

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B) No. 455 of 2018

(Against the judgement of conviction and the order of sentence both dated 26.02.2018 passed by the learned Principal Sessions Judge, Pakur, in Sessions Trial No. 74 of 2014)

Satrughan Lohar, aged about 30 years, son of Ramchandra Lohar, Resident of Mouza-Durgapur, P.O and P.S-Pakuria, District-Pakur

..... **Appellant**

Versus

The State of Jharkhand

..... **Respondent**

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

For the Appellant : Md. Zaid Ahmad, Advocate

Mr. Aman Ali, Advocate

For the State : Mrs. Nehala Sharmin, APP

C.A.V On 11.09.2026

Pronounced on 14/10/2026

Per Sujit Narayan Prasad, J.

1. The instant criminal appeal under section 374(2) of the Code of Criminal Procedure, 1973 is directed against the judgment of conviction and the order of sentence both dated 26.02.2018 passed by the learned Principal Sessions Judge, Pakur in S.T. No. 74 of 2014, whereby and whereunder the appellant, above-named, has been convicted under section 376(1) of the Indian Penal Code and sentenced to undergo R.I. for 10 years with a fine amount of Rs.25,000/- for the said offence and in default of payment of fine amount, further R.I. for two years was imposed.

Factual Matrix

2. The prosecution story, in brief, on the basis of the complaint case being PCR Case No.303/2014, in which the complainant/victim (PW-4) had stated that she is a minor Paharia girl and accused/appellant Satrughan Lohar is

by caste a Lohar who lives at Durgapur adjacent to the village of the complainant. She has further stated that she used to go to *hatia* market and returned home. For the last about 2 to 3 years, the accused kept on watching the complainant and talked with her whenever she visited *hatia*. In this way giving false enticement he used to meet her and on 05.03.2013, it was Tuesday, when she had gone to Patpahari *hatia*, then, giving assurance of marriage, he took her to his house and established physical relation with her for one year. She repeatedly pressurized the accused to perform marriage with her and then on 01.06.2014 with the help of kith and kin, he took the thumb impression of the complainant on a plane paper and driven her away from his house.

3. Complainant/victim, further stated in her complaint that the accused taking benefit of simplicity of the victim and giving false enticement of marriage deliberately kept ravishing her and committed the offence u/s 376 of the IPC. Before filing of the complaint petition, she had gone to the police station with her father but the officer-in-charge did not pay heed the complaint's grievance and told her to file a case in the court.

4. The complaint petition was sent by the J.M. 1st class, Pakur to the police station for filing an F.I.R. and investigation U/s 156 (3) Cr.P.C.

5. On the basis of complaint petition an F.I.R. being Pakuria P.S. Case No. 32/2014 dated 15.06.2014, was registered under section 376 of the IPC against the accused Satrugan Lohar and after investigation, the police submitted charge-sheet against the accused under sections 493, 376 of the I.P.C. Cognizance of the offence was taken and the case was committed to the court of sessions for trial and disposal.

6. Charges were framed against the accused/appellant person under Sections 493 and 376 of the IPC to which the pleaded not guilty and claimed to

be tried. Trial commenced and the statements of the accused was recorded under Section 313 of Cr.P.C.

7. At the conclusion of trial, the accused/appellant, namely, Satrugan Lohar was convicted and sentenced as aforesaid by the learned trial Court.

8. The aforesaid order of conviction and sentence is under challenge in this appeal.

Submission of the learned counsel for the appellant:

9. Learned counsel appearing for the appellant has taken the following grounds for interfering with the finding recorded by the learned trial Court in the impugned judgment:

(i) The prosecution has miserably failed to establish the charge said to be proved beyond all reasonable doubt.

(ii) It has been contended that the conduct of the complainant/victim is highly unnatural and improbable and there is no justified reason as to why the victim/complainant did not raise any objection while living with the accused person in his house and later on she has lodged a complaint case against the appellant with ulterior motive which makes the entire case of prosecution suspicious.

(iii) It has been contended that the complainant herself has admitted that she was living with the appellant in his house for one year and three months but concealed the fact that the appellant and the victim was living together as husband and wife and after getting divorce as per Santhali custom she with an ulterior motive has falsely implicated the appellant in false case of rape which is not justified at all.

(iv) It has been contended that in the Aadhar Card and Voter Card of the victim/complainant the name of the appellant, i.e., Satrugan Lohar

is mentioned as the husband of the victim and, as such, it is not a case under sections 493/376 of the I.P.C. rather it is a matrimonial dispute and on that basis the conviction and sentence of the appellant cannot be said to be legal and justified.

(v) The learned trial Court has failed to appreciate that it is a case of love affair and thereafter the appellant and the complainant/victim had agreed to reside together as husband and wife and established physical relationship. This fact has also been supported by the witnesses before the Investigating Officer and it has come in the case-diary also, but the said fact has not been taken into consideration by the learned trial Court and, hence, conviction and sentence of the appellant is bad in law.

(vi) It has been contended that the complainant/victim herself did not want to live with the appellant due to dispute arose between them and the divorce was done as per custom of Santhali customs in presence of *Panches*, but the learned trial Court has failed to take into consideration the aforesaid fact.

(vii) It has been contended that the doctor (PW6) has opined that spermatozoa not seen, however, it was opined that the hymen was torn (old tear), so it may be case of sexual intercourse., but the learned trial Court has erred in convicting and sentencing the appellant under sections 493/376 of the I.P.C. as it has come on record that the appellant and the victim/complainant were residing together as husband and wife for a long time.

10. The learned counsel for the appellant, based upon the aforesaid grounds, has submitted that the impugned judgment of conviction passed by

the learned trial Court convicting the appellant under section 376(1) of the I.P.C., therefore, is not sustainable in eyes of law and fit to be set aside.

Submission of the learned counsel for the State:

11. On the contrary, the learned APP appearing for the State has defended the impugned judgment of conviction and order of sentence by taking the following grounds:

(i) The conviction under section 376(1) of the I.P.C. against the present appellant does not suffer from an error, since, ample evidence has been produced by the prosecution.

(ii) It has been contended that the informant P.W.-4 has supported the prosecution story as she is the victim herself and her statement has been supported by medical evidence as well as by other prosecution witnesses and, therefore, appellant has been rightly convicted under sections 376(1) of the I.P.C. and, as such, the impugned judgment does not require any interference.

12. The learned State counsel, based upon the aforesaid premise, has submitted that the impugned judgment passed against the present appellant does not suffer from any error and same does not require any interference under sections 376(1) of the I.P.C, hence, the present criminal appeal is fit to be dismissed.

Analysis

13. We have heard learned counsel for the parties, perused the documents available on record as also the finding recorded by the trial Court in the impugned judgment.

14. We have also gone through the testimonies of the witnesses as available in the Trial Court records as also the exhibits appended therewith.

15. Learned trial Court, based upon the testimonies of witnesses, has passed the impugned judgment of conviction under Section 376(1) of the I.P.C and sentenced the appellant as referred hereinabove.

16. This Court, before considering the argument advanced on behalf of the parties, is now proceeding to consider the testimonies of witnesses which have been recorded by the learned trial Court.

17. It is evident from the record that in order to substantiate the case, the prosecution has altogether examined 7 witnesses out of whom P.W.-4 is the victim herself, P.W.-1 Sheela Kumari, P.W.-2 Sarsij Kunwar, P.W.-3 Ramjatan Kuwar @ Ramjatan Kuber, PW5-Budhani Maharani, PW6-Dr. Navin Barla and P.W.-7 Mahendra Paswan is the Investigating Officer of the case.

18. **P.W.-1 Sheela Kumari**, is the cousin of the victim. She has deposed that the occurrence took place two years three months ago. Victim is the daughter of her uncle. Satrugan Lohar (the appellant) and victim used to talk in Hatia (Market). She has further stated that after two years Satrugan Lohar took the victim to his house giving the allurement of the marriage but did not solemnize marriage and after one year her sister returned from there. They both lived there as husband and wife. The witness identifies the accused in the court.

During her cross-examination, PW1 has deposed that after performing love marriage Satrugan did not take Lalita from *hatia*. She does not know that in a Santhal custom a boy forcibly takes away a girl and perform marriage with her. She had not gone to the house of Satrugan. She had visited the village of Satrugan but she had not seen the Adhar card of victim. She has denied the suggestion that the marriage between Lalita and Satrugan was performed

according to social custom and in the identity card the name of Satrugan has been written as husband of Lalita. She has not seen that in the voter list the name of Satrugan has mentioned as husband of Lalita. She has denied the suggestion that Lalita herself after breaking the marital relation with the appellant returned back and being her sister, she has given false statement.

19. P.W.-2 Sarsij Kunwar has deposed that victim is his cousin sister and on allurement of marriage, Satrugan Lohar (the appellant) took her to his house on 05.03.2013 and kept her there as his wife. Victim told Satrugan Lohar to perform legal marriage with her then with the help of his relatives Satrugan Lohar took her signature on a plain paper and on 01.06.2014, he drove her out of his house.

During cross- examination P.W.-2 deposed that the informant and Satrugan Lohar are of different castes. They both had love affair. He has not seen the Adhar card of the informant. He does not know that in the Adhar card the name of her husband is Satrugan Lohar. The informant lived with Satrugan for one year, therefore, his name may have been mentioned as her husband in voter card. They are by caste Paharia while the accused is by caste Lohar. They did not tell the accused to perform marriage according to Paharia custom. No panchayat was called for marriage. He has denied the suggestion that the informant herself left the house leaving the accused and they have filed the case for extorting money.

20. P.W.-3 Ramjatan Kuwar @ Ramjatan Kuber has deposed that the occurrence took place three years ago. Satrugan Lohar took away the victim from Pathpahari *hatia* to his house on the assurance to perform marriage with her and kept her for about one year there and then took her signature on a plain

paper and told her to go away. He did not perform marriage with her and drove the victim out of his house. He also established physical relation with her.

During cross-examination P.W.-3 has stated that he did not see taking away Lalita from *hatia*, but, victim told him about the said occurrence. He has further stated that he did not tell the police that he is cousin of the victim. He denied that victim had written the name of her husband as Satrugan Lohar in Adhar card and Voter Identity Card.

21. P.W.-4 is the complainant/victim, has deposed that the occurrence took place three to three and half years ago. She went to Pathpahari *Hatia* where Satrugan Lohar was chasing her. He caught her and took her towards the field and ravished her. The incident occurred at 7.00 PM. She started crying then he consoled and told to perform marriage with her. Thereafter, he took her to his home and kept her one year telling his wife. She asked him when he would marry her, then he called a few people from his neighborhood and the village and obtained her thumb impression on a plain sheet of paper. Thereafter, she returned to the house of her father and told him about the occurrence. Satrugan Lohar did not perform marriage with her. Thereafter she went to the court and filed the case against him.

During cross-examination, P.W.-4 deposed that when she had gone to the court to file case, at that time she had informed about the occurrence to her Advocate. She had told to the *Daroga jee* or the Advocate, that when she went to Pathpahari Hatia, Satrugan Lohar was chasing her, he caught her and took towards the field and ravished her and this incident, occurred at 7.00 PM. When she started crying, then the accused/appellant told him not to weep and that he would perform marriage with her. She did not weep at *hatia* and she wept in the field and there was no one. She has stated that before this occurrence, she did

not go to Burdman with Satrugan Lohar to work there. After that occurrence, she lived at the house of Satrugan Lohar for one year three months and in the meanwhile, she went to Burdman with Satrugan Lohar three to four times. During that period, someone came to take photograph for the Aadhaar card and she allowed him to take photograph and in the Aadhar Card she had recorded the name of Satrugan Lohar as her husband. When her thumb impression was being taken on the plain paper several persons of Durgapur were present but she did not identify them. She has denied the suggestion that on 01.06.2014, she voluntarily took divorce from Satrugan Lohar. She has further denied the suggestion that no occurrence took place and she has filed a false case to extort money.

22. P.W.-5 Budhani Maharani has deposed that the occurrence took place two years ago. Satrugan Lohar performed bad work with victim and on assurance of performing marriage with victim, he took her to his house from Pathpahari *hatia* and kept her for two years there, thereafter he refused to perform marriage and then she filed the case. The witness has claimed to identify the accused.

During cross-examination P.W.-5 has deposed that victim is her *nanad* and victim had told her about all the facts. She does not know that in the Adhar card and Voter card the name of Satrugan Lohar had been written as her husband. She does not know that according to Santhali custom for love marriage a boy takes away a girl catching her hand from *hatia* to his house.

23. P.W.-6 Dr. Navina Barla has deposed that on 17.06.2014, she was posted as Medical Officer at Sadar Hospital, Pakur. On the same day at about 11.00 A.M., she examined the victim. And found the followings:-

- (i) *Mark of identification:- Black mole on right arm.*
- (ii) *Black mole on left side neck.*

- (iii) *Auxiliary hair and pubic hair were present.*
- (iv) *Mark of violence over body-Nil.*
- (v) *Mark of violence over external genital-Nil.*
- (vi) *Hymen was torn (old tear). Vagina allowed two fingers easily.*

2. On Pathological examination:- Vaginal swab taken and sent for examination for spermatozoa-not seen.

(3). Age is decided by medical board.

(4). Opinion- As the hymen was torn, so it may be case of sexual intercourse.

The examination report has been marked as Ext.-1. The doctor has further deposed that the victim's age was determined by Medical Board and she was one of the members of Medical Board along with Dr. S.R. Soren and Dr. R.K. Singh who examined the victim. After, examination the Medical Board found the age of the victim between 18 to 19 years. The Medical Board report was marked as Ext.-2.

24. P.W.-7 Mahendra Paswan, is the Investigating Officer of the case. Investigating Officer has deposed that on 15.06.2014, he was posted at Pakuria P.S. as A.S.I. On that day he received the charge of investigation of the case of Pakuria P.S. Case No. 32/2014. He has proved the registration on the complaint petition which has been marked as Ext.-3. He further proved the formal F.I.R. which has been marked as Ext.-4. During investigation he recorded restatement of the complainant/informant and thereafter recorded the statements of the witnesses Sarsij Kunwar, Shila Kumari. Thereafter, he went to the place of occurrence and according to the informant/complainant, the place of occurrence is village-Dem, Durgapur, where the house of accused Satrugan Lohar is situated which is built of clay and trolley facing north. There is one room in the house of 12''x 8''. PW-7 has further stated that there were house hold articles kept in the room and it is stated that in that room victim lived with Satrugan

Lohar continuously for one year where Satrugan Lohar had committed sexual exploitation upon victim. PW-7 has further deposed that on 16.06.2016 the medical examination of the accused Satrugan Lohar was done and thereafter, he sent the victim to the hospital with a lady constable, namely, Jasmin Kisku for her medical examination. Thereafter, he received the medical report. After completion of investigation, he submitted charge sheet against the accused Satrugan Lohar under sections 493 and 376 IPC. He identified the accused Satrugan Lohar who is present in the Court.

25. During cross-examination PW-7 has deposed that the Medical Board, assessed the age of the victim between 18 to 19 years. The victim has not stated in her re-statement that Satrugan Lohar was chasing her. PW-7 further stated that the victim had also not stated that the accused caught her and took towards the field and ravished her. She has also not stated that the occurrence took place at 7.00 PM and she started crying then he told not to weep and gave assurance that he will perform marriage with her. He has stated that at para-46 of the case diary it was written that the complainant Lalita Dehri went to East Bengal to work at kiln and in course of that her love started with accused Satrugan Lohar and they started living as husband and wife and established physical relation. He has further stated that the accused Satrugan Lohar some time took the informant to his house and the fact was known to the family members of the informant and in the year 2014 they both went together to work at Kiln at Bengal and returned in the month of May and when some differences arose between them due to that the informant refused to live with the accused Satrugan Lohar. Thereafter, on 01.06.2014 a *panchayati* took place in the village in which the members of both the families appeared and in presence of society Lalita Dehri refused to live with accused Satrugan Lohar, then in the

presence of members of *panchayati* the village Pradhan prepared a divorce paper and obtained the signatures and thumb impressions of the villagers. PW7 has further stated that in the Adhar card and the Voter Identity card of Lalita Dehri the name of Santrughan Lohar has been shown as her husband.

26. This Court, on the basis of aforesaid factual aspect vis-à-vis argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of impugned judgment of conviction and order of sentence by formulating following questions to be answered by this Court:

- I. Whether the evidence of complainant/victim is reliable and trustworthy?*
- II. Whether the consent given by the complainant/victim, for establishing physical relationship was voluntary or it was given under misconception of fact?*
- III. Whether the prosecution has proved the guilt of the accused/appellant for the offence under section 376 of IPC?*
- IV. Whether the trial Court committed any error in convicting the accused/appellant and sentencing him as above?*

27. Since the issues are inter-linked with each other and, as such, they are being taken together by taking into consideration the facts of the given case including the testimony of witnesses.

28. This Court, has to decide the legality and propriety of the impugned judgment of conviction and order of sentence particularly whether the informant/victim P.W.-4, is trustworthy and reliable and based on her testimony accused/appellant can be convicted under Section 376 of IPC.

29. This Court finds from the impugned judgment that learned trial Court has convicted the appellant under section 376(1) of IPC relying on the testimony of the informant/victim P.W.-4 which were supported by P.W.-1,

P.W.-2, PW-3 and P.W.-5, and further by taking aid of the medical examination report Ext.-1. Learned trial Court, in the impugned judgment had noted that accused/appellant had sexual intercourse with the victim by giving false assurance to the victim that he would marry her and consent was obtained under misconception of fact as defined under Section 90 of IPC.

30. It is evident from record that in the present case FIR was registered under Section 376 of IPC against Satrugan Lohar (appellant herein), on the basis of the complaint case being PCR Case No. 303/2014, filed by the complainant/victim.

31. Before we analyse and appreciate the circumstances that have weighed with the trial Court, this Court think it apposite to refer to certain authorities pertaining to evidentiary value of the evidence of the prosecutrix in offence of rape.

32. It is settled proposition of law that once the statement of the prosecutrix inspires confidence and is accepted by the Court as such, conviction can be based only on the solitary evidence of the prosecutrix.

33. The law is well settled that 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 as per the judgment rendered by Hon'ble Apex Court in the case

of *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384*, paragraph-21 of the said judgment is being referred hereunder as :-

“21. Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating woman's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault — it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The courts, therefore, 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 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.”

34. Likewise, the Hon'ble Apex Court in the case of *Vishnu v. State of Maharashtra, (2006) 1 SCC 283*, has held as under: -

“25. The statement of the prosecutrix, in our view, is quite natural, inspires confidence and merits acceptance. In the traditional non-permissive bounds of society of India, no girl or woman of self-respect and dignity would depose falsely, implicating somebody of ravishing her chastity by sacrificing and jeopardising her future prospect of getting married with a suitable match. Not only would she be sacrificing her future prospect of getting married and having family life, but also would invite the wrath of being ostracised and cast out from the society she belongs to and also from her family circle. From the statement of the prosecutrix, it is revealed that the accused induced her to a hotel by creating an impression that his wife was admitted in the hospital and

that he would see her first and then drop the prosecutrix at her residence whereas, in fact, she was not admitted in the hospital. On the pretext of going to Nanawati Hospital, he took her to a hotel, took her inside a room, closed the door of the room, threatened to finish her if she shouted and then forcibly ravished her sexually. In our view, a clear case of rape, as defined under Section 375 clause thirdly IPC has been established against the accused. It is now a well-settled principle of law that conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence.”

35. Further, the Hon'ble Apex Court in the case of *Raju v. State of M.P., (2008) 15 SCC 133*, held that 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. Paragraph-8,9 and 10 of the aforesaid judgment are quoted hereinbelow-

“ 8. We have heard the learned counsel for the parties and gone through the record. It is true that rape is one of the most heinous and reprehensible of crimes that can be committed on a woman and it is for this reason that courts have leaned heavily in favour of such a victim. (See *State of Punjab v. Gurmit Singh* [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] .) In this matter, this Court allowed the State appeal against acquittal and while convicting the accused under Section 376 IPC, observed thus: (*Gurmit Singh case* [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] , SCC p. 403, para 21)

“21. Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault—it is often destructive of the whole personality of the victim. A murderer

destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The courts, therefore, 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 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.”

(emphasis in original)

The Court also observed that the alarming frequency of crimes against women had led Parliament to make some special laws in the background that rape was a very serious offence and that this was another factor which was to be kept in mind while appreciating the evidence in such matters.

9. The observations in *Gurmit Singh case* [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] were reiterated in *Ranjit Hazarika v. State of Assam* [(1998) 8 SCC 635 : 1998 SCC (Cri) 1725] in the following terms: (*Gurmit Singh case* [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] , SCC pp. 395-96, para 8)

“8. ... 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. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some *assurance* of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. *The evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding.* (emphasis supplied)

Corroborative evidence is not an imperative component of judicial credence in every case of rape. 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. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable.”

(emphasis in original)

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.”

36. Again, Hon’ble Apex Court in case of *Narender Kumar v. State (NCT of Delhi)*, (2012) 7 SCC 171, reiterated the earlier view laid down in the earlier judgments of the Hon’ble Apex Court. For ready reference, paragraphs -20, 21 and 22 of the aforesaid judgment are quoted herein below -

“20. It is a settled legal proposition that once the statement of the prosecutrix inspires confidence and is accepted by the court as such, conviction can be based only on the solitary evidence of the prosecutrix and no corroboration would be required unless there are compelling reasons which necessitate the court for corroboration of her statement. Corroboration of testimony of the prosecutrix as a condition for judicial reliance is not a requirement of law but a guidance of prudence under the given facts and circumstances. Minor contradictions or insignificant discrepancies should not be a ground for throwing out an otherwise reliable prosecution case.

21. A prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. Her testimony has to be appreciated on the principle of probabilities just as the testimony of any other witness; a high degree of probability having been shown to exist in view of the subject-matter being a criminal charge. However, if the court finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or substantial (sic circumstantial), which may lend assurance to her testimony. (Vide Vimal Suresh Kamble v. Chaluverapinake Apal S.P. [(2003) 3 SCC 175 : 2003 SCC (Cri) 596 : AIR 2003 SC 818] and Vishnu v. State of Maharashtra [(2006) 1 SCC 283 : (2006) 1 SCC (Cri) 217 : AIR 2006 SC 508].)

22. Where evidence of the prosecutrix is found suffering from serious infirmities and inconsistencies with other material, the prosecutrix making deliberate improvement on material point with a view to rule out consent on her part and there being no injury on her person even though her version may be otherwise, no reliance can be placed upon her evidence. (Vide Suresh N. Bhusare v. State of Maharashtra [(1999) 1 SCC 220: 1998 SCC (Cri) 1595] .)”

37. Hence, the Hon'ble Apex Court in the aforesaid cases of rape has laid down that, conviction can be based solely on the solitary evidence of the prosecutrix, if evidence of the prosecutrix inspires confidence and it must be relied upon without seeking corroboration of her statement in material particulars. Evidence of a prosecutrix should be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary.

38. Re-adverting to the fact of the present case, ongoing through the complaint petition of the complainant/victim, this Court finds that in her complaint petition complainant/victim, had stated that on 05.03.2013, it was Tuesday, when she had gone to Patpahari *Hatia*, then, giving assurance of marriage, the accused/appellant, took her to his house and established physical relation with her for one year. The relevant paragraph of the complaint petition is quoted herein below-

“4. यह कि अभियुक्त ने इस प्रकार झुठे प्रलोभन देकर परिवादिनी के साथ बीच बीच में मिलता था और उसका शारीरिक शोषण करता था। अंत में दिनांक 05.03.2013 दिन मंगलवार को जब परिवादिनी पातपहाड़ी हटिया गयी थी तो अभियुक्त ने शादी करने के झुठा वादा देकर अपने घर ले गया और परिवादिनी के साथ एक साल तक शारीरिक संबंध स्थापित करते रहा। परिवादिनी बार बार अभियुक्त से विधिवत शादी का दबाव देते रही तब अभियुक्त ने दिनांक 01.06.2014 को अपना सगे संबंधियों के मद से एक सादा कागज पर परिवादिनी का टी०/निशान लेकर घर से भगा दिया।”

39. Hence, in the complaint petition, the specific case of the complainant/victim is that lastly on 05.03.2013, the accused/appellant took her from Patpahari *hatia* to his house on the false assurance of marriage had established physical relations with her, which continued for about one year.

40. But, during the trial, complainant/victim (PW-4) had stated in her examination-in-chief that when she had gone to Pathpahari *hatia*, accused Satrugan Lohar had chased her. Thereafter, Satrugan Lohar caught her and took her towards the field and ravished her. The incident occurred at 7.00 PM. The relevant paragraph of the examination-in-chief of the complainant/victim (PW-4) is quoted as under-

“1 ये घटना तीन साढ़े तीन साल पहले की है। मैं पाथपहाड़ी हटिया गयी थी। शत्रुघन लोहार मेरे पीछे-पीछे आ रहा था। मुझे पकड़कर, खेत की तरफ ले गया और मेरी इज्जत लूट लिया। समय सात बजे शाम की घटना है। मैं वहाँ जोर-जोर से रोने लगी तो वह बोला कि मत रोओ, मैं तुमसे शादी करूंगा। उसके बाद घर पहुंचाया और एक साल तक अपनी पत्नी कहकर, मुझे रखा। उसके बाद, मैं उससे बोली कि कब मुझ से शादी करोगे तो वह अपने घर के और गांव के दो-चार आदमी को बुलाकर, सादा कागज में टीप निशान लिया। उसके बाद मैं अपने पिता के घर वापस चली गयी और घटना के बारे में बताई। शत्रुघन लोहार मेरे साथ शादी नहीं किया। उसके बाद, मैं कोर्ट में आकर, केस की, और कम्प्लेन पर अंगूठे का टीप दी। शत्रुघन लोहार कोर्ट में नहीं है। होता तो उसे पहचानती। शत्रुघन लोहार की हाजरी उनके अधिवक्ता के माध्यम से दिया गया है।”

41. Hence, during the trial, the victim (PW-4) for the first time, had alleged that when she had gone to Pathpahari *Hatia*, there the appellant chased her, took her to a nearby field, and committed rape upon her at about 7:00 pm, but the said fact has not been disclosed by the victim (PW-4) in her complaint petition in PCR Case No. 303/2014, on the basis of which FIR was registered.

42. Here, the factual narration reveals a clear inconsistency in the prosecution's case. In the written complaint, the victim alleged that on 05.03.2013 the accused/appellant took her from Patpahari *Hatia* to his house under the false assurance of marriage and thereafter maintained physical relations with her for about one year. However, in her examination before the

Court, she shifted her version and stated that she was taken towards the field and was ravished and raped there.

43. Such divergence amounts to a material improvement and departure from the original case set up in the complaint. Courts have consistently held that when the prosecutrix introduces substantial variations in her testimony, particularly on the core aspect of the occurrence, it casts doubt on the reliability of her evidence.

44. Further, the Investigating Officer had also stated in his cross-examination that the victim had not stated in her re-statement that Satrugan Lohar (appellant herein) had caught her and took her towards the field and ravished her at 7.00 PM.

45. Thus, the improvement of the vital fact about the alleged incident of rape committed by the accused/appellant upon her, in her complaint petition, which is the foundation of the prosecution case, raises a serious doubt about the truthfulness and credibility of the complainant/victim (PW-4).

46. Again, the victim (PW-4) has alleged that the accused/appellant established physical relations with her on the promise of marriage but subsequently did not marry her.

47. Learned trial Court, in the impugned judgment had given its finding that accused/appellant had sexual intercourse with the victim by giving false assurance of marriage to the victim that he would marry her and consent was obtained under misconception of fact as defined under Section 90 of IPC.

48. At this juncture, it would be pertinent to refer herein the judgment of the Hon'ble Apex Court rendered in the case of *Uday v. State of Karnataka, (2003) 4 SCC 46*. In this case appellant was convicted under Section 376 of IPC and the learned the trial Court as well as the High Court had concurrently

held that though the prosecutrix had consented to sexual intercourse with the appellant, the consent was obtained by fraud and deception inasmuch as the appellant induced her to consent on the promise that he shall marry her.

49. The Hon'ble Apex Court in *Uday v. State of Karnataka(supra)*, laid down that that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under a misconception of fact. A false promise is not a fact within the meaning of the Code. There is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact. In the ultimate analysis, the tests laid down by the courts provide at best guidance to the judicial mind while considering a question of consent, but the court must, in each case, consider the evidence before it and the surrounding circumstances, before reaching a conclusion, because each case has its own peculiar facts which may have a bearing on the question whether the consent was voluntary, or was given under a misconception of fact. Paragraph-21 of this judgment is quoted herein below-

“21. It therefore appears that the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under a misconception of fact. A false promise is not a fact within the meaning of the Code. We are inclined to agree with this view, but we must add that there is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact. In the ultimate analysis, the tests laid down by the courts provide at best guidance to the judicial mind while considering a question of consent, but the court must, in each case, consider the evidence before it and the surrounding circumstances, before reaching a conclusion, because each case has its own peculiar facts which may have a bearing on the question whether

the consent was voluntary, or was given under a misconception of fact. It must also weigh the evidence keeping in view the fact that the burden is on the prosecution to prove each and every ingredient of the offence, absence of consent being one of them.”

50. Re-adverting to the fact of the present case, this Court finds that Sarsij Kunwar (PW-2), who is the cousin brother of the victim, in his cross-examination, had categorically deposed that the victim (PW-4) and the accused/appellant were having love affair. This admission assumes significance, as it indicates that the parties were in a consensual romantic relationship prior to the alleged physical relationship between them.

51. Further, this Court finds that investigating Officer had also deposed about love affair between the complainant/victim and the accused/appellant. The Investigating Officer (PW-7), had further deposed in his cross-examination that at para-46 of the case diary it was written that the complainant went to East Bengal to work at kiln and in course of that her love started with accused Satrugan Lohar (appellant herein).

52. Further, it is evident from cross-examination of victim/prosecutrix that she had admitted that in the Aadhar Card she had recorded the name of accused/appellant Satrugan Lohar as her husband.

53. The Doctor (P.W.6), who had examined the victim, deposed that the Medical Board assessed her age to be between 18 to 19 years. The report of the Medical Board, marked as Exhibit-2, is on record. In view of the said report, it stands established that the victim was a major at the relevant time.

54. Hence, from the foregoing discussion, this Court is of the considered view that the testimony of the prosecutrix (PW-4) does not inspire confidence to form the sole basis of conviction. The materials on record suggest that she was a major and was admittedly in a love relationship with the

accused/appellant Satrugshan Lohar and the facts and circumstances of the present case suggests that consent given by the complainant/victim cannot be said to be given under misconception of fact. Moreover, in her cross-examination, she admitted that the name of the accused/appellant had been recorded as her husband in her Aadhaar Card. These circumstances create doubt regarding the prosecution version and render the testimony of the prosecutrix insufficiently reliable to establish the charge beyond reasonable doubt.

55. So, the finding recorded by the learned trial Court that the consent of the prosecutrix was obtained under a misconception of fact within the meaning of Section 90 of the IPC is not supported by the evidence available on record. Rather, the said finding appears to be founded on surmises and conjectures, without there being cogent and reliable evidence to establish that the accused had induced the prosecutrix to consent on a false promise of marriage from the very inception.

56. Accordingly, all the issues have been answered.

57. It needs to refer herein that the Hon'ble Apex Court in catena of decision has propounded the proposition that in the criminal trial, there cannot be any conviction if the charge is not being proved beyond all reasonable doubts, as has been held in the case of ***Rang Bahadur Singh & Ors. Vrs. State of U.P.***, reported in ***(2000) 3 SCC 454***, wherein, at paragraph-22, it has been held as under:-

"22. The amount of doubt which the Court would entertain regarding the complicity of the appellants in this case is much more than the level of reasonable doubt. We are aware that acquitting the accused in a case of this nature is not a matter of satisfaction for all concerned. At the same time we remind ourselves of the time-tested rule that acquittal of a guilty person should be preferred to conviction of an innocent person. Unless the prosecution establishes the guilt of the accused beyond reasonable doubt a conviction cannot be passed on the accused. A criminal court cannot afford to deprive liberty of the appellants, lifelong liberty, without having at least a reasonable

level of certainty that the appellants were the real culprits. We really entertain doubt about the involvement of the appellants in the crime."

58. Likewise, the Hon'ble Apex Court in the case of ***Krishnegowda & Ors. Vrs. State of Karnataka, 2017 (13) SCC 98***, has held at paragraph-26 as under:

"26. Having gone through the evidence of the prosecution witnesses and the findings recorded by the High Court we feel that the High Court has failed to understand the fact that the guilt of the accused has to be proved beyond reasonable doubt and this is a classic case where at each and every stage of the trial, there were lapses on the part of the investigating agency and the evidence of the witnesses is not trustworthy which can never be a basis for conviction. The basic principle of criminal jurisprudence is that the accused is presumed to be innocent until his guilt is proved beyond reasonable doubt."

59. Further, it needs to refer herein the principle of 'benefit of doubt' belongs exclusively to criminal jurisprudence. The pristine doctrine of 'benefit of doubt' can be invoked when there is reasonable doubt regarding the guilt of the accused, reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***State of Haryana Vrs. Bhagirath & Ors.***, reported in ***(1999) 5 SCC 96***, wherein, it has been held at paragraph-7 as under:

"7. The High Court had failed to consider the implication of the evidence of the two eyewitnesses on the complicity of Bhagirath particularly when the High Court found their evidence reliable. The benefit of doubt was given to Bhagirath "as a matter of abundant caution". Unfortunately, the High Court did not point out the area where there is such a doubt. Any restraint by way of abundant caution need not be entangled with the concept of the benefit of doubt. Abundant caution is always desirable in all spheres of human activity. But the principle of benefit of doubt belongs exclusively to criminal jurisprudence. The pristine doctrine of benefit of doubt can be invoked when there is reasonable doubt regarding the guilt of the accused. It is the reasonable doubt which a conscientious judicial mind entertains on a conspectus of the entire evidence that the accused might not have committed the offence, which affords the benefit to the accused at the end of the criminal trial. Benefit of doubt is not a legal dosage to be administered at every segment of the evidence, but an advantage to be afforded to the accused at the final end after consideration of the entire evidence, if the Judge conscientiously and reasonably entertains doubt regarding the guilt of the accused."

60. It needs to refer herein that the Hon'ble Apex Court, in the case of ***Allarakha K. Mansuri v. State of Gujarat reported in (2002) 3 SCC 57*** has laid down the principle that the golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted, for ready reference, paragraph 6 thereof requires to be referred herein which reads hereunder as :-

“6. -----The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. ---”

61. It needs to refer herein before laying down the aforesaid view, the Hon'ble Apex Court in the case of ***Sharad Birdhichand Sarda v. State of Maharashtra*** reported in ***(1984) 4 SCC 116*** has already laid down the same view at paragraph 163 which is required to be referred which read hereunder as-

“163. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of doubt.---”

62. This Court, after having discussed the factual aspect and legal position as discussed hereinabove, is of the view that the prosecution has failed to prove the charges under Section 376(1) of IPC against the appellant Satrugan Lohar, beyond all reasonable doubt, as such, the impugned judgment of conviction and order of sentence requires interference by this Court.

63. Accordingly, the impugned judgment of conviction and the order of sentence both dated 26.02.2018 passed by the learned Principal Sessions Judge,

Pakur in S.T. No. 74 of 2014, against the appellant Satrugan Lohar cannot sustain and is hereby, set aside.

64. Consequently, the appeal is hereby allowed.

65. The appellant Satrugan Lohar, be released forthwith if not wanted in any other case.

66. Pending Interlocutory Applications, if any, stand disposed of.

67. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Sujit Narayan Prasad, J.)

I Agree.

(Pradeep Kumar Srivastava, J.)

(Pradeep Kumar Srivastava, J.)

Sudhir
Jharkhand High Court,
Dated: 14/10/2026
AFR

Uploaded on 14/10/2026.