

**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA****Cr. Appeal No. 280 of 2015****Reserved on 16.09.2025****Decided on: 14.10.2025**

Urmila Devi

.....Appellant.

Versus

State of H.P. & others

.....Respondents.

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. Rajnish K. Lal Advocate.

For respondent No. 1/State: Mr. I.N. Mehta, Senior Additional Advocate Genreal.

For respondents No. 2 & 3: Mr. Divya Raj Singh and Ms. Ritu Singh, Advocates.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellant/victim/prosecutrix under Section 372 Cr.P.C. against judgment, dated 25.04.2014, passed by learned Additional Sessions Judge (1), Una, H.P., in Sessions Case No. 10 of 2013, dated 25.04.2014, whereby the accused persons (respondents No. 2 and 3 herein) were acquitted from the charges under Sections 376 and 506 of the Indian Penal Code (for short 'IPC').

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

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

2(a). On 24.04.2013, the police of Police Station Bangana, through the office of Superintendent of Police, Una, received a complaint qua the rape of a women. The prosecutrix (appellant herein) stated in her complaint that during the month of November, 2012, on the eve of *KarwaChauth*, accused Seema Devi called her to her house. The prosecutrix, alongwith her children went to the house of Seema Devi at village Chakdova and in the evening, on being insisted by her, the prosecutrix stayed there and slept in the kitchen alongwith accused Seema Devi and her two children. The prosecutrix further stated that around 10:00 p.m. accused Gian Chand entered in the kitchen and accused Seema Devi went out and she also bolted the door from outside. As per the prosecutrix, accused Gian Chand raped her and also threatened her with dire consequences, in case she divulged the incident to anyone. He also threatened that he knows witch-craft and threatened her with knife that he will kill her husband and also do away with her life. The prosecutrix, in her complaint, stated that Seema Devi and gian Chand conspired together to exploit her sexually. The prosecutrix returned to her home at 08:00 a.m. in the morning of the subsequent day, but she did not disclose the incident to anyone. After the incident, accused Gian Chand visited her house 4-5 times during the night and every time he raped her. As per the

prosecutrix, she could not disclose about the acts of Gian Chand to anyone due to fear and also due to her mental stage, but due to great constraint, ultimately on 18.04.2013, she narrated the whole story to her husband and sister. On 19.04.2013, the prosecutrix alongwith her husband went to police station and moved application to SHO, Bangana. On 21.04.2013 due to intervention of respectable persons and Up-Pradhan of Gram Panchayat, Chakdova, she entered into a compromise. On 24.04.2013 she alongwith her husband came to Una and moved a complaint to Superintendent of Police, Una, and on the same day she was medically examined at R.H. Una. Police effected relevant recoveries, spot map was prepared and the statements of the witnesses were recorded. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. and the police procured the relevant records. On 24.04.2013 accused Gian Chand and on 23.06.2023 accused Seema Devi were arrested. After completion of the investigation, police presented the charge-sheet before the Trial Court.

3. The learned Trial Court took cognizance against the accused persons and charges under Section 376 and 506 IPC were framed against them. The prosecution, in order to prove its case, examined fifteen witnesses. Statements of the accused

persons under Section 313 Cr.P.C. were recorded, wherein they stated that they were falsely implicated in the instant case. However, they did not examine any witness in their defence.

4. Vide impugned judgment dated 25.04.2014 the trial Court acquitted the accused persons, hence the instant appeal preferred by the appellant/prosecutrix.

5. We have heard the learned counsel for the appellant, learned Senior Additional Advocate General for respondent No. 1/State, learned Counsel for respondents No. 2 and 3 and carefully examined the entire records.

6. The learned Counsel for the appellant/ prosecutrix contended that the Trial Court has ignored the relevant material and not appreciated the statements of the witnesses in its right perspective. He further contended that the learned Trial Court had misread the statement of the prosecutrix which, on the face of it, is unimpeachable and inspires confidence. He also contended that the learned Trial Court had treated the prosecutrix as an accomplice and wrongly discarded her statement against the settled principles of law. Lastly, he contended that the impugned judgment is the result of hyper technical approach of the trial Court

and the same being based on surmises and conjectures, is liable to be quashed and set-aside.

7. On the other hand, the learned counsel for accused persons/ respondents No. 2 and 3 contended that the impugned 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. He further contended that there are major contradictions in the statements of the prosecution witnesses and the instant appeal, being devoid of merits, deserves to be dismissed.

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. It is a settled position of law that the statement of prosecutrix can be made the sole basis for conviction unless there are cogent reasons for the Court to be hesitant in believing the statement at its face value or to seek corroboration. The Hon'ble Supreme Court in ***Mohd. Ali @ Guddu vs. State of Uttar Pradesh (2015) 7 SCC 272*** has held that a conviction can be based on the basis of the sole testimony of the prosecutrix, if it is unimpeachable and beyond reproach. The relevant portion of the aforesaid judgment reads as under:

"29. Be it noted, there can be no iota of doubt that on the basis of the sole testimony of the prosecutrix, if it is unimpeachable and beyond reproach, a conviction can be based. In the case at hand, the learned Trial Judge as well as the High Court have persuaded themselves away with this principle without appreciating the acceptability and reliability of the testimony of the witness. In fact, it would not be appropriate to say that whatever the analysis in the impugned judgment, it would only indicate an impropriety of approach. The prosecutrix has deposed that she was taken from one place to the other and remained at various houses for almost two months. The only explanation given by her is that she was threatened by the accused persons. It is not in her testimony that she was confined to one place. In fact, it has been borne out from the material on record that she had travelled from place to place and she was ravished a number of times. Under these circumstances, the medical evidence gains significance, for the examining doctor has categorically deposed that there are no injuries on the private parts. The delay in FIR, the non-examination of the witnesses, the testimony of the prosecutrix, the associated circumstances and the medical evidence, leave a mark of doubt to treat the testimony of the prosecutrix as so natural and truthful to inspire confidence. It can be stated with certitude that the

evidence of the prosecutrix is not of such quality which can be placed reliance upon."

10. The Hon'ble Supreme Court in ***State of H.P. vs. Sanjay Kumar alias Sunny (2017) 2 SCC 51*** held that by now it is well settled that the testimony of a victim in cases of sexual offences is vital and unless there are compelling reasons which necessitate looking for corroboration of a statement, the courts should find no difficulty to act on the testimony of the victim of a sexual assault alone to convict the accused if her testimony inspires confidence. The relevant portion of the aforesaid judgement is reproduced as under:

"30.....We have already discussed above the manner in which the testimony of the prosecutrix is to be examined and analysed in order to find out the truth therein and to ensure that deposition of the victim is trustworthy. At the same time, after taking all due precautions which are necessary, when it is found that the prosecution version is worth believing, the case is to be dealt with all sensitivity that is needed in such cases....."

31.....By now it is well settled that the testimony of a victim in cases of sexual offences is vital and unless there are compelling reasons which necessitate looking for corroboration of a statement, the courts should find no difficulty to act on the testimony of the victim of a sexual assault alone to convict the accused. No doubt, her testimony has to inspire confidence. Seeking corroboration to a statement before relying upon the same as a rule, in such cases, would literally amount to adding insult to injury. The deposition of the prosecutrix has, thus, to be taken as a whole. Needless to reiterate that the victim of rape is not an accomplice and her evidence can be acted upon without corroboration. She stands at a higher pedestal than an injured witness does. If the court finds it difficult to accept her version, it may seek corroboration from some evidence which lends assurance to her version. To insist on corroboration, except in the rarest of rare cases, is to equate one who is a victim of the lust of another with an accomplice to a crime and thereby insult womanhood. It would be adding insult to injury to tell a woman that her claim of rape will not be believed unless it is corroborated in material particulars, as in the case of an accomplice to a crime....."

11. In ***Vijay @ Chinee vs. State of Madhya Pradesh, (2010) 8 SCC 191***, the Hon'ble Supreme Court has held that statement of prosecutrix, if found to be worthy of credence and reliable, requires no corroboration and the court may convict the accused on the sole testimony of the prosecutrix. The relevant portion of the aforesaid judgement reads as under:

"LEGAL ISSUES:

Sole Evidence of Prosecutrix :

"9. In State of Maharashtra Vs. 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. Vs. Pappu @Yunus &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 Vs. Gurmit Singh & 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. ...

**** ** ** ****

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 Vs. Thakara Besra &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 Vs. 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 Vs. State of Madhya Pradesh (2010) 2 SCC 9, placing reliance on earlier judgment in Rameshwar Vs. State of Rajasthan AIR 1952 SC 54.**

14. Thus, the law that emerges on the issue is to the effect that statement of 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."

12. Now, reverting back to the facts of the case on hand. In the instant case, the prosecution, in order to prove its case, examined as many as fifteen witnesses, however, its case mainly rests upon the statements of PW-1 Dr. Indu Bhardwaj, who medically examined the prosecutrix, PW-3 prosecutrix/victim, PW-4 husband of the prosecutrix and PW-12 sister of the prosecutrix.

13. The prosecutrix appeared in the witness-box as PW-3 and deposed that she was married to PW-4 in the year 2006 and out of their wedlock four children were born, out of which a female child had passed away. Her husband was labourer and he used to remain out in connection with his job. She further deposed that on 02.11.2012, on the eve of *Karwa Chauth*, accused Seema Devi called her to her home and she (prosecutrix) alongwith the children went to her house at village Chakrova. On being insisted by accused Seema Devi, she stayed in her house and she alongwith her two children and accused Seema Devi slept in the kitchen. Around 10:00 p.m. accused Gian Chand came and when he entered the kitchen, accused Seema Devi went outside and she bolted the kitchen from outside. Thereafter, accused Gian Chand raped her and stopped her from crying and also threatened her

with dire consequences. The prosecutrix also deposed that accused Gian Chand told her that he knew witch-craft and in case she disclosed the incident to anyone he would kill her and her husband. As per the prosecutrix, accused Gian Chand conspired with accused Seema Devi to commit rape upon her (prosecutrix). In the morning, when she raised her voice against the offence committed by accused Gian Chand, both the accused persons threatened her with dire consequences. When, on the subsequent morning she returned home around 08:00 a.m., her husband was not at home. After the incident, accused Gian Chand visited her home 4-5 times during night in the absence of her husband and raped her every time by threatening her with dire consequences. She did not disclose the incident to anyone due to fear and her mental state, as she was threatened by the accused. She on 18.04.2013, with great constraint, she narrated the facts to her husband and her sister (PW-12), and on 19.04.2013, she (prosecutrix) alongwith her husband came to the police station and moved application, Ex.PW-3/A, to SHO, PS Bangana. As per the prosecutrix, on 21.04.2013, Up-Pradhan of Gram Panchayat Chokrova forced her to compromise the matter with the accused. The said compromise was neither read over to her nor she consented for the same. On 24.04.2013 she came to Una and

moved complaint, Ex. PW-3/B, to Superintendent of Police, Una, whereupon police registered a case and she was taken to RH, Una, for medical examination.

14. The husband of the prosecutrix appeared in the witness-box as PW-4 and he deposed that in the month of August, 2006, he got married to the prosecutrix and out of their wedlock four children were born, out of which one daughter had expired. He further deposed that he used to remain at Kangra and NagrotaBagwan in connection with his labour work and his family used to reside at village, but from May, 2013, his family also started residing with him at Rani Tal. On 18.04.2013, his wife informed him that on 02.11.2012 accused Seema Devi called her to her house on the eve of *Karwa* Chauth and his wife (prosecutrix) alongwith the children went there. His wife stayed in the house of accused Seema Devi on that night and accused Gian Chand committed rape upon her in connivance with accused Seema Devi. The prosecutrix also informed him that both the accused persons threatened her to do away with her life in case she disclosed the incident to anyone. The prosecutrix informed him that thereafter also accused Gian Chand came to their house 4-5 times and raped her every time. Earlier the prosecutrix did not disclose the incident(s) due to fear. Thereafter, he took her to Police Station

Bangana, where they moved an application against the accused persons. However, on 21.04.2013, on the intervention of Panchayat, the matter was compromised, though they insisted for action against the accused persons. On 24.04.2013 they approached Superintendent of Police, Una, and moved an application, whereupon FIR was registered and the investigation commenced.

15. The sister of the prosecutrix appeared in the witness-box as PW-12 and deposed that the prosecutrix was her cousin and married with PW-4. On 18.04.2013 the prosecutrix informed her that on the eve of *Karwa Chauth*, i.e., November, 2012, accused Seema Devi called her to her home and she did not allow her to return. On the same night, accused Gian Chand came to the house of accused Seema Devi and he raped the prosecutrix. Both the accused persons threatened her to do away with her life in case she disclosed the incident to anyone. This witness further deposed that after the incident, accused Gian Chand repeatedly committed rape with the prosecutrix and the prosecutrix did not disclose the facts due to fear, but when accused Gian Chand started troubling her more, then she narrated the story to her (PW-12).

16. PW-1 Dr. Indu Bhardwaj, the then Senior Medical Officer, Regional Hospital, Una, deposed that on 24.04.2013, around 10:00 p.m., on the request of SHO, Police station Bangana, she examined the prosecutrix, who was brought there with alleged history of sexual assault by the accused. She found that the patient was married female having four children. No scratch or struggle mark was present on her thighs, breasts or private parts. She preserved the scientific samples. In her opinion the prosecutrix had intercourse many times for the last eight years and it was difficult to say that when last was done. She issued MLC, Ex. PW-1/B.

17. We have carefully scrutinized the entire evidence on record & after close scrutiny of the entire prosecution evidence, we are of the considered view that if the statement of the prosecutrix is read and considered in totality of the circumstances along with other evidence on record, her deposition does not inspire confidence.

18. The perusal of the statement of the prosecutrix would reveal that she has improved and exaggerated her version on material aspects of the case. Initially in the first complaint, Ex. PW-3/A, made to Incharge, Police Station, Bangana, the prosecutrix

specifically mentioned that during the night accused Gian Chand came to the house of Seema Devi and raped her. She did not mention qua the involvement of Seema Devi in abetting accused Gian Chand in the commission of the crime. Thereafter, the prosecutrix moved application Ex. PW-3/B, to Superintendent of Police, Una, wherein she again did not mention about the role of Seema Devi in the commission of the offence. The prosecutrix, for the first time disclosed about the role and involvement of accused Seema Devi, when her statement, Ex. PW-3/D, was recorded by Judicial Magistrate First Class, Court No. 1, Una. Before the learned Magistrate also she did not state that she was sleeping in the kitchen of Seema Devi, but she stated about the room of Seema Devi where accused Gian Chand raped her in connivance with accused Seema Devi. Thus, non-mentioning of the involvement or role of the accused Seema Devi twice, i.e., first in Ex. PW-3/A and second in Ex. PW-3/B, by the prosecutrix makes her version doubtful.

19. The prosecution introduced the story of knife and repeated threatening given by accused Gian Chand after 02.11.2012 incident only in the month of May, 2013 and prior to that, it was a simple case of oral threatening by accused Gian Chand. The prosecutrix neither stated about the use of knife by

accused Gian Chand in her examination-in-chief, nor during her cross-examination. However, the cousin of prosecutrix (PW-12) during her cross-examination has stated that Gian Chand threatened prosecutrix in her presence with knife.

20. As per the case of the prosecution, the prosecutrix, who was a married lady, was raped by accused Gian Chand firstly in the kitchen of accused Seema Devi in the night time and thereafter she was raped by him 4-5 times in her own house, but on all these occasions the prosecutrix neither raised any alarm nor resisted the act of the accused. Thus, the behavior of the prosecutrix seems to be quite unnatural. The prosecutrix was well built lady of 40 years and had she resisted or raised slight alarm, it would have definitely attracted the attention of someone, especially on the first occasion when grownup children were sleeping nearby. Thus, the testimony of the prosecutrix, on this count also, becomes highly doubtful and hard to believe. The close scrutiny of the material on record shows very strange aspect of the prosecution case. The occurrence allegedly took place in a two room house where the families of accused Seema Devi and the prosecutrix were sleeping together, i.e., two sons and a daughter of Seema Devi, all were more than 17 years of age and were present there during the whole night. Now, it is highly improbable that accused Gian Chand committed

rape in presence of the above grownup teenagers and it went unnoticed by everyone especially on the first occasion when grownup children were sleeping nearby. Record reveals that there were many houses near the house of accused Seema Devi, where accused Gian Chand for the first time allegedly raped the prosecutrix, but the Investigating Officer did not bother to associate any witness from that locality. The Investigating Officer went a step ahead by not associating fully grown up children of accused Seema Devi, who were present in the house on the night of occurrence. Moreover, it has come on record that on 03.11.2012, i.e. on subsequent morning after the night of occurrence, the prosecutrix returned to her home and she remained in constant touch with her husband and thereafter for two months she was in the company of her husband, but she did not divulge the incident to her husband. Therefore, the conduct and behavior of the prosecutrix becomes highly doubtful. PW-1 Dr. Indu Bhardwaj also did not notice any injury marks on the person of the prosecutrix.

21. It has also come in evidence that relationship between the complainant and accused persons were strained, so there is also possibility of false implication. The perusal of the evidence reveals that FIR No.35 of 2013 Ext. DA was registered against the relatives of the prosecutrix on the basis of complaint of accused

Gian Chand on 18.04.2013 and only then the prosecutrix came into action and narrated a story which was five months old and connected the same with some repeated rapes allegedly committed by accused Gian Chand in the house of prosecutrix. So, the present case can also be termed as the outcome of the enmity between Gian Chand and Mast Ram.

22. In ***Sham Singh vs. State of Haryana AIR 2018 SC 3976***, the evidence of the victim/prosecutrix and her aunt was unreliable, untrustworthy and full of contradictions and improbabilities. Therefore, while acquitting the accused the Hon'ble Supreme Court held in paras 23 and 24 as under:

"23. The evidence of the victim/prosecutrix and the Aunt P.W.10 are unreliable, untrustworthy inasmuch as they are not credible witnesses. Their evidence bristles with contradictions and is full of improbabilities. We cannot resist ourselves to place on record that the prosecution has tried to rope in the appellant merely on assumption, surmises and conjectures. The story of the prosecution is built on the materials placed on record, which seems to be neither the truth, nor wholly the truth. The findings of the court below, though concurrent, do not desire the merit of acceptance or approval in our hands with regard to the glaring infirmities and illegalities vitiating them, and the patent errors apparent on the face of record resulting in serious and grave miscarriage of justice to the appellant.

24. We find that the trial court and the High Court have convicted the accused merely on conjectures and surmises. The Courts have come to the conclusion based on assumptions and not on legally acceptable evidence, but such assumptions were not well founded, inasmuch as such assumptions are not corroborated by any reliable evidence. Medical evidence does not support the case of the prosecution relating to offence of rape."

23. The learned Counsel for the appellant/prosecutrix placed reliance upon the judgments rendered by Hon'ble Supreme

Court in ***Rajinder @ Raju vs. State of Himachal Pradesh, (2009) 16 SCC 69, Santhosh Moolya & another vs. State of Karnataka, (2010) 5 SCC 445, & Vijay @ Chinees vs. State of Madhya Pradesh, (2010) 8 SCC 191.***

24. As observed earlier, there can be no iota of doubt that on the basis of the sole testimony of the prosecutrix, if it is unimpeachable and beyond reproach, a conviction can be based. It is also true that the victim of rape is not an accomplice and her evidence can be acted upon without corroboration. However, the aforesaid judgments cited by the learned Counsel for the appellant/prosecutrix are not applicable to the facts of the case in hand, as the testimony of the prosecutrix is not confidence inspiring and there are many contradictions and improvements in her statement. Her testimony on various aspects seems improved version of earlier narration of facts by her. Therefore, considering the testimony of the prosecutrix, which does not inspire confidence and the same being tainted with material contradictions and improvements, the aforesaid judgments, cannot be applied to the facts of the instant case. Here is a case where the prosecutrix step by step made improvements in her version, thus it is difficult to ascertain that which of her versions is trustworthy and reliable. It seems that the prosecutrix only tried to exaggerate the things and

in that process she deviated from the truth. On a careful analysis of the testimony of the prosecutrix, we find major contradictions, inconsistencies and embellishments in her statement. In the wake of the testimony of other prosecutrix coupled with the testimonies of the key prosecution witnesses, which are tainted with contradictions, improvements and embellishments, it can safely be concluded that the prosecution has failed to prove its case beyond the scope of reasonable doubt.

25. There is no doubt that rape causes great distress and humiliation to the victim of rape but at the same time false allegation of committing a rape also causes humiliation and damage to the accused. An accused has also rights which are to be protected and the possibility of false implication has to be ruled-out. The Supreme Court in **Radhu vs. State of Madhya Pradesh**, reported in **2007 Cri.L.J. 4704** had in this context noted as follows:

"5.*The courts should, at the same time, bear in mind that false charges of rape are not uncommon. There have also been rare instances where a person has persuaded a gullible or obedient daughter to make a false charge of a rape either to take revenge or extort money or to get rid of financial liability. Whether there was rape or not would depend ultimately on the facts and circumstances of each case.*"

26. In **Abbas Ahmed Choudhary vs. State of Assam, (2010) 12 SCC 115**, Hon'ble Supreme Court has held in para-11 that:

"11. We are conscious of the fact that in a matter of rape, the statement of the prosecutrix must be given primary consideration, but, at the same time, the broad principle that the prosecution has to prove its case beyond reasonable doubt applies equally to a case of rape and there can be no presumption that a prosecutrix would always tell the entire story truthfully."

27. Keeping in view the overall facts and circumstances of the case, we are of the firm opinion that the prosecution has failed to establish its case against both the accused beyond reasonable doubt as such no interference in the judgment of acquittal dated 25.04.2014, passed by the learned Additional Sessions Judge(1), Una, Himachal Pradesh, in Sessions Trial No. 10 of 2013, is required, as the same is the result of proper appreciation of evidence and law. The appeal, which is devoid of 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

(SushilKukreja)
Judge

14th October, 2025
(virender)