

FORM A

IN THE COURT OF THE DISTRICT & ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST, CHILDREN & NDPS ACT), AURANGABAD (BIHAR)

Vishwa Vibhuti Gupta

**Present:- District & Additional Sessions
Judge-1st-cum- Special
Judge (SC/ST, CHILDREN &
NDPS ACT), Aurangabad
(Bihar)**

[Date of the Judgment:-26th. of March, 2026]

[Sessions Trial No. 165/2021/12/2021]

Mahila P.S. Case No. 12/2020

C.I.S. No. 165/2021

Complaint	STATE OF BIHAR (Through-Pravin Kumar.....Informant)
REPRESENTED BY	Shri Ram Naresh Prasad, Ld. Addl. P.P.
ACCUSED	Radhir Kumar @ Randhir Yadav, aged about 34 years, S/o- Saheb Yadav, R/o village-Chauram, PS-Daudnagar District-Aurangabad(Bihar)
REPRESENTED BY	Shri Surendra Yadav, Ld. Advocate

FORM B

District	Aurangabad
Police Station	Mahila
Date of Occurrence	02.07.2020
Date of FIR	03.07.2020
P.S. Case	12/2020
Case under Sections	Sec. 376(D),307,34 of the IPC
Charge Sheet No.	25/2020 Dated 11.09.2020
Cognizance under Sections	Sec. 376(D),307,34 of the IPC Dated 12.10.2020/07.04.2021
Commitment on	24.08.2021
Charged under Sections	Sec. 376(D),307/34 of the IPC
Charge Framed on	10.01.2022
Prosecution evidence closed on	30.11.2023
Statement U/Sec. 313 of Cr.P.C.	19.01.2024
Defense evidence closed on	17.02.2024

Argument concluded on	18.03.2026
Date of Judgment/decision	26.03.2026
Date of the Sentencing Order, if any	09.04.2026

Accused Details

Rank of the Accused persons	Name of the Accused persons	Date of Arrest/ Surrender	Date of Release on Bail	Offences Charged with	Whether Acquitted of convicted	Sentence Imposed	Period of Detention Undergone during Trail for the purpose of Section 428 Cr.P.C.
A-1	Randhir Kumar	06.07.2020	Custody	Section-376(D),307/34 of the IPC	Convicted	Section-376(D)/34 of the IPC	Ten years R.I. and Rs. 1,00000/- (One lakh) fine

FORM C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution:

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Aditya Kumar	Other Witness
PW-2	Surendra Kumar	Other Witness
PW-3	Chandan Kumar	Other Witness
PW-4	Pravin Kumar	Informant
PW-5	Chanchala Kumari	Victim/Eye Witness
PW-6	Arvind Kumar	Other Witness
PW-7	Dr. Lalsa Sinha	Medical Witness
PW-8	Dr. S.M. Shahjad Maqbool	Medical Witness
PW-9	Dr. Mukesh Kumar	Medical Witness
PW-10	Upasana Kumari	IO/Police Witness

B. Defence Witnesses, if any:

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1.	NIL	NIL

C. Court Witnesses, if any:

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
1.	NIL	NIL

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1.	Exhibit-P1	Signature of the witness Aditya Kumar on the seizure list
2.	Exhibit-P2	Signature of the witness on the fardbeyan
3.	Exhibit-P3	Signature of the witness on the fardbeyan
4.	Exhibit-P4	Signature of the victim on the statement recorded U/s-164 Cr.PC.
5.	Exhibit-P5	Signature of the victim on the seizure list
6.	Exhibit-P6	Signature of the witness on the medical certificate
7.	Exhibit-P7	Signature of the witness on the medical certificate
8.	Exhibit-P8	Signature of the witness on the medical certificate
9.	Exhibit-P9	Formal FIR
10.	Exhibit-P10	Written application
11.	Exhibit-P11	Seizure list
12.	Exhibit-P12	Seizure list of cloth
13.	Exhibit-P13	Seizure list
14.	Exhibit-P14	Chargesheet
15.	Exhibit-P15	FSL report
16.	Exhibit-P16	FS report no. 1043/2020 dated 22.10.2020

B. Defence:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1	NIL	NIL

C. Court Exhibits:

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1	NIL	NIL

D. Material Objects:

Sr. No.	Exhibit Number	Description
1	NIL	NIL

J U D G M E N T

1. The above named sole accused person namely **Randhir Kumar** is stand charged for the commission of the offenses punishable U/ss- **376(D),307/34 of the IPC for committing rape and assaulted the victim in furtherance of common intention** and is facing trial for the same offences.

Prosecution Case

2. As per the written application of informant Pravin Kumar, the prosecution story in brief is that on 02.07.2020 at about 8 PM, victim(Chanchala Kumari), the sister of informant had gone to attend the call of nature outside of village, in the meanwhile, co-villagers Randhir Yadav(accused) and Mritunjay Kumar came near her and forcibly tied her legs and hands and taken her in the field and raped and when she protested then they threw her in the canal in semi-died condition. The informant and others searched her throughout the night but they did not find her. On the next morning, when they again searched the victim then some co-villagers women saw her in semi-died condition in the canal. Thereafter, she was brought to Daudnagar Sadar Hospital but seeing her bad condition she was referred to Sadar Hospital, Aurangabad wherefrom she was again referred to BHU, Varanasi for her better treatment. The informant seeing the serious condition of her sister got treated her in Dr. Sunil Boss Clinic, Dehri-on-Sone and her treatment was done there. Hence, the FIR has been registered.

Investigation

3. On the basis of written complaint of informant, the law was set in motion and Mahila Police Station registered a police case vide Mahila PS Case No-12/2020 dated 03.07.2020, for the offences punishable under sections **376(D),307/34 of the IPC**. The charge sheet no. **25/2020 Dated 11.09.2020** was submitted against the accused Randhir Kumar for the offences punishable under sections **376(D),307/34 of the IPC**.

Commitment

4. On receipt of the charge sheet, the then Learned **I/c-SDJM**, Aurangabad, took cognizance of the offences on dated 24.08.2021 for the offences punishable under section- **376(D),307/34 of the IPC** against the accused person namely

Randhir Kumar. After supply of necessary copies of police papers to him, the case has been committed to the Court of sessions. In the due course of transfer, this case record has been received in this Court on dated 04.09.2021 for trial and disposal from the Court of Learned Sessions Judge, Aurangabad, Bihar *vide*. Order dated 03.09.2021 of the Learned District & Sessions Judge, Aurangabad.

Charge

5. The then Learned predecessor of this Court, after hearing both parties and perusal of material on the record, framed the charge against the accused person on dated 10.01.2022, for the offences punishable under sections- **376(D),307/34 of IPC**. The charges were read over and explained to the accused person in Hindi, to which he pleaded not guilty and claimed to be tried.

Points for Determination

6. In the backdrop of rival contentions of counsel of defence and Ld. APP for the state, the main point apposite for determination and adjudication in this case is : Whether the prosecution has been able to prove the charges leveled against the accused person beyond the shadow of all reasonable doubts or not ?

Trial

7. To substantiate the charges leveled against the abovenamed sole accused person, the prosecution has examined altogether ten witnesses namely **PW1-Aditya Kumar, PW2-Surendra Kumar, PW3- Chandan Kumar, PW4-Pravin Kumar, PW5-victim, PW6-Arvind Kumar, PW7-Dr. Lalsa Sinha, PW8-Dr. S.M. Shahjad Maqbool, PW9-Dr. Mukesh Kumar and PW10-Upasana Kumari** and produced some exhibits which is as follows.

Sl. No.	<u>Exhibit Number</u>	Description
1.	Exhibit-P1	Signature of the witness Aditya Kumar on the seizure list
2.	Exhibit-P2	Signature of the witness on the fardbeyan
3.	Exhibit-P3	Signature of the witness on the fardbeyan
4.	Exhibit-P4	Signature of the victim on the statement recorded U/s-164 Cr.PC.
5.	Exhibit-P5	Signature of the victim on the seizure list
6.	Exhibit-P6	Signature of the witness on the medical certificate
7.	Exhibit-P7	Signature of the witness on the medical certificate

8.	Exhibit-P8	Signature of the witness on the medical certificate
9.	Exhibit-P9	Formal FIR
10.	Exhibit-P10	Written application
11.	Exhibit-P11	Seizure list
12.	Exhibit-P12	Seizure list of cloth
13.	Exhibit-P13	Seizure list
14.	Exhibit-P14	Chargesheet
15.	Exhibit-P15	FSL report
16.	Exhibit-P16	FS report no. 1043/2020 dated 22.10.2020

The defence has not produced any witness or documentary evidence in its behalf.

FINDINGS

8. In order to bring home the charges, the prosecution has produced altogether ten witnesses as oral evidence in its behalf. **PW1-Aditya Kumar-** He has stated in his examination-in-chief that a seizure list was prepared by Daroga Jee of Mahila Police Station Case No. 12/2020 in front of him to which he put his signature over it to which he identified which has been marked as Ext.P-1. Daroga Jee had also seized Inner wear, trouser and Kurti which was given by victim to Upasana Madam in front of him. He claims to identify the accused person.

In his cross-examination done on behalf of the defence, he has stated that the signature was made on 04th. at evening 4.30 to 5.00 PM. Further this witness has stated that he had put his signature on the written paper therein it was written about inner wear, trouser and kurti. He voluntarily went there. The house of victim is at the distance of 4 to 5 house of his house but he did not know whether the persons of that house were put their signature or not. victim is his fua. His statement was recorded by Daroga Jee and he told about entire incident to him. In his denial he has stated he in connivance with his fua deposed false and the seizure list and fake seizure list was not prepared in front of him and it was false prepared.

9. **PW2-Surendra Kumar-** He has stated in his examination-in-chief that the occurrence is of 02.07.2020 at 8 PM. Chanchala had gone to nature call and did not come to the house then they started searching her but they did not find her in the night. When they searched on the next morning they found her in unconscious position in the field near the canal. Thereafter, they took her to

Daudnagar, Hospital wherefrom she was referred to Sadar Hospital, Aurangabad wherefrom she was again referred to Varanasi but they got her treated at Sunil Boss, Dehri. She told that Randhir Yadav and Mrityunjay Yadav tied her legs and hands and raped her. His statement was recorded by the police. She claims to identify the accused persons.

In his cross-examination done on behalf of the defence, he has stated that on 04.07.2020 her statement was recorded by the police at the place of occurrence. She herself show the police to the place of occurrence but she did not know who lodged the case. He had told the police that the victim was found in the canal and he also told the police that victim had told him that her legs and hands were tied and raped by the accused person. The victim has told to the police that she was again raped near the Pipal tree. This witness has also deposed that he has no connection with the victim's family. The victim was search in the night but she was not found. Further at para-20 he has stated that the women of village used to go to natural call in the east of village. He did not know whether there is an toilet in the house of victim or not. This witness at para 23 has stated that there is Siris and Jamun tree where the victim was found unconscious, in south there is garden of Bhairav Singh and in east and west there is Mali Line Canal. This witness at para-25 has stated that he had taken out the victim from the canal's water and she was wearing blue colour kurti and pajama. This witness at para-26 has stated that head of the victim was looking in the canal. This witness at para-27 has stated that he had gone to the hospital. The victim was taken to the hospital by motorcycle. He cannot tell the time when they reached at Daudnagar, Hospital and the police had come in the government hospital and his statement was not recorded by the police. He did not tell the time when the victim was referred from Daudnagar, Hospital. They had come by ambulance to Sadar Hospital, Aurangabad but he cannot tell the time to come there. After examination by the doctor the victim was referred. The doctors of Daudnagar and Aurangabad did not tell the reason of unconscious of the victim. Thereafter, they were going to Varanasi but they took the victim to Sunil Boss, Dehri and they reached there at 11 AM where the victim was treated and got conscious. This witness at para 37 has stated that the victim had given her statement in the Mahila Police Station. He did not see whether the victim had put her thumb impression or put signature over it. In his denial he has stated that he told the entire incident on hearsay. He heard about the rape incident from the victim in Dehri when she got conscious. It was shown to Daroga Jee wherefrom the victim was taken out from the water. In his denial he has stated that he being the same caste of the victim and due to dirty village politics

registered the case by the victim and falsely implicated the accused persons. Further, in his denial he has stated that he has hands in lodging the case. In his denial he has stated that the victim had told name of both accused persons nor told about the rape her.

10. **PW3-Chandan Kumar-** He has stated in his examination-in-chief that the occurrence is of 03.07.2020 at 8 PM. There was rape incident took place with victim by Randhir Yadav and Mrityunjay Yadav. The victim had gone to natural call in the evening and Randhir and Mrityunjay taken her to Pipal tree and raped her and after rape they beaten and thrown her into the canal. The Beladhi's people raised hulla about the dead body of a girl then on hearing they went there and saw found victim in unconscious condition. They took her house and therefrom they took her to Sadar Hospital, Daudnagar, wherefrom she was referred to Sadar Hospital, Aurangabad and when they were going to Varanasi and seeing her worse condition they got her treated in Dehri where she regained consciousness. After regaining consciousness, she said that Randhir and Mrityunjay Kumar raped her and after beating her they thrown her into the canal. Thereafter, they went to the Mahila Police Station and lodged the FIR where he wrote the application and put his signature to which he identified which has been marked as Ext.P-2. He claims to identify the accused persons.

In his cross-examination done on behalf of the defence, he has stated that his village is situated at the distance of 1/2 KM from the Chauram village. Further, he stated that Pravin had called him at about 5 to 6 AM about thrown the victim into the canal. She was unconscious. He taken to her to the hospital on bike. All the cloth of victim was wet and she was taken to the hospital in the wet condition. She was taken to Aurangabad, Hospital on bike. Daudagar PS was informed and he and Pravin had gone there but no FIR was registered by Daudnagar PS but he cannot say the time to go to the Police Station. They reached at 8-9 O'clock to Sadar Hospital, Aurangabad where the doctor had referred her. They taken her by Ambulance from Aurangabad but he cannot tell the number of that vehicle. They had reached Dehri at 10 O'clock in the Boss Clinic where her treatment was done at 4 to 5 PM and she regained conscious and discharged. Thereafter, the victim was taken to Mahila PS where the Incharge of Mahila PS took her statement but she did not put her signature over it. In his denial he has stated that her bua (victim) had deposed against the unknown. Pravin had given his statement after his bua. Thereafter, he wrote an application to the Mahila PS and he and Pravin had put their signature over it. Further, this witness at para-30 has stated that prosecutrix was lying in the

Ambulance when the application was writing. She does not get down from the Ambulance because she was on Saline. The victim regain conscious at first told about the incident to Rekha Devi. He knows all the people of Chauram village. This witness can tell the name of Randhir's father. In his denial he has stated that he is the man who got registered the case. In his denial he has stated that he and Pravin together prepared the case. In his denial he has stated that prosecutrix did not tell name of any accused person.

11. **PW4-Pravin Kumar-** He is informant of this case. He has stated in his examination-in-chief that the occurrence is of 02.07.2020 at about 7.45 PM. prosecutrix had gone to natural call towards the field. Randhir Yadav and Mrityunjay Yadav hold and after beating raped her. When victim did not return they started searching her but could not find her. Again, in the next morning, when during the search they were going towards the canal then they saw that she was thrown into the canal. She was taken out and took her to the house in unconscious condition and was taken to Government Hospital, Daudnagar wherefrom she was referred to Sadar Hospital, Aurangabad, therefrom again the doctor advised him to took her to Varanasi but they took her to Sunil Bose, Dehri where she was treated and after treatment she regained conscious and said that Randhir Yadav and Mrityunjay Yadav after beating raped her and they also threatened to kill if she will tell to her brothers. Thereafter, they took the victim to Mahila Police Station. The application was written by Chandan Kumar whatever the girl told and he put his signature over it and identified which has been marked as Ext. P-3. His statement was recorded by the police. He claims to identify the accused persons.

In his cross-examination done on behalf of the defence, he has stated that at the time of occurrence, he, his wife Manisha Devi and his bhabhi Rekha Devi were present there but his parents were not present there. This witness at para-12 has stated that the victim had gone to natural call at 7.30/8.00 O'clock and when she did not return in 1/2 an hour then they started searching her. They did not search her to her Saheli(friend) but they had gone to his uncle. This witness at para-19 he has stated that his sister was lying in the canal. No one was saying that she seemed to have drowned in the water. This witness at para-20 he has stated that there was crowd there. One unknown person put her sister out. He had written in his application that his sister was taken out of the canal water. and during his statement to the Police he had also said that same version. He did not tell the villagers that his sister had fallen in to the canal. His sister

was taken from the cot to the house. The doctor was called but he was not at house so he did not come. The victim was taken to the Hospital, Daudnagar on motorcycle. His cousin Chandan was driving the motorcycle. He, his sister and Chandan were on the motorcycle. They had gone to the Daudnagar Police Station but he told to get treatment and they went in the morning to the Police Station. Daroga Jee had come to the hospital to see her sister. Daroga Jee was writing and he also took the signature of the doctor on a paper. They took the victim by Ambulance from Hospital, Daudnagar to Hospital, Aurangabad but she was referred to Varanasi but they took her to Dr. Sunil Bose where her treatment was done till 4 to 5 hours. They had received the discharge paper from Dr. Sunil Bose and also given it to the Mahila Police Station. His sister(victim) had given her statement firstly in the Mahila Police Station and Daroga Jee had written the same but he did not know whether his sister had put her signature or not. In his denial he has stated that his sister(victim) said that she was with her boyfriend. In his denial he has stated that neither Randhir nor Mrityunjay abducted her sister and raped her. In his denial he has stated that he has falsely implicated due to dirty village politics.

12. **PW5-Victim/Prosecutrix**-is victim of this case. She has stated in her examination-in-chief that the occurrence is of 02.07.2020 in between 7 to 8 PM. She as soon as about to sit to natural call Randhir Kumar Yadav and Mrityunjay Kumar Yadav caught behind her and when she cried then they closed her mouth and slammed and they took her at some distance near Pipal tree and slammed and raped her one by one. They again took her at the canal and slammed, assaulted and again raped her and thrown her in unconscious position in the canal. Thereafter, she has nothing remember and she regained conscious at Dr. Sunil Bose and when she regained conscious in the evening she said all the matter about the incident to her family members. The police had inquired her about the incident. Her statement was also recorded before the Magistrate Saheb U/s-164 Cr.PC and she said the entire matter about the incident and she put her signature over it to which she identified which has been marked as Ext. P-4. In this case she had produced her cloth to Daroga Jee who prepared production-cum-seizure list bears her signature to which she identified which has been marked as Ext. P-5. She claims to identify the accused persons.

In her cross-examination done on behalf of the defence, she has stated that at the time of incident she had to give Matric examination for which she had filled the form. Further she has stated that her statement was recorded on 4th. but she did not see the time and except her nobody had given

the statement. In her denial she has stated that she did not say the police about the incident to her family members and villagers. The victim at para-14 has stated that the accused persons had caught her and she screamed but no one has come there. They did not rape her where they caught her. They took her away by tying her legs. The accused persons picked her up and took her away to a distance of 200 yards from where she was sitting to defecate. The accused persons did not give her a chance to natural call. They took her to a field in the east near a Pipal tree. There was no crop in the field. It was fallow and wet land Her clothes were covered in wet mud. The under cloth was removed. She was wearing leggings and undergarments. The soiled cloth was shown to Daroga Jee by her. She told Daroga Jee where the rape took place on 4th. She had not gone there. This victim at para-19 she has stated that the accused persons took her to three places and kept her there the whole night. They raped her second time away from the Pipal tree where there was also wet mud. At the second place where they took her for rape the same people took away her naked clothes. At the third place where he raped her was on the canal. The victim at para 21 she has stated that she was raped at the canal and thrown into it. She cannot tell how much water was in the canal as she was unconscious. The victim at para-22 she has stated that she does not know who pulled her out of the canal and took her to Sunil Bose's Clinic. The police did not come to Sunil Bose's clinic. She cannot say that how long she stayed at the Bose Clinic after regaining conscious. She was brought to Sunil Bose's Clinic in an Ambulance and no one told her where they were taking her. She after regain conscious in Sunil Bose's Clinic was taken to Hospital, Aurangabad but she cannot tell the time to come at Aurangabad. The police had not come there. Thereafter, she had gone to her house but she cannot tell the time when she returned to her house. She did not know except recording her statement on 4th. the statement of any more was taken or not. Yadavs are always oppressing. The Yadav and her castes already have factionalism. In her denial she has stated that she did not tell about the incident rather her brother has filed a false case due to factionalism and she gave false testimony on his instruction. In his denial she has stated that neither Randhir nor Mrityunjay abducted her.

13. **PW6-Arvind Kumar-** He has stated in his examination-in-chief that the occurrence is of 02.07.2020 between 7 to 8 PM. The prosecutrix had gone to natural call and did not return the house then they started search in the night and again they searched in the morning then they found in Mali canal in

unconscious condition. Thereafter, they brought her to the house and taken her to Daudnagar for treatment whererfrom she was referred and then they took her to Sadar Hospital, Aurangabad and after some treatment she was referred to Varanasi but during the way to Varanasi they took her to Sunil Bose, Dehri for her treatment where after treatment she regained conscious and said the entire incident that Randhir Yadav and Mrityunjay Yadav assaulted and done wrong with her. He also told the same thing to the police in his testimony. He claims to identify the accused persons.

In his cross-examination done on behalf of the defence, he has state that his statement was recorded on 3rd. in Aurangabad. His younger brother told him that Daroga Saheb was writing the application. He cannot tell whether Pravin had put his signature over it or not. Thereafter, they went to the house. Pravin had deposed in the Mahila PS. This witness at para-9 has stated that he cannot say that the treatment's paper of three places was shown to Daroga Jee nor not. Pravin can tell about it. Further, he has stated that the victim was brought to the house by him, Pravin, Surendra and Chandan. He had pulled her out from the canal. This witness at para-11 he has state that they took her sister on bike for treatment. Chandan was driving the bike. This witness at para-13 has stated that he did not know how many wounds were on her body. He cannot tell how many persons had come in the Ambulance from Daudnagar to Aurangabad and he also cannot tell that from the same Ambulance they went to Sunil Bose from Aurangabad but from Sadar Hospital, Aurangabad he had gone to Sunil Bose. In his denial he has stated that he cannot produce any paper regarding abduction, rape and assault with his sister. In his denial he has stated that no such occurrence took place. In his denial he has stated that neither both the accused persons has abducted, assault nor raped with his sister. In his denial he has stated that due to caste factionalism of the village this false case has been registered.

14. **PW7-Dr. Lalsa Sinha-** He has stated in his examination-in-chief that on 03.07.2020 he was posted as Medical Officer at Sadar Hospital, Aurangabad and examined the victim. A medical board constituted by DS Sadar Hospital, Aurangabad members of board being Dr. Lalsa Sinha, Dr. Mukesh Kumar, Dr. SMS Maqbool, Dr. Mukesh Kumar, MO, Sadar Hospital, Aurangabad. She was brought and identify by Premlata Devi, ASI, Daudnagar, Kumari Archana Ray No. 459 and found the following:-

1. Mark of identification-One black til on left check. One black til on dorsum of right hand.

2. Reg. No. 13561 dated 03.07.2020
3. Teeth- 7-1/1-7/8-1/1-8= 14/16 total 30 teeth present. Gap present both side upper jaw for eruption of 3rd. molar
4. LMP-03.06.2020 as per her statement
5. General Examination-Average height, average built, intelligent, Conscious co-operative well oriented in time and space. One interact inserted on dorsum on right hand and foleys cathether inserted. She was treated at Doctor Sunil Bose Diagnosis, Dehri before coming to this hospital. She had also come for treatment in emergency on 03.07.2020 in morning in Sadar Hospital and then she was referred to higher centre because she was unconscious as case of drowning. BHT attached. On examination there is no injury found on face, lips, check, breast, upper back, lower back, middle side of thighs, legs, feet. No signs of struggle found. Gait normal.
6. Secondary Sexual Characters-Axillary and pubic hair developed. Pubic hair black, course, curly. Per abdominal examination-NAD.
7. Palvic Examination-Hymen raptured old at 6 O'clock position. Fourchete skin slickly torn. 3 Ml. in length, skin death, margin tender, not oozing, dry but skily tender on examination. Duration of injury within 48 hours. Colour of wound faint pink. Vagina intact. Vulva intact. No matting of pubic hair seen. Vaginal swab taken and sent for pathological examination. she has changed her dress and washed of her private parts after the incident. No stains seen under surface on salwar. She was wearing at the time of examination. No abnormal discharge seen. Victim girl sent for radiological examination. Opinion reserved till all reports come in.
8. Supplementary report- The victim victim was examined in General Surgical OT at 11.15 PM. A medical board constituted by DS Sadar Hospital, Aurangabad members of board being Dr. Lalsa Sinha, Dr. Mukesh Kumar, Dr. SMS Maqbool, Dr. Mukesh Kumar, MO, Sadar Hospital, Aurangabad and found the following. She was brought and identify by Premlata Devi, ASI, Daudnagar, Kumari Archana Ray No. 459. All reports attached. Pathological report by Dr. Laldev Prasad Singh DS, Aurangabad. As per his report.
No spermatozoa found on either both slides. Few RBCS found due to mensuration. Radiological report by Dr. Mukesh Kumar. REports attached. X-ray plate no. 554 dated 04.07.2020. As per his report(1) X-ray right wrist AP lateral view-Ephysis of ulna end of radius and ulna fused. (2) X-ray right elbow AP and lateral view-Distal end of humerus and proximal end of ulna fused. (3) X-ray Pelvis AP view-Ephysis of B/L illa rest not fused.(4) X-ray chest AP view-Ephysis of external end of clavicle B/L seen fused.
9. Opinion-(1) Regarding sexual act on the basis of findings mentioned above

she seems to have gone under gone sexual act recently. (2) Regarding age-On the basis of general examination, appearance, dentition, radiological findings-members of board opine age of victim girls is approximately 18 to 20 years. (3) all findings mentioned above.

10. Both medical reports are in his pend and writing also bears his signature and signature of all the board members including DS which has been marked as Ext. P-6.

In her cross-examination he has stated at para-12 that already mentioned no spermatozoa found. Hymen was found old ruptured. He has stated at para-13 that no any semen, blood coming from private parts. She has stated at para-14 that she has mentioned sexual act has gone withing 24 hours. She has stated at para-15 that it cannot be say victim is habituated sexual act. This witness at para-16 she has stated that she found injury on private part. Duration of injury within 48 hours. She has stated at para-17 that she has mentioned that she has changed her dress. She has seen the report of Dr. Sunil Bose. She has found injury on her(victim) body and hse has mentioned it. In her denial she has stated at para-18 that her report is not scientific and accurate.

15. **PW8-Dr. SM Shahjad Maqbool-** He has stated in his examination-in-chief that on 04.07.2020 he was posted as Dentist at Sadar Hospital, Aurangabad and on that day for the examination of the victim a medical board by Deputy Superintendent and he was also member in the medical board. A primary and supplementary report of the victim was prepared and he gave his finding in it bears his signature on both medical reports to which he identify which has been marked as Ext. P-7.

In his cross-examination he has stated that at the time of occurrence the victim had 30 teeth.

16. **PW9-Dr. Mukesh Kumar-** He has stated in his examination-in-chief that on 04.07.2020 he was posted as Radiologist at Sadar Hospital, Aurangabad and on that day for the examination of the victim a medical board by Deputy Superintendent and he was also member in the medical board. A primary and supplementary report of the victim was prepared and he gave his finding in it bears his signature on both medical reports to which he identify which has been marked as Ext. P-8.

In his cross-examination he has stated that there may be difference of about 06 month of the victim in the radiological report and in his denial he has stated that his report is unscientific.

17. **PW10-Upasana Kumari-** She has stated in her examination-in-chief that on 03.07.2020 she was posted in Mahila PS and on that day she took charge of investigation of Mahila PS Case No. 12/2020 dated 03.07.2020 U/ss-307/34 IPC. The formal FIR was filled in her writing and signature to which she identified which has been marked as Ext. P-9/PW-10. She also paginated the written application given by Pravin Kumar bears her signature to which she identified which has been marked as Ext.P-10/PW-10. Thereafter, she recorded restatement of the informant who supported the prosecution case and thereafter, she took testimony of witnesses Chandan Kumar and Manisha Devi who also supported the prosecution case. Thereafter, she recorded the statement of victim who has fully the prosecution case thereafter, she got medical treatment of the victim. Thereafter, she went to the place of occurrence where there is field of Randhir Yadav, in east Vinay Chandrawanshi, wet-vacant land, north-Sudama Yadav and in south-the field of Randhir Yadav. Thereafter, she went to the second place of occurrence of Mali canal which is east and west and in east-Mali line canal goes towards Bantara, west-Mali line canal goes towards Tejpura, north-garden of Munna Singh and in south-garden of Bharat Singh. She also took the statement of witnesses Brijmohan Singh, Arbind Kumar and Surendra Chandrawanshi who supported the prosecution case. Thereafter, she seized the cloth of victim victim and prepared seizure list in his writing and signature to which she identified which has been marked as Ext. P-11/PW-10. Thereafter, she recorded the statement of witnesses Rekha Devi and Aditya Kumar who supported the prosecution case. Thereafter, she went to third place of occurrence where there was a Pipal tree. In its east-there is field of Paras Kasera, west-field of Mahendra Yadav, north-RAMashish Yadav and in south-field of Nand Kumar Singh. Thereafter, she arrested the accused Randhir Kumar Yadav and Mrityunjay Kumar and seized the cloth and prepared the seizure list bears her writing and signature over it to which she identified which has been marked as Ext. P-12/PW-10. and the cloth of Mrityunjay is also in her writing and signature to which she identified which has been marked as Ext.P-13/PW-10. Thereafter, she recorded the statement of victim U/s-164 Cr.PC and after receiving the medical test enclosed in the case diary. The victim did not took the name herself to any accused person. Thereafter, she sent the cloth for test to FSL, Patna. Thereafter, she submitted the Chargesheet No. 25/2020 dated 11.09.2020 U/ss-376(D),307/34 of the IPC against the accused persons namely Randhir Kumar Yadav and Mrityunjay Kumar in the court in her writing and signature to which she identified which has been marked as Ext. P14/PW-10.. She claims to identify the accused persons.

In her cross-examination done on behalf of the accused persons she has stated that she received the informant's application On 03.07.2020 at 22.15 O'clock and she has registered the case and investigated the same. This witness at para-16 has stated that whatever she had seen has written in the case diary. She did not mentioned the restatement of victim in the case diary. She also did not record the statement of witness Chandan in the case diary. She did not mention any wound or mark of the victim in the case diary. This witness had studied the statement of victim before inspection of the place of occurrence but she did not mention about the eye witness of the testimony of the victim. She had mentioned the place of occurrence in para-18 of the case diary. This witness at para-21 has stated that there is nothing in the testimony of victim that she was raped in the garden of village Beladi. It is also not mentioned in para-18 about the sign or indication of the occurrence. She did not mention the time of the testimony of witnesses Brijmohan Singh, Arbind Kumar and Surendra Chandrawanshi at para-19,20,21 in the case diary. This witness at para-23 has stated that she has mentioned at para-25 in the case diary that on 04.07.2020 at 4.30 O'clock she has seized the cloth of victim. The victim did not say in her statement about the seized cloth. The cloth was not seized at the house of victim and where it was kept is not mentioned in the case diary. This witness at para-26 has stated that during her investigation no nay woman's witness has given such evidence that the victim had gone near the canal in semidied condition. She has stated at para-28 that Surendra Chandrawanshi has not stated in his testimony that victim was found in the canal of the garden and she was raped after tied her hands and legs. She has further stated that the victim did not say in her testimony that she has said her family members about the occurrence. She has further stated that the victim did not see her of soiled cloth. She has further stated that she cannot tell where the Katib had written the application. In her denial she has stated that she has submitted the chargesheet being woman of the victim. In her denial she has stated that her investigation is false and she has falsely implicated the innocent persons.

Statement of Accused

18. After closure of the prosecution evidence, the statement of sole accused person has been recorded under section 313(1)(b) of the Code of Criminal Procedure, 1973 on 19.01.2024. While the defence cross-examined the prosecution witnesses to refute the charge on the inculpatory circumstances arising against him, the tone and tenor of the answers of the accused person to the questions under section 313 (1)(b) of the Cr.PC. depicts the plea of total

denial. However, it has been stated by the accused person that he is innocent and he denied the allegation.

Arguments advanced by both sides

19. I have already heard the arguments of learned Counsels of both sides and perused the entire case record. The learned defence Counsel has strenuously argued that the prosecution has completely failed to prove this case beyond reasonable doubts because prosecution has examined only interested witnesses in this case. The prosecution has failed to examine any independent witness in this case. The prosecution witnesses are inconsistent to each other and contradictory to the material particulars and not reliable at all. Out of total 11(eleven) witnesses listed in the charge-sheet, ten (10) of them have been examined in this case. The informant has been examined by the prosecution and the examined witnesses did not support the prosecution case. The witnesses produced by the prosecution have also not supported the prosecution case. The learned defence Counsel has finally submitted that there is no evidence against the sole accused person facing trial in this case. There is no direct evidence to prove the charges leveled against the sole accused person and lastly the learned counsel has also argued that IO and doctor have not objectively corroborated the case because PW7-Dr. Lalsa Sinha has not found any injury on the body of prosecutrix to show that force was used against her. Therefore, the whole story of the prosecution becomes doubtful and full of suspicion. So, the sole accused person deserves acquittal.

On the other hand, the Learned A.P.P. appearing for the state has argued that the witnesses have fully supported the prosecution case beyond shadow of all reasonable doubts and all the prosecution witnesses are members of the party who were engaged to search the prosecutrix at night and recovered unconscious body of the prosecutrix in the canal early in the morning and bring him to the hospital. Therefore, it can be said that all the prosecution witnesses except doctor and IO are the real eye witnesses of the case and appears to be reliable and trustworthy. The Ld. APP has further argued that the victim/prosecutrix who is the victim of the crime is in built truth of the fact that she is injured and without any fact of enmity and false implication assumed that she tells the truth in the court and reliable witness. The Ld. APP has further argued that PW7-Dr. Lalsa Sinha has objectively corroborated the prosecution case and during the cross-examination she has deposed that the sexual act has been committed within 24 hours against the prosecutrix and she has also deposed that she has found injury on the private part of the prosecutrix and the

injury was within 48 hours and she has also deposed that she has seen the report of Dr. Sunil Bose who also found the injury on the body of the prosecutrix which shows that the prosecution has proved his case beyond shadow of all reasonable doubts and all the prosecution witnesses are inspiring confidence, appears trustworthy and reliable one. Therefore, the order of conviction should be passed against the accused person.

Discussions, Decisions and Reasons thereof

20. From perusal of the record, it transpires that altogether 11 witnesses have been charge-sheeted in this case and out of them, a total ten(10) witnesses have been examined by the prosecution. Now, in the back drop of above evidence, let me consider, whether the above mentioned evidence is sufficient to rope the accused person for committing an offence charged. The appreciation of evidence in a criminal case is the heart and soul of the dispensation of the justice delivery system in criminal law. Upon hearing both sides, I have gone through, as well as scrutinized carefully, the material evidence on record. The arguments put forwarded by the learned counsels for both the sides are also considered. Now, let me discuss and appreciate the evidence rendered by the prosecution in order to arrive at a Judicious decision on the points for determination.

To substantiate the offence U/s-375 of the IPC, it would be better to go through the bare penal provision of Section 375 of the IPC which is as follows:-

375. Rape.—A man is said to commit "rape" if he—(a)penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or(b)inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or(c)manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or(d)applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,under the circumstances falling under any of the following seven descriptions:—

(First.)— Against her will.

(Secondly.) — Without her consent.

(Thirdly.) — With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt,

(Fourthly.) — With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to

whom she is or believes herself to be lawfully married.

(Fifthly.) — With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

(Sixthly.) — With or without her consent, when she is under eighteen years of age.

(Seventhly.) — When she is unable to communicate consent.

Explanation 1.— For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2.— Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act: Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.— A medical procedure or intervention shall not constitute rape.

Exception 2.— Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

21. The word used in Section 375 of the IPC is against her will and secondly without her consent kept important significant in the appreciation of offence of rape. Explanation-2. A consent means an unequivocal voluntarily agreement when the woman by words, gesture are any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual acts.

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only for that fact, be regarded as consenting to the sexual activity.

22. Section 90 of the IPC provides the provisions that consent known to be given under fear or misconception-a consent is not such a consent as is intended by any section of this court, if the consent is given by a person under fear of injury or under a misconception of fact, and if the person doing the act knows, or has reasons to believe, that the consent was given in consequence of such fear or misconception. Meaning thereby, the consent was given on misconception of fact is not a consent in the eye of law.

23. It is settled principle of law that consent with respect to said Section 375 of the IPC involves an active understanding of the circumstances, action and consequences of the proposed act. An individual who makes a reasoned choice to act after evaluating various alternative actions or inactions as well as the various possible consequences flowing from such actions or reactions, consents to such actions.
24. An inference as to consent of the victim can be drawn only based on evidence or probability of the case. Consent is also stated to be an act of reason coupled with deliberation. It denotes an active will in mind of a person to permit the doing of an act complained off. Thus, "consent" for the purpose of Section 375 of the IPC, requires voluntarily participation after the exercise of the intelligence based on the knowledge of the significance of the moral quality of the act but after having fully exercise, the choice between resistance and assent. Whether there was consent or not, it is to be ascertained only on a careful study of all materials evidence.
25. In rape cases, 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 an assault-it is often destructive of the whole personality of the victim. The murderer destroys the physical body of his victim. Rapist degrades the very soul of the helpless female.
26. In the light of the discussions as made above and the settled principle of law, now the discussions and appreciations of evidence on record is necessary. In this case, PW4-Pravin Kumar, informant of this case who informed the police with regard to this case is that when his sister victim had gone to natural call to the field, then Randhir Yadav and Mrityunjay Yadav hold her and after beating raped her. In para-4, the informant has deposed that when victim did not return from the field, then he started searching her but could not find her. On the next morning, during the search, they were going towards the canal then they saw that she was thrown into the canal, she was taken out and took her to the house in unconscious condition and taken to govt. hospital, Daudnagar wherefrom she was referred to Sadar Hospital, Aurangabad, therefrom again the doctor advised him to took her to Varanasi but they took her to Dr. Sunil Bose, Clinic, Dehri where she was treated and after the treatment she regained conscious and said that Randhir Yadav and Mrityunjay Yadav after beating raped her and threatened

to kill if she will tell to anyone. Thereafter, they took the victim to Mahila Police Station where, the informant has given written application to the police whatever the victim told him. He put his signature over it and identified the same which is marked as Ext. P-3. This witness also identified the accused persons. PW5-Victim of this case has also supported the prosecution case and has stated that on 02.07.2020 at about 7 to 8 PM, went to natural call and when she was sitting for natural call, then Randhir Kumar Yadav and Mrityunjay Kumar Yadav aught behind her and when she cried then they closed her mouth and slammed and they took her at some distance near the pipal tree and raped her one by one. She has further deposed that they again took her at the canal and slammed, assaulted and again raped her and thrown her in unconscious position in the canal, thereafter, she became unconscious. She has further deposed that in the nursing home of Dr. Sunil Bose, she regained conscious in the evening and she said all the matter about the incident to her family members. The police has also enquired her and the statement was also recorded before the magistrate U/s-164 of the Cr. PC in which she said the entire matter about the incident and she put her signature over it to which she identified and marked as Ext.4. She has further deposed that she had produced her clothe to Daroga Jee who prepared production-cum-seizure list bears her signature to which she identified which is marked as Ext.5. She also claims to identify the accused persons. PW6-Arvind Kumar in his examination-in-chief has also supported and corroborated the prosecution case and has deposed that on the next day at morning, during the search, they found the victim in Mali canal in unconscious position, thereafter, they brought her to the house and taken her to Daudnagar, Hospital, for treatment wherefrom she was referred to Sadar Hospital, Aurangabad and after some treatment she was referred to Varanasi but during the way to Varanasi they took her to Dr. Sunil Bose Clinic at Dehri for her treatment where she regained conscious and said the entire incident that Randhir Yadav and Mrityunjay Yadav assaulted her and done wrong with her. This witness also identified the accused persons in the court. PW7-Dr. Lalsa Sinha, who has examined the victim has also objectively corroborated the prosecution case in her medical report and has opined that regarding sexual act on the basis of finding in her examination of the victim and hold that she seems to have gone under sexual act recently and also assessed the age of the victim girl approximately 18 to 20 years and also identified her signature and signature of the board of members which is marked as Ext.6. During the cross-examination in para-14, she has also deposed that she has mentioned sexual act has gone within 24 hours and in para-15 she has deposed that it cannot be said that victim is habituated sexual act and

in para-16 she has stated that she found injury on private part of the victim and duration of injury on the private part of the victim was within 48 hours. PW8- Dr. SM Shahjad Maqbool and PW9-Mukesh Kumar who were members of the medical board also identified their signature on the medical report as Ext.7 & 8 respectively. PW9-Upasana Kumari-Investigating Officer of this case, has also objectively corroborated the prosecution case with regard to the time of occurrence, place of occurrence and manner of occurrence and after investigation when she comes to the conclusion that the case is true then she submitted the charge-sheet against the accused persons U/ss-376(D), 307/34 of the IPC. PW1- Aditya Kumar, who is the seizure list witness of this case has also identified his signature on the seizure list as Ext.1 and also deposed that Daroga Jee has seized inner-wear, trouser and Kurti of the victim in front of him and also identified the accused persons. PW2- Surendra Kumar has also supported the prosecution case with regard to the time, place and manner of occurrence. He has stated that his statement was recorded by the police and he also identified the accused persons. PW3-Chandan Kumar, has also supported the prosecution case in the same line as deposed by the other witnesses and has deposed that he also went to the Mahila Police Station along with the victim where he wrote the application and put his signature to which he identified which is marked as Ext.P-2 and also identified the accused persons. From the persual of evidence of prosecution, it appears that prosecution witnesses are trustworthy and reliable one and corroborated the prosecuiton case with material particulars and consistent throughout the trial. From the analysis of evidence, it appears that there is no motive of any prosecution witness for false implication o the accused or any whisper of any material throughout the trial. It may be possible that there are some discrepancies in the statement of witnesses, but during the whole argument the learned defence counsel failed to point out any discrepancies are contradictions which hit the root of the case. It is well settled law that the discrepancies which donot go to the root of the matter and shake the basic version of the witnesses, therefore, cannot be annexed with undue importance. Moreso, when all the important "probabilities factor " echoes in favour of the version narrated by the witnesses. In this case, the prosecutrix, the victim of the case is growing up girl and victim of heinous offence, hence it is not expected that during the court's statement she possesses the photographic memory and to recall the details of the incident exactly in the same manner. Hence, only on the trivial contradictions and omissions the statement of prosecutrix cannot be thrown away.

27. The Ld. defence counsel argument that there was complete absence of injury on the body of victim. From the perusal of evidence, it appears that the prosecutrix sustained the injury during scuffle and she cannot be blamed as accomplish of the case. Absence of injury on the person of the victim of rape does not lead to an inference that the accused did not commit forcible sexual intercourse. Even, in the absence of external injury, the oral testimony of the prosecutrix that she was subjected to rape cannot be ignored. In this case, PW7-Dr. Lalsa Sinha who examined the prosecutrix has deposed in para-14 that the sexual act has gone withing 24 hours to the prosecutrix and in para-16, she has deposed that she found injury on private part of the prosecutrix and the duration of injury was within 48 hours. She has further deposed that she has seen the report of Dr. Sunil Bose who has found the injury on the body of the prosecutrix and she has mentioned it which shows that the doctor who examined the victim of the case objectively corroborated the prosecution case.

28. It is well settled law that the injuries on the person of the prosecutrix cannot be treated as sine qua non for setting of the offence of rape, because in order to establish the offence of rape such injuries on the person of prosecutrix are not an indispensable requirement. Lastly, if the totality of the circumstances appearing on the record of the case discloses that the prosecutrix does not have a strong motive to falsely involve the person charged then ordinarily the court has no hesitation in accepting the evidence of prosecution. In this case at hand, the aforesaid fact is exactly applicable. Having gone through the whole record in entirety, it is apparent that the statement of the prosecutrix is absolutely worth relying. She has no reason to defame herself by falsely implicating the accused. As such the prosecution case against the accused has been proved beyond the reasonable doubt on this score only.

29. From the perusal of evidence and appreciation of evidence of the prosecution witnesses, it appears that prosecution witnesses are reliable one and consistent throughout the trial and all the prosecution witnesses have fully supported the prosecution case with regard to the time, place and manner of occurrence. After lengthy and ordous cross-examination, the defence has failed to bring out any fact which creates doubt in the prosecution case and no any material contradictions was brought on the record which creates doubt in the prosecution case. Instead of it, all the prosecution witnesses are appears to be reliable, trustworthy, straightforward and consistent throughout the trial.

30. In such type of cases, the accused could be convicted on the sole testimony of prosecutrix if it is capable of inspiring the confidence in the mind of the Court, put a word of caution that the Court should be extremely careful while accepting the testimony when the entire case is improbable and unlikely to have happened.

It is true that in a rape case the accused could be convicted on the sole testimony of the prosecutrix, if it is capable of inspiring confidence in the mind of the court. If the version given by the prosecutrix is unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, the court shall not act on the solitary evidence of the prosecutrix. The courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen.

It is now well settled that a finding of guilt in a case of rape, can be based on the uncorroborated evidence of the prosecutrix. The very nature of offence makes it difficult to get direct corroborating evidence. The evidence of the prosecutrix should not be rejected on the basis of minor discrepancies and contradictions. If the victim of rape states on oath that she was forcibly subjected to sexual intercourse, her statement will normally be accepted, even if it is uncorroborated, unless the material on record required drawing of an inference that there was consent or that the entire incident was improbable or imaginary. Even if there is consent, the act will still be a "rape", if the girl is under 16 years of age. It is also well settled that absence of injuries on the private parts of the victim will not by itself falsify the case of rape, nor construed as evidence of consent."

"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. 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."

31. Thus, it is clear that the accused can be convicted on the sole testimony of the victim, if it transpires confidence, and no corroboration is required unless there are compelling reasons which necessitate insisting on corroboration of her statement. Minor contradictor should not be ground for throwing out the testimony of the victim. In this respect, it has been held by the Hon'ble Supreme Court in Deepak Kumar Sahu Vs. State of Chhatisgarh, 2025 is that the court should observed that if the evidence of the victim does not suffer from any basic infirmities and the factor of probability does not render it unworthy evidence,

the conviction could base solely on the evidence of victim. As a general rule, there is no reason to insist on the corroboration except in certain cases. The medical evidence may be available or may not be available in which circumstances solitary testimony of the victim could be sufficient to base the conviction, if it transpires confidence, there is no need of corroboration unless there are compelling reasons which necessitate the court to insist for corroboration of her statement. Corroboration of the testimony of the victim is not a requirement of law, but a guidance of prudence under the given facts and circumstances. Minor contradictions are small discrepancies should not be ground for throwing the evidence of victim.

32. In this case, the victim in her testimony supported the case of prosecution and gave a consistent account of the alleged incident of the sexual assault. The testimony of the victim is also corroborated by her statement recorded U/s-164 of the Cr. PC and also by the statement of other witnesses who fully supported the prosecution case from all corners.

33. In view of the analysis made above, I am of the confirmed view and finds that the evidence of victim is cogent, consistent and reliable. In the absence of any cogent reason to disbelieve the version of the victim, this court finds no sufficient reason to discard the evidence of victim and other witnesses who supported the prosecution case. It stands proved beyond the reasonable doubt that the accused person committed rape to the victim.

34. Thus, it is evident that the victim of rape of this case is wholly reliable witness and there is no material contradiction in her testimony and she is consistent throughout ought to prove the charges against the accused. In the aforesaid circumstances, there is no need of full proof corroboration of her evidence nor the law so requires. However, for her trustworthiness, there is corroboration by other prosecution witnesses who are wholly reliable. The medical evidence as discussed above, does not totally goes against the prosecution case.

35. On the basis of evidence discussed above and analysis of law made in the light of Hon'ble Apex Court's Judgment in the case of Deepak Kumar Sahu VS. State of Chhatisgarh, 2025, this court comes to the conclusion that prosecution has proved its case beyond the shadow of all reasonable doubts and the accused person is found and hold guilty for the offence punishable **U/ss-376(D)/34 of the IPC**. So far the offence punishable **U/s-307 of the IPC** is concerned, the

prosecution has failed to establish the charge levelled against the accused **U/s-307 of the IPC** beyond the shadow of all reasonable doubts. Therefore, the accused person namely **Randhir Kumar @ Randhir Yadav** is hereby acquitted for the offence punishable **U/s-307 of the IPC**.

Therefore, it is ordered that-

ORDER

36. In the result under the facts, circumstances and precedents of law, the sole accused person namely, **Randhir Kumar @ Randhir Yadav** who is facing trial in this case hereby convicted for the Charged offence punishable **U/ss-376(D)/34 of the IPC**. Since, accused **Randhir Kumar @ Randhir Yadav is** in judicial custody, so he is directed to be produced for hearing on point of sentence **on 09th. of April, 2026**.

This Judgment is pronounced in the open Court in presence of the accused person, his counsel and the learned Addl. PP. for the State.

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st
-cum-Special Judge
(SC/ST, NDPS & CHILDREN Act)
Aurangabad, Bihar.
26.03.2026

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st
-cum-Special Judge
(SC/ST, NDPS & CHILDREN Act)
Aurangabad, Bihar.
26.03.2026

Hearing on point of Sentence

09.04.2026:-

37. Convicted accused person namely **Randhir Kumar @ Randhir Yadav** has been produced from the Judicial custody before the Court. The Ld. Advocate for the accused person also appeared and submitted that the convict is poor person and it is his first offence under the Act and he will not commit such offence in future. The learned Advocate further submitted that lenient view may be taken and may be punished leniently for minimum punishment.
38. On the other hand, the Learned Addl. PP for the State has submitted that the accused had been found guilty by the court. Therefore, maximum punishment should be granted after considering the gravity of offence and nature of the case because in such type of cases, the cry of society demanded adequate justice for proper administration of the justice.
39. After hearing both the learned counsels and considering the totality of circumstances, it is the duty of the court to keep mind and listen the cry of the society because every crime is a pathological abrasion, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than revenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-cultarisation. Therefore, the focus of interest in panelogy is the individual, and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of path and regressive time. The human's today's views sentencing as a process of reshaping of a person who has deteriorated into criminality and modern community has a primary stake in the rehabilitation of the offender as a means of social defence. We therefore, consider a therepathic rather than an in-terrorem outlook should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind.
40. A proper sentence is amalgam of many factors such as he nature of offence, the circumstances-extenuating or aggravating- of the offence, the prior criminal record, if any of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental conditions of the offender, the prospect for the rehabilitation of the offender, the possibility of return of the offender to normal life in the community, the possibility of

treatment or training in the society, the possibility that the sentence may serve as a deterrent to the crime by the offender or by others and the current community need, if any for such a deterrent in respect to the particular type of offence. These factors have to be taken into an account by the court in deciding upon the appropriate sentence.

41. Hence, after considering all the facts and circumstances of the case as well as the mitigating circumstances as noted above, the convict **Randhir Kumar @ Randhir Yadav** is hereby sentenced **to undergo Ten years rigorous imprisonment** for the offence **U/s-376(D)/34 of the IPC.** and with a fine of Rs. 1,00000/- (One lakh), and in default of payment of fine, the convict shall to undergo further S.I for one year. The period of detention undergone by the accused to be set off against the sentence of imprisonment under Section 428 of the Code of Criminal Procedure, 1973.

42. This Judgment is pronounced in the open Court in presence of the accused persons, their counsel and the learned Addl. PP for the State.

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st
-cum-Special Judge
(SC/ST, NDPS & CHILDREN Act)
Aurangabad, Bihar.
09.04.2026

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st
-cum-Special Judge
(SC/ST, NDPS & CHILDREN Act)
Aurangabad, Bihar.
09.04.2026