



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of reserving order: 31st July, 2026

Date of decision: 14th August, 2026

CNR No. DLHC010198452011

+ **CRL.A. 726/2011**

RAMENDRA SINGH

.....Appellant

Through: Mr. R.L Sharma, Adv. with Appellant
in person.

versus

STATE

.....Respondent

Through: Mr. Satinder Singh Bawa, APP for
State with SI Urvashi, PS Sonia
Vihar.

Mr. Archit Upadhyay, Mr. Arpit
Tripathy (DHCLSC) for prosecutrix
with prosecutrix in person along with
her father.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. When the telephonic call made by the prosecutrix to her husband went un-responded, she called up her mother and narrated the ordeal, which she had undergone the previous night i.e. 28.11.2009, who in turn informed her father. The father of the prosecutrix, along with some relatives, landed at her matrimonial house at E-2/313, Sonia Vihar, Delhi as any father would have, in such circumstances in which his daughter was placed. The father of the prosecutrix, agitated and enraged, complained to the local police, which



brought ASI Gaje Singh (PW-11) at the spot along with Ct. Pramod (PW-10). Things unfolded through the statement of the prosecutrix Ex.PW-4/A and revealed the nature of allegations, which prompted the services of Lady Ct. Sadhna (PW-9) to be pressed in, who came at the spot and took the prosecutrix to the GTB Hospital for her medical examination, inasmuch-as prosecutrix had complained that she was raped by her own father-in-law the previous night. Based upon the endorsement Ex.PW-11/A made on the statement of the prosecutrix Ex.PW-4/A, FIR No. 24/2009 was registered by police of Police Station Sonia Vihar under Section 376/506 of Indian Penal Code, 1860 ('IPC'). The FIR so registered, ultimately, culminated into the charge-sheet under Section 376/506 IPC against the Appellant herein Ramendra Singh. To the charges framed under Section 376/506 IPC, the Appellant pleaded not guilty and claimed trial and thereafter traversing through 11 witnesses, statement of accused and defence evidence, where four witnesses were examined, the proceedings resulted into the conviction of the Appellant under Section 376/506 IPC.

2. The Appellant was sentenced to undergo Rigorous Imprisonment ('RI') for a period of seven years and to pay a fine of Rs. 5,000/- for the offence punishable under section 376 IPC, in default of payment of fine, the Appellant was further sentenced to undergo Rigorous Imprisonment ('RI') for six months. Appellant was further sentenced to undergo Rigorous Imprisonment ('RI') for two years for offence punishable under Section 506 IPC and was also directed to pay Rs. 2,000/- as fine, in default of payment of fine, he was to further undergo three months Rigorous Imprisonment ('RI').

3. It is this Judgment dated 26.07.2010 and the Order on Sentence dated 29.07.2010, which has been assailed by the Appellant whereby the primary



challenge to the judgment revolves around the fact that there was a matrimonial dispute going on between son of the Appellant and the prosecutrix and in order to malign and tarnish the reputation of the family, and to grab the property of wife of the Appellant, a false case has been launched against the Appellant. It is submitted that the allegation of prosecutrix being raped by the Appellant, is not believable, inasmuch-as the father of the Appellant and another son of the Appellant both were present in the 100 square yards house, when the alleged incident had taken place, albeit the husband of prosecutrix was there at Faridabad where he was employed.

4. The prosecutrix had all the reasons to raise alarm and draw the attention of her brother-in-law and grand-father in law, both of whom were present in the house at the time of alleged rape. No such attempt was made and there is no reason as to why the prosecutrix did not resort to this except that nothing of the sort of rape took place. In addition to that, absence of corroboration to the testimony of the victim has been put forth, as the MLC is bereft of any injury or any other medical evidence, which may substantiate or support the version of prosecutrix against the Appellant. The presence of semen was noted on the clothes of the prosecutrix, but the scientific/forensic evidence could not connect the Appellant with the said piece of evidence.

5. The post incident conduct especially of the morning was also brought into the attention of the court by the counsel for the Appellant, by pointing out towards the testimony of the prosecutrix, wherein her conduct reflects that everything was normal. She got up in the morning, as usual, made the breakfast and served it to the family members, including the Appellant without batting an eyelid. It is, thus, submitted that if something like forcible rape was there, then the prosecutrix would not have behaved the way she



had. Learned counsel for the Appellant has emphasized this fact from the part of her testimony, which is as under:-

“It is correct that after the commission of rape, I went to my room and slept. Accused used to close his door while sleeping. After commission of rape on me he closed the door of his room and bolted the same. I got up at about 5:30 am on the next morning. Accused had also got up by that time. He was getting ready for going to his job. I used to prepare breakfast. I prepared breakfast and served the same to the accused as there was no other lady available in the house to prepare breakfast. I had gone to toilet in the morning upstairs.”

6. It is further pointed out by learned counsel for the Appellant that the prosecutrix lied about her relationship with her husband inasmuch as, on account of her strained relationship, she was not living with him at Faridabad, rather she was putting up with her parents and came to live with the Appellant about 1½ months prior to the alleged incident. To strengthen this contention, learned counsel for the Appellant has drawn attention of the Court to the FIR which was got registered subsequent to this alleged incident, bearing no. 207/2010 under Section 406/498A IPC. It is emphasized that prosecutrix was hell-bent to involve all the family members in one or the other matter, so that she may compel the Appellant's wife to part with her immovable property to the prosecutrix. In this context, learned counsel for the Appellant has drawn attention of this Court to the copy of FIR No. 207/2010 dated 14.06.2010 PS Nangloi under Section 406/498A IPC. The contents of the said FIR Ex.PW-2/I are contrary to the deposition of the prosecutrix, inasmuch-as in the FIR she has levelled allegations that she had questioned the intention of the Appellant from the very inception of her marriage, whereas in the cross examination she has admitted categorically that prior to this incident, the Appellant had not misbehaved



with her in any manner, nor any indecent comment was made by him and that is why no complaint about the Appellant was ever made by her.

7. Learned counsel for the Appellant with the aid of all these facts, attempted to fortify his contentions that the genesis of the dispute is matrimonial in nature, in which the Appellant has no role to play. The prosecutrix was non-cooperative and refused to do the household chores and was not having any cordial relationship with her husband that is why, she did not live with him. This case was registered to create pressure on the Appellant and his family members.

8. Learned APP on the other hand stated that the testimony of the victim is clear and categorical, the MLC Ex.PW-5/A does not rule out the possibility of rape as the presence of semen on the clothes of the victim was found. These clothes were seized during the medical examination on the very next morning and were handed over to Ct. Sadhna, who had taken the prosecutrix for medical examination. The clothes seized through Ex.PW-9/A, consisting of a blouse, petticoat and a saree of the prosecutrix, were subjected to forensic examination. The forensic examination found presence of semen on the petticoat of the prosecutrix.

9. The MLC Ex.PW-5/A has also been referred by learned APP for the State, to emphasize that the victim had given the alleged history to the doctor where she had categorically blamed Appellant for committing rape on her on 28.11.2009. It is also stated that victim had taken bath but she had brought the clothes with her i.e. blouse, petticoat and saree, which were seized together with the other samples of pubic hair etc. and were handed over to Ct. Sadhna, as has been deposed by PW-5 Dr. Renuka Gupta and reflected in MLC Ex.PW-5/A. Though the result of the forensic examination Ex.PW-7/A does not bind or connect the Appellant with the semen but it is



reflective of the fact that semen was there on the petticoat of the victim and given the facts that the alleged incident took place on 28.11.2009 and the victim was examined on the very next day in the morning in the hospital, which rules out any other possibility except that the semen belonged to the Appellant. With these contentions, it is asserted on behalf of learned APP for the State that the Impugned Judgment is in order and as such, the Appeal is liable to be dismissed.

10. Having considered the rival contentions and the evidence on record, what emerges from the testimony of the victim is that she was raped by the Appellant on the night of 28.11.2009, although she had opportunity to raise alarm and defend herself, but she, seemingly, could not either collect the courage or could not have enough strength to ward-off the evil act of her own father-in-law. What is disturbing is that, she did not even resist the attempt despite being fully aware of the presence of her brother-in-law and grand father-in-law, in the same house, which was a house of not more than 100 square yards. The incident took place on the ground floor and her brother-in-law and grand-father-in-law were in the adjacent rooms, therefore, she had all the reasons and should have raised an alarm and resisted the act of the Appellant. There is no injury on the body of the prosecutrix nor there is any injury reported on the body of the Appellant either in the MLC Ex.PW-3/A, which is somewhat unusual in the given set of facts and circumstances. The explanation furnished by the prosecutrix in not doing so, and her behaviour post incident, was not in consonance with the normal human behaviour and conduct in the given set of facts and circumstances.

11. She was wise enough to preserve the clothes after taking the bath, but was not so vigilant and alive to the situation, so as to resist the attempt of her



father-in-law, rather it seems that she surrendered herself. If something like this took place, as a normal human being, any such effort would have certainly faced stiff resistance especially when the Appellant was elder in age and may not have been very strong physically. During the medical examination, his efforts could not secure the semen for forensic examination, as reflected in the MLC Ex.5/A. This is a tell-tale evidence about the physical well-being of the Appellant.

12. The presence of her brother-in-law and grandfather-in-law was there to her knowledge also. She has also admitted this fact that her hands, legs and mouth were free and that she was conscious. Her clothes did not bear any trace of having forcible rape and she also admits that the Appellant did not tie her hands and legs at the time of committing rape. She has only one explanation as to why she could not raise alarm, that she was threatened by the Appellant that he would kill her and her family members. She has also admitted that she could not run from the room as the Appellant was holding her left hand but in the same breath, she admitted that her right hand was free and that her mouth was not closed by any means at that time. All these factors indicate that no resistance was offered, no alarm was raised, primarily and solely on the ground that she was threatened by the Appellant. How far can this be accepted in the given set of facts and circumstances, especially when the Appellant has come up with the plea that there was a matrimonial dispute between the prosecutrix and his son, due to which they were not living together and that post this incident an FIR under section 498A/406 IPC got registered by the prosecutrix. With the aid of these facts, learned counsel for the Appellant has tried to bring down the case of the prosecution.

13. It is pertinent to note here that prosecutrix and her father also



appeared alongwith the Counsel during trial and stated that prosecutrix does not want any action against the Appellant in view of the fact that divorce now has taken place between herself and the son of Appellant.

14. It has been held in various pronouncements that victim of the offence of rape could not be treated as an accomplice rather should be equated as that of injured person, therefore, the testimony is required to be appreciated accordingly as was held in **Raju v. State of M.P.**, (2025) 8 SCC 281, which has been reproduced hereunder:

“16. We have carefully considered the evidence of PW 1. We are convinced that notwithstanding the minor contradictions, her evidence inspires confidence and that she has clearly spoken about the accused abducting her and also committing rape on her. She has also clearly spoken about the wrongful confinement. Nothing has been elicited in the cross-examination to dilute her testimony. The charges under Sections 366, 376(2)(g) and 342IPC are clearly made out. It is now fairly well settled that the prosecutrix is not an accomplice and that if the evidence of the prosecutrix inspires confidence it can be acted upon without corroboration.

17. Not only does the evidence of ‘R’ sound natural, it also inspires confidence and we have no manner of doubt whatsoever that on the facts of this case, any need for corroboration can be safely dispensed with. As has been rightly observed, a woman or a girl subjected to sexual assault is not an accomplice but a victim of another person's lust and it will be improper and undesirable to test her evidence with suspicion. All that the law mandates is that the Court should 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 charge levelled by her and if after keeping that aspect in mind if the Court is thereafter satisfied that the evidence is trustworthy, there is nothing that can stop the Court from acting on the sole testimony of the prosecutrix. [See State of Rajasthan v. N.K. [State of Rajasthan v. N.K., (2000) 5 SCC 30 : 2000 SCC (Cri) 898], Rameshwar v. State of Rajasthan [Rameshwar v. State of Rajasthan, 1951 SCC 1213], State of Maharashtra v. Chandraprakash Kewalchand Jain [State of Maharashtra v. Chandraprakash Kewalchand Jain, (1990) 1 SCC 550 : 1990 SCC (Cri) 210] , State of



Punjab v. Gurmit Singh [State of Punjab v. Gurmit Singh, (1996) 2 SCC 384 : 1996 SCC (Cri) 316] .]”

Reference in this context can also be made to ***Sham Singh v. State of Haryana***, (2018) 18 SCC 34, wherein it was held:

“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 v. Gurmit Singh [State of Punjab v. Gurmit Singh, (1996) 2 SCC 384 : 1996 SCC (Cri) 316]* (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 v. State of Assam* [*Ranjit Hazarika v. State of Assam*, (1998) 8 SCC 635 : 1998 SCC (Cri) 1725] .)

8. It is also relevant to note the following observations of this Court in *Raju v. State of M.P.* [*Raju v. State of M.P.*, (2008) 15 SCC 133 : (2009) 3 SCC (Cri) 751] , which read thus: (SCC p. 141, paras 10-11)

“10. The aforesaid judgments [*State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384 : 1996 SCC (Cri) 316] ‘*Ranjit Hazarika v. State of Assam*, (1998) 8 SCC 635 : 1998 SCC (Cri) 1725] lay down the basic principle that ordinarily the evidence of a prosecutrix should not be suspected and should be believed, more so as her statement has to be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the court.

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

We have assessed the entire material on record to satisfy our conscience once again, keeping in mind the aforementioned set principles in such matters.”

15. The situation of the prosecutrix has been equated with that of an injured witness. In the offence of rape the injury may or may not be physical, but certainly the violation of the body amounts to a kind of injury having multifarious ramifications as not only the victim has been physically



violated but her psyche and emotions do bear the impact of such violation. The trauma lingers throughout the life. Thus, the injury caused to the victim of rape is more serious, devastating and certainly not lesser than any injured who received physical injuries. As such, the testimony of a rape victim should be given the same primacy and treatment as is given to the testimony of an injured witness.

16. In a number of judgments, the testimony of an injured witness has been placed at a higher pedestal as an inbuilt truthfulness has been presumed on account of physical and visible injuries sustained by an injured person. The primary reason seems to be the injuries being visible which lends credence to the testimony of the injured witness. In case of a rape victim the injuries may not be apparent visually, but the impact of the injury suffered by prosecutrix and the mental agony and psychological profanation together with the physical violation is far more devastating, ruinous, catastrophic and shattering than the physical injuries. There are instances in which physical injuries are also there but in most cases, absence of physical injury in itself does not rule out the offence of rape.

17. Thus, the primacy and importance of the testimony of the injured witness is to be accorded to the rape victim as well. There are number of Authorities to the effect that the sole testimony of the prosecutrix would be enough to nail down the guilt of accused provided the testimony is impeccable, above-board and trustworthy so that it may be treated as that of a sterling quality. In the same context, the Hon'ble Supreme Court in ***State of Punjab v. Gurmit Singh***, (1996) 2 SCC 384 has held as reproduced herein under:

“20. Before parting with the case, there is one other aspect which we would like to advert to.



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.”

This settled proposition of law has also been propounded by the Hon'ble Supreme Court in **Rafiq v. State of UP**, 1980 CrI.L.J.1344, **Bhoginbhai Hirjibhai v. State of Gujarat**, AIR 1983 SC 735, **State v. Chandra Prakash**, AIR 1990 SC 658 wherein, time and time again, the Apex Court has held that the conviction in a rape case can rest solely upon the evidence of the prosecutrix, irrespective of whether it may be corroborated or not and that such evidence must not be disregarded or rejected solely on the basis of minor discrepancies and contradictions unless, such discrepancies and contradictions are of such a nature that they require corroboration.



18. There is a tendency to look for corroboration while adjudicating cases which primarily stems from the fact that the Judges do not want to confirm something without there being an assurance that the decision is correct. It is this quest for correctness, ascertainment of truth and justice which persuade the Judges to look for some assurance in the form of corroboration from some other source. However, there are offences like rape where it is nearly impossible to find an eye-witness or a witness other than the victim herself. Therefore, in these circumstances, if the testimony of the victim is above-board and credible then that alone would be sufficient. If some corroborative piece of evidence is there then that only fortifies the case of the prosecution and lends assurance making the Judge doubly sure about the verdict to be delivered.

19. In the instant case the relationship between the prosecutrix and the Appellant is such which is considered to be and no less than that of a father and daughter inasmuch as the victim happens to be the daughter-in-law of the Appellant. The inherent bashfulness and hesitation especially of the Indian females, more particularly those belonging to rural or semi-urban backgrounds, illiterate or less educated where this bashfulness dominates all the more strongly has to be kept in mind. Levelling allegations of such a nature, that too in such a relationship requires a lot of courage and conviction. False implication in such a relationship would be highly improbable if not nearly impossible. The victim/prosecutrix risks not only spoiling her married life but spoiling her reputation as well as that of both the families i.e. her parent's family and that of her husband's family. A woman placed in such circumstances, like the prosecutrix here, would think thousands of times before lodging a false complaint.

20. Learned counsel for the Appellant has tried to portray that the



prosecutrix has falsely implicated the Appellant by pointing out towards the stress in the matrimonial life of the prosecutrix, her being not there with her husband and that she had an evil eye on the immovable property of her mother-in-law. Surprisingly, the learned Counsel did not elaborate as to how prosecutrix would get the immovable property or her mother-in-law / wife of the Appellant by implicating the Appellant in this case. The material on record reflects that there was a strained relationship between the prosecutrix and her husband but the matter was reported and case under Section 498A and 406 IPC was registered only after the present incident. It was a prelude of things to come and the incident of rape was sought to be used as a lever to control things.

21. Learned counsel for the Appellant has further tried to demolish the testimony of the prosecutrix by emphasizing that she had ample opportunities to not only raise the alarm and save herself but to resist with her full force but nothing of this sort has been done. There is no explanation as to why she did not use force to resist the act of the Appellant, why she did not cause any harm to him and why she did not raise any hue and cries knowing fully well that her brother-in-law (*devar*) and grandfather-in-law were sleeping in the adjacent room and that her alarm would have saved her from undergoing the situation, in which she was placed and underwent.

22. Learned counsel for the Appellant has further pointed out towards the MLC of the victim to emphasize that there was no injury on her body or in the genital area and for that matter has referred the MLC of the Appellant also who too had not sustained any injury.

23. The emphasis by pointing out these things was on the fact that nothing of this sort ever took place. Had it been there, some or the other marks would have been present on the body of either the victim or on the body of



both the parties involved in the alleged incident.

24. Now obsolete and ruled out “two finger test”, banned under both Indian Law and by World Health Organization (WHO), has been recorded in the MLC. It has been referred against the backdrop of the fact that the two fingers were admitted easily despite the fact that the prosecutrix was not living with her husband for the last several months. The undertones of these facts put a question mark on the character of the prosecutrix, but then, the test itself is inconsequential and was not permissible even at that time, when it was carried out. In any case even as per medical science, it was not a conclusive test about the character of a woman.

25. Although the semen found on the clothes of the prosecutrix could not be connected with the Appellant as the Appellant was unable to give the sample so that the test may be carried out. Nevertheless, the presence of the semen on the clothes of the prosecutrix fortifies and substantiates her testimony, for the simple reason that she was living in her matrimonial home for the last over 1½ months. Her husband was living there at Faridabad, therefore, presence of semen on the clothes of the prosecutrix was not possible unless what has been deposed by her was correct.

26. It has come in the evidence that the prosecutrix was only 10th standard pass, therefore, it cannot be visualized that some kind of conspiracy was hatched by her to arrange semen somehow and blame her father-in-law. She had run the risk of having been caught in case the semen did not connect with the Appellant. This rules out any sort of conspiracy even if it is presumed that despite taking bath she kept her clothes and did not wash it. It has come in the cross-examination of the prosecutrix/PW-4 that when she went to the police station she was asked about the clothes she was wearing at the time of incident and when she informed that the same are lying at the



house, police official accompanied her to her house where from the clothes were taken and then they went to the hospital. All these circumstances rule out any sort of false implication. The victim, apart from the perceived social and familial pressure, was also under threat inasmuch as the Appellant had threatened her that he would kill her and her family members in case this incident is reported to anyone.

27. The situation of a girl of about 22 years of age can be easily visualized who had to undergo such a traumatic experience at the hands of her father like person, therefore, she must have had given a thought to this fact as to whether it is to be disclosed or not. Finally, she decided to share it with her mother once the Appellant left for his work on the next morning. The testimony, apart from the same being slightly improbable on the count of not raising alarm or not resisting, appears to be trustworthy and in any case presence of semen on her petticoat, confirmed in the medical and FSL result, sealed the fate of the Appellant and makes the testimony of the victim trustworthy and credible.

28. In view of these facts and circumstances, there appears no reason to intervene in the judgment of conviction. As such, the conviction is upheld and maintained.

29. On the aspect of sentence, learned counsel for the Appellant has pointed out towards the advance age of the Appellant coupled with the fact that the prosecutrix and her father had appeared before the Court and had categorically stated that they do not want any further action in the matter and thus pleaded that the Appellant should be considered for the lightest possible sentence and preferably may be released against the period already undergone by him during the proceedings.

30. Apart from this no other adequate or special reason has been put forth



on behalf of the Appellant.

31. On the aspect of sentencing, since the present case pertains to an incident which predates the 2015 amendment, it would be apposite to consider the pre-amended statutory provision, which is reproduced hereunder:

“376. Punishment for rape.- (1) Whoever, except in cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both; Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.”

32. The Hon’ble Supreme Court has, time and again, expounded upon the principles governing the awarding of a sentence below the minimum period of imprisonment prescribed under Section 376 IPC (which at the time of commission of the offence was Rigorous imprisonment for a period of 7 years). While there is no straightjacket formula for determining whether the exception contemplated under Section 376(2) IPC would be attracted, the Apex Court in ***State of Haryana v. Janak Singh***, (2013) 9 SCC 431 has laid down the guiding principles and factors which must be carefully scrutinised by the Court before exercising such discretion, the relevant portion of which has been reproduced hereunder:

“7. Rape is one of the most heinous crimes committed against a woman. It insults womanhood. It violates the dignity of a woman and erodes her honour. It dwarfs her personality and reduces her confidence level. It violates her right to life guaranteed under Article 21 of the Constitution of India. We may remind ourselves of the observations made by this Court in Bodhisattwa



Gautam v. Subhra Chakraborty [(1996) 1 SCC 490 : 1996 SCC (Cri) 133] that rape is violative of the victim's most cherished of the fundamental rights guaranteed under Article 21 of the Constitution of India. In a series of judgments this Court has reiterated these observations. Rape cases have to be dealt with keeping these observations in mind.

8. Section 376 IPC provides for punishment for rape. Offence of rape is punishable with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years. The convict shall also be liable to fine. Proviso to Section 376(1) states that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years. Thus, a minimum of seven years' sentence is provided under Section 376(1) IPC. Sentence for a term of less than seven years can be imposed by a court only after assigning adequate and special reasons for such reduction. Thus, ordinarily sentence for an offence of rape shall not be less than seven years. When the legislature provides for a minimum sentence and makes it clear that for any reduction from the minimum sentence of seven years, adequate and special reasons have to be assigned in the judgment, the courts must strictly abide by this legislative command. Section 376(1) read with the proviso thereto reflects the anxiety of the legislature to ensure that a rapist is not lightly let off and unless there are some extenuating circumstances stated in writing, sentence below the minimum i.e. less than seven years cannot be imposed. While imposing sentence on persons convicted of rape, the court must be careful and must not overlook requirement of assigning reasons for imposing sentence below the prescribed minimum sentence. The High Court appears to have not noticed this requirement.

9. In this connection we may usefully refer to *State of Karnataka v. Krishnappa [(2000) 4 SCC 75 : 2000 SCC (Cri) 755]*. In that case the High Court had reduced the sentence of ten years' rigorous imprisonment imposed by the trial court on the accused for an offence under Section 376 IPC to four years' rigorous imprisonment. Severely commenting on this indiscretion, this Court observed as under: (SCC p. 77d-g)

Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an appropriate sentence. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Courts must hear



the loud cry for justice by the society in cases of the heinous crime of rape on innocent helpless girls of tender years, as in this case, and respond by imposition of proper sentence. Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the court. There are no extenuating or mitigating circumstances available on the record which may justify imposition of any sentence less than the prescribed minimum on the respondent. To show mercy in the case of such a heinous crime would be a travesty of justice and the plea for leniency is wholly misplaced. The courts are expected to properly operate the sentencing system and to impose such sentence for a proved offence, which may serve as a deterrent for the commission of like offences by others. Sexual violence apart from being a dehumanising act is an unlawful intrusion of the right to privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity—it degrades and humiliates the victim and where the victim is a helpless innocent child, it leaves behind a traumatic experience. The courts are, therefore, expected to deal with cases of sexual crime against women with utmost sensitivity. Such cases need to be dealt with sternly and severely. A socially sensitised Judge, in our opinion, is a better statutory armour in cases of crime against women than long clauses of penal provisions, containing complex exceptions and provisos.”

33. In the present case at hand, while there is no compromise between the parties, the prosecutrix, along with her father and learned counsel, has appeared before this Court, identified by the holding Investigating Officer and expressly stated that they do not wish to pursue the appeal and that the appellant may be released. Further, the appellant is presently 88 years of age, while the incident itself dates back to 28.11.2009. It is emphasised that none of these circumstances is being considered in isolation. It is the cumulative effect of the appellant’s advanced age, the prosecutrix’s express unwillingness to pursue the matter further, and the considerable passage of time since the occurrence which, in the peculiar facts and circumstances of the present case, constitutes the “adequate and special reasons” contemplated under the proviso to Section 376(2) IPC. In **Ravindra v. State**



of M.P., (2015) 4 SCC 491, the Hon’ble Supreme Court, while upholding the conviction, invoked the proviso to Section 376(2) IPC and reduced the sentence below the prescribed minimum, taking into consideration, inter alia, the fact that the incident was 20 years old and that the prosecutrix and the accused had entered into a compromise, with the prosecutrix expressing her unwillingness to proceed against the accused. These circumstances, considered cumulatively, were held to constitute adequate and special reasons for awarding a lesser sentence. The relevant portion of Ravindra (supra) has been reproduced hereunder:

“16. The fourth ground of defence taken by the appellant is that under the proviso to Section 376(2) IPC, the legislature has empowered the court to award lesser sentence where “adequate and special reasons” exist. The incident in the present case had taken place 20 years ago. The victim (prosecutrix) and the accused have entered into a compromise stating therein that the prosecutrix does not want to proceed with the case against the accused and wants to close the case. Both of them are married (not to each other) and have settled in life. The learned counsel for the appellant contends that this is an “adequate and special reason” for awarding lesser sentence.

17. This Court has in Baldev Singh v. State of Punjab [(2011) 13 SCC 705 : (2012) 2 SCC (Cri) 706] , invoked the proviso to Section 376(2) IPC on the consideration that the case was an old one. The facts of the above case also state that there was compromise entered into between the parties.

18. In light of the discussion in the foregoing paragraphs, we are of the opinion that the case of the appellant is a fit case for invoking the proviso to Section 376(2) IPC for awarding lesser sentence, as the incident is 20 years old and the fact that the parties are married and have entered into a compromise, are the adequate and special reasons. Therefore, although we uphold the conviction of the appellant but reduce the sentence to the period already undergone by the appellant. The appeal is disposed of accordingly.”

34. In the considered opinion of this Court, none of the aforesaid circumstances, viewed in isolation, would by itself warrant a departure from



the statutory minimum period of punishment. However, the circumstances in the present case, particularly the prosecutrix's express unwillingness to pursue the matter and her expressed desire to let the Appellant off coupled with the advanced age of the appellant and the considerable passage of time since the occurrence, when viewed cumulatively and in the peculiar set of facts and circumstances of the case, constitute "adequate and special reasons" warranting exercise of the discretion under the proviso to Section 376(2) IPC.

The circumstances reflect that sending the Appellant to jail at this advanced age would be a burden on State Exchequer as the advanced age brings lots of medical problems where frequent visits to doctor/hospital are not uncommon. As such, when there is nothing adverse qua the antecedents and nearly two decades have gone by in legal proceedings, the Appellant is at the advanced stage of about 88 years, further incarceration is likely to add to the burden of State Exchequer in terms of men and material and above all the desire of the prosecutrix to close the matter, when taken together in conjunction, then there appears to be a case where "adequate and special reasons" emerge. As such, while upholding the conviction, the sentence awarded to the Appellant is reduced to the period of custody already undergone by him.

35. The Appeal, accordingly, stands disposed off with pending application(s), if any. Bail bond(s) stand discharged.

36. Copy of the judgment be transmitted to the concerned Trial Court and Prison Authorities, for information and necessary compliance.

VIMAL KUMAR YADAV, J.

AUGUST 14, 2026/bj/hk/ij