



2026:CGHC:12396-DB

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 786 of 2023**

Neelam Kumar Deshmukh S/o Shailendra Deshmukh Aged About 21  
Years R/o Kotgaon, Police Station Arjunda, District : Balod, Chhattisgarh  
... **Appellant(s)**

**versus**

State Of Chhattisgarh Through Police Station Arjunda, District : Balod,  
Chhattisgarh

... **Respondent(s)**

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For Appellant(s) : Mr. Prasoon Agrawal, Advocate

For Respondent(s) : Mr. S.S. Baghel, Government Advocate

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**Hon'ble Shri Justice Ramesh Sinha, Chief Justice**

**Hon'ble Shri Justice Ravindra Kumar Agrawal, Judge**

**Judgment on Board**

**Per Ramesh Sinha, CJ**

**16.03.2026**

1. This appeal arises out of the judgment of conviction and order of sentence dated 28.03.2023 passed by the learned Sessions Judge Balod, District- Balod (C.G.) in Sessions Case No. 28/2020, whereby the appellant has been convicted as under:



<u>Conviction</u>	<u>Sentence</u>
Under Section 450 of the IPC.	R.I. for 5 years and fine of Rs.1,000/-, in default of payment of fine amount, additional R.I. for 03 months.
Under Section 376(2) (अ)(ब) of the IPC.	Imprisonment for life till natural death and fine of Rs.20,000/-, in default of payment of fine amount, additional R.I. for 06 months.
<i>Both the sentences were directed to run concurrently</i>	

2. The case of the prosecution, in brief, is that the complainant lodged a written report at Police Station- Arjunda stating that her daughter (the victim), who is deaf and dumb since birth and can only speak minimally regarding her name and village, was alone at home on 29.07.2020 at about 09:00 AM, when the complainant and her husband had gone to work as agricultural labourers in the fields. It is alleged that during this time, the accused Neelam Kumar Deshmukh, who is the son of the complainant's brother-in-law, entered the house and forcibly committed rape upon the victim. When the complainant returned home in the evening after work, the victim was found crying. She indicated the name of the accused and, through gestures, conveyed that he had committed forcible sexual intercourse with her.
3. On the basis of the said complaint, Crime No. 130/2020 was registered at Police Station Arjunda against the accused under



Sections 450 and 376(2)(c)(d) of the Indian Penal Code, and investigation was commenced.

4. During investigation, statements of the complainant and other prosecution witnesses were recorded. The statement of the deaf and dumb victim was recorded with the assistance of a teacher trained in sign language. A spot map of the place of occurrence was prepared, the victim was medically examined, her statement under Section 164 Cr.P.C. was recorded before the Magistrate, relevant articles were seized, and the accused was arrested. After completion of investigation, charge-sheet was filed before the competent Court.
5. Subsequently, charges under Sections 450 and 376(2)(j)(l) of the IPC were framed against the accused. The contents of the charges were read over and explained to him, to which he pleaded not guilty and claimed to be tried.
6. After completion of the prosecution evidence, the accused was examined under Section 313 Cr.P.C., wherein he denied all incriminating circumstances appearing against him and stated that he is innocent and has been falsely implicated in the case.
7. After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in opening para of the judgment. Hence, this appeal.



8. Learned counsel for the appellant submits that the impugned judgment of conviction and order of sentence passed by the learned trial Court is wholly illegal, perverse, contrary to the evidence on record and bad both in law and on facts, and therefore the same is liable to be set aside and the appellant deserves to be acquitted of all the charges. It is contended that the learned trial Court has failed to appreciate that the prosecution has not adduced cogent, reliable and convincing evidence to establish the allegation of forcible sexual intercourse, and the material evidence available on record does not satisfy the essential ingredients of the offences for which the appellant has been convicted. It is further submitted that the learned Court below has not properly considered and appreciated the statement of the victim in its correct perspective, particularly in light of the surrounding circumstances and inconsistencies appearing therein. Learned counsel submits that the conviction has been recorded in a mechanical manner without due consideration of the settled principles governing appreciation of evidence in cases of this nature. It is also urged that the explanation furnished by the appellant in his examination under Section 313 of the Code of Criminal Procedure has not been considered at all, though the same was plausible and sufficient to probabalise his defence. According to the appellant, the learned trial Court has misapplied and misconstrued the relevant provisions of the Indian Penal Code, 1860, thereby resulting in grave miscarriage of justice. It is



further argued that the medical evidence and the testimony of the doctor as well as that of the victim have not been properly appreciated and do not lend corroboration to the prosecution case. It is submitted that conviction cannot be sustained merely on the basis of the sole testimony of the victim when the same does not inspire confidence and is not supported by other reliable evidence on record. On an overall appreciation of the evidence, it is contended that the prosecution has miserably failed to prove the charges beyond reasonable doubt, yet the learned trial Court has erroneously convicted the appellant, rendering the impugned judgment unsustainable in the eyes of law and liable to be set aside.

9. On the other hand, learned counsel for the State opposes the submissions made by the learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt and the victim (PW-2) has clearly deposed the conduct of the appellant in her statement and the learned trial Court after considering the material available on record has rightly convicted and sentenced the appellant, in which no interference is called for.
10. We have heard the learned counsel for the parties and perused the record with utmost circumspection.
11. The issue that arises for consideration in the present appeal is whether the testimony of the victim/prosecutrix deserves



acceptance and whether the prosecution has established the case of the appellant beyond reasonable doubt.

- 12.** It is pertinent to observe that the question whether conviction of the accused can be based on the sole testimony of the victim in cases of sexual assault/rape is no longer *res integra*. The Hon'ble Supreme Court has dealt with the issue in a catena of judgments and has held that the sole testimony of the victim if found reliable can be the sole ground for convicting the accused and that the creditworthy testimony of the victim in cases of such nature deserves acceptance.
- 13.** The next question for consideration before this Court is whether on the date of incident, the accused committed house-trespass by entering the house of the physically disabled victim and thereafter committed forcible sexual intercourse with her, who was incapable of giving valid consent, and whether the learned trial Court has rightly convicted and sentenced the accused on the basis of proper appreciation of the evidence on record?
- 14.** In this regard, the victim (PW-02) is admittedly hearing and speech impaired since birth. Her evidence was recorded in the Court with the assistance of a trained deaf-mute teacher acting as an interpreter. The trial Court, before recording her statement, satisfied itself regarding her ability to understand the questions and to communicate her answers through gestures and signs. It is evident from the deposition that the victim, by gestures and body



language, indicated that she was residing in her house on the date of the incident and that in the absence of her parents, the accused had come there. The photograph of the accused attached with the arrest memo was shown to her and she identified him by gestures and disclosed his name. She further indicated that the accused had removed the clothes she was wearing and had committed forcible sexual intercourse with her.

- 15.** Since the victim was not able to clearly understand certain questions during her examination, the Court adopted an appropriate demonstrative method by bringing a plastic doll to facilitate communication. On being asked through such demonstration, the victim again indicated by gestures that the accused had forcibly committed sexual intercourse with her. The victim also conveyed through signs that she had earlier appeared before the Court and that her statement had been recorded by the Magistrate. Though at one stage she indicated that she had not properly understood the questions, the trial Court recorded its observations regarding her disability and continued her examination with the assistance of the interpreter so as to ensure fairness and clarity in the recording of her testimony.
- 16.** The evidence further shows that immediately after the incident, when her mother returned home from agricultural work, the victim was found in a disturbed and crying condition. On being asked, she disclosed the incident through gestures and named the



accused, who is her close relative residing in the same village.

This prompt disclosure forms an important circumstance lending assurance to the truthfulness of her testimony. The victim's gestures and narration in Court remained consistent with the version recorded in the FIR as well as with her earlier statement recorded during investigation.

- 17.** The trial Court also noted that although the victim is deaf and mute, there is no material to suggest that she suffers from any mental abnormality which would prevent her from understanding the occurrence or communicating the same. On the contrary, her ability to convey the relevant facts through gestures, her identification of the accused, and her demonstration of the act alleged against him clearly indicate that she was competent to depose. Her testimony, therefore, constitutes substantive evidence. The same further stands corroborated by the surrounding circumstances, including the testimony of her mother regarding the immediate disclosure, the evidence of other witnesses, and the forensic report which detected seminal stains and human sperm on the vaginal slides of the victim as well as on the underwear of the accused.
- 18.** In view of the aforesaid detailed appreciation, the statement of the victim is found to be natural, consistent and trustworthy, and inspires full confidence of the Court in establishing that the accused had committed forcible sexual intercourse with her.



19. It is well settled that merely because a witness is deaf and dumb, her testimony cannot be discarded. Evidence given through gestures or signs with the assistance of a competent interpreter is admissible and can form the basis of conviction if it inspires confidence. In this regard, in the matter of ***State of Rajasthan v. Darshan Singh, (2012) 5 SCC 789***, it has been held as under:

*“26. The object of enacting the provisions of Section 119 of the Evidence Act reveals that deaf and dumb persons were earlier contemplated in law as idiots. However, such a view has subsequently been changed for the reason that modern science revealed that persons affected with such calamities are generally found more intelligent, and to be susceptible to far higher culture than one was once supposed. When a deaf and dumb person is examined in the court, the court has to exercise due caution and take care to ascertain before he is examined that he possesses the requisite amount of intelligence and that he understands the nature of an oath. On being satisfied on this, the witness may be administered oath by appropriate means and that also with the assistance of an interpreter. However, in case a person can read and write, it is most desirable to adopt that method being more satisfactory than any sign language. The law requires that there must be a record of signs and not the interpretation of signs.*

*27. In Meesala Ramakrishan v. State of A.P. [(1994) 4 SCC 182], this Court has considered the evidentiary value of a dying declaration recorded by means of signs and nods of a person who is not in a position to speak for any reason and held that the same amounts to a verbal*



*statement and, thus, is relevant and admissible. The Court further clarified that "verbal" statement does not amount to "oral" statement. In view of the provisions of Section 119 of the Evidence Act, the only requirement is that the witness may give his evidence in any manner in which he can make it intelligible, as by writing or by signs and such evidence can be deemed to be oral evidence within the meaning of Section 3 of the Evidence Act. Signs and gestures made by nods or head are admissible and such nods and gestures are not only admissible but possess evidentiary value. 28. Language is much more than words. Like all other languages, communication by way of signs has some inherent limitations, since it may be difficult to comprehend what the user is attempting to convey. But a dumb person need not be prevented from being a credible and reliable witness merely due to his/her physical disability. Such a person though unable to speak may convey himself through writing, if literate or through signs and gestures, if he is unable to read and write. A case in point is the silent movies which were understood widely because they were able to communicate ideas to people through novel signs and gestures. Emphasised body language and facial expression enabled the audience to comprehend the intended message.*

*29. To sum up, a deaf and dumb person is a competent witness. If in the opinion of the court, oath can be administered to him/her, it should be so done. Such a witness, if able to read and write, it is desirable to record his statement giving him questions in writing and seeking answers in writing. In case the witness is not able to read and write, his statement can be recorded in sign language with the aid of interpreter, if found necessary. In*



*case the interpreter is provided, he should be a person of the same surrounding but should not have any interest in the case and he should be administered oath.”*

20. This Court further finds support from the settled legal position laid down by the Hon'ble Supreme Court in ***Meesala Ramakrishan v. State of Andhra Pradesh, reported in (1994) 4 SCC 182***, wherein it has been held that a witness who is unable to speak can give evidence by signs or gestures and such evidence is admissible and can form the basis of conviction, provided the Court records satisfaction regarding the competency of the witness and her ability to understand and respond. In the present case, the trial Court has duly recorded such satisfaction and the testimony of the victim has been properly interpreted and recorded. Therefore, her evidence cannot be discarded merely on account of her physical disability.
21. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

*“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 everyone 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 similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material*



*objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”*

22. Apart from the testimony of the victim, the prosecution case finds substantial corroboration from the evidence of other important witnesses whose statements, when read in their entirety, lend assurance to the occurrence of the incident and to the involvement of the accused therein.
23. The evidence of the mother of the victim (PW-01) assumes great significance in the facts and circumstances of the case, as she is the first person to whom the victim disclosed the incident immediately after its occurrence. She has categorically deposed that on the date of the incident she and her husband had gone to work in the agricultural fields, leaving the victim alone at home. On returning in the evening, she found the victim in a disturbed and crying condition. On making inquiries, the victim, through gestures and signs, indicated the name of the accused, who is her close relative residing in the same village, and conveyed that he had entered the house, forcibly thrown her down, removed her clothes and committed a wrongful act with her. PW-01 has further stated that after learning about the incident, she informed her husband as well as certain villagers and thereafter, on their advice, lodged a written complaint at the concerned Police Station. She has also deposed regarding the cleaning of the place



of occurrence with water, which according to the prosecution, was done by the accused after committing the offence. Despite a searching cross-examination, no material contradiction or omission could be elicited so as to discredit her version. Her testimony regarding the prompt disclosure by the victim, the naming of the accused at the earliest opportunity and the immediate steps taken by her in informing others and lodging the report lends strong corroboration to the testimony of the victim.

- 24.** Similarly, the father of the victim (PW-04) has also supported the prosecution case in material particulars. He has deposed that upon returning from the fields he found a crowd of villagers gathered near his house and on being informed by his wife about the incident, he questioned the victim, who by gestures indicated towards the accused and narrated the occurrence. He has further stated that thereafter he went to the house of the accused and informed his family members about the incident, which led to a dispute between the two families. His evidence also reveals that the accused reacted aggressively when questioned about the incident. The testimony of PW-04 thus establishes the sequence of events following the occurrence and reinforces the prosecution version that the victim had consistently attributed the act to the accused immediately after the incident. His statement also explains the circumstances under which the matter was reported to the police and the involvement of villagers in the aftermath of the occurrence.



- 25.** The evidence of the independent witness (PW-03) and other villagers who were informed soon after the incident further strengthens the prosecution case. These witnesses have corroborated the fact that the victim's mother disclosed the incident and named the accused at the earliest point of time. Their testimony also indicates that discussions took place in the village regarding the incident and that the victim's family had no reason to falsely implicate the accused in such a serious offence. The prompt disclosure of the incident before independent persons and the absence of undue delay in lodging the report are circumstances which lend assurance to the truthfulness of the prosecution story.
- 26.** Thus, the cumulative effect of the evidence of PW-01, PW-04 and the independent witnesses is that the version of the victim regarding the occurrence receives substantial corroboration from surrounding circumstances, her immediate conduct, and the consistent narration made by her family members and other villagers. Their testimonies form an important link in the chain of circumstances establishing the guilt of the accused beyond reasonable doubt.
- 27.** Now coming to the Medical and Forensic evidence adduced, the medical evidence in the present case forms an important corroborative link in the chain of circumstances established by the prosecution. The victim (PW-02) was medically examined by Dr.



S.P. Khan (PW-06) at Community Health Centre, Arjunda, on the requisition sent by the Investigating Officer. The doctor conducted a general physical and genital examination of the victim and prepared the medico-legal report (Exhibit P-14). During the examination, no external injuries were noticed on the body of the victim and no fresh signs of violence were found on her private parts. The vaginal opening was found healthy and intact. However, PW-06 clearly opined that in cases of alleged sexual assault, particularly where some time has elapsed between the incident and examination or where the victim is physically disabled and unable to offer resistance, the absence of injuries does not rule out the possibility of sexual intercourse. The doctor further stated that a definite opinion regarding sexual intercourse could be given only after chemical examination of the vaginal samples collected during the medical examination.

- 28.** Accordingly, PW-06 collected fluid from the internal genital region of the victim and prepared vaginal slides, which were duly sealed and handed over to the police constable for further necessary action. The consent for medical examination given by the victim and her guardians has been proved on record as Exhibit P-07, and the forwarding memo prepared by the police has been exhibited as Exhibit P-17. The seizure of the sealed vaginal slides was proved by the Investigating Officer Inspector Arun Netam (PW-10) through seizure memo (Exhibit P-18). Thereafter, Inspector Kumar Gaurav Sahu (PW-11) forwarded the seized



exhibits to the State Forensic Science Laboratory, Raipur, under forwarding letter (Exhibit P-24) and the acknowledgment thereof has been exhibited as Exhibit P-25.

- 29.** The Forensic Science Laboratory report (Exhibit P-26) assumes crucial significance, as it records that seminal stains and human spermatozoa were detected on the vaginal slides of the victim. This scientific finding provides strong corroborative evidence indicating that sexual intercourse had taken place with the victim prior to her medical examination.
- 30.** The medical examination of the accused was conducted by Dr. Chirag (PW-05), who prepared the report (Exhibit P-13). The doctor has deposed that no injury was found on the genital organ of the accused and no smell was detected in the smegma at the time of examination. However, he clarified in cross-examination that such smell may be present only immediately after sexual intercourse and its absence after a lapse of several hours cannot conclusively negate sexual activity. He further opined that the accused was physically capable of performing sexual intercourse.
- 31.** In addition, the underwear of the accused, which was seized during investigation by PW-10 under seizure memo (Exhibit P-19) after issuing notice (Exhibit P-20), was also sent for forensic examination. As per the Forensic Science Laboratory report (Exhibit P-26), seminal stains and human sperm were detected on the said underwear marked as the relevant exhibit. The accused



has not furnished any plausible explanation regarding the presence of such biological material on his garment.

- 32.** Thus, although the medical examination of the victim did not reveal external or internal injuries and the doctor reserved final opinion pending chemical analysis, the forensic findings proved through PW-10 and PW-11 provide strong scientific corroboration to the prosecution case. The medical and forensic evidence, when read conjointly with the consistent testimony of PW-02 and the surrounding circumstances, supports the conclusion that the accused had committed sexual intercourse with the victim.
- 33.** So far as the charge under Section 450 IPC relating to house-trespass is concerned, the prosecution has led cogent and reliable evidence to establish that the accused had entered the dwelling house of the victim without permission and with the intention of committing an offence punishable with imprisonment for life. The victim (PW-02), whose evidence was recorded with the assistance of interpreter Padma Sahu (PW-08), has clearly indicated through gestures and demonstrative signs that on the date of the incident she was alone in her house as her parents had gone to work in the agricultural fields and during that time the accused came inside the house, removed her clothes and committed forcible sexual intercourse with her. Her identification of the accused was further confirmed when the photograph



attached with the arrest memo was shown to her during trial proceedings.

- 34.** The testimony of the mother of the victim (PW-01) provides important corroboration on this aspect. She has deposed that after returning from the fields in the evening, she found the victim in a disturbed condition and upon inquiry the victim disclosed through gestures that the accused had come inside the house and committed a wrongful act with her. The written complaint lodged by PW-01 at the Police Station has been proved as Exhibit P-01, on the basis of which the First Information Report (Exhibit P-02) was registered. In the said complaint also, it has been specifically mentioned that the accused had entered the house of the victim in her absence and committed the offence.
- 35.** The father of the victim (PW-04) has further supported the prosecution version by stating that when he returned from the fields and questioned the victim, she indicated towards the accused and narrated the occurrence through gestures, thereby confirming that the accused had entered their house when she was alone. The evidence of independent witness Santu Ram (PW-03) also lends assurance to the prosecution case, as he has deposed that the victim's family disclosed before him that the accused had entered the victim's house and committed the offence.



- 36.** The place of occurrence has been proved through the site map (Exhibit P-08) prepared by Yogesh Kumar Nayak (PW-07) on the requisition sent by the Investigating Officer Inspector Arun Netam (PW-10). The site map clearly shows that the incident took place inside the dwelling house of the victim. There is no material on record to indicate that the accused had any lawful authority, permission or justification to enter the said premises at the relevant time. On the contrary, the surrounding circumstances reveal that the accused took advantage of the absence of the victim's parents and clandestinely entered the house with the intention of committing sexual assault.
- 37.** The defence plea that the accused was working in the agricultural field throughout the day has not been substantiated by any cogent defence evidence. No witness has been examined on behalf of the accused to establish his continuous presence in the field. Mere suggestions put in cross-examination do not probabilise lawful entry into the victim's house. In these circumstances, the consistent testimony of PW-02, duly corroborated by PW-01, PW-04, PW-03, the documentary evidence in the form of Exhibits P-01, P-02 and P-08, and the investigation proved by PW-10, clearly establishes that the accused committed house-trespass by entering the dwelling house of the victim with the intention of committing rape.



- 38.** Accordingly, the finding recorded by the learned trial Court holding the accused guilty of the offence of house-trespass calls for no interference.
- 39.** Upon careful consideration of the entire evidence available on record, this Court finds that the learned trial Court has rightly appreciated the testimony of the victim, who is admittedly hearing and speech impaired since birth. Before recording her evidence, the trial Court satisfied itself regarding her ability to understand the questions and communicate her responses. Her deposition was recorded in open Court with the assistance of a trained interpreter Padma Jagat (PW-08), who facilitated communication by interpreting the gestures and signs made by the victim. The trial Court also adopted demonstrative methods, including the use of a plastic doll, to ensure clarity regarding the nature of the occurrence and to remove any possibility of misunderstanding. From the observations recorded during her examination, it is evident that although the victim could not hear or speak, she was capable of conveying the essential facts relating to the incident in an intelligible manner.
- 40.** The victim (PW-02) consistently indicated through gestures that the accused had entered her house in the absence of her parents, removed her clothing and forcibly committed sexual intercourse with her. She also identified the accused when his photograph was shown to her during the proceedings. Her testimony



remained consistent with the earliest version of the prosecution as reflected in the written complaint (Exhibit P-01) and the First Information Report (Exhibit P-02). The prompt disclosure made by her to her mother (PW-01) immediately after the incident, as well as the subsequent narration of the occurrence before the Magistrate during the recording of her statement under law, lends assurance to the truthfulness and spontaneity of her version.

- 41.** The defence contention that the victim, being deaf and dumb, is not a competent witness is liable to be rejected. The law recognizes that a witness who is unable to speak may give evidence by signs or gestures in open Court, and such evidence is to be treated as substantive oral evidence. In the present case, the trial Court took adequate precautions by securing the presence of a trained interpreter and by recording its satisfaction regarding the victim's capacity to understand and respond. There is no material on record to suggest that the victim was suffering from any mental incapacity that would render her testimony unreliable. On the contrary, her ability to identify the accused, to demonstrate the act complained of and to narrate the sequence of events through gestures clearly establishes her competency as a witness.
- 42.** The testimony of the victim also finds substantial corroboration from surrounding circumstances, including the evidence of her parents regarding her immediate disclosure, the scientific



evidence in the form of the forensic report detecting seminal stains and human sperm on the vaginal slides and on the underwear of the accused (Exhibit P-26), and the absence of any plausible explanation from the accused in his statement under Section 313 of the Code of Criminal Procedure. The cumulative effect of this evidence leads to the inescapable conclusion that the prosecution has successfully proved that the accused had committed forcible sexual intercourse with the victim.

43. In view of the foregoing discussion, this Court finds no illegality or perversity in the manner in which the learned trial Court assessed the competency and credibility of the deaf and dumb victim. Her testimony inspires full confidence and constitutes reliable substantive evidence forming the foundation of the conviction recorded against the accused. Consequently, the findings of the learned trial Court on this aspect are affirmed. The present criminal appeal lacks merit and is accordingly **dismissed**.
44. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.
45. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellant is undergoing the jail term, to serve the same on the Appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble



Supreme Court with the assistance of High Court Legal Services

Committee or the Supreme Court Legal Services Committee.

Sd/-

Sd/-

**(Ravindra Kumar Agrawal)**  
Judge

**(Ramesh Sinha)**  
Chief Justice

**Manpreet**