

In The Court Of Additional Sessions Judge I, Darbhanga Present - Neeraj Kumar II, BSJS, BR00552 Sessions Trial case/CIS – 124/2019 Arising out of Bahadurpur PS case no 228/2006, G R Case no – 2669/2006 State Versus Malti Devi and others							
(A3)	Buchi Kumari	--	11.11.2009	U/s 366 A, 365, 34 of the IPC			
Appendix of Evidence							
1. List Of Prosecution/Defence/Court Witnesses							
A) Prosecution							
Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstance, Medical Jurist/ Medical witness, Investigating Officer, Complainant/ First Informant, Police Witness, Expert Witness, Panch Witness, Other witness)					
P. W. 1	Suresh Manjhi	Hostile					
P. W. 2	Lalit Manjhi	Hostile					
P. W. 3	X	The victim					
B) Defence Witnesses, if any: None							
Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstance, Medical Jurist/ Medical witness, Investigating Officer, Complainant/ First Informant, Police Witness, Expert Witness, Panch Witness, Other witness)					
C) Court Witnesses, if any: None							
Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstance, Medical Jurist/ Medical witness, Investigating Officer, Complainant/ First Informant, Police Witness, Expert Witness, Panch Witness, Other witness)					
2. List of Prosecution/ Defence / Court Exhibits							
A) Prosecution – None							
Sl. No.	Exhibit Number	Description (Inquest Panchnama/ Memo, Recovery Panchanama/ Memo, Arrest Memo, Post-mortem Report, FSL Report, other exhibit)				Proved by/ Attested by	
B) Defence – None							
Sl. No.	Exhibit Number	Description (Inquest Panchnama/ Memo, Recovery Panchanama/ Memo, Arrest Memo, Post-mortem Report, FSL Report, other exhibit)				Proved by/ Attested by	
C) Court Exhibits – None							
Sl. No.	Exhibit Number	Description (Inquest Panchnama/ Memo, Recovery Panchanama/ Memo, Arrest Memo, Post-mortem Report, FSL Report, other exhibit)				Proved by/ Attested by	
D) Material Objects/ Muddamals: None							
Sl. No.	Material Object Number	Description (Weapon of Offence, Clothing of accused/ victim, Mobile Phone/ Electronic Object/ Vehicle, Purse/ earrings/ identity card, other Material Objects)				Proved by/ Attested by	
Written and corrected by me							
Neeraj Kumar II							
Additional Sessions Judge I							
Darbhanga							
ST 124/2019							
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The 10th day of July 2026

Judgment

1. All Above named accused persons stand trial for offence under sections 366 A/34 and 365/34 of the IPC, while A2 additionally tried for offence under section 376/109, 376/114 IPC.

Factual background

2. The brief factual score of the case according to the bayan of the Informant is that his minor granddaughter X went out to answer the nature's call at about 08-09:00 PM on 16.12.2006 but did not return. She was searched by the family members and villagers but could not be traced. On 17.12.2006, it was discussed in the village that Rajju Manjhi had eloped with X with an intent to marry her. The informant along with his family members went to Rajju father then Rajju's father, mother and brother laughingly denied where Rajju and X were. The informant went back to his house, then a boy came and told him that Rajju's father had been telling from Lalit's phone to his daughter Malti and Son in law Shibo to immediately remove Rajjo and X from their house.
3. An FIR was instituted against the accused persons. After completion of the investigation the IO submitted the charge sheet against the accused persons before the learned Jurisdictional Court. After having taken cognizance of offence and complied with the provisions of section 207 CRPC, the case was committed to the Court of Sessions. This case was transferred to this Court.

Trial proceedings

4. After hearing both sides and on the basis of the materials available on record, charge for offence under sections 366A/34, 365/34 IPC against all three accused persons and separate charge under section 376/109, 376/114 IPC against A2 framed, read over and explained to them in Hindi language to which they refused to plead guilty and claimed to be tried.
5. The prosecution has produced following evidence

A) Oral evidence

S. N.	Name	Type
P. W. 1	Suresh Manjhi	Hostile
P. W. 2	Lalit Manjhi	Hostile

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P. W. 3	X	the victim
B) No Documentary Evidence was adduced. 6. After closure of the prosecution evidence the statement of the accused was recorded under section 313 CRPC, the plea of defence is innocence of the accused persons . 7. Defence denied giving any evidence. Argument advanced by the sides 8. The learned APP during the course of argument submitted that it was not the number but quality of the evidence that was material. It was submitted that prosecution had been able to prove the charge leveled against the accused persons beyond all reasonable doubts and prayed to convict him. 9. Per contra, the learned Defence counsel during course of argument put forward that accused persons were falsely implicated in the case. It was argued that the witnesses including the victim had not supported the prosecution version. He argued that there were various glaring contradictions in the testimonies of the witnesses which went to the root of the case. It was also argued that there was no nexus between the charge leveled against the accused persons and the evidence produced. The learned counsel submitted that there was nothing on record which could implicate the accused persons even remotely in the alleged offence. It was argued that the prosecution had been completely failed to prove the charge against the accused persons. The learned counsel submitted that there was no link in the prosecution case to connect the accused facing trial to the charge alleged. The learned counsel submitted that mere suspicion couldn't take place of evidence. The learned counsel finally prayed to acquit the accused persons from all criminal liability . Point for determination 10. Now the main point for determination before me is whether the prosecution has been able to prove the charge leveled against the accused persons beyond all reasonable doubts or not ? Finding		
Brief statements of the prosecution witnesses		
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11. It is very important to see what the different witnesses stated before the Court

- A)** PW 1 is Suresh Manjhi. In the chief examination he stated to have no knowledge about the incident and was not interrogated by the police. The witness was declared hostile and the prosecution cross examined him.

In the cross-examination by the prosecution Para 2 he denied stating to the police that a commotion occurred last night because X had left the house to relieve herself but did not return, and upon this, the villagers including the Informant searched her the entire night but she was not found, and in the morning, it was heard that X had been kidnapped and it was Rajju Manjhi who had taken her to his sister house in Siso Village and when Informant and the villagers went to Shanichar Manjhi to inquire then Shanichar and his wife denied knowing where X and Rajju were then the Informant filed the case in Sonki. In Para 3 he denied to have hid the truth in collusion with the accused persons.

In the cross examination by the defence Para 4 he stated that he knew the Informant who was now dead.

- B)** P. W. 2 is Lalit Manjhi. In the chief examination he stated that the incident took place around 10-12 years ago but he did not know the exact time. He stated that he was out of town at that time. He denied having any knowledge about the incident and being interrogated by the police. The witness was declared hostile and the prosecution cross examined him.

In the cross-examination by the prosecution Para 2 he denied stating to the police that on 17.12.2006 he came to know that Shanichar Manjhi's son Rajju Manhi had kidnapped X and also that Shanichar Manjhi called through their phone today in the morning to inform his daughter Malti Kumar's husband Shibu Manjhi to send Rajju Manjhi and X should be sent away somewhere soon, which made him believe that Rajju Manjhi kidnapped X. In Para 3 he denied to have hid the truth in collusion with the accused persons.

In the cross examination by the defence Para 4 he stated that he usually stayed outside.

- C)** P. W. 3 is X, the victim. In the chief-examination she stated that the incident took place about 13 years ago in the evening. She stated that she had gone out of the house to relieve herself when Rajju came there and took her to Shisho village. She further stated that the incident took place about 20 years ago but didn't recall the time. She stated that the informant who was her grandfather was now dead. She denied knowing what happened in the Informant's house. She stated to have gone to her maternal grandmother's house alone. She denied knowing anything about this incident and the police interrogating her. She

stated that she could not identify the accused Rajju Manjhi. The witness was declared hostile and the prosecution cross examined him.

In the cross-examination by the prosecution Para 3 she denied telling that on Saturday at about 08:00 PM when she had gone out to relieve herself, Rajju Manjhi covered her mouth, took her to his house and raped her, and kept in Shisho village on 20.12.2006. In para 4 she denied to have hid the truth in collusion with the accused.

In the cross examination by the defence Para 5 she stated that her parents had scolded her hence she had gone to her maternal grandmother's house. In Para 6 she stated that she went to her maternal grandmother's place alone and no one had gone with her. In Para 7 she stated that no incident of any kind had happened to her.

Decision and the reasons for the decision

12. It is cardinal principle of jurisprudence that the criminal law can never work on mere conjecture and surmises or suspicion. This is a principle of jurisprudence that the prosecution has to establish on its own legs and it doesn't gain any strength from the weakness of the defence. The prosecution has to prove each and every ingredient of the offence against the accused persons and this general burden never shifts, unless provided by the statute as such .
13. The prosecution case may be true but the criminal jurisprudence says that the prosecution must be true and there is long mental gap between may be true and must be true¹. The prosecution has to prove the guilt of the accused beyond all reasonable doubts by adducing positive cogent evidence and not by mere raising suspicion on his conduct as such.
14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system. The prosecution has to prove its case by leading evidence in conjunction with the chain of events as are stated to have occurred and these evidence must point irresistibly to the conclusion that the accused is guilty. The seriousness of the offence also requires much stricter proof.
15. The accused is being tried for offence under sections 376, 420 of the IPC and

¹ Ashish Batham vs. State AIR 2002 SC 3206

3, 4 of the Dowry Prohibition Act.

16. The victim in her evidence made contradictory statement. Firstly, she stated that Rajju came and took her to Shisho village, but again she stated to have gone to her maternal grandmother's house alone. She stated that she could not identify the accused Rajju Manjhi. In the cross examination also she reiterated to have gone to her maternal grandmother's house after being scolded by her parents. She also stated that no incident was happened to her.
17. It has been held² by Hon'ble Apex Court that Suspicion, however grave it may be, cannot take the place of proof, and there is a large difference between something that 'may be' proved, and something that 'will be proved'. In a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. This is for the reason that the mental distance between 'may be' and 'must be' is quite large, and divides vague conjectures from sure conclusions. In a criminal case, the Court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof. The large distance between 'may be' true and 'must be' true, must be covered by way of clear, cogent and unimpeachable evidence produced by the prosecution, before an accused is condemned as a convict, and the basic and golden rule must be applied. In such cases, while keeping in mind the distance between 'may be' true and 'must be' true, the Court must maintain the vital distance between mere conjectures and sure conclusions to be arrived at, on the touchstone of dispassionate judicial scrutiny, based upon a complete and comprehensive appreciation of all features of the case, as well as the quality and credibility of the evidence brought on record. The Court must ensure, that miscarriage of justice is avoided, and if the facts and circumstances of a case so demand, then the benefit of doubt must be given to the accused, keeping in mind that a reasonable doubt is not an imaginary, trivial or a merely probable doubt, but a fair doubt that is based upon reason and common sense.
18. In the cases involving sexual offence against woman. It is the victim testimony upon whom entire prosecution case rests. It is her statement which is of immense importance. It is her testimony which laid a foundation of a criminal case and in the absence of the foundation, no edifice could be erected on it, howsoever, magnificent it may be.
19. The victim in her evidence, didn't impute any overt act against the accused persons facing trial. She didn't impute their involvement in any kind of offence. She categorically stated that

² Hanumant Govind Nargundkar & Anr. v. State of M.P., AIR 1952 SC 343; State through CBI v. Mahender Singh Dahiya, AIR 2011 SC 1017; and Ramesh Harijan v. State of U.P., AIR 2012 SC 1979

no incident happened to her.

20. In the instant case, the victim categorically denied any misbehaviour or molestation perpetrated upon her by any accused facing trial. From the prosecution case, it came to the fore that nowhere during the trial the prosecution could establish a link between the accused persons and the alleged offence. It is settled proposition of criminal law that prosecution has to prove its case on the judicial file beyond all reasonable doubts and any such doubt in the prosecution story entitle the accused to acquittal.
21. When the statement of the victim is perused from the close quarters, it appears that she omitted to impute any overt act against the accused persons in her evidence before the Court and also failed to identify them as culprit.
22. It is true that the Indian Evidence Act doesn't require plethora of evidence to prove any fact. It is always the quality of the evidence that is material. Conviction could be done on the sole testimony of the prosecutrix, if it is firm, cogent and there exists cogent ground. The testimony of the prosecutrix must be of sterling character, not tainted with material contradictions and inherent incongruities.

In the case of State of Maharashtra vs. Chandraprakash Kewal Chand Jain³, Hon'ble Apex Court has observed that "Ordinarily the evidence of a prosecutrix must carry the same weight as is attached to an injured person who is a victim of violence, unless there are special circumstances which call for greater caution, in which case it would be safe to act on her testimony if there is independent evidence lending assurance to her accusation."

The evidence of real aggrieved is entitled to a greater weight and the testimony of such a witness is considered to be beyond reproach and reliable. Firm, cogent and convincing ground is required to discard the evidence of an injured witness.

23. The victim in her statement before the Court omitted to impute any sexual overt act against the accused persons. The testimony of the victim is full of contradictions, omissions and retractions. No supporting medical or forensic report is available on record. There is complete dearth of cogent legal evidence against the accused persons facing trial.
24. The victim absolutely exonerated the accused persons. From evidence it is clear that none of the accused kidnapped her nor abetted her kidnapping. Likewise none of the accused committed rape upon her or abetted any such offence. It is clear that none of the accused entered into physical relationship with the victim.

³ (1990) 1 SCC 550

25. The material omission by the victim to impute any overt act against the accused persons, the other ocular witnesses contradictory statements, the victim not identifying the accused, Complete dearth of cogent oral, documentary, forensic or material evidence are the important factors which cumulatively tend to make the entire prosecution improbable and unbelievable from the standpoint of prudence of a common man.
26. After hearing the erudite arguments of the rival sides, on the basis of above discussion and on perusal of the evidence and material available on record, I find and it is hold that the prosecution has failed to prove the charges leveled against the accused persons beyond all reasonable doubts. Hereinafter order is passed.

27. Order

28. As a result, accused persons namely Malti Devi, Rajgir Manjhi and Buchi Kumari are hereby acquitted of the charges of offences under sections 366A/34, 365/34 IPC. Further accused Rajgir Manjhi is also acquitted of the charge for offence under sections 376/109, 376/114 IPC .
29. Since the accused persons have been on bail, they along with their sureties are released from the liabilities of the bail bonds.
30. Let the case record be consigned to the record room or any other specified place in accordance with rules, but only after all due diligence.

Pronounced by me in open Court (Neeraj Kumar II) Additional Sessions Judge I Darbhanga The 10th day of July 2026	Written and corrected by me (Neeraj Kumar II) Additional Sessions Judge I Darbhanga The 10th day of July 2026
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