



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. Appeal No. 266 of 2015
Reserved on: 21.08.2025
Decided on: 29.08.2025

State of Himachal PradeshAppellant.
Versus
Mam RajRespondent.

Coram
The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.
The Hon'ble Mr. Justice Sushil Kukreja, Judge.
¹ *Whether approved for reporting? Yes.*

For the appellant: Mr. I.N. Mehta, Senior Additional Advocate General.
For the respondents: Ms. Upasana Thakur, Advocate, vice Mr. Karan Singh Kanwar, Advocate.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellant/State under Section 378 of the Code of Criminal Procedure against the impugned judgment dated 26.09.2014, passed by learned Special Judge, Sirmaur District at Nahan, H.P., in Sessions Trial No. 03-ST/7 of 2014, whereby the accused (respondent herein) was acquitted for the offences punishable under Sections 504, 506, 376 of the Indian Penal Code (for short “IPC”) read with Section 3(i)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘SCST Act’).

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

2. The facts giving rise to the present appeal, as per the prosecution story, can be summarized as under:

2(a). The prosecutrix (name withheld) got recorded her statement under Section 154 Cr.P.C., wherein she stated that the accused (Mam Raj, who is respondent herein) committed forcible sexual intercourse with her on three different occasions in the year 2011. She further stated that the accused also threatened her to do away with her life and he wrote letters with an intention to black mail her. The prosecutrix also stated that the accused used caste based remarks for her and her family members and threatened to eliminate them. As per the prosecutrix, she had purchased a ladies suit from the shop of one Anita Sahni and the accused paid for that suit without her consent. The matter was reported to the Pradhan of the concerned panchayat, where the accused apologized. A complaint was made to Sub Divisional Magistrate, Rajgarh. During the investigation, the prosecutrix was medically examined. Upon the statement of the prosecutrix, police effected relevant recoveries and her statement under Section 164 Cr.P.C. was recorded. It has come in the prosecution story that on 12.08.2013, around 06:00 p.m., the accused caught hold of the prosecutrix by her arm and she was rescued by her husband. It has also come in the prosecution story that the accused used to

disturb peace and he used caste based remarks against the prosecutrix and her family members frequently. After completion of the investigation, police presented the chargesheet in the learned Trial Court.

3. The prosecution, in order to prove its case, examined eleven witnesses. Statement of the accused, under Section 313 Cr.P.C., was recorded, wherein he pleaded not guilty and claimed trial.

4. The learned Trial Court, vide impugned judgment dated 26.09.2014 acquitted the accused for the offences punishable under Sections 504, 506, 376 IPC read with Section 3(i)(xii) of SCST Act, hence the instant appeal preferred by the appellant/State.

5. The learned Senior Additional Advocate General for the appellant/State contended that the impugned judgment is against the law and facts, based upon surmises and conjectures, thus liable to set-aside. He further contended that the learned Trial Court has failed to appreciate the evidence in its right and true perspective, as such the impugned judgment of acquittal passed by the learned Trial Court deserves to be quashed and set-aside by allowing the instant appeal.

6. Conversely, the learned vice counsel for the

respondent/accused contended that the judgment passed by the learned Trial Court is the result of proper appreciation of the material on record and the same was passed after appreciating the evidence and law in its right and true perspective. She further contended that the learned Trial Court has passed a well reasoned judgment, which does not require any interference, thus the instant appeal, which is devoid of any merit, be dismissed.

7. We have heard the learned Senior Additional Advocate General for the appellant/State, learned vice counsel for the respondent/accused and carefully examined the entire records.

8. It is well settled by the Hon'ble Apex Court in a catena of decisions that an Appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded. However, Appellate Court must bear in mind that in case of acquittal there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court. Further, if two reasonable views are possible on the basis of the

evidence on record, the Appellate Court should not disturb the finding of acquittal recorded by the trial Court.

9. The scope of power of Appellate Court in case of appeal against acquittal has been dealt with by the Hon'ble Apex Court in ***Muralidhar alias Gidda & another Vs. State of Karnataka reported in (2014) 5 SCC 730***, which reads as under:

"10. Lord Russell in Sheo Swarup[1], highlighted the approach of the High Court as an appellate court hearing the appeal against acquittal. Lord Russell said,

"... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses."

The opinion of the Lord Russell has been followed over the years.

11. *As early as in 1952, this Court in Surajpal Singh[2] while dealing with the powers of the High Court in an appeal against acquittal under Section 417 of the Criminal Procedure Code observed:*

"7.....the High Court has full power to review the evidence upon which the order of acquittal was founded, but it is equally well settled that the presumption of innocence of the accused is further reinforced by his acquittal by the trial court, and the findings of the trial court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons."

12. *The approach of the appellate court in the appeal against acquittal has been dealt with by this Court in Tulsiram Kanu [3], Madan Mohan Singh [4], Atley [5] , Aher Raja Khima [6], Balbir Singh [7], M.G. Agarwal [8], Noor Khan [9], Khedu Mohton [10], Shivaji Sahabrao Bobade [11], Lekha Yadav [12], Khem Karan [13], Bishan Singh [14], Umedbhai Jadavbhai [15], K. Gopal Reddy [16], Tota Singh [17], Ram Kumar [18], Madan Lal [19], Sambasivan [20], Bhagwan Singh [21], Harijana Thirupala [22], C. Antony [23], K. Gopalakrishna [24], Sanjay Thakran [25] and Chandrappa [26]. It is not necessary to deal with these cases individually. Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate court must bear in mind the following:*

- (i) *There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court;*
- (ii) *The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;*
- (iii) *Though, the power of the appellate court in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanor of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and*
- (iv) *Merely because the appellate court on re-appreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced*

views of the evidence must not result in the interference by the appellate court in the judgment of the trial court.”

10. The Hon’ble Supreme Court in ***Rajesh Prasad vs. State of Bihar & another, (2022) 3 SCC 471***, observed as under.

“31. The circumstances under which an appeal would be entertained by this Court from an order of acquittal passed by a High Court may be summarized as follows:

31.1. Ordinarily, this Court is cautious in interfering with an order of acquittal, especially when the order of acquittal has been confirmed up to the High Court. It is only in rarest of rare cases, where the High Court, on an absolutely wrong process of reasoning and a legally erroneous and perverse approach to the facts of the case, ignoring some of the most vital facts, has acquitted the accused, that the same may be reversed by this Court, exercising jurisdiction under Article 136 of the Constitution. [State of U.P. v. Sahai (1982) 1 SCC 352] Such fetters on the right to entertain an appeal are prompted by the reluctance to expose a person, who has been acquitted by a competent court of a criminal charge, to the anxiety and tension of a further examination of the case, even though it is held by a superior court. [Arunchalam v. P.S.R. Sadhanantham (1979) 2 SCC 297] An appeal cannot be entertained against an order of acquittal which has, after recording valid and weighty reasons, has arrived at an unassailable, logical conclusion which justifies acquittal. [State of Haryana vs. Lakhbir]

31.2. However, this Court has on certain occasions, set aside the order of acquittal passed by a High Court. The circumstances under which this Court may entertain an appeal against an order of acquittal and pass an order of conviction, may be summarized as follows:

31.2.1. Where the approach or reasoning of the High Court is perverse;

(a) Where incontrovertible evidence has been rejected by the High Court based on suspicion and surmises, which are rather

unrealistic. [State of Rajasthan v. Sukhpal Singh (1983) 1 SCC 393] For example, where direct, unanimous accounts of the eyewitnesses, were discounted without cogent reasoning. [State of U.P. vs. Shanker 1980 Supp SCC 489]

- (b) *Where the intrinsic merits of the testimony of relatives, living in the same house as the prosecutrix, were discounted on the ground that they were “interested” witnesses. [State of U.P. v. Hakim Singh (1980)]*
- (c) *Where testimony of witnesses had been disbelieved by the High Court, on an unrealistic conjecture of personal motive on the part of witnesses to implicate the accused, when in fact, the witnesses had no axe to grind in the said matter. [State of Rajasthan v. Sukhpal Singh (1983) 1 SCC 393]*
- (d) *Where dying declaration of the deceased prosecutrix was rejected by the High Court on an irrelevant ground that they did not explain the injury found on one of the persons present at the site of occurrence of the crime. [Arunachalam vs. P.S.R. Sadhanantham (1979) 2 SCC 297]*
- (e) *Where the High Court applied an unrealistic standard of “implicit proof” rather than that of “proof beyond reasonable doubt” and therefore evaluated the evidence in a flawed manner. [State of U.P. v. Ranjha Ram (1986) 4 SCC 99]*
- (f) *Where the High Court rejected circumstantial evidence, based on an exaggerated and capricious theory, which were beyond the plea of the accused; [State of Maharashtra v. Champalal Punjaji Shah (1981) 3 SCC 610]*
- (g) *Where the High Court acquitted the accused on the ground that he had no adequate motive to commit the offence, although, in the said case, there was strong direct evidence establishing the guilt of the accused, thereby making it necessary on the part of the prosecution*

to establish “motive”. [State of A.P. v. Bogam Chandraiah (1990) 1 SCC 445]

31.2.2.Where acquittal would result is gross miscarriage of justice;

(a) Where the findings of the High Court, disconnecting the accused persons with the crime, were based on a perfunctory consideration of evidence, [State of U.P. v. Pheru Singh 1989 Supp (1) SCC] or based on extenuating circumstances which were purely based in imagination and fantasy [State of U.P. v. Pussu (1983) 3 SCC 502]

(b)Where the accused had been acquitted on ground of delay in conducting trial, which delay was attributable not to the tardiness or indifference of the prosecuting agencies, but to the conduct of the accused himself; or where accused had been acquitted on ground of delay in conducting trial relating to an offence which is not of a trivial nature. [State of Maharashtra v. Champalal Punjaji Shah (1981) 3 SCC 610].”

11. In **H.D. Sundara & others vs. State of Karnataka, (2023) 9 SCC 581**, the Hon’ble Supreme Court has observed that the appellate court cannot overturn acquittal only on the ground that after re-appreciating evidence, it is of the view that the guilt of the accused was established beyond a reasonable doubt. The relevant portion of the above judgment is as under:

“8. In this appeal, we are called upon to consider the legality and validity of the impugned judgment rendered by the High Court while deciding an appeal against acquittal under Section 378 of the Code of Criminal Procedure, 1973 (for short “CrPC”). The principles which govern the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC can be summarized as follows:

- 8.1. *The acquittal of the accused further strengthens the presumption of innocence;*
- 8.2. *The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;*
- 8.3. *The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is possible view which could have been taken on the basis of the evidence on record;*
- 8.4. *If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and*
- 8.5. *The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.*
9. *Normally, when an appellate court exercises appellate jurisdiction, the duty of the appellate court is to find out whether the verdict which is under challenge is correct or incorrect in law and on facts. The appellate court normally ascertains whether the decision under challenge is legal or illegal. But while dealing with an appeal against acquittal, the appellate court cannot examine the impugned judgment only to find out whether the view taken was correct or incorrect. After re-appreciating the oral and documentary evidence, the appellate court must first decide whether the trial court's view was a possible view. The appellate court cannot overturn acquittal only on the ground that after re-appreciating evidence, it is of the view that the guilt of the accused was established beyond a reasonable doubt. Only recording such a conclusion an order of acquittal cannot be reversed unless the appellate court also concludes that it was the only possible conclusion. Thus, the appellate court must see whether the view taken by the trial court while acquitting an accused can be*

reasonably taken on the basis of the evidence on record. If the view taken by the trial court is a possible view, the appellate court cannot interfere with the order of acquittal on the ground that another view could have been taken.”

12. Thus, the law on the issue can be summarized to the effect that in exceptional cases where there are compelling circumstances, and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. Further, if two views were possible on the basis of the evidence on record, the Appellate Court should not disturb the finding of acquittal recorded by the Trial Court, merely, because the Appellate Court could have arrived at a different conclusion than that of the Trial Court.

13. The burden of proof in a criminal trial never shifts and it is always the burden of the prosecution to prove its case beyond reasonable doubt on the basis of acceptable evidence. In fact, it is a settled principle of criminal jurisprudence that the more serious the offence, the stricter the degree of proof required, since a higher degree of assurance is required to convict the accused.

14. Rape or an attempt to rape is a crime not against an individual but a crime which destroys the basic equilibrium of the social atmosphere. In ***Jugendra Singh vs. State of UP, (2012) 6 SCC 297***, Hon'ble Apex Court has held:-

"49. Rape or an attempt to rape is a crime not against an individual but a crime which destroys the basic equilibrium of the social atmosphere. The consequential death is more horrendous. It is to be kept in mind that an offence against the body of a woman lowers her dignity and mars her reputation. It is said that one's physical frame is his or her temple. No one has any right of encroachment. An attempt for the momentary pleasure of the accused has caused the death of a child and had a devastating effect on her family and, in the ultimate eventuate, on the collective at large. When a family suffers in such a manner, the society as a whole is compelled to suffer as it creates an incurable dent in the fabric of the social milieu. The cry of the collective has to be answered and respected and that is what exactly the High Court has done by converting the decision of acquittal to that of conviction and imposed the sentence as per law."

15. It is a settled principle of law that conviction can be based on the sole testimony of the victim of sexual assault without corroboration from any other evidence. The prosecutrix complaining of having been a victim of the offence of rape is not accomplice of the crime and there is, no rule of law that her testimony cannot be acted without corroboration on material particulars. Her testimony has to be appreciated on the principles of probabilities just as the testimony of any other witness and if the Court 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.

16. The Hon'ble Supreme Court has observed in a catena of decisions that the Court 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 the statement of the prosecutrix is of sterling quality and inspires confidence, then corroboration from other evidence need not be sought, but where the statement of the prosecutrix is shaky and does not inspire confidence then corroboration should be sought from other evidence collected during investigation.

17. In ***State of Himachal Pradesh vs. Gian Chand, (2001) 6 SCC 71***, it was held that conviction for an offence of rape can be based on the sole testimony of the prosecutrix corroborated by medical evidence and other circumstances such as the report of chemical examination etc. if the same is found to be natural, trustworthy and worth being relied on.

18. In the case of ***Vijay @ Chinee vs. State of Madhya Pradesh, (2010) 8 SCC 191***, it was held 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. Paras 9 to 14 of the judgment are reproduced as under:-

"9. In *State of Maharashtra v. Chandraprakash Kewalchand Jain* AIR 1990 SC 658, 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:-

“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.

10. *In State of U.P. v. Pappu @ Yunus and Anr. AIR 2005 SC 1248, 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:-

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 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 and Ors.: AIR 1996 SC 1393**, 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:
- “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 replying 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.

12. *In State of Orissa v. Thakara Besra and Anr. AIR 2002 SC 1963*, this Court held that rape is not mere a physical assault, rather it often distracts 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 Himachal Pradesh v. Raghubir Singh (1993) 2 SCC 622*, 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.* placing reliance on an earlier judgment in *Rameshwar v. State of Rajasthan*.
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"*

19. There cannot be any dispute with the proposition of law laid down by the Hon'ble Apex Court in catena of pronouncements that in case of rape, evidence of prosecutrix must be given predominant consideration, and finding of guilt in case of rape can be based upon the uncorroborated evidence of the prosecutrix, but apart from above, Hon'ble Apex court has also held that if the story put forth by the prosecutrix is improbable and belies logic, placing sole reliance upon her statement would be violence to the very

principles which govern the appreciation of evidence in a criminal matter. In this regard, reliance is placed on judgment rendered by the Hon'ble Apex Court in ***Tameezduddin alias Tammu v. State of NCT of Delhi, (2009) 15 SCC 566***, wherein it has been held as under:-

"9. *It is true that in a case of rape the evidence of the prosecutrix must be given predominant consideration, but to hold that this evidence has to be accepted even if the story is improbable and belies logic, would be doing violence to the very principles which govern the appreciation of evidence in a criminal matter. We are of the opinion that story is indeed improbable.*"

20. Now reverting back to the facts of the case on hand. Precisely, as per the allegations of the prosecutrix, the accused had threatened her to do away with her life, he used caste based remarks with intention to humiliate her and also committed rape upon her. The moot point involved for consideration in this appeal is whether the statement of the prosecutrix is credible and worthy of credence.

21. We have gone through the statement of the prosecutrix and after going through the same minutely, it cannot be said that her testimony is confidence inspiring, truthful and corroborated with other evidence. Though, the prosecutrix has leveled the allegation of rape against the accused, however, there is no evidence to establish such allegation. After close scrutiny of her

testimony, it can be said that on major aspects, she was deliberately ambiguous and kept on changing her stand. As per the prosecutrix, the accused raped her thrice, but she could not narrate the dates when the accused committed rape on her. She could not even state the month or the year when she was raped by the accused. She did not give any explanation as to why she did not make any complaint qua threatening and commission of rape by the accused. The perusal of love letters, Ex. P4 to P40, nowhere reflects that the same were written by the prosecutrix under any kind of pressure. In fact, these letters are pure reflection of feelings of the prosecutrix towards the accused. The defence of the accused is that the prosecutrix was obsessed towards him, which was opposed by her family and by him when the letters written by her to him became public, then false case was got registered against him. The perusal of the love letters fully probablized the defence of the accused and the same nowhere demonstrates that the same were written under any kind of pressure. As per the prosecutrix, the accused committed rape with her three years prior to her deposition in the Court (21.07.2014) and she wrote letters Ex. P4 to P40 between 25.11.2011 to 15.11.2012. She further deposed that the accused used to blackmail and abuse her and threatened to eliminate her family.

However, the prosecutrix herself had shattered her above stand by admitting in her cross-examination that her brother got married one or one and half years prior to her deposition in the Court and during his marriage, meal was prepared by the accused and his brother. Thus, the statement of the prosecutrix cannot be believed that even after commission of the alleged sexual assault by the accused upon the prosecutrix, her family would invite the accused and his brother to prepare the meal.

22. In the background of the legal position discussed above, when we consider the case in hand, we are of the opinion that the statement of the prosecutrix does not inspire confidence. She had made several improvements in her deposition and consistently changed her stand. In the wake of the serious nature of the allegations leveled by the prosecutrix against the accused and considering the testimony of the prosecutrix, by no stretch of imagination it can be held that the accused had committed forcible intercourse with her and threatened to eliminate her family or had intimidated the prosecutrix in any manner.

23. The accused, in addition to the offences under Section 504, 506 and 376 IPC, was also charged under Section 3(i)(xii) of the SCST Act for intentionally insulting or intimidating with an intent to humiliate the prosecutrix in any place within public view who

was a member of scheduled caste community. The prosecutrix merely stated that the accused used to make caste based remarks since last about 3-4 years, but she did not specifically state that what were the caste based remarks used by the accused against the prosecutrix and her family. Admittedly, she did not make any complaint qua the caste based remarks allegedly made by the accused to Pradhan or SDM. The prosecution examined PW-2 Smt. Suman Thakur and her husband as PW-4 to prove the allegations of caste based remarks. However, both these witnesses are interested witnesses, as they themselves admitted that they were putting up in the house of Swami Radhika Dass alongwith 6 bighas of land, which belonged to grand-mother of the accused. These witnesses admitted the dispute qua the above property. Therefore, the above witnesses are interested witnesses and their depositions cannot be relied upon without any independent corroboration. These witnesses had not stated as to what were the caste based remarks used by the accused against the prosecutrix and her family. Similarly, the deposition of PW-9 Bhim Singh cannot be believed, as he had improved his version in the Court and he was confronted with his statement Ex. DB, which was recorded by the police, wherein he did not state that he made complaint to the Panchayat that the accused used caste based

remarks against the prosecutrix and her family. Kushal Kumar (PW-10), the then President, Gram Panchayat, only deposed that accused was abusing the villagers in an inebriated state and only simple allegations were leveled in the complaint made to him against the accused. This witness did not state that any caste based remarks were used by the accused against the prosecution. PW-12 Prithvi Singh also deposed on the above analogy, thus his deposition is also not helpful to the prosecution case. Even if it is presumed that the allegation of atrocity leveled by the prosecutrix against the accused is correct, but the letters, Ex. P4 to P40, written by the prosecutrix to the accused completely rules out any possibility of atrocity on the prosecutrix by the accused.

24. Hence, in view of the entire evidence on record, particularly, the statement of the prosecutrix, it has become clear that there is nothing on record, which could, even remotely, establish the guilt of the accused beyond the scope of reasonable doubt. The evidence on record neither establishes the sexual assault nor any atrocity upon the prosecutrix by the accused.

25. In view of what has been discussed hereinabove, no interference in the judgment of acquittal, dated 26.09.2014, passed by the learned Special Judge, Sirmaur District at Nahan, H.P., in Sessions Trial No. 03-ST/7 of 2014, is required. The view taken by

the learned Trial Court was the only possible view, as such the appeal, which sans merits, deserves dismissal and is accordingly dismissed. Bail bonds are discharged.

Pending application(s), if any, shall also stand(s) disposed of.

(Vivek Singh Thakur)
Judge

(Sushil Kukreja)
Judge

29.08.2025
(virender)