



AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 250 of 2024

Lacchan Panna @ Vijay Panna, S/o Munshi Panna, Aged About 45 Years,
R/o Gala, Police Station - Pathalgaon, District - Jashpur, Chhattisgarh.

---- **Appellant**
(In Jail)

Versus

State of Chhattisgarh Through - Police Station - Kotwali, District - Raigarh,
Chhattisgarh.

---- **Respondent**

(Cause-title taken from Case Information System)

For Appellant : Mr. Akhilesh Mishra, Advocate.
For Respondent/State : Mr. Pankaj Singh, Panel Lawyer.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Smt. Rajani Dubey, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

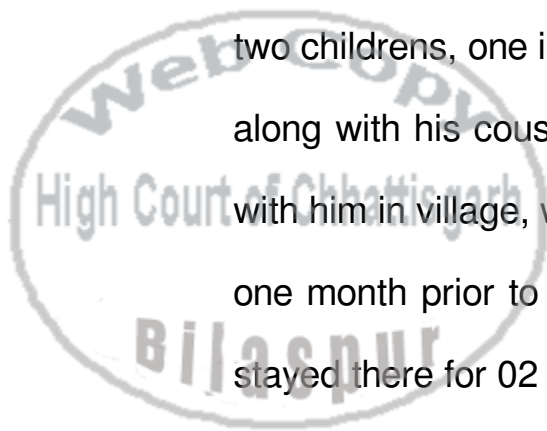
30.04.2024

1. Heard Mr. Akhilesh Mishra, learned counsel for the appellant. Also heard Mr. Pankaj Singh, learned Panel Lawyer, appearing for the respondent/State.
2. This criminal appeal is preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') is directed against the impugned judgment of conviction and order of sentence dated 07.10.2023, passed by the learned Fast Track Special Court, Raigarh (C.G.) in Special Trial No. 31 of 2019, by which the appellant has been convicted for the offences punishable under Section 363, 366 & 376(2)(n) of the Indian Penal



Code (IPC) and under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act') and sentenced to undergo rigorous imprisonment for 03 years and fine of Rs. 1000/-, in default of payment of fine additional rigorous imprisonment for 02 month, sentenced to undergo rigorous imprisonment for 05 years and fine of Rs.1000/-, in default of payment of fine additional rigorous imprisonment for 02 months, sentenced to undergo rigorous imprisonment for life and fine of Rs. 5000/-, in default of payment of fine additional rigorous imprisonment for 06 months (all sentences will run concurrently).

3. Case of the prosecution, in brief, is that father (PW-3) of the victim lodged an FIR (Ex.P/6) on 14.08.2017 at around 21.20 stating that he has two childrens, one is son and another is his daughter/victim; his son is living along with his cousin brother and is studying and the victim is living along with him in village, whose date of birth is 03.06.2005. It is further stated that one month prior to the date of FIR, he had gone to his in-laws house and stayed there for 02 days, thereafter, he took a bus from village Kudekela for his village, at that time he met an unknown person, who was around 40-50 years old and asked his name and address and the unknown person told his name as Vijay Minj and told that he is resident of village Dharjiya, Bathan, near Pathalgaon and that he used to drive the vehicle of PDS Rice and transport, the PDS rice to the nearby societies. It is further stated that 15 days prior to the date of FIR, Vijay Minj came to the house of the father of the victim and at that time, victim and her father were alone at home. The father of the victim served food to Vijay Minj where he asked the victim's father about his wife, then he told him that the mother of the victim passed away 5 to 6 years back, he felt sorry for that and asked him to get another women for marriage for victim's father and stayed there for night and left on





the second day. On 12.08.2021, at about 06:00 p.m. Vijay Minj again came to their house and told him that he convinced a women and told her about your daughter and that women wants to see your daughter. On the next morning, Vijay Minj had taken the victim's father and victim along with him to the Ludek bus stand, from there they have taken the Vasudev bus and reached Raigarh at about 1:30 p.m. Thereafter, Vijay Minj asked the victim's father to leave the victim in the waiting hall of the bus stand and they will take the vehicle from the employer of the Vijay Minj. Thereafter, he asked the victim's father to wait by the road side because if the employer will see him then he will not give his vehicle to them. From there, Vijay Minj left the victim's father and the father of the victim waited for Vijay Minj for half an hour, but when he was not returned, then the victim's father became worried about the victim and he anxiously ran towards the bus stand waiting hall where he left her daughter, but when the victim's father reached the bus stand waiting hall, her daughter was not present there and he searched for the victim all around, but did not find her. Thereafter, on suspecting that the man named Vijay Minj has kidnapped her daughter, he lodged the oral complaint before the Police Station City Kotwali, District Raigarh (C.G.) and on the basis of the complaint of the father of the victim FIR was lodged which was registered as Crime No. 470/2017 which is (Ex.P/6) under Section 363 of the IPC.

4. During investigation, the victim was recovered from District Hospital Anuppur (Madhya Pradesh). The victim told that the accused Lachhan Panna @ Vijay Minj @ Vijay Kujur kidnapped her and raped her and due to the rape by the accused, she started bleeding profusely, then the accused, took her to the District Hospital showing her as his daughter, for treatment. The accused is absconding since 26.08.2017 after being admitted the



victim to the District Hospital in Anuppur (Madhya Pradesh). During the investigation, the statements of the victim and other witnesses were recorded, the spot map of the incident site was prepared, Ex.P/9, and the memo (Ex.P/17) was sent to the Headmaster regarding obtaining the admission-discharge register related to the age of the victim. Ex.P/18C, a verified copy of the filed discharge register related to the age of the victim, was taken on record. During the investigation, the victim was consulted by a female Doctor and the seized slides were sent to the Regional Forensic Laboratory, Bilaspur for testing. Due to absconding of the accused, after the entire investigation, charge-sheet was filed under section 299 of the IPC and Sections 363, 365, 366A, 368, 376 of the IPC and Sections 4 & 6 of the POCSO Act before the learned trial Court on 25.07.2019.

5. On 01.10.2019, a permanent arrest warrant was issued against accused Lachhan Panna @ Vijay Panna. On 22.06.2021, the trial proceedings were started and when the accused Lachhan Panna @ Vijay Panna was arrested and presented in execution of the permanent arrest warrant.

6. Statement of the victim was recorded under Section 164 of the Cr.P.C. Medical examination of victim was got done by Dr. Alka Tiwari (PW-10) vide Ex.P/20, in which she has stated that injury was found on the private part of the victim. After usual investigation, charge-sheet was filed against the accused before the learned Fast Track Special Court, Raigarh (C.G.), who conducted the trial.

7. Learned trial Court framed charges under Sections 363, 365, 366(a), 368, 376(2)(n) of the IPC and Section 6 of the POCSO Act; read over and explained to the accused, who abjured his guilt.



8. In order to bring home the offence, the prosecution examined following witnesses :-

1. PW-1 Statement of victim
2. PW-2 Statement of brother of the victim
3. PW-3 Statement of father of the victim
4. PW-4 Statement of Shri R.K. Mishra
5. PW-5 Statement of Kusum Kaiwart
6. PW-6 Statement of cousin brother of the victim
7. PW-7 Statement of Headmaster
8. PW-8 Statement of cousin brother of the victim
9. PW-9 Statement of Neha Lakda
10. PW-10 Statement of Dr. Alka Tiwari

9. Besides aforesaid ocular evidence, prosecution also exhibited following documents :-

- 1 Ex.P/1 Consent letter of victim
- 2 Ex.P/2 Recovery Panchnama
- 3 Ex.P/3 Dying declaration of victim
- 4 Ex.P/4 Statement of victim under Section 164 of the Cr.P.C.
- 5 Ex.P/5 Supurdnama Receipt
- 6 Ex.P/6 First Information Report
- 7 Ex.P/7 Memo to CWC for counselling of the victim
- 8 Ex.P/8 Memo to JMFC requesting to record the statement of victim under Section 164 of the Cr.P.C.
- 9 Ex.P/9 Crime Details Form
- 10 Ex.P/10 Memo to FSL for chemical examination of seized articles
- 11 Ex.P/11 Receipt of exhibits
- 12 Ex.P/12 FSL report
- 13 Ex.P/13 Memo seeking condition of the victim
- 14 Ex.P/14 Memo requesting to record the dying declaration of the victim
- 15 Ex.P/15 Property Seizure Memo



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| 16 | Ex.P/16 | Memo for providing of bed head ticket of victim |
| 17 | Ex.P/17 | Memo to Headmaster for providing of admission-discharge register |
| 18 | Ex.P/18C | Copy of admission – discharge register |
| 19 | Ex.P/19 | Intimation to SHO about patient bring in critical condition |
| 20 | Ex.P/20 | Application for medical examination of victim & examination report |
| 21 | Ex.P/21 | OPD Slip & treatment sheets of victim |

10. Statement of accused was recorded under Section 313 of the Cr.P.C. in which he denied all the circumstances appearing against him and stated that he is innocent and has been falsely implicated. The defence has neither examined any witness nor has exhibited any document.

11. The trial Court upon appreciation of oral and documentary evidence on record and considering that it is the appellant who has committed aforesaid offence, convicted and sentenced him in the aforementioned manner, against which the appeal under Section 374(2) of the Cr.P.C. has been preferred by the appellant.

12. It has been argued by the learned counsel for the accused/appellant that as per case of the prosecution, victim was minor on the date of incident, but this fact has not been proved by adducing lawful evidence. In this regard, only Dakhil-Kharij register (Ex.P/18C) of the victim has been seized, which shows that date of birth of victim is 03.06.2005, but it has not been proved by any of the witnesses that, on what basis aforesaid date of birth was recorded in the school. It is further submitted that since prosecution has failed to prove by adducing cogent evidence that, on the date of incident, victim was minor, hence the finding recorded by learned trial Court in this regard is not sustainable. He further submitted that the age of the victim has



not been proved, that at the time of incident whether she was a minor through School Register. The learned trial Court had not considered the whole evidence in its totality and only appreciated the evidence of victim (PW-1).

13. On the other hand, learned State Counsel opposed the submissions of learned counsel for the appellant and submitted that the offences committed by the appellant were heinous in nature and thus, the trial court had rightly convicted him. He submitted that the trial Court had considered all the arguments made by the appellant and there was sufficient evidence to prove his guilt beyond a reasonable doubt. Moreover, the victim was minor and below 18 years of age at the time of incident which is proved by the school admission and discharge register Ex.P/18C which contains the date of birth of the victim as 03.06.2005. The evidence of the victim need not be required for any corroboration and on the sole testimony of the victim the conviction can be made. Therefore, there is no illegality or infirmity in the findings of the learned trial Court and the impugned judgment of conviction and order of sentence needs no interference.

14. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the learned trial Court with utmost circumspection and carefully as well.

15. In the instant case conviction of the accused/appellant is substantially based on the testimony of the victim (PW-1), father of the victim (PW-3), Dhakhil Kharij Register (Ex.P/18C), FSL report (Ex.P/12) and MLC report (Ex.P/20).

16. As per case of the prosecution, the date of birth of the victim is



03.06.2005 on this basis, on the date of incident *i.e.* 13.08.2017, the age of the victim was 12 years 02 months and 10 days. To substantiate this fact, prosecution has adduced Dhakhil Kharij Register of Government Primary School, Rafailpara (Bandhanpur), District Jashpur (C.G.) (Ex.P/18C), which has been proved by the Head Master (PW-7) of the said school. This witness has clearly deposed in his deposition that in the Dhakhil Kharij Register information with regard to victim has been noted in Admission No.129 and she was admitted in Class 6th on 02.04.2016. He has also stated that as per this Register, the date of birth of victim is 03.06.2005. Although, he has admitted that in support of alleged date of birth of victim, no any document was filed.

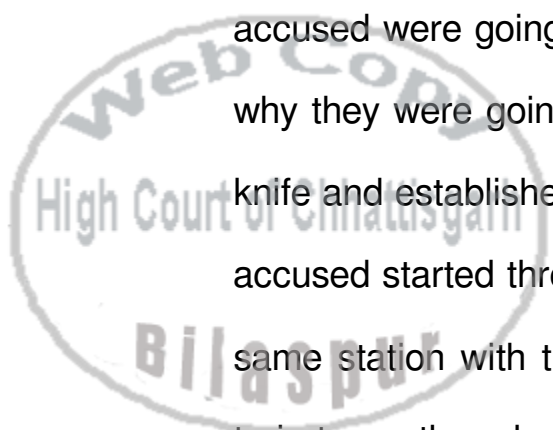
17. The date of birth of the victim was recorded as 03.06.2005 in the Dhakhil Kharij Register prior to 10 year of the present incident on the basis of which victim was found to be aged about 12 years 02 months and 10 days on the date of incident. The appellant did not adduce any evidence to discard aforesaid age of the victim.

18. Thus, on the basis of aforesaid oral and documentary evidence, we find that the learned trial Court has rightly held in paragraph 22 of the impugned judgment that on the date of incident the victim was child *i.e.* below the age of 18 years.

19. So far as with regard to allegation of rape committed by the appellant with the victim is concerned, PW-1, who is victim of the case, in her examination-in-chief has stated that she recognize the accused Lacchhan Panna @ Vijay. Her date of birth is 03.06.2005 and she was studying in class 11th and was admitted to class 1 by her father. She further states that about 4-5 years ago, when she was studying in 6th class, her father came home with the accused. Her mother is no more. The accused had come to



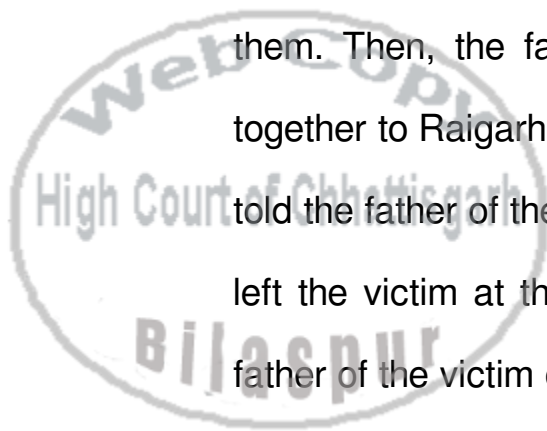
her house in connection with her father's second marriage. After that, she along with her father and the accused had gone to Raigarh by bus. After they reached the bus stand, the accused told her to sit there and they will bring the car. After some time, accused came to the victim and told her that your father had gone in another car and he will take the victim in his car. After this, the victim sat in the auto with the accused and went to the railway station. After this, the victim boarded the train with the accused. It was 06.00 p.m. in the evening when they boarded the train. Due to the darkness of the night, she could not read the name of the station where they got down. After that, the accused told the victim that girl's house is at a short distance and they will go by walk. After this, when both the victim and the accused were going through the forest road, the victim asked the accused why they were going through the forest path, then the accused took out a knife and established physical relations with the victim in the forest and the accused started threatening the victim. After this, the victim returned to the same station with the accused. After that the accused took the victim by train to another place and she does not know the name of that place. The victim and the accused had reached at 08.00 p.m. in the night. The accused and the victim slept in the same station at night. In the morning, the accused again took the victim to the forest and again established physical relations with the victim. For about a month, the accused took the victim to different places and had physical relations with the victim about 7-8 times. After this, the accused took the victim in a train to Anuppur (M.P.). When the victim reached Anuppur, she fainted at the station due to hunger and severe pain in her genitals. After this, the accused called the hospital staff and took the victim to the hospital. The victim regained consciousness after a long time after being taken to the hospital. After regaining consciousness, the Doctors and nurses of the hospital asked the victim about her details and that is the





person who brought you is your father. Upon which, the victim told that the accused is not her father. The victim told the Doctor that the accused had allured and made her to elope with him. After this, the hospital staff called the Police. The accused ran away from there after hearing the name of the Police.

20. PW-3, father of the victim, has stated in examination that the victim was studying in class 7th at the time of the incident. His wife has already died. The accused came to his house and told him that he will arrange a lady for his second marriage and asked him to go to Raigarh. At that time the victim was also in the house. The accused told the victim that how will your father's second wife come alone, you should also come along with them. Then, the father of the victim, victim and the accused had gone together to Raigarh by bus. When they reached the bus stand, the accused told the father of the victim that we will go and bring the employer's car and left the victim at the waiting hall of the bus stand. The accused took the father of the victim one kilometer away from the bus stand and the accused told the father of victim to sit there by saying that he will bring the car and he entered into a house and went away from there. The father of the victim stayed there for ten minutes and thereafter, in the rickshaw he came back to the bus stand, but the victim was not there at the bus stand. When the father of the victim could not find the victim, he searched for the address of the victim nearby and when she was not found, he went to the Police Station of Raigarh and informed about the missing of the victim. After 8-9 days of the complaint, the Police told that the victim was found in Anuppur (M.P.), then the brother of the victim along with the Police went to Anuppur (M.P.) and brought the victim home from there. During interrogation, the victim told that the accused had taken her and raped her.





21. Dr. Alka Tiwari (PW-10), the medical officer who has examined the victim, has deposed that on 26.08.2017, the victim was brought before her to the District Hospital for treatment in a critical condition after vaginal bleeding, the Police information of which she had sent on 26.08.2017 at 10.06 minutes, which is Ex.P/19. The condition of the victim was critical, pulse 100 per minute, B.P. 90/70, the victim's body appeared extremely pale and she was reported to be bleeding from her vagina since morning. The internal examination was done by her at 11.45 minutes after giving anesthesia to the victim. On examination, she found that her vagina was full of blood clots. There was a freshly torn wound on the right side vaginal wall and posterior vaginal wall which was bleeding, the size of which was 3 x 3 cm, which was properly stitched by her. During the said procedure, 1 unit of blood was given to the victim by her and the necessary treatment was given. She had prepared two slides from her vaginal discharge, sealed them and handed them over to GRP Police Anuppur and advised to get X-ray done of her right knee, right elbow and wrist to determine the age of the victim. According to her opinion, there is a possibility of immediate sexual assault on the victim which happened within 6 to 24 hours, however, the final opinion can be given only after the report of Astro Pathology. The test report given by her is Ex.P/20.

22. In view of above discussion, we also affirm the finding recorded by the trial Court that the appellant is the perpetrator of instant crime.

23. During course of submission learned counsel for the appellant raised objection that except victim, there is no credible evidence in support of her statement, even deposition of her father is based on information given by victim, therefore, only on the basis of deposition of victim holding the appellant guilty by the learned trial Court is not sustainable.

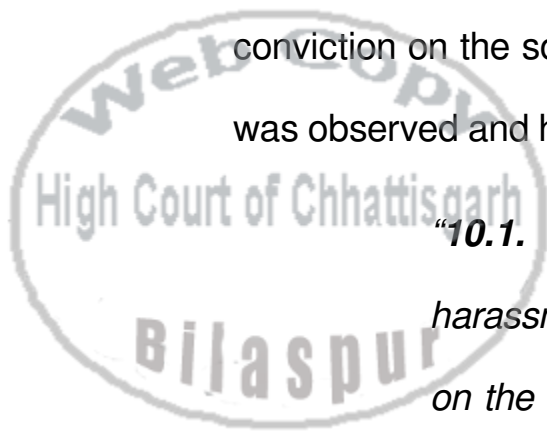


24. We are not inclined to agree with the submission made by learned counsel for the appellant as it is settled proposition of law that conviction of the accused could be based on sole testimony, without corroboration and it has also been held that the sole testimony of victim should not be doubted by the Court merely based on assumptions and surmises.

25. In the case of **Ganesan vs. State**, reported in **(2020) 10 SCC 573**, the Hon'ble Supreme Court observed and held that there can be a conviction on the sole testimony of the victim/prosecutrix when the deposition of the victim is found to be trustworthy, unblemished, credible and her evidence is of sterling quality. In the aforesaid case, the Hon'ble Supreme Court had an occasion to consider the series of judgments on conviction on the sole evidence of the victim. In paragraphs 10.1 to 10.3, it was observed and held as under:

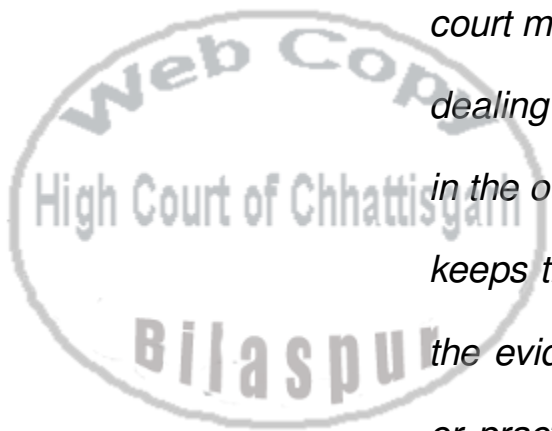
*"10.1. Whether, in the case involving sexual harassment, molestation, etc., can there be conviction on the sole evidence of the prosecutrix, in **Vijay [Vijay vs. State of M.P., (2010) 8 SCC 191]**, it is observed in paras 9 to 14 as under: (SCC pp. 195-98)*

*"9. In **State of Maharashtra vs. Chandraprakash Kewalchand Jain [State of Maharashtra vs. Chandraprakash Kewalchand Jain, reported in (1990) 1 SCC 550]** this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Court observed as under: (SCC p. 559, para 16)*





'16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is





shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence.'

10. In **State of U.P. vs. Pappu [State of U.P. vs. Pappu, reported in (2005) 3 SCC 594]** this Court held that even in a case where it is shown that the girl is a girl of easy virtue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This Court further held that there can be conviction on the sole testimony of the prosecutrix and in case, the court is not satisfied with the version of the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony. The Court held as under: (SCC p. 597, para 12)

'12. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars. She stands at a





higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. However, if the court of facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration as understood in the context of an accomplice, would do.'

11. In State of Punjab vs. Gurmit Singh [State of Punjab vs. Gurmit Singh, reported in (1996) 2 SCC

384], this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit





thereof. The Court observed as under: (SCC pp. 394-96 & 403, paras 8 & 21)

'8. ...The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix.

...The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. ...Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. ...Corroboration as a





condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. ...

21. ...The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.'

12. In **State of Orissa vs. Thakara Besra** [**State of Orissa vs. Thakara Besra**, reported in (2002) 9 SCC 86], this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the





background of the entire case and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In **State of H.P. vs. Raghbir Singh [State of H.P. vs. Raghbir Singh, reported in (1993) 2 SCC 622]**, this Court held that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. A similar view has been reiterated by this Court in **Wahid Khan vs. State of M.P. [Wahid Khan vs. State of M.P., reported in (2010) 2 SCC 9]** placing reliance on an earlier judgment in **Rameshwar vs. State of Rajasthan [Rameshwar vs. State of Rajasthan, reported in AIR 1952 SC 54]**.

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix.”

10.2. In Krishan Kumar Malik vs. State of Haryana





[Krishan Kumar Malik vs. State of Haryana, reported in (2011) 7 SCC 130], it is observed and held by this Court 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.

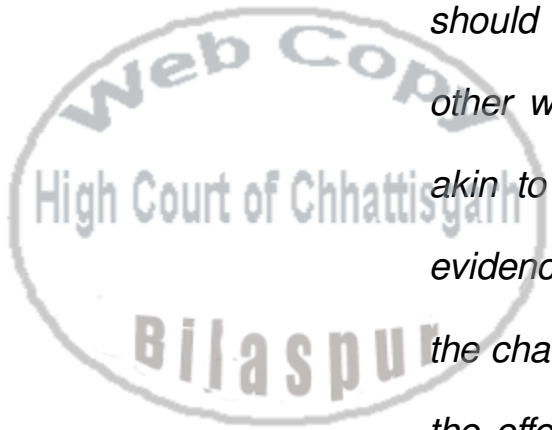
10.3. *Who can be said to be a “sterling witness”, has been dealt with and considered by this Court in **Rai Sandeep vs. State (NCT of Delhi) [Rai Sandeep vs. State (NCT of Delhi), reported in (2012) 8 SCC 21]. In para 22, it is observed and held as under: (SCC p. 29)***

“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 correlation 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

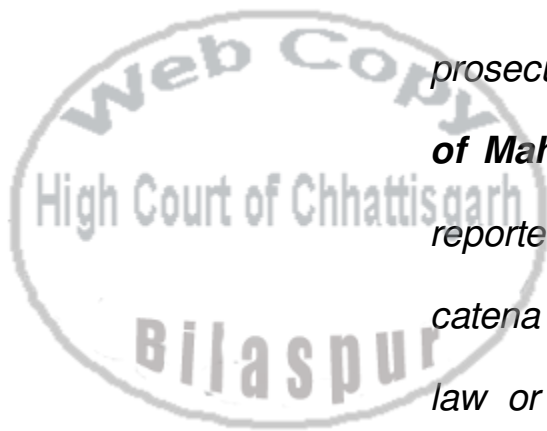




version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”

26. In the case of **State (NCT of Delhi) vs. Pankaj Chaudhary**, reported in **(2019) 11 SCC 575**, it was observed and held that as a general rule, if credible, conviction of accused can be based on sole testimony, without corroboration. It was further observed and held that sole testimony of prosecutrix should not be doubted by court merely on basis of assumptions and surmises. In paragraph 29, it was observed and held as under:

“29. It is now well-settled principle of law that conviction can be sustained on the sole testimony of the prosecutrix if it inspires confidence. [Vishnu vs. State of Maharashtra [Vishnu vs. State of Maharashtra, reported in (2006) 1 SCC 283]. It is well-settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the “probabilities factor” does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming. [State of Rajasthan vs. N.K. [State of Rajasthan vs. N.K., reported in (2000) 5 SCC 30].”





27. In the case of ***Sham Singh vs. State of Haryana***, reported in (2018) **18 SCC 34**, the Supreme Court observed that testimony of the victim is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. It was further observed that seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. In paragraphs 6 and 7, it was observed and held as under:

*“6. We are conscious that the courts shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If the evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations or sexual assaults. [See *State of Punjab vs. Gurmit Singh* [**State of Punjab vs. Gurmit Singh**, reported in (1996) 2 SCC 384] (SCC p. 403, para 21).]*

7. It is also by now well settled that the courts must, while evaluating evidence, remain alive to the fact that





*in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. (See **Ranjit Hazarika vs. State of Assam [Ranjit Hazarika vs. State of Assam, reported in (1998) 8 SCC 635]**.)”*

28. Reverting to the facts of the present case, in the light of the principles of law laid down by their Lordships of the Supreme Court in the above-stated judgments (supra) and also considering the aforesaid facts and circumstances of the case, particularly the evidences of the victim (PW-1), statement of her father (PW-3), Dhakhil Kharij Register (Ex.P/18C), statement of Dr. Alka Tiwari (PW-10), the medical officer who has examined the victim and MLC report (Ex.P/20) and FSL report (Ex.P/12) of the victim, which are also positive and further, considering the statement of the victim recorded under Section 164 of the Cr.P.C., we are of the considered opinion that it is the appellant who has taken the victim from the lawful guardianship



of her father and committed sexual intercourse with her without her consent knowing well that the victim is a minor girl aged about 12 years 02 months and 10 days. Thus, this Court is of the considered opinion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the trial Court is hereby upheld. The present appeal lacks merit and is accordingly **dismissed**.

29. The appellant is stated to be in jail since 22.06.2021 being the date of arrest. He is directed to serve out the sentence as awarded to him by the learned trial Court.

30. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-
(Rajani Dubey)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice