



2026:CGHC:9583

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
14.01.2026	24.02.2026	--	24.02.2026

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 597 of 2007**

- Ram Khilavan, son of Kodu Shikari, aged 50 years, R/o village – Chorha Devi, Police Station – Ratanpur, District Bilaspur (C.G.).

---- Appellant**Versus**

- State of Chhattisgarh Through : Station House Officer, Police Station – Ratanpur, District Bilaspur (C.G.)

---- Respondent

For Appellant. - Mr. Achyut Tiwari, Advocate.
For Respondent - Ms. Subha Shrivastava, P.L.

Hon'ble Smt. Justice Rajani Dubey**(C.A.V. Judgment)**



1. This appeal arises out of the judgment of conviction and order of sentence dated 09.07.2007 passed by the Sessions Judge, Bilaspur (C.G.) in Sessions Trial No. 70/2007 convicting and sentencing the accused/appellant as under :-

CONVICTION	SENTENCE
Section 376 of IPC.	R.I. for 10 years and fine of Rs.500/-, in default of payment of fine amount, additional R.I. for 03 months.
Section 450 of IPC.	R.I. for 10 years with fine of Rs.500/-, in default of payment of fine amount, additional R.I. for 03 months.

2. The prosecution story, in brief, is that about four to five days prior to 02.10.2006, the prosecutrix's husband, son, and daughter-in-law had gone to Khannaudi, Shahdol for earning their livelihood and for making and selling mats. On 02.10.2006, the prosecutrix's grandsons, namely Ramphal, Ram Milan, and Ram Jeevan, had gone to watch Ramleela in the locality during the night. The prosecutrix had locked the door of the house and was sleeping inside. At about 9:30 p.m., someone knocked at the door. Upon being asked who it was, the accused replied that he was Ram Khilawan and that he had come to meet his uncle. The prosecutrix, believing him to be her nephew, opened the door and



informed him that his uncle was not at home and had gone outside for work. Thereafter, the accused entered the house, caught hold of her hair, threw her to the ground, and pressed her neck. The accused then removed his undergarment, lifted the prosecutrix's clothes, and committed rape upon her. After committing the act, the accused fled from the spot, leaving his undergarment behind. During the scuffle, the bangles worn by the prosecutrix were broken. The prosecutrix immediately informed her neighbours, namely Laxmin Bai Yadav, Sakharam Kewat, and the Sarpanch Bhagabali, about the incident. Subsequently, she also informed her step-son Siyaram and Rajkumar Dhobi, who was present there. As it was late at night, the report of the incident was lodged on 03.10.2006 at Police Station Ratanpur. On the basis of the said report, FIR (Ex. P/1) was registered against the accused under Sections 450 and 376 of the IPC.

3. During investigation, Sub-Inspector R.P. Sharma obtained the consent of the prosecutrix vide Ex. P/5 and permission from the Sub-Divisional Magistrate, Kota vide Ex. P/6, & sent her to Primary Health Centre, Ratanpur for medical examination vide Ex.P/7. After examination, the doctor submitted medical report vide Ex. P/15. During the course of



investigation, one pink coloured petticoat and one red coloured blouse, which were produced by the prosecutrix after removing them from her person, were seized vide seizure memo (Ex. P/3). Pieces of broken bangles were seized from the place of occurrence vide seizure memo (Ex. P/4). Constable Ajay Singh No. 61 produced slide packets received from the hospital, which were seized vide seizure memo (Ex. P/2). Statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure. A spot map of the place of occurrence was prepared. The accused was arrested vide arrest memo Ex. P/10 and was sent for medical examination to Primary Health Centre, Ratanpur vide Ex. P/11. Dr. Anil Shrivastava examined the accused and submitted medical report vide Ex. P/16. The seized articles were sent for chemical examination to the FSL, Raipur, after obtaining permission vide application (Ex. P/12) and forwarding letter of the Senior Superintendent of Police, Bilaspur (Ex. P/13), and acknowledgement thereof (Ex. P/14) was received.

4. After due investigation, charge sheet was filed against the accused/appellant under Section 376 IPC. The learned Trial Court framed charges against the accused/appellant under Sections 450 and 376 of IPC, to which he abjured his guilt



and pleaded for trial.

5. So as to hold the accused/appellant guilty, the prosecution examined as many as 10 witnesses. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. in which he denied the incriminating circumstances appearing against him in the prosecution case, pleaded innocence and false implication. In defence, 03 witnesses have been examined in the case.
6. The trial Court after hearing counsel for the respective parties and considering the material available on record has convicted and sentenced the accused/appellant as mentioned in para-1 of this judgment. Hence, this appeal.
7. Learned counsel for the appellant submits that the impugned judgment passed by the learned Trial Court is arbitrary, illegal and contrary to the settled principles of criminal law. It is contended that there is an unexplained delay of about 18 hours in lodging the FIR, despite the prosecutrix having allegedly narrated the incident to her step-sons and other villagers immediately after the occurrence. The FIR was lodged only on the next day at 3:15 p.m., which creates serious doubt regarding the genuineness of the prosecution case. It is further argued that there was delay in conducting the medical examination



of the prosecutrix and that no external injuries were found on her person, though she alleged that the accused had thrown her down and pressed her neck. Moreover, the doctor (P.W.-7) has not given any definite opinion regarding commission of rape, thereby weakening the medical evidence relied upon by the prosecution. It is further submitted that there are material contradictions and omissions in the statements of the prosecution witnesses, which go to the root of the case and adversely affect their credibility. The prosecution story, according to learned counsel, is improbable and does not inspire confidence. The trial Court has failed to properly appreciate these infirmities and has recorded conviction without the prosecution having proved its case beyond reasonable doubt. Therefore, the impugned judgment is liable to be set aside and the accused/appellant be acquitted.

Reliance has been placed on the decision dated **02.09.2025 passed in CRA No. 256/2007** in the matter of **Kole @ Deeman Rathore Vs. State of Chhattisgarh.**

8. On the other hand, learned Panel Lawyer appearing for the State submits that the impugned judgment passed by the learned trial Court is well-reasoned, legal and based upon proper appreciation of oral as well as documentary evidence



available on record. It is contended that the alleged delay in lodging the FIR has been satisfactorily explained. The incident occurred at night and the report was lodged the next day; such delay is natural in cases of sexual assault, particularly when the victim is a woman from a rural background who first informed her relatives and villagers before approaching the police. The delay of a few hours is neither inordinate nor fatal to the prosecution case. It is further submitted that minor delay in medical examination does not demolish the prosecution case, especially when the testimony of the prosecutrix is cogent and trustworthy. The absence of external injuries is also not decisive, as it is well settled that injuries are not a sine qua non for proving rape.

9. Learned counsel further argues that the testimony of the prosecutrix inspires confidence and has remained consistent on material particulars. The medical evidence, though not giving a definite opinion, does not rule out the possibility of sexual assault and is corroborative in nature. The so-called contradictions and omissions pointed out by the defence are minor and do not go to the root of the matter. The prosecution has successfully proved the guilt of the accused beyond reasonable doubt through reliable



evidence, seizure of articles and surrounding circumstances. So, the appeal being without any merit is liable to be dismissed.

10. I have heard learned counsel for the parties and perused the material available on record.
11. It is clear from the record of the learned trial Court that the learned trial Court framed charges under Sections 450 and 376 IPC & after appreciation of oral and documentary evidence, the learned trial Court convicted the accused/appellant accordingly.
12. Prosecutrix (PW-1) has stated that prior to 8 days of incident, her husband, son, and daughter-in-law had gone to Khannaudi, District Shahdol. On the day of the incident, only she and three small children were at home. The incident took place on the night of the Dussehra festival. The three children had gone to the village to watch the Ramleela, and she was alone at home. She further stated that at about 9:30 p.m., when she was closing the door, the accused came and called out "Chacha." When she opened the door, the accused caught hold of her hair, dragged her into the courtyard, threw her down, and committed rape upon her. The accused, Ramkhilawan, was the son of her elder brother-in-law. She stated that after committing the offence,



the accused ran away, leaving behind one banyan (vest), one check-patterned cloth, and one underwear. When she said that she would shout, the accused threatened to strangulate her. Her blouse was torn during the incident. She has further stated that the articles were sent to the F.S.L., but they were not marked as exhibits. She stated that she came out of the house and informed Lakshmin Bai about the incident. Thereafter, she went and informed the Sarpanch. While returning from the Sarpanch's house, she also informed Siyaram about the incident. On the next morning, she lodged a report regarding the incident at Police Station Ratanpur and affixed her thumb impression on the report. In cross-examination, the prosecutrix (PW-1) has admitted that they had purchased some piece of land from the accused. She further admitted that the accused was cultivating the said land and that there was grazing land around it. She also admitted that a land dispute between the accused and her husband, was pending. She stated that the accused alleged that her husband forcibly harvested the sown crop, whereas her husband claimed that the land belonged to him. She has also admitted that a village panchayat had taken place 4–5 days prior to the incident. However, she stated that she did not know regarding what



issue the said panchayat was held. She denied that she had convened any panchayat in relation to the present incident. She further denied the suggestion that in a panchayat held 4–5 days after the incident, a compromise had taken place between her and the accused. She denied the suggestion that after the alleged incident, the accused had instituted any case in the Court of the Sub-Divisional Magistrate, Bilaspur, against her husband and others regarding a land dispute. She stated that the accused had raised a land dispute after the present incident of rape. She stated that the accused caught hold of her hair inside the room of her house and dragged her for about 15 feet along the ground, however, she admitted that she did not sustain any injury to her feet as a result of being dragged. She had denied this suggestion that she lodged a false report due to the land dispute. She stated that she had mentioned in FIR and in her statement under Section 161 Cr.P.C. that her blouse had been torn during the incident and that when she raised an alarm, the accused had threatened to strangle her, and if such facts were not recorded therein, she could not explain the reason for the omission.

13. Smt. Laxmin Bai (PW-2) is the neighbour of Prosecutrix (PW-1). She has stated that the prosecutrix informed her



about the commission of rape by the accused.

14. Balram Yadav (PW-5) is the witness of seizure. He has admitted his signature on seizure memo (Ex.P-3) on 'A to A' pat but he denied any proceeding before him. The prosecution declared this witness hostile and cross-examined him but he denied all suggestions of the prosecution.
15. PW-10 is the step son of prosecutrix (PW-1). He has stated that when he was at his house, prosecutrix (PW-1), at around 9.00 PM, had come to his house and narrated the incident that accused had come to her house asking for uncle ('chacha') and after holding her hair, dragged her inside the house and committed rape with her. In cross-examination, this witness had denied the suggestion that a dispute with regard to land was pending between the accused and his father (prosecutrix's husband), and therefore he was deposing against the accused. He has stated that although a dispute was pending between them, he had no concern or connection with the said dispute.
16. Dr. Sunita Verma (PW-7) examined the prosecutrix on 09.10.2006 but she did not find any internal or external injury on her body and gave her report under Ex.P-15. The doctor had referred the vaginal slides of the prosecutrix for



chemical examination but the prosecution did not file any FSL report before the learned Trial Court.

17. It has been held by Hon'ble the Apex Court in the case of **Santosh Prasad Alias Santosh Kumar Vs. State of Bihar** reported in **2020 (3) SCC 443**, held in paras 5.4.2 & 5.5 which reads as under:-

"5.4.2. In Ral Sandeep, this Court had an occasion to consider who can be said to be a sterling witness" In para 22, it is observed and held as under: (SCC p. 29) "

"22. In our considered opinion, the "sterling witness" should be of a very high quality and caliber whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to



withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a "sterling witness" whose the core co version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials



for holding the offender guilty of the charge alleged.”

5.5. With the aforesaid decisions in mind, it is required to be considered, whether safe to convict the accused solely on the solitary evidence of the prosecutrix? Whether the evidence of the prosecutrix Inspires confidence and appears to be absolutely trustworthy, unblemished and is of sterling quality?”

18. It is settled position of law that conviction in a case of rape can be based solely on the testimony of the prosecutrix, provided her evidence is trustworthy and inspires full confidence. However, such testimony must be of sterling quality.
19. In **Santosh (supra)**, the Hon'ble Supreme Court, relying upon **Rai Sandeep v. State (NCT of Delhi)**, explained the concept of a “sterling witness.” It was held that a sterling witness must be of very high quality and caliber, whose version is unassailable, consistent from beginning to end, free from embellishment, and fully corroborated by surrounding circumstances, including medical and scientific evidence. The Court must be able to accept such testimony at face value without hesitation.
20. The Apex Court further observed that while corroboration is



not a rule of law, where circumstances create doubt or where supporting material is inconsistent with the version of the prosecutrix, the Court must exercise caution before recording conviction.

21. Applying the aforesaid principles to the present case, and close scrutiny of the evidence of prosecutrix (PW-1) makes it clear that though the prosecutrix has alleged forceful sexual intercourse and physical dragging, the medical evidence does not disclose any internal or external injury. Though the absence of injuries is not always fatal, however, when the prosecutrix (PW-1) specifically alleges being dragged for about 15 feet on stony and mud courtyard and claims broken bangles causing injury to her hand, some corresponding medical evidence would in ordinary course of nature be expected but the same is missing in the present case. The complete absence of such injuries in medical report (Ex.P-15) creates a material inconsistency between ocular and medical evidence. Further, though the vaginal slides were sent for chemical examination, the prosecution failed to produce the FSL report. The non-production of scientific evidence weakens the prosecution case and leaves an important evidentiary gap.
22. It is also significant that the prosecutrix (PW-1) and her



husband (PW-3) admitted the pendency of a land dispute with the accused before the Revenue Court. The existence of a dispute by itself does not discredit the testimony, but it provides a background which necessitates careful scrutiny. The seizure witness did not support the prosecution case and was declared hostile. Moreover, neighbours admitted that if a person raised alarm, it could be heard, yet no independent witness corroborated hearing any such cries at the relevant time, despite the admission of the prosecutrix (PW-1) in para 15 of her cross-examination that while she was being dragged by the accused, she screamed. Thus, the testimony of the prosecutrix, when tested on the touchstone laid down by the Hon'ble Supreme Court, does not attain the status of a "sterling witness." Her version does not find support from medical or scientific evidence, and certain material omissions and surrounding circumstances create reasonable doubt.

23. Though it is well settled that conviction in a rape case can be based on the sole testimony of the prosecutrix, such testimony must inspire implicit confidence and be of unimpeachable character. In the present case, the cumulative effect of absence of medical corroboration, non-production of FSL report, hostility of seizure witness,



admitted land dispute between the parties and lack of independent corroboration despite alleged alarm, creates reasonable doubt regarding the prosecution version. Thus, looking to the facts and circumstances of the case and the manner in which the incident took place, the the version of the prosecutrix cannot be taken as a gospel truth at the face value and it appears to be suspicious. Hence, there is no scope to sustain the conviction and sentence imposed on the appellant. He deserves to be acquitted of the said charge by giving him benefit of doubt.

24. In the result, the appeal is **allowed**. Conviction of the accused/appellant under Sections 376 and 450 of the IPC and sentenced imposed thereunder are hereby set aside. He is acquitted of the said charges by extending him benefit of doubt.
25. Keeping in view of the provisions of Section 437-A Cr.P.C. (481 of the B.N.S.S.), the appellant is directed to forthwith furnish a personal bond in terms of Form No.45 prescribed in the Code of Criminal Procedure of sum of Rs.25,000/- with one surety in the like amount before the Court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for



grant of leave, the aforesaid appellant on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

26. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

(Rajani Dubey)
JUDGE