2025 INSC 929

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____OF 2025
SPECIAL LEAVE PETITION (CRL.) NO. _____ OF 2025
(Arising out of SLP (Crl.) (D) No.(s) 26453 OF 2025

DEEPAK KUMAR SAHU ....Appellant(s)

VERSUS

STATE OF CHHATTISGARH ....Respondent(s)

JUDGMENT

N.V. ANJARIA, J.

Delay condoned. Leave granted.

2. Preferred by the appellant-accused, the present appeal addresses the challenge to judgment and order 22nd September, 2023 passed by the High Court of Chhattisgarh, at Bilaspur, in CRA No. 34 of 2020 whereby the High Court continued the judgement and order of the Special Judge (SC/ST Court), Rajnandgaon, (CG) in Special Criminal (T) Case No. 10 of 2018, convicting and sentencing the appellant.

3. The appellant came to be convicted for the offence punishable under Section 450 of the Indian Penal Code, 1860 to

undergo rigorous imprisonment for five years with fine of ₹5,00/-. He was also convicted for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act] and further came to be convicted for the offence under Section 376 (2), IPC to be sentenced to undergo rigorous imprisonment for ten years and with a fine of ₹1,000/-. The punishment for the offence under Section 376 (2), IPC, which was more severe to one provided for the offence under the POCSO Act therefore the same came to be awarded.

3. As per the prosecution case, the incident occurred on 03.04.2018 at about 12:00 Noon. On the fateful day, the victim aged about 15 years and her younger brother named Mayank, aged about 11 years were inside their house. The parents had gone to village Karate to attend the funeral as there was a death in their family. Finding the victim alone in the house, the appellant-accused entered the house. He thereafter sent the brother of the victim to bring a pack of chewing tobacco. Once the brother of the victim left the house, the accused forced the victim to lie on the cot lying in the porch of the house, gagged her mouth and then committed sexual intercourse. When the brother of the victim came back, seeing him, the appellant-accused fled

away from the house, threatening the victim not to tell anything to anyone.

3.1 Soon after the incident the victim went to her cousin sister-Dushyantin's house in the neighbourhood and told about the incident. The brother of the Dushyantin named Khomendra, who had gone to village Kareti with the parents of the victim, was also informed through mobile phone about the incident. The parents of the victim rushed back to home. When they reached the home, the victim narrated the entire story of the incident to her parents. A police complaint was lodged, and FIR (Ex. P-08) was registered.

3.2 The victim was subjected to medical examination, statement under Section 164 of the Code of Criminal Procedure, 1978 was recorded and a criminal case was registered for the offences as above, which was tried before the Special Court culminating into conviction and sentence of the appellant upheld by the High Court.

3.3 Amongst the witnesses examined by the prosecution in course of the trial, included the prosecutrix herself (PW-2), mother Alka (PW-1), father Mayaram (PW-3), brother Mayank (PW-9), Dushyantin (PW-14), Medical Officer, Dr. R.K. Pashi (PW-

11), Dr. Kiran, Block Medical Officer (PW-17), Investigating Officer (PW-18).

4. Learned advocate Mr. Manish Kumar Saran, AOR appearing for the appellant assailed the judgment of the High Court primarily and mainly on three grounds, as highlighted from the memorandum of appeal and elaborated in course of submissions. It was contended that the prosecution had failed to establish its case beyond the reasonable doubt and that it was not possible to rule out the theory of innocence of the appellant. In this regard, it was submitted that the evidence of the prosecutrix could not be relied on and needed to be analysed with caution when the medical report was not categorical to confirm the offence of sexual assault and rape on the victim. Secondly, it was contended that there were contradiction between the evidence of the victim (PW-2) and her younger brother (PW-9). Lastly it was sought to be contended that the prosecution could not establish that the victim was minor on the date of commission of offence so as to attract the provisions of POCSO Act, 2012.

5. Dealing with the last contended aspect at the outset, that the prosecutrix was not shown to be minor, this contention is

stated to be rejected. There was a cogent and reliable evidence in the nature of 8th standard marksheet of the victim which showed her date of birth to be 09.10.2002. The said marksheet was obtained by the investigating officer (PW-18) from the mother of the victim and he had testified about it in his evidence. The birth date of 09.10.2002 was also corroborated by the evidence of the mother of the victim (PW-1) and father of the victim (PW-3) who stated that her daughter was less than 16 years of age. The trial court rightly recorded that on the date of the incidence which was 03.04.2018, the age of the victim was 15 years 5 months 24 days.

5.1. Before proceeding further, the evidence brought on record and appreciated by the court of the first instance and considered by the High Court may be briefly visited with. The prosecutrix herself deposed as PW-2. Her testimony weighed pivotal by the courts below, along with the other evidence, in establishing the commission of the offence.

5.2. Looking at the evidence of the Prosecutrix with some elaboration, she stated that on that particular day, she and her younger brother Mayank were at home and that she had been serving lunch to her brother, at which time the accused whom

she could recognized, came inside the house, sent away her brother to buy some chewing tobacco. She stated that thereafter the accused forced her to lay down on the cot which was in the porch of the house and gagged her mouth. She stated that after disrobing her, the accused committed a misdeed and raped her.

5.2.1. The victim further stated that when her brother returned, seeing him, the accused ran away. After the incident, it was stated, she went to the house of her uncle in the neighbourhood and asked her sister named Dushyantin to give her mobile, using which she contacted cousin brother Khomendra who had gone with her parents at Kareti village, and informed him about what has happened. She stated that after her parents came back, she informed the all about the incident. They went to the police station to get the complaint registered. The report to the police was made her own signature.

5.2.2. In her cross-examination, the victim stated that her brother when questioned by her parents, told the parents that he saw both of them namely herself and the accused on the cot. She further stated that her father phoned his friend named

Sudarshan Manikpuri, who also had come to the police station. She stated that at the police station, she was questioned orally.

5.3 Noticing the other evidence would not be out of place. The brother-Mayank (PW-09) who was aged about 11 years and a child witness, came to be examined. He was put to certain questions to ensure that he was capable of giving evidence. He stated that when he came back from the school on the day of happening, except her sister nobody was at home. He stated that accused-Deepak who saw him coming inside their house sent him to buy chewing tobacco and when he came back with the tobacco he saw the accused gagging his sister's mouth with his hand and had laid her down on the cot. It was stated that his sister at that time was seen without clothes and that the accused was also noticed in a similar state, off the trouser.

5.3.1. The evidence of Dusyantin (PW-10) as well as that of Khomendra (PW-14) corroborated with what was testified by the victim that after the incident she has gone to the house of Dushyantin from where she using the mobile phone of Dushyantin, contacted and informed Khomendra, who in turn

informed the parents of the victim about the incident and that knowing about the incident they had returned back.

5.3.2. The mother of the victim, Alka Barsagarhe, (PW-1) and the father Myaram Barsagarhe (PW-3) were consistent in deposing, *inter alia,* that the accused-Deepak Kumar lived in their neighbour and they knew him, that on the date of incident they had gone to village Kareti to attend a funeral and that son of the brother-in-law Khomendra had also accompanied them along with other relatives. PW-1 stated that her husband informed her about the incident, upon being informed by Khomendra who had received the phone call from her daughter. Both in their depositions narrated the incident which was told to them by the victim-daughter, that the accused came inside the house and gagged her to lay her down on the bed in the porch of the house and raped her. PW-1 stated in terms in her cross examination that her daughter told her that the accused had committed misdeed with her after removing her inner clothes.

5.3.3 The record of the medical examination obtained by the police post-complaint showed that there where no injury marks on the private parts of the victim. It was however, mentioned that

the hymen was ruptured and healing up was indicated. The accused was found to be fully capable physically, mentally and medically of having sexual intercourse as was stated by PW – 11. He in his cross-examination have stated that if the bath is taken and clean, the semen can be absent. PW-17, who was the Block Medical Officer has also stated that there where no external signs of injury marks or scratch marks on the genitals of the victim.

5.4 The evidence of the prosecutrix is highlighted in Para 5.2 to 5.2.2 above is not is only clear and consistent in the narration of the incident, and natural as well. The sequence of events including her approaching the house of Dushyantin and through her mobile contacting her parents by talking to Khomendra etc. which facts were duly corroborated from the evidence of PW-1 and PW-3 as well as PW -10 and PW-14. The facts relating to the actual commission of offence and attendant circumstances thereof matched in the testimony of prosecutrix (PW-2) and her brother, Mayank (PW-9).

5.4.1 An attentive look at the evidence of the prosecutrix (PW-2) would reveal that her testimony in narrating the incident and to describe what happened with her, is natural. Even when

read independently, excepting the oral testimonies of others highlighted above, it inspires confidence and veracity for its clarity and consistency. The contention that non-availability of emphatic medical evidence about occurrence of physical intercourse and absence of external injury marks make it imperative to doubt and disregard the evidence of the prosecutrix, could hardly be countenanced.

5.5 In cases of offences committed under Section 376, IPC, when the story of the victim girl as told in the evidence is found credit-worthy, the apparent insufficiency of medical evidence pitted against acceptable testimony of the victim, the latter would prevail. In **State of Punjab vs. Gurmit Singh [(1996) 2 SCC 384]** it was observed:

> In the absence of injury on the private part of the prosecutrix, it cannot be concluded that the incident had not taken place or the sexual intercourse was committed with the consent of the prosecutrix. The prosecutrix being a small child of about nine years of age, there could be no question of her giving consent to sexual intercourse. The absence of injuries on the private part of the prosecutrix can be of no consequence in the facts and circumstances of the present case.
>
> (Para 16)

5.5.1 In **State of Himachal Pradesh vs. Manga Singh, [(2019) 16 SCC 759],** which was also a case in relation to the

offence committed under Section 376, IPC where the prosecutrix was minor girl aged 9 years, she was staying in her aunt's house pursuing her studies. When the offence of rape was committed against her, she narrated the story to her teacher. The High Court gave the benefit of doubt to the accused on the ground, *inter alia,* that the medical evidence of the doctor was not conclusive to hold that the prosecutrix was subjected to sexual intercourse.

5.5.2. This Court observed that if the evidence of the victim does not suffer from any basic infirmities and the factor of probability does not render it unworthy evidence, the conviction could base solely on the evidence of the prosecutrix. It was further observed that as a general rule there is no reason to insist on the corroboration accept in certain cases, it was stated.

5.5.3 The medical evidence may not be available in which circumstance, solitary testimony of the prosecutrix could be sufficient to base the conviction.

> "The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is

> not a requirement of law; but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix."
>
> (Para 11)

5.5.4 It may be true that in the present case the evidence of the medical officer (PW-17) spoke about absence of external injury marks on the genitals of the victim. However, the proposition that the corroboration from the medical evidence is not sine qua non when the cogent evidence of the victim is available, was reiterated in a recent judgement of this Court in **Lok Mal alias Loku vs. State of Uttar Pradesh, [(2025) 4 SCC 470]**, observed:

> "Merely because in the medical evidence, there are no major injury marks, this merely cannot a be a reason to discard the otherwise reliable evidence of the prosecutrix. It is not necessary that in each and every case where rape is alleged there has to be an injury to the private parts of the victim and it depends on the facts and circumstances of a particular case. We reiterate that absence of injuries on the private parts of the victim is not always fatal to the case of the prosecution.
>
> (Para 4)

5.5.5 Akin to the facts of the present case, it was stated in **Lok Mal (supra)**, according to the version of the prosecutrix, that the accused overpowered her and pushed her to bed in spite of

her resistance and gagged her mouth using a piece of cloth. Thus, considering this very aspect, it is possible that there were no major injury marks. The appellant made an attempt to raise the defence of false implication, however, he was unable to support his defence by any cogent evidence.

5.5.6 The credible and reliable evidence of prosecutrix could not be jettisoned for want of corroboration including the corroboration by medical report or evidence. The Court observed in ***Manga Singh (supra)*** that *"in absence of injury on the private part of the prosecutrix, it cannot be concluded that the incident had not taken place or the sexual intercourse was committed with the consent of the prosecutrix"*. It was stated that it is well settled that in the cases of rape it is not always necessary that external injury is to be found on the body of the victim.

5.5.7 In **Wahid Khan vs. State of Madhya Pradesh, [(2010) 2 SCC 9]**, this Court repelled the contention of the appellant that since the hymen of the prosecutrix was found to be intact, it cannot be said that an offence of rape has been committed. The Court refuse to accept such contention in light of the definition of offence of rape in Section 375 of the Indian Penal Code. It was

further observed that it is the consistent view of this Court that even the slightest penetration is sufficient to make out an offence of rape.

5.6 It is an opt-reiterated dictum of law that in cases of rape, the testimony of the prosecutrix alone may be sufficient and sole evidence of the victim, when cogent and consistent, could be properly used to arrive at a finding of the guilt. In the **State of Himachal Pradesh vs. Manga Singh, (2019) 16 SCC 759**, this Court in terms stated that conviction can be rested on the testimony of the prosecutrix alone.

> The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law, but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix."
>
> (Para 10)

5.6.1 It was further asserted that corroboration is not an essential requirement for conviction in the cases of rape.

> It is well settled by a catena of decisions of the Supreme Court 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. However, having regard to the circumstances of the case, medical evidence may not be available. In such cases, solitary testimony of the prosecutrix would be sufficient to base the conviction, if it inspires the confidence of the court.
>
> (Para 11)

5.6.2 In **Gurmit Singh (supra)** it was observed to reiterate that in all cases, the corroboration to the statements made by the victim in her evidence could not be insisted upon as a rule of thumb:

> 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.
>
> (Para 8)

5.6.3 It was asserted that only compelling reasons would justify rejection of testimony of a rape victim, and not otherwise:

> "....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....."
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> (Para 8)

5.6.4 From a recent decision in **Raju alias Umakant vs. State of Madhya Pradesh, (2025 SCC OnLine SC 997)**, following observations could be noticed:

> ".....a woman or a girl subjected to sexual assault is not an accomplice but a victim of another person's lust and it will be improper and undesirable to test her evidence with suspicion. All that the law mandates is that the Court should 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 charge levelled by her and if after keeping that aspect in mind if the Court is thereafter satisfied that the evidence is trustworthy, there is nothing that can stop the Court from acting on the sole testimony of the prosecutrix. ***[See State of Rajasthan v. N.K. the Accused, (2000) 5 SCC 30, Rameshwar v. State of Rajasthan, 1951 SCC 1213, State of Maharashtra v. Chandraprakash Kewal Chand Jain, (1990) 1 SCC 550, State of Punjab v. Gurmit Singh, (1996) 2 SCC 384]"***
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> **(Para 18)**

5.6.5 As early as in **State of Maharashtra vs. Chandraprakash Kewalchand Jain**, **[(1990) 1 SCC 550]**, this court observed that the prosecutrix of a sex offence cannot be put

on a par with the accomplice, it was further observed that she is a victim of crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. It was further observed that evidence of a rape victim must receive the same weight as is attached to an injured in cases of physical violence. It was stated that there is no rule of law or practice incorporated in the Evidence Act similar to illustration (b) to Section 114 of the Evidence Act which may require it to look for corroboration.

5.7 The last submission on behalf of the appellant that there were discrepancies in the evidences of victim (PW-2) and her brother (PW-11) has no room to stand, for, no material discrepancy could be noticed by the Court on comparison of the evidence of the two witnesses. Even otherwise, discrepancies in evidence which are of minor nature not going to the root have to be ignored. This Court observed in **Lok Mal alias Loku (supra)** that in criminal jurisprudence the principle is that the evidence of prosecutrix in case of rape is of the same value as that of an injured witness and conviction can be made on the basis of the sole testimony of the prosecutrix, while reiterating this.

5.7.1 The sensitive approach and greater inclination to rely on the creditworthy evidence of the victim is guided by the aspect as observed in **Bharwada Bhoginbhai Hirjibhai vs. State of Gujarat, [(1983) 3 SCC 217]** it was observed thus:

> 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?"
>
> (Para 9)

5.7.2 Insignificance of minor discrepancies was pointed out by this Court in **State of Himachal Pradesh vs. Lekh Raj, [(2001) 1 SCC 247]**. By referring to earlier judgment in **Ousu Varghese vs. State of Kerala, [(1974) 3 SCC 767**], it was observed that minor variation in the accounts of the witnesses are often the hallmark of the truth of their testimony and the discrepancies are found to be of minor character not going to the root of the prosecution story, they need not be given undue importance.

5.7.3 It was observed in **Jagdish vs. State of Madhya Pradesh, [(1981) SCC (Crl.) 676],** that mere congruity or consistency is not the sole test of truth of depositions. The

discrepancies have to be such which could be characterized as material, which are not normal and of the nature not expected from the normal person.

5.8 There is no gainsaying that the Court should remain sensitive while dealing with the charges of sexual assault on the helpless woman. In **State of Rajasthan vs. N.K. The Accused**, **[(2000) 5 SCC 30],** this Court observed that *"an unmerited acquittal encourages wolves in the society being on the prowl for easy prey, more so when the victim of crime are helpless females."* Similar was expressed in **Gurmit Singh (supra)** that the rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. It was stated that the rape is not merely a physical assault and subsequently destructs the whole personality of the victim.

6. Evaluating the total evidence in light of the principles of law, evidentiary appreciation and application, with the evidence of the victim at the forefront, it has to be stated that victim's evidence was entirely probable, natural and trustworthy who with lucidity narrated the whole incident about commission of offence against

her by the accused. There exists no reason, much less compelling reasons, to disbelieve and discard her testimony. Her brother Mayank's testimony as a child witness was rationally and logically supportive of what the prosecutrix narrated. The factum that the cot was in the porch and the victim was forced to lay there by the accused could also be called out from the evidence.

6.1 There was a consistency lent. The conduct of the victim, soon after the incident was quite natural, as she went to cousin sister's neighbouring house and through her, informed cousin brother and her parents who were away.

6.2 The crux of the incident, of accused overpowering the victim and committing forcible act by forcing her to the bed, could be clearly established from the totality of evidence adduced by the prosecution. Merely because the medical evidence was less corroborative and less supportive or absent in details or indictive of no external injuries. It in no way weakened the prosecution case. Sole testimony of the victim was a strong evidence to rely on along with available attendant evidence.

6.3 The High Court was wholly justified in upholding and confirming the conviction and sentence awarded to the appellant-convict, by the trial court.

7. The Criminal Appeal is accordingly dismissed.

..... **J.**
(SUDHANSHU DHULIA)

..... **J.**
(N.V. ANJARIA)

NEW DELHI;
August 5, 2025