belong to the family members of the accused, it was the bounden duty of the prosecution to lead the evidence of Sathish Babanna, who was also cited as necessary witness in the above case. It is also relevant to note that Sathish Babanna who was the one who allegedly introduced the victim to the family of the accused persons and had also participated in the negotiations of the salary of the victim with Smt.Bhavani Revanna and he was not at all examined by the prosecution, which in other words indicate that the crucial and best evidence was withheld from the court. That apart, she has argued that the husband of the victim by name Dakshinachari, who was cited as necessary witness

was also not examined in the instant case. In order to point out the same, the learned Senior Counsel has taken this Court through the entire witness list wherein it indicates that the daughter and husband of victim were though cited as witnesses were not examined. The learned Senior Counsel has also argued that the recovery mahazar at Gannikada indicates that only saree and clothes were recovered and if the same is to be accepted, then necessary explanation should have been given by the prosecution that what had happened to other materials which were allegedly left out by the victim. It is also argued that it is surprising that the husband of the victim or her sisters had never enquired the victim about the reasons for leaving the job and the silence on their part indicates of some unusual thing and also the silence/non-disclosure of incident by the victim to her sister even at the time of leaving the job seems to be unusual. The learned Senior Counsel has also argued with the unusual

behavior of the victim could not stop there but the manner in which she has identified the clothes also raises certain suspicion. It is also relevant to note that the victim for the first time had recalled for leaving the clothes at Gannikada only when she has allegedly confronted or shown the video of her ravishment. By pointing out the same, it is argued that the entire aspects would indicate that the prosecution have failed to explain the situation that whether the lock-down was imposed about 4 years back or 5 years back.

43. The learned Senior Counsel taking this Court through the mahazar has argued that the contents of the mahazar are not reliable and in fact the victim knew about the demolition of the house where allegedly the incident had taken place and in spite of the same, she has not uttered anything when the mahazar at Ex. P2 was drawn nor she had narrated anything in her statement at that time. However, subsequently she narrates that the house was

demolished and a new house was constructed while drawing the mahazar. If only she knew about the demolition which is very much evident from her statement that she had participated in the House Warming Ceremony of the Farm House in the year 2023, then also a serious question mark would be raised with respect to her conduct as she has attended the function even after such a horrifying incident. She has argued at length that the Investigating Officer could not have sub-delegated her job of collecting the documents from the Revenue Authorities to ascertain that who was residing in the said house. That apart, as per Ex. P124, the Approved Plan would indicate that the Farm House consisted of only ground floor and whereas as per the evidence of the victim, it is deposed that she was subjected to ravishment on the first floor. Even the sketch which is placed along with Ex. P124 does not indicate of a structure as deposed by the victim. It is submitted that the villagers who had stated

that the accused and his family members used to visit the Farm House are not examined and even the search warrant which was obtained by the Investigating Agency from the learned Magistrate only indicated of conducting a search in the Farm House and whereas a search was conducted in the labour room of the Farm House which was totally against to the contentious of the order passed by the learned JMFC Court. The learned Senior Counsel in order to caste aspirations on the mahazar at Ex.P2, has pointed out with the time gap between the mahazar which was drawn initially in the presence of victim at Ex.P2 and the mahazar at Ex.P4, which was said to have been drawn on 28.05.2025 with respect to recovery mahazar is having a gap of about 10 days and even during the recovery mahazar the victim was not at all present and there was no explanation that why the victim was not taken at the time of search mahazar. In order to point out the discrepancies, she has taken this Court to the

schedule which has been mentioned in the mahazar at Ex. P2 and argued that the schedule does not indicate of any labour quarters in existence. As such, she has argued that the mahazars at Ex. P2 and also the documents which are produced at Ex. P19 and the revenue records which are all collectively marked at Ex. P124, are all planted and created in a hurried manner so as to ensure that the same would be completed prior to return of the accused to the country. Further in the entire statements there was no whisper by the victim that whether she has kept the sarees in the Farm House nor any identification of the servant quarters were forthcoming in the earliest mahazar which was drawn at Ex. P2. By pointing out to the aforesaid aspects, it is vehemently submitted that the entire aspect cast a clear shadow of doubt with respect to the truth-worthiness of the witness. Even otherwise, it is the argument of the learned Senior Counsel that the victim has deposed that she

was wearing an orange-coloured saree and green coloured blouse at the time of the alleged incident at Basavanagudi, Bengaluru, but however the saree which was recovered was yellow in colour as could be seen from the recovery mahazar at Ex. P13. When the articles at Gannikada were recovered in the absence of the victim, the Investigating Officer should have confronted the same to the victim immediately after its recovery. Unless the same is made, the act of Investigating Agency cannot be accepted and hence it is argued that not much importance can be attached to the evidence of the victim as well as of the recovery of articles.

44. The learned Senior Counsel in her sesquipedalian argument has submitted that during the course of recording of statement under Sec.313 of Cr.P.C., the Sale Deed with respect to purchase of Gannikada Farm House was produced which would clearly indicate that the brother of the accused Prajwal

Revanna had purchased the same on 27.10.2021. It is her statement that the aforesaid document itself would indicate that the family member of the accused Prajwal Revanna had entered into possession over the Farm House only in the month of October-2021, however the prosecution case indicates that the alleged incident had taken-place during the Covid lock-down period. In order to contradict the evidence, the learned Senior Counsel has taken this Court through the evidence of PW.3 Devaraju with respect to celebrating his marriage with the daughter of victim by name Smt.Varalakshmi and he in his evidence has deposed that the marriage had taken-place probably in the year 2021 or in 2022 and whereas as per the evidence of PW.2 Raju who is the son of victim has deposed that he had left the school immediately after the marriage. As such, it is her submission that the evidence would indicate that the victim was not present in the Gannikada Farm House. The learned Senior Counsel has also taken this

Court through the contents of Ex. D2, which is a DVD which indicates that the victim had purchased a mobile Sim Card at Zara Mobiles in Mysuru. By pointing out the same, she has argued that the victim had specifically deposed that she was not having mobile phone while she was working at Gannikada Farm House and later on she was given a mobile phone by her son-in-law which was a key pad mobile. In order to justify the same, the learned Senior Counsel has taken this Court to the mobile number which was elicited from the evidence of PW.2 Raju and when it is juxtaposed it would indicate that the victim was owning a mobile for which she had purchased the Sim card from Zara Mobiles, Hebballa, K.R.Nagara. As such, the learned Senior Counsel has argued that the evidence of victim cannot be believed. It is her statement that purchasing the Sim card at Mysuru has to be considered by looking into the latitude and longitude which is described over the application form

which is produced in the DVD. It is her submission that if the latitude and longitude as mentioned is clicked, the same would indicate that the victim was the resident of Hebballa and hence would fortify the contention of the accused that the victim never resided at Gannikada Farm House. It has also been argued at length that as per the evidence of the FSL Team and also as per the mahazar at Ex. P19, it would indicate that certain clothes were recovered from a particular bag and it is her submission that how the same was segregated by the FSL Team and identified the particular bag and why hairs were wrapped and kept in the bag. All the aforesaid aspects would indicate that only planting materials in order to foist a false case against the accused person. The learned Counsel has also argued that timeline for joining the work by PW.1 victim and when compared with the evidence of PW.4 Shyamala, is not tallying with each other. Further by pointing out to the chief-examination of PW.4, it is

argued at length that the witness has deposed that the victim was weeping profusely which is not forthcoming in her statement recorded under Sec.161 of Cr.P.C., and hence the same amounts to improvement and as such a serious doubt would be cast against the evidence lead by the prosecution. The learned Counsel further moving towards the digital evidence has argued that how the photography in the DVD were converted into photographs is not forthcoming and also the video of the mahazar is not produced. The print-out of the photographs were taken out at an independent third-party service provider and as such the print-out taken out also casts a strong aspersion with respect to the evidence lead before the Court. It is her submission that when the print-out is taken-out by some other person, the furnishing of Certificate under Sec.65(B) of Indian Evidence Act as per Ex. P176 and Ex. P177 and also the Certificate furnished at Ex. P118 by the Scientific Officer of FSL, Bengaluru, Mr.Karthik M.D.,

is not proper. In order to point out the lacuna in the same, it is argued at length that as per the evidence of PW.13 Mr.Karthik M.D., certain photographs were allegedly stored in the computer of their division which was being used in regular course of business. However, his evidence would categorically indicate that the very same computer was being used by some other officials and as such issuance of Certificate under Sec.65(B) was not proper and justified. Likewise, another Certificate which was generated under Sec.65(B) of Indian Evidence Act and marked as Ex. P162 was issued by Mr.Anurag Dubey, who was not at all examined by the Court and whereas the Certificate came to be marked through the Investigating Officer. AS such, a serious doubt would be casted to the case of the prosecution.

45. The learned Senior Counsel has argued that the prosecution has not led any foundation with respect to the contents of the Pen-drive being

transferred into it. Even otherwise what amounts to modification is required to be appreciated in the wake of provisions of Information and Technology Act and also by looking into the definitions.

46. The learned Senior Counsel has continued her arguments and had drawn the attention of the Court that the upper portion of the mattress which was recovered and allegedly consisted of stains were not properly identified by the witnesses and it is her submission that if at all such stains were found, there was no impediment for the FSL Experts to identify each individual stains on the mattresses. Further it has been argued that the veracity of the Panchama itself was questionable and more so the evidence of PW.14 Dr.Guruprasad is also not in accordance with law. In order to point out the same, the learned Senior Counsel has drawn attention of the Court with respect to the evidence of PW.26 Smt.Shobha.N., who is the Investigating Officer and, in her evidence, she admits

of not mentioning the number of stains at the time of recovery of the mattresses. It has also been argued that strangely in the instant case the blood samples of the accused were not drawn but rather the Investigating Agency had relied upon the approval which was obtained from the blood samples of the accused in Crime No.107/2024. Since there was no explanation in this regard, the findings rendered in the DNA Report itself was questionable. That apart, she has also referred to the Report of the Medical Officers which were confronted to the Medical Officer and marked as Ex. D1 which would indicate that the date of examination was inter-polated, wherein the date of 05.06.2024 was inter-polated into 15.06.2024. It is her submission that incidentally the medical examination of accused in Crime No.107/2024 was conducted on 05.06.2024 and the very same document was obtained and in the present case the date was modified into 15.06.2024. Further she has argued that the timings of

the OPD Slip indicates that the accused was subjected to medical examination at about 12.00 p.m., on that day. However, the evidence of Photographer who was from the FSL i.e., PW.13 Mr.Hemesh Kumar would indicate that he had obtained the photographs of the accused at about 02.00 p.m., in the afternoon. Absolutely there is no explanation with respect to the aforesaid aspects. The learned Senior Counsel has also pointed out to the suggestions which were made in Para-21 during the course of cross-examination of PW.13 Mr.Hemesh Kumar, wherein he has categorically admitted of marking the points and also the said points do not be co-related to the points of the body of the accused person. It is also argued that the cross-examination of PW.18 would indicate that PPT was generated and later on hash value was generated on 14.08.2024. Whereas the document at Ex. P56 would indicate that the hash value was generated on 12.08.2024, which was quite contrary to the evidence.

Even otherwise, it is the argument of the learned Senior Counsel that the evidence of PW.16 does not inspire the confidence as he had categorically admitted that he had only confirmed the photograph belonged to accused person, but he never stated that it is belonged to accused person. It has been argued at length that the PPT was generated allegedly on 12.08.2024 and whereas the Report of the Committee was furnished on 14.08.2024. That apart, the arguments which is canvassed with respect to the video is that how the Committee had furnished the Report relating to the accused is not established. With respect to the voice of the victim and also that of the Investigating Officer, it is argued that the document at Ex. P110 which allegedly consists of voice of the victim and of the Investigating Officer is carefully appreciated, it indicates that the entire voices are of women and an identification should have been given with respect to the voice which were being recorded. That apart, it is

argued that the transcripts which were read-over by the victim would not be a proper transcript in the wake of the judgment rendered by the Hon'ble Apex Court, wherein certain phonetics were required to be explained rather than the entire transcript. Instead of pointing out to the unique phonetic transcriptions which were red completely would not pass the Litmus test. Hence, it is submitted that the voice sample which was recorded as per Ex. P42 and also the recording into another equipment of 32 GB SDHC Card was not proper and even the Certificate which was issued under Sec.65(B)(4) of the Indian Evidence Act was not in accordance with law.

47. The learned Senior Counsel has argued that initially mobile phone i.e., Samsung Galaxy J4 Mobile Phone which was belonging to PW.10 Karthik was recovered by PW.25 Suma Rani in Crime No.107/2024. As on the date of execution of Ex. P82 i.e., the mahazar, the Investigating Officer of Crime

No.107/2024 was Priyadashini Sanikoppa was not all examined and even otherwise the mobile phone was in the custody of FSL till 20.08.2024. However, the mahazar at Ex. P82 indicates that the mobile phone came into the custody of PW.26 on 19.08.2024 itself which was contrary to their own evidence. The learned Counsel has also vehemently argued with respect to the photographs which were marked and also the comparisons which were made by the Forensic Laboratory. The video files were examined and as per their own evidence, the audio files were also produced is not in accordance with law and extractions of the same cannot be looked into since the mahazar which was drawn to recover the same is not proved in accordance with law. It is also argued that normally, the dump obtained from the third party would be given but in the instant case the same was not given for examination and even the soft copy was not given for examination. As such, it is vehemently argued that

obtaining of 65 Photographs itself was questionable and also the method of analysis for arriving at a conclusion that the FSL Team in the Report at Ex. P75 was not forthcoming and straightly an opinion was furnished. Hence, it is requested that the Court is required to draw an adverse inference for furnishing a Report without properly appreciating. It has also been argued that the meta data and other details are not properly examined and at one breath it is submitted that the videos were captured through the same mobile phone, but at last it was submitted that it was captured through Samsung Mobile Phone. By pointing out to the evidence, it is argued that the capturing and circulation of the photographs and videos were all made by PW10.Karthik and hence the provision of Sec.66(E) of Information and Technology Act, would not be attracted against the accused person. Even otherwise, the mandatory certificate which is required to be issued under Sec.65(B) was not properly

forthcoming as laid down by the Hon'ble Apex Court in Arjun Pandith Rao's case. By pointing out to the aforesaid infirmities, the learned Senior Counsel has requested the Court to take note of the fact that no proper investigation has been conducted and also materials which are produced before the Court are not sufficient to prove the guilt of the accused beyond reasonable doubt. The learned Senior Counsel has also relied upon the Authorities of the Hon'ble Apex Court which are mentioned below and also on another judgment of the Hon'ble Apex Court wherein, the question of fair trial has been dealt. Accordingly, the learned Counsel for the accused has requested the Court to acquit the accused person.

48. The following citations which are mentioned below are relied upon by the accused Counsel which are as follows;

a) (2023) 15 SCC 521 (Rajesh and another Vs. State of Madhya Pradesh)

b) ***(2024) SCC Online SC 260 (Nirmal Premkumar and another Vs. State)***

c) ***(2016) 10 SCC 506 (Raja Vs. State of Karnataka)***

d) ***AIR 2012 SC 3157 (Rai Sandeep Vs. State (NCT of Delhi)***

e) ***(2012)7 SCC 171 (Narender Kumar Vs. State (NCT of Delhi)***

f) ***(2011)7 SCC 130 (Krishan Kumar Malik Vs. State of Haryana)***

g) ***(2006)10 SCC 92 (Sadhashiv Ramrao Hadbe Vs. State of Maharashtra)***

h) ***(2023) 17 SCC 381 (Naveen alias Ajay Vs. State of Madhya Pradhesh)***

i) ***(2023)13 SC 365 (Balasudham Vs. State of Maharashtra)***

j) ***(1989) SCC Online MP 57 (Sankariya Vs. State of Madhya Pradesh)***

k) ***AIR 2020 SC 985 (Santhosh Prasad Vs. State of Bihar)***

l) ***AIR 2009 SC 858 (Raju and others Vs. State of Madhya Pradesh)***

m) ***2011(2) SCC 385 (Alamelu Vs. State)***

n) ***2003(8) SCC 745 (Narbada Devi Gupta Vs. Birendra Kumar Jaiswal)***

o) 2018 Crl. L.J.4314 (Kar) (S.Ravichandra Vs. M/s Elements Developments Consultants, Bengaluru)

p) (2020)7 SCC 1 (Arjun Pandit Rao Khotkar Vs. Kailash Kushanrao Gorantyal and others)

q) (2016)8 SCC 307 (Sudhir Choudhary Vs. State [NCT of Delhi])

➢ CHAPTER-VI: POINTS WHICH WOULD ARISE FOR CONSIDERATION:

49. The points that would arise for my consideration are;

1) Whether the prosecution proves beyond reasonable doubt that the accused Prajwal Revanna being the Member of Parliament from Hassan Constituency had visited Gannikada farm house at Moolekalenahalli village situated in Sy.No.91/2 and 91/3 and during the COVID lock-down period in the year 2021, who was in a position of control and dominance over PW.1 victim, had called her inside the room, closed the door, removed her clothes and had pressed her breast and touched inappropriately and thereafter had committed forcible sexual intercourse by recording the incident

in his mobile phone and thereby committed an offence punishable under **Sec.376(2)(k) of Indian Penal Code**?

2) Whether the prosecution proves beyond reasonable doubt that the accused after committing forcible sex with the maid PW.1 victim, at Gannikada Farm House had repeated the incident at his house at Basavanagudi by calling her inside his bed room on the third floor of the building and made her to remove her clothes and had once again recorded it in his mobile phone and thereby had committed an offence punishable under **Sec.376(2)(n) of Indian Penal Code**?

3) Whether the prosecution proves beyond reasonable doubt that on the aforesaid places, the accused being in dominance and control over the victim, had made her to come inside his room at Gannikada Farm House and also at Basavanagudi house and had made advances towards her involving unwelcome and explicit sexual overtures and demanded for sexual favours and had touched her private parts inappropriately by disrobing her and capturing in

mobile phone and thereby had committed an offence punishable under **Sec.354-A of Indian Penal Code**?

4) Whether the prosecution proves beyond reasonable doubt that on the aforesaid places and time, the accused had called upon the victim to his room at Gannikada Farm House and also at Basavanagudi house and had made physical contact and advances involving explicit sexual overtures by using criminal force to disrobe her and compelling her to be naked and had forcible sexual intercourse with her and thereby committed an offence punishable under **Sec.354-B of Indian Penal Code**?

5) Whether the prosecution proves beyond reasonable doubt that on the aforesaid places and time, the accused had called upon the victim to his room at Gannikada Farm House and also at Basavanagudi house and had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures by using criminal force to disrobe her and had

captured the sexual act in mobile phone and thereby committing an act of voyeurism and committed an offence punishable under **Sec.354-C of Indian Penal Code**?

6) Whether the prosecution proves beyond reasonable doubt that on the aforesaid places and time, accused had made the victim CW1 to enter the bedroom on the 1st floor of Gannikada Farm House at Holenarasipura and also in bedroom at 3rd floor of house at Basavanagudi, Bengaluru, had made her to enter the room, latched the door and had made physical contact and advances involving unwelcome and explicit sexual overtures by using criminal force to disrobe her and had captured the sexual act of forcible sexual intercourse in your mobile phone and had threatened her of dire consequences if she revealed the same to any other person by causing criminal intimidation and thereby committed an offence punishable under **Sec.506 of Indian Penal Code**?

7) Whether the prosecution proves beyond reasonable doubt that the accused who had recorded the

forcible sexual intercourse which he had with the victim at Gannikada Farm House at Holenarasipura and also in his house at Basavanagudi and recorded in his mobile phone and later on in order to screen the evidence, had destroyed the mobile phone and thereby committed an offence punishable under **Sec.201 of Indian Penal Code**?

8) Whether the prosecution proves beyond reasonable doubt that in the aforesaid places and time, the accused had recorded his act of forcible sexual intercourse with the victim in his mobile phone in order to pressurize her to co-operate with his unlawful sexual overtures and was responsible for the explicit video to be viralled/circulated in the society and thereby committed an offence punishable under **Sec.66(E) of Information Technology Act, 2008**?

9) What orders?

50. My findings to the aforesaid points for consideration are as follows:

1. POINT NO.1: In the **Affirmative**

2. POINT NO.2: In the **Affirmative**

3. POINT NO.3: In the **Affirmative**

4. POINT NO.4: In the **Affirmative**

5. POINT NO.5: In the **Affirmative**

6. POINT NO.6: In the **Affirmative**

7. POINT NO.7: In the **Affirmative**

8. POINT NO.8: In the **Affirmative**

9. POINT NO.2: As per my final order for the following;

➢ CHAPTER VII: REASONS ASSIGNED FOR ARRIVING AT CONCLUSION:

51. In the instant case a serious allegation has been leveled by the prosecution against the accused Prajwal Revanna who was a Member of Parliament from Hassan Constituency from the period of 2019 to 2024. It is contended by the prosecution that accused used to visit the Farm House situated at Sy.No.91/1 of Moolekalenahalli village, Holenarasipura Taluk, which

is narrated as Gannikada Farm House at various places of the Final Report. It is also submitted that PW.1 victim and her husband Dakshinachari had started to work in aforesaid farm house and they used to stay at the labour quarters of the Farm House at Gannikada. It is also submitted that they had joined the work in the farm house through one Sathish Babanna who was from their village and also the close confident of the mother of Accused Prajwal Revanna. In the evidence led before the court it is noticed that the victim has narrated about the incident in detail and also she has explained in her statements which were recorded by the Investigating Agency that initially she had demanded for certain sum of amount and subsequently it was negotiated that the victim and her family use to get a sum of Rs.10,000/- per month and 20 Kgs of Rice towards their salary and she also received a sum of Rs.15,000/- from Smt.Bhavani Revanna, the mother of the accused. The victim has

also deposed that during the first Covid lock-down period on one afternoon the accused had called her to the room which was situated on the first floor of the Gannikada Farm House by directing her to bring drinking water. It is narrated by her in her chief-examination that the accused had closed the door, latched it from inside and had started to behave inappropriately. In fact, in her chief-examination, she has given a pictorial description of the ill-deeds which were made by the accused Prajwal and even she narrates that the accused had forced her to remove her blouse and also, he had kept his private parts in her mouth and later on he had pushed her in the bed room and had forcible sexual intercourse on her. At this juncture, it is also appropriate to note the demeanor of the witnesses which was observed by this Court at the time of recording the evidence and it is observed by the court that the victim during the course of her examination had started to weep profusely whenever

she deposed of forcible sexual intercourse and also the circulation of her obscene video. It is noticed from the entire deposition that the PW.1 victim is a rustic villager and she in ordinary manner has given evidence before the Court. In her chief-examination she has also narrated that normally no one used to reside in the Farm House and only the family members used to visit the Farm House. Further the Court had observed the demeanor of the victim wherein she has started to weep profusely while deposing about the incident. Further she had deposed that though she had pleaded by holding the legs of the accused requesting him to leave her and even she had slapped her head, he had not left her. Particularly, the words which were used by the victim assumes importance and in vernacular (Kannada) she has deposed "*ದಮ್ಮಯ್ಯ ನನ್ನನ್ನು ಬಿಟ್ಟುಬಿಡಿ ಎಂದು ತಲೆ ಚೆಚ್ಚಿ ಕೊಂಡರೂ ಬಿಟ್ಟಿರುವುದಿಲ್ಲ*". That apart, she has also deposed that the accused had fingered her private part and he was holding a mobile phone during the

aforesaid forcible sexual intercourse and had recorded the incident. Immediately after that she has deposed that he had threatened of dire consequences and also, he had threatened to send the videos of the alleged incident to her son i.e., PW.2 Raju. Thereafter she explains that she was not in a position to reveal about the incident since she was having a fear that no persons would come forward to help the labourers like them. At this juncture, it would be appropriate to consider the family background of the accused person which has been elucidated at various stages of the case. Admittedly, the accused Prajwal Revanna was a Member of Parliament from Hassan Constituency at that point of time. His father Mr.H.D.Revanna was previously Minister and also sitting MLA of Holenarasipura Constituency, mother Smt.Bhavani Revanna was Member of Zilla Panchayath and his elder brother Mr.Sooraj Revanna was Member of Legislative Council at that point of time. The fact which assumes

importance at this juncture is the deposition tendered by the victim is to be considered to ascertain whether the same is deposed in its natural sense. Further the victim has also deposed that she had kept quiet for the sake of her daughters and also their economic condition was not good enough to challenge the might of the accused persons. Thereafter, the victim explains about the second horrific incident that had taken place in her life wherein she has deposed that after some days Smt.Bhavani Revanna had taken them for cleaning their house at Basavanagudi, Bengaluru and at that time she was joined by Smt.Shyamla, Smt.Shobha and Smt.Lakshmamma and others and had stayed in that house for about 3 days. It is her evidence that on the third day when she was cleaning the house, she has heard the commanding voice of accused Prajwal Revanna, wherein he had directed her to come in the room on the third floor of the building to collect the clothes for washing. As she was afraid of the

earlier incidents, she had not visited his room immediately, however he had once again raised his voice which had let her to enter his room even at that time he has closed the room, latched it and even she has pleaded “Anna Please Leave Me” he had not left her and had opened her blouse and other dress and in fact it is her evidence that when she had not heeded to his request, he had forcibly removed the blouse and had ravished her. It is her evidence that even at that point of time he was holding a Mobile Phone and recording the incident. Even at that point of time she had not disclosed the incident to any person and suppressed her emotions by weeping silently which was even noticed by her sister PW.4 Smt.Shyamala, who had enquired the reason for keeping dull, for which she had narrated that she was suffering from headache. Whether the said statement assumes any importance will be dealt by me in the later part of my judgment. At this juncture, prima-faciely when the chief-

examination is looked into, it would clearly indicate the fact that the victim was subjected to forcible sexual intercourse wherein she narrates of two incidents that had taken-place in the house of accused Prajwal Revanna.

52. I have carefully appreciated the entire line of defence and stand taken by the accused during the course of his evidence. In the instant case, it is the definite contention of the accused Prajwal Revanna that he never visited the Gannikada Farm House nor the house at Basavanagudi, Bengaluru and also, he has contended that at no point of time the Farm House belonged to him or his family members and more particularly during the period 2020-21. The other defence which has been taken up by the accused is that PW.1 victim had not worked for him at any point of time. In short, the defence of the accused is of total denial. When the case of forcible sexual intercourse is placed before the Court, the manner of appreciating

the evidence is also required to be considered. The allegations of committing the sexual offences and violence apart from being a deep humanizing act is an unlawful intrusion into the right of privacy and sanctity of a woman. In fact, it is a serious blow to her supreme honor which would affect her self-esteem, agility to live like a normal human being in the society. The offence of rape has been defined in Chapter-XVI of IPC, wherein it is named as the Chapter which affects the human body. The fact that the provision of Sec.375 of IPC which would define the rape is termed as the offence affecting the human body is required to be considered. The question of rape not only impairs the dignity, honor, reputation and not the least her chastity itself is also a crime against the person of a women. It can also be termed as the crime against the entire society since it would destroy the entire psychology of a woman and pushes her into deep emotional crisis. The aforesaid facts have been stressed

upon by the Court, is to appreciate the manner in which the evidence are to be appreciated in sensitive matters like which affects the human body and that too of a woman in the society.

53. Time and again, it has been laid down in various dictum that the Courts cannot accept a straight jacket formula towards appreciation of evidence or in that manner in which the evidence is required to be tendered before the Court. The experience would in fact that at majority of the time it will be a herculean task for a woman and that too for a rustic villager to approach the authorities and intimate about the violations that had taken-place on her person. In the instant case, apart from blanket denial of the incident, at every stage of proceedings the delay in which the case came to be reported is also questioned by the defence. It is also vehemently argued that in the entire scenario the victim has nowhere narrated or explained when she was ravished and what

period of time she was subjected to forcible sexual intercourse. It is the submission of the learned Counsel for the accused that mere utterances and explaining of some facts by deposing that she was subjected to forcible sexual intercourse is not suffice to prove their case and in particularly the question of delay.

- **CHAPTER-VIII: DELAY IN REPORTING SEXUAL OFFENCE: CAN IT BE GROUND TO DOUBT THE CASE OF PROSECUTION?**

54. In order to better appreciate the same about the incident, I have bestowed my anxious reading towards the cross-examination of PW.1 victim. It is relevant to note that during the course of cross-examination she has deposed that her elder daughter was aged about 12 years when she had joined the work and her younger daughter was aged about 10 years. It is also relevant to note that it was elucidated from her that she has joined the work about 8 years back. Now

the question which requires to be considered at this juncture is whether the Court is required to strictly apply the rule and hold that whether the period of 8 years commence from the date of tendering the evidence or in normal parlance the period of 8 years can be calculated. In my humble opinion, since the offence of rape itself is a traumatic experience which is experienced by the victim, the Court should be empathetic and sensitive towards the manner in which the evidence is placed before the Court. The manner in which the delay is required to be considered has been laid down by the Hon'ble Apex Court in the judgment reported in **(2010) 8 SCC 714 (Satpal Singh V State of Haryana)** wherein the question delay in lodging the FIR is examined and the same is extracted for the sake of profit which reads as:

> ***14. In a rape case the prosecutrix remains worried about her future. She remains in traumatic state of mind. The family of the victim generally shows reluctance to go to***

the police station because of society's attitude towards such a woman. It casts doubts and shame upon her rather than comfort and sympathise with her. Family remains concerned about its honour and reputation of the prosecutrix. After only having a cool thought is it possible for the family to lodge a complaint in sexual offences. (Vide Karnel Singh v. State of M.P. [(1995) 5 SCC 518 : 1995 SCC (Cri) 977 : AIR 1995 SC 2472] and State of Punjab v. Gurmit Singh [(1996) 2 SCC 384 : 1996 SCC (Cri) 316 : AIR 1996 SC 1393] .)

15. This Court has consistently highlighted the reasons, objects and means of prompt lodging of FIR. Delay in lodging FIR more often than not, results in embellishment and exaggeration, which is a creature of an afterthought. A delayed report not only gets bereft of the advantage of spontaneity, the danger of the introduction of a coloured version, an exaggerated account of the incident or a concocted story as a result of deliberations and consultations, also creeps in, casting a serious doubt on its veracity. Thus, FIR is to be filed more promptly and if there is any delay, the prosecution must furnish a satisfactory explanation for the same

for the reason that in case the substratum of the evidence given by the complainant/informant is found to be unreliable, the prosecution case has to be rejected in its entirety. (Vide State of A.P. v. M. Madhusudhan Rao [(2008) 15 SCC 582 : (2009) 3 SCC (Cri) 1123] .)

16. However, no straitjacket formula can be laid down in this regard. In case of sexual offences, the criteria may be different altogether. As honour of the family is involved, its members have to decide whether to take the matter to the court or not. In such a fact situation, near relations of the prosecutrix may take time as to what course of action should be adopted. Thus, delay is bound to occur. This Court has always taken judicial notice of the fact that:

"ordinarily the family of the victim would not intend to get a stigma attached to the victim. Delay in lodging the first information report in a case of this nature is a normal phenomenon."

(Vide Satyapal v. State of Haryana [(2009) 6 SCC 635 : (2009) 3 SCC (Cri) 108 : AIR 2009 SC 2190] , SCC p. 641, para 21.)

17. In State of H.P. v. Prem Singh [(2009) 1 SCC 420 : (2009) 1 SCC (Cri) 351] this Court considered the issue at length and observed as under : (SCC p. 421, para 6)

"6. So far as the delay in lodging the FIR is concerned, the delay in a case of sexual assault, cannot be equated with the case involving other offences. There are several factors which weigh in the mind of the prosecutrix and her family members before coming to the police station to lodge a complaint. In a tradition-bound society prevalent in India, more particularly rural areas, it would be quite unsafe to throw out the prosecution case merely on the ground that there is some delay in lodging the FIR."

18. Thus, in view of the above, the delay in lodging FIR in sexual offences has to be considered with a different yardstick. If the instant case is examined in the light of the aforesaid settled legal proposition, we are of the considered opinion that the delay in lodging the FIR has been satisfactorily explained.

55. In the aforesaid judgment it has been held by the Hon'ble Apex Court that there cannot be any

straight jacket formula in considering the delay in lodging of criminal case and also it cannot be expected from a woman to report about the crime of sexual offence immediately considering the societal status and also the tradition bound conditions prevailing in our country. Further the Hon'ble Apex court has also held that the court is required to consider the stigma attached to the family in the matters pertaining to sexual offences. The aforesaid dictum assumes importance since the victim in the instant case has also pleaded that she is a rustic villager with no political or societal background and further she was required to take care of her two un married daughters at that time. The aforesaid aspect would only indicate the peculiar situation which is expressed b the victim which seems to be believable. Instead of accepting the said aspect the court has also appreciated the other materials which are produced in the case to ascertain its veracity. That apart with respect to the presence of

victim at the Gannikada farm house, the entire evidence is required to be appreciated. In fact, when the cross-examination is considered, it would indicate the suggestion wherein it was suggested to the victim that they were residing in the Farm House along with her two daughters and son. If only the cross-examination portion is considered, it would indicate that the accused also categorically admits the presence of the victim at Gannikada Farm House. No doubt the repeated submissions made by the learned Senior Counsel and also the Counsel for the accused is that the Farm House never belonged to Prajwal Revanna nor the victim had worked as labourer in the said Farm House is to be considered. The appreciation of evidence is not just examining by looking into the chief-examination or the cross-examination, but it also attaches a sacrosanct duty on the Court wherein the Court is required to consider both the facts which is adduced during the chief-examination and cross-

examination and subject it to a litmus test. At the same time, the Court has to ignore the stray admissions which might have been given in a flow by the accused during the course of cross-examination. In the instant case, I have consistently appreciated the cross-examination and consistently it has been suggested to the victim that she has resided in the Farm House along with her daughter and son. In the next part of suggestion it was deposed by the victim that the daughters were not attending the school and her son was attending the school at Gannikada. Further she has deposed that her son studied for about 3 years and later on had stopped his studies for his 9th Class. It was suggested to the victim that her son had dropped out of the school in the year 2018. The aforesaid suggestion put-forth by the defence counsel would only fortify the contention of the victim that at relevant point of time she had resided at Gannikada Farm House and worked as a labourer.

During the course of further cross-examination, she has explained that there was 5 Rooms in the Farm House constructed for labourers and totally 4 persons were working in the said Farm House and they are also residing with their children. She has deposed that her sisters had also joined the work with her. Later on, it was questioned to her that when her elder daughter was married? for which she has deposed that for about 3 years back she was married. If for a moment it is to be considered that she has joined the Farm House about 7 to 8 years back probably, the relevant year of her joining would be somewhere around 2016-17 and also her evidence that her son had attended the school for about 3 years at Gannikada would also fortify the case of prosecution that she has resided in Gannikada till 2020-21. Further when she deposed that her elder daughter was married about 3 years back, it would only indicate that her daughter might have been married at the age of 18 years when she turned to be a

major. No doubt, the Court is not reducing its own explanation and justification towards the case of prosecution, but it is only proposing the facts to incident whether the evidence which is tendered by the victim is proper or not. It is also suggested to the victim that she had left the job in the year 2017, it would only fortify the case of prosecution since on earlier occasions as already discussed by me, the accused themselves has suggested that she was residing in the Farm House along with her children. Another circumstance, the suggestion which were put forth by the defence cannot be considered as a stray suggestion. Further it is relevant to note that the witness has specifically deposed that she had left the job after the lock-down was lifted and when the bus and cards were traveling. Further she has feigned her ignorance with respect to the year and date on which the lock-down came to be imposed. It was also suggested to her that she had left the job due to the

spread of Corona Virus which is empathetically denied by the witness. When the aforesaid suggestions are juxtaposed and appreciated together, the unerring findings that can be rendered is that the victim did work as a labourer at Gannikada Farm House about 8 years back which could be parabolized to 2017-18 and she had left the job when lock-down was lifted. The question which is required to be considered at this juncture is whether it was during the first lock-down period or during the second lock-down period. For a moment if the written submissions of the accused is to be appreciated, it has been explained in detail by comparing the evidence of PW.21 Vedamurthy, who is a Forensic Expert, wherein he has deposed that out of the four video files which was sent for scientific examination consisted Metadata which indicate that the incident at Bengaluru was captured on 23.02.2021 and whereas the incident at Gannikada had also taken-place on 23.02.2021. For a moment, if the

Metadata and also appreciation of the digital records are paused and left to be considered in the later stage of the case, even then the records would fortify the case of the prosecution than that of the accused person. The aforesaid approach is very much essential that it is settled law that the victim of the sexual offences' cases cannot be considered as accomplice and normally the evidence of the victim is to be believed and only to ascertain whether the same inspires confidence the same may be looked into for minor corroboration. In this regard the court has relied upon the judgment of the Hon'ble Apex Court reported in **(2011)2 SCC 550 (Chottey Lal V State of UP)** wherein the manner of appreciation and also the settled law that the women cannot be considered as accomplice is laid down which for the sake of profit is extracted and it reads as:

> ***22. In the backdrop of the above legal position, with which we are in respectful agreement, the evidence of***

the prosecutrix needs to be analysed and examined carefully. But, before we do that, we state, as has been repeatedly stated by this Court, that a woman who is a victim of sexual assault is not an accomplice to the crime. Her evidence cannot be tested with suspicion as that of an accomplice. As a matter of fact, the evidence of the prosecutrix is similar to the evidence of an injured complainant or witness. The testimony of the prosecutrix, if found to be reliable, by itself, may be sufficient to convict the culprit and no corroboration of her evidence is necessary. In prosecutions of rape, the law does not require corroboration. The evidence of the prosecutrix may sustain a conviction. It is only by way of abundant caution that the court may look for some corroboration so as to satisfy its conscience and rule out any false accusations.

23. In State of Maharashtra v. Chandraprakash Kewalchand Jain [(1990) 1 SCC 550: 1990 SCC (Cri) 210] this Court at SCC p. 559 of the Report said: (SCC para 16)

"16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of

the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each

case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence."

24. In State of Punjab v. Gurmit Singh [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] this Court made the following weighty observations at pp. 394-96 and p. 403: (SCC paras 8 & 21)

"8. ... The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix ... The

courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury ... Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances....

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21. ... The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon

without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

(emphasis in original)

25. In Vijay v. State of M.P. [(2010) 8 SCC 191 : (2010) 3 SCC (Cri) 639] , decided recently, this Court referred to the above two decisions of this Court in Chandraprakash Kewalchand Jain [(1990) 1 SCC 550 : 1990 SCC (Cri) 210] and Gurmit Singh [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] and also few other decisions and observed as follows: (Vijay case [(2010) 8 SCC 191 : (2010) 3 SCC (Cri) 639] , SCC p. 198, para 14)

"14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict

the accused on the sole testimony of the prosecutrix."

26. The important thing that the court has to bear in mind is that what is lost by a rape victim is face. The victim loses value as a person. Ours is a conservative society and, therefore, a woman and more so a young unmarried woman will not put her reputation in peril by alleging falsely about forcible sexual assault. In examining the evidence of the prosecutrix the courts must be alive to the conditions prevalent in the Indian society and must not be swayed by beliefs in other countries. The courts must be sensitive and responsive to the plight of the female victim of sexual assault. Society's belief and value systems need to be kept uppermost in mind as rape is the worst form of women's oppression. A forcible sexual assault brings in humiliation, feeling of disgust, tremendous embarrassment, sense of shame, trauma and lifelong emotional scar to a victim and it is, therefore, most unlikely of a woman, and more so by a young woman, roping in somebody falsely in the crime of rape. The stigma that attaches to the victim of rape in Indian society ordinarily rules out the levelling of false accusations. An Indian woman traditionally will not concoct an untruthful story and bring

charges of rape for the purpose of blackmail, hatred, spite or revenge.

27. This Court has repeatedly laid down the guidelines as to how the evidence of the prosecutrix in the crime of rape should be evaluated by the court. The observations made in Bharwada Bhoginbhai Hirjibhai v. State of Gujarat [(1983) 3 SCC 217 : 1983 SCC (Cri) 728] deserve special mention as, in our view, these must be kept in mind invariably while dealing with a rape case. This Court observed as follows: (SCC p. 224, para 9)

"9. In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion? To do so is to justify the charge of male chauvinism in a male dominated society. We must analyse the argument in support of the need for corroboration and subject it to relentless and remorseless cross-examination. And we must do so with a logical, and not an opinionated, eye in the light of probabilities with our feet firmly planted on the soil of India and

with our eyes focussed on the Indian horizon. We must not be swept off the feet by the approach made in the western world which has its own social milieu, its own social mores, its own permissive values, and its own code of life. Corroboration may be considered essential to establish a sexual offence in the backdrop of the social ecology of the western world. It is wholly unnecessary to import the said concept on a turnkey basis and to transplant it on the Indian soil regardless of the altogether different atmosphere, attitudes, mores, responses of the Indian society, and its profile. The identities of the two worlds are different. The solution of problems cannot, therefore, be identical."

28. This Court went on to observe at SCC pp. 225-26: (Bharwada case [(1983) 3 SCC 217 : 1983 SCC (Cri) 728] , SCC para 10)

"10. Without the fear of making too wide a statement, or of overstating the case, it can be said that rarely will a girl or a woman in India make false allegations of sexual assault on account of any such factor as has been just enlisted. The statement is generally true in the context of the urban as also rural society. It is also by and large true in the context of the sophisticated, not so sophisticated, and

unsophisticated society. Only very rarely can one conceivably come across an exception or two and that too possibly from amongst the urban elites. Because—

(1) A girl or a woman in the tradition-bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred.

(2) She would be conscious of the danger of being ostracised by the society or being looked down by the society including by her own family members, relatives, friends, and neighbours.

(3) She would have to brave the whole world.

(4) She would face the risk of losing the love and respect of her own husband and near relatives, and of her matrimonial home and happiness being shattered.

(5) If she is unmarried, she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family.

(6) It would almost inevitably and almost invariably result in mental torture and suffering to herself.

(7) The fear of being taunted by others will always haunt her.

(8) She would feel extremely embarrassed in relating the incident to others being overpowered by a feeling of shame on account of the upbringing in a tradition-bound society where by and large sex is taboo.

(9) The natural inclination would be to avoid giving publicity to the incident lest the family name and family honour is brought into controversy.

(10) The parents of an unmarried girl as also the husband and members of the husband's family of a married woman, would also more often than not, want to avoid publicity on account of the fear of social stigma on the family name and family honour.

(11) The fear of the victim herself being considered to be promiscuous or in some way responsible for the incident regardless of her innocence.

(12) The reluctance to face interrogation by the investigating agency, to face the court, to face the cross-examination by the counsel for the culprit, and the risk of being disbelieved, acts as a deterrent."

56. Further during the course of cross-examination, it was also suggested to the witness that the accused after getting himself elected as Member of Parliament has not visited the Farm House, it is also suggested that even her sister has joined work at Kammenahalli Farm House which also belonged to the family members of the accused, the witness has specifically deposed that her sister was shifted to some other Farm House after about 3 years. It is quite interesting to note that a suggestion was made that the Farm House to which her sister was shifted was belonging to H.D.Devegowda and their family members, the witness has deposed that it belongs to H.D.Revanna and Smt.Bhavani Revanna. No doubt as per the dictum of the Hon'ble Apex Court, the Court cannot appreciate the evidence in a bits and piece manner, but it is required to be consider the same in its entirety. The learned Counsel for the accused has vehemently argued that any suggestions which has

been put-forth by them during the course of cross-examination cannot be considered to fortify the case of prosecution and in order to buttress their submission they have relied upon the judgment reported. The question which requires to be considered at this juncture is whether the admissions given by the accused can be considered. On considering the materials it is clear that delay in reporting the incident of rape is always not fatal.

- **CHAPTER-IX: WHETHER CONCESSIONS GIVEN BY ACCUSED DURING CROSS EXAMINATION BINDS THE ACCUSED:**

57. The law in this regard is well settled by the Hon'ble Apex Court and in fact the learned counsel for the accused has also relied upon the judgment of the Honble Apex Court reported in **(2023) 13 SCC 365 (Balu Sudam Khalde V State of Maharastra)** wherein it is held as:

> ***38. Thus, from the above it is evident that the suggestion made by the defence counsel to a witness in the***

cross-examination if found to be incriminating in nature in any manner would definitely bind the accused and the accused cannot get away on the plea that his counsel had no implied authority to make suggestions in the nature of admissions against his client.

39. Any concession or admission of a fact by a defence counsel would definitely be binding on his client, except the concession on the point of law. As a legal proposition we cannot agree with the submission canvassed on behalf of the appellants that an answer by a witness to a suggestion made by the defence counsel in the cross-examination does not deserve any value or utility if it incriminates the accused in any manner.

40. It is a cardinal principle of criminal jurisprudence that the initial burden to establish the case against the accused beyond reasonable doubt rests on the prosecution. It is also an elementary principle of law that the prosecution has to prove its case on its own legs and cannot derive advantage or benefit from the weakness of the defence. We are not suggesting for a moment that if prosecution is unable to prove its case on its own legs then the Court can still convict an accused on the strength of the evidence in the

form of reply to the suggestions made by the defence counsel to a witness. Take for instance, in the present case we have reached to the conclusion that the evidence of the three eyewitnesses inspires confidence and there is nothing in their evidence on the basis of which it could be said that they are unreliable witnesses. Having reached to such a conclusion, in our opinion, to fortify our view we can definitely look into the suggestions made by the defence counsel to the eyewitnesses, the reply to those establishing the presence of the accused persons as well as the eyewitnesses in the night hours. To put it in other words, suggestions by itself are not sufficient to hold the accused guilty if they are incriminating in any manner or are in the form of admission in the absence of any other reliable evidence on record. It is true that a suggestion has no evidentiary value but this proposition of law would not hold good at all times and in a given case during the course of cross-examination the defence counsel may put such a suggestion the answer to which may directly go against the accused and this is exactly what has happened in the present case.

41. The principle of law that in a criminal case, a lawyer has no implied authority to make admissions against his client during the progress of the trial would hold good only in cases where dispensation of proof by the prosecution is not permissible in law. For example, it is obligatory on the part of the prosecution to prove the post-mortem report by examining the doctor. The accused cannot admit the contents of the post-mortem report thereby absolving the prosecution from its duty to prove the contents of the same in accordance with law by examining the doctor. This is so because if the evidence per se is inadmissible in law then a defence counsel has no authority to make it admissible with his consent.

43. The main object of cross-examination is to find out the truth on record and to help the Court in knowing the truth of the case. It is a matter of common experience that many a times the defence lawyers themselves get the discrepancies clarified arising during the cross-examination in one paragraph and getting themselves contradicted in the other paragraph. The line of cross-examination is always on the basis of the defence which the counsel would keep in mind to defend the accused. At

this stage, we may quote with profit the observations made by a Division Bench of the Madhya Pradesh High Court in Govind v. State of M.P. [Govind v. State of M.P., 2004 SCC OnLine MP 344 : 2005 Cri LJ 1244] The Bench observed in para 27 as under : (SCC OnLine MP)

"27. The main object of cross-examination is to find out the truth and detection of falsehood in human testimony. It is designed either to destroy or weaken the force of evidence a witness has already given in person or elicit something in favour of the party which he has not stated or to discredit him by showing from his past history and present demeanour that he is unworthy of credit. It should be remembered that cross-examination is a duty, a lawyer owes to his clients and is not a matter of great personal glory and fame. It should always be remembered that justice must not be defeated by improper cross-examination. A lawyer owes a duty to himself that it is the most difficult art. However, he may fail in the result but fairness is one of the great elements of advocacy. Talents and genius are not aimed at self-glorification but it should be to establish truth, to detect falsehood, to

uphold right and just and to expose wrongdoings of a dishonest witness. It is the most efficacious test to discover the truth. Cross-examination exposes bias, detects falsehood and shows mental and moral condition of the witnesses and whether a witness is actuated by proper motive or whether he is actuated by enmity towards his adversaries. Cross-examination is commonly esteemed the severest test of an advocate's skill and perhaps it demands beyond any other of his duties exercise of his ingenuity. There is a great difficulty in conducting cross-examination with creditable skill. It is undoubtedly a great intellectual effort. Sometimes cross-examination assumes unnecessary length, the Court has power to control the cross-examination in such cases. (See Wrottesecy on cross-examination of witnesses). The Court must also ensure that cross-examination is not made a means of harassment or causing humiliation to the victim of crime [See State of Punjab v. Gurmit Singh [State of Punjab v. Gurmit Singh, (1996) 2 SCC 384 : 1996 SCC (Cri) 316]].”

44. During the course of cross-examination with a view to discredit the witness or to establish the defence on preponderance of probabilities

suggestions are hurled on the witness but if such suggestions, the answer to those incriminate the accused in any manner then the same would definitely be binding and could be taken into consideration along with other evidence on record in support of the same.

45. However, it would all depend upon the nature of the suggestions and with what idea in mind such suggestions are made to the witness. Take for instance in case of a charge of rape under Section 376 of the Penal Code, the statement of the accused contained plain denial and a plea of false implication, a subsequent suggestion by the defence lawyer to the prosecutrix about consent on her part would not, by itself, amount to admission of guilt on behalf of the accused. In cases of rape, it is permissible for the accused to take more than one defence. In such type of cases a suggestion thrown by the defence counsel to a prosecution witness would not amount to an admission on the part of the accused. At the same time, if the defence in the cross-examination of the prosecutrix, with a view to support their alternative case of consent procure answers to the questions in the form of suggestions implicating the accused

for the offence of rape then such suggestions would definitely lend assurance to the prosecution case and the Court would be well justified in considering the same. We may give one more example of a case where the accused would plead right of a private defence. Such a defence is always available to the accused but although if such a defence is not taken specifically during the course of trial yet if the evidence on record suggests that the accused had inflicted injuries on the deceased in exercise of his right of private defence then the Court can definitely take into consideration such defence in determining the guilt of the accused. However, if a specific question is put to a witness by way of a suggestion indicative of exercise of right of private defence then the Court would well be justified in taking into consideration such suggestion and if the presence of the accused is established the same would definitely be admissible in evidence.

58. Even the said Authority has been relied upon by the prosecution also and even there, the Hon'ble Apex Court has clarified that any concessions or admission of fact by a defence counsel during the

course of their cross-examination or the suggestions which binds the accused is required to be considered by the Court. It is also made clear that the Court cannot solely rely upon the suggestions put-forth by the defence Counsel but it has to look into the other materials for the purpose of corroboration. Further during the course of cross-examination, it was suggested to the victim that she was only doing labour work in the Farm House of Gannikada, she has deposed that she was also doing household work apart from the Farm work. If for a moment it is to be assumed that the defence are totally denying the presence of the accused person or her working at Gannikada Farm House, then there would have been no necessity for them to put-forth a suggestion that she was only doing a labour work at Gannikada and not the household work. Even otherwise if the aforesaid aspects are considered from another angle, wherein it has been contended that at no point of time the accused or his fam-

ily members were having control over the Farm House till it was purchased on 27.10.2021 by Mr.Sooraj Revanna, the elder brother of the accused, then how the suggestion would be justifiable that the victim was working only in the Farm House requires explanation. Though it is argued that the accused is entitled to take inconsistent stand also the accused may take more than one stand in a case, the main aspect which is required to be considered is that such inconsistent stand should not be self-destructive or contrary to each other so that the same goes to the root of the case. At the cost of repetition if it is to be appreciated that the stand of the accused is that the victim never worked in the farm house then there was no necessity to put forth a suggestion that she had worked only in the farm and not in the farm house at Gannikada and also the fact which is required to be considered is that the accused is continuously denying of having any farm house at Sy.No.91/1 of Molekalenahalli village

which is termed as Gannikada Farm house in the above case. That apart, repeatedly, a question was posed to the victim that when was the lock-down was imposed, whether in 2020 or in the year 2021, for which she has repeatedly answered that she is an illiterate lady and she does not know the year but it is her consistent evidence that the lock-down was imposed about 4 years ago. As already discussed above, once again when the period of her work in the Gannikada is appreciated with the evidence tendered by her with respect to imposing of lock-down, it would somewhere justify the case of the prosecution that she did stay at Gannikada house and also during the lock-down period she was subjected to sexual harassment. The witness has also repeatedly deposed that she was worried about the reputation of her daughters and as such she was unable to leave the job immediately. Further during the course of cross-examination, a suggestion was made to her that she had never visited the house at

Basavanagudi, Bengaluru at the behest of Smt.Bhavani Revanna and it was her sister Smt.Shobha and Smt.Lakshmamma, who had visited Basavanagudi house at Bengaluru for the cleaning purpose. For a moment it is also required to be appreciated that the accused has denied of having any house at Basavangudi, Bengaluru and in another breath, he has suggested that his mother Smt.Bhavani Revanna had never called victim to clean the house at Basavangudi at Bengaluru, which is nothing but a farrago. This part of suggestion is required to be appreciated with the evidence of PW.4 Smt.Shobha, wherein a suggestion was made that she never visited the house at Basavanagudi for cleaning purpose nor she was taken there for cleaning by Smt.Bhavani Revanna. The entire suggestion which is put-forth by the defence Counsel is nothing but a farrago consisting of many convolutions. It is also questioned to her that whether she had asked her sister Smt.Shyamala about the

present work in Bengaluru, she has deposed that she has not asked any such question. The un erring conclusion that can be drawn from the aforesaid discussion by placing reliance on the judgment of the Hon'ble Apex Court is that the concessions in the manner of admissions given by the Accused during the course of cross examination can bind the accused though he is permitted to take inconsistent stand or more than one stand. The Hon'ble Apex court in fact has taken pains to explain the circumstances in which inconsistent stand can be taken and in the instant case, the contention of the accused that the suggestions don't binds him cannot be accepted.

59. When the entire aspects are carefully appreciated, the point which could be noticed is the manner in which the evidence is tendered by the victim before this Court. The main aspect which is required to be considered at this juncture is whether the evidence tendered by the victim is sufficient in ordinary course

of evidence to arrive at a conclusion that she is deposing true. The learned Counsel for the accused has vehemently argued that various infirmities can be found out in the evidence that has been tendered by the victim. In order to draw the attention of the court, the learned Senior Counsel has taken this Court and has read the complaint which was registered to initiate the criminal proceedings and also the statements of the victim which were recorded under section 161of Cr.P.C with that of her statement recorded under Section 164(5) of Cr.P.C with respect to inconsistencies in the statement tendered by the victim. Firstly, it has been argued that the date has been not properly mentioned and also in the evidence it was narrated that the younger daughter was married prior to 2022, whereas such evidence was not having any consistency with the statement which she had given. In order to buttress their contention, the learned Senior Counsel has relied upon the judgment of Hon'ble Apex Court in

2024 SCC Online SC 260 (Nirmal Prem Kumar and another Vs. State) wherein it is held as:

> ***11. Law is well settled that generally speaking, oral testimony may be classified into three categories, viz. : (i) wholly reliable; (ii) wholly unreliable; (iii) neither wholly reliable nor wholly unreliable. The first two category of cases may not pose serious difficulty for the Court in arriving at its conclusion(s). However, in the third category of cases, the Court has to be circumspect and look for corroboration of any material particulars by reliable testimony, direct or circumstantial, as a requirement of the rule of prudence.***
>
> ***15. What flows from the aforesaid decisions is that in cases where witnesses are neither wholly reliable nor wholly unreliable, the Court should strive to find out the true genesis of the incident. The Court can rely on the victim as a "sterling witness" without further corroboration, but the quality and credibility must be exceptionally high. The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistences excepted), from the initial statement to the oral***

> ***testimony, without creating any doubt qua the prosecution's case. While a victim's testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded.***
>
> ***17. When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of the incident. Instead, the emphasis is on allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect. If the Court deems such evidence credible and free from doubt, there is hardly any insistence on corroboration of that version.***

60. As could be noticed from the aforesaid Authority, it has been held by the Hon'ble Apex Court that the Court can rely upon the sole testimony of the victim if it is a sterling quality. The Hon'ble Apex Court has held that the victim's testimony in usual circumstance is sufficient for sexual offence cases and

an unreliable and insufficient account from the Prosecutrix marked by identified flaws and gaps could make it difficult to render a conviction. In the aforesaid judgment, the Hon'ble Apex Court has explained the instances which would amount to contradiction. By pointing out to the aforesaid aspects, it is vehemently submitted that the Court is required to look into the written information at Ex.P1 which lodged at the inception of the case at the time of filing of complaint with that of the statement which can be recorded in Sec.161 Cr.P.C. on multiple occasion and the same is required to be compared with the statement which she had tendered under Sec.164 of Cr.P.C., coupled with the evidence before the Court. No doubt, the ratio which has been laid down in the aforesaid judgment cannot be disputed since the Hon'ble Apex Court has taken the pain to explain the contradictions and omissions. At the same time, it is relevant to note what could be considered as

contradictions, omissions and improvements in the wake of the judgment laid down by the Hon'ble Apex court.

- **CHAPTER-X: CONTRADICTIONS AND OMISSIONS: WHETHER MERE COMPARISON OF STATEMENTS WITH THE EVIDENCE IS SUFFICIENT?**

61. At this juncture, what amounts to contradiction and omission is required to be appreciated. In order to better appreciate the said aspects, the Court has relied upon the authoritative judgment of the Hon'ble Apex Court which was rendered by the larger bench in the celebrated judgment reported in **AIR 1959 SC 1012 (Tahsildar Singh Vs. State of Uttar Pradesh)**, is relied upon which still holds the field even today and, in that judgment, it has been held as:

> ***There was no restriction as to the extent of the right of an accused to cross- examine a prosecution witness concerning his statement to the police. Section 162 of the Code of 1898***

prohibited the use of a statement reduced into writing, as evidence except any statement falling within the provisions of s. 32 of the Indian Evidence Act, 1872. The proviso to this section, however, expressly stated that in spite of the prohibition in the main provision, the accused could use such a statement to impeach the credit of the witnesses in the manner provided in the Indian Evidence Act of 1872. It will be seen therefore that until 1898 there was no restriction, imposed upon the accused as to the extent of his right of cross-examination. As s. 162 of the Code of 1898 entirely prohibited the use of the statement reduced into writing as evidence, the proviso to it safeguarded the right of the accused to impeach the credit of such witness in the manner provided in the Indian Evidence Act, 1872.

Under the Indian Evidence Act, a witness's credit can be impeached under ss. 145 and 155 of that Act. The manner in which the provisions of these sections could be utilized to impeach the credit of a witness covers a wide field. If, however, it was intended to contradict a witness concerning his previous statement reduced into writing, then the provisions of s.145 require that those parts of the writing by which it was sought to

contradict the witness must be shown to him. There can, be no doubt that the provisions of the Code from 1861 to 1898 in no way curbed the right of cross-examination on behalf of the accused. The provisions were intended to protect the accused in that no statement of a witness to the police reduced into writing could be used as evidence against him, but the right to cross-examine the witness to the fullest extent in accordance with the provisions of the Indian Evidence Act in order to show that he was unreliable, remained unaffected. The real question for consideration is whether the amendment of the Code in 1923 brought about such a radical change in the provisions of s. 162 of the Code as to suggest that the Legislature had taken a retrograde step, and had intended to deprive the accused of the right of cross-examination of prosecution witnesses concerning their police statements except in one restricted particular, namely, to make use of the statements reduced into writing to contradict the witnesses in the manner provided by s. 145 of the Indian Evidence Act. The provisions of s. 162 of the Code of 1898 were amended in 1923 in the hope that the amendment would resolve the various doubts which had sprung up as the

result of divergent judicial opinions as to the meaning of these Provisions. The provisions of s. 162 of the Code of 1898 had been variously construed, and the amendment in 1923 has not improved matters. The amended section still remains difficult to construe. We shall endeavour now to construe it.

Under s. 161 of the Code, the police officer may examine orally any person supposed to be acquainted with the facts and circumstances of the case. He may also reduce into writing any statement made to him in the course of such examination, and if he does so, he must make a separate record of the statement of each such person.

The legislature has, however, put restrictions upon the use of such statements at the inquiry or trial of the offence. The first restriction is that no statement made by any person to a police officer, if reduced into writing, be signed by the person making it. The intention behind the provision is easy to understand. The legislature probably thought that the making of statements by witnesses might be thwarted, if the witnesses were led to believe that because they had signed the statements they were bound by them, and that whether the statements were true or not, they must continue to stand by

them. The legislature next provides that a statement, however recorded, or any part of it shall not be used for any purpose (save as provided in the sections at the inquiry or trial in respect of any offence under investigation at the time such statement is wade. The object here is not easily discernible, but perhaps is to discourage over-zealous police officers who might otherwise exert themselves to improve the statements made before them. The Privy Council considered the intention to be: " If one had to guess at the intention of the legislature in framing a section in the words used, one would suppose that they had in mind to encourage the free disclosure of the information or to protect the person making the statement from a supposed unreliability of police testimony as to alleged statements or both."

It is possible that the legislature had also in mind that the use of statements made under the influence of the investigating agency might, unless restricted to a use for the benefit of the accused, result in considerable prejudice to him. But whatever the intention which led to the imposition of the restrictions, it is manifest that the statements, however recorded, cannot be used except to the extent allowed by the section. The

prohibition contained in the words "any purpose" is otherwise absolute. Then follow two provisos. The first gives the right to the accused to make use of the statements for contradicting a witness for the prosecution in the manner provided by Sec. 145 of the Indian Evidence Act. It also gives a right to the prosecution to use the statement for purposes of re-examination of the same witness but only to explain any matter referred to in the cross-examination of the witness. The first proviso, when analysed, gives the following ingredients:

(i) A prosecution, witness Is called for the prosecution;

(ii) whose statement has previously been reduced to writing;

(iii) The accused makes a request

(iv) The accused is furnished with a copy of the previous statement;

(v) In order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by s. 145 of the Indian Evidence Act.

If the accused exercises the right in (v) above in any instance, then the prosecution has the right to use the statement in the re-examination of the witness but only to explain any matters referred to by him in cross-

examination. Section 145 of the Indian Evidence Act reads:

Cross-examination as to previous statements in writing: A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved ; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it, which are to be used for the purpose of contradicting him."

The section analysed, gives the following result:

(1) Witnesses can be cross-examined as to previous statements in writing or reduced into writing;

(2) These writings need not be shown to the witnesses or proved beforehand;

(3) But if the intention is to contradict them by the writings,

(a) their attention must be drawn to those parts which are to be used for contradiction;

(b) This should be done before proving the writings.

Our learned brother, Subba Rao, J., restricts the use by the accused of the previous statements to the mechanism of contradiction as detailed in (3) above,

but says that the accused has no right to proceed under (1) and (2). He deduces this from the words of s. 162 of the Code of Criminal Procedure, where it is provided:

"in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872."

The fact that the accused can use the previous statement for the purpose of contradicting, shows that the previous statement cannot be used for corroborating the witness. Also, there must be some basis for contradicting. This may arise, because of there being a contrary statement, irreconcilable statement or even material omissions. The accused can establish a contradiction by cross-examining the witness but only so as to bring out a contradiction and no more. We regret we cannot agree (and we say this with pro- found respect) that the accused is not entitled to cross- examine but only to contradict. In our opinion, the reference to s. 145 of the Indian Evidence Act brings in the whole of the manner and machinery of s. 145 and not merely the second part. In this process, of course, the accused cannot go beyond s. 162 or ignore what the section prohibits but cross-examination

to establish a contradiction between one statement and another is certainly permissible. This question loses much of its importance when there are patent contradictions and they can be put to the witness without any cross-examination as in the two statements:

(a) I saw A hit B.

(b) I did not see A hit B. But there are complex situations where the contradiction is most vital and relevant but is not so patent., There are cases of omissions on a relevant and material point. Let us illustrate our meaning by giving two imaginary statements:

(a) When I arrived at the scene, I saw that X was running away, chased by A and B who caught him.

(b) When I arrived at the scene, I saw X take out a dagger from his pocket, stab D in his chest and then take to his heels.

He was chased by A and B who caught him.

There is an omission of two facts in the first statement, viz., (a) X took out a dagger from his pocket, and (b) he stabbed D in the chest. These two statements or their omission involve a contradiction as to the stage of the occurrence, when the observation of the witness began. What s.145 of the Indian Evidence Act provides is that

a witness may be contradicted by a statement reduced into writing and that is also the use to which the earlier statement can be put under s. 162 of the Code of Criminal Procedure. When some omissions occur, there is contradiction in one sense but not necessarily on a relevant matter. The statements of witnesses may and do comprise numerous facts and circumstances, and it happens that when they are asked to narrate their version over again, they omit some and add others. What use can be made of such omissions or additions is for the accused to decide, but it cannot be doubted that some of the omissions or additions may have a vital bearing upon the truth of the story given. We do not think that by enacting s. 162 in the words used, the legislature intended a prohibition of cross-examination to establish which of the two versions is an authentic one of the events as seen by the witness. The use of the words"

re-examination and "cross-examination" in the same proviso show that cross-examination is contemplated or in other words, that the manner of contradiction under s.145 of the Indian Evidence Act comprises both cross-examination and contradiction. Indeed, the second part is only the final stage of the contradiction, which includes the

earlier stages. Re-examination is only permissible where there is cross-examination. It must not be overlooked that the cross-examination must be directed to bringing out a contradiction between the statements and must not subserve any other purpose. If the cross-examination does anything else, it will be barred under s. 162, which permits the use of the earlier statement for contradicting a witness and nothing else.

The word " contradict " has various 'Meanings, and in the Oxford English Dictionary it is stated as " To be contrary to in effect, character, etc.; to be directly opposed to go counter to, go against "as also" to affirm the contrary of; to declare untrue or erroneous; to deny categorically" and the word "contradiction" to mean " A state or condition of opposition in things compared; variance; inconsistency, contrariety".

In Shorter Oxford English Dictionary, " contradict " is said to mean "To speak against; to oppose in speech; to forbid; to oppose; to affirm the contrary of; to declare untrue or erroneous; to deny to be contrary to go counter to and go against and "contradiction " to mean " A state of opposition in things compared; variance; inconsistency". The meaning

given to the words ,contradict " and " contradiction " in these Dictionaries must at least include the case of an omission in a previous statement which by implication amounts to contradiction and therefore such an omission is a matter which is covered by the first proviso to s. 162 and questions in cross. examination can be put with respect to it in over to contradict the witness. It is difficult to say as an inflexible rule that any other kind of omission cannot be put to a witness in order to contradict him, when the proper foundation had been laid for putting such questions. The words " to contradict him " appearing in s. 145 of the Evidence such witness " in s. 162 of the Code. In a civil suit Act must carry the same meaning as the words " to contradict, where the provisions of s. 162 of the Code of Criminal Procedure have no application, would it be correct to say that only questions concerning omissions of the kind suggested by our learned brother could be put and none other ? We cannot see why a question of the nature of cross-examination regarding an omission with respect to a matter which the witness omitted to make in his previous statement and which, if made, would. have been recorded, cannot be put. The facts and

circumstances of each case will determine whether any other kind of omission than that referred to by our learned brother could be put to a witness in order to contradict him. It would be for the Judge to decide in each case whether in the circumstances before him the question could be put. The purpose of cross-examination is to test the veracity of the statement made by a witness in his examination-in-chief as also to impeach his credit. Not only is it the right of the accused to shake the credit of a witness, but it is also the duty of the Court trying an accused to satisfy itself that the witnesses are reliable. It would be dangerous to lay down any hard and fast rule. We pause to look at the matter from another angle. We shall assume that the interpretation which the State claims should be put upon s. 162(1) is correct and compare the respective rights of the accused and the prosecution. According to this interpretation, the accused has no right of cross-examination in respect of the contradiction. This means that no question can be put about the previous statement but only the part in which there is a contradiction can be brought to the witness's notice and his explanation, if any, obtained. In other words, there is only " contradiction "

and no more. But when the accused has used the statement to contradict the witness-it may be only on one point-what are the rights of the prosecution? The prosecution can use any part of the statement in the re-examination not only to explain the I contradiction' but also to explain any matter referred to in the cross-examination of the witness. If I contradiction does not include the right of cross- examination, the right of the prosecution must necessarily extend to re-examination in respect of any other matter needing explanation in the cross-examination at large. Thus, the accused cannot ask a single question of the nature of cross-examination but because he sets up a I contradiction' in the narrow sense, the prosecution can range all over the previous statement and afford the witness a chance of explaining any matter in his cross-examination by re-examining him which right includes the possibility of asking leading questions with the permission of the Court.

62. In the aforesaid judgment, the Hon'ble Apex Court has clearly enumerated what amounts to contradictions and what amounts to omission and improvisation by explaining with illustration. Further it

is clearly held that just because there is some discrepancy in the evidence tendered when compared to the statement the same cannot be considered as contradiction or just because some of the incidents mentioned/narrated in the statement is deposed during the course of evidence, the same cannot be an omission. Further the authoritative judgment clearly mandates that a statement of witness may be contradicted by a statement reduced into writing and that is also the used to which earlier statement can be put under Sec.162 of Cr.P.C, in other words the attention of the witness is required to be drawn to the earlier statement and also the same is required to be confronted with that of the investigating officer. The evidence Act much less the provisions of section 145 to Section 157 of Indian Evidence Act cannot be read in isolation and the same is required to be considered by looking into broad spectrum of the case. The aforesaid aspects are to be juxtaposed with the facts of the case.

However, in the instant case, though during the course of argument it is submitted that there are discrepancies with respect to the year of alleged joining for work at Gannikada and also the statement of the victim in deposing about the year and date of marriage of her daughter, nothing was brought to her notice during the course of her evidence. Even otherwise it is also pointed out that the same should be considered with the deposition and evidence of other witnesses. In order to clarify the aforesaid aspect it is to be kept in mind that the statement recorded under section 161 of Cr.P.C or for that matter the statement recorded under section 164(5) of Cr.P.C cannot be considered as substantive piece of evidence and for the very said reason the legislatures in their wisdom had elaborately laid down the procedures commencing from section 145 of Indian Evidence Act and the manner in which the witness is required to be cross examined and the manner in which admission has to be obtained. In fact,

in the aforesaid authoritative judgment, it is explained that the previous statement may it be in the form of Sec 161 of Cr.P.C or in the form of Sec164 of Cr.P.C has to be brought to the notice of the witness. Further it is laid down that only to discredit the worthiness of the witness the same is required to be put to the witness and the answer elucidated is required to be confronted with that of the investigating officer. Unless the witness is confronted with the previous statement by bringing to their knowledge about the same, the question of considering the contradiction, omission will not be permissible. The statement of witnesses may and do compromise enormous facts and circumstances and it happens that when they are asked to narrate their version once again same omissions will be made and something else will be added. When the aforesaid aspect is considered in the wake of the evidence which has been tendered by the Court, it is crystal clear that the facts which are now argued to be contradictions

were not at all confronted to the witnesses during the course of cross examination. Even otherwise, if the submissions are accepted for the sake of arguments and the same is appreciated with the evidence, the minor discrepancies which are alleged otherwise cannot be considered as contradictions or omission in the above case.

- **CHAPTER-XI: WHAT AMOUNTS TO STERLING QUALITY EVIDENCE**:

63. As already discussed above, the law is well settled that the evidence of the victim/prosecutrix doesn't requires corroboration and even the court should not insist upon corroboration, unless the statement is not inspiring confidence. Normally it the rule that the victim/prosecutrix cannot be considered as an accomplice in the crime committed in matters pertaining to sexual offences, but at the same time, the Hon'ble Apex court has cautioned that the evidence which is tendered is of sterling quality. firstly, the

Court is required to consider whether the statement of victim can be considered by a sterling quality of evidence has been laid down by the Hon'ble Apex Court in (2012)8 SCC 21(Rai Sandeep V State (NCT of Delhi)) wherein the essential criteria for considering a witness as sterling witness is explained which is extracted for the sake of benefit which is as:

> ***22. In our considered opinion, the "sterling witness" should be of a very high quality and calibre 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 every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it 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.

27. In the decision reported as State of H.P. v. Asha Ram [(2005) 13 SCC 766 : (2006) 2 SCC (Cri) 296 : AIR 2006 SC 381] this Court highlighted the importance to be given to the testimony of the prosecutrix as under in para 5: (SCC p. 770)

"5. ... It is now a well-settled principle of law that conviction can be founded on the testimony of the prosecutrix alone unless there are compelling reasons for seeking corroboration. The evidence of a prosecutrix is more reliable than that of an injured witness. The testimony of the victim of sexual assault is vital, unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty in acting on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. It is also a well-settled principle of law that corroboration as a condition for judicial reliance on the

testimony of the prosecutrix is not a requirement of law but a guidance of prudence under the given circumstances. The evidence of the prosecutrix is more reliable than that of an injured witness. Even minor contradictions or insignificant discrepancies in the statement of the prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case."
(emphasis added)

64. When the ingredients of the above case are carefully appreciated, it itself indicates that the victim did appear before the Court and had explained in detail about the forcible sexual act which had taken-place on her. In the instant case, what could be looked into is that the victim is a poor labourer and also it is categorically admitted even by the defence that during the period 2017 onwards she has worked in the Farm House of Gannikada. The question with respect to the ownership of the Farm House is another aspect which will be dealt subsequently in the judgment. However, at this juncture, the materials which are produced before

the Court would indicate that she did work at Gannikada Farm House. When such being the case, the main aspect which is required to be considered is why a women would appear before the Court and depose that she was subjected to forcible sexual intercourse. The law is well settled that in such matters, how the same is required to be appreciated. In this regard, I have relied upon the judgment of the Hon'ble Apex Court reported in the case of (1996)2 SCC 384 (State of Punjab v Gurmit Singh) wherein it is held as:

> ***8. The grounds on which the trial court disbelieved the version of the prosecutrix are not at all sound. The findings recorded by the trial court rebel against realism and lose their sanctity and credibility. The court lost sight of the fact that the prosecutrix is a village girl. She was a student of Xth class. It was wholly irrelevant and immaterial whether she was ignorant of the difference between a Fiat, an Ambassador or a Master car. Again, the statement of the prosecutrix at the trial that she did not remember the colour of***

the car, though she had given the colour of the car in the FIR was of no material effect on the reliability of her testimony. No fault could also be found with the prosecution version on the ground that the prosecutrix had not raised an alarm while being abducted. The prosecutrix in her statement categorically asserted that as soon as she was pushed inside the car she was threatened by the accused to keep quiet and not to raise any alarm, otherwise she would be killed. Under these circumstances to discredit the prosecutrix for not raising an alarm while the car was passing through the bus adda is a travesty of justice. The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix. The trial court fell in

error for discrediting the testimony of the prosecutrix on that account. In our opinion, there was no delay in the lodging of the FIR either and if at all there was some delay, the same has not only been properly explained by the prosecution but in the facts and circumstances of the case was also natural. The courts cannot overlook the fact that in sexual offences delay in the lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family. It is only after giving it a cool thought that a complaint of sexual offence is generally lodged. The prosecution has explained that as soon as Tirlok Singh PW 6, father of the prosecutrix came to know from his wife, PW 7 about the incident he went to the village Sarpanch and complained to him. The Sarpanch of the village also got in touch with the Sarpanch of Village Pakhowal, where in the tubewell kotha of Ranjit Singh rape was committed, and an effort was made by the panchayats of the two villages to sit together and settle the matter. It was only when the Panchayats failed to provide any relief or render any justice

to the prosecutrix, that she and her family decided to report the matter to the police and before doing that naturally the father and mother of the prosecutrix discussed whether or not to lodge a report with the police in view of the repercussions it might have on the reputation and future prospects of the marriage etc. of their daughter. Tirlok Singh PW 6 truthfully admitted that he entered into consultation with his wife as to whether to lodge a report or not and the trial court appears to have misunderstood the reasons and justification for the consultation between Tirlok Singh and his wife when it found that the said circumstance had rendered the version of the prosecutrix doubtful. Her statement about the manner in which she was abducted and again left near the school in the early hours of next morning has a ring of truth. It appears that the trial court searched for contradictions and variations in the statement of the prosecutrix microscopically, so as to disbelieve her version. The observations of the trial court that the story of the prosecutrix that she was left near the examination centre next morning at about 6 a.m. was "not believable" as "the accused would be the last persons to extend sympathy to the prosecutrix" are not at all intelligible. The accused

were not showing "any sympathy" to the prosecutrix while driving her at 6.00 a.m. next morning to the place from where she had been abducted but on the other hand were removing her from the kotha of Ranjit Singh and leaving her near the examination centre so as to avoid being detected. The criticism by the trial court of the evidence of the prosecutrix as to why she did not complain to the lady teachers or to other girl students when she appeared for the examination at the centre and waited till she went home and narrated the occurrence to her mother is unjustified. The conduct of the prosecutrix in this regard appears to us to be most natural. The trial court overlooked that a girl, in a tradition-bound non-permissive society in India, would be extremely reluctant even to admit that any incident which is likely to reflect upon her chastity had occurred, being conscious of the danger of being ostracized by the society or being looked down by the society. Her not informing the teachers or her friends at the examination centre under the circumstances cannot detract from her reliability. In the normal course of human conduct, this unmarried minor girl, would not like to give publicity to the traumatic experience she had undergone and

would feel terribly embarrassed in relation to the incident to narrate it to her teachers and others overpowered by a feeling of shame and her natural inclination would be to avoid talking about it to anyone, lest the family name and honour is brought into controversy. Therefore, her informing her mother only on return to the parental house and no one else at the examination centre prior thereto is in accord with the natural human conduct of a female. The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons

which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great

weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable. In State of Maharashtra v. Chandraprakash Kewalchand Jain [(1990) 1 SCC 550 : 1990 SCC (Cri) 210] Ahmadi, J. (as the Lord Chief Justice then was) speaking for the Bench summarised the position

in the following words: (SCC p. 559, para 16)

"A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration

required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence."

65. Even in the aforesaid judgment the Hon'ble Apex Court had taken upon pain to explain in detail the manner in which the evidence is to be appreciated when the victim of the crime is rustic villager. In the case on hand at several instances, questions were asked with respect to the year in which she had joined the farm house at Gannikada and also several questions were asked that when she had left the job and also it was suggested that due to rampant spread

of corona virus she had left the job, for which she has only deposed that she cannot recollect the year due to her illiteracy and consistently she has deposed before the court by giving pictorial descriptions by mentioning the years and further the year of her daughter's marriage and also the year her son dropped out of the school is also described by her by stating that it had taken place about so many years back, which indeed indicates that she had deposed in normal manner and it cannot be suspected of having blemish or marred with un-naturality. That apart, I have also considered the cross-examination portion of the victim when it was directly asked to her that did, she show the place where she was residing at Gannikada Farm House to the Police. The victim has specifically deposed that she has not shown the place where she was residing but had only shown the place where she was residing. As such, it would also be worthwhile to look into the entire aspect of the cross-examination. Nowhere the

alleged incident has been denied nor any materials are produced before the Court to indicate that the victim was deposing falsely. As already discussed above, if for the sake of arguments, it is to be considered then what was the necessity for her to depose falsely against the accused person is not forthcoming. Though it is vehemently argued that a false case was foisted against the accused persons due to political rivalry, nowhere in her evidence it is suggested that she belonged to some other political party and in fact, the turn of events that had taken place just prior to the incident also indicate that the victim was falsely stated that she was involved in some criminal case during the elections and as such she was sent to a safe place with Sathish Babanna. Though the aforesaid aspect is denied categorically by the witness, the very same aspect resurfaces in the evidence of PW-2 Raju who is the son of the victim and also in the evidence of PW-3 Devaraj the son in law of the victim and they have consistently explained the

manner in which his mother was taken by Sathis Babanna just prior to elections and immediately after the election. Further the evidence of PW.4 Shymala would only fortify the case of the prosecution in this regard wherein she also deposes that the victim was brought to the house of Smt.Bhavani Revanna and in her presence, she was sent to some safe place. That apart, it is also suggested to the victim that she was using mobile phone when she was working at Gannikada Farm House, for that she has deposed that she was not using the same and later on her son-in-law after about one year she joined the Farm House, had got her a key paid mobile phone. At this juncture, the argument of the learned Senior Counsel is required to be appreciated. It is vehemently argued that as per Ex.D2 the CD, which was furnished by the Investigating Agency, along with the charge-sheet was confronted to the witnesses since it consisted of CAF (Customer Application Form Details), wherein the

victim had admitted of purchasing a Sim Card at Hebbala. Further it has been argued at length by displaying the said CD at Ex. D2 by the learned Senior Counsel that the Sim Card which was purchased was having a Geo Physical Tag which would clearly indicate that the victim had purchased the same at Zara Mobiles near Hebbala. Even otherwise, if the said aspect is appreciated with the evidence which has been placed before the Court with that of the suggestions that were put-forth, it would indicate that the victim had consistently deposed that she was using a mobile phone which was purchased after one year she joined the Farm House through her son-in-law. No doubt the Sim Card which was purchased stands in her name, but the question which was put to her was Mobile Phone. In normal parlance, she might have purchased a Sim Card at Mysuru or her native place, mere purchasing of Sim Card would not lead to infer that she had not stayed at Gannikada itself and rather she

was staying in her native place. Once again at the cost of repetition, the evidence which has been tendered by the victim is to be re-appreciated with that of the evidence of PW.2 Raju i.e., the son of the victim, PW.4 Smt.Shyamala, who is none other than the sister of the victim. As already pointed out in the earlier portion of my discussion, it would indicate that several suggestions were put-forth questioning that the victim's son had left Gannikada Farm House along with their parents. However, the victim's son PW.2 Raju has specifically deposed that he had dropped out of the school at 9th Standard and in his earlier evidence he has specifically deposed of joining the school at Gannikada and of studying there about 3 years. The evidence of victim also indicates that her son was aged about 8 to 9 years when they had joined the Gannikada Farm House which would only probabalize the case of prosecution that he was studying tat 5th Standard at this point of time. No doubt the Court

cannot fix the exact age and calculate the same through a mathematical calculation at this juncture since it is to be kept in mind that the victim and also her family members are illiterates or it may be termed as Neo-literates who only knows to affix their signatures. When the entire evidence is marshaled, it would lead to a conclusion that the victim was nowhere able to satisfy the year and she deposed about the marriage of daughter also by submitting that it has been taken place 4 to 5 years back and like-wise. Under these circumstances, the Court has to accept the basic contention of the victim and her situation that she is an illiterate lady and she could not remember the incident.

66. At this juncture, it would be worthwhile to appreciate another limb of arguments which is vehemently canvassed by the learned Senior Counsel. It is argued at length that there are lot of discrepancies in the evidence of victim. As already noticed, certain

minor discrepancies can be noticed in the evidence tendered by the victim. However, whether such minor discrepancies can be considered as the one which would go to the root of the prosecution is another aspect which is required to be appreciated. In this regard, the Court has relied upon the judgment of the Hon'ble Apex Court reported in **(1978)4 SCC 161 (Inder Singh and another Vs. The State),** wherein it has been held:

> ***2. Credibility of testimony, oral and circumstantial, depends considerably on a judicial evaluation of the totality, not isolated scrutiny. While it is necessary that proof beyond reasonable doubt should be adduced in all criminal cases, it is not necessary that it should be perfect. If a case is proved too perfectly, it is argued that it is artificial; if a case has some flaws, inevitable because human beings are prone to err, it is argued that it is too imperfect. One wonders whether in the meticulous hypersensitivity to eliminate a rare innocent from being punished, many guilty men must be callously allowed to escape. Proof beyond***

reasonable doubt is a guideline, not a fetish and guilty man cannot get away with it because truth suffers some infirmity when projected through human processes. Judicial quest for perfect proof often accounts for police presentation of fool-proof concoction. Why fake up? Because the court asks for manufacture to make truth look true? No, we must be realistic.

67. In the aforesaid Authority, the Hon'ble celebrated Justice Krishna Iyer speaking for the bench has quoted that if only the witnesses deposed flawlessly in a perfect manner the same would lead to draw inference that the same is artificial and mainly when the statement which was recorded under Sec.161 of Cr.P.C., is compared with the evidence led before the court, too much of perfection in the statement and evidence would have to be viewed cautiously. In other words, it is the view of the Hon'ble Apex Court that there has to be minor discrepancies, otherwise the same cannot be considered as the evidence having sterling quality. I have also bestowed my anxious

reading to the Authority which has been relied upon by the learned Senior Counsel with respect to the lacunas in the statement of witness which is reported in (2016)10 SCC 506 (Raja and others Vs. State of Karnataka) wherein it is held as:

> ***24. We have lent our anxious consideration to the materials on record as well as the competing arguments based thereon. Having regard to the charge levelled, the fulcrum of the prosecution case logically is the testimony of the prosecutrix. Undeniably, therefore, the credibility and trustworthiness of the victim's version is the decisive factor to adjudge the culpability of the appellants.***
>
> ***34. This Court in Raju [Raju v. State of M.P., (2008) 15 SCC 133 : (2009) 3 SCC (Cri) 751] , while reiterating that the evidence of the prosecutrix in cases of rape, molestation and other physical outrages is to be construed to be that of an injured witness so much so that no corroboration is necessary, ruled that an accused must also be protected against the possibility of false implication. It was underlined that the testimony of the victim in such cases,***

though commands great weight but the same, cannot necessarily be universally and mechanically accepted to be free in all circumstances from embellishment and exaggeration. It was ruled that the presumption of absence of consent of the victim, where sexual intercourse by the accused is proved as contemplated in Section 114-A of the Evidence Act, was extremely restricted in its application compared to the sweep and ambit of the presumption under Sections 113-A and 113-B of the Indian Evidence Act. It was exposited that insofar as the allegation of rape is concerned, the evidence of the prosecutrix must be examined as that of an injured witness whose presence at the spot is probable but it can never be presumed that her statement should always without exception, be taken as gospel truth. The essence of this verdict which has stood the test of time proclaims that though generally the testimony of a victim of rape or non-consensual physical assault ought to be accepted as true and unblemished, it would still be subject to judicial scrutiny lest a casual, routine and automatic acceptance thereof results in unwarranted conviction of the person charged.

68. The aforesaid judgment is required to be considered with the facts and circumstances of that case. In that case, the victim was alleged to be subjected to gang rape and the Court has observed the unusual behavior which was expressed by the victim immediately after the incident. Further it has been discussed in detail that for testimony belies the medical examination and also immediately after the incident she had not went away from the place of occurrence and stayed back in that place itself and later it was noticed that she behaved in an abnormal manner. Apart from that, the other witnesses turned hostile and even during the course of cross-examination a specific defence was taken-up by the defence when it was suggested and elicited by the victim herself that she had requested for financial help, which was turned down by the accused person and as such a case was projected against him. However, in the instant case, no such aspects are forthcoming. Under

these circumstances, the contention of having inconsistencies cannot be accepted. I have also bestowed my anxious reading to the other Authority which has been relied upon by the learned Counsel for the accused which is reported in **(2012)8 SCC 21 (Roy Sandeep Vs. State)** which is already discussed above and there cannot be qualms with respect to the ratio laid down in the said authority.

69. Even in the above case, on appreciating the evidence, the Hon'ble Apex Court had found that totally conflicting versions were tendered by the victim. Even otherwise there were no materials to indicate that she was a sterling quality witness. Once again in the aforesaid judgment, the Hon'ble Apex Court has explained what amounts to sterling witness is 'sterling witness' should be of a very high quality and caliber whose version should, therefore be unassailable. The Court at the time of considering the version of such witness should be in a position to accept it for its face

value without any hesitation. Apart from that, the Hon'ble Apex Court has also clarified the test for the quality of such witness is not the status of the witness but what would be relevant is the truthfulness of the statement made by her. The aforesaid aspect is required to be kept in mind at the time of adjudicating the case. Even in the instant case, the victim was a maid in the house of accused person and as could be seen it is a case which is filed by the victim against her own Master who is politically, economically and socially powerful and their status cannot be compared altogether. In other words, it is a fight which could be termed as ***David Vs. Goliath***. The Court is solely not considering the evidence of the victim alone, but for the purpose of corroboration, the evidence which has been tendered by PW.2 Raju, the victim's son-in-law, PW.3 Devaraju and her sister PW.4 Smt.Shyamala is also to be considered. As already discussed above, I am intentionally not dwelling upon the digital record for

the time being, which will be discussed in detail in the later part of the judgment. PW.2 Raju has specifically stated that he has studied till 9th Standard and after that he had stopped studying and it was suggested to him that he went with their parents to Hebbala, for which he has deposed that he accompanied his brother-in-law for work. It is relevant to note that he has specifically deposed that his parents had joined for work at Gannikada Farm House in the year 2017 which would once again corroborate with the evidence of PW.1 victim that she had joined the work about 8 years back. Further it was suggested to him during the course of his cross-examination that several labourers were working when they were residing in the said farm house. However, he has deposed that he cannot recollect their names and when it was suggested that the Farm House was standing in the name of Prakash, he has specifically deposed that he does not know about the same but they were working

in the Farm and there accused to visit and also it was also suggested to him that he used to leave to the work in morning and return back at 09.00 p.m. in the night which was admitted by the witness. If for a moment the evidence is juxtaposed with that the of the victim, it would indicate that he had studied at Government School at Gannikada and also the victim had joined the accused persons for work about 8 years back. That apart, when the evidence of PW.3 Devaraju is considered, he has deposed that the probable year of his marriage with the daughter of the victim was during 2020-21. Once again, the aforesaid aspect clearly corroborates with the evidence of the victim wherein, she has given a pictorial description that she had intended to get the marriage of her daughter celebrated and hence she had kept quite even at the time of first incident of forcible sexual intercourse committed on her. Apart from denying about the entire materials, nothing has been elicited or suggested to the

witness in the above cross-examination. I have also bestowed my anxious reading to the evidence of PW.4 Shyamala, during the course of her chief-examination had admitted the suggestion made to her that totally 3 workers by name Smt.Shobha, Smt.Lakshmi and another person was working in the house of Smt.Bhavani Revanna at Holenarasipura. If for a moment the aforesaid aspect is considered with the evidence of PW.1 victim, wherein she narrates that after the first incident at Gannikada and after days they were taken to the house of the accused Prajwal Revanna at Basavanagudi, Bengaluru for the purpose of cleaning and at that time they were accompanied by her sisters Smt.Shyamala, Smt.Shobha and Smt.Lakshmi. When the aforesaid names are clearly uttered by the victim and when it is categorically admitted that PW.4 Smt.Shyamala was also working in the house of Smt.Bhavani Revanna at Kamenahalli Farm House and also when there is a suggestion put-

forth to PW.4 Shayamala that it was not possible for them to converse with each other i.e., the victim and PW.4 Smt.Shayamla when they were working in their respective Farm House due to the problem from distance between the two Farm Houses, would only fortify the case of prosecution that the victim indeed was working at Gannikada farm house. Further, for the sake of clarification, the exact suggestion which has been made to the witnesses i.e., PW.4 Shyamala is extracted which reads as follows;

> ***"If it is suggested that I was unable to speak with my sister/victim when I was working at Kamenahalli Farm House as the distance between her place of work and the place of work at Gannikada required one hour to reach".***

70. The aforesaid suggestion itself would clearly indicate that the victim/PW.1 had worked at Gannikada Farm House. If the prosecution is able to establish the aforesaid fact, then the court must have justifiable reasons to disbelieve the aforesaid aspect.

No doubt, it is the bounden duty of the prosecution to prove their case beyond reasonable doubt. However, at the same time, the prosecution cannot be accepted to prove each and every aspect and the same ratio has been laid down by the Hon'ble Apex Court in (2000)8 SCC 382(State of West Bengal V Mir Mohammed Omar) wherein it has been held as:

> ***31. The pristine rule that the burden of proof is on the prosecution to prove the guilt of the accused should not be taken as a fossilised doctrine as though it admits no process of intelligent reasoning. The doctrine of presumption is not alien to the above rule, nor would it impair the temper of the rule. On the other hand, if the traditional rule relating to burden of proof of the prosecution is allowed to be wrapped in pedantic coverage, the offenders in serious offences would be the major beneficiaries and the society would be the casualty.***
>
> ***32. In this case, when the prosecution succeeded in establishing the afore-narrated circumstances, the court has to presume the existence of certain facts. Presumption is a course***

recognised by the law for the court to rely on in conditions such as this.

71. The aforesaid judgment aptly applies to the case on hand and in this regard, it would be worthwhile to recollect that the prosecution has established the fact that the PW-1 Victim had resided and worked at Gannikada farm house and also the same is corroborated from the evidence of PW-2 Raju the son of the victim, PW-3 Devaraju the Son-in-law and PW-4 Shyamala, her sister. When the above said aspect is once again considered with the evidence which has been placed before the Court, it would clearly indicate that the victim did work at Gannikada Farm House and hence the prosecution has established the aforesaid fact.

- **CHAPTER-XII: REGARDING OWNERSHIP OF FARM HOUSE:**

72. The other aspect which is required to be appreciated is the ownership of the Farm House. It is consistently submitted that the Farm House did not

belong to the accused Prajwal Revanna or his family members and instead it was standing in the name of one Prakash. It is relevant to note that in the evidence of victim, it has been elicited that during the election time she was afraid of being nabbed by the Police men as it is narrated that a criminal case was registered against her, for which the Police were looking out to arrest her. Hence, the evidence of PW.2 Raju also justifies that the victim had went with Sathish Babanna and later on during the evidence it is elucidated from the evidence of PW-4 Shyamala that one Sathish Babanna had brought PW-1 victim to the house of Bhavani Revanna where she was performing obsequies ceremony of her brother Prakash. It is relevant to note that it is elucidated from the evidence that Prakash is the very same person with respect to whom suggestions are made to the witnesses that the Farm House belonged to him. It is also relevant to note that the Farm House was subsequently purchased by

the elder brother of accused Mr.Sooraj Revanna on 27.10.2021, which is evidenced through the copy of the Sale Deed which the accused had furnished along with his written submissions filed under Sec.313(5) of Cr.P.C. For a moment the evidence which is placed by the prosecution in this regard to prove the ownership of the farm house is required to be appreciated. The prosecution in order to prove the aforesaid aspects has produced documents at Ex. P124. As per the said document which were collectively marked through the Investigating Officer Smt.Shobha, it would indicate that she had collected materials from the Revenue Authorities. It is pertinent to note that she had raised certain questionaries in her letter dated 12.06.2024, which was addressed to the Tahasildar, Holenarasipura Taluk, wherein she had specifically enquired that whether any Farm House was in existence in the year 2021 and if so, to produce necessary documents. It is relevant to note that the

concerned Authorities have furnished a Report stating that in the year 2021, a Farm House was in existence which was having a RCC building and for construction of the same they had obtained necessary permission from Moodalahippe Village Panchayath and also they have explained that the individual building was in the name of one H.E Ravichandra who had sold the same in favour of N.S.Prakash. The learned Counsel for the accused has vehemently argued that the Sale Deed of Prakash when considered would indicate that the building did not consist of more than one floor and also the schedule which was mentioned in the Sale Deed also did not indicate of any labour quarters being constructed. If for a moment, the aforesaid aspect is to be accepted, then it would be appropriate to juxtapose the same with the evidence of PW.26 Smt.Shobha. It is noticed from records that during her cross-examination, nothing much was elucidated from her apart from denial. In fact, she was the best witness to

narrate about all the incident since it has to be borne in mind that none of the Revenue Authorities were examined by the prosecution and also the documents which were collected from the Revenue Authorities were collectively marked. The record also consists of the Report of Revenue Inspector, wherein he has also narrated that since from 2015, as per the statement of villagers it was in the possession of Sooraj Revanna and later on he has purchased the same. No doubt, the sketch has been produced from the Village Panchayath which does indicate of a building being constructed. I have also bestowed my anxious reading to the Sale Deed which would indicate that H.S.Prakash of Saligrama Village purchasing the same on 23.11.2015. Even in the Sale Deed, it has been mentioned that a concrete ceiling RCC House was in existence in the Farm House. Along with the same, the statement of the villagers has also been recorded which has been marked. Now the question which assumes importance

at this juncture is whether the production of document would be suffice to hold that the document has been proved. The learned Counsel for the accused has relied upon the judgment of the Hon'ble Apex Court reported in (2011)2 SCC 385 (Alamelu Vs. State), wherein it has been held as:

> ***43. The same proposition of law is reiterated by this Court in Narbada Devi Gupta v. Birendra Kumar Jaiswal [(2003) 8 SCC 745] where this Court observed as follows: (SCC p. 751, para 16)***
>
> ***"16. ... The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence, that is, by the 'evidence of those persons who can vouchsafe for the truth of the facts in issue'."***

73. In the aforesaid judgment, the Hon'ble Apex Court has relied upon its earlier judgment and has discussed that mere marking of a document cannot dispense with its proof. In order to better appreciate the same, it would be appropriate to consider the

concept of marking of documents along with the testimony which is in the form of statement recorded during the course of investigation. In this regard, with respect to the proof of documents, the law is well laid down by the judgment of the Hon'ble Apex Court in **1962 SCC Online SC 202 (Baleshwar Rai @ Nepali Master Vs. State of Bihar)**, which is a judgment rendered by a larger Bench of Hon'ble Apex Court, wherein it has been held as:

> ***10. It is then contended that Ex. 6 is hit by Section 162 of the Criminal Procedure Code because it was received by the Sub-Inspector during the course of the investigation. Section 162 of the Criminal Procedure Code only bars proof of statements made to an investigating officer during the course of investigation. Section 162 does not say that every statement made during the period of investigation is barred from being proved in evidence. For a statement to come within the purview of Section 162, it must not merely be made during the period of investigating but also in the course of investigation. The***

two things, that, is, "the period of investigation" and "course of investigation" are not synonymous. Section 162 is aimed at statements recorded by a police officer while investigating into an offince. This is clear from the opening words of Section 162. They speak only of statements made to a police officer during the course of investigation. This implies that the statement sought to be excluded from evidence must be ascribable to the enquiry conducted by the investigating officer and not one which is de hors the enquiry. A communication like Ex. 6 will not fall within the ambit of such statements. In this view we hold that the document in question is not hit by Section 162 of the Criminal Procedure Code and the High Court was right in admitting it in evidence.

74. Even in the aforesaid case, a letter was received by the Investigating Officer, wherein certain averments were made against the accused persons and later on the letter was sent to handwriting expert and he had vouchsafed its veracity and the portion of the statement was marked during evidence and later on

the Hon'ble Court had held that that said portion of the statement was admissible for the purpose of corroboration of motive. Even in the instant case, the same ratio can be applied, since in the instant case certain documents are summoned and also the report of the Revenue authorities is summoned and they are marked through the investigating officer and it would indicate that the same was admitted into evidence without any objection from the other side. Further in another judgment of the Hon'ble Apex Court reported in (2004)7 SCC 107 (Dayamathi Bai V K M Shaffi) it has been held that if no objections are raised at the time of marking of the document, subsequently no qualms can be raised with respect to its admissibility. For the sake of profit the extract from the aforesaid judgment is extracted which reads as:

> ***14. To the same effect is the judgment of the Privy Council in the case of Gopal Das v. Thakurji [AIR 1943 PC 83 : 47 CWN 607] in which it has been held that when***

> ***the objection to the mode of proof is not taken, the party cannot lie by until the case comes before a court of appeal and then complain for the first time of the mode of proof. That when the objection to be taken is not that the document is in itself inadmissible but that the mode of proof was irregular, it is essential that the objection should be taken at the trial before the document is marked as an exhibit and admitted to the record. Similarly, in Sarkar on Evidence, 15th Edn., p. 1084, it has been stated that where copies of the documents are admitted without objection in the trial court, no objection to their admissibility can be taken afterwards in the court of appeal. When a party gives in evidence a certified copy, without proving the circumstances entitling him to give secondary evidence, objection must be taken at the time of admission and such objection will not be allowed at a later stage.***

75. Though the Hon'ble Apex court had laid down the ratio in a civil case, the same is applicable in the instant case also since report was called from Revenue authorities, which consisted of proof. Though it is argued that the mere marking would not be suffice

to prove the contents, the Investigating officer had produced the same and through her who had summoned the records the said report came to be marked and if there existed any serious dispute over the same, the parties were at liberty to question about its veracity in the cross examination. Without raising any qualms over the same during the course of cross examination, disputing the veracity at arguments is not justifiable. The Hon'ble Apex court had mainly laid down the ratio keeping in mind with respect to admissibility of documents or in other words where the question of insufficiently stamped or otherwise admissible documents were introduced the ratio was laid down that mere marking of document would not amount to admitting the document. Even otherwise the question which arise for consideration is whether the same can be looked into by the Court as it was hit by Sec.162 of Cr.P.C. The Hon'ble Apex Court by appreciating the same has held that Sec.162 of Cr.P.C.,

does not say that every statement made during the period of investigation is barred from being proved as evidence. Further the Hon'ble Apex Court has held in the judgment referred about that "period of investigation" and "course of investigation" are not synonymous. Sec.162 is aimed at statements recorded by a Police Officer while investigating into an offence. This is clear from the opening words of Sec.162. They speak only of statement made to a police officer during the course of investigation. This implies that the statement sought to be excluded from evidence must be ascribable to the enquiry conducted by the investigating office and not one which is de-hors the enquiry. Lastly it is important to note that the court cannot strictly apply the principles relevant to document for the reason that the title of the parties is not being adjudicated and the court is only looking into the document as ancillary document to ascertain

whether the accused and their family members used to visit Gannikada farm house or not.

76. It is also to be ascertained from the aforesaid aspect that certain materials were not disputed by the other side at the time of marking the documents. No doubt the Court cannot give undue advantage or weightage to the same. As it is a settled principle of law that mere marking of document dispenses the necessity of proving the document. Often used adage that marking of a document is only a ministerial act and admitting a document is a judicial act is required to be looked into. As could be noticed from the materials which were produced during the course of evidence, the documents which were produced was not disputed to be marked. I have also bestowed my anxious reading to the cross-examination of PW.26 Smt.Shobha. No where during her cross-examination it was suggested that the aforesaid statements were of concocted or created to suit their

needs or none of the villagers have given such a statement. If for a moment the documents which are produced are excluded and if only the oral testimony which has been produced before the Court is to be accepted, then the undisputed fact which would emerge that the victim had worked at Gannikada Farm House and also house at Basavanagudi by name 'Shivasmitha' situated at Ranoji Rao Road belonged to the sister of H.D.Revanna, who is none other than the father of Prajwal Revanna. It is not much disputed with respect to the ownership of Basavanagudi House at Bengaluru but a serious dispute has been raised with respect to the ownership of Gannikada Farm House. As could be noticed from the entire materials, both the houses were standing in the name of some of the family members and there is a categorical admission that the victim was working at Gannikada Farm House. Further, the evidence of PW.15 R.Kumar, Head Constable who was posted to guard the residence of

H.D.Revanna clearly deposed that the victim was also called for cleaning purpose whenever the functions were being celebrated in their house at Holenarasipura and it is his evidence that she was to be called from Gannikada Farm House, wherein people used to speak that the same belonged to H.D.Revanna. During the course of cross-examination, it was suggested that the Farm House belonged to Prakash, which has been denied by the witness. Apart from that, there was no much suggestions put-forth to him that he was deposing falsely. Now, the ultimate question which remains to be explained that whey witness deposed falsely against the accused person. In normal parlance no person will be entertaining a grudge against the accused person unless it is suggested. In the entire evidence which is placed before the Court, it is not to be seen that the accused had suggested even slightest evidence to indicate the reason for deposing falsely and foisting a false case against the accused by the victim

that too the victim making allegations of ravishment consistently by the accused person.

77. Further, I have also bestowed my anxious reading to the documents at Ex. P.124 with the evidence which is available on record. PW.4 Smt.Shyamala has deposed to a suggestion that the Gannikada Farm House belongs to Prakash Anna, wherein she has stated that she does not know the same and in fact it belongs to H.D.Revanna. If the statements of villagers are considered with that of the mahazar, which is part and parcel of the mahazar, it would only lend assurance to the case of prosecution and supports the evidence of PW.4 Smt.Shyamala. That apart, I have also appreciated the evidence of PW.10 Karthik, who was the Driver of accused person. He in his evidence has specifically deposed that the accused Prajwal Revanna used to visit Gannikada Farm House and further during the course of cross-examination nothing much was elucidated by him to

disbelieve the same. Further during the course of cross-examination of PW.10 Karthik, it was suggested that H.D.Revanna and Bhavani Revanna were having house at Holenarasipura and also having house at Basavangudi, Bengaluru, the witness had admitted the same and has deposed that he was having another house at Gannikada. It was further suggested to the witness that Gannikada Farm House was standing in the name of Mr.Prakash and not in the name of Bhavani Revanna, H.D.Revanna, Sooraj Revanna or Prajwal Revanna, the witness has deposed that he does not know in whose name it was standing but it was being used by Prajwal Revanna. The underlining aspect which is required to be looked into is that the accused is not entirely denying the fact of his visit to Gannikada Farm House, but it was suggested that it was standing in the name of Prakash. As could be noticed from the records, even the house at Basavanagudi, Bengaluru was standing in the name of the sister of H.D.Revanna

i.e., by name Smt Shyla Chandrashekar. As such, a parlance can be drawn that even the house at Gannikada though was not standing in the name of family members of the accused persons, they were using the said Farm House. During the further cross-examination it was suggested that the Gannikada Farm House was purchased by Sooraj Revanna on 27.10.2021, the witness had feigned his ignorance about the same and also, he has admitted the suggestion that H.D.Revanna was having a Farm House at Kamenahalli village. Once again, the aforesaid evidence is required to be appreciated with the evidence of PW.1/victim and that of PW.4 Smt.Shyamala, wherein at several instances it was suggested to the victim and her sister that they were unable to converse with each other as the distance between the Farm House at Gannikada and the Farm House at Kamenahalli was very far. That apart, PW.1 has consistently deposed and also PW.4 Smt.Shyamala

has deposed that initially they were together at Gannikada Farm House and later on PW.4 Smt.Shyamala was shifted to the Farm House at Kamenahalli. That apart, during the course of cross-examination of PW.10 it was suggested that the Farm House at Kamenahalli was being visited by H.D.Revanna, Smt.Bhavani Revanna, Sooraj Revanna and also accused Prajwal Revanna, he has admitted the same. Further he has also admitted the suggestion that Prajwal Revanna used to be accompanied by his Gunman and Personal Assistant whenever they used to visit and witness has further clarified that they used to accompany him only during his official visits. If for a moment the evidence of PW.4 Shyamala is juxtaposed with that of the evidence of PW.2 Raju, consistently the evidence which has been brought before the Court indicates that the Gannikada Farm House was being used by accused Prajwal Revanna even though it might have been standing in the name of the brother of

Smt.Bhavani Revanna i.e., Mr.Prakash. With this material evidence when the Authority mentioned above of the Hon'ble Apex Court is considered, the unerring inference which could be drawn is that the Farm House belonged to the family members of the accused person or at least the farm house was being used by them. The main aspect which is required to be considered is the court is not considering the case to determine the ownership of the farm house but to ascertain whether any incident had taken place in the aforesaid farm house. Interestingly, the very same Farm House was subsequently purchased by the elder brother of accused Prajwal Revanna on 27.10.2021. With respect to the pleadings which were in existence, the learned Special Public Prosecutor Sri.Jagadish B.N., at the time of his arguments has produced the Geo Political Map google map, which would indicate of the structures which were in existence from 2017 to 2021. It is his evidence that if only that the accused

can be permitted to rely upon the Geo Political Map as mentioned in CAF at Ex D.2, which were produced by the victim to purchase the Sim Cards and if on that basis if arguments could be placed that she was residing at Hebbala at that point of time, then why not the same Geo Political Map which is an authenticated document has to be ignored.

78. Further it is relevant to note that Google Maps are reliable only to the limited extent and it does require corroboration. For the sake of benefit the provisions of section 83 of the Indian Evidence Act is extracted which reads as:

> ***83. Presumption as to maps or plans made by authority of Government. The Court shall presume that maps or plans purporting to be made by authority of [the Central Government or any State Government] [The original word "Government" has successively been amended by A.O. 1937, A.O. 1948, Act 40 of 1949 and A.O. 1950 to read as above.] were so made, and are accurate; but maps or plans made for the***

purposes of any cause must be proved to be accurate.

79. Further at this juncture it would be appropriate to consider the aforesaid provision with section 36 of the Indian Evidence Act which is extracted for the sake of benefit as:

36. Relevancy of statements in maps, charts and plans: Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of [the Central Government or any State Government] [Substituted by A.O. 1948, for "any Government in British India".]***, as to matters usually represented or stated in such maps, charts or plans are themselves relevant facts.***

80. The difference between private maps and also the maps published by the State was considered by the Hon'ble High Court of Calcutta in the judgment rendered in **AIR 1953 CAL 253 (Kedarnath Bhattacharjee V Mahendranath Kundu)** wherein it is held as:

9. The distinction between public and private-maps is well settled. Section 36, Evidence Act, provides for the admissibility of published maps or charts generally offered for public sale or maps or plans made under the authority of the Government. Section 83 of the same Act raises a presumption as to the accuracy of maps or planet purporting to have been made under the authority of Government. Maps made for the purpose of any cause must be proved to be accurate.

10. The Courts have proceeded so far as to lay down that when maps are prepared by a Government Officer for the purpose of settlement of land they are admissible in evidence under Sections 36 and 83, Evidence Act; but they are maps the accuracy of which must be proved before they can be admitted in evidence (Kanto Prashad Hazra, v. Jagat Chandra Dutta, 23 Cal. 335.)

11. The maps in question in the present case are private maps and if the above test has to be applied it will have to be held that they have not been proved. The maps, if they had stood by themselves, there cannot be any doubt that until their accuracy was proved they could not be taken into evidence.

81. The aforesaid authority only indicates that if the accuracy of the maps is proved by themselves then the same may be accepted or otherwise the same cannot be looked into. In order to better appreciate the same, the court has relied upon the judgment of the Hon'ble Apex Court reported in (2024) 8 SCC 415 (Frank Vitus V Narcotic Control Bureau) wherein it is held as:

> ***13. Firstly, we will deal with the issue of the condition of dropping a pin on Google Maps. The condition imposed on the appellant of dropping a pin on Google Maps gives an impression that the condition will enable the first respondent Narcotics Control Bureau (NCB) to monitor the movements of the accused on a real-time basis, which will be violative of the right to privacy guaranteed under Article 21 of the Constitution of India.***
>
> ***14. To understand the technical aspects of "dropping a pin on Google Maps", we issued a notice to Google LLC, having its office in the USA. Accordingly, Shri R. Suresh Babu, authorised signatory of Google LLC, has filed an affidavit. Paras 5 to 10 of his affidavit read thus:***

"5. Google Maps is a web and app-based service that enables users to search for and navigate to local places. It inter alia offers real-time traffic conditions, and route planning for travelling by foot, car, bike, air, and public transportation. Google Maps can be accessed through the Google Maps application available on mobiles or through a web browser at www.google.com/maps.

6. One of the features available to users on Google Maps is the ability of users to drop a "pin" on a location of their choosing on the map. Dropping a pin, allows the user to mark or identify a location on the map without necessarily requiring access to the user's location data. Users may drop a pin either on the mobile application or on the web browser. To drop a pin, a user may either:

(a) press and hold the desired location where the pin is to be dropped on the map on the mobile application; or

(b) click on the desired location on the map on a web browser.

7. Upon dropping the pin, the user dropping the pin can identify the specific coordinates of the location on the map. Through the Google Maps app or through a web browser, the user dropping the pin may opt to get

directions to the location, mark the location with a label, add a business address to the location, or share the location with another user.

8. The pin identifies and marks a specific location of the user's choosing on Google Maps. The pin need not be dropped at the location where the user/the user's device is located at the time of sharing the pin. The pin dropped and shared need not be the real-time location of the user sharing the pin.

9. Google Maps allows users to share information, such as the pin, with third parties. This is explained in Google's privacy policy, which is available at https:policies.google.com/privacy? hI=en-US, and shares as follows:"Many of our services let you share information with other people, and you have control over how you share [emphasis supplied]". Users consent to the privacy policy when they create a Google Account. In this case, if a user wants to share a pin, they can do so by clicking on the "share" button. This generates a link to Google Maps that the user can share with others through messaging platforms or other modes of online communication. When clicked, the link directs users (having access to the link) to the location where the pin was dropped on the map.

10. The Google Maps pin feature, which includes the creation of a pin or the sharing of such a pin with another user, does not impinge on the user's privacy as the user has full control over sharing of such information. The user with access to the link can only access the static location pinned and shared on Google Maps. The pinned location does not enable real-time tracking of the user or their device. Even if the pin were to coincide with a user's location at a given time, this would (a) be the static location pinned by the user; and (b) only be accessible to others when a user affirmatively shares the pin with them by clicking on the share button."
(emphasis added)

15. In Para 10 of the affidavit, Google LLC stated that the user has full control over sharing pins with other users. Moreover, it does not impinge on the user's privacy, as the user retains full control. Most importantly, it is stated that the pin location does not enable real-time tracking of the user or the user's device. Therefore, the condition of the accused dropping a pin on Google Maps, as it stands, is completely redundant as the same does not help the first respondent.

82. In the aforesaid judgment the Hon'ble Apex Court was considering the relevancy of imposing of condition in a bail order by Hon'ble High court with respect to furnishing google pin with respect to the location of the accused, the court has relied upon the aforesaid judgment only to ascertain how the maps would be procured by the Google. In that case the Hon'ble Apex Court had issued notice to Google and had obtained details. Now in the instant case, the court is not solely relying upon the google map since it is not marked in the course of evidence, but only looking into for limited extent. In the instant case, the map which has been produced would indicate that in the year 2018-19 and also in the year 2020-21, a double storied building was in existence which was later on demolished as per the subsequent Gannikada map which has been produced. How the Court has to believe the same is the next aspect which is required to be considered. Google map which is produced consists

of latitude and longitude which is mentioned in that and as per Ex. P2 Mahazar for instance is 12.836688 and 76.351312 respectively. Further, as per Ex. P15 Mahazar, which is Search and Seizure Mahazar, which was also drawn at Gannikada Farm House indicates of the very same latitude and longitude and when it is juxtaposed with the present Google Map, the same latitude and longitude is formed. Under these circumstances, the contention of the accused person that no building was in existence as suggested by them does not holds water. It is very much made clear that the Court is not entirely relying upon the digital records nor the suggestions which are being made by the accused persons, but the Court is only appreciating the materials which has been produced by the accused and verifying the same with the materials available on record. The learned Senior Counsel appearing for the accused has vehemently argued that the suggestions put to the witness by the defence

cannot be taken as admission. In order to better appreciate the same, the Authority which is relied upon is reported in ***(2023)13 SCC 365 (Balu Khalde Sudam Vs. State of Maharashtra)***, which is discussed supra is to be appreciated. By relying upon the aforesaid Authority, the learned Counsel for the accused has vehemently argued that it is the cardinal principle of criminal justice that it is bounden duty of the prosecution to establish their case beyond reasonable doubt and especially the suggestions put-forth by them cannot be taken as admission. Further, she has argued at length that the accused can take more than one defence. It would be appropriate to consider the aforesaid judgment in its entirety. In the very same judgment, the Hon'ble Apex Court has also held that any concession or admission of a fact by a defence counsel would definitely be binding on his client, except the concession on the point of law. Further in the very same judgment, the Hon'ble Apex

Court has taken pains to explain the distinction which is available under Sec.137 and 132 of the Evidence Act. With respect to the same, the Hon'ble Apex Court has held that the same has got a binding effect if the suggestion is made by the defence in case of plain denial in rape cases and when the accused pleads right of private defence. Further the Hon'ble Apex Court has held, if a specific question is put to a witness by way of suggestion indicative of exercising of right of private defence, then the Court would be justified in taking into consideration such suggestion and if the presence of the accused is established, the same would be definitely be admissible evidence. Further in the aforesaid Authority, the Hon'ble Apex Court has explained the situation that if the defence in the cross examination of the prosecutrix, with a view to support their alternative case of consent procure answers to the questions in the form of suggestions implicating the accused for the offence of rape, then such suggestions

would definitely lend assurance to the prosecution and also the Hon'ble Apex Court has given one more explanation wherein the accused in order to plead his right of private defence, if any suggestions or questions are put forth, such questions can be considered. However, when the suggestions which are put forth in the above case are carefully appreciated and juxtaposed with the present situation, the contentions urged by the learned Senior Counsel does not holds water. Further in another judgment reported by the Hon'ble Apex Court in **(1989) SCC Online MP 57 (Sakariya Vs. State of MP)**, wherein some ratio has been held. That apart, what can be distinguished in the said Authority is that if a suggestion is put to the prosecution witnesses during the course of cross-examination, it cannot be used as implied admission and plea of guilty, pleaded by an accused which can relieve the prosecution of its burden of proof. There is no second thought about the ratio laid down in the

said Authority. Any suggestions will not dispense the prosecution of proving their case beyond reasonable doubt. The Court is taking pains to ascertain all the aforesaid aspects only to arrive at a conclusion that whether the evidence of victim can be construed as that of a sterling quality as it has been laid down in ***(2008)3 SCC 775 (Gobarbhai Naranbhai Singhala Vs. State of Gujrath and others)***, which is discussed supra.

83. The aforesaid Authority would clearly indicate the manner in which the Court can appreciate the evidence which is of sterling quality. The suggestions which are put-forth to the witnesses is only examined for a limited extent to consider the case of prosecution in its entirety. The appreciation of evidence does not mean that only chief-examination is to be looked into eschewing the cross-examination, but in fact the chief-examination and cross-examination both are required to be juxtaposed and considered to arrive at a just conclusion. Only then the true facts can

be ascertained. As such, the contention which is urged by the accused does not holds water and hence it is to be accepted that the prosecution has proved their contention with respect to the accused person visiting Ghanikada Farm.

➢ CHAPTER-XIII: CONCEPT OF RES GESTAE AND APPRECIATION OF EVIDENCE:

84. In the instant case, it is noticed that all other witnesses except the victim cannot be considered as direct witness and all of them either speak about the circumstances or in directly about the fact in issue. It is true that in matters pertaining to sexual assault or offences, there cannot be another eyewitness to the case. Under the circumstances, the provisions of Secs.6 to 8 of Indian Evidence Act has to be looked into. The provisions terms as 'Res gestae' is to be looked into which indicates that the evidence otherwise which is considered as hearsay can be looked into for the purpose of proving the sexual offences. The

provisions of Section 6 and Section 8 of the Indian Evidence Act is herewith extracted for benefit, which reads as:

> ***Section 6. Relevancy of facts forming part of same transaction.- Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places. Illustrations (a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.***
>
> ***Section 8: – ".....Conduct of an accused must have nexus with the crime committed. It must form part of the evidence as regards his conduct either preceding, during or after the commission of the offence as envisaged under Section 8 of the Evidence Act...."-***

85. As per the Indian Evidence Act the hearsay evidence cannot be appreciated. However, there are exceptions to the same which has been enumerated and cited in the **Criminal Evidence (5th Edition) of**

Richard May and Steven Powles, wherein the rule is explained as;

> ***"8-03 Hearsay distinguished from "original evidence"Hearsay evidence should also be distinguished from "original evidence". Original evidence of a statement is admissible, not to prove that a statement is true, but to prove that it was made. The following are examples of original evidence.***
>
> ***8-04 (1) A statement as a fact in issue- A statement may be admissible because it is itself a fact in issue, for example words of provocation when provocation is the defence to a murder charge or threatening abusive or insulting words in a case under s.4 of the Public Order Act 1986. Thus, in Chapman (1969) 2 Q.B. 436 the issue was whether or not a doctor had objected to a breath specimen being taken from the defendant, and it was held that a police officer could give evidence to that effect."***

86. Any fact which shows or constitutes the motive or the preparation for any fact in issue or relevant fact, is a relevant fact and admissible as such. It is to be appreciated that Sections 6 to 8 of the Indian Evidence Act, 1872 are evidence res gestae which are exceptions to the rule of hearsay. It is to be appreciated

that the evidence of previous relationship as well as background evidence are also admissible under the exception to the hearsay evidence rule. The relevant extracts from **Phipson on Evidence (16th Edition)**; Sections 6 to 8 of the Indian Evidence Act, 1872 are placed in Chapter II titled "Relevancy of facts". The relevant extracts thereof read as follows: -

> ***"6. Relevancy of facts forming part of same transaction. - Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.***
>
> ***Illustrations***
> ***(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.***
>
> ***7. Facts which are occasion, cause or effect of facts in issue. - Facts which are the occasion, cause, or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.***

8. Motive, preparation and previous or subsequent conduct. - Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact. The conduct of any party, or of any agent to any party, or any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Explanation 1. - The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2. - When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

Illustrations
(j) The question is, whether A was ravished.

87. The facts which would otherwise not relevant would become relevant under certain circumstances and in particularly the facts which had

taken-place shortly after the alleged rape, complaint with respect to the crime being filed, the circumstances under which, and the terms in which the complaint was made, would become relevant. The facts that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under Section 32 of Indian Evidence Act or as corroborative evidence under Section 157. Though the stated law is capable of encompassing previous relationship cases, it extends well beyond them. Clearly, evidence about the parties' relationship before the date of the offence could be described as part of the background of history. Phipson has narrated in Chapter 31 that 'res gestae' is a Latin phrase without an exact English translation. The expression is used in the common law to refer to "***the events at issue or others contemporaneous with them***". Evidence of motive would fall in the category of what is known as

'previous relationship' as also as 'background evidence' which are evidence res gestae and has been treated as exceptions to the bar against hearsay evidence, hence the same is to be considered as admissible. It has been said that the section embodies, in a statutory form, the rule of evidence that the testimony of res gestae is always allowable when it goes to the root of the matter concerning the commission of the crime. In this regard it would be appropriate to rely upon the authority of the Hon'ble Apex Court reported in **(1996) SCC 241 (Gentela Vijayavardhan Rao V State of A.P)** wherein it is held as:

> ***15. The principle of law embodied in Section 6 of the Evidence Act is usually known as the rule of res gestae recognised in English law. The essence of the doctrine is that a fact which, though not in issue, is so connected with the fact in issue "as to form part of the same transaction" becomes relevant by itself. This rule is, roughly speaking, an exception to the general rule that hearsay evidence is not admissible. The rationale in making certain statement or fact admissible under Section 6 of the Evidence Act is on account of the spontaneity and***

immediacy of such statement or fact in relation to the fact in issue. But it is necessary that such fact or statement must be a part of the same transaction. In other words, such statement must have been made contemporaneous with the acts which constitute the offence or at least immediately thereafter. But if there was an interval, however slight it may be, which was sufficient enough for fabrication then the statement is not part of res gestae. In R. v. Lillyman [(1896) 2 QB 167: (1895-99) All ER Rep 586] a statement made by a raped woman after the ravishment was held to be not part of the res gestae on account of some interval of time lapsing between the act of rape and the making of the statement. Privy Council while considering the extent up to which this rule of res gestae can be allowed as an exemption to the inhibition against hearsay evidence, has observed in Teper v. R. [(1952) 2 All ER 447] thus: "The rule that in criminal trial hearsay evidence is admissible if it forms part of the res gestae is based on the propositions that the human utterance is both a fact and a means of communication and that human action may be so interwoven with words that the significance of the action cannot be understood without the correlative words and the dissociation of the words from the action would impede the discovery of the truth. It is essential that the words sought to be proved by hearsay should be, if not absolutely contemporaneous with the action or event, at least so clearly associated with it that they are part of the thing being done, and so an item or

part of the real evidence and not merely a reported statement."
The correct legal position stated above needs no further elucidation.

88. The aforesaid provisions are to be appreciated with the facts of the case. It is noticed from the records that during the course of chief-examination of PW.1, the victim, had deposed that immediately after the incident of forcible sexual intercourse at Basavanagudi, Bengaluru, she was keeping dull and was not in a position to disclose about the same. Further in her chief-examination she had deposed that she started to weep when she returned back to her room in the first floor. The evidence which is placed on record also indicates that her sister PW.4 Shyamala who had accompanied her had also enquired in this regard by noticing the victim crying profusely, for which she had narrated that she was suffering from head ache. The aforesaid aspect assumes importance when the same is appreciated with the evidence of PW.4 Shyamala. PW.4 Shyamala in her chief-

examination has specifically deposed that on the third day of their visit to Bengaluru house at Basavanagudi, her sister after completing her work in the upstairs of the house was keeping dull and on enquired by her, the victim had stated that she was having head ache and was silently uttering that they cannot do anything. Though in normal parlance the aforesaid aspect of noticing by PW.4 Shyamala of the victim silently crying and also uttering that they cannot do anything may not have much impact, but for the invocation of the provision of res gestae, it would become relevant because of the fact of the behaviour of the victim immediately after the incident. It is also relevant to note the evidence of PW.2 Raju who is none other than the son of the victim has deposed that on the day of the Parliament election, his mother the victim was dropped back and at that time he had enquired his mother that where she had been with Sathish Babanna immediately prior to the election. However, he had

noticed that his mother and his sister Varalakshmi were speaking in a low voice and were uttering that they should not be caught by the Police. Thereafter, his mother and sister had directed him to keep quiet. The aforesaid aspect assumes importance for the reason that it is the case of the prosecution that the victim was made to be kept quiet by the family members of the accused at the time of Parliament elections and also they were aware of the fact that the obscene videos involving accused and the victim had went viral and as such they have requested Sathish Babanna to take the victim and keep her in a safe place. It is also pertinent to note the accused during the course of his statement recorded under Sec.313 of Cr.P.C., has deposed to Question No.128, wherein it was brought to his notice that PW.10 Karthik had deposed that the accused had obtained an interim order of stay from the Court for publishing videos and photographs, the accused has stated that filing of the civil suit and obtaining of stay

was true. Further, in his statement which he has filed under Sec.313(5) of Cr.P.C., the accused himself has narrated in detail that on the day of general election on 26.04.2025 and also during the campaign just prior to the election, he came to know through his followers that certain morphed images and videos were circulated to malign him and thereby influence his voters. The aforesaid aspect clearly indicates a positive conduct and knowledge wherein the accused was knowing about circulation of certain videos and images. Once again if the cross-examination of PW.1 is revisited to ascertain the suggestion which was made to her with respect to the videos and photographs in which she had got herself identified, it indicates that the accused had suggested that he was not the person who was present in the video. In other words, the accused is not specifically denying the contents of the video by stating that it was morphed or doctored, but in fact he takes a plea that the person and in

particularly the male was found in the video and also the person present was not the accused. The aforesaid aspect though it seems to be a minimal one, when appreciated from the point of res gestae, it would indicate that the accused is not specifically denying the contents of the video. Further it is noticed that the accused was fully aware of the existence of the video much prior to the election since accused himself had knocked the doors of the court by filing a civil suit and obtaining interim order, wherein PW.10 Karthik was arraigned as defendant No.88. Even otherwise, I have bestowed my anxious reading to the evidence of PW.22 Kailash, who is the Scientific Officer, Audio-Video Forensic Section, FSL, Bengaluru, wherein he has specifically deposed that the videos which were sent to them for scientific examination were not edited or morphed and even otherwise during the course of cross-examination it was suggested to him that in his Report he had not mentioned the frames where it was

edited or morphed, for which the witness has specifically deposed that all the frames were continuous and they were not edited or morphed. Further it was also elucidated from him that their lab was not equipped with software to detect deep fake and witness has deposed that they were able to detect partial software fake. He has also denied the suggestion that the deep fake video and images cannot be segregated and has deposed that it can be detected at the time of frame analysis. The inevitable conclusion which could be drawn from the aforesaid evidence is that the behaviour of the victim immediately after the aforesaid incident were all natural and no aspersions can be castigated against her evidence in the above case.

➢ CHAPTER-XIV: APPRECIATION OF THE MAHAZARS:

89. In the instant case, initially after the lodging of the complaint, a mahazar was drawn as shown by

the victim at Gannikada Farm House which is as per Ex. P2. That apart, another mahazar came to be drawn at the alleged place of incident at Basavanagudi where once again the victim had shown the place where she was subjected to forcible sexual intercourse which is as per Ex. P3. The other important mahazar which was drawn was towards the recovery of the articles that is the upper portion of the mattress came to be recovered in the presence of FSL at the house situated at Basavanagudi which is as per Ex. P4. That apart, Ex-P13 is another mahazar which was drawn on 23.05.2024 at SIT Office, wherein the victim had produced the clothes which she was wearing at the time of incident at Basavanagudi and also it was recovered in the presence of independent witness PW.7 Madhura. Apart from that, Ex. P19 is very important mahazar, wherein a search was conducted at Gannikada Farm House on 28.05.2024 and in the presence of FSL team, totally 11 articles comprising of

10 dress materials and 1 hair sample was recovered by the FSL team. The other mahazar is at Ex. P42, which was drawn in the SIT office itself at the time of collecting the voice sample of accused Prajwal Revanna and the independent witness who had attended the same was PW.11 Prasad B.R. It is vehemently argued that none of the mahazars inspires confidence. It is the contention urged by the learned Counsel for the accused that even though it is submitted that the entire proceedings of mahazar were video-graphed and photographed, the video was not furnished to the Court. It is also the contention of the accused that the mahazars are not supported by necessary Certificate as contemplated under Sec.65(B) of Indian Evidence Act. In order to ascertain the same, it would be appropriate to consider the flow of investigation in seriatim, wherein as per the case of the prosecution the criminal law was set into motion on the basis of the written information which was filed on 05.05.2024 by the

victim. It is relevant to note that investigation paper indicates that immediately after reporting the incident the victim was not in a position to tender her statement and she was consoled the members of Child and Women Welfare Department and only thereafter she had mustered courage to lodge the complaint. Why the aforesaid aspect is stressed upon is for the reason that a human behavior would vary from person to person and that too the Court should be sensitive towards the victim who has undergone a horrific incident in her life of being ravished. Thereafter, the records indicates that on 09.05.2024 that is within a span of 4 days, she had taken the Investigating Officers to the place of incident. It is also vehemently argued that the victim had not narrated the true facts wherein she could have stated about the demolition of the Gannikada Farm House. In the mahazar at Ex. P2, it is specifically stated that the victim had agreed to show the place of incident and as such they had visited the Farm House and had issued

notice under Sec.100 of Cr.P.C., to the caretaker of the Farm House. In the subsequent paragraph it is narrated that at the gate of the Farm House, the victim was asked to show the place of incident and she had taken them to a place and shown a house and had narrated that previously the place consisted of one storied RCC building wherein she was ravished in the room situated at the first floor. Though it is argued by the learned Senior Counsel that the victim could have narrated about the place where she allegedly resided at the time of the mahazar at Ex. P2, in my humble opinion the same cannot be considered as a major lacuna in the evidence of the prosecution. The evidence which is tendered by the victim seems to be a natural one. For a moment, if the evidence is to be looked into and in particularly of the victim, it would indicate that a specific question was posed to the victim that had she shown the place where she was residing at Gannikada Farm House, for which she has specifically

deposed that she had only shown the place where the incident had taken place and also it was suggested to her that she had narrated in her mahazar about the place where she was residing, the witness has admitted the same. That apart, more interestingly the defence counsel himself has suggested that the Police had not enquired her about the place where she was residing in the Farm House and also, she had not voluntarily narrated and shown the place of her residence at Gannikada, for which she had admitted the same. In other words, the suggestion itself would demolish the sesquipedalian arguments casting aspersions about the manner in which the mahazars were drawn. In other words, the accused himself has categorically admitted the presence of the victim at Gannikada Farm House and also of the fact that she had not shown the place of her residence nor it was enquired by the concerned Police. It is also further suggested that she had not narrated about leaving behind her clothes in

the Farm House in her complaint or in her statement, she has admitted the same and has deposed that she was not asked in this regard by the concerned Police. The aforesaid suggestions would only indicate of the fact that the victim was present at Gannikada Farm House and also, she had left behind clothes in the Farm House. The aforesaid suggestion also goes to the root of the case since a serious aspersion is raised with respect to recovering the articles as present Ex. P19 on 28.05.2024.

90. It is vehemently argued that the recovery mahazar which was drawn towards recovering the clothes at Gannikada Farm House does not inspires confidence. Firstly, it is argued that just prior to the arrival of accused Prajwal Revanna to India, the mahazar was drawn in a hurried manner and also the other limb of submissions which is being made is that the entire proceedings were not video-graphed and also how the FSL team could identify the clothes which

were allegedly available in the labour quarters after lapse of more than 3 to 4 years. It is also argued that the absence of the victim at the time of recovery mahazar would cast a shadow of doubt over the recovery which is being made. In order to better appreciate the same, the evidence of the mahazar witnesses to Ex. P19 i.e., PW.8 T.N.Ravi and also PW.14 Dr.Guruprasad, who was Senior Scientific Officer, DNA Section of FSL, Bengaluru, is required to be appreciated. In the instant case, the evidence of PW.8 T.N.Ravi would indicate that on the aforesaid date, they had reached the Farm House at about 06.00 p.m. in the evening and the caretaker of the Farm House was intimated about the purpose of their visit and also he was requested to make necessary search for which he had refused and later on they had commenced the search of the labour quarters which were totally 5 in number and in which some labourers were residing in the first room and on visiting the

second room, they noticed certain clothes which belonged to ladies and had collected totally 10 clothes, out of which 4 were sarees, 5 petticoats, 1 blouse and 1 hair sample was collected. He has also deposed that the FSL team had examined the clothes with some sort of torch and they had also visited the other servant rooms. The aforesaid evidence is required to be juxtaposed with the evidence of PW.14 Dr.Guruprasad. He has also deposed in a similar manner and has also narrated that the Farm House consisted of a big house and firstly they had entered into the servant quarters and he has also given description of the materials which were found in the first room. He has deposed that thereafter they moved towards the second room and on entering it they noticed that the majority of the room was looking like a store room consisting of batteries, box, paint box, carpets and some clothes. He has also deposed that they had found a bag of cloth and on enquiry they came to know that the bags were

prevailing for a long time. He has also deposed of searching the clothes with UV light source on having recovered the clothes. During the course of cross-examination, it was suggested to the FSL expert that the Investigating Officer had not asked them about the number of stains each item consisted of. In other words, there is a categorical admission of the fact that the clothes were having stains. For a moment if the aforesaid aspect is considered with the evidence of PW.8, it is noticed that a suggestion was made to him that he was standing near the door of the second room and also it was suggested that the proceedings were video-graphed. Apart from that, another suggestion was made to him that he had not stated in his statement about finding stains on the clothes. When both evidence is juxtaposed, the unflinching aspect which emerges is on 28.05.2024 the Investigating Officer along with PW.8 T.N.Ravi and PW.14 Dr.Guruprasad and his team had visited Gannikada

Farm House and there the recovery proceedings had taken place. During the course of arguments, the learned Senior Counsel had tried to impress upon the Court by pointing out to the DVD which was produced along with the charge-sheet which were pertaining to the recovery mahazar. It is her submission that how come the clothes were in neat and tidy condition and how the same was kept in a bag. It was also argued that the recovery was not inspiring confidence. However, when the ocular evidence is appreciated, it would lead to draw an inference that a mahazar was drawn and also certain clothes were recovered. The suggestions which were made by the accused themselves would fortify the case of prosecution rather than that of accused.

91. Now coming to another recovery mahazar at Ex. P3, which pertains to the one drawn at Basavanagudi house at Bengaluru. It is pertinent to note that the same came to be drawn on 10.05.2024

that is immediately on the next day of drawing the mahazar at Ex. P2. The aforesaid mahazar was drawn in the presence of PW.6 Lingamurthy and another witness Kum.Lolitha. The description in the mahazar would clearly indicate that they have reached the Basavanagudi house at about 05.00 p.m., and FSL team comprising of PW.20 Shahanaz Fathima, PW.13 Hemesh Kumar, PW.12 Manjunath were also present. It is relevant to note that on the same day another recovery mahazar was drawn as per Ex. P4, wherein the upper portion of the mattress came to be recovered since it allegedly consisted of stains. When the evidence of PW.6 Lingamurthy is appreciated, he has deposed of visiting the house and also attending the mahazar proceedings. During the course of cross-examination, he has admitted the suggestion that the videos were being recorded of the mahazar proceedings from the time they had entered the house. It was also suggested to him that he had prepared a note with

respect to dimension of the house and the room. For the purpose of clarity, it is noticed that based on the notes, the sketch was produced before the Court which is as per Ex. P12. Now, when his evidence is compared with the evidence of PW.20 Shahanaz Fathima, who is the Assistant Director of DNA Section, FSL, Bengaluru, it indicates that the victim had taken them to a room in the third floor of the building and in that room no furniture were available and only a cot and bed was available and she could notice the existence of stains on the upper layer of the mattress and accordingly it was cut down and they had requested the IO to send the same for scientific examination. During the course of her cross-examination, it was suggested to her that she had made markings on MO.1 mattress, where the stains were available. The witness has admitted the same and has also given explanation that why the number of stains were not narrated in the mahazar by submitting that if the stains were present in a

particular place, the same could have been documented, but in the instant case the stains were found across the mattresses and hence the same was not documented. In other words, the cross-examination itself is self-explanatory to the arguments of the learned Senior Counsel that why the number of stains were not narrated in the mahazar.

92. With respect to the other two mahazars i.e., the mahazars at Ex. P13 and Ex. P42, the same will be dealt by me during the course of appreciating the digital evidence. The learned Senior Counsel for the accused has vehemently argued that the requirements of the mahazar was not properly adhered to and in order to fortify their contention, she has relied upon the judgment of the Hon'ble Apex Court reported in **(2023)15 SCC 521 (Rajesh and another Vs. State of Madhya Pradesh)**, wherein it has been held as:

> ***37. The following mandatory conditions were culled out from Section***

100CrPC for the purposes of a valid panchnama:

(a) All the necessary steps for personal search of officer (inspecting officer) and panch witnesses should be taken to create confidence in the mind of court as nothing is implanted and true search has been made and things seized were found real.

(b) Search proceedings should be recorded by the IO or some other person under the supervision of the panch witnesses.

(c) All the proceedings of the search should be recorded very clearly stating the identity of the place to be searched, all the spaces which are searched and descriptions of all the articles seized, and also, if any sample has been drawn for analysis purpose that should also be stated clearly in the panchanama.

(d) The IO can take the assistance of his subordinates for search of places. If any superior officers are present, they should also sign the panchanama after the signature of the main IO.

(e) Place, name of the police station, officer rank (IO), full particulars of panch witnesses and the time of commencing and ending must be mentioned in the panchnama.

(f) The panchnama should be attested by the panch witnesses as well as by the concerned IO.

(g) Any overwriting, corrections, and errors in the panchnama should be attested by the witnesses.

(h) If a search is conducted without warrant of court under Section 165 of the Code, the IO must record reasons and a search memo should be issued.

93. When the aforesaid authority is appreciated, the Hon'ble Apex Court has laid down the criteria in which mandatory conditions are required to be complied by the Investigating Agency. It is noticed from the mahazar that they had taken necessary steps for personal search and also of the panch witness as could be noticed from the deposition, wherein it is stated that the caretaker of the Farm House by name Rakesh and also the caretaker of Basavanagudi house by name Manikanta and Harsha were offered to make necessary search, however they had refused to do so and the aforesaid aspect was indeed recorded in the mahazar itself. Even otherwise the proceedings of the search were clearly narrated by stating the identity of the place, space, search and also the description of the articles seized under the mahazar. In this regard, reference may be made to Ex. P4 mahazar which describes about the recovery of upper portion of the mattresses and also to Ex. P19 which makes reference

with description of the articles which were recovered at Gannikada Farm House which were totally 11 in number. In my humble opinion, all the aforesaid aspects are compiled and hence the submission that the mahazar is not in accordance with law cannot be accepted.

- **CHAPTER- XV: DNA EXAMINATION AND APPRECIATION OF SCIENTIFIC EVIDENCE:**

94. In the instant case, it has been vehemently submitted that the scientific examination of DNA itself does not inspires confidence. In order to better appreciate the same, the Court is required to consider the evidence of PW.20 Smt.Shahanaz Fathima, who is the Assistant Director, DNA Section, FSL, Bengaluru. With respect to her competency to conduct DNA examination cannot be questioned since she has narrated in detail about the educational qualifications and also the training which she had underwent at DNA Center, Bengaluru. Even otherwise there cannot be

much qualms in this regard since the defence have not questioned her qualifications. She has deposed that on 10.05.2024, they had visited the house of accused person at Basavanagudi, Bengaluru and there she had found some stains on the upper portion of the mattresses which was of 6 feet X 6 feet which while in colour and the upper portion was cut down and it was recovered under the mahazar at Ex. P4. With respect to the recovery under the mahazar at Ex. P4, I have already discussed in detail. She has further deposed that the scientific examination of DNA was carried out by Mr. L.Purushottam, who had worked along with her since 2004 and it is her evidence that he had died on 19.04.2025 and she has identified his Report dated 09.10.2024, which came to be marked as Ex. P59. The first aspect of getting the Expert opinion/document marked by the Court is res-integra since it is settled principles of law that the expert's opinion is admissible even in their absence as per Sec.293 of Cr.P.C. Be that

as it may, I have bestowed my anxious reading to Ex. P59. In the said Test Report, he has explained in detail that the 'Y' chromosomal DNA profile results of accused Prajwal Revanna is identical and matching with the 'Y' chromosomal DNA profile result of seminal stain detected in Item No.1. It is relevant to note that Item No.1 is the sealed packet containing one saree and also with the Item No.7 which is a petticoat. Further it is narrated in his Report that the DNA profile result of the victim's sample blood in Item No.2 was identical and matching with the vaginal secretions with epithelial cells in Item No.6 to 8 i.e., the 3 petticoats. In his conclusion he has specifically held that the accused Prajwal Revanna was included from being the contributor of seminal stains detected in Item No.7 which is a petticoat and also the DNA sample of the victim was included from being contributor of vaginal secretions. The Expert has also explained in detail the manner in which the DNA analysis and profiling was

conducted. He has narrated that the DNA was quantified and then amplified by the Polymerase Chain Reaction (PCR) using PCR Amplification Kit containing primers for 23 autosomal STR loci, gender marker, amelogenin and 3 Y-specific STR loci. He has also furnished the DNA profile samples in the enclosures at Annexure-I and Annexure-II.

95. Firstly, what amounts to DNA fingerprinting is to be appreciated. DNA Fingerprint is a unique identification clue and the two persons will not be having the same DNA fingerprint. The DNA profile is more accurate and precise method for the purpose of identification and it has been held by various authorities that Deoxyribonucleic acid fingerprint is unique in nature. DNA testing is the most advanced form of proving or disproving the biological relationship. The testing is based on the analysis of genetic material between two people and DNA is every person genetic ***"blueprint"***. As per the settled

principles of law and also as per the scientific examination it is held that when a person's DNA is compared with the DNA of his parent and if there no match exists that person is excluded as 100% as the biological parent. If there is a match in the DNA pattern a probability of 99% or greater is calculated thus establishing a biological relationship. DNA parentage testing is the most reliable and powerful method of proving or disproving the parentage for legal, personal or medical reason. It conclusively answers difficult questions, resolves disputes, helps streamline court proceedings and facilitates the pretrial settlements. Testing of DNA is based on highly accurate analysis of genetic profiles of the mother, child and alleged father. The question which requires to be appreciated is whether the report furnished by an expert can be considered as an opinion under Section 45 of Indian Evidence Act and whether it can be accepted as legal evidence. The Hon'ble Apex court in

various cases has laid down the dictum that the evidence can be accepted as valid evidence provided it is supported by some corroborative materials. Apart from that, the court is also required to appreciate the procedures which have been involved in the above case. As noticed from the expert's opinion, expert has tendered her evidence stating that the DNA materials were segregated and separated from the blood samples and it was subjected to PCR method. In order to better appreciate the same, what amounts to PCR method is required to be considered. PCR setup indicates that each region of PCR is prepared in a dedicated Det Air Box under low light condition and on the ice to ensure contamination free master mix and optimum sensitivity for all fluorescent labels. This particular aspect assumes importance since it has been argued at length that there are chances of contamination. However, all that it was suggested to the expert was that the procedure involved and also the method of analysis

was not proper. In the wake of the specific evidence by the expert that they had subjected the DNA sample for PCR analysis, it has to be appreciated that the said aspect indicates of passing the DNA sample i.e. regents for PCR in a dedicated Det air box and also optimum sensitivity for fluorescent labels. Further it is to be appreciated that after PCR setup the master mix of DNA will be combined and loaded up to 384 well plates and the same will be transferred into amplification laboratory and through a dedicated one-way pass through the box on the wall of the laboratory, the same will be minimized which helps to reduce the contamination if any and the PCR equipment is used for DNA amplification. Further the plate is also heated to 96 degrees Celsius for 3 minutes to denature DNA and then placed in a freezer or on the ice for 5 minutes to cool. This particular process clearly indicates that how Polymerase chain reaction will be conducted and also the methodology used for obtaining the results.

Under the circumstances the court has once again revisited the cross examination of the scientific officer. In the cross examination the not much has been suggested to the scientific expert in this regard. That apart, the photographs of the mahazar drawn as per Ex. P3 pertaining to the house at Basavanagudi, Bengaluru, also throws light with respect to marking of the seminal stains on the mattresses which was recovered and sent to scientific examination. The photographs at Ex. P164 indicates the victim showing the place of incident and also the photograph at Ex. P166 and 167 indicates markings being made by the FSL Team in the presence of Panch witnesses and in particularly PW.20 Shahanaz Fathima, the Investigating Officer and also PW.13 Hemesh, who was the photographer is clearly seen. With respect to the photographs obtained by the FSL team, necessary hash value has been produced as per Ex. P163 and also Certificate under Sec.65(B) has been produced as

per Ex. P176 and Ex. P177. The relevancy of the Certificate issued under Sec.65(B) of Indian Evidence Act is seriously disputed by the learned counsel for the accused. The aforesaid aspect will be dealt by me in the next chapter, wherein the question of admissibility of digital evidence is discussed. That apart, it is also relevant to note that at the time of examination the DNA profiling was carried out by one Mr. L. Purushotham who is no more. As such the report of the expert was produced before the court and marked through PW20 Shahanaz Fatima who was also a DNA expert and who has seen the process of DNA. That apart the Investigating Officer who was examined as PW26 Smt. Shoba had also deposed in this regard. Though the learned counsel for accused seriously disputes the report which has been placed before the court, nothing much has been elucidated during the course of cross examination of PW20 Shahnaz Fathima

who is the FSL expert or from the investigating authorities in this regard.

96. By looking into the aforesaid aspects, once again the Court is now required to look into the cross-examination of PW.20 Smt.Shahanaz Fathima. During the entire course of her cross-examination, nothing was elucidated or suggested to her to cast any aspersions with respect to DNA profiling. The manner in which the DNA Report is to be appreciated has been laid down by the Hon'ble Apex Court in the judgment rendered in **(2005)5 SCC 194 (Kamalnath V State of Tamil Nadu)** wherein the manner of analysis and competency of the expert was questioned and in the said judgment it is held as:

> ***58. Dr. Lalji Singh, Deputy Director, CCMB, Hyderabad, was examined as PW 59. Dr. Lalji Singh is working as the Deputy Director at the Centre for Cellular and Molecular Biology at Hyderabad. This Centre is on the Constituent Laboratories of the Council of Scientific and Industrial Research under the Department of Science and Technology, Government of India. Dr.***

Lalji Singh initially joined the Centre as Scientist-E-II and was subsequently promoted as Scientist-F (Deputy Director) from 1992. He is BSc, MSc and PhD qualified from Banaras Hindu University, having obtained his doctorate in the year 1971. He had worked in Calcutta University as a Pool Officer from 1971 to 1974. He was awarded Commonwealth Fellowship to go to the United Kingdom and he was working in the Institute of Animal Genetics, University of Edinburgh from 1974 to 1987. He came to India and joined CCMB, Hyderabad on 3-6-1987. According to Dr. Lalji Singh, he had published 57 scientific papers in internationally reputed journals. He was awarded the Banaras Hindu University Gold Medal in 1966, the Science Academy Medal for Young Scientists for the year 1974 and various other awards like the CSIR Technology Award for the year 1992 for Biological Sciences, Professor S.P. Roy Chaudhuri 75th Birthday Lecture Award for the year 1994, Professor Viswanathan Memorial Lecture Award for the year 1995, vasvik Research Award for Biological Sciences and Technology for the year 1992 and the Ranbaxy Research Award in the field of Basic Medical Sciences for the year 1994. He is the elected Fellow of the Indian Academy of Science since 1989, Fellow of National Academy of Science since 1991 and Fellow of Indian National Science Academy elected in 1993. He is also a member of various other organisations like the Indian Society for Cell Biology, etc. According to him, he had given opinion in 96 cases and has also given evidence in 5

cases in various courts, including Rajiv Gandhi Assassination case [State v. Nalini, (1999) 5 SCC 253 : 1999 SCC (Cri) 691] .

59. He stated that after the detailed examination, the result was submitted vide Ext. P-185. The operative portion of the report is as follows:

"When DNA profiles in Track 3 (Premananda) was compared with that of Track 2 (tissue from the foetus) and Track 1 (Aruljothi) it is seen that every band present in Track 2 is fully accounted for either being inherited from the mother (Track 1) or from the alleged father (Track 3). The alleged father Premananda (source of Exhibit A) and the mother Aruljothi (source of Exhibit C) are, therefore, the biological parents of the dead foetus (source of Exhibit B)."

60. Dr. Lalji Singh was subjected to lengthy cross-examination. He has categorically stated that if really there is any contamination, it would result only in non-matching of bands. He has also stated that multilocus/single-locus probe have been carried out throughout the world for DNA test.

61. Regarding database and contamination Dr. Lalji has stated in cross-examination as under:

"As far as paternity is concerned, the paternity of the child is determined by identifying which are the bands of maternal and which are paternal. Therefore, comparison of DNA fingerprinting of the child with the mother will identify which are the bands maternally inherited. Elimination of these bands will leave those bands inherited from the child's father, the paternally specific bands. If

the alleged father's fingerprinting pattern contains all of these bands, then he is the true biological father of that child and paternity is confirmed. The article published by a laboratory — cellmark, United States is Ext. D-42." The witness further clarified that a laboratory error can produce mismatch but it cannot produce a proper match.

97. When the aforesaid dictum of the Hon'ble Apex Court is appreciated, it would clearly indicate that the mode and method of conducting the DNA analysis is apt and proper and as such the contention of the learned Senior Counsel that the same is not in accordance with law cannot be accepted. Even otherwise, during the course of arguments it was argued that in the instant case, the blood samples of accused Prajwal Revanna were not at all collected. Though the said submission seems to be attractive, it is relevant to note that the present accused person is alleged to have committed several sexual offence cases and in fact after his return to the country, the accused was arrested in Crime No.107/2024 and in that case

his blood samples were collected. As rightly argued by the learned SPP, the profile which was created could consist of necessary data and the same would be suffice to conduct DNA analysis. In fact, at Ex. P59, the Scientific Officer has also explained the collection of profile pertaining to Prajwal Revanna by mentioning the File Number. In other words, no aspersions can be casted on the DNA examination. At the cost of repetition, the Reports at Ex. P59 and Ex. P60 are to be juxtaposed and read conjointly, since in Ex. P60 it is explained and narrated about the materials which were sent which were upper portion of the bed and one sealed EDTA Vacutainer which consisted of sample blood of the victim. It is also relevant to note that the aforesaid articles were sent on 15.05.2024 and whereas the Reports were generated and compared and a final opinion was tendered as per Ex. P60. The aforesaid aspects would clearly lend assurance to the case of the prosecution. With respect to the evidentiary

value of DNA report time and again the Hon'ble Apex Court has explained its admissibility. In this regard reliance is placed on the judgment of the Hon'ble Apex Court reported in **(2017)4 SCC393 (Sunil V State of Madhya Pradesh)** wherein it is held as:

> ***3. At the very outset, we deal with the arguments advanced on behalf of the appellant that in the present case the report of DNA testing of the samples of blood and spermatozoa under Section 53-A of the Code of Criminal Procedure, 1973 has not been proved by the prosecution. The prosecution has, therefore, failed to prove its case beyond reasonable doubt. Reliance in this regard has been placed on the decision of this Court in Krishan Kumar Malik v. State of Haryana [Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130 : (2011) 3 SCC (Cri) 61] .***
>
> ***4. From the provisions of Section 53-A of the Code and the decision of this Court in Krishan Kumar [Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130 : (2011) 3 SCC (Cri) 61] it does not follow that failure to conduct the DNA test of the samples taken from the accused or prove the report of DNA profiling as in the present case would nec-***

essarily result in the failure of the prosecution case. As held in Krishan Kumar [Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130 : (2011) 3 SCC (Cri) 61] (para 44), Section 53-A really "facilitates the prosecution to prove its case". A positive result of the DNA test would constitute clinching evidence against the accused if, however, the result of the test is in the negative i.e. favouring the accused or if DNA profiling had not been done in a given case, the weight of the other materials and evidence on record will still have to be considered. It is to the other materials brought on record by the prosecution that we may now turn to.

- **CHAPTER-XVI: APPRECIATION OF DIGITAL EVIDENCE VIS-A-VIS CONCEPT OF SILENT THEORY OF WITNESS IN COMPARISON WITH MEDICAL EXAMINATION REPORTS OF ACCUSED:**

98. In the instant case, the court is now required to appreciate the digital records which are placed before the court for the appreciation. As noticed from the records, photographs, video documents and electronic devices have been placed before the court in order to prove the guilt of the accused by the prosecution. It is

relevant to note that the materials which are produced in the audio-visual content is required to be considered as evidence. A document, which is defined as per Sec.3(18) of General Classes Act, which defines the document as hereunder:

> ***"Document shall include any matter written, expressed, or described upon any substances by means of letters, figures or marks, or by more than one of those means which is intended to be used, or which may be used for the purpose of recording that matter."***

99. Further, as per Section 29 of Indian Penal Code, it explains that the word document denotes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, intended to be used or which may be used as evidence in that matter. Going by the definitions of document, it includes not only all materials or substances upon which thoughts of a man are represented, by writing or any other specious of conventional mark or symbol, but also records and it

includes the records of information of some sort. Hence by looking into the definition clause, it is crystal clear that the document means something which conveys or affords information, notwithstanding the matter or medium on which it is exhibited, inscribed or contained. It also includes writing, picture, caricature, map or plan printed, lithographed or photographed on a piece of paper and document includes an inscription on a metal plate or a stone.

100. As could be noticed from the records, photographs, audio and video aspects also would be considered as documents. Witnesses may with their personal knowledge state that a photograph is a fair and accurate representation of fundamental facts which appears therein. In such a case, the evidence of the witnesses will be the primary matter rather than what is depicted in the photograph and the photographer need not be examined in the court. They are explained by Wigmore as nothing more than

illustrated testimony of the witness. This principle gave rise to '***Pictorial testimony theory***' or a communication theory. But when a photograph itself is taken as a probative and substantial evidence of the matters appeared therein, it acquires the glorified status of independent '***Silent witnesses'***. In **Black's Law Dictionary, 9th edition, at Page 1508** Silent Witness Theory is mentioned as hereunder:

> ***"A method of authenticating and admitting evidence (such as a photograph), without the need for a witness to verify its authenticity, upon a sufficient showing of the reliability of the process of producing the evidence, including proof that the evidence has not been altered."***

In Halsbury's Laws of England, Fourth Edition, Vol. 1 7, at page 158, it is noticed as follows:

> ***"224. Photographs: Photographs properly verified on oath by a person able to speak to their accuracy are generally admissible to prove the identity of persons, or the configuration of land as it existed at a particular moment (scientific deductions from them being made by a witness both skilled and experienced in***

such a task, or radar echoes or the contents of a lost document. In the High Court a photograph is receivable in evidence at the trial only when certain provisions have been complied with."

In Halsbury's Laws of England, Fifth Edition, Vol.11, at page 723, it is stated as follows:

"958. Photographs, films, records, tape recordings and video recordings. At common law, photographs properly verified on oath by a person able to speak to their accuracy were generally admissible to prove the identity of persons, or the configuration of land as it existed at a particular moment (scientific deductions from them being made by a witness both skilled and experienced in such a task), or radar echoes or the contents of a lost document. For the purpose of Civil Evidence Act 1995, 'document 'means anything in which information of any description is recorded and a similarly wide definition applies for the purposes of disclosure under the Civil Procedure Rules. Thus photographs, films, records, tape recordings and video recordings are all admissible in evidence, subject, if appropriate, to the statutory safeguards with regard to hearsay evidence. Prior notice must be given of a party's intention to put photographs and certain other items in evidence.

101. The aforesaid aspect of Silent Witness Theory assumes importance in the instant case since the above case requires to consider a situation wherein the original document in the form of video in which it was captured was not traced or recovered by the Investigating Agency. It is pertinent to note that as per the case of the prosecution, the accused Prajwal Revanna had captured the videos at the time of committing the offences in his mobile phone. In order to better appreciate the aforesaid aspect, it would be appropriate to look into the evidence of PW.10 Karthik, who was the Driver of Prajwal Revanna. It is relevant to note that he has deposed before the Court that initially he had worked for H.D.Revanna, who is the father of accused and later on he had also worked as Driver to Smt.Bhavani Revanna, who is none other than the mother of accused and thereafter he had worked as Driver to Sooraj Revanna, the elder brother of accused about two years. The aforesaid aspect assumes

importance since the prosecution case is based on the videos which were allegedly downloaded by PW.10 Karthik on his mobile phone from the mobile of accused Prajwal Revanna. The long intimacy which the witness had with the family of the accused cannot be disputed and also assumes importance that he had that leniency and proximity with the family of the accused Prajwal Revanna to access his mobile phone. He has also deposed that subsequently after the election of accused Prajwal Revanna as Member of Parliament in the year 2019, and at that time was appointed as his Driver officially and he was also drawing salary from the office of the Deputy Commissioner at Hassan. The documents with respect to drawing salary has been produced by him which are marked as Ex. P141. That apart, he has also deposed that the accused used to watch certain videos and photographs while travelling in the car when the witness was driving the same. The witness has deposed

that out of curiosity he had tried to peep into the same and at that time the accused had closed the same. Thereafter the witness deposes that the accused had left his mobile phone in the car when he went to visit his girlfriend at Jayanagar house and as he knew the password of his mobile phone which was “8055”, he opened the mobile phone and was shocked to see videos consisting of several women having sexual intercourse with the accused person. The knowing of password by the witness which is termed as “8055” is required to be appreciated from the evidence of PW.12 Manjunath H.N., who was also looking after the social media accounts of accused Prajwal Revanna. PW.12 Manjunath in his chief-examination has specifically deposed that accused was obsessed of having unique and fancy numbers as his mobile numbers and in fact he used to obtain several Sim Cards in his name which would include the last digit as “8055” or the mobile numbers when added would come into number “5” or

number “9” in single digit. This particular aspect has not at all been denied but it was suggested to the witness that he does not know who was using the Sim Card, the witness has specifically deposed that it was being used by Prajwal Revanna and further interestingly the witness has deposed that sometimes he used to leave the mobile phone in the car which was being used by his Driver. All that it could be appreciated from the aforesaid evidence is that the accused Prajwal Revanna was having obsession to obtain fancy numbers which would include last digits as “8055”, which in normal parlance as argued by the learned SPP would fancifully project as **“BOSS”**, when digitally written. That apart, the aforesaid evidence is not even denied and when it is further appreciated it would indicate that the mobile phone of accused Prajwal Revanna was also sometimes being used by his Driver i.e., PW.10 Karthik. The aforesaid evidence would only fortify the contentions of the prosecution

that his Driver knew about the Password and he was one who had transferred the videos and photographs from the mobile phone of accused Prajwal Revanna. The other interesting aspect which assumes importance is as per the prosecution case, the Driver Karthik had transferred the videos and photographs from his Vivo mobile phone, since accused sometimes used to take his mobile phone to make telephonic calls and as such he had transferred the data to another Samsung Galaxy J4 Mobile phone which originally belonged to Prajwal Revanna and which he had handed-over to him to destroy after the elections. The witness has also deposed that the Vivo mobile phone was lost in the year 2021 and accordingly he had lodged a complaint, for which he had received an endorsement on 14.08.2021, which was marked as per Ex. P40. The Samsung Galaxy J4 Mobile phone was produced before the Court which the witness had identified it to be MO.9. With this factual background,

now the Court is required to ascertain the veracity of the digital records which are placed before the Court.

102. The main aspect which assumes importance at this juncture is whether the accused Prajwal Revanna was using Apple Mobile phone. In the entire case of prosecution all that it has been contended is that the accused at the time of having forcible sexual intercourse had recorded the incident in his mobile phone. It is pertinent to note that a correspondence was made by the SIT in Cr.No.107/2024, wherein a reply was furnished and it was marked as per Ex. P88 subject to objections. The aforesaid document was marked subject to objections since the author was not examined. It is relevant to note that the reply which was furnished by Apple Company in the main case would be otherwise relevant for corroborative purposes. The aforesaid document when considered with the suggestions which were put-forth by the accused

during the course of cross-examination of PW.10 Karthik that 8055 was not the password of his I-phone, the same would lead to draw an inference that the accused had admitted categorically of using I-phone at that point of time.

103. Further it has been elucidated in the chief-examination that the accused used to purchase mobile phone from Mr.Kanti of Channel-9 shop for which necessary receipts are also marked in the instant case. When the aforesaid aspect is once again appreciated with the details furnished by “Apple.com”, it would indicate that the accused used various social media platform and, in several instances, his social media handle was tagged as “Prajwal8055revanna”, which indicate that the accused did have the habit of introducing the aforesaid number 8055 which would only probablize the case of prosecution. Further the mobile extraction and analysis report also indicates the

details of the Sim cards which were being used on Samsung Galaxy J4 Mobile Phone. The mobile number 8047628203 which even the witness PW.10 Karthik has admitted during the course of cross-examination as the one being used by him would once again fortify the case of prosecution since as per the analysis report the date of using the Sim Card was 06.11.2021 and whereas as per the complaint at Ex.P40, which the witness had lodged the complaint with respect to losing his vivo mobile phone was on 14.08.2021. it is relevant to note that the aforesaid complaint was lodged at an undisputed point of time i.e. in the year 2021 ad even during the course of cross examination there is no suggestion put forth to the witness that the complaint lodged was all concocted or created. The aforesaid aspect could clearly fortify the case of prosecution that witness PW.10 Karthik had used the aforesaid mobile phone and also the mobile extraction which was made indicated of totally 85 videos out of which 25 were

deleted and in that sexually explicit videos were 53 in number. That apart, the mobile numbers which were stored in the name of accused Prajwal Revanna indicates that totally 12 numbers were saved in his name of which the first number 9741448443 finds reference in the evidence of PW.12 Manjunath, wherein he has deposed that he had furnished 12 Sim Cards and one of the number was purchased in the name of his cousin Santhosh which was bearing 9035544474 and another one which was purchased was 9632385691. The aforesaid aspects are noted down only to indicate that the evidence of PW.10 Karthik seems to be justifiable and even the digital records are fortifying their contentions.

104. With respect to appreciation of the digital evidence and the also the necessity for issuance of certificate under section 65(B)(4) of Indian Evidence Act, it would be appropriate to rely upon the celebrated

judgment rendered by the Hon'ble Apex Court in (2020)7 SCC 1 (Arjun Pandith Rao Khotkar Vs. Kailash Kushan Rao Gorantyal and others) wherein it has been held as:

> ***36. Despite the law so declared in Anvar P.V. [Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 : (2015) 1 SCC (Civ) 27 : (2015) 1 SCC (Cri) 24 : (2015) 1 SCC (L&S) 108] , wherein this Court made it clear that the special provisions of Sections 65-A and 65-B of the Evidence Act are a complete code in themselves when it comes to admissibility of evidence of information contained in electronic records, and also that a written certificate under Section 65-B(4) is a sine qua non for admissibility of such evidence, a discordant note was soon struck in Tomaso Bruno [Tomaso Bruno v. State of U.P., (2015) 7 SCC 178 : (2015) 3 SCC (Cri) 54] . In this judgment, another three-Judge Bench dealt with the admissibility of evidence in a criminal case in which CCTV footage was sought to be relied upon in evidence. The Court held : (Tomaso Bruno case [Tomaso Bruno v. State of U.P., (2015) 7 SCC 178 : (2015) 3 SCC (Cri) 54] , SCC pp. 191-92, paras 24-25)***
>
> ***"24. With the advancement of information technology, scientific temper in the individual and at the institutional level is to pervade the methods of investigation. With the***

increasing impact of technology in everyday life and as a result, the production of electronic evidence in cases has become relevant to establish the guilt of the accused or the liability of the defendant. Electronic documents stricto sensu are admitted as material evidence. With the amendment to the Evidence Act in 2000, Sections 65-A and 65-B were introduced into Chapter V relating to documentary evidence. Section 65-A provides that contents of electronic records may be admitted as evidence if the criteria provided in Section 65-B is complied with. The computer-generated electronic records in evidence are admissible at a trial if proved in the manner specified by Section 65-B of the Evidence Act. Sub-section (1) of Section 65-B makes admissible as a document, paper printout of electronic records stored in optical or magnetic media produced by a computer, subject to the fulfilment of the conditions specified in sub-section (2) of Section 65-B. Secondary evidence of contents of document can also be led under Section 65 of the Evidence Act. PW 13 stated that he saw the full video recording of the fateful night in the CCTV camera, but he has not recorded the same in the case diary as nothing substantial to be adduced as evidence was present in it.

25. The production of scientific and electronic evidence in court as contemplated under Section 65-B of the Evidence Act is of great help to the investigating agency and also to the prosecution. The relevance of electronic evidence is also evident in the light

of Mohd. Ajmal Amir Kasab v. State of Maharashtra [Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1 : (2012) 3 SCC (Cri) 481] , wherein production of transcripts of internet transactions helped the prosecution case a great deal in proving the guilt of the accused. Similarly, in State (NCT of Delhi) v. Navjot Sandhu [State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600 : 2005 SCC (Cri) 1715] , the links between the slain terrorists and the masterminds of the attack were established only through phone call transcripts obtained from the mobile service providers."

61. We may reiterate, therefore, that the certificate required under Section 65-B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. [Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 : (2015) 1 SCC (Civ) 27 : (2015) 1 SCC (Cri) 24 : (2015) 1 SCC (L&S) 108] , and incorrectly "clarified" in Shafhi Mohammad [Shafhi Mohammad v. State of H.P., (2018) 2 SCC 801 : (2018) 2 SCC 807 : (2018) 2 SCC (Civ) 346 : (2018) 2 SCC (Civ) 351 : (2018) 1 SCC (Cri) 860 : (2018) 1 SCC (Cri) 865] . Oral evidence in the place of such certificate cannot possibly suffice as Section 65-B(4) is a mandatory requirement of the law. Indeed, the hallowed principle in Taylor v. Taylor [Taylor v. Taylor, (1875) LR 1 Ch D 426] , which has been followed in a number of the judgments of this Court, can also be applied. Section 65-B(4) of the Evidence Act clearly states that secondary evidence is admissible only if led in the manner

stated and not otherwise. To hold otherwise would render Section 65-B(4) otiose.

73. The reference is thus answered by stating that:

73.1. Anvar P.V. [Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 : (2015) 1 SCC (Civ) 27: (2015) 1 SCC (Cri) 24 : (2015) 1 SCC (L&S) 108], as clarified by us hereinabove, is the law declared by this Court on Section 65-B of the Evidence Act. The judgment in Tomaso Bruno [Tomaso Bruno v. State of U.P., (2015) 7 SCC 178: (2015) 3 SCC (Cri) 54] , being per incuriam, does not lay down the law correctly. Also, the judgment in Shafhi Mohammad [Shafhi Mohammad v. State of H.P., (2018) 2 SCC 801 : (2018) 2 SCC 807 : (2018) 2 SCC (Civ) 346 : (2018) 2 SCC (Civ) 351 : (2018) 1 SCC (Cri) 860 : (2018) 1 SCC (Cri) 865] and the judgment dated 3-4-2018 reported as Shafhi Mohd. v. State of H.P. [Shafhi Mohd. v. State of H.P., (2018) 5 SCC 311 : (2018) 2 SCC (Cri) 704] , do not lay down the law correctly and are therefore overruled.

73.2. The clarification referred to above is that the required certificate under Section 65-B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the device concerned, on which the original information is first stored, is owned and/or operated by him. In cases where the "computer" happens to be a part of a "computer system" or "computer network" and it becomes impossible to physically bring

such system or network to the court, then the only means of providing information contained in such electronic record can be in accordance with Section 65-B(1), together with the requisite certificate under Section 65-B(4). The last sentence in para 24 in Anvar P.V. [Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 : (2015) 1 SCC (Civ) 27 : (2015) 1 SCC (Cri) 24 : (2015) 1 SCC (L&S) 108] which reads as "... if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act ..." is thus clarified; it is to be read without the words "under Section 62 of the Evidence Act,...". With this clarification, the law stated in para 24 of Anvar P.V. [Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473: (2015) 1 SCC (Civ) 27: (2015) 1 SCC (Cri) 24: (2015) 1 SCC (L&S) 108] does not need to be revisited.

73.3. The general directions issued in para 64 (supra) shall hereafter be followed by courts that deal with electronic evidence, to ensure their preservation, and production of certificate at the appropriate stage. These directions shall apply in all proceedings, till rules and directions under Section 67-C of the Information Technology Act and data retention conditions are formulated for compliance by telecom and internet service providers.

73.4. Appropriate rules and directions should be framed in exercise of the Information Technology Act, by exercising powers such as in Section 67-C, and also framing suitable rules for the retention of data involved in

trial of offences, their segregation, rules of chain of custody, stamping and record maintenance, for the entire duration of trials and appeals, and also in regard to preservation of the metadata to avoid corruption. Likewise, appropriate rules for preservation, retrieval and production of electronic record, should be framed as indicated earlier, after considering the report of the Committee constituted by the Chief Justices' Conference in April 2016.

76. Documentary evidence, in contrast to oral evidence, is required to pass through certain checkposts, such as (i) admissibility, (ii) relevancy and (iii) proof, before it is allowed entry into the sanctum. Many times, it is difficult to identify which of these checkposts is required to be passed first, which to be passed next and which to be passed later. Sometimes, at least in practice, the sequence in which evidence has to go through these three checkposts, changes. Generally, and theoretically, admissibility depends on relevancy. Under Section 136 of the Evidence Act, relevancy must be established before admissibility can be dealt with. Therefore, if we go by Section 136, a party should first show relevancy, making it the first checkpost and admissibility the second one. But some documents, such as those indicated in Section 68 of the Evidence Act, which pass the first checkpost of relevancy and the second checkpost of admissibility may be of no value unless the attesting witness is examined. Proof of execution of such documents, in a manner established by law, thus constitutes the third checkpost. Here

again, proof of execution stands on a different footing than proof of contents.

77. It must also be noted that whatever is relevant may not always be admissible, if the law imposes certain conditions. For instance, a document, whose contents are relevant, may not be admissible, if it is a document requiring stamping and registration, but had not been duly stamped and registered. In other words, if admissibility is the cart, relevancy is the horse, under Section 136. But certain provisions of law place the cart before the horse and Section 65-B appears to be one of them.

78. Section 136 which confers a discretion upon the Judge to decide as to the admissibility of evidence reads as follows:

"136. Judge to decide as to admissibility of evidence. —When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first-mentioned, unless the party undertakes to give proof of such fact, and the court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in

his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact."

81. What is laid down in Section 65-B as a precondition for the admission of an electronic record, resembles what is provided in the second part of Section 136. For example, if a fact is sought to be proved through the contents of an electronic record (or information contained in an electronic record), the Judge is first required to see if it is relevant, if the first part of Section 136 is taken to be applicable.

82. But Section 65-B makes the admissibility of the information contained in the electronic record subject to certain conditions, including certification. The certification is for the purpose of proving that the information which constitutes the computer output was produced by a computer which was used regularly to store or process information and that the information so derived was regularly fed into the computer in the ordinary course of the said activities.

83. In other words, if we go by the requirements of Section 136, the computer output becomes admissible if the fact sought to be proved is relevant. But such a fact is admissible only upon proof of some other fact, namely, that it was extracted from a computer used regularly, etc. In simple terms, what is contained in the computer output can be equated to the first mentioned fact and the requirement of a certification can be equated to the last-mentioned

fact, referred to in the second part of Section 136 read with Illustration (b) thereunder.

84. But Section 65-B (1) starts with a non obstante clause excluding the application of the other provisions and it makes the certification, a precondition for admissibility. While doing so, it does not talk about relevancy. In a way, Sections 65-A and 65-B, if read together, mix up both proof and admissibility, but not talk about relevancy. Section 65-A refers to the procedure prescribed in Section 65-B, for the purpose of proving the contents of electronic records, but Section 65-B speaks entirely about the preconditions for admissibility. As a result, Section 65-B places admissibility as the first or the outermost check post, capable of turning away even at the border, any electronic evidence, without any enquiry, if the conditions stipulated therein are not fulfilled.

85. The placement by Section 65-B, of admissibility as the first or the border check post, coupled with the fact that a number of "computer systems" [as defined in Section 2(l) of the Information Technology Act, 2000] owned by different individuals, may get involved in the production of an electronic record, with the "originator" [as defined in Section 2(za) of the Information Technology Act, 2000] being different from the recipients or the sharers, has created lot of acrimony behind Section 65-B, which is evident from the judicial opinion swinging like a pendulum.

105. In the aforesaid judgment the Hon'ble Apex Court has clearly laid down the necessity of complying the provisions of Sec.65(B)(4) of Indian Evidence Act. In the aforesaid judgment, the Hon'ble Apex Court has held that the Certificate under Sec.65(B)(4) is unnecessary if the original document itself is produced before the Court. Further it is clarified that the same may be produced by the owner of the Laptop, Computer or even a mobile phone by stepping into the witness box and deposing about its genuineness that the original information was stored, owned or operated by him. However, in matters wherein the computer happens to be a part of a computer system or computer network and if it becomes impossible to physically bring such system or network, the information contained can be produced in the form of electronic record in accordance with Sec.65(B)(1) together with the requisite Certificate. With this basic aspect, now the Court is required to ascertain whether

the certificates which are issued under Sec.65(B)(4) are proper and issued in accordance with law. In order to look into the same, the brief description of materials which were sent for forensic examination is required to be reiterated. At the first instance it could be appropriate to note the following aspect at the cost of repetition that the case of the prosecution would indicate that the accused Prajwal Revanna had recorded the incident of forcible sexual intercourse in his mobile phone and the videos were transferred by PW.10 Karthik to his mobile i.e., Vivo Mobile Phone which he claims to have lost in the year 2021 for which he had lodged a complaint as per Ex.P40 on 14.08.2021. The main aspect which requires to be considered is whether such an information which was secured without the knowledge of the person who had stored the same can be considered as valid evidence. In other words, whether the information secured illegally can be considered as valid evidence under the eyes of

law. In this regard, the Court has relied upon the judgment of the Hon'ble Apex Court reported in **2025 SCC Online SC 1421 (Vibhor Garg Vs. Neha)** wherein the Hon'ble Apex Court has held:

> ***Validity of secretly obtained evidence:***
>
> ***9.2 This Court has often had the occasion to deal with the issue of using illegal and immoral ways to procure evidence against a person without the knowledge of the person. It is often alleged by accused persons that the investigation authorities did not follow legal methods and procedures to obtain the evidence against them. Sometimes recording devices and phone-tapping mechanisms are resorted to for the purpose of collecting relevant evidentiary material. In such cases, the view taken by this Court has been that merely the fact that an evidence was not obtained strictly in accordance with law does not absolutely bar the admissibility of such an evidence. The Court, while appreciating such evidence, may have to tread with caution and be assured about the accuracy and reliability of such evidence but the said evidence cannot be said to be irrelevant and/or inadmissible merely on the argument that it was illegally obtained.***
>
> ***9.3 In the case of Yusufalli Esmail Nagree v. The State of Maharashtra, AIR 1968 SC 147 ("Yusufalli Nagree"), a three-judge bench of this Court was dealing with a***

case of corruption wherein a conversation was secretly recorded by the police by laying a trap and concealing a microphone in the room of the accused. The conversation was recorded on a tape recorder. The admissibility of this recorded conversation was objected to on the ground that this was recorded without the knowledge of the accused and the accuracy of the conversation recorded on the tape recorded was challenged. This Court, speaking through Bachawat, J., rejected these arguments made by the accused. While this Court refused to lend its approval to the police practice of tapping telephone wires and setting up hidden microphones for the purpose of tape recording, it held that the fact that the tape recording was done without the knowledge of the accused is not in itself an objection to its admissibility in evidence because the accused in this case was free to talk or not to talk; his conversation was voluntary and there was no element of duress, coercion or compulsion. It was further observed that the imprint on the magnetic tape is the direct effect of the relevant sounds. Like a photograph of a relevant incident, a contemporaneous tape record of a relevant conversation is a relevant fact and is admissible under Section 7 of the Evidence Act. This Court further observed with respect to the balance to be struck between the relevance and caution while dealing with a tape-recorded conversation as follows:

"6. ... If a statement is relevant, an accurate tape record of the statement is also relevant and admissible. The

time and place and accuracy of the recording must be proved by a competent witness and the voices must be properly identified. One of the features of magnetic tape recording is the ability to erase and re-use the recording medium. Because of this facility of erasure and re-use, the evidence must be received with caution. The court must be satisfied beyond reasonable doubt that the record has not been tampered with."

(underlining by us)

9.4 In furtherance to the above view came the judgment of this Court in the case of R. M. Malkani v. State of Maharashtra, (1973) 2 SCR 417 ("R.M. Malkani"), wherein the validity of a tape-recorded conversation was in question. This Court, while allowing the tape-recorded conversation to be admitted in evidence, observed the following:

"Tape recorded conversation is admissible provided first the conversation is relevant to the matters in issue; secondly, there is identification of the voice; and thirdly, the accuracy of the tape-recorded conversation is proved by eliminating the possibility of erasing the tape record. A contemporaneous tape record of a relevant conversation is a relevant fact and is admissible under section 8 of the Evidence Act. It is res gestae. It is also comparable to a photograph of a relevant incident. The tape-recorded conversation is therefore a relevant fact and is admissible under section 7 of the Evidence Act."

> ***9.5 The aforesaid test laid down by this Court has become a locus classicus on the issue of determining the admissibility of a tape-recorded conversation. The three-fold test of relevance, identification and accuracy has to be satisfied before a Court admits a recorded conversation in evidence. However, the fact that the conversation was recorded without the consent and knowledge of the person speaking is not a prohibition on the admissibility of the evidence, as laid down by the Evidence Act and read into the statutory provisions by this Court.***

106. The Hon'ble Apex Court though was considering a case wherein certain conversation between the spouses were produced as document before the Court and was appreciating its credentials by looking into the provisions of Sec.122 of Indian Evidence Act, the Court had also considered the other limb of the same by referring to various Authorities with respect to the admissibility of materials which were obtained illegally. Further the Hon'ble Apex Court has held that as per the test laid down there in the Court had become locus classicus. That apart it is

specifically held by the Hon'ble Apex Court that merely because certain materials were obtained illegally, the Courts are not debarred from looking into the same, however a rider has been imposed by way of caution that the Court is required to tread about its veracity with certain caution. The aforesaid judgments aptly apply to the case on hand. Even in the instant case, the Court is not accepting the submissions which are made by the prosecution as if it is a gospel truth. However, the materials which are placed before the court when appreciated with a pinch of salt coupled with the ocular evidence lead before the court by PW.10 Karthik, it would indicate that the original device which is the mobile phone of the accused Prajwal Revanna could not be recovered or found during the entire course of investigation. This leads to a situation wherein the Court is now required to appreciate the case of the prosecution in the wake of the allegations of viralling of obscene videos of various

victims with that of accused Prajwal Revanna. In the instant case, at the first instance the Investigating Officers i.e., the I.O in Crime No.107/2024 had recovered the Mobile phone from PW.10 Karthik by drawing a mahazar. The records indicates that the I.O in the instant case had sought the mobile phone for which it was replied by the IO in Crime No.107/2024 that it would be permissible to hand-over the same only with the permission of the court and as such PW.26 Smt.Shobha had made a requisition to the learned committal Court as per Ex.P148 and as per the order dated 14.08.2024 at Ex.P149 the learned 42nd ACJM Court at Bengaluru had permitted PW.26 to secure the same. In this background, the mahazar which was drawn towards securing of the mobile is required to be considered. As noticed from the records, the mahazar at Ex. P82 which was drawn on 19.08.2024 indicates that the present I. O Smt.Shobha had secured the possession of the mobile phone which

was in a sealed cover consisting of a seal of FSL, Bengaluru. At this juncture, the objections raised by the learned Counsel for accused is required to be appreciated. It is the submission of the learned Counsel for the accused that as per the evidence of PW.26 Smt.Shobha, who is the Investigating Officer in the above case has admitted during the course of cross-examination that the mobile phone as on 20.08.2024 was in the possession of FSL. It is their submission that if for the sake of arguments, if admissions are accepted then it could lead to a situation that how the Investigating Agency had sent the mobile phone for forensic examination and how the FSL had furnished the Report without verifying the mobile phone. The learned SPP has vehemently argued that the concept of '***falsus in uno, falsus in omnibus***' concept is not applicable to India. It is his submission that though there may be some stray admissions or even otherwise the I.O might have deposed about the

date erroneously it should be kept in mind that the materials which are produced before the Court were all voluminous in nature and it is natural for a human to err at the time of evidence with respect to dates on which the materials were sent for forensic examination. Hence, he has argued that the entire evidence and documents are required to be considered conjointly. The submissions of the learned SPP are justifiable and I have bestowed my anxious reading to the entire materials which are placed before the Court. When the document which is Recovery Mahazar at Ex. P82 is examined scrupulously, it would indicate that the I.O in Crime No.107/2024 had recovered the mobile phone through PF No.1/2024 in that case and she had handed-over the same which was kept in a sealed cover to the present I.O. It would be worthwhile to consider the evidence of PW.25 Smt.Suma Rani, wherein she had stated that initially she had recovered the mobile phone from PW.10 Karthik on 30.04.2024 under the

mahazar at Ex. P81 and she had extracted the data contained in the mobile phone in a pen-drive which was nothing but a cloned copy of the data. She has further deposed that later on she had handed-over the same to PW.26 under the mahazar. During the course of cross-examination, it was suggested to her that on 30.05.2024 she had sent the mobile phone for scientific examination which was returned back by FSL on 20.08.2024. The said suggestion was admitted by the witness. Once again, the very same question was put to PW.26 Smt.Shobha, who has also admitted the suggestion. If for a moment the admission is considered with the documents which were sent by the Investigating Officers in the form of mobile phone and its data extracted in the pen-drive, it could be noticed that as per Ex.P64, which is the test report furnished by PW.22 Kailash, it indicates that he had received one sealed packet containing of 1 Samsung Mobile Phone which had an Article Smart Code as “TAM3ZTNT”. The

aforesaid aspect completely corroborates with the acknowledgment slip issued by the FSL on 20.08.2024 which is at Ex. P155 wherein the description of the article No.1 is mentioned as Samsung Mobile Phone and very same Article Smart Code is mentioned. I have also bestowed my anxious reading to the evidence of PW.22 Kailash. No where in his evidence the aforesaid aspect was suggested to him and in fact, he has specifically deposed of receiving the mobile phone on 20.08.2024 itself. The fact which is not confronted to a person who was having the best knowledge about the same cannot be confronted later on or it may be considered as a ground to be urged during the course of arguments. Even otherwise the unintentional mistakes committed by the Investigating Officers at the time of tendering their evidence and that too when a complex situation arises of remembering various dates, the same requires to be ignored. In my humble opinion, the contention of the accused that the

admissions given by the witness does not have any impact on the case of the prosecution since the document produced by the FSL speaks volume for itself.

107. Now, coming to the other aspect of considering the veracity of the documents. Admittedly, it is noticed that the Samsung Galaxy J4 mobile phone was recovered in Crime No.107/2024 as per the mahazar at Ex. P81 and later on it was handed-over to the present I.O under the mahazar at Ex. P82 which was once again sent to the FSL. At this juncture, the materials which was sent to the FSL is required to be looked into. In the instant case, the FSL at Bengaluru was sent with one mobile phone which is already discussed above and it was marked as Article No.1 and along with that another SanDisk ultra-SD Card of 16 GB capacity was also sent and another sealed packet consisted of SanDisk Micro SD Card of 16 GB capacity

which allegedly consisted of the audio files of the victim. Whereas, the fourth sealed cover consisted of 32 GB capacity SanDisk Micro SD Card which allegedly containing audio files having voice sample features of Prajwal Revanna. With this the Court is now required to consider the questionnaires which were sought by the Investigating Officer. The questionnaires in Form No.152 as per Ex. P70 gives the description of the same. In that it has been specifically mentioned that on 18.05.2024 the victim was called to their office and in her presence the videos were displayed in which she had identified herself in 4 videos along with accused person. Identification of the victim by herself in the video assumes importance in the instant case. That apart the aforesaid videos were transferred into SD Card and the description of the videos are also mentioned. Further the questionnaire also indicates of sending two other SD Cards which allegedly consisted of the audio speech samples of the victim and of

accused person. In the questionnaire the following specific questions have been asked which are as follows;

- **Whether the contents of the video files mentioned was in existence in the mobile phone?**
- **Whether the videos were recorded from the same device and**
- **Whether it was transferred/received from another device?**
- **When the original videos were created?**
- **Whether the videos were genuine or edited/ morphed?**
- **Whether the victim in the video matched with the video in Article No.1 of the mobile phone?**
- **Whether the audio text in the SD Card matched with the speech of the victim in the mobile phone by**

comparing with the specific words uttered by her?

- **Whether the 9 photographs mentioned in Article No.4 were compared with the person in videos in Article No.1 (Mobile Phone) tallied with each other?**

- **Whether the photos tallied with the person in the mobile phone at Article No.1?**

- **Whether the voice transcription found in 32 GB SD Card matched with the video in Article No.1 of the mobile phone?**

- **Requested them to furnish photographs from the video by quality enhancement?**

108. The aforesaid aspect is also required to be appreciated from the fact that certain photographs were obtained pertaining to accused Prajwal Revanna during the course of his medical examination. In this regard, once again the questionnaires which was

requested by the I.O in Form No.152 addressed to the FSL, Bengaluru is to be considered, wherein the details of the photographs which were obtained by way of mobile data extraction is discussed. In that, it has been stated that a Sony DVD – RW with capacity of 8.5 GB was obtained from the concerned Medical Officer which was named as Article No.1 and the same was received along with two other DVD's from the Medical Examination Board of Sri Atal Bihari Vajpayee Medical College and Research Institute on 20.08.2024 and the same was mentioned as Article No.2 and thereafter on 04.09.2024, a mobile data extraction obtained in two pen-drive's was received which was mentioned as Article No.3 and the details of the images was enumerated and had requested to point out that whether the photographs which were taken out at the time of medical examination by FSL team would corroborate with the PPT submitted by the Medical Board pertaining to identification marks on the body of

the accused person. Apart from that, the IO had also sent another DVD to FSL consisting of photos and videos taken out at the time of mahazar at Basavanagudi house and another pen-drive consisting of the photos of the Gannikada Farm House.

109. Now coming to the test report furnished by the Investigating Agency with respect to the mobile data, it is noticed that, Ex. P61 was subjected to scientific examination by PW.21 Vedamurthy H.R. During the course of his chief-examination he has explained in detail the process by which he had subjected the Samsung Mobile Phone to scientific examination. It is his evidence that he had conducted forensic examination using Cellebrite UFED 4 PC 7.69.0.1397 and digital data was analyzed by using forensic software by name Oxygen Forensic Detective – 15.3.0.86 and he has deposed that the videos were not captured from the Samsung Mobile Phone and he has

stated that the 4 video files were present in download path, the source of transferred, shared/received details and further the video files consisted of Metadata of the captured, created, date and time of the videos. During the course of cross-examination it was elucidated from him that the mobile did not have any internal storage capacity and also, he has admitted that he had not mentioned the total number of applications available in the Samsung Mobile Phone. It is his evidence that prior to extraction of mobile data, hash value would not be generated and it would be generated only at the time of extraction. Further he had admitted that the extraction was sent by him in a CD to the inter section transfer for another Branch for scientific analysis. It was also suggested to him that with advanced applications screen shots could be modified for which he has admitted the same. Apart from that, nothing was elucidated from him questioning the manner of extraction or the methodology adopted by him. In other

words, the extraction process and furnishing of the Report is categorically admitted since there is not even a slightest denial of the same.

110. The result of the examination which is forthcoming in Ex. P61 is extracted for the sake of benefit which is disclosed as below:

> ***"1. The Samsung Mobile Phone marked as D1a contains 4 video files as mentioned in the case file. The respective details are enclosed in a soft copy as Annexure-A1k. The above mentioned video files do not contain Metadata about captured device details. Hence, no opinion is expressed with regards to video files captured on Samsung Mobile Phone marked as D1a or any other devices. Further, the 4 video files are present in download path, the source of transferred, shared/received details of the above-mentioned video files is not found in the extracted digital data. In addition, above mentioned video files contains the Metadata of capture/creation date and time".***

111. When the aforesaid opinion is appreciated, it seems to be little bit confusing. However, when the

entire aspect is carefully appreciated with the explanation offered and compared with the extraction report, the unerring inference which could be drawn is as follows:

- ***There were totally 4 video files found on the mobile phone***
- ***The video files do not contain Metadata which could identify the device through which it was captured.***
- ***Due to the missing data the examiner was unable to conclude whether the videos were recorded on that specific phone or another device***
- ***All 4 videos were located in download path suggesting that they might have been downloaded rather than recorded using the device***
- ***The source from which the videos were downloaded/shared was not identifiable from the available digital data***

- ***The videos did contain Metadata showing the date and time they were created or captured.***

112. The aforesaid aspect would indicate that the videos were not captured from the Samsung Mobile Phone which in other words would fortify the case of the prosecution that in fact the videos were captured by accused on his mobile phone and the same was subsequently transferred into Vivo Mobile Phone which later on was transferred to Samsung Galaxy J4 Mobile Phone by PW.10 Karthik. The aforesaid Report is to be considered only to a limited extent and whereas the other Report which has been furnished at Ex. P64 gives further clarity about the actual aspects of the case. In order to better appreciate the same, the evidence of PW.22 Kailash is required to be considered wherein he has deposed about his educational qualifications and also the method adopted by him for arriving at a conclusion with respect to analyzing the

data which was in the mobile phone with 3 SD Cards. In his explanation he has specifically stated that the mobile phone consisted of 4 video files in which audio conversation with one male and one female speaker was noticed. Further he has also narrated about the materials contained in various articles which he had received for scientific examination. He has deposed and he had submitted in his Report that with respect to voice feature he had conducted the examination by using semi-automatic method and also he has furnished the details of cepstrum which represents the source characteristics of speech sounds and has stated that the vowels uttered from the words selected and compared with the segregated speeches of question and sample recordings would confirm that the voice of the female speaker match with that of the victim and whereas the auditory and feature extraction methods revealed that the speeches of male speaker Prajwal Revanna matched with the speeches in the videos

pertaining to male speaker. Further he has opined that on the basis of frame analysis the video files were found continuous and not edited or morphed. However, in one of the video frames, jumping of frame was found at time duration of 31 Seconds, however the file frames were continuous and were not edited and morphed. With this opinion he has also furnished the cepstral plots of accused Prajwal Revanna and also of the victim. He has also furnished necessary Certificate under Sec.65(B)(4) of Indian Evidence Act wherein he has explained in detail the materials used for data extraction, its retrieval and the process of analysis which was marked as Ex. P65.

113. During the course of cross-examination of PW.22 nothing much was elucidated from him. It is also pertinent to note he has specifically deposed during cross-examination that none of the frames were edited or morphed and has admitted that their Lab can

detect partial software, deep fake. Apart from that nothing much has been elucidated. The unerring inference which can be drawn from the aforesaid Report is that the videos were not edited or morphed and hence the contention of casting aspersions on the videos is not justified and even in the absence of the original one, the report of the FSL would indicate that the videos were not edited or morphed.

114. The other Report of the FSL which is at Ex. P75 which is furnished by PW.23 Ramesh.K pertains to examining the photographs of the accused person which was obtained during his medical examination along with the pen-drive and mobile phone data which was sent to him. Further he was requested to give his opinion with respect to the scene of crime i.e., the Gannikada Farm House and also the house of Basavanagudi, wherein several photographs were obtained at the time of mahazar. The aforesaid opinion

assumes importance for the reason that the expert is able to identify the distinctive fabric patterns and visible features of the accused persons by pointing out to the mole, scar and vein pattern and he in his opinion has deposed that the same demonstrate a high degree of similarity across the images and also the findings provide substantial evidence that the visuals depict same individuals and same environment. During the course of his chief-examination he has deposed that Article No.2 consisted of PPT Format which were 6 slides taken out during the course of medical examination and whereas the other articles i.e., Article No.1 and 2 were DVD's and Article No.3 was a pen-drive. At this juncture, the submissions of the learned Counsel for the accused are to be appreciated wherein they had raised serious objections with respect to the medical examination of the accused being conducted by the concerned Hospital. During the course of evidence, Ex. D1 came to be marked by way of

confrontation. It is submitted that as per Ex. D1, which is dated 15.06.2024 certain interpolation of dates was found wherein the photographer had affixed his signature initially as 05.06.2024 which was subsequently edited as 15.06.2024. In order to better appreciate the same, it would be appropriate to consider the evidence of the medical officer PW-16 Dr. K V Sathish who has deposed before the court with respect to constitution of the Medical Board by the Government of Karnataka and he has deposed that the accused Prajwal Revanna was subjected to medical examination by the team of doctors constituted therein. Further he has deposed that at the time of the Medical Examination, the photographer of FSL had captured the photographs of the various body parts of the accused person and subsequently on 01.08.2024, they had received another requisition from the I.O with a request to identify the identification marks on the body of the accused person. It is relevant to note that

the team of Doctors of the Medical Board so constituted had verified the photographs and video and had prepared the PPT consisting of 9 photographs out of 65 photographs in the DVD which were sent to them. It is relevant to note that very same PPT was sent to FSL to examine whether such identification marks matched with that of the person seen in the video ravishing the victim. Further it is required to consider the contents which is mentioned in the report which is furnished along with medical report and as per the same the accused was subjected to medical examination and at that time permission was granted to FSL to take video graph and photograph of his genitals in erectile state. Further it is mentioned that subsequent to the second attempt his gentile had attained erectile state and the same was captured. It is submitted that the accused was subjected to medical examination on 05.06.2024 in Cr.No.107/2024 and whereas the very same Report by editing the date was

furnished in the instant case. In order to better appreciate the same, I have carefully examined the medical examination Report of the accused at Ex. P51 furnished in the above case and in the said report at internal Page No.831 it has been mentioned as;

> ***"Pubic hairs: black in colour measures 1 Cm in length"***

115. The aforesaid aspect is required to be considered with the medical examination Report furnished in Crime No.107/2024 which is also pending for consideration before this Court and in that case, it was submitted that the accused was subjected to medical examination on 05.06.2024, wherein it is mentioned with respect to pubic hairs as follows;

> ***"Pubic hairs: black in colour trimmed measures 0.2 mm in length"***

116. The aforesaid difference in both Reports would clarify the hollowness in the submissions of the learned Counsel for accused. That apart during the

course of entire cross examination, none of the Doctors were confronted in this regard. Even otherwise, the FSL expert could have been questioned about the Metadata of the PPT files to ascertain whether the same was captured on 05.06.2024 or on 15.06.2024. That apart, I have also considered the cross-examination of PW.19 Dr.Rohith, wherein it was suggested that the photographs of erectile state of the pennis of Prajwal Revanna were obtained at 01.35 p.m., the witness has deposed that the photographs were obtained when he got the erection. This particular aspect when juxtaposed with Ex. D1, it would indicate that a second attempt was made and at that time the accused had obtained erection. That apart, the evidence of PW.17 Dr.Thejaswi, PW.18 Dr.B.M.Girish coupled with the evidence of Dr.K.V.Sathish is considered, it would indicate that there was nothing to suggest that the accused was incapable of indulging in sexual intercourse. The main aspect which is disputed

is with respect to obtaining the photographs by the Medical Board. However, when the suggestion put-forth to PW.19 indicates that the image was captured at 01.35 p.m., when the accused had obtained erection, the same would fortify the contention of the prosecution. If for a moment the reasons assigned by the Expert along with his Report at Ex. P75 is appreciated, it would indicate the findings rendered by them by comparing with the super imposed image of the victim at the place of incident and also the body parts, the fabric which was worn were all compared. Further the photograph pertaining to accused with respect to specific identification mark when super imposed and compared with the image, it would indicate the very same mole and identification mark matched with each other. That apart, a comparison has been made with respect to vein structures of the genitals of the accused person and in conclusion it has been drawn that the visible features in both images

particularly the pattern and placement of the vein, it would strongly suggest that the visible characteristics are consistent across two visuals and both images depicted the same individual. The said Report is also accompanied by necessary Certificate under Sec.65(B) of Indian Evidence Act which is at Ex. P77.

117. When the aforesaid aspect is compared with the Silent Witness Theory which is propagated at the beginning of this Chapter, it would indicate that the photographs, videos and images are self-explanatory and it speaks for itself. In the instant case, no doubt the original mobile through which the recording was made was not recovered by the Investigating Agency, however the fact which remains on record is that the PW.1 the victim, herself had got her identified in the 4 videos which were shown to her during the course of investigation by the Investigating Officer and also subsequently in the Court. It is relevant to note that

when the victim was once again called upon before the Court for the purpose of identification, her demeanor came to be recorded by this Court wherein she had started to weep profusely immediately on the display of the video and she had specifically identified her voice and also the voice of accused Prajwal Revanna. During the course of cross-examination nowhere it is suggested that the videos were not genuine but it was suggested that the male voice found in the video did not belong to the accused Prajwal Revanna. Further it was suggested that he was not found in the video, for which she has specifically stated that his hands and legs are found. If for a moment the Report furnished by the Team of Medical Examiners in the 9 PPT which were captured by them on 15.06.2024 is appreciated with the Report at Ex. P75, the entire submissions made by the accused would be falsified. That apart, during the course of the statement recorded under Sec.313 of Cr.P.C., the accused himself has admitted of

filing injunctive suit against PW.10 Karthik and others before the Civil Court and had obtained interim order. If for a moment the accused when does not dispute the genuineness of the video, then the submission would be a farrago and it cannot be considered. In other words, the entire cross examination would indicate that the accused is not seriously disputing the existence of video but it is his contention that he was not present in the video. However, when the medical examination coupled with scientific examination by FSL is conjointly read, the unerring inference which can be drawn is that the accused was present in the video with the victim. What is the evidentiary value of the silent witness theory has been categorically explained by the Hon'ble Apex Court in a case where identification was made through photographs. In this regard the court has placed reliance on the judgment rendered in (2000)1 SCC 138 (***Umar Abdul Sakoor Sorathia v. Intelligence Officer, Narcotic Control***

Bureau) has been succinctly explained wherein it is held as:

> ***12. In the present case prosecution does not say that they would rest with the identification made by Mr Mkhatshwa when the photograph was shown to him. Prosecution has to examine him as a witness in the court and he has to identify the accused in the court. Then alone it would become substantive evidence. But that does not mean that at this stage the court is disabled from considering the prospect of such a witness correctly identifying the appellant during trial. In so considering the court can take into account the fact that during investigation the photograph of the appellant was shown to the witness and he identified that person as the one whom he saw at the relevant time. It must be borne in mind that the appellant is not a proclaimed offender and we are not considering the eventuality in which he would be so proclaimed. So the observations made in Kartar Singh [(1994) 3 SCC 569:***

1994 SCC (Cri) 899] in a different context is of no avail to the appellant.

118. The Hon'ble Apex Court had an occasion to consider the theory of Silent Witness and in the judgment rendered in (1970)2 SCC 340 (N. Sri Rama Reddy v. V.V. Giri) the same was discussed and it was held as:

12. We will now refer to the case-law on the subject. In Hopes v. H.M. Advocate [(1960) Scots Law Times 264] a tape-recorded conversation which took place between a complainant and a blackmailer was played before the jury and sought to be put in evidence by a police officer who had listened to the conversation as it was transmitted through the loudspeaker. Objection were raised to the admissibility of the said evidence. The learned trial Judge overruled the objection as follows:

"New techniques and new devices are the order of the day. I can't conceive, for example, of the evidence of a ship's captain as to what he observed being turned down as inadmissible because he had used a telescope, any more than the evidence of what an ordinary person sees with his eyes becomes incompetent because he was wearing spectacles. Of course, comments and criticisms can be made, and no doubt will be made, on the audibility or the intelligibility, or perhaps the

interpretation, of the results of the use of a scientific method; but that is another matter, and that is a matter of value, not of competency. The same can be said of visual observation by a witness who says he sees something; his evidence can be criticised because of his sight or because of the sort of glasses he is wearing, and so on, but all these matters are matters of value and not of competency."

Accordingly, the learned Judge allowed the police officer to give evidence as to what he heard on the tape-recorder, which was played before the Jury.

13. On appeal to the High Court of Justiciary it is seen that no objection appears to have been taken to the competency of the evidence furnished by the tape-recorder but the admissibility of the evidence of the police officer based upon his hearing of the tape-recorded conversation was objected to. This objection was over-ruled by the High Court of Justiciary stating that it is competent for the police officer to give evidence of conversation which he hears with the help of hearing aid or, as in the case before them, when the conversation is transmitted to him over a distance by wireless and that there may be criticism of the quality of his evidence and not about the competency of the evidence of what he has heard. The Court further observed at p. 267:

"The Inspector's evidence of the conversation was as much primary evidence as the evidence from the replaying of the tape-recorder. Each received it at the same time, the one

recording it in the human memory the other upon piece of tape."

From the above decision it is apparent that the tape itself is primary and direct evidence admissible as to what has been said and picked up by the recorder.

14. In R. v. Mills [(1962) 3 All ER 298] a conversation which had been recorded on tape between two of the persons was heard by a police officer who gave evidence that he has himself remembered the various remarks which passed between those two persons which could be corroborated by the conversation recorded on the tape. But the tape-recording itself was not introduced in evidence nor was there any production of the record by consent before the Jury. They referred to the decision of the High Court of Justiciary in Hopes case and held that according to the said decision the tape-recorded conversation was admissible as direct evidence. Though the discussion in the judgment shows that a tape-recorded conversation is admissible in evidence ultimately the Court left open the question stating:

"The Court has not debated, and is not deciding, any broad and general question of principle whether evidentiary material obtained by the use of a tape-recorder without the concurrence of a human being listening to the same sounds is admissible or is not dismissible in evidence in a criminal trial".

16. The question again directly arose in R. v. Maqsud Ali [(1965) 2 All ER 464]

. In that case a conversation which took place in Punjabi dialect between two persons and which had been recorded on the tape was played before the jury and was admitted in evidence by the trial Judge. Objection was taken before the court of criminal appeal regarding the admissibility in evidence of the tape-recorded conversation between the accused. Therefore the point that specifically arose before the court of appeal was "Is a tape-recording as such admissible in evidence, as a matter of law?" After referring to the observations in Mills case the appellate court noted that the question regarding the admissibility of a tape-record was not actually decided in that case. The decision of the High Court of Justiciary in Hopes case was referred to and it was noted that the evidence of the police officer who listened to the tape-recorder was held to be admissible. The Court said, at p. 469:

"We think that the time has come when this Court should state its views of the law on a matter which is likely to be increasingly raised as time passes. For many years now photographs have been admissible in evidence on proof that they are relevant to the issues involved in the case and that the prints are taken from negatives that are untouched. The prints as seen represent situations that have been reproduced by means of mechanical and chemical devices. Evidence of things seen through telescopes or binoculars which otherwise could not be picked up by the naked eye have been admitted, and now there are

devices for picking up, transmitting, and recording, conversations. We can see no difference in principle between a tape recording and a photograph. In saying this we must not be taken as saying that such recordings are admissible whatever the circumstances, but it does appear to this Court wrong to deny to the law of evidence advantages, to be gained by new techniques and new devices, provided the accuracy of the recording can be proved and the voices recorded properly identified; provided also that the evidence is relevant and otherwise admissible, we are satisfied that a tape-recording is admissible in evidence. Such evidence should always be regarded with some caution and assessed in the light of all the circumstances of each case. There can be no question of laying down any exhaustive set of rules by which the admissibility of such evidence should be judged."

In consequence, the Court held that the tape-recorded conversation was admissible in evidence, subject to the limitations mentioned in the above extract.

17. It will therefore be seen. that though the question of admissibility of a tape-recorded conversation had been left open in Mills case, the same was specifically considered and decided affirmatively in Maqsud Ali case.

119. In the instant case it is vehemently argued that the Certificates which are issued under Sec.65(B)

(4) of Indian Evidence Act does not comply with the necessary provisions and dictum as laid down by the Hon'ble Apex Court. With respect to the production of Certificates by the Experts, already this Court has discussed in detail. With respect to the photographs which were taken at the time of mahazar, is seriously disputed. It is the submission of the learned Senior Counsel for the accused that as per the evidence of PW.13 Hemesh Kumar.H, he had assisted in obtaining the photographs and during the course of his cross-examination it was denied by him that the data of their department will be stored in a server and he had voluntarily tendered his evidence that it will be stored in a dedicated system. Further it was questioned to him that whether their Department would check the computer with respect to its working condition and also whether any firewalls were installed to the system, he has answered that they were all working properly and it is his evidence that there was only one system in

their Department which was being used in the ordinary course of work and also four other persons in their section would use the system available. By pointing to the same, the learned Senior Counsel has vehemently argued that the aforesaid deposition is very much contrary to the dictum laid down by the Hon'ble Apex Court in Arjun Pandith Rao's case discussed supra. I have bestowed my anxious reading to the same. It is relevant to note that in Para-26 of the aforesaid judgment, the stipulated conditions and the competent persons to issue the Certificate have been narrated. For the sake of brevity, the same is extracted which reads as follows;

> ***26. It is now appropriate to examine the manner in which Section 65-B was interpreted by this Court. In Anvar P.V. [Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 : (2015) 1 SCC (Civ) 27 : (2015) 1 SCC (Cri) 24 : (2015) 1 SCC (L&S) 108] , a three-Judge Bench of this Court, after setting out Sections 65-A and 65-B of the Evidence Act, held : (SCC pp. 483-86, paras 14-18 & 20-24)***

"14. Any documentary evidence by way of an electronic record under the Evidence Act, in view of Sections 59 and 65-A, can be proved only in accordance with the procedure prescribed under Section 65-B. Section 65-B deals with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary evidence in electronic form, generated by a computer. It may be noted that the section starts with a non obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production of the original. The very admissibility of such a document i.e. electronic record which is called as computer output, depends on the satisfaction of the four conditions under Section 65-B(2). Following are the specified conditions under Section 65-B(2) of the Evidence Act:

(i) The electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any activity regularly carried on over that period by the person having lawful control over the use of that computer;

(ii) The information of the kind contained in electronic record or of the kind from which the information is

derived was regularly fed into the computer in the ordinary course of the said activity;

(iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for some time, the break or breaks had not affected either the record or the accuracy of its contents; and

(iv) The information contained in the record should be a reproduction or derivation from the information fed into the computer in the ordinary course of the said activity.

15. Under Section 65-B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:

(a) There must be a certificate which identifies the electronic record containing the statement;

(b) The certificate must describe the manner in which the electronic record was produced;

(c) The certificate must furnish the particulars of the device involved in the production of that record;

(d) The certificate must deal with the applicable conditions mentioned under Section 65-B(2) of the Evidence Act; and

(e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.

16. It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc (CD), video compact disc (VCD), pen drive, etc. pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition, excision, etc. without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.

17. Only if the electronic record is duly produced in terms of Section 65-B of the Evidence Act, would the question arise as to the genuineness thereof and in that situation, resort can be made to Section 45-A—opinion of Examiner of Electronic Evidence.

18. The Evidence Act does not contemplate or permit the proof of an electronic record by oral evidence if requirements under Section 65-B of the Evidence Act are not complied with, as the law now stands in India.

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20. Proof of electronic record is a special provision introduced by the IT Act amending various provisions under the Evidence Act. The very caption of Section 65-A of the Evidence Act, read

with Sections 59 and 65-B is sufficient to hold that the special provisions on evidence relating to electronic record shall be governed by the procedure prescribed under Section 65-B of the Evidence Act. That is a complete code in itself. Being a special law, the general law under Sections 63 and 65 has to yield.

21. In State (NCT of Delhi) v. Navjot Sandhu [State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600 : 2005 SCC (Cri) 1715] a two-Judge Bench of this Court had an occasion to consider an issue on production of electronic record as evidence. While considering the printouts of the computerised records of the calls pertaining to the cellphones, it was held at para 150 as follows : (SCC p. 714)

'150. According to Section 63, "secondary evidence" means and includes, among other things, "copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies". Section 65 enables secondary evidence of the contents of a document to be adduced if the original is of such a nature as not to be easily movable. It is not in dispute that the information contained in the call records is stored in huge servers which cannot be easily moved and produced in the court. That is what the High Court has also observed [State v. Mohd. Afzal, 2003 SCC OnLine Del 935: (2003) 71 DRJ 178] at para 276. Hence, printouts taken from the computers/servers by mechanical process and certified by a responsible official of the service-providing

company can be led in evidence through a witness who can identify the signatures of the certifying officer or otherwise speak of the facts based on his personal knowledge. Irrespective of the compliance with the requirements of Section 65-B, which is a provision dealing with admissibility of electronic records, there is no bar to adducing secondary evidence under the other provisions of the Evidence Act, namely, Sections 63 and 65. It may be that the certificate containing the details in sub-section (4) of Section 65-B is not filed in the instant case, but that does not mean that secondary evidence cannot be given even if the law permits such evidence to be given in the circumstances mentioned in the relevant provisions, namely, Sections 63 and 65.'

It may be seen that it was a case where a responsible official had duly certified the document at the time of production itself. The signatures in the certificate were also identified. That is apparently in compliance with the procedure prescribed under Section 65-B of the Evidence Act. However, it was held that irrespective of the compliance with the requirements of Section 65-B, which is a special provision dealing with admissibility of the electronic record, there is no bar in adducing secondary evidence, under Sections 63 and 65, of an electronic record.

22. The evidence relating to electronic record, as noted hereinbefore, being a special provision, the general law on secondary evidence under Section 63 read with Section 65 of the Evidence Act shall yield to the same. Generalia

specialibus non derogant, special law will always prevail over the general law. It appears, the court omitted to take note of Sections 59 and 65-A dealing with the admissibility of electronic record. Sections 63 and 65 have no application in the case of secondary evidence by way of electronic record; the same is wholly governed by Sections 65-A and 65-B. To that extent, the statement of law on admissibility of secondary evidence pertaining to electronic record, as stated by this Court in Navjot Sandhu case [State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600 : 2005 SCC (Cri) 1715] , does not lay down the correct legal position. It requires to be overruled and we do so. An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65-B are satisfied. Thus, in the case of CD, VCD, chip, etc. the same shall be accompanied by the certificate in terms of Section 65-B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible.

23. The appellant admittedly has not produced any certificate in terms of Section 65-B in respect of the CDs, Exts. P-4, P-8, P-9, P-10, P-12, P-13, P-15, P-20 and P-22. Therefore, the same cannot be admitted in evidence. Thus, the whole case set up regarding the corrupt practice using songs, announcements and speeches fall to the ground.

24. The situation would have been different had the appellant adduced primary evidence; by making available in evidence, the CDs used for

announcement and songs. Had those CDs used for objectionable songs or announcements been duly got seized through the police or Election Commission and had the same been used as primary evidence, the High Court could have played the same in court to see whether the allegations were true. That is not the situation in this case. The speeches, songs and announcements were recorded using other instruments and by feeding them into a computer, CDs were made therefrom which were produced in court, without due certification. Those CDs cannot be admitted in evidence since the mandatory requirements of Section 65-B of the Evidence Act are not satisfied. It is clarified that notwithstanding what we have stated herein in the preceding paragraphs on the secondary evidence of electronic record with reference to Sections 59, 65-A and 65-B of the Evidence Act, if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act, the same is admissible in evidence, without compliance with the conditions in Section 65-B of the Evidence Act."

120. When the aforesaid Authority is appreciated, it indicates that the Certificate must describe the electronic record, the manner in which it was produced, the particulars of the device involved and it must be signed by a person occupying a

responsible official position in relation to the operation of the relevant device. It is also been clarified that the person issuing the Certificate is required to state that it is the same as to the best of his knowledge and belief. With this factual position, if the facts of the case are appreciated, it indicates that the witness PW.13 Hemesh was in-charge of the Photography Division of the FSL, Bengaluru and his designation was Laboratory Assistant. That apart, nowhere during the course of cross-examination it was denied that he was not the sole person who was having control over the system in which the digital photographs were initially stored. Even otherwise, as per the aforesaid judgment in Para-73.2, it has been clarified by the Hon'ble Apex Court that it is unnecessary to issue Certificate if the original document is produced and further it has been held that the same can be dispensed with by producing the Certificate as laid down in Anwar P.V. Vs. Basheer case rendered by the Hon'ble Apex Court. The other

submission which has been made is the 65(B) Certificates were also marked through the IO PW.26. In the aforesaid judgment itself, the Hon'ble Apex Court has given the clarification that the Certificate can be produced even during the course of trial. What could be recollected is that initially some of the photographs which were obtained at the time of drawing the mahazar were marked subject to objections and at the time of evidence of the Investigating Officer, necessary Certificates under Sec.65(B) came to be marked. At the time of producing the Certificate, no objections were raised in particularly with respect to Ex. P176. For a moment, if Ex. P176 is to be considered, it indicates that the same was issued by one Mr.Dhana Prakash.N of Sabari Printers, Bengaluru. It is argued that why the SIT had taken out the materials out of their office and that too had obtained a print-out from a faraway place at BTM Layout, Bengaluru. No doubt the submissions seems to

be attractive. However, the argument which is canvassed is required to be based with a foundation during the course of cross-examination. When the cross examination is carefully appreciated it would indicate that not much was suggested nor even questioned. Even otherwise as per the dictum of the Hon'ble Apex Court, as laid down in Arjun Pandith Rao's case discussed supra, it is crystal clear that the Certificate requires certain details to be furnished. In the Certificate at Ex. P176 all details are mentioned and also the primary source of information through their 32 GB pen-drive with its description is also mentioned. In my humble opinion, the mandate under Sec.65(B)(4) of Indian Evidence Act is complied and hence the submission does not hold water.

121. By considering the aforesaid aspects, I am of the firm opinion that even though the digital records are not considered as substantive piece of evidence, the

same corroborates with the ocular evidence which is placed before the Court and absolutely nothing is pointed out to disbelieve the digital evidence and hence the digital evidence and opinion of the expert renders assurance to the case of the prosecution, wherein the ocular evidence is corroborated.

- **CHAPTER-XVII: REGARDING THE QUESTION OF FAIR TRIAL:**

122. In the instant case it is noticed that several volleys of arguments were made with respect to conducting a fair trial. What amounts to fair trial has been explained by **Sir Oliver Wendell Holmes** which describes the process as:

> ***"It is the merit of the common law that it decides the case first and determines the principle afterwards.... It is only after a series of determination on the same subject-matter, that it becomes necessary to 'reconcile the cases', as it is called, that is, by a true induction to state the principle which has until then been obscurely felt. And this statement is often modified more than once by new decisions before the abstracted general rule takes its final shape. A well-settled legal doctrine embodies the***

work of many minds, and has been tested in form as well as substance by trained critics whose practical interest is to resist it at every step."

123. The learned Senior Counsel in her compendium of Authorities which they have relied has relied upon the judgment of the Hon'ble Apex Court reported in **(2023)17 SCC 381 (Naveen @ Ajay Vs. State of Madhya Pradesh),** wherein the relevant paras which according to the accused are as follows:

16. The issue concerning importance of a fair trial was considered by this Court in Zahira Habibulla H. Sheikh v. State of Gujarat [Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158 : 2004 SCC (Cri) 999] (known as "Best Bakery case") wherein this Court made the following observations in paras 38 to 40 : (SCC p. 187)

"38. A criminal trial is a judicial examination of the issues in the case and its purpose is to arrive at a judgment on an issue as to a fact or relevant facts which may lead to the discovery of the fact issue and obtain proof of such facts at which the prosecution and the accused have arrived by their pleadings; the controlling question being the guilt or innocence of the accused. Since the object is to mete out justice and to

convict the guilty and protect the innocent, the trial should be a search for the truth and not a bout over technicalities and must be conducted under such rules as will protect the innocent, and punish the guilty. The proof of charge which has to be beyond reasonable doubt must depend upon judicial evaluation of the totality of the evidence, oral and circumstantial, and not by an isolated scrutiny.

39. Failure to accord fair hearing either to the accused or the prosecution violates even minimum standards of due process of law. It is inherent in the concept of due process of law, that condemnation should be rendered only after the trial in which the hearing is a real one, not sham or a mere farce and pretence. Since the fair hearing requires an opportunity to preserve the process, it may be vitiated and violated by an overhasty, stage-managed, tailored and partisan trial.

40. The fair trial for a criminal offence consists not only in technical observance of the frame and forms of law, but also in recognition and just application of its principles in substance, to find out the truth and prevent miscarriage of justice."

(emphasis supplied)

17. In Anokhilal v. State of M.P. [Anokhilal v. State of M.P., (2019) 20 SCC 196 : (2020) 3 SCC (Cri) 803] this Court, after referring to Best Bakery [Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158 : 2004 SCC (Cri) 999] on the issue, has held in paras 21 to 23 as

follows : (Anokhilal case [Anokhilal v. State of M.P., (2019) 20 SCC 196 : (2020) 3 SCC (Cri) 803] , SCC p. 223)

"21. In the present case, the Amicus Curiae, was appointed on 19-2-2013, and on the same date, the counsel was called upon to defend the accused at the stage of framing of charges. One can say with certainty that the Amicus Curiae did not have sufficient time to go through even the basic documents, nor the advantage of any discussion or interaction with the accused, and time to reflect over the matter. Thus, even before the Amicus Curiae could come to grips of the matter, the charges were framed.

22. The provisions concerned viz. Sections 227 and 228 of the Code contemplate framing of charge upon consideration of the record of the case and the documents submitted therewith, and after "hearing the submissions of the accused and the prosecution in that behalf". If the hearing for the purposes of these provisions is to be meaningful, and not just a routine affair, the right under the said provisions stood denied to the appellant.

23. In our considered view, the trial court on its own, ought to have adjourned the matter for some time so that the Amicus Curiae could have had the advantage of sufficient time to prepare the matter. The approach adopted by the trial court, in our view, may have expedited the conduct of trial, but did not further the cause of justice. Not only were the charges

framed the same day as stated above, but the trial itself was concluded within a fortnight thereafter. In the process, the assistance that the appellant was entitled to in the form of legal aid, could not be real and meaningful."

18. This Court, in Anokhilal [Anokhilal v. State of M.P., (2019) 20 SCC 196 : (2020) 3 SCC (Cri) 803] , also set aside the conviction and sentence imposed by the trial court and the High Court and directed for de novo trial. This Court also laid down certain norms in matters where the accused is represented by a counsel appointed through legal aid. The norms, as stated in para 31 of the said judgment [Anokhilal v. State of M.P., (2019) 20 SCC 196 : (2020) 3 SCC (Cri) 803] are reproduced hereunder : (SCC pp. 224-25)

"31.1. In all cases where there is a possibility of life sentence or death sentence, learned advocates who have put in minimum of 10 years' practice at the Bar alone be considered to be appointed as Amicus Curiae or through legal services to represent an accused.

31.2. In all matters dealt with by the High Court concerning confirmation of death sentence, Senior Advocates of the Court must first be considered to be appointed as Amicus Curiae.

31.3. Whenever any learned counsel is appointed as Amicus Curiae, some reasonable time may be provided to enable the counsel to prepare the matter. There cannot be any hard-and-fast rule in that behalf. However, a

minimum of seven days' time may normally be considered to be appropriate and adequate.

31.4. Any learned counsel, who is appointed as Amicus Curiae on behalf of the accused must normally be granted to have meetings and discussion with the accused concerned. Such interactions may prove to be helpful as was noticed in Imtiyaz Ramzan Khan [Imtiyaz Ramzan Khan v. State of Maharashtra, (2018) 9 SCC 160 : (2018) 3 SCC (Cri) 721] .”

19. In Best Bakery [Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158: 2004 SCC (Cri) 999], this Court has observed that the principle of fair trial now informs and energises many areas of the law. It is reflected in numerous rules and practices. It is a constant, ongoing development process continually adapting to new and changing circumstances, and exigencies of the situation—peculiar at times and related to the nature of crime, persons involved—directly or operating behind social impact and societal needs and even so many powerful balancing factors which may come in the way of administration of criminal justice system. The concept of fair trial entails familiar triangulation of interests of the accused, the victim, and the society.

20. It was further observed that there can be no analytical, all-comprehensive or exhaustive definition of the concept of a fair trial, and it may have to be determined in seemingly infinite variety of actual situations with the ultimate object in mind viz. whether

something that was done or said either before or at the trial deprived the quality of fairness to a degree where a miscarriage of justice has resulted. Each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as is to the victim and the society. Fair trial obviously would mean a trial before an impartial Judge, a fair prosecutor, and the atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated. It is inherent in the concept of due process of law, that condemnation should be rendered only after the trial in which the hearing is a real one, not sham or a mere farce and pretence. Since fair hearing requires an opportunity to preserve the process, it may be vitiated and violated by an overhasty, stage-managed, tailored and partisan trial. It is thus settled that a hasty trial in which proper and sufficient opportunity has not been provided to the accused to defend himself/herself would vitiate the trial as being meaningless and stage-managed. It is in violation of the principle of judicial calm.

21. The principle of "judicial calm" in the context of a fair trial needs to be elaborated for its observance in letter and spirit. In our view, in the hallowed halls of justice, the essence of a fair and impartial trial lies in the steadfast embrace of judicial calm. It is incumbent upon a Judge to exude an aura of tranquility, offering a

sanctuary of reason and measured deliberation. In the halls of justice, the gavel strikes not in haste, but in a deliberate cadence ensuring every voice, every piece of evidence, is accorded its due weight. The expanse of judicial calm serves not only as a pillar of constitutional integrity, but as the very bedrock upon which trust in a legal system is forged. It is a beacon that illuminates the path towards a verdict untainted by haste or prejudice, thus upholding the sanctity of justice for all.

124. I have bestowed my anxious reading to the kind orders passed by the Hon'ble Apex Court. In my humble opinion, the facts which are narrated are required to be distinguished and in the instant case the conduct of the accused and his Counsel is also required to be considered. As per the records of the case, the above case was committed to this court on 31.12.2024 and on that day this court considering the fact that the accused was in judicial custody in another connected case, had directed the jail authorities to produce the accused on body warrant on 04.01.2025 and on that day the learned Counsel for

the accused Sri.Arun.G had obtained the permission from the Court and had filed his vakalath. Thereafter, the case was periodically adjourned for HBC and the order sheet reveals that the case was adjourned to 06.01.2025, 13.01.2025 and on that day the accused had filed application under Sec.207 of Cr.P.C., by submitting that he was not provided with certain documents. He had also preferred a Criminal Petition before the Hon'ble High Court of Karnataka in Crl.Petition No.206/2025 and again the case was adjourned to 15.01.2025, 17.01.2025, wherein it was submitted that the Criminal Petition before the Hon'ble High Court was disposed off with a liberty to the accused to inspect the digital records. The learned SPP immediately on the next day i.e., on 18.01.2025, 23.01.2025 had made submission to the court that they were ready to furnish the digital documents in the court for the purpose of inspection by accused. However, the record indicates that he had not availed

the said opportunity. Further on 01.02.2025, 12.02.2025, the arguments on discharge application came to be heard on behalf of the accused and on 19.02.2025 additional grounds were urged by the accused and the case was adjourned to 21.02.2025, 22.02.2025, on which date the learned SPP had submitted his arguments on discharge and had also produced a separate pen-drive with respect to digital records. Thereafter, several adjournments were sought by the accused and in fact the order sheet reveals that the accused was unnecessarily dragging the proceedings and seeking for adjournment. Finally, the arguments were concluded by the accused on 21.03.2025 and orders on discharge application were pronounced on 03.04.2025, wherein the discharge application came to be rejected and on the same day the charges were framed.

125. It seems that the accused was taken a back with respect to framing of charges and even after that the case was adjourned for FDT on three occasions and subsequently on 19.04.2025 the accused had sought the permission to obtain the assistance of an IT Expert to verify the digital records and had also insisted for the presence of accused which was accepted by the Court and it was directed to the jail authorities to produce him before the court under body warrant. The records indicates that for continuously three days the inspection of digital records were made by the accused and in the meantime the trial was fixed from 23.04.2025 to 29.04.2025. On the previous day of the trial, the case was advanced and application under Sec.207 was filed once again requesting to defer the trial. The said application came to be rejected, wherein this court had observed of granting several adjournments to the accused. On the date of trial i.e., on 23.04.2025, the learned Counsel for the accused

had filed an application requesting the court to place the records before the Hon'ble Prl. City Civil and Sessions Judge to pass appropriate order to transfer the case to some other Court since he was denied of proper opportunity and the trial was being commenced in a hurried manner. The court had placed the records before the Hon'ble Prl. City Civil and Sessions Judge, who had sent back the records with a direction to continue with the case in accordance with law. Immediately on the receipt of the order Sri.Arun.G, the Advocate representing the case had filed his Retirement Memo. It is relevant to note that the accused did not intend to get the trial commenced and even he had sought several adjournments to engage counsel and even he had refused to take the assistance of the legal aid which was offered to him. Left with no other alternative, the court had proceeded to appoint an Amicus Curie Smt.Jayashree R.S., who is the Chief Legal Aid Defence Counsel to represent the accused.

Once again, the trial was rescheduled from 02.05.2025 to 09.05.2025. At this juncture, the mother of the accused had approached the Hon'ble High Court of Karnataka in **WP No.13645/2025 (Smt.Bhavani Revanna Vs. State of Karnataka)** seeking various reliefs. In this said Writ Petition, the Hon'ble High Court of Karnataka had come down heavily with respect to the conduct of the learned Advocate Sri.Arun.G., in delaying the proceedings before the trial court and for the sake of benefit the relevant paragraphs are extracted, which reads as follows;

> ***14. Learned Senior Counsel for the respondent has also brought to the notice of this Court that the learned Advocate Arun.G., who is appearing in the other criminal cases for the accused, has continued to appear for the accused in all the said cases except Spl.CC.No.2627/2024, and according to the learned Senior Counsel only to delay the trial, the learned Advocate has adopted the tactic of retiring from the present case. Considering the material on record, more so, the order sheet of the Trial, I find some force in the said contentions urged on behalf of the***

respondent and it is prima facie appears that a deliberate attempt is being made by and on behalf of the accused to delay the trial in Spl.CC.No.2627/2024.

15. The Trial Court is a Special Court constituted in view of the judgment of the Hon'ble Supreme Court in the case of ASHWINI KUMAR UPADHYAY VS. UNION OF INDIA & ANOTHER – (2024)1 SCC 185, and in the said judgment, it is observed that designated court shall not adjourn the cases except for rare and compelling reasons, and in the present case, it is brought to the notice of this Court that this Court has directed the Trial Court to conduct trial on day today basis.

16. Learned Senior Counsel appearing for the respondent has fairly submitted that even at this juncture, it is always open for the accused to engage the services of an Advocate of his choice and seek permission of the Trial Court to permit the said Advocate to appear on his behalf and defend his case.

17. Accused and his mother are not common people and the submission made on behalf of the petitioner and the accused that they are finding it difficult to engage the services of an Advocate before the Trial Court cannot be appreciated, more so considering the fact that by engaging the services of Advocates, this petition was filed before this court after the Trial Court has appointed Amicus Curiae on behalf

of the accused. On the guise of denial of fair trial if an attempt is made to stall the proceedings, such deliberate attempts needs to be dealt with iron hands and also needs to be deprecated. Under the circumstances, I do not find any merit in this petition. Accordingly, petition is dismissed.

126. In the aforesaid judgment, the Hon'ble High Court has clearly held that the Advocate had adopted the tactic of retiring from the case only to delay the proceedings. Quite interestingly immediately on the passing of the kind order by the Hon'ble High Court of Karnataka, Sri.Prajith.C, Advocate had appeared on behalf of accused and had filed vakalath with a request for adjournment and to defer cross-examining the witness. The court had considered the same and time was granted for the cross-examination of the witnesses. It is also relevant to note that during the course of trial, the very same authority which is now relied upon was placed before the Court and had submitted that the trial should be deferred for some

period. Since no reasons were assigned, the request was turned down.

127. The court has also taken into account of the provision of Sec.309 of Cr.P.C., wherein after the amendment incorporated in the year 2018 by Act No.22 of 2018 with effect from 21.04.2018, it is mandated that the trial of the cases relating to offence under Sec.376 of IPC shall be completed within a period of 2 months from the date of filing of the charge-sheet. Here in the instant case, the charge-sheet was filed in the month of November-2023 and accused was making hectic efforts to stall the proceedings.

128. Even more interesting fact which is required to be considered is on 26.05.2025, one more Counsel had appeared i.e., Sri.Vipin Kumar Jain had filed vakalath along with the previous counsel and at that time strangely the learned Counsel Sri.Arun.G., who had filed retirement on the previous occasion had also

requested the court to permit him to appear on behalf of accused. The aforesaid conduct would clearly indicate the tactics adopted by the learned counsel Sri.Arun.G., to delay the proceedings which is fortified by the observations made by the Hon'ble High Court mentioned supra. Even otherwise, he was permitted to come on record and throughout the trial he had assisted the lead counsel and at certain times he had also made submissions before the court. It is also relevant to note that the applications which were filed by the accused to recall witnesses was also allowed by this Court. It seems that in spite of providing all the opportunities, once again the accused has submitted that he was not provided with fair trial. In my humble opinion, the aforesaid act would definitely amount to professional misconduct as per Sec.35 of Advocate's Act 1961. In this regard, it would be appropriate to rely upon the judgment of the Hon'ble High Court of Madhya Pradesh reported in **AIR Online 2020 MP 5**

(Vinod Giri Vs. Sachiv Gram Panchayath Malhargarh), wherein it has been held as:

> ***33. In the case at hand, as we perceive, the learned counsel sought adjournment after adjournment in a non-chalant manner and the same were granted in a routine fashion. It is the duty of the counsel as the officer of the court to assist the court in a properly prepared manner and not to seek unnecessary adjournments. Getting an adjournment is neither an art nor science. It has never been appreciated by the courts. All who are involved in the justice-dispensation system, which includes the Judges, the lawyers, the judicial officers who work in courts, the law officers of the State, the Registry and the litigants, have to show dedicated diligence so that a controversy is put to rest. Shifting the blame is not the cure. Acceptance of responsibility and dealing with it like a captain in the frontier is the necessity of the time. It is worthy to state that diligence brings satisfaction. There has to be strong resolve in the mind to carry out the responsibility with devotion. A time has come when all concerned are required to abandon idleness and arouse oneself and see to it that the syndrome of delay does not erode the concept of dispensation of expeditious justice which is the constitutional command. Sagacious acceptance of the deviation and necessitous steps taken for the redressal of the same would be a bright lamp which would gradually become a laser beam. This is the expectation of***

> ***the collective, and the said expectation has to become a reality. Expectations are not to remain at the stage of hope. They have to be metamorphosed to actuality. Long back, Francis Bacon, in his aphoristic style, had said, "Hope is good breakfast, but it is bad supper."***

129. The aforesaid dictum clearly indicates that seeking of unnecessary adjournments to stall the proceedings would amount to professional misconduct and when the same is appreciated with the facts of the case, none of the ingredients as narrated by the Hon'ble Apex Court which relied upon by the accused is attracted.

130. Further what amounts to professional misconduct is explained in Black's Law Dictionary whrein "misconduct" is defined as:

> ***"A transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behaviour, wilful in character, improper or wrong behaviour; its synonyms are misdemeanour, misdeed, misbehaviour,delinquency, impropriety, mismanagement, offence, but not negligence or carelessness."***

131. Be that as it may, it would be appropriate for this court not to express anything in this regard by considering the fact that to '***err is human***'. However, in my humble opinion, the accused was provided with fair opportunity at every stage of the proceedings, albeit he was denied from obtaining mechanical adjournments. Accordingly, the contention of denying of fair trial is not justified by the accused.

- **CHAPTER-XVIII: APPRECIATION OF OCULAR EVIDENCE OF VICTIM VIS-A-VIS DIGITAL EVIDENCE AND SCIENTIFIC EVIDENCE:**

132. In the instant case finally, the Court is required to consider the ocular evidence of the victim. It is settled principles of law that the ocular evidence of the victim in normal circumstances is required to be accepted and at any stretch of imagination the victim cannot be considered as an accomplice. The aforesaid principle has been laid down by the Hon'ble Apex Court in the judgment reported in **(2022)2 SCC 74**

(Phool Singh Vs. State of M.P) which relied upon by the learned SPP and the same reads as follows:

> ***7. At the outset, it is required to be noted that in the present case, the prosecutrix has fully supported the case of the prosecution. She has been consistent right from the very beginning. Nothing has been specifically pointed out why the sole testimony of the prosecutrix should not be believed. Even after thorough cross-examination, she has stood by what she has stated and has fully supported the case of the prosecution. We see no reason to doubt the credibility and/or trustworthiness of the prosecutrix. The submission on behalf of the accused that no other independent witnesses have been examined and/or supported the case of the prosecution and the conviction on the basis of the sole testimony of the prosecutrix cannot be sustained is concerned, the aforesaid has no substance.***
>
> ***8. In Ganesan [Ganesan v. State, (2020) 10 SCC 573 : (2021) 1 SCC (Cri) 76] , this Court has observed and held that there can be a conviction on the sole testimony of the victim/prosecutrix when the deposition of the prosecutrix is found to be trustworthy, unblemished, credible and her evidence is of sterling quality. In the aforesaid case, this Court had an occasion to consider the series of judgments of this Court on conviction on the sole evidence of the prosecutrix. In paras 10.1 to 10.3, it is observed and held as under : (Ganesan case [Ganesan v. State, (2020)***

10 SCC 573 : (2021) 1 SCC (Cri) 76] , SCC pp. 578-82)

"10.1. Whether, in the case involving sexual harassment, molestation, etc. can there be conviction on the sole evidence of the prosecutrix, in Vijay [Vijay v. State of M.P., (2010) 8 SCC 191 : (2010) 3 SCC (Cri) 639] , it is observed in paras 9 to 14 as under : (SCC pp. 195-98)

'9. In State of Maharashtra v. Chandraprakash Kewalchand Jain [State of Maharashtra v. Chandraprakash Kewalchand Jain, (1990) 1 SCC 550 : 1990 SCC (Cri) 210] this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Court observed as under : (SCC p. 559, para 16)

"16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of

the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence."

10. In State of U.P. v. Pappu [State of U.P. v. Pappu, (2005) 3 SCC 594 : 2005 SCC (Cri) 780] this Court held that even in a case where it is shown that the girl is a girl of easy virtue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular

occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This Court further held that there can be conviction on the sole testimony of the prosecutrix and in case, the court is not satisfied with the version of the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony. The Court held as under : (SCC p. 597, para 12)

"12. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars. She stands at a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. However, if the court of facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration as understood in the context of an accomplice, would do."

11. In State of Punjab v. Gurmit Singh [State of Punjab v. Gurmit Singh, (1996) 2 SCC 384 : 1996 SCC (Cri) 316] , this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for

throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under : (SCC pp. 394-96 & 403, paras 8 & 21)

"8. ... The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix. ... The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the

commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. ... Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. ...

21. ... The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

12. In State of Orissa v. Thakara Besra [State of Orissa v. Thakara Besra, (2002) 9 SCC 86 : 2003 SCC (Cri) 1080] , this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In State of H.P. v. Raghubir Singh [State of H.P. v. Raghubir Singh, (1993) 2 SCC 622 : 1993 SCC (Cri) 674] , this Court held that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. A similar view has been reiterated by this Court in Wahid Khan v. State of M.P. [Wahid Khan v. State of M.P., (2010) 2 SCC 9 : (2010) 1 SCC (Cri) 1208] placing reliance on an earlier judgment in Rameshwar v. State of Rajasthan [Rameshwar v. State of Rajasthan, 1951 SCC 1213 : AIR 1952 SC 54 : 1952 SCR 377] .

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy

of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix.'

10.2. In Krishan Kumar Malik v. State of Haryana [Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130 : (2011) 3 SCC (Cri) 61] , it is observed and held by this Court 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.

10.3. Who can be said to be a "sterling witness", has been dealt with and considered by this Court in Rai Sandeep v. State (NCT of Delhi) [Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21 : (2012) 3 SCC (Cri) 750] . In para 22, it is observed and held as under : (SCC p. 29)

'22. [Ed. : Para 22 corrected vide Official Corrigendum No. F.3/Ed.B.J./48/2012 dated 18-8-2012.] In our considered opinion, the "sterling witness" should be of a very high quality and calibre 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 every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it 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.' "

(emphasis in original)

9. In Pankaj Chaudhary [State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575 : (2019) 4 SCC (Cri) 264] , it is observed and held that as a general rule, if credible, conviction of the accused can be based on sole testimony, without corroboration. It is further observed and held that sole testimony of the prosecutrix should not be doubted by the court merely on basis of assumptions and surmises. In para 29, it is observed and held as under : (SCC p. 587)

"29. It is now well-settled principle of law that conviction can be sustained on the sole testimony of the prosecutrix if it inspires confidence. [Vishnu v. State of Maharashtra [Vishnu v. State of Maharashtra, (2006) 1 SCC 283 : (2006) 1 SCC (Cri) 217]]. It is well settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the "probabilities factor" does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the

circumstances of the case, medical evidence can be expected to be forthcoming. [State of Rajasthan v. N.K. [State of Rajasthan v. N.K., (2000) 5 SCC 30 : 2000 SCC (Cri) 898]].”

133. Similar to the aforesaid ratios, the Hon’ble Apex Court in another judgment which is relied upon by the prosecution in (1990)1 SCC 550 (State of Maharashtra Vs. Chandra Prakash Kewal Chand Jain) wherein it is held as:

16. A prosecutrix of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no

rule of law or practice incorporated in the Evidence Act similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence. We have, therefore, no doubt in our minds that ordinarily the evidence of a prosecutrix who does not lack understanding must be accepted. The degree of proof required must not be higher than is expected of an injured witness. For the above reasons we think that exception has rightly been taken to the approach of the High Court as is reflected in the following passage:

"It is only in the rarest of rare cases if the court finds that the testimony of the prosecutrix is so trustworthy, truthful and reliable that other corroboration may not be necessary."

With respect, the law is not correctly stated. If we may say so, it is just the

reverse. Ordinarily the evidence of a prosecutrix must carry the same weight as is attached to an injured person who is a victim of violence, unless there are special circumstances which call for greater caution, in which case it would be safe to act on her testimony if there is independent evidence lending assurance to her accusation.

134. In the aforesaid judgment, the Hon'ble Apex Court has clearly held that the prosecutrix of a sexual offence cannot be put in par with an accomplice and she is undoubtedly a competent witness under Sec.118 and there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) of Sec.114 of which the Court requires corroboration. In the said judgment it is stated that the view of the Hon'ble High Court wherein it was held that only in rarest of rare cases the testimony of the prosecutrix is so trustworthy and reliable for which corroboration is not required was set aside by the Hon'ble Apex court. The aforesaid ratio is required to be applied to the case on hand. The Court is not

repeating the evidence on record which is already discussed elaborately in the earlier part of the judgment. Though it is argued in the aforesaid case, there is an inordinate delay and also during the course of arguments the learned Senior Counsel had submitted that if at all the alleged incident had taken place, what made the victim to keep quiet for such a long period of time and also why did she not complain to the authorities at the time she had left the job. In matters pertaining to sexual offences, it would be appropriate to answer the question that why a rustic innocent women would come before the court and deposes about her chastity and that too having complete knowledge that such a statement or the complaint lodged by her would completely paralyze her social standing in the society. In the instant case, as noticed from records, the accused Prajwal Revanna was a Member of Parliament and he belonged to a political family wherein his father is an Ex-Minister

and also sitting MLA, his mother is a ZP Member, his grandfather was the Ex-Prime Minister of the country which would indicate that they had exercised considerable power in the region and as such it would probabalize the statement of the victim with respect to her apprehension. That apart it is also relevant to note that during the course of entire evidence, not even a single suggestion has been made to point out the reason for the victim to file so called false complaint against the accused. On completion of the evidence, it is narrated during the course of recording the statement under Sec.313 of Cr.P.C., and also in his written submission which he had filed under Sec.313(5) of Cr.P.C., that the aforesaid case was foisted with a political vengeance against him and also to spoil his political career. Though the aforesaid argument seems to be attractive, the basic question which requires to be answered is why the victim had filed the complaint against the accused. There should

be some materials or even a reasonable/plausible suggestion to indicate that she had joined the hands of his political rivals to bring him down in the society. No such suggestions were made to the victim or even to any other witnesses. The court has also appreciated the demeanor of the victim wherein she had started to weep profusely whenever she was deposing about forcible sexual intercourse and also at the time of identifying herself in the videos of forcible sexual intercourse her demeanor is recorded. In various authorities and dictum, the demeanor of the victim plays an important role and further in another judgment of the Hon'ble Apex Court, reported in **(2021)17 SCC 179 (XYZ Vs. State of MP)** wherein it is held as:

> ***45. Further, the courts should desist from expressing any stereotype opinion, in words spoken during proceedings, or in the course of a judicial order, to the effect that***

(i) women are physically weak and need protection;

(ii) women are incapable of or cannot take decisions on their own;

(iii) men are the "head" of the household and should take all the decisions relating to family;

(iv) women should be submissive and obedient according to our culture;

(v) "good" women are sexually chaste;

(vi) motherhood is the duty and role of every woman, and assumptions to the effect that she wants to be a mother;

(vii) women should be the ones in charge of their children, their upbringing and care;

(viii) being alone at night or wearing certain clothes make women responsible for being attacked;

(ix) a woman consuming alcohol, smoking, etc. may justify unwelcome advances by men or "has asked for it";

(x) women are emotional and often overreact or dramatise events, hence it is necessary to corroborate their testimony;

(xi) testimonial evidence provided by women who are sexually active may be suspected when assessing "consent" in sexual offence cases; and

(xii) lack of evidence of physical harm in sexual offence case leads to an inference of consent by the woman.

135. In the aforesaid judgment, the Hon'ble Apex Court had laid down the criteria from which the courts should desist from expressing any stereotype opinions in the course of the judicial proceedings. When the ocular evidence of the victim is carefully appreciated with the evidence of her son PW.2 Raju, her son in law PW.3 Devaraj and also her sister PW.4 Smt.Shyamala, the same seems to be plausible and the evidence tendered by them seems to be natural and also this court had recorded the demeanor of the victim at the time of tendering her evidence before the court. That apart, the medical evidence in the form of DNA and also of the digital evidence is appreciated in the above case. It has been laid down in the judgment of the Hon'ble Apex Court which is relied upon by the prosecution reported in (2019)4 SCC 771 (Pattu Rajan Vs. State of Tamilnadu), wherein it has been held:

> ***51. Undoubtedly, it is the duty of an expert witness to assist the Court effectively by furnishing it with the***

relevant report based on his expertise along with his reasons, so that the Court may form its independent judgment by assessing such materials and reasons furnished by the expert for coming to an appropriate conclusion. Be that as it may, it cannot be forgotten that opinion evidence is advisory in nature, and the Court is not bound by the evidence of the experts. [See State (UT of Delhi) v. Pali Ram [State (UT of Delhi) v. Pali Ram, (1979) 2 SCC 158 : 1979 SCC (Cri) 389] ; State of H.P. v. Jai Lal [State of H.P. v. Jai Lal, (1999) 7 SCC 280 : 1999 SCC (Cri) 1184] ; Baso Prasad v. State of Bihar [Baso Prasad v. State of Bihar, (2006) 13 SCC 65 : (2007) 2 SCC (Cri) 567] ; Ramesh Chandra Agrawal v. Regency Hospital Ltd. [Ramesh Chandra Agrawal v. Regency Hospital Ltd., (2009) 9 SCC 709 : (2009) 3 SCC (Civ) 840] and Malay Kumar Ganguly v. Sukumar Mukherjee [Malay Kumar Ganguly v. Sukumar Mukherjee, (2009) 9 SCC 221 : (2009) 3 SCC (Civ) 663 : (2010) 2 SCC (Cri) 299] .]

52. Like all other opinion evidence, the probative value accorded to DNA evidence also varies from case to case, depending on the facts and circumstances and the weight accorded to other evidence on record, whether contrary or corroborative. This is all the more important to remember, given that even though the accuracy of DNA evidence may be increasing with the advancement of science and technology with every passing day, thereby making it more and more reliable, we have not yet reached a juncture where it may be

said to be infallible. Thus, it cannot be said that the absence of DNA evidence would lead to an adverse inference against a party, especially in the presence of other cogent and reliable evidence on record in favour of such party.

53. This leads us to the question of the propriety of relying upon the superimposition test conducted in the instant case for identifying the deceased. As noted supra, the learned counsel for the appellants has argued that evidence pertaining to the use of the superimposition technique is not a tangible piece of evidence. We find ourselves unable to agree with this view. There cannot be any dispute that evidence on superimposition is also based on experts' opinion. We would like to note that the use of the superimposition technique in Indian investigations for identification purposes is not a new phenomenon. Notably, it has been employed in the investigations pertaining to the Nithari murders, the Russian murder incident in Goa in 2008, and even before that in the Morni Hill murder case and the Paharganj bomb blast case as far back as in 1996, and the Udhampur murder case in 2005 (see Modi, A Textbook of Medical Jurisprudence and Toxicology, 26th Edn., 2018, pp. 267-71). This Court itself has placed reliance on identification of the deceased through superimposition on several occasions (see Shankar v. State of T.N. [Shankar v. State of T.N., (1994) 4 SCC 478 : 1994 SCC (Cri) 1252] ; Swamy Shraddananda v. State of Karnataka [Swamy

Shraddananda v. State of Karnataka, (2007) 12 SCC 288 : (2008) 2 SCC (Cri) 322] ; State of T.N. v. John David [State of T.N. v. John David, (2011) 5 SCC 509 : (2011) 2 SCC (Cri) 647] and Mahesh Dhanaji Shinde v. State of Maharashtra [Mahesh Dhanaji Shinde v. State of Maharashtra, (2014) 4 SCC 292 : (2014) 2 SCC (Cri) 321]), clearly indicating that it is an acceptable piece of opinion evidence.

136. In the aforesaid judgment, the Hon'ble Apex Court has clearly held that the evidence based on DNA can be looked into for corroboration and the evidence of the Expert is advisory in nature. Further in the very same judgment, the question of super imposition test and its techniques was considered and it has been held that Indian investigation for identification process, the super imposition test is not a new phenomenon and in fact it is an acceptable piece of opinion evidence. Even in the instant case also the primary source of evidence which is produced by the prosecution is the victim herself who has in detail explained the incidents and also the facts which had led her to lodge the complaint.

When the aforesaid incidents are juxtaposed with the digital materials which are placed before the Court, the same would only fortify the case of prosecution. At this moment, it would be relevant to refer to the submission made by the learned Counsel for the accused wherein it is submitted that as per Ex. P61, the Report of the FSL Expert is furnished wherein the 4 video files pertaining to the victim is analyzed and in that the capture/creation date and time is narrated. By pointing out to the same, the learned Counsel has argued that though there is no Metadata available with respect to the captured device, it does contain the Metadata of the capture/creation date. It is their submission that the first three video files were allegedly created on 23.02.2021 and whereas the fourth file was created on 21.05.2021. It is their submission that the fourth file pertained to the alleged incident that had taken-place at Gannikada and the first three video files pertains to the incident at Basavanagudi. As per the

ocular evidence of the victim, the incident at Gannikada had taken place first and the incident at Basavanagudi had followed the first incident. Though the submission once again seems to be fashionable, the underlining aspect which could be looked into is such a defence is taken by the accused then it would invariably fortify the case of prosecution since it would be nothing but admitting the commission of offence. Hence, in my humble opinion, the said aspect cannot be accepted. As rightly argued by the learned SPP by relying upon the judgment of the Hon'ble Privy Council reported in **1926 SCC Online PC 60 (Ma Mi Vs. Kallandar Ammal),** it has been held as:

> ***At the trial, several of the witnesses deposed to having heard the talaknama read out, and to having seen it, executed by the deceased, but the writer of the document was not called, and none of the witnesses had read it so as to be able to speak de visu to its contents. Their Lordships are of opinion that in this state of things the learned judges of the High Court were right in holding that the statements of the witnesses were not secondary***

evidence within the meaning of s. 63 of the Act, which so far as material, is as follows:

"Secondary evidence means and includes. . . . (5.) oral accounts of the contents of a document given by some person who has himself seen it."

In their Lordships' opinion the learned judges were right in holding that this means that the oral evidence of the contents of the document must be given by some person who has seen those contents, that is to say, who has read the document. Evidence that the witness saw the document and heard it read out by some one else is only hearsay so far as the contents are concerned, and does not fulfil the requirements of s. 60 as to oral evidence generally: "Oral evidence must in all cases whatever be direct; that is to say—if it refers to a fact which could be seen it must be the evidence of a witness who says he saw it."

The question whether the document was a talaknama or deed of divorce was a fact which could be seen by reading it, and, therefore, in accordance with the general principle embodied in the section could only be spoken to by a witness who had himself read it.

137. In the aforesaid judgment, the Hon'ble Privy Council has clearly held that the oral evidence of the contents of the documents must be given by some

persons who has seen those contents and who has read the document. The facts and very similar in the above case since in the instant case also the original document which is in the form of digital video record is not to be traced. However, with respect to the incident, there is positive evidence of the victim herself which is not shaken throughout the course of cross-examination and also the same is fortified by the evidence of the expert and other witnesses. The evidence of the victim which is rendered in detail and her self-identification in the video which is also considered as document would only indicate that the prosecution has proved their case and the aforesaid judgment is applicable to the case on hand. Under the circumstances, the production of the video files and its extraction from the mobile of PW.10 Karthik will have to be considered as secondary evidence which would lend assurance to the case of the prosecution which is in the form of ocular evidence of the victim.

On entire consideration of the facts in the above case, the unerring inference which can be drawn is that the primary oral evidence of the victim is of sterling quality and the reasons assigned by her with respect to the delay caused seems to be reasonable in the wake of peculiar facts and circumstance of the case and the prosecution have proved their case beyond reasonable doubt with respect to committing forcible sexual intercourse by accused Prajwal Revanna at Gannikada Farm House who at that point of time was in a dominion position of control or dominance over the victim and also the prosecution have proved beyond reasonable doubt in the wake of the ocular and scientific evidence which is placed before the court that the accused Prajwal Revanna had repeated forcible sexual intercourse with the victim in his bed room on the third floor at Basavanagudi, Bengaluru, thereby committing an offence punishable under Sec.376(2)(k) and 376(2)(n) of IPC.

138. Further the prosecution have also established the fact that the accused had called the victim into his bed room at Gannikada Farm House and also at Basavanagudi, Bengaluru, on some pretexts and had closed the door latched it from inside and had made sexual overtures towards the victim and in fact the evidence of PW.1 victim also indicates that the accused had touched her inappropriately and also he had disrobed her by using criminal force and fingered her private parts which would definitely attract the rigors of Sec.354(A), 354(B) and 354(C) of IPC. That apart, the entire evidence also indicates that the accused Prajwal Revanna had threatened the victim not to disclose about the incident of forcible sexual intercourse and had threatened that he would send the video of the same to her son PW.2 Raju, and by placing sufficient materials before the court, the prosecution has established the threat given by the

accused to keep silent and thereby the rigors of Sec.506 of IPC is also proved beyond reasonable doubt.

139. The prosecution has also proved the fact that the accused had recorded the act of forcible sexual intercourse in his mobile phone which could not be secured/seized and though the accused had feigned his ignorance of recording the incident or owning a mobile phone as already discussed above, certain suggestions were put-forth during the course of cross-examination by the accused that he had owned Apple I-phone and also the data collected from Apple.com would justify the case of the prosecution. Since the mobile phone was in the custody of the accused, it was his bounden duty to produce the same and even for the sake of arguments if it is contended that he had lost the same, it would have been different. But denial of possessing the same is falsified by the evidence which is obtained from Apple.com company and also the

ocular evidence and it is settled law that taking of false plea would only add to as an additional circumstance towards the guilt of the accused is to be considered. Since the mobile phone was not to be found, the submission of the prosecution that he had destroyed the mobile phone to screen the evidence is to be accepted and accordingly the prosecution has proved their case beyond reasonable doubt with respect to commission of offence under Sec.201 of IPC.

140. Last but not the least, the other allegation of recording the forcible sexual intercourse by accused Prajwal Revanna is proved beyond reasonable doubt by the prosecution by placing the digital records before the court. At this juncture it is relevant to note that the alleged incidents were captured and recorded by accused Prajwal Revanna in his mobile phone in order to pressurize the victim to accede to his request is also proved by the prosecution beyond reasonable doubt.

Though it is argued that PW.10 Karthik should have been made as a co-accused, the submission of the learned SPP that he is already ben arraigned as accused seems to be justifiable and accordingly the prosecution has proved their case beyond reasonable doubt that the accused had committed an offence punishable under Sec.66(E) of Information Technology Act 2008.

:EPILOGUE:

141. At the end of the sesquipedalian trial, which comprised of voluminous documents both in physical and digital form, it is to be noticed that the Investigating Agency have conducted the investigation with the assistance of Scientific Experts. The allegations which were levelled and also the nature of materials which were required to be collected in the above case clearly indicates that it is a case of its own kind wherein explicit and obscene videos of several

respectable women in the society involving the accused went viral without the trace of original video/image, the task of the prosecution was a herculean in nature. However, the SIT Team formed for investigation of the aforesaid case are to be appreciated for conducting and analyzing the digital evidence with the help of forensic experts and hence it would be appropriate to place appreciation to the entire SIT Team for their limpid examination in adopting and utilizing the modern technology of scientific examination which is really a welcoming step wherein the scientific examination was conducted to compare the motif's, environment and also the superimposition of pictures of the persons were obtained to lend assurance to the evidence of the victim. Further the submissions made by the learned SPP Sri.Ashok Naik and also Sri.Jagadish B.N., with lot of perspicacity to bring to the light of the prurient act of accused Prajwal Revanna is to be appreciated. The SIT Team deserves appreciation for the fact that they

had utilized the best available scientific methods and also probably it is first case in the State wherein the SIT had requested the Forensic Science Laboratory to super-impose the images of the environment of the room found in the videos with that of the images which were captured scientifically during the course of investigation and also to examine the image patterns, voice analysis in a scientific manner. The Court also places appreciation to the assistance rendered by the learned Senior Counsel Smt.Nalina.M., for her limpid and dispassionate submissions enlightening on the various facets of law.

:SUMMATION:

142. The prosecution has proved beyond reasonable doubt the following aspects;

- PW.1 victim had worked as a maid in the Gannikada Farm House situated at Moole Kalenahalli village, Holenarasipura Taluk, which

was frequented by the family members of accused Prajwal Revanna.

- The evidence of PW.1 victim inspires confidence with respect to the evidence tendered by her about forcible sexual intercourse committed on her by the accused Prajwal Revanna at Gannikada Farm House, Holenarasipura and also at the Basavanagudi House at Bengaluru.

- The prosecution has also proved beyond reasonable doubt that during the course of committing the forcible sexual intercourse the accused had recorded the incident in his mobile phone which was later on clandestinely transferred by PW.10 Karthik to his Vivo Mobile Phone initially and later on to his Samsung Galaxy J4 Mobile Phone.

- The prosecution has proved beyond reasonable doubt about the commission of the incident by placing corroborative evidence of the scientific experts in the form of DNA Examination Report wherein the stains found on the saree and other clothes of the victim matched with the DNA profiling of accused Prajwal Revanna. The prosecution has also proved the digital records in the form of videos which were circulated were not edited/morphed and also the male and female voice found in the videos matched with the sample voice of accused Prajwal Revanna and the victim. ***Ergo,*** I answer points for consideration raised above in the **AFFIRMATIVE**.

143. **Point No.9:** In view of my findings on point No.1 to 8, I proceed to pass the following order:

O R D E R

Acting under Sec.235(2) of Cr.P.C., the accused Prajwal Revanna is hereby convicted for committing the offences punishable under Sec.376(2)(k), 376(2)(n), 354-A, 354-B, 354-C, 506, 201 of Indian Penal Code and under Sec.66(E) of Information Technology Act 2000.

*(Dictated to the Stenographer Grade-I, transcribed by her, revised and corrected by me and then pronounced in the Open Court on this the **1st day of August, 2025**)*

(Santhosh Gajanan Bhat)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to elected former and sitting MPs/MLAs in the State of Karnataka)

ORDER REGARDING QUANTUM OF SENTENCE

144. Heard the Learned Special Public Prosecutors and also the Learned Counsel for accused persons.

145. The Learned Special Public Prosecutor has vehemently argued that in the instant case the Court is

required to appreciate special facts and circumstances and should weigh the aggravating and mitigating circumstances. It is his submission that though aggravating and mitigating facts were to be considered in the offences which are punishable with death sentence, the Court is also required to balance the equities in other cases also. It is argued that in the instant case the accused Prajwal Revanna was holding a high position as a public servant and was a Member of Parliament having control over the dominion over the victim who was working as maid for monthly salary in their Farm House. The act of committing forcible sexual intercourse and thereafter repeating the same and also recording of the incident to black-mail the victim and later on being the root cause for circulation of obscene videos and photographs in the society has caused irreparable damage to the victim which cannot be compensated so easily. Further it is submitted that the accused had made all sort of efforts to escape from

the clutches of law and the fact of misusing his power is a grave concern which requires to be considered by the Court very seriously. He has also argued that the victim is a rustic villager who does not have a social status or income much like the accused person. He has argued that the victim though is alive is facing the trauma everyday in her life and also the fact which remains is that she has been defamed in the society due to circulation of video consisting of her forcible sexual intercourse. He has argued that the prosecution have adduced evidence to indicate the manner in which she was ravished wherein the accused had not left her and shown mercy even when she had begged with him by touching his feet and stating that she is of the age of his mother. That apart, he has argued that there are no mitigating circumstances and even otherwise the post commission of offence and the conduct of the accused and his family members are to be considered. He has argued that the accused had

run away from the country immediately on circulation of the videos and the allegation of kidnapping the victim by his family members are also pending for consideration and with great difficulty and that too after initiating process to cancel his diplomatic Passport, he had returned back to the country. The learned SPP has also argued that during the entire course of proceedings, no remorse whatsoever was shown by the accused and in fact he went on making allegations against everyone. Sri.Ashok Naik, has also argued that the Court is also required to take note of the fact of the economic condition of the victim, wherein she is unable to obtain any work for her livelihood as she has been defamed in the society due to the circulation of the video. As such, he has requested the Court to impose just and suitable fine of which the major portion may be awarded to the victim so as to rehabilitate her life. The learned SPP has relied upon the following Authorities reported in;

- **2024 SCC Online SC 315 (Navas Vs. State of Kerala)**
- **(2008)1 SCC 234 (State of MP Vs. Babu Lal)**
- **(2013)7 SCC 77 (Shyam Narain Vs. State [NCT of Delhi])**
- **(2013)16 SCC 651 (State of UP Vs. Noushad)**
- **R Vs. Keith Billam**

146. By relying upon the same, the Learned Special Public Prosecutor has requested the court to award maximum punishment and also to impose suitable fine on the accused.

147. The learned Senior Counsel Smt.Nalina.M., on behalf of the learned Advocate for accused has argued that the Court is required to take note of the fact that the accused was the youngest Member of Parliament and he is a third generation politician who had joined politics only to serve people. Further it is her submission that the Court is also required to take note of the fact that the videos were surfaced only

during the Parliament elections at 2024. The aforesaid videos were circulated only to vilify the accused and to ensure that he was defeated in the elections. It is her submission that the accused was vilified by media and all other persons and also the Court is required to take note on the fact that he is aged about 34 years.

148. The learned Senior Counsel has further argued that the Court is required to consider the fact that what loss has been caused to the victim as she is married and having husband and residing in the village. Per contra, the accused who was a Member of Parliament is made to suffer and he has been incarcerated for the last 14 months. She has argued that if maximum punishment is awarded, the accused will be made to languish in incarceration which would not be proper. That apart, the conduct of the accused throughout the trial was exemplary and also the Court may take a lenient view that he has to take care of his aged grandfather who was the Ex-Prime Minister of the

Country and also his aged parents. Lastly, it is argued that the accused did not had any criminal antecedents and not even a single case was registered against him and accordingly she has requested the Court to impose minimum sentence as contemplated under law.

149. The accused was also afforded an opportunity to make his submission with respect to quantum of sentence. The accused has submitted that no complaint whatsoever was registered against him till he ruled Hassan District. He has also argued that just because he had come-up in politics in a short span of time, several false allegations are leveled against him and he has been made to suffer the agony. The Court had also enquired him with respect to his educational qualification, wherein he has deposed that he is a Mechanical Engineering Graduate who had completed the same with flying colours. Lastly, he has requested the Court to impose minimum sentence.

150. Time and again, it has been reiterated by the Hon'ble Apex Court that in the matters pertaining to awarding sentence, the court should be cautious and sift and weigh the factors which are relevant for arriving at a just conclusion. It is also the cardinal principle of law that the nature and gravity of the crime is important than the criminality. The court at the time of passing an order on quantum of sentence has to look into the materials in a different manner than that of the appreciating evidence for passing of judgment. ***The court is not against the criminal but against the criminal act*** and at the time of considering the quantum of sentence, the court is required to look into the manner in which the crime is committed. There is no specific legislation with respect to passing of quantum of sentence. However, the parameter which is required to be considered is based on the case laws which are required to be looked into. Apart from that the Hon'ble Apex Court has also held that at the time

of passing of sentence, an exercise has to be made by the court by pointing the aggravating and mitigating factors and balance has to be secured in order to arrive at a conclusion to award appropriate sentence that could be imposed upon the parties. The settled principles of law would indicate that matters pertaining to sexual offences against women have to be considered from a different yardstick and also with a sensitive approach, which cannot be equated with any other ordinary criminal case. By keeping the same in mind, I have bestowed my anxious reading to the submissions made by the Learned Counsel for the accused, Learned Special Public Prosecutor and also the submissions of the accused person. What could be the criteria for imposing just and appropriate sentence is laid down by the Hon'ble Apex court in the judgment rendered in **(2022) 7 SCC 628 (Jaswinder Singh V Navjot Singh Sidhu)** wherein it is held as:

25. We would like to deliberate a little more in detail on the necessity of maintaining a reasonable proportion between the seriousness of the crime and the punishment. While a disproportionately severe sentence ought not to be passed, simultaneously it also does not clothe the law courts to award a sentence which would be manifestly inadequate, having due regard to the nature of the offence, since an inadequate sentence would fail to produce a deterrent effect on the society at large. Punishments are awarded not because of the fact that it has to be an eye for an eye or a tooth for a tooth, rather having its due impact on the society; while undue harshness is not required but inadequate punishment may lead to sufferance of the community at large. [Jai Kumar v. State of M.P., (1999) 5 SCC 1 : 1999 SCC (Cri) 638]

26. An important aspect to be kept in mind is that any undue sympathy to impose inadequate sentence would do more harm to justice system and undermine the public confidence in the efficacy of law. The society cannot long endure under serious threats and if the courts do not protect the injured, the injured would then resort to private vengeance and, therefore, it is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which

it was executed or committed. [Sumer Singh v. Surajbhan Singh, (2014) 7 SCC 323 : (2014) 3 SCC (Cri) 184] It has, thus, been observed that the punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated. [Ravji v. State of Rajasthan, (1996) 2 SCC 175 : 1996 SCC (Cri) 225]

27. A three-Judge Bench of this Court in State of Karnataka v. Krishnappa [State of Karnataka v. Krishnappa, (2000) 4 SCC 75 : 2000 SCC (Cri) 755] while discussing the purpose of imposition of adequate sentence opined in para 18 that : (SCC p. 83)

"18. ... Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an appropriate sentence."

28. The sentencing philosophy for an offence has a social goal that the sentence has to be based on the principle that the accused must realise that the crime committed by him has not only created a dent in his life but also a concavity in the social fabric. [Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77 : (2013) 3 SCC (Cri) 1] While opportunity to reform has to be kept in mind, the principle of proportionality also has to be equally kept in mind.

29. Criminal jurisprudence with the passage of time has laid emphasis on victimology, which fundamentally is a perception of a trial from the viewpoint of the criminal as well as the victim. Both are viewed in the social context and, thus, victim's rights have to be equally protected [Rattiram v. State of M.P., (2012) 4 SCC 516: (2012) 2 SCC (Cri) 481] . It would be useful to rely on the observations of this Court in Gopal Singh v. State of Uttarakhand [Gopal Singh v. State of Uttarakhand, (2013) 7 SCC 545 : (2013) 3 SCC (Cri) 608] that just punishment is the collective cry of the society and while collective cry has to be kept uppermost in mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. Thus, the principle of just punishment is the bedrock of sentencing in respect of a criminal offence. No doubt there cannot be a straitjacket formula nor a solvable theory in mathematical exactitude. An offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. Similarly, in Alister Anthony Pareira v. State of Maharashtra [Alister Anthony Pareira v. State of Maharashtra, (2012) 2 SCC 648 : (2012) 1 SCC (Civ) 848 : (2012) 1 SCC (Cri) 953 : AIR 2012 SC 3802] , the twin objective of the sentencing policy

to be kept in mind was emphasised as deterrence and correction and, thus, principle of proportionality in sentencing a convict were held to be well entrenched in the criminal jurisprudence.

30. We may also take note of the recent judgment of this Court decided by a three-Judge Bench on 18-4-2022 in Jagjeet Singh v. Ashish Mishra [Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321 : 2022 SCC OnLine SC 453] albeit, on the issue of bail. It emphasised the victim's right to be heard. What is relevant for us to note is that the victim being the de facto sufferer of a crime had no participation in the adjudicatory process. The current ethos of criminal justice dispensation to prevent and punish crime had surreptitiously turned its back on the victim. No doubt in the present case at every stage the victim has been heard and the present application is also by the victim. The near and dear ones whether as guardians or legal heirs are required to be treated as victims. It was, thus, observed in SCC para 22 as under:

"22. It cannot be gainsaid that the right of a victim under the amended CrPC are substantive, enforceable, and are another facet of human rights. The victim's right, therefore, cannot be termed or construed restrictively like a brutum fulmen. We reiterate that

these rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the CrPC. The presence of "State" in the proceedings, therefore, does not tantamount to according a hearing to a "victim" of the crime."

31. In the similar vein in Criminal Appeal No. 579 of 2022 titled State of Rajasthan v. Banwari Lal [State of Rajasthan v. Banwari Lal, (2022) 12 SCC 166 : 2022 SCC OnLine SC 428] , this Court has again frowned upon the tendency of courts to reduce the sentence to the period already undergone. An earlier judgment of this Court in Soman v. State of Kerala [Soman v. State of Kerala, (2013) 11 SCC 382 : (2012) 4 SCC (Cri) 1] was referred to, more specifically para 27, which reads as under : (Soman case [Soman v. State of Kerala, (2013) 11 SCC 382 : (2012) 4 SCC (Cri) 1] , SCC p. 393)

"27.1. Courts ought to base sentencing decisions on various different rationales — most prominent amongst which would be proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable. In case of illicit and underground manufacture of liquor, the chances of toxicity are so high that not only its manufacturer but the distributor and the retail vendor would know its likely risks to the consumer. Hence, even though any harm to the consumer might not be directly intended, some aggravated culpability must attach if the consumer suffers some grievous hurt or dies as result of consuming the spurious liquor."

37. In a nutshell, the aspects of sentencing and victimology are reflected in the following ancient wisdom:

"यथावयो यथाकालं यथा प्राणं च ब्राह्मणे ।
प्रायश्चितं प्रदातव्यं ब्राह्मणैर्धर्म पाठकैः ।
येन शुध्दिमवाप्नोति न च प्राणैर्वियुज्यते ।
आर्तिं वा महर्तीं यति न चैतद् व्रतमा दिशेत ।।"

It means : The person dispensing justice as per Dharmashastra should prescribe a penance appropriate to the age, the time

> ***and strength of the sinner, the penance being such that he may not lose his life and yet he may be purified. A penance causing distress should not be prescribed.***

151. The court has also taken into account of the submissions made by the learned Senior Counsel for accused that the accused person is required to take care of his family members and also his aged parents and grandfather. In this regard, the judgment of the Hon'ble Apex Court reported in **(2003) 8 SCC 13 (State of M.P. Vs. Ghanshyam Singh)** wherein it is held as follows:

> ***10. The crucial question which needs to be decided is the proper sentence and merely because of lapse of time, whether the accused is to be waived from undergoing it. It is to be noted that the sentences prescribed for offences relatable to Section 304 Part I are imprisonment for life or up to a period of 10 years. It is true that no minimum sentence has been prescribed. The sentences can be compared with prescription of similar sentences and other provisions like Section 326 IPC and Section 307 IPC when hurt is caused. Section 304 Part I is a***

species of homicidal death. It is statutorily described as culpable homicide though not amounting to murder as defined under IPC. Taking note of the purpose for which a sentence is imposed, it cannot be laid down as a rule of universal application that a long passage of time in all cases would justify minimal sentence. Long pendency of a matter by itself could not justify lesser sentence.

11. The law regulates social interests, arbitrates conflicting ***claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find an answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of "order" should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that, "State of criminal law continues to be — as it should be — a decisive reflection of social consciousness of society." Therefore, in operating the***

sentencing system, law should adopt the corrective machinery or the deterrence based on factual matrix. By deft modulation sentencing process has to be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration. For instance, a murder committed due to deep-seated mutual and personal rivalry may not call for penalty of death. But an organised crime or mass murder of innocent people would call for imposition of death sentence as deterrence. In Mahesh v. State of M.P. [(1987) 3 SCC 80 : 1987 SCC (Cri) 379 : (1987) 2 SCR 710] this Court while refusing to reduce the death sentence observed thus : (SCC p. 82, para 6)

It will be a mockery of justice to permit the accused to escape the extreme penalty of law when faced with such evidence and such cruel acts. To give the lesser punishment for the accused would be to render the justicing system of the country suspect. The common man will lose faith in courts. In such cases, he understands and appreciates the

language of deterrence more than the reformative jargon.

12. Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471 : 1991 SCC (Cri) 724 : AIR 1991 SC 1463]

13. ***Criminal law adheres in general to the principle of proportionality in prescribing liability according to the culpability of each kind of criminal conduct. It ordinarily allows some significant discretion to the Judge in arriving at a sentence in each case, presumably to permit sentences that reflect more subtle considerations of culpability that are raised by the special facts of each case. Judges, in essence, affirm that punishment ought always to fit the crime; yet in practice sentences are determined largely by other considerations. Sometimes it is the correctional needs of the perpetrator that are offered to justify a sentence, sometimes the desirability of keeping him out of circulation,***

and sometimes even the tragic results of his crime. Inevitably, these considerations cause a departure from just deserts as the basis of punishment and create cases of apparent injustice that are serious and widespread.

14. Proportion between crime and punishment is a goal respected in principle, and in spite of errant notions, it remains a strong influence in the determination of sentences. The practice of punishing all serious crimes with equal severity is now unknown in civilized societies, but such a radical departure from the principle of proportionality has disappeared from the law only in recent times. Even now for a single grave infraction drastic sentences are imposed. Anything less than a penalty of greatest severity for any serious crime is thought then to be a measure of toleration that is unwarranted and unwise. But in fact, quite apart from those considerations that make punishment unjustifiable when it is out of proportion to the crime, uniformly disproportionate punishment has some very undesirable practical consequences.

152. In the aforesaid judgment the Hon'ble Apex Court has clearly held that undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in

the efficacy of law and society do not endure such threats. Once again at the cost of repetition, it is to be recalled that the above case was a classic case wherein blatant violation of law and procedures were made by mighty and powerful people. The question of showing leniency on the ground that the accused has to take care of his family members and his grandfather, in my humble opinion does not augurs well, since his grandfather is Sitting Member of Parliament of Rajya Sabha and his father is Sitting MLA in the State of Karnataka. The Court is also required to take note of the plight of the victim and also the ignominity which she has suffered. At the same time, the duty of the Court is to balance the equities urged. I am also fortified in this regard by the judgment rendered by the Hon'ble Apex Court in **(2006) 10 SCC 673 (Siddarama and others Vs. State of Karnataka)** wherein it is held as follows:-

9. Law regulates social interests, arbitrates conflicting claims and demands. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Friedman in his Law in Changing Society stated that, "State of criminal law continues to be — as it should be—a decisive reflection of social consciousness of society". Therefore, in operating the sentencing system, law should adopt the corrective machinery or the deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, and all other attending circumstances are relevant facts which would enter into the area of consideration.

10. Undue sympathy to impose inadequate sentence would do more harm to the justice system, to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having

regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471 : 1991 SCC (Cri) 724 : AIR 1991 SC 1463]

12. Proportion between crime and punishment is a goal respected in principle, and in spite of errant notions, it remains a strong influence in the determination of sentences. The practice of punishing all serious crimes with equal severity is now unknown in civilised societies, but such a radical departure from the principle of proportionality has disappeared from the law only in recent times. Even now for a single grave infraction drastic sentences are imposed. Anything less than a penalty of greatest severity for any serious crime is thought then to be a measure of toleration that is unwarranted and unwise. But in fact, quite apart from those considerations that make punishment unjustifiable when it is out of proportion to the crime, uniformly disproportionate punishment has some very undesirable practical consequences.

13. After giving due consideration to the facts and circumstances of each case, for deciding just and appropriate sentence to be awarded for an offence, the aggravating and mitigating

factors and circumstances in which a crime has been committed are to be delicately balanced on the basis of really relevant circumstances in a dispassionate manner by the court. Such act of balancing is indeed a difficult task. It has been very aptly indicated in Dennis Councle McGautha v. State of California [402 US 183 : 28 L Ed 2d 711 (1971)] that no formula of a foolproof nature is possible that would provide a reasonable criterion in determining a just and appropriate punishment in the infinite variety of circumstances that may affect the gravity of the crime. In the absence of any foolproof formula which may provide any basis for reasonable criteria to correctly assess various circumstances germane to the consideration of the gravity of crime, the discretionary judgment in the facts of each case, is the only way in which such judgment may be equitably distinguished.

14. The object should be to protect the society and to deter the criminal in achieving the avowed object to law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be.

15. Imposition of sentence without considering its effect on the social

> ***order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences relating to narcotic drugs or psychotropic substances which have great impact not only on the health fabric but also on the social order and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time or personal inconveniences in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by a string of deterrence inbuilt in the sentencing system.***

153. By relying upon the aforesaid authorities, the Court is required to prepare a chart consisting of aggravating and mitigating circumstances. The following aggravating factors can be noticed in the instant case.

154. Aggravating Factors:

1. ***The accused being the Member of Parliament was having dominion and control over the victim who was working as maid and on her***

he had committed the horrendous act which cannot be ignored.

2. ***The accused being a Member of Parliament and also from a affluent family had committed the offence which is nothing but showing disgrace to the society who had reposed faith in him by getting him elected.***

3. ***The accused had committed the offence of forcible sexual intercourse which the victim has to suffer from the trauma throughout her life and even at every single moment, she is made to undergo mental agony which cannot be compensated in terms of money.***

4. ***The act of the accused person in recording the offending act would only show his mental condition which does not augurs well for an elected representative and also it is totally against the normal human conduct.***

5. ***The act of the accused person in recording the horrendous act which later on was circulated in the society had made the victim to think of committing suicide for no fault of her and though she was consoled by her family members still the trauma continues till her last breath.***

6. ***The act of accused person has resulted in circulation of the video which is watched by several persons across the country which has made the society to bow their head in shame.***

7. ***The act of accused person is not a common criminal incident which had taken place accidentally but it is an act which had taken place in a cold blooded manner wherein he had recorded the incident only to harass the victim and also to pester her to co-operate with him for his illegal demands.***

8. ***The conduct of the accused in committing such an offence being a people's representative will send a wrong message to the society that the persons in power can do anything.***

9. ***The act of accused person erodes the faith and belief of general public in the social fabric of the society.***

10. ***If any lenient view is to be taken, the act would further erode the faith and may lead to draw an inference that such kind of horrendous offences affecting the women would be dealt liberally.***

155. Mitigating Factors:

1. ***The accused person is not habitual offender.***

2. ***The accused person is not having any criminal antecedents.***

3. ***The accused person has to take care of his family members.***

4. ***The accused person is having deep roots in the society and had enjoyed good reputation in the society.***

156. By looking into the aforesaid aggravating and mitigating factors and also on consideration of the materials which has been produced before the Court, it indicates that the act of accused person could be construed as an offence which is committed towards

the society at large wherein in our traditional Indian society, women are worshiped and in fact from time immemorial, it has been held that the god will reside in the place where women are worshiped. However, in the instant case, the allegation of committing an offence against women at large cannot be considered lightly since the accused was in a dominant position being a Member of Parliament. Further, the maxim "***Nullum crimen sine lege***" which means, the principle of legality in the rule of construing criminal statute is to be in favour of citizens and also the approach towards the social welfare. The important aspect of offences committed against women is to be emphasized with the gravity of the harm caused to the society and also the nature of the offences themselves. In many instances, the gravity of the offence cannot be easily deciphered and same requires to be considered in a manner which would indicate the mode of execution in secrecy by shrewd and snollygoster person with sophisticated

means. Time and again, it has been held by the Hon'ble Apex Court that the cry of the victim is also to be appreciated at the time of imposing punishment. In the instant case, the society at large is to be considered as the main victim due to the act committed by the accused person.

157. In the instant case, as noticed from records, the victim is a rustic innocent villager who had come in search of her job and as rightly argued by the learned SPP they were not in a position even to bargain for their salary and ultimately they had settled down to stay in the Farm House for a meager sum of Rs.10,000/- per month for their entire family. It is also relevant to note the submission of the learned Senior Counsel about the fact that what is being suffered by the victim due to the incident. It is appropriate to note that for women, her chastity is the most precious jewel which she embraces till her last breath. Time and again, the Hon'ble Apex Court has come down heavily

upon the acts wherein casual remarks are passed with respect to the survivals of the sexual offences. Probably for that reason the Hon'ble Apex Court has held that at any stretch of imagination the rape victim cannot be considered as an accomplice. In my humble opinion, the act of committing forcible sexual intercourse on the victim repeatedly would be more than committing of murder since in matters pertaining to murder, a person will die once, however in case of sexual offences like rape, she will be made to suffer throughout her life, more so on each and every moment of her life. In my humble opinion, committing of sexual offences against maid and other women in the society by showing disdain towards them due to their economic condition is a grave offence which cannot be brushed aside lightly and such kind of a conduct cannot be accepted as a normal one. It is to be kept in mind of the apt quote of Lord Denning wherein

it is stated as "***Be ye never so high, the law is above you".***

158. Though the accused person at this juncture claims to take care of aged parents who are suffering from various ailments, the same will not be a mitigating factor. In this regard, the court has relied upon the judgment of Hon'ble Apex Court reported in AIR 1996 SC 361 (A. Wati Ao vs The State Of Manipur), wherein it has been held as follows:

> ***"This takes us to the question of the sentence. A perusal of the trial court's judgment shows that the sentence of imprisonment till rising of the court was awarded because of : (1) the appellant being a senior IAS Officer and holding of different high posts, which showed that he is a very respectable person; (2) the appellant having a number of dependents; (3) the certainty of appellant's losing his job and requiring him to earn a living for himself and his family members; (4) the present being first offence committed by him; and (5) the spectre of the incident hanging on his head for about half a decade. According to us, none of these factors (except the last, to some***

extent) make out a case for awarding sentence less than the minimum prescribed by the aforesaid Act - the same being imprisonment for one year. The fact that the appellant is a senior IAS Officer really requires a serious view of the matter to be taken, instead of soft dealing. The fact that he has a number of dependents and is going to lose his job are irrelevant considerations inasmuch as in almost every case a person found guilty would have dependents and if he be a public servant, he would lose his job. The present being the first offence is also an irrelevant consideration. Though the delay has some relevance, but as in cases of the present nature, investigation itself takes time and then the trial is prolonged, because of the type of evidence to be adduced and number of the witnesses to be examined, we do not think that the fact of delay of about five years could have been a ground to award the sentence of imprisonment till rising of the court, which really makes a mockery of the whole exercise. We, however, think that the delay does require some reduction from the minimum prescribed; and on the facts of this case, ends of justice would be met, according to us, if at this length of time, pursuant to notice of enhancement issued by this Court, a sentence of imprisonment for six months is awarded."

159. In the above said judgment, Hon'ble Apex Court has held that the conviction of IAS Officer charged with misuse of office could not be let of leniently since it would give an wrong message to the society at large. Even in the instant case, the act of the accused persons are to be viewed seriously.

160. In ***Halsbury's Laws of England, Fifth Edition, Page No.766, Para No.649***, it has been laid down as follows:

> ***All sexual offences where the activity is non-consensual, coercive or exploitative result in harm. Harm is also inherent where victims ostensibly consent but where their capacity to give informed consent is affect by their youth or mental disorder. The physical effects may be very serious and the psychological effects may be equally or even more serious. Where the activity is in any way non-consensual, coercive or exploitative, the offence is inherently harmful and therefore the offender's culpability is high.***
>
> ***The youth and immaturity of an offender must always be potential mitigating facts for the courts to take into account when passing sentence.***
>
> ***There are a number of orders and requirements relevant to those convicted***

of sexual offences mentioned in the guidelines.

161. In the instant case it is noticed that the allegations against the accused which is leveled was when he was enjoying power. The question of commission of an offence by a Legislator is a serious aspect which is to be taken note of. In fact, the society looks at legislature with a fond hope of transforming the society. They are the supreme Authority of making laws towards the welfare of the citizenry. The concept of supremacy of law [Dharma] was laid down in Brihadaranyaka Upanishad, wherein it is held as;

तदेतत्-क्षत्रस्य क्षत्रं यद्धर्मः।
तस्माद्धर्मात्परं नास्ति।
अथो अबलीयान् बलीयांसमाशंसते घर्मेण।
यथा राज्ञा एवम्।।

162. Which means the law (Dharma) is the king of kings. No one is superior to the law (Dharma); the law (Dharma) aided by the power of the king enables the weak to prevail over the strong. Further Rape of

any kind and on any one is an anathema in a civilized society which would totally deprive the victim of her normal life. Even in the instant case, the Court has also taken note of the fact that the video was being circulated and watched by several persons across the country and also the fate of the victim and the ignonimity which she is required to undergo due to the horrendous act. Further law after all is an instrument which aims at social order and aberrant elements would inherently destroy the social fabric of the society. That apart, the Court has also taken note of the financial condition of the victim and also the accused person. The victim is a poor daily wage labourer who is now being made to suffer due to the horrendous act and she would not be in a position to obtain daily employment in the masculine dominated world wherein several male chauvinism will be subjected to her. It is nothing but the duty of the Court and also society at large to suitably compensate the

victim for suffering such ignonimity. In this regard, I have also looked into various dictum of the Hon'ble Apex Court, wherein it is specifically directed that the Court is required to pass suitable order towards compensating the victim as per Sec.357-A of Cr.P.C. In this regard, it is noticed that awarding of compensation shall not be shouldered upon the State for the reason that the accused is quite capable and economically stable. What would be the just compensation that can be awarded is a question which requires being determined. I have also considered the Authority of the Hon'ble Apex Court reported in **(2013)6 SCC 770 (Ankush Shivaji Gayakwad Vs.sowmya State of Mahabharata)**, wherein a duty has been casted upon the Court to mandatorily award just and appropriate compensation which is noticed as below:

> ***61. Section 357 CrPC confers a duty on the court to apply its mind to the question of compensation in every criminal case. It necessarily follows that the court must disclose that it has applied its mind to***

this question in every criminal case. In Maya Devi v. Raj Kumari Batra [Maya Devi v. Raj Kumari Batra, (2010) 9 SCC 486 : (2010) 3 SCC (Civ) 842] this Court held that the disclosure of application of mind is best demonstrated by recording reasons in support of the order or conclusion. The Court observed : (SCC p. 495, paras 28-30)

"28. ... There is nothing like a power without any limits or constraints. That is so even when a court or other authority may be vested with wide discretionary power, for even discretion has to be exercised only along well recognised and sound juristic principles with a view to promoting fairness, inducing transparency and aiding equity.

29. What then are the safeguards against an arbitrary exercise of power? The first and the most effective check against any such exercise is the well-recognised legal principle that orders can be made only after due and proper application of mind. Application of mind brings reasonableness not only to the exercise of power but to the ultimate conclusion also. Application of mind in turn is best demonstrated by disclosure of the mind. And disclosure is best demonstrated by recording reasons in support of the order or conclusion.

30. Recording of reasons in cases where the order is subject to further appeal is very important from yet another angle. An appellate court or the authority ought to have the advantage of examining the reasons that prevailed with the court or the authority making the order. Conversely, absence of reasons in an appealable order deprives the appellate

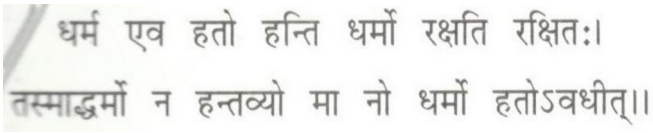
court or the authority of that advantage and casts an onerous responsibility upon it to examine and determine the question on its own."

(emphasis supplied)

66. To sum up : while the award or refusal of compensation in a particular case may be within the court's discretion, there exists a mandatory duty on the court to apply its mind to the question in every criminal case. Application of mind to the question is best disclosed by recording reasons for awarding/refusing compensation. It is axiomatic that for any exercise involving application of mind, the Court ought to have the necessary material which it would evaluate to arrive at a fair and reasonable conclusion. It is also beyond dispute that the occasion to consider the question of award of compensation would logically arise only after the court records a conviction of the accused. Capacity of the accused to pay which constitutes an important aspect of any order under Section 357 CrPC would involve a certain enquiry albeit summary unless of course the facts as emerging in the course of the trial are so clear that the court considers it unnecessary to do so. Such an enquiry can precede an order on sentence to enable the court to take a view, both on the question of sentence and compensation that it may in its wisdom decide to award to the victim or his/her family.

163. Before parting it would be appropriate to quote the apt words extracted from Raja Dharma with

lessons on Raja Neeti by Justice Dr.M.Rama Jois, which is extracted;


धर्म एव हतो हन्ति धर्मो रक्षति रक्षितः।
तस्माद्धर्मो न हन्तव्यो मा नो धर्मो हतोऽवधीत्।।

Which means Dharma protects those who protect it, those who destroy Dharma get destroyed. Therefore, Dharma should not be destroyed so that we may not be destroyed as a consequence thereof. As such, it would not be appropriate to accept the version of the accused person to show leniency. In fact, no grounds are pointed out in the above case that why maximum sentence should not be awarded to the accused person Ergo, I proceed to pass the following;

ORDER

The accused Prajwal Revanna is hereby convicted for the offence under Section **376(2)(k) of IPC**., and accused is hereby sentenced to undergo **imprisonment for life** and imposed with a fine of

Rs.5,00,000/- (Rupees Five Lakhs only) and in default of payment of fine, he shall undergo a **Simple Imprisonment** for a period of **One Year**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **376(2)(n) of IPC**., and accused is hereby sentenced to undergo **imprisonment for life which shall mean imprisonment for the reminder of that person's natural life** and imposed with a fine of **Rs.5,00,000/- (Rupees Five Lakhs only)** and in default of payment of fine, he shall undergo a **Simple Imprisonment** for a period of **One Year**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **354-A of IPC**., and accused is hereby sentenced to undergo **Rigorous Imprisonment for a period of Three Years** and imposed with a fine of **Rs.25,000/- (Rupees Twenty Five Thousand only)** and in default of payment of fine, he shall undergo

a **Simple Imprisonment** for a period of **Six Months**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **354-B of IPC**., and accused is hereby sentenced to undergo **Rigorous Imprisonment for a period of Seven Years** and imposed with a fine of **Rs.50,000/- (Rupees Fifty Thousand only)** and in default of payment of fine, he shall undergo a **Simple Imprisonment** for a period of **Six Months**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **354-C of IPC**., and accused is hereby sentenced to undergo **Rigorous Imprisonment for a period of Three Years** and imposed with a fine of **Rs.25,000/- (Rupees Twenty Five Thousand only)** and in default of payment of fine, he shall undergo a **Simple Imprisonment** for a period of **Six Months**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **506 of IPC**., and accused is hereby sentenced to undergo **Rigorous Imprisonment for a period of Two Years** and imposed with a fine of **Rs.10,000/- (Rupees Ten Thousand only)** and in default of payment of fine, he shall undergo a **Simple Imprisonment** for a period of **Three Months**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **201 of IPC**., and accused is hereby sentenced to undergo **Rigorous Imprisonment for a period of Three Years** and imposed with a fine of **Rs.25,000/- (Rupees Twenty Five Thousand only)** and in default of payment of fine, he shall undergo a Simple Imprisonment for a period of **Six Months**.

The accused Prajwal Revanna is hereby convicted for the offence under Section **66(E) of Information and Technology Act, 2000**, and accused is hereby sentenced to undergo **Rigorous Imprisonment for a period of Three**

Years and imposed with a fine of **Rs.25,000/- (Rupees Twenty Five Thousand only)** and in default of payment of fine, he shall undergo a **Simple Imprisonment** for a period of **Six Months**.

Acting under Section 357(A) of Cr.P.C., suitable compensation requires to be ordered to the victim i.e., PW.1 and out of the fine amount **Rs.11,25,000/- (Rupees Eleven Lakhs Twenty Five Thousand only)** is awarded as compensation to the victim and the remaining amount stands forfeited to the State.

MO.1 to 8 being worthless, are ordered to be destroyed on completion of the appeal period and in the event of preferring the appeal the same shall be destroyed only on the disposal of the appeal.

MO.9 Mobile is hereby ordered to be confiscated to the State.

It is hereby made clear that even if the accused undergoes the default sentence, he will not be absolved of his liability to pay fine amount in view of the provisos to Sub-Section (1) of Sec.421 of Cr.P.C. The substantive

sentences of imprisonment shall run concurrently.

The accused is not given any set-off since he was not in custody in the above case and was secured under body warrant.

Send the copy of this Judgment and sentence to the District Magistrate concerned as per Sec.365 of Cr.P.C.

Office is hereby directed to furnish the copy of the Judgment to the accused forthwith.

(Dictated to Stenographer Grade-I, transcribed by her, revised and corrected by me and then pronounced in open court on **2nd day of August, 2025**)

(SANTHOSH GAJANAN BHAT)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to former and elected MPs/ MLAs in the State of Karnataka)

ANNEXURES

1. Witnesses examined on behalf of the prosecution;

PW.1 Victim
PW.2 Raju
PW.3 Devaraju

PW.4 Shyamala
PW.5 Vanishree Rathod
PW.6 Lingamurthy K.C
PW.7 Madhura
PW.8 T.N.Ravi
PW.9 Lakshmi K.S
PW.10 Karthik. N
PW.11 Prasad B.R
PW.12 Manjunath H.N
PW.13 Hemesh Kumar H
PW.14 Dr.Guruprasad
PW.15 R.Kumara
PW.16 Dr.K.V.Sathish
PW.17 Dr.Thejaswi. R
PW.18 Dr.B.M.Girish
PW.19 Dr.Rohith
PW.20 Shahnaz Fathima
PW.21 Vedamurthy H.R
PW.22 Kailash
PW.23 Ramesh. K
PW.24 Rajesh. R
PW.25 Suma Rani. B
PW.26 Shobha. N

2. Witnesses examined by the defence/accused.: Nil

3. Documents exhibited by the prosecution:

Ex.P1 Complaint

Ex.P1(a)	Signature of PW.1
Ex.P1(b)	Signature of PW.3
Ex.P1(c)	Signature of PW.24
Ex.P2	Mahazar dated 09.05.2024
Ex.P2(a)	Signature of PW.1
Ex.P2(b)	Signature of PW.5
Ex.P3	Mahazar dated 10.05.2024
Ex.P3(a)	Signature of PW.1
Ex.P3(b)	Signature of PW.6
Ex.P4	Recovery Mahazar dated 10.05.2024
Ex.P4(a)	Signature of PW.1
Ex.P4(b)	Signature of PW.6
Ex.P4(c)	Signature of PW.20
Ex.P5	Another recovery mahazar dated 18.05.2025
Ex.P5(a)	Signature of PW.1
Ex.P6	Notice
Ex.P.6(a)	Signature of PW.5
Ex.P7 to Ex.P10	Photographs
Ex.P11	Notice
Ex.P11(a)	Signature of PW.6
Ex.P12	Sketch

Ex.P12(a)	Signature of PW.6
Ex.P13	Recovery mahazar dated 23.05.2024
Ex.P13(a)	Signature of PW.7
Ex.P14 to Ex.P17	Photographs
Ex.P18	Notice
Ex.P18(a)	Signature of PW.8
Ex.P19	Search and Seizure Mahazar
Ex.P19(a)	Signature of PW.8
Ex.P19(b)	Signature of PW.8
Ex.P20 to Ex.P34	Photographs
Ex.P35	Notice
Ex.P35(a)	Signature of PW.9
Ex.P36	Mahazar
Ex.P36(a)	Signature of PW.9
Ex.P36(b)	Signature of PW.26
Ex.P37 to Ex.P39	Photographs
Ex.P40	True copy of complaint dated 14.08.2021 along with acknowledgment
Ex.P41	Notice
Ex.P41(a)	Signature of PW.11

Ex.P41(b)	Signature of PW.26
Ex.P42	Voice sample mahazar
Ex.P42(a)	Signature of PW.11
Ex.P42(b)	Signature of PW.26
Ex.P43	S.D.Card
Ex.P44	Letter along with Certificate under Sec.65(B) of Evidence Act
Ex.P45	Report
Ex.P45(a)	Signature of PW.13
Ex.P46	DVD
Ex.P47	Certificate U/s.65(B) of Evidence Act
Ex.P47(a)	Signature of PW.13
Ex.P48	DVD
Ex.P49	Pen Drive
Ex.P50	Letter dated 15.06.2024
Ex.P51	Medical Report of the Accused
Ex.P51(a)	Signature of PW.16
Ex.P52	Out patient record
Ex.P52(b)	Signature of PW.16
Ex.P52(b)	Signature of PW.17
Ex.P53	Out Patient Record
Ex.P53(a)	Signature of PW.17

Ex.P54	Request letter dated 14.08.2024
Ex.P54(a)	Signature of PW.17
Ex.P54(b)	Signature of PW.16
Ex.P55	Sample Seal
Ex.P55(a)	Signature of PW.17
Ex.P55(b)	Signature of PW.17
Ex.P55(c)	Signature of PW.19
Ex.P56	DVD
Ex.P57	Certificate U/s. 65-B of Evidence Act
Ex.P57(a)	Signature of PW.18
Ex.P58	Out patient record of accused
Ex.P58(a)	Signature of PW.19
Ex.P59	(FSL) DNA Report
Ex.P59(a)	Signature of PW.20
Ex.P60	FSL another report (DNA)
Ex.P60(a)	Signature of PW.20
Ex.P61	Test Report dated 30.08.2024
Ex.P62	Certificate U/s.65(B)(4)(c) of Evidence Act
Ex.P62(a)	Signature of PW.21
Ex.P63	C.D.
Ex.P64	Test Report
Ex.P65	Certificate U/s.65-B of Evidence Act

Ex.P65(a)	Signature of PW.22
Ex.P66	Sample Seal
Ex.P67	Pen-drive
Ex.P68	16 GB SD HC UHS-1 Card
Ex.P69	16 GB SD HC Card
Ex.P70	Questionnaire
Ex.P71	Letter dated 20.09.2024
Ex.P72	Letter dated 24.09.2024
Ex.P73	Covering letter with requisition form 152
Ex.P74	Covering letter dated 22.10.2024
Ex.P75	Test report dated 22.10.2024
Ex.P76	Sample seal
Ex.P76(a)	Signature of PW.23
Ex.P77	Certificate U/s.65(B)(4) of Evidence Act
Ex.P77(a)	Signature of PW.23
Ex.P78	FIR
Ex.P78(a)	Signature of PW.24
Ex.P79	Requisition dated 13.05.2024
Ex.P80	Letter dated 20.06.2025
Ex.P80(a)	Signature of PW.25
Ex.P81	Attested copy of mahazar dated 30.04.2024

Ex.P82	Mahazar
Ex.P82(a)	Signature of PW.25
Ex.P82(b)	Signature of PW.26
Ex.P83	Letter
Ex.P84	FSL Report
Ex.P85	Report
Ex.P86	Attested copy of FIR in Cr.No.107/2024
Ex.P87	Letter
Ex.P88	Report of the Apple
Ex.P89	Out-patient certificate along with medical reports
Ex.P90	Requisition
Ex.P90(a)	Signature of PW.26
Ex.P91	Letter dated 08.05.2024
Ex.P91(a)	Signature of PW.26
Ex.P92	Letter dated 09.05.2024
Ex.P93	Letter
Ex.P93(a)	Signature of PW.26
Ex.P94	Letter
Ex.P94(a)	Signature of PW.26
Ex.P95	Letter
Ex.P96	Letter

Ex.P97	Letter
Ex.P97(a)	Signature of PW.26
Ex.P98	Notice
Ex.P99	P.F.
Ex.P100	Requisition
Ex.P100(a)	Signature of PW.26
Ex.P101	Requisition
Ex.P101(a)	Signature of PW.26
Ex.P102	Official Memorandum
Ex.P103	Notice
Ex.P104	Requisition
Ex.P104(a)	Signature of PW.26
Ex.P105	Questionnaire
Ex.P106	Acknowledgment of FSL
Ex.P.107	Video Transcript
Ex.P107(a)	Signature of Rathnamma
Ex.P108	Official Memorandum
Ex.P109	Notice
Ex.P109(a)	Signature of PW.26
Ex.P110	Mahazar
Ex.P110(a)	Signature of PW.26
Ex.P111	Covering letter with sketch

Ex.P112	Requisition dated 21.05.2024
Ex.P113	Requisition
Ex.P113(a)	Signature of PW.26
Ex.P114	Notice
Ex.P114(a)	Signature of PW.26
Ex.P115	Letter
Ex.P115(a)	Signature of PW.26
Ex.P116	Letter
Ex.P117	Requisition
Ex.P118	Letter
Ex.P118(a)	Certificate
Ex.P119	Letter
Ex.P.119(a)	Signature of PW.26
Ex.P120	Letter
Ex.P121	Certified copy of Orders
Ex.P122	Requisition letter to the Tahashildar
Ex.P122(a)	Signature of PW.26
Ex.P123	Voice samples
Ex.P123(a)	Signature of PW.26
Ex.P124	Covering letter
Ex.P125	Letter dated 07.06.2024
Ex.P126	42nd ACMM Voice samples, certified copy

	of order sheet
Ex.P127	Letter dated 12.06.2025
Ex.P127(a)	Signature of PW.26
Ex.P128	Letter dated 13.06.2025
Ex.P129	PF No.43/2024
Ex.P129(a)	Signature of PW.26
Ex.P130	Letter dated 14.06.2024
Ex.P130(a)	Signature of PW.26
Ex.P131	Certified copy of Orders of ACMM Court
Ex.P132	Letter dated 14.06.2024
Ex.P133	Letter dated 14.06.2024
Ex.P134	Letter dated 16.06.2024
Ex.P134(a)	Signature of PW.26
Ex.P135	Letter dated 18.06.2024
Ex.P135(a)	Signature of PW.26
Ex.P136	Letter dated 20.06.2024
Ex.P137	Sony DVD PF No.47/2024
Ex.P137(a)	Signature of PW.26
Ex.P138	Letter dated 01.07.2024
Ex.P138(a)	Signature of PW.26
Ex.P139	Letter dated 15.07.2024
Ex.P140	Certificate U/s.65-B of Evidence Act

Ex.P141	Appointment of PW.10 Karthik as Driver of the accused
Ex.P142	Test Report
Ex.P143	PF No.58/2024
Ex.P143(a)	Signature of PW.26
Ex.P144	Letter dated 01.08.2024
Ex.P144(a)	Signature of PW.26
Ex.P145	Certificate U/s.65-B of Evidence Act
Ex.P146	C.D.
Ex.P147	Letter dated 12.08.2024
Ex.P148	Letter dated 13.08.2024
Ex.P149	Certified copy of the order of 42nd ACMM Court, Bengaluru
Ex.P150	Covering letter dated 14.08.2024 issued by the BBMP regarding Khatha Extract
Ex.P1New Folder51	Letter dated 17.08.2024
Ex.P152	Notice dated 19.08.2024
Ex.P152(a)	Signature
Ex.P153	PF No.62/2024
Ex.P153(a)	Signature of PW.26
Ex.P154	Letter dated 19.08.2024
Ex.P155	FSL Acknowledgment
Ex.P156	P.F.No.64/2024

Ex.P156(a)	Signature of PW.26
Ex.P157	Letter dated 22.08.2024
Ex.P158	Letter dated 22.08.2024
Ex.P159	Account opening form and statement of account relating to accused
Ex.P160	Letter dated 27.08.2024
Ex.P161	Letter dated 02.09.2024
Ex.P162	Certificate U/s.65(B) of Evidence Act
Ex.P163	Report with hash value and path
Ex.P164 to Ex.P175	Photographs
Ex.P176	Certificate U/s.65-B of Evidence Act
Ex.P177	Certificate U/s.65-B of Evidence Act
Ex.P178	P.F.No.65/2024
Ex.P178(a)	Signature of PW.26
Ex.P179	Acknowledgment dated 24.09.2024
Ex.P180	Letter dated 04.11.2024

4. List of Material Objects marked by the prosecution:-

MO.1	Upper layer of the mattress
MO.2	Yellow saree with light coffee-coloured flowers and green leaves

MO.3	Green colour blouse
MO.4	One Green colour saree with red and blue colour border
MO.5	One light cream colour petticoat
MO.6	One blue colour petticoat
MO.7	One Green colour saree with leaf design One green colour blouse One light pink colour petticoat One pink colour saree with black border One cream colour saree with navy blue colour border One pink colour petticoat One green colour petticoat
MO.8	Hair Sample
MO.9	Samsung Mobile phone

5. Documents exhibited by the Defence/Accused:-

Ex.D1	Medical Report of accused
Ex.D2	DVD

LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to elected former and sitting MPs/MLAs in the State of Karnataka)

SANTHOSHGAJANANABHAT

Digitally signed by SANTHOSHGAJANANABHAT
Date: 2025.08.04 12:08:53 +0530