



2026:AHC-LKO:36597-DB

Neutral Citation No. - 2026:AHC-LKO:36597-DB
AFR

Reserved on 08.05.2026

Delivered on 21.05.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL U/S 372 CR.P.C. No. - 64 of 2026

Informant/Complainant (Victim X)

.....Appellant(s)

Versus

State of U.P. Thru. Prin. Secy. Home Lko. and another

.....Respondent(s)

Counsel for Appellant(s) : Shiv Shankar Verma,
Counsel for Respondent(s) : G.A.,

Court No. - 11

**HON'BLE ABDUL MOIN, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

(Per Pramod Kumar Srivastava,J)

1. Heard Sri Shiv Shankar Verma, learned counsel for the appellant and learned A.G.A. for the State.
2. The present appeal under Section 372 of Criminal Procedure Code, 1973 (herein-after referred to as "CrPC")/413 of Bhartiya Nagarik Suraksha Sanhita, 2023 (herein-after referred to as BNSS,2023) has been filed against the judgment and order dated 26.03.2026 passed by the court of Additional Session Judge, F.T.C. First, Ambedkar Nagar, in Sessions Trial No. 104 of 2023, State Vs. Amit Shahani, arising out of FIR No./Case Crime No. 65 of 2023, under Sections 342, 364, 366, 376,

506 and 120-B of the Indian Penal Code (herein-after referred as IPC), Police Station Zalalpur, District Ambedkar Nagar and charge-sheet filed under Sections 342, 366, 376 and 506 IPC, Police Station Zalalpur, District Ambedkar Nagar acquitting the opposite party No.2 from the charges under Sections 342, 366, 376 and 506 I.P.C.

3. Brief facts of the case are that on 23.01.2023, in the afternoon, the younger son of In @ Indrawati, daughter of Rambali, who lives next door to the victim had come to call her. Upon reaching there, Suman, wife of Kantraj, resident of the same village and aunt of Amit Shahani(accused) was also sitting with Indrawati and talking. When the appellant approached them, they said, 'Let's go towards the forest because my stomach is upset'.

All three of them went towards the forest, about 300 meters east of Indrawati's house at approximately 3:00 PM. As they reached the path leading to the forest, Amit Shahani, son of Sant Ram and Sujeet Kumar, son of Ghanshu stepped out of a Bolero car. There were two other people sitting inside whom the appellant could not recognize. Indrawati and Suman said , 'See, we have brought her', after which they grabbed the victim and forced her into the car. When she tried to scream, Sujeet Kumar pressed the pistol against the victim's chest and threatened to kill her and her family. Out of fear for her and her family's life she remained silent.

The appellant was then taken to Akbarpur Railway Station where she was again threatened by Sujeet Kumar and Amit Shahani and forced to sit quietly in the train out of fear. At 8:00 PM the train arrived, and they boarded the train with her. In the morning, they took her to Delhi, and from there, on January 24, 2023, they took her to Kaithal, Chandigarh by bus. They arrived there at night and took her to a room where Vijay Kumar, also known as Havaladar (son of Purnmasi, resident of Sakalfiya, Police Station Katka, District Ambedkar Nagar), who is Amit's uncle, also arrived. After threatening her and asking her to stay in the room for the safety of her and her family, Sujeet Kumar and Vijay

Kumar left. Amit Shahani stayed in the room with the victim that night and raped her.

On the morning of January 25, 2023, Sujeet Kumar threatened the victim by saying that he was going home and the appellant should not create any drama or the consequences will be very bad after which in the evening Amit again raped the victim. In this manner, Vijay Kumar would come every morning, and both Vijay and Amit would lock the victim in the room and go somewhere and in the evening Amit would forcibly make sexual relationship with her. On January 31, 2023, both of them told the victim to sign a paper that had something written in english. When she refused, they beat her up and forced her to sign it and again threatened to kill her and her family.

Following this, on February 10, 2023, Vijay Kumar and Amit Shahani took the victim to another room in the same city. They called another person and, after beating her again, forcibly performed a 'marriage' with Amit. They did not allow her to read a paper written in Hindi and forced her to sign it. They took her photo and Amit forcibly put vermilion (sindoor) on her hair, making photos and videos of it. After this, they brought her back to the old room where they used to keep her locked and said that the work is solid now.

After this when the victim heard them talking to Indrawati and Sujeet Kumar over the phone, saying that the work is done, customers are looking at her and as soon as a customer is found, they will sell her and give Indrawati and Sujeet their share. When the victim found out they were going to sell her, then on February 14, 2023, while Amit was in the room and fell asleep in the afternoon, she took the opportunity at about 12:00 PM and left the room after taking his mobile and latched the door from outside.

After going some distance, she called her father's mobile from that same phone. Later, her brother-in-law called. She also called the police from there, but did not receive a clear response. A ragpicker standing nearby heard her conversation and insisted on helping her. After this, the

ragpicker spoke to her father and brother-in-law. Her father told the ragpicker to help the appellant/victim board on a tempo going toward Sector 22. The ragpicker helped her onto the tempo. Upon reaching there, her brother-in-law told her that a friend of her brother, Ketan Kumar, was arriving and that she should go with him. After that when she went her brother's friend's house, her brother Ketan Kumar, who lives in Bangalore, arrived in Chandigarh by plane at about 1:00 AM and left for home with her on the morning of February 15, 2023.

After reaching home, the victim's health deteriorated significantly. Local doctors treated her, but when she didn't recover, her family took her to Atraulia Government Hospital for treatment. Upon recovering, she went to the police station to get the FIR lodged.

4. After lodging of the F.I.R. the Investigating Officer (hereinafter referred to as IO) conducted the investigation, visited the place of occurrence and prepared the site plan, recorded the statement of witnesses and got the victim medically examined and after concluding the investigation submitted a chargesheet against the accused, Amit Shahani, under Sections 342, 366, 376, and 506 of the IPC.

5. After furnishing the necessary documents under Section 207 of the CrPC, the case was committed to the Court of Session from where it was made over to Additional Session Judge, F.T.C. First, Ambedkar Nagar for trial. On 19.08.2023, charges were framed against the accused Amit Shahani under Sections 366, 342, 376, and 506 of the IPC which the accused denied and pleaded for a trial.

6. In order to prove its case, the prosecution adduced ocular evidence of Prosecution Witness (PW) 1 - Victim, PW 2 - Sikandar, PW 3 - Sati Prasad, PW 4 - Dr. Sarita Prasad, PW 5 - Vindresh Kumar, PW 6 - Arvind Kumar Singh, PW 7 - Sant Kumar Singh, PW 8 - Ashok Kumar Singh, PW 9 - Dr. P.N. Yadav, and PW 10 - Surendra Bahadur and also proved documentary evidence: Complaint (Ex. Ka-1), Certificate issued by Smt. Kalpa Devi Adarsh Inter College (Ex. Ka-2), Statement of the

victim under Section 164 CrPC (Ex. Ka-3), Affidavit paper no. 6A/46 to 6A/47 (Ex. Ka-3), Medical report of the victim (Ex. Ka-4), Affidavit paper no. 6A/53 (Ex. Ka-5), Check FIR (Ex. Ka-6), G.D. Entry (Ex. Ka-7), Charge sheet (Ex. Ka-8), Site map (Ex. Ka-9), X-ray report (Ex. Ka-10), and Age certificate (Ex. Ka-10).

7. After closing the evidence of prosecution, statement of accused person under Section 313 of the CrPC was recorded. Accused person denied all the evidence and attending circumstances, that arose during the testimony of witnesses. At the state of defence, a photocopy of the order dated 06.02.2023 from the High Court of Punjab and Haryana in CRWP-1139/2023 (Upasana & Ors. vs. State of Punjab & Ors.), and eight photographs were submitted. Since the marriage certificate and the High Court order were photocopies, they were considered inadmissible in evidence and the photographs had also not been proved as evidence.

8. After hearing and on perusal of the record, learned trial court observed that testimony of the victim is not of a sterling quality. There is material contradiction in the statement of the victim and other witnesses of fact, which is not in consonance with the medical evidence.

9. Prosecution miserably failed to establish its case beyond reasonable doubt, consequently, learned trial Court acquitted the accused-respondent No.2 for charges leveled against him, vide the impugned judgment dated 26.03.2026

10. Being aggrieved and dissatisfied with the impugned judgment and order, the petitioner-victim has preferred this criminal appeal on the ground that learned trial court did not consider the facts and circumstances and evidence of the victim in right perspective. There is no material contradictions and discrepancies in the prosecution witnesses despite of the fact, learned trial court failed to appreciate the testimony of the witnesses. The victim had lodged FIR on the basis of true facts and independent witnesses have been produced in support of the prosecution version. The case was registered against eight accused persons while the IO has filed charge-sheet against only one accused

Amit Shahani. By way of adducing the evidence, prosecution has established the charge leveled against the accused/respondent thus the finding with regard to the acquittal is perverse, which is liable to be set aside and present appeal is liable to be allowed.

11. The question for determination before us is whether the trial court erred in acquitting the accused person under the above mentioned sections.

12. Before delving into facts of the present case we may delve into the law laid down in this regard. The Hon'ble Apex Court in the case of **Radhu v. State of M.P., (2007) 12 SCC 57** has observed that:-

“6. It is now well settled that a finding of guilt in a case of rape, can be based on the uncorroborated evidence of the prosecutrix. The very nature of offence makes it difficult to get direct corroborating evidence. The evidence of the prosecutrix should not be rejected on the basis of minor discrepancies and contradictions. If the victim of rape states on oath that she was forcibly subjected to sexual intercourse, her statement will normally be accepted, even if it is uncorroborated, unless the material on record requires drawing of an inference that there was consent or that the entire incident was improbable or imaginary. Even if there is consent, the act will still be a “rape”, if the girl is under 16 years of age. It is also well settled that absence of injuries on the private parts of the victim will not by itself falsify the case of rape, nor construed as evidence of consent. Similarly, the opinion of a doctor that there was no evidence of any sexual intercourse or rape, may not be sufficient to disbelieve the accusation of rape by the victim. Bruises, abrasions and scratches on the victim especially on the forearms, wrists, face, breast, thighs and back are indicative of struggle and will support the allegation of sexual assault. The courts should, at the same time, bear in mind that false charges of rape are not uncommon. There have also been rare instances where a parent has persuaded a gullible or obedient daughter to make a false charge of a rape either to take revenge or extort money or to get rid of financial liability. Whether there was rape or not would depend ultimately on the facts and circumstances of each case.”

13. The prosecution has examined three witnesses with regard to establishing the facts of the case, one of them Sikandar who was examined as PW-2 and in his testimony he deposed that on 23.1.2023 when the incident happened, a missing report was lodged and endeavor to trace the victim continued. On 14.02.2023, the victim made a call on phone to someone telling him that accused Amit Shahani forcibly took her to Chandigarh Kaithal and then younger brother of the witness Sikander went there and brought her on 15.02.2023. Thereafter second set of incident had occurred and the victim was again taken away by the accused along with the co-accused forcibly, where accused respondent Amit Shahani committed rape on her.

14. On his cross-examination this witness specifically stated that at the time of incident he remained present at Puna and his father had told him the whole prosecution story. He also admitted that he did not see the incident through his naked eye, whatever he has deposed was based on the information given by his victim sister. Thus the testimony of this witness reveals that he is not an eye-witness. His statement is based on the information given by his victim sister, thus his testimony is hearsay, which does not have testimonial value in the eyes of law.

15. Other witness of the fact who is Sati Prasad, examined as PW-3 also resiled from his statement given to the IO and has stated that he had heard that the victim had gone on her own accord. Thus this witness also did not support the prosecution case. Now the testimony of the victim remains, who is the star witness of the case and her testimony is on higher pedestal other than prosecution witnesses because she is the sufferer of the case.

16. In this regard the Hon'ble Supreme in the case of **Raju v. State of M.P., (2008) 15 SCC 133** has observed as under:

“10. The aforesaid judgments lay down the basic principle that ordinarily the evidence of a prosecutrix should not be suspected and should be believed, more so as her statement has to be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the

aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the court.

11. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also be protected against the possibility of false implication, particularly where a large number of accused are involved. It must, further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration.

12. Reference has been made in Gurmit Singh case [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] to the amendments in 1983 to Sections 375 and 376 of the Penal Code making the penal provisions relating to rape more stringent, and also to Section 114-A of the Evidence Act with respect to a presumption to be raised with regard to allegations of consensual sex in a case of alleged rape. It is however significant that Sections 113-A and 113-B too were inserted in the Evidence Act by the same amendment by which certain presumptions in cases of abetment of suicide and dowry death have been raised against the accused. These two sections, thus, raise a clear presumption in favour of the prosecution but no similar presumption with respect to rape is visualised as the presumption under Section 114-A is extremely restricted in its applicability. This clearly shows that insofar as allegations of rape are concerned, the evidence of a prosecutrix must be examined as that of an injured witness whose presence at the spot is probable but it can never be presumed that her statement should, without exception, be taken as the gospel truth. Additionally, her statement can, at best, be adjudged on the principle that ordinarily no injured witness would tell a lie or implicate a person falsely. We believe that it is under these principles that this case, and others such as this one, need to be examined.”

17. The whole prosecution case rests on the testimony of star witness, the victim, PW-1, who deposed that on 23.01.2023, she was sitting alone in her house, then her neighbour, Indravati, called her through her son, and when she reached there, then aunt of the accused, Amit Shahani, namely Suman, asked the victim to go to the forest with them because her stomach was upset. When they reached on the spot, then accused, Amit Shahani and Sujeet Kumar, along with two other miscreants, arrived there by a vehicle Bolero. Sujeet was having a pistol in his hand, who on the pointing of pistol, asked the victim to accompany him. Thereafter, Sujeet and Amit took her to Akbarpur railway station and thereafter they boarded the train for Delhi. On 24/01/2023, upon reaching at Delhi, they started for Chandigarh by bus. At Chandigarh, they stayed in one room. She further stated that, at night, the accused, Amit, committed rape with her. On a subsequent day he further committed rape on her and on 31/01/2023, Amit forcibly took the victim's signature on a paper which was reduced in English. She further stated that on 10.02.2023, Vijay Kumar, who was the Fufa (uncle) of Amit, forcibly solemnized her marriage with Amit. She further stated that the accused person used to detain her in a room. On 14.02.2023 when accused Amit was sleeping, then victim came out from the room and after bolting the door from outside, she made a call to her father. She also stated that on the behest of her father, she went to Sector 22 where her brother's friend met her, who brought her to his home and then the victim's brother came and took her home.

Thus from her testimony given in examination-in-chief, it is clearly demonstrated that she left her home on 23.01.2023 and till 14.02.2023, she resided with the accused Amit. During this period, she started her journey by Bolero Car from her home to Railway Station, thereafter by train she went to Delhi and then by bus to Chandigarh, where they resided for a considerable period, but at no point of time she raised any alarm to attract the attention of the public; she did not utter any single word. This was not a case of the prosecution that at the railway station no public was present. This is also not a case of the

prosecution when the victim was brought to Chandigarh. It is also evident from her evidence that till 14.02.2023, she did not make any endeavor to escape or to inform anyone where she was detained or made any effort to attract the attention of any residents who were residing nearby.

18. It is also expedient to mention here that in her statement recorded under Section 164 of the CrPC, she did not disclose this fact that she raised any alarm to attract the attention of the public when she was being carried away by the accused. For the first time, during the course of cross-examination, she had stated that when she was being taken by the accused, and on the way, she was making hue and cry, but at the same time, she admitted that at the railway station, she did not raise any alarm, and she did not make an effort to seek help from the public. She also stated in her cross-examination that during the journey from Delhi to Chandigarh, they took halt at “a dhaba” where they refreshed, but she neither screamed nor made cry for help. She further stated that the accused, Amit Shahani, has established physical relations with her six to seven times.

19. Learned trial court observed that the victim was 19 years old, in this regard, Dr. P. N. Yadav, PW-9, deposed that in X-ray examination epiphyses of the right wrist of the victim was fused, on that basis, the victim's age was determined 17 to 18 years, but at the same time, it is also admitted that there may be difference of two years in determination of the age, therefore, if we consider difference of two years in the age of the victim, which is determined by the CMO, then it may be more than 18 years, meaning thereby that the victim was not minor at the time of the alleged incident. Her conduct also shows that the accused was no stranger, since she had left her home at about 3 o'clock on the calling of her neighbour, who accompanied her and took her to the forest, where accused met her and there after, he took her by a vehicle Bolero and thereafter they left for Delhi by train and then for Chandigarh by bus, where they stayed for a considerable period. It shows that accused was known to her for a long time and there was affair between them,

otherwise, merely on being called by her neighbour, she would not have left her home without informing her parents.

20. As elucidated earlier that in respect of making hue and cry, there are major contradictions in the victim's testimony. Although it is absolutely true that in the case of rape, conviction can be based on the sole testimony of the prosecutrix, as her evidence is in the nature of an injured witness, which is attributed a very high value to it by the courts, but nevertheless, when a person can be convicted on the testimony of single witness, the courts are bound to be very careful in examining such a witness and thus the testimony of such a witness must inspire confidence of the court. The testimony of the prosecutrix in the present case has however failed to inspire absolute confidence. Here it is also notable that the victim got medically examined by Dr. Sarita Prasad PW-4 who has deposed that no external injury was found on the private part or person of the injured, hymen was ruptured and healed. The Investigating Officer Sant Kumar Singh PW-7 has also admitted that in medical examination allegation regarding commission of rape was not corroborated, despite of the fact, he added Section 376 of IPC. It is true that injury is not *sine qua non* for deciding whether rape has been committed, but it has to be decided on the factual matrix of each case. As Hon'ble Apex Court has observed in many of the cases that if there is sole testimony of the prosecutrix, then it should be of a sterling quality. While considering the evidentiary value of testimony of the prosecutrix Hon'ble Apex Court in the case of **Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21** has observed that:-

“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.”

21. On the anvil of the above principles when we test the version of the victim PW-1 then we find that unfortunately that the said witness has failed to pass any of the tests mentioned above. There is a total variation in her version from what was stated in the FIR and what was deposed before the court. There are material variations as regards the complexity of the accused person as well as the manner in which occurrence took place. When we consider the testimony of the prosecutrix on its face value, we find the evidence to be defective.

22. It is not believable that when the prosecutrix was caught by the accused, who is known to the prosecutrix, she went with him quite a distance on the way and then reached the railway station, thereafter she went to Delhi and thereafter she went to Chandigarh by Bus, but she did

not make endeavour to raise alarm. The only reason she gave was that the other co-accused person had threatened her on gun point, but they were exonerated by the IO.

23. In any case, as already stated above the testimony of prosecutrix does not inspire confidence. Under these circumstances, we are not inclined to interfere with the well considered judgment of the trial court.

24. Further, learned counsel for the appellant could not point out any illegality or infirmity in the judgment and order of acquittal passed in favour of respondents which is before this Court.

25. Keeping in view the aforesaid weakness of the prosecution case, as noted by the court below, we are of the view that the view taken by the court below was a probable and logical view, which is based on valid reasons. The judgment of the trial court cannot be said to be illegal, illogical and improbable and not based on material on record or is based on erroneous views and is against the settled position of law.

26. Accordingly, the appeal is **dismissed**.

27. No order as to costs.

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)

May 21, 2026

Arvind