



2026:CGHC:14530

NAFR

Reserved on : 09.03.2026

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 324 of 2005

Mool Chand S/o Mohan Patel R/o Village Machanpar, P.S.
Dongargaon, District – Rajnandgaonn (C.G.)

... Appellant(s)

versus

State Of Chhattisgarh, Police Station – Dongargaon, District –
Rajnandgaon (C.G.)

... Respondent(s)

For Appellant : Mr. Adil Minhaj, Advocate

For Respondent/State : Mr. Shailesh Puriya, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

CAV Judgment

1. The appellant by way of this appeal has challenged the judgment dated 31.03.2005 passed by the District and Sessions Judge, Rajnandgaon (CG) in Sessions Trial No. 125/2004 whereby and whereunder, appellant has been convicted and sentenced as under :-



| Conviction U/s. | Sentence RI. | Fine | In default of payment of fine |
|-----------------|--------------|------|-------------------------------|
| 376 (1) IPC | 7 Years | - | - |
| 506-B IPC | 6 Months | - | - |

2. Briefly stated, the case of the prosecution is that the victim who was aged about 20 years submitted a report before the Police Station, Dongargaon on 16.11.2003 bearing Crime No. 232/2003 contending that on 08.11.2003, her parents had gone to Gram Pathari, her elder brother Hiram had gone to attend a Ramayan competition and at home, apart from her, only her grandmother was present. She was in the courtyard of her house, cleaning the utensils. At about 10:00 PM, the accused Mool Chand came there and caught hold of her hand and started pulling her. When she screamed and tried to resist, Mool Chand threatened to kill her. He dragged her towards the backyard and took her to the field of Shankar Marar, where he threw her down and forcibly committed rape on her. Later, her elder brother Hiram returned home after attending the Ramayan competition. She narrated the incident to him. When her parents returned from the village, she also informed them about the incident. On Sunday night, a village meeting (Panchayat) was convened where she informed the villagers about the incident. During the meeting, the villagers questioned Mool Chand about the incident, but he denied the allegations. On the advice of the villagers to lodge a report, she filed a report at Police Station. Based on the report FIR Ex.P/6 was registered. After completion



of usual investigation, a charge-sheet was filed under Sections 376, 506-B of the IPC against the accused person before the learned Chief Judicial Magistrate. Rajnandgaon. Learned Chief Judicial Magistrate vide its order dated 17.07.2004 committed trial to the learned Sessions Judge which was registered as Sessions Trial No. 125/2004. The accused denied the charges leveled against him and faced trial.

3. To bring home the charges against appellant, the prosecution examined as many as 12 witnesses namely PW/1 Motin Bai, PW/2 Hiraram, PW/3 Rekha Thakur, PW/4 Jhaduram, PW/5 Nilkanth Janbandhu, PW/6 Puran Das, PW/7 Dwarka Prasad, PW/8 Jaipal Singh, PW/9 Dr. Sushma Kumre, PW/10 Dr. Praveen Goswami, PW/11 the victim, PW/12 C.S. Uike, Assistant Sub Inspector and exhibited documents Ex.P/1 & 2 Seizure Memo, Ex.P/3 Najri Naksa, Ex.P/4 Medical Examination Report of the victim, Ex.P/5 Medical Examination Report of the accused, Ex.P/6 FIR, Ex.P/7 consent of mother for medical examination, Ex.P/8 Crime Detail form, Ex.P/9 memo of IO to the Govt. Hospital, Ex.P/10 application of IO to the SDM for medical examination of the victim, Ex.P/11 forwarding memo to FSL, Raipur. Ex.P/12 FSL Report, Ex.P/13 Arrest Memo. The accused was examined under Section 313 of the Cr.P.C. and exhibited documents Ex.D/1 Police Statement of Hiraram, Ex.D./2 Police Statement of Dwarka Prasad and Ex.D./3 Police Statement of the victim.
4. Upon appreciation of the evidence and material on record, the



learned trial Court convicted the appellant and sentenced him as aforesaid. Aggrieved thereby, the appellant has preferred the present appeal under Section 374 of the Cr.P.C. The appellant remained in jail from 08.12.2003 to 09.12.2003 during trial and again from 31.03.2005 till the sentence was suspended and bail was granted by this Court on 08.07.2005.

5. Learned counsel for the appellant would submit that the judgment of conviction and sentence passed by the learned trial Court is contrary to law and evidence available on record and therefore, the same is liable to be set aside. It is submitted that the learned trial Court has failed to properly appreciate the material contradictions and omissions appearing in the statements of the prosecution witnesses. Learned counsel would further submit that the FIR has been lodged with an unexplained delay of about eight days from the date of the alleged incident. It is further contended that the prosecution case rests mainly on the sole testimony of the victim, which is not of sterling quality, therefore, it is required to be corroborated by independent and reliable evidence. Thus, conviction by the learned trial Court on the sole testimony of the victim which is not of a sterling quality deserves to be set aside by this Court. He would further submit that the prosecution has not examined the grand-mother of the victim who according to the victim was in the house at the time of the incident, which also goes against the case of the prosecution.
6. Learned counsel would further submit that the medical evidence



does not support the prosecution case of forcible sexual intercourse. The medical examination report does not reveal any injury on the body of the victim or any definite sign of recent sexual assault, which makes the prosecution version doubtful. It is also argued that the victim is a major girl at the time of incident aged about 20 years. The evidence of the prosecution witnesses is not consistent and trustworthy to sustain conviction. Therefore, the findings recorded by the trial Court are perverse and unsustainable in the eyes of law. On these grounds, learned counsel for the appellant would pray for setting aside the impugned judgment of conviction and order of sentence and the appellant be acquitted of the charges by extending the benefit of doubt.

7. Per contra, learned counsel appearing for the State would oppose the submissions made by the learned counsel for the appellant and would submit that the judgment of conviction and sentence passed by the learned trial Court is legal, justified and based on proper appreciation of the evidence available on record. Learned State counsel would further submit that the prosecution has proved the guilt of the appellant beyond reasonable doubt, particularly on the basis of the cogent and reliable testimony of the victim (PW/11). It is contended that the statement of the victim is natural, consistent and trustworthy, and there is no reason to disbelieve her version. It is further argued that in cases of sexual assault, conviction can be based solely on the testimony of the victim if it inspires confidence. Learned



counsel would also submit that the testimony of the victim stands corroborated by other prosecution witnesses including the FIR. Learned counsel for the State would submit that the delay has been satisfactorily explained by the prosecution as the victim had first narrated the incident to her brother and parents, and thereafter the matter was discussed in a village meeting (panchayat). Only upon the advice of the villagers, the report was lodged before the police. Therefore, the delay is natural and does not affect the credibility of the prosecution case, even otherwise in an Indian society normally the victim of sexual offence hesitates in lodging the FIR as such delay is not so fatal for the prosecution case and does not make out prosecution case untrustworthy. As such, the impugned judgment does not warrant any interference by this Court and would pray for dismissal of the appeal.

8. I have heard learned counsel for the appellant and the State and perused the record of the trial Court with utmost satisfaction.
9. From the submission made by the learned counsel for the parties and perusal of the record, the point emerged for determination by this Court is ;

“Whether conviction can be recorded on the sole evidence of the victim and whether the prosecution has proved its case beyond reasonable doubt?.

10. It is well settled position of law that if the sole testimony of the victim is found reliable and trustworthy it requires no



corroboration and may be sufficient to invite conviction of the accused provided the same must inspire confidence and appears to be absolutely trustworthy, unblemished and of sterling quality. The law in this regard has been considered by the Hon'ble Supreme Court Santosh Prasad Vs. State of Bihar {2020 (3) SCC 443} wherein the Hon'ble Supreme Court has held as under :-

6. Having gone through and considered the deposition of the prosecutrix, we find that there are material contradictions. Not only there are material contradictions, but even the manner in which the alleged incident has taken place as per the version of the prosecutrix is not believable. In the examination-in-chief, the prosecutrix has stated that after jumping the fallen compound wall accused came inside and thereafter the accused committed rape. She has stated that she identified the accused from the light of the mobile. However, no mobile is recovered. Even nothing is on record that there was a broken compound wall. She has further stated that in the morning at 10 O'clock she went to the police station and gave oral complaint. However, according to the investigating officer a written complaint was given. It is also required to be noted that even the FIR is registered at 4:00 p.m. In her deposition, the prosecutrix has referred to the name of Shanti Devi, PW1 and others. However, Shanti Devi has not supported the case of the prosecution. Therefore, when we tested the version of PW5 -prosecutrix, it is unfortunate that the said witness has failed to pass any of the tests of "sterling witness". There is a variation in her version about giving the complaint. There is a delay in the FIR. The medical report does not support the case of the prosecution. FSL report also does not support the case of the prosecution. As admitted, there was an enmity/dispute between both the parties with respect to land. The manner in which the occurrence is stated to have occurred is not believable. Therefore, in the facts and circumstances of the case, we find that the solitary version of the prosecutrix – PW5 cannot be taken as a gospel truth at face value and in the absence of any other supporting evidence, there is no scope to sustain the conviction and sentence imposed on the appellant and accused is to be given the benefit of doubt."

11. Again Hon'ble Supreme Court in case of **Nirmal Premkumar**

**vs. State Represented by Inspector of Police {(2024) 20 SCC****293}** has examined the issue and recorded its finding as under:-

“22. This Court was tasked to adjudicate a matter involving gang rape allegations under section 376(2)(g), I.P.C in Rai Sandeep v. State (NCT of Delhi) (2012) 8 SCC 21. The Court found totally conflicting versions of the prosecutrix, from what was stated in the complaint and what was deposed before Court, resulting in material inconsistencies. Reversing the conviction and holding that the prosecutrix cannot be held to be a ‘sterling witness’, the Court opined as under:

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and calibre 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 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.”

23. In *Krishan Kumar Malik v. State of Haryana* (2011) 7 SCC 130, this Court laid down that although the victim's solitary evidence in matters related to sexual offences is generally deemed sufficient to hold an accused guilty, the conviction cannot be sustained if the prosecutrix's testimony is found unreliable and insufficient due to identified flaws and lacunae. It was held thus:

“31. No doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality. But, in the case in hand, the evidence of the prosecutrix, showing several lacunae, which have already been projected hereinabove, would go to show that her evidence does not fall in that category and cannot be relied upon to hold the appellant guilty of the said offences.

32. Indeed there are several significant variations in material facts in her Section 164 statement, Section 161 statement (CrPC), FIR and deposition in court. Thus, it was necessary to get her evidence corroborated independently, which they could have done either by examination of Ritu, her sister or Bimla Devi, who were present in the house at the time of her alleged abduction. The record shows that Bimla Devi though cited as a witness was not examined and later given up by the public prosecutor on the ground that she has been won over by the appellant.”

24. What flows from the aforesaid decisions is that in cases where witnesses are neither wholly reliable nor wholly unreliable, the Court should strive to find out the true genesis of the incident. The Court can rely on the victim as a “sterling witness” without further corroboration, but the quality and credibility must be exceptionally high. The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistencies excepted), from the initial statement to the oral testimony, without creating any doubt qua the prosecution's case. While a victim's testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded.”

12. In light of above stated legal position and to answer the issue raised in this appeal, this Court has to examine the evidence threadbare and to examine whether there are manifest



contradictions and discrepancies in the oral evidence of the prosecution witnesses which have the effect of casting a serious doubt with regard to the veracity of the prosecution version. They are summarized as under.

13. Evidence of PW/1- Motin Bai (Mother of the victim) – She has stated in her examination-in-chief that on the date of incident she was staying at her parental home (Maika). The next day when she came back, her elder son Hiraram told her that on the previous night accused had done something wrong with victim in the courtyard and when she asked the victim about it, then she told her that the accused had threatened to kill her and had committed wrongful acts with her. She has admitted in her cross-examination that the houses of Dev Singh, Nohar, Rukhram and Shankar's field (badi) are near to her house. She has also admitted in her cross-examination that just after two-three days of the incident, the accused and the victim were caught together, then they had handed over the victim to the accused and they were living together. She has also admitted that if the accused had kept the victim with him, they would not have lodged the FIR.

14. Evidence of PW/2- Hira Ram (Brother of the victim) – he has stated in his examination-in-chief that the incident relates to the time of paddy harvesting season. On the fateful day he had gone to another village to participate in a Ramayan competition. At that time, his grandmother and victim were present in the house. When he returned to home, he saw that the door of the house



was open. He called the victim and then he heard her voice. When he looked towards the backyard, he saw that accused was committing rape upon his sister in the field (badi). He has further stated that the victim told him that she was washing utensils in the house and accused came there, caught hold of her hand, dragged her to the backyard and committed wrongful acts with her. She was crying while narrating the incident. She also told him that when she resisted, accused threatened to kill her and thereafter committed the wrongful act. In the cross-examination he has admitted that if one shouts loudly from the backyard, voice can be heard from his house. He has also admitted in his cross-examination that just after two-three days of the incident, the accused and the victim were caught together, then they had handed over the victim to the accused and they were living together. The defence has confronted his statement before the Police Ex. D/1 wherein he has stated that his sister and the accused were found in naked position but in the cross-examination he has denied that he has given any such statement to the Police. He has also admitted that the accused used to visit their house and he has also friendship with the accused. He has also admitted that they also intended that the accused should accept the victim, he has refused therefore, they have lodged the FIR.

15. Evidence of PW-5/ Nilkanth Janbandhu (Patwari) – He has admitted in his cross-examination that the distance between the place of incident and the house of the victim is 86 links of the



chain (17 meter) and both the places are adjoining to each other and there is no boundary wall between them and both the backyards are open spaces. The place of incident and all the other residential premises are situated in same village.

16. Evidence of PW/6- Puran Das – he has reiterated the stand taken by the prosecution in his examination-in-chief. In his cross-examination he has admitted that after about 15 days of village meeting, the accused and the victim were again caught together, then, the villagers suggested the accused and victim to live together. Thereafter, she never returned back to her house and even her relatives did not go to bring her back.

17. Evidence of PW/7- Dwarka Prasad (Brother of the victim) – he has supported the case of the prosecution in his examination-in-chief. In his cross-examination he has admitted that the place of incident is situated in the middle of the houses of the neighborhood and if any one shouts or talks, it can be heard in the house of the vicinity. When he and his brother reached to the place of incident, the accused was wearing his shirt and the victim was lying in dark. They did not hear sounds of the accused or the victim either. Voluntarily, he stated that victim's mouth was shut by the accused. He has further admitted in the cross-examination that after the incident the victim also followed the accused and went to his house. When they asked, she had shown willingness to live with the accused, therefore, they returned back and slept. This witness has also admitted the fact that after two-three days of the incident, the accused and the



victim were caught together in a room, thereafter, on the advice of the senior residents of the village, they had handed over the victim to the accused.

18. Evidence of PW/9- Dr. Sushma Kumre – She has stated in her examination-in-chief that no injury was found on the body of the victim. The hymen was found old torn, and two fingers were easily entering the vaginal passage. There was no any injury on the Labia Majora and Minora and as per Dr. Khare who had examined the victim, she was habitual to sexual intercourse. The prosecution has sent the undergarment, slides of the victim to the FSL which were found negative.

19. Evidence of PW/11- Victim - The victim has supported the case of the prosecution in her examination-in-chief. She has further stated that one month after the report, the accused again entered her house, there upon, her mother closed the door from outside, and thereafter the villagers were called. The villagers told the accused that since he has committed wrong work with the victim, he should keep her. Thereafter, the accused kept her with him for about 8–10 days. Thereafter one day, the accused went on the pretext that he was going for work and did not return. She has further deposed that as a result of the rape committed by the accused she became pregnant and on 08.09.2004 she gave birth to a child, who subsequently died. In cross-examination she has deposed that she stayed with the accused in the field (badi) for about half an hour. When she tried to run towards the courtyard of her house, the accused



threatened to kill her. The accused held her arm with one hand and pressed her mouth with the other hand. She has admitted that the accused did not tie her legs and the accused before the intercourse has voluntarily removed his clothes. She has further stated that the accused has removed his clothes by one hand only. She has further stated that she could not respond to the calls of her grand mother because the accused had gagged her mouth, due to which she could not respond even when her brother was shouting and calling her. She has further admitted that after the accused committed sexual intercourse with her, she did not sustain any injury on her body as grass was present at the place of occurrence. However, she got swelling in her private part. During the incident her Petticoat got blood stained. The accused had caught both her hands, therefore she could not make any attempt to assault or push him away. She has denied the suggestion that she was caught in a compromising position, therefore a false report has been lodged against the accused. She has admitted that when the accused entered her house second time, then she has not raised any alarm. She denied that she has not complained about the accused to the family members or the villagers, herself stated that she had complained about his entering forcibly. She has further stated that since the accused had refused to keep her, therefore, she has lodged the report.

20. Statement of the Accused: The accused was examined under Section 313 of the Cr.P.C., wherein the accused stated that he



did not know about the incident. All the witnesses belong to the same side and are telling untruth. He is innocent and he has been falsely implicated in the present case. He has not committed any offence. The accused has exhibited statement of Hiraram Ex.D/1 wherein said witness has stated that he saw that the accused and victim both were sitting without clothes. In Ex.D/2 Dwarika Prasad has stated that the victim and the accused were in the backyard. In Ex.D/3 the victim has stated that the accused entered to her house from front door and forcefully took her to the backyard of Shankar.

21. From appreciation of the evidence particularly PW/5 Patwari it is quite vivid that Shankar and Ghanshyam's courtyard as adjacent to each other and also residential premises are there and witnesses examined by the prosecution have clearly stated that if any one make loud voice then it can be heard by the residents of other house as all the houses are in vicinity. Therefore, if the victim would have made hue and cry as alleged by her at the time when the accused had forcefully taken her to the courtyard of Shankar, then anyone could have heard the voice. Similarly, the version of the victim does not inspire confidence as she has stated that accused has shut her mouth by one hand and she was caught hold by another hand while dragging her, whereas her both legs were free to resist, this creates doubt over the version of the victim that she was victim of forceful sexual assault.

22. From further materials placed on record by the prosecution,



brother of the victim PW/2 in his police statement has stated that the victim and accused were found naked and when he was confronted with the statement, no proper explanation was given by him only denial that he has not given the statement was made. Whereas, the PW/12 in his examination-in-chief has stated that he has written the statement of the witnesses Hiraram and others according to their statement only and he has not done any manipulation with it. From the statement of PW/7 who has admitted that since the accused has decided to keep the victim with him, therefore, they have returned to their house and slept and the same witness has again admitted that the accused and the victim were caught together in one room after two or three days of the incident. The other witnesses Motin, and Hiraram including the victim have also admitted the factum of caught together in room.

23. In the evidence the victim herself has admitted that if the accused accepted to keep her she would not have lodged the FIR. From appreciation of the evidence of the victim it is quite vivid that her one hand and legs were still free to resist, even when the accused was opening his shirt with one hand still no attempt was made to resist on the pretext that he has given threat to kill but neither she has narrated that from which weapon she was given threat to kill by the accused nor the prosecution has seized any weapon to substantiate that under any duress or stress she was subjected to the commission of rape which does not inspire confidence. Even she has admitted



that there is no injury on any part of the body to suggest that she has resisted and still the offence has been committed by the accused coupled with the fact that FSL Ex.P/12 found negative which does not support the prosecution case. From further appreciation of the evidence of the victim's mother and both the brothers that victim and accused even after just 2-3 days of incident have been caught together in a room, creates doubt over the version of the victim that she was subjected to forceful commission of offence on the fateful day or she was a consenting party.

- 24.** From the above appreciation of evidence, looking to the age of the victim who is aged about 20 years at the time of incident, it is quite vivid that the solitary evidence of the victim is not sufficient to convict as the same does not inspire confidence and appears to be doubtful as there are material contradiction, the manner in which the alleged incident has taken place as the version of the victim is not believable. In view of the above and considering the evidence, material and law as held by the Hon'ble Supreme Court in case of **Santosh Kumar (supra)** and **Nirmal (Supra)**, this Court finds that solitary version of the victim, PW/11 cannot be taken as a gospel truth at facevalue and in the absence of any other supporting evidence, there is no scope to sustain the conviction and sentence imposed on the appellant under Section 376 of the IPC and the accused is to be given benefit of doubt.
- 25.** So far as the conviction of the appellant under Section 506-B is concerned, the finding recorded by the learned trial Court that



the accused has threatened the victim for commission of rape deserves to be set aside as the prosecution is unable to prove beyond reasonable doubt that offence under Section 506-B IPC has been committed by the appellant and on the threat the offence under Section 376 of the IPC was committed. As such, the conviction of the appellant under Section 506-B of the IPC also deserves to be set aside.

- 26.** In view of the aforesaid discussion and for the reasons stated above, the appeal is allowed. The judgment of conviction and order of sentence passed by the learned trial Court in Sessions Trial No. 125/2004 convicting the appellant under Sections 376 and 506-B of the IPC are hereby set aside by extending the benefit of doubt.
- 27.** The appellant is on bail. His bail bond shall stand discharged in view of the provisions of Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

Sd/-
(Narendra Kumar Vyas)
Judge