



GJKT010060942022

**EXH. - 69/A**

Filed on	26.09.2022		
Registered on	26.09.2022		
Decided on	30.08.2025		
Duration	Y	M	D
	02	11	04

FORM - A
IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
BHUJ- KACHCHH.

SESSIONS CASE NO.105 OF 2022

Details of FIR/Crime and Police Station

Police Station	:	Nakhatrana Police Station
Crime/FIR No.	:	Part-A C.R. No.11205035220411/2022
Complainant	:	The State of Gujarat
Represented By	:	Mr. P. V. Vania learned APP
Accused	:	(1) Ramesh Dhanji Baliya, Age-40 years, Occu.: Agriculture work. R/o. Virani Moti, Taluka:- Nakhatrana- Kachchh. (2) Valji Daya Jepar, Age-50 years, Occu.: Agriculture work. R/o. Sangnara, Taluka:- Nakhatrana- Kachchh.
Defended By	:	Ld. Advocate Mr.H. C. Chaudhary for accused.

FORM - B

Date of Offence	06.03.2022
Date of FIR	25.04.2022
Date of Charge-sheet	16.06.2022
Date of Framing of Charges	07.10.2023
Date of commencement of evidence	13.03.2024

Date on which judgment is reserved	20.08.2025
Date of the Judgment	30.08.2025
Date of the Sentencing order, if any	---

DETAILS OF ACCUSED

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Released on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of section 428 Cr.P.C.
A1	Ramesh Dhanji Baliya,	05.05.2022	24.06.2022	U/s. 376(2)(n), 384, 506(2), 406, 323, 114 of the Indian Penal Code, 1860			50 days
A2	Valji Daya Jepar,	02.05.2022	Released on anticipatory bail	U/s. 366, 376(2)(n), 384, 506(2), 406, 323, 114 of the Indian Penal Code, 1860			--

FORM - C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES			
A. Prosecution Witnesses:			
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL	EXHIBIT

		WITNESS, PANCH WITNESS, OTHER WITNESS)	
PW-1	Victim	Complainant/Victim	18
PW-2	Dr. Tarkeshwar Pande	Medical Officer	35
PW-3	Husband of Victim	Witness	41
PW-4	Rekhaben B. Patel, H.C.	Police Witness	47
PW-5	Rambhai Jakhubhai Charan, PSI	Police Witness	49
PW-6	Bhagyesh M. Chaudhary, P.I.	Police Witness	52
PW-7	Sister-in-law (Bhabhi) of victim	Witness	65

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

Sr. No.	Ex. No.	Description
1	19	Original Complaint
2	22	Bank Account Statement
3	23	Statement U/s. 164 of Cri.P.C.
4	21,26, 27	Photograph
5	28	Panchnama of local place
6	29	Clothes of victim recovered panchnamau
7	30	Arrest Panchnama
8	31	Mobile Recovery Panchnama
9	32	Medical Samples recovered panchnama
10	33	Letter to M.O., for medical examination of victim
11	36	Medical Examination Report of victim
12	37	Letter to M.O., for medical examination of accused
13	38	Medical Examination Report of accused No.1
14	48	FIR

15	53	Dispatch Note of Muddamal to FSL department for analysis
16	54	Receipt of FSL for received Muddamal.
17	55	Forwarding Letter of sending of Muddamal Examination Report
18	56	Biological examination report
19	57	Serological examination report
20	58	Dispatch Note of Muddamal to FSL department, Gandhinagar for analysis
21	59	Receipt of FSL for received Muddamal.
22	60	Forwarding Letter of sending of Muddamal Examination Report
23	61	Muddamal examination report by DFS, Gandhinagar
24	62	Certificate U/s. 65B(4) of the Evidence Act, 1872
25	63	Annexure-A
26	64	Photographs

J U D G M E N T

[1] The accused named **(1) Ramesh Dhanji Baliya (2) Valji Daya Jepar** have been booked FOR THE OFFENCES U/S 376(2)(n), 384, 506(2), 406, 323, 114 OF THE INDIAN PENAL CODE, 1860, for committing rape upon the complainant.

1.1 In case of *Nipun Saxena Vs. Union of India, 2019(2) SCC 704* and *Bhupinder Sharma Vs. State of U.P. (2008) 8 SCC 551*, it has been held by the Hon'ble Supreme Court that keeping in view of the social object of preventing social victimization and ostracism of the victim of a sexual offence for which Section 228-A has been enacted, it would be appropriate that in the judgments, the name of the victim should be indicated. Thus, in view of the above provisions and Section 228A of IPC, disclosure of identity of the victim and concerned witnesses have not made.

[2] Facts of the prosecution case in nutshell:

2.1 A complaint was lodged at Nakhatrana Police Station by the complainant on 25.04.2022, stating mainly that, the Accused No. 1 Ramesh Dhanji Baliya repeatedly forcibly had sexual intercourse with the complainant/ victim and while having sexual intercourse, he took their nude photographs and informed accused No.2 about those photographs as well as about sexual intercourse with accused No.1. So that the accused No.1 and 2 threatened the complainant/ victim to make the photographs and the facts of sexual intercourse viral and forcibly took out Rs.3,00,000/- and also took golden ring and earring by taking in confidence the complainant and also threaten to kill the complainant and witness if a police complaint is filed in this matter and thereby they have committed a serious offence under Sections 376(2)(n), 384, 506(2), 406, 323, 114 of I.P.C.. Accordingly the charge was framed against the accused vide Exh. 11. The charge was read over to the accused no.1 and 2 and they did not plead guilty vide Exh. 12 and 13 respectively.

2.2 The prosecution has thereafter led the evidence and after leading evidence submitted a closing pursis. The Statement under Section 313 of the Code of Criminal Procedure, 1973 of the accused was recorded, wherein, they have denied the charges leveled against them. They have also stated that they are innocent persons and have been falsely implicated in this case.

[3] Heard learned APP Mr. P.V.Vania for the State and Learned Advocate Mr. H.C.Chaudhary for the accused and gone through the same.

[4] Submissions on behalf of the State:

4.1 Ld. APP for the State has vehemently argued that in this case, the prosecution has proved the charges levelled against both the accused. He has thereafter submitted that in this case, this Hon'ble Court has framed the charge at Exh.-11 under Sections 376(2)(n), 384, 506(2), 406, 323, 114 of I.P.C, 1860.

4.2 He has thereafter submitted that the prosecution in order to prove its case , has examined total 7 witnesses and in all, 22 documents were produced.

4.3 Thereafter, Ld. APP has drawn my attention to the deposition of victim's(complainant), who has been examined at Exh.18. He has referred to the complaint at Exh.19. Ld. APP has submitted that it clearly transpires from the deposition that Accused No. 1 repeatedly forcibly had sexual intercourse with the complainant/ victim and while having sexual intercourse, he took their nude photographs and informed accused No.2 about those photographs as well as about sexual intercourse with accused No.1 and accused No.1 and 2 threatened the complainant/ victim to make the photographs and the facts of sexual intercourse viral and forcibly took out Rs.3,00,000/- and also took a golden rings and earring and also threaten to kill the complainant and witness if a police complaint is filed in this matter and in this offences the accused No. 2 aided and abetted accused No. 1.

4.4 Ld. APP further argued that police witnesses and medical witness as well as other independent witness have also supported the prosecution case and thereafter the Ld. A.P.P. has submitted that in this case, the prosecution has clearly proved beyond the reasonable doubt the accusation against the accused

persons under Sections 376(2)(n), 384, 506(2), 406, 323, 114 I.P.C, 1860.

[5] submissions on behalf of the accused:

5.1 On the other hand, the Ld. Advocate for the accused has submitted that the accused are falsely implicated in the alleged offence. Ld. Advocates further submitted if the entire deposition of the victim before the Hon'ble Court is perused then it can be seen that, there is not a single iota of evidence to show that the accused had compel to make physical relation to the victim with them. He has also submitted that in the deposition of the victim as well as other witnesses it clearly transpires that there is a love affair between the victim and accused and whatever happened, happen as per wish of complainant/ victim.

5.2 Ld. Advocates for the accused further submitted that in this case, the victim's version is most important and a close look at her version clearly reveals that there was a love affair between her and accused. Further, he has submitted that, it also transpires from the deposition of husband of victim as well as deposition of I.O. that there was a love affair between the complainant and accused No.1. Further, he has drawn my attention towards deposition of I.O. of this case and submitted that, looking to the deposition of I.O. he has clearly admitted in his cross examination that, in his investigation, no evidence has been found that the accused threatened the complainant and took her out of the house and no evidence has been found that the accused took the complainant to the bank and the complainant withdrew money from there and gave it to the accused. Further, he

has submitted that, none of the alleged offences levelled against the accused are proved by the prosecution beyond reasonable doubt. He has thus, concluded that in the absence of any cogent and material on record, the accused be acquitted.

[6] Upon giving careful consideration on rival submissions, oral as well as documentary evidences on record, the charges framed, and arguments done by the accused, the following points arise for my determination:

:POINTS FOR DETERMINATION:

- 1) Whether the prosecution proves beyond reasonable doubt that the Accused No. 1 repeatedly forcibly had sexual intercourse with the complainant/ victim and while having sexual intercourse, he took their nude photographs and informed accused No.2 about those photographs as well as about sexual intercourse with accused No.1 and the accused No.1 and 2 threatened the complainant/ victim to make the photographs and the facts of sexual intercourse viral and forcibly took out Rs.3,00,000/- and also took a golden ring and earring by taking into confidence the complainant and accused persons also threaten to kill the complainant and witness if a police complaint is filed in this matter and thereby accused have committed the offence punishable under Sections 376(2)(n), 384, 506(2), 406, 323, 114 of the Indian Penal Code?
- 2) What order ?

[7] My answers to the aforesaid points are as under-

- (1) In negative.
- (2) As per final order.

:R E A S O N S:

Points No.(1) and (2)

- 8] In order to prove the guilt of the accused in the offences under Sections 376(2)(n) of IPC, the prosecution has examined five witnesses and tendered the documentary evidences.
- 9] The prosecution has examined **PW1 - the complainant - victim** at **Ex.18**. She stated in her examination-in-chief that, she has two sons and a daughter and she got married about eighteen years ago and she studied up to 7th standard, that her husband works as a driver and before happening of present incident, her husband was abroad at Muscat and he was working as a driver there. Further, this witness has deposed that, about five to six years ago, an incident took place at her house. Further, she has deposed that, when Ramesh Dhanji forcibly raped her, she was at her house and at that time she was alone at home and there was no one else. Further, this witness has deposed that, Ramesh Dhanji is her family elder brother-in-law (Jeth). Further, this witness has deposed that, it was around 11:00 a.m. and her children boys had gone to school and Ramesh Dhanji forcibly raped her. Further, this witness has deposed that, then on 6/3/2022, he came to her house again and there was no one there and she was alone and it was around 5:00 p.m. and he demanded money from her and threatened to make her photos viral. Further, this witness has deposed that, he forcibly took photos of her with him and threatened to make them viral, that he had taken these photos of her on his mobile phone. Further, this witness has deposed that, on 6/3/2022, he came before her and demanded money. Further, she has deposed that, on that day, when she

refused to give him money, he pushed the witness, so her head hit on the wall and he beat her and left and thereafter she called her husband. Further, she has deposed that, her husband was at their house where work was going on and her husband came home and the witness showed everything to her husband and talked to him and as she got injured, they went to the hospital at Virani village to get medicine, but since it was Sunday, the hospital was closed, so they returned home and after coming home, she told her husband everything and the witness also called her brother and he came home and took her to Mathal. Further, this witness has deposed that, accused Ramesh Dhanji used to threaten her oftenly and because of that she had to go with him in his car. Further, she has deposed that, he took her nude photos and took her jewelry and money by threatening her regarding these photos, that the jewelry included two golden rings and an earring and Rs. 3,00,000/- was taken. Further, on showing the original complaint, from court record, she identified her signature in complaint and the said complaint is exhibited vide Exh.-19. Further, this witness has deposed that, The mobile from which Ramesh Dhanji took the photos was a touch screen mobile. Further, on showing the muddmal mobile of Oppo Company, the same is identified by her before the Court. Further, this witness has deposed that, the money that came to her was sent from her husband who was abroad which he used to deposit money in the Bank. Further, he has deposed that, her husband and she had a joint account in Virani's bank. Further, she has deposed that, she know the accused. The witness has identified the accused persons before the Court. Further, this witness has deposed that, if she was shown her photograph captured by accused Ramesh

from his mobile, she can identify the same. Further, this witness has shown the five photos kept in one cover at Mark-10/21 and the same is identified by her. Further, this witness has deposed that, she is shown the photos from page number-3 to 7 in the appendix "A" produced at-10/20, those photos are of her and Ramesh Dhanji Baliya, which she identified.

- 9.1 Further, this witness has deposed that, if she is shown her photographs, she can identify them on showing. Further she has deposed that, these photographs were taken by the accused in his mobile. Further, on showing the photograph of Annexure-A from the cover at Mark- 20/3, wherein she identified her photos as well as photos of accused Dhanji. The said document is exhibited vide Exh.-21. Further this witness has deposed that, she is shown the bank account statement at Mark 20/1, which she has given to the police for investigation, which is the account from which she used to make transaction of money. The said document is exhibited vide Exh.-22 with the objection raised by defence side. Further, this witness has deposed that, after giving the complaint, she went before the magistrate in the court and gave her statement to the magistrate. Further, this witness has deposed that, she has written the fact before the magistrate that the accused Rameshbhai Baliya raped her by force. Further, her statement under Section 164 of Cr.P.C has been shown to her and she confirms her signature on it, which is exhibited vide Exhibit-23. Further, this witness has deposed that, she know Valji Daya Jepar, who came to know about the photos that accused had captured, so he threatened her and took money from her. Further, this witness has deposed that, she had seen her photos in

Dhanji's mobile, so she came to know that Dhanji had captured her photos in his mobile.

- 9.2 The learned advocate for the accused cross-examined the complainant/victim,, wherein she has stated that, she is stating after looking at the photo on page number 8 of Exh.-21, that, the photos in it as a woman is of her. Further this witness has admitted that, the person who is seen as a man in this photo cannot be clearly seen. Further, this witness has stated that, in this photograph, it has not happened that she is being made to wear the mangalsutra. Further, this witness has stated that, the man's hand is on the mangalsutra. The witness willingly states that he is being made to wear it by force. Further this witness has admitted that, This photo is as if you were holding a mobile phone. Further, this witness has admitted that, her face is happy in this photo. Further, this witness has stated that, her husband went to Muscat in the year 2011, that in the year 2015, she was using the mobile number 9712759284. Further, this witness has admitted that, when she lodged a complaint, she was using mobile number 87992 08986. Further this witness has stated that, Mobile number 96014 38402 is of her brother's number. Further, this witness has admitted that her parental house is at Mathal, Taluka-Nakhtasha and her mother and brother lives in Mathal. Further, this witness has admitted that, she has also used mobile number 87585 28689 in her mobile. Further, this witness has admitted that, she had telephonic contact with Ramesh Dhanji Baliya since 2014. Further, she has stated that, the number from which she used to contact Ramesh Dhanji Baliya is not remember to her now. Further, this witness has admitted that, most of the calls were made from her mobile number to Ramesh

Dhanji Baliya's phone. This Witness willingly stated that Ramesh Dhanji's wife is her elder sister-in-law (Jethani), so she used to call her sister-in-law (Jethani). Further, this witness has stated that, she cannot say Whose number is the mobile number 94278 18301. Further, she has stated that, this number does not belong to Lakshmiben. Further, this witness has admitted that, The fact that she used to call and talk with Laxmiben on mobile phone of her husband Ramesh Dhanji Baliya, has never been mentioned anywhere before she has told it in cross-examination now. Further, this witness has denied that today, when she was asked about the fact that she talked on the phone of accused, she made a false explanation about it. Further, this witness has stated that, the accused Ramesh Dhanji works as a carpenter and does senetaring work. Further, this witness has admitted that most of the calls made from her phone to Ramesh Dhanji's phone number during the time when Ramesh Dhanji was out of the home for his work and returned home. Further, this witness has stated that, inn the first month of the year 2022, her husband returned from Muscat. Further, this witness has denied that, after her husband returned from Muscat, she used to talk on Ramesh Dhanji's phone number from her phone until 6/3/2022. Further, this witness has denied that she was talking on Ramesh's phone during the above period, although she is lying on oath. Further, this witness has admitted that, her husband saw the fact in her mobile that conversation was conducted on Ramesh Dhanji's phone from her phone. Further, this witness has denied that, a quarrel started between her and her husband regarding relationship of her and Ramesh. Further, this witness has denied that, due to the said reasons, as the quarrel between her

and her husband escalated, her husband had beaten her and in that beating, she got injury over her head. Further, this witness has admitted that, she had gone for treatment after she got injury but as the hospital was closed, she returned back. Further, this witness has admitted that, she called her brother after she got injury. Thereafter, the witness stated that her husband called her brother. Further, this witness has denied that, on that evening her brother came to her in-laws and took her away. Further, this witness has denied that her husband told her brother in a phone to take your sister back to your house, she is going down at wrong path. Further, this witness has admitted that, on 6/3/2022, she went to her maternal house with her brother and she stayed there until she filed a complaint before the police on 25/4/2022. Further, this witness has admitted that, she remained with her matrimonial house until she was ready to file a complaint against the accused. Further, this witness has stated that, she stayed at her maternal house for about eight to nine months from 6/3/2022. Further, this witness has admitted that, the reason for staying at her maternal house was Ramesh Dhanji. Further, this witness has admitted that on 06/03/2022 she got injury and on that day she was not ready to file a complaint against the accused Ramesh Dhanji and the other accused. Further, this witness has admitted that, as she was not ready to file a complaint against the accused, her brother took her with him. Further, this witness has admitted that, on 6/3/2022, when her brother came to her in-laws in the evening after she was injured, there was no discussion about the complaint. Further, this witness has admitted that, when her brother came to her in-laws on 6/3/2022,

she did not tell her brother the truth about how she was injured. Further, this witness has admitted that Nakhtana is five kilometers away from Virani village. Further, this witness has admitted that, after her brother came as she sustained injuries on 06/03/2022, she was not taken to Nakhtana police station to file a complaint. Further, this witness has denied that, she did not go to file a complaint that day because she refused to file a complaint that day. Further, this witness has denied that, she did not go to file a complaint on 6/3/2022 because her husband had beaten her and injured her because of her relationship with Ramesh Dhanji and if she had filed a complaint that day, a complaint would have been filed against her husband. Further, this witness has admitted that within 15 days of her head injury, she went to Nakhtana police station to file a complaint about her head injury. The witness willingly states that the police did not take her complaint. Further, this witness has denied that, her husband made such a condition in front of her and her brother that only if she file a rape complaint against Ramesh Dhanji Baliya, he will call her back into his house. Further, this witness has admitted that, she stayed at her maternal home for eight to nine months because her family life was ruined. Further, this witness has admitted that, her family life was ruined because of her relationship with Ramesh. The witness voluntarily stated that she did not have a relationship with Ramesh. Further, this after looking at the photo produced at Mark-25/1, this witness has stated that the photo of the woman in the photo is of her and the man who is seen is the accused and the said photo is of selfie taken by the witness which is captured when they seated in the car of accused.

The said document is exhibited vide Exh.-26. Further, after looking at the photo produced at mark-25/2, she has stated that the photo of the woman in that photo is of her in which she has seen wearing two rings in her hand in which she has worn a diamond ring on my second finger. The said photo is exhibited vide Exh.-27. Further, this witness has denied that the diamond ring seen in the photo at Exh.-27 was given to her as a gift by the accused. Further, this witness has denied that, the photo at Exh.-27 is in the mobile of accused. Further, she has stated that, photo at Exh.-27 was captured by her in her mobile. Further, this witness has denied that the diamond ring in the photo is given by the accused as a gift, eventhough she is giving false testimony on oath. Further, this witness has admitted that, the photographs at Exh. 26 were sent to the accused through WhatsApp by taking a selfie by her. Further, this witness has denied that, she had taken a selfie and sent the photo to show that she has worn the golden ring given by the accused. Further, this witness has denied that, as her husband came to know that she had a voluntary love affair with the accused, her husband asked her to file a complaint and she refused, therefore, her husband beat her and she was injured, eventhough, she was not ready to file a complaint against the accused. Therefore, the accused called her brother and sent her to her maternal house with her brother. Further, this witness has denied that, if she do not file a complaint against the accused, her family life would be ruined, so she was ready to file a complaint against the accused. Further, this witness has denied that, the accused did not extort any money or take any things from her by threatening to make the photo viral, but that

fact has been wrongly written in the complaint on the advice of her husband. Further, this witness has denied that, if she do not support the complaint written under the pressure of her husband, her family life would be ruined. Further, this witness has denied that, she is giving false testimony on oath. Further, this witness has denied that, she has also written the statement under Section-164 of Cr.P.C. wrongly under the pressure of her husband.

- 10] Thereafter, the prosecution has examined **PW-2 - Dr. Tarkeshwar Pande** at **Exh.35**. In his examination-in-chief, this witness has deposed that, on 26.04.2022, he was performing his duty as a Medical Officer at Nakhatrana Government Hospital, meantime a lady police personal Ramilaben Mali, brought the victim before him for medical examination and sample collection. Further this witness has deposed that, she (victim) stated in her history that she had been in a physical relationship with her elder brother-in-law (Jeth) Ramesh Dhanji for the last three years and they last had a relationship in December 2021, that the victim was the mother of three children, that during her medical examination, no signs of injury or bleeding were found on her private parts, that they took the necessary samples from her body. Further, this witness has deposed that, at the end of the examination, according to his opinion, no injury or blood was found on her private parts. Further he has deposed that in this regard, he filled the necessary details in prescribed form in his handwriting and made his signature alongwith stamp and issued a certificate.

The witness has identified the said certificate produced at Mark-10/7 and the same is exhibited vide Exh.-36.

10.1 Further, this witness has deposed that, on 06.05.2022, when he was on his duty, at that time, the accused Ramesh Dhanji was kept present by Nakhatrana police station along with yadi for conducting medical examination and collecting samples. Then he filled the details in his handwriting in the prescribed form and conducted medical examination of the accused and at the end of the medical examination, in his opinion, the accused was found to be capable of having sexual intercourse. In this regard, he has also issued certificate and also obtained the prescribed sample from the body of the accused. The witness has identified and confirmed the document produced vide Exh.-36 to 38.

10.2 This witness was cross-examined by learned advocate for the accused. In his cross-examination, this witness has admitted that, the victim has not mentioned the fact in the history that the accused forcibly raped her.

11] The prosecution has examined **PW3 - husband of the victim at Ex.41**. This witness has deposed before this Court that, in year 2022 the work of his house was going on and during that time the accused No.1 Ramesh called the witness and told that the wife of witness had taken medicine. So, the witness went home and he (accused No.1) called him again and asked to smell the mouth and when he went home, she was lying at home in a bloody condition. Further, this witness has

deposed that, then he took her to the hospital and returned from there. Further, this witness has deposed that, thereafter, he came to know that there was an affair between his wife and accused No. 1 Ramesh. and he (the witness) was doing job at Maskat and from there he used to send money in the joint account of him and his wife. Thereafter, when he checked the account, there was no money. Further, this witness has deposed that, thereafter, his brother-in-law (Shala) took his wife. Further, this witness has deposed that, he had intended to divorce his wife but seeing his children, he did not give the divorce. Further, this witness has deposed that, his wife told him that Ramesh used to call and torture his wife. Further, this witness has deposed that, he demanded money from his wife and forced her to take her away. Then his wife told him that she had done wrong deed and she will punish this man. So his wife filed a complaint before the police. Further, this witness has deposed that, the accused had hit his wife with something but he don't know what he had hit her with and because of that, blood came out from her head. Further, this witness has deposed that, the police interrogated him about the incident. Further, this witness has identified the accused before the Court. Further, this witness has deposed that, the accused took gold and silver ornaments from his wife which he has not returned and in addition, the accused took Rs. 3,00,000/- in cash.

11.1 This witness was cross-examined by learned advocate for the accused. In his cross-examination, the witness has

admitted that, he has no personal self knowledge regarding the incident. Further, this witness has stated that, he has shown eight photographs vide Exh.-21 and these are of his wife and accused No. 1 Ramesh and in those photographs his wife is seen in a happy state. The witness voluntarily states that, "clap cannot be made with one hand", his wife was also interested in having a relationship. Further, this witness has denied that as there was an immoral relationship between his wife and the accused and as his wife withdrew money from his account and gave it to his brother-in-law (Shala), due to which he (the witness) got angry and hit on the head of his wife with a wood. Further, this witness has denied that, the fact regarding giving jewelry and cash has been wrongly stated. Further, this witness has denied that, the accused did not beat his wife as he is saying but he is stating the false fact that the accused beat his wife and took away the jewellery and cash due to the accused having an immoral relationship with his wife.

- 12] Deposition of Police Witness PW-4:-** H.C. Rekhaben Balvantsi Patel has stepped in witness box and has been examined at Exh.47. In her examination-in-chief, she has deposed that, on 25/04/2022, she was doing her duty as a PSO at Nakhatrana Police Station. Meantime, as her PSI Mr. R.J. Charan sent the complaint of the complainant to her for registration, she registered the same vide Nakhatrana Police Station C.R. No. 0411/2022 in the online prescribed performa of FIR and sent the further investigation to to the Crime Against Women and took a printout of it, made her signatures with stamp and immediately sent the copy of Hon'ble

Court to the Hon'ble Court. Further, this witness has identified and confirmed the FIR produced vide Exh.-48

The said witness was not cross-examined by the Ld. Adv. for the defence.

- 13] Deposition of Police Witness PW-5:-** P.S.I. Rambhai Jakhubhai Charan has stepped in witness box and has been examined at Exh.49. In his examination-in-chief, he has deposed that, on 25.04.2022, he was serving as a Police Sub-Inspector at Nakhatrana Police Station. Meantime, as the complainant came to the police station in person and declared the facts of the complaint that, the accused took advantage of her loneliness and forcibly had sexual intercourse with her and took her photos on her mobile and threatened to kill the children if she told anyone and they also took the money that the complainant's husband sent from Muscat, the witness typed the facts of the complaint in the computer as written by complainant and read it to her and complainant had signed it before him and the witness had also signed it in person. Further, this witness has deposed that, after receiving the complaint of the complainant, the PSO was instructed to register the offence and the further investigation was sent to the Crime Against Women and as the P.I. was on leave, he took over the primary investigation and recorded the statements of the concerned witnesses and made a Panchnama of the local place and issued a letter for conducting medical examination of victim and as the victim produced the clothes worn at the time of the incident, seized them as per details of panchnama. Further, he has deposed that, thereafter the further investigation was handed over to P.I., Mr. B.M. Chaudhary.

Further, this witness has identified the muddamal clothes of victim before the Court.

13.1 The said witness was cross-examined by the Ld. Adv. for the accused, wherein he has denied that, he has taken the signature of the complainant in the prepared complaint. Further, this witness has denied that he has written down the statements of the witnesses in accordance with the complaint. Further, this witness has denied that he has conducted a false investigation. Further, this witness has admitted that, the complainant did not state any fact that she had given two gold rings and earrings to the accused Ramesh in her complaint. Further, this witness has admitted that, in his investigation it came out that the victim's husband was living abroad and there was a love affair between the victim and Ramesh. Further, this witness has denied that, he has written down the facts of the false complaint as written by the complainant's husband and obtained the complainant's signature in it. Further, this witness has denied that he has recorded the statements of the witnesses himself in support of the fact of the false complaint of the complainant's husband. Further, this witness has admitted that, during his investigation no evidence has been found that the complainant has given any cash to the accused. Further, this witness has admitted that during his investigation no evidence has been found that the accused have threatened the complainant and complainant had given the two golden rings and earring.

14] Deposition of Police Witness PW-6:- P.I. Bhagyesh Mansinhbhai Chaudhary has stepped in witness box and has been examined at Exh.52. In his examination-in-chief, he has deposed that on 25.04.2022, he was serving as a Police Sub-Inspector at

Nakhatrana Police Station. Meantime,, the investigation of C.R. No. 411/2022 of Nakhatrana Police Station was being conducted by his PSI Mr. Charan, he took over the investigation and made procedure to record the statement of the victim under Section 164 of Cr.P.C. and during the investigation, as the accused was found, he was arrested as per the details of the Panchnama and the clothes and mobile of the accused were seized and the accused was sent to the Government Hospital, Nakhatrana for medical examination. Further, this witness has deposed that, as he received the samples of the victim and the accused in sealed condition from medical officer, seized them as per the details of the Panchnama. Further, this witness has deposed that, he had sent the recovered muddamal to FSL for examination and FSL had issued receipt for receiving the said muddamal. Further, the FSL had sent the muddamal examination report along with forwarding letter. The witness has identified and confirmed the documents produced vide Exh.- 53 to 57 in his deposition. Further, this witness has deposed that, he had sent the muddamal mobile to DFS, Gandhinagar for examination along with dispatch note. Further, the DFS, Gandhinagar had issued receipt regarding receiving the said muddamal. Thereafter, the FSL, Gandhinagar has sent muddamal examination report of said muddamal alongwith forwarding letter. The witness has identified and confirmed the documents produced vide Exh.- 58 to 64 in his deposition. Further, this witness has deposed that, during the investigation, he obtained the bank account statement of the complainant and at the end of the investigation, as there was sufficient evidence against the accused, filed a charge sheet before the Hon'ble Court. Further, the witness has identified the accused persons

before the Court. Further, this witness has also identified the muddamal recovered by them during the investigation.

14.1 The said witness was cross-examined by the Ld. Adv. for the accused, wherein he has admitted that, the present so-called complaint has been filed after 50 days of the alleged incident and no explanation has been given for it. Further, this witness has admitted that there is no any facts found from the complainant's bank statement that he has given a single rupee to the accused. Further, this witness has admitted that all the photographs that he has seized for the purpose of investigation are of the complainant willingly posing for photographs and some of the photographs are of the complainant taking selfies herself. Further, this witness has admitted that according to the photographs seized for the purpose of investigation, it appears that the complainant is posing for photographs willingly, voluntarily and of her own accord and is having a relationship with the accused. Further, this witness has admitted that in none of the photographs does it appear that the complainant is posing for photographs under threat or against her will. Further, this witness has stated that, he has not recorded the statements of anyone around the complainant's house for the purpose of investigation. Further, this witness has admitted that in his investigation, no evidence has been found that the accused threatened the complainant and took her out of the house. Further, this witness has admitted that in his investigation, no evidence has been found that the accused took the complainant to the bank and the complainant withdrew money from there and gave it to the accused. Further, this witness has admitted that his investigation revealed that the complainant and the accused were

in a love affair and had a consensual and happy relationship. Further, this witness has admitted that some photographs of the complainant and the accused were also captured from the complainant's mobile phone. Further, this witness has denied that, despite it came out from his investigation that there was a love affair between the accused and the complainant and that the relationship was consensual and happy, he has filed a false charge-sheet against the accused just to show off his performance and he is giving false testimony in support of it.

- 15] The prosecution has examined **PW7 - Sister-in-law (Bhabhi) of the victim at Ex.65**. This witness has deposed before this Court that, they are three sisters and three brothers in the family, that the victim is married at Moti Virrani village, that the victim's husband is currently working as a driver. Earlier, he was at Muscat, that he had gone to Muscat for business in the year 2022. Further, she has deposed that, the victim is her sister-in-law (Nanand). Further, she has deposed that, a rape incident took place with her sister-in-law (Nanand) about three years ago, which was committed by Rameshbhai Baliya. Further, she has deposed that, her sister-in-law (Nanand) told her so that she came to know, that her sister-in-law (Nanand) gave two golden ring and golden earrings and Rs. 3,00,000/- to Ramesh Baliya. Further, she has deposed that, her sister-in-law (Nanand) was alone at home and her father-in-law had gone in the car, at that time Ramesh asked her to have sex with her, but she refused, so Ramesh said that he will make viral her nude photos. Further, this witness has deposed that, after two-three months, when the work of their new house was

going on, the victim's husband was in Moti Virani village. During this time, her sister-in-law (Nanand) was alone at home, when Ramesh Baliya demanded physical intercourse from her and again said that if you don't have physical intercourse with her, he will make her photos viral and will also call her husband and inform him and ask the victim for money from her husband and at that time, Ramesh assaulted her victim sister-in-law (Nanand) and she got injured in the head and as informed Dhanjibhai, he made a phone call to husband of witness about this. Further, she has deposed that, she had gone to the house of her sister-in-law (Nanand) and took her to the Nakhatrana government hospital for treatment and the doctor treated her. Further, the witness has deposed that, police has interrogated her. Further, this witness has deposed that, Valjibhai and Rameshbhai gathered and threatened to make viral photos of sister-in-law (Nanand) and demanded money and jewelry. Further, this witness has deposed that, she know the accused persons who are present in the Court. Further, this witness has identified the accused persons before the Court.

- 15.1 The said witness was cross-examined by the Ld. Adv. for the accused, wherein she has admitted that, prior to her victim sister-in-law (Nanand) suffered a head injury and her husband received a call from brother-in-law (Nandoya) of witness and husband of witness brought her victim sister-in-law (Nanand), she never mentioned that any misdeed had happened with her or that anyone had taken any jewelry or

cash from her. Further, this witness has admitted that, her brother-in-law(Nandoya) was in the Muscat for business purpose for three to four years. Further, this witness has admitted that, the area where her sister-in-law (Nanand) lives in Virani village is jampacked area and residential house are situated at surroundings and behind and people of their community are living there. Further, this witness has admitted that, her husband received a call from her brother-in-law(Nandoya) on 6/3/2022. Further, this witness has admitted that, at that time her brother-in-law(Nandoya) told her husband on the phone that your sister has got injury of edge of of Paniyaru of the house and is bleeding and told to come to Virani village and after receiving the said news, husband of witness and her brother-in-law (Der) took two vehicles and went to Virani village. Further, this witness has admitted that, both her brothers-in-law (Der) are of 20-25 years of age. Further, this witness has admitted that her husband and her brother-in-law (Der) went to house of in-laws' of her sister-in-law (Nanand) and got her treated at Nakhatrana and brought her to her (witness) house. Further, this witness has admitted that, the next day her husband and her brother-in-laws (Der) came to Bhuj for further treatment of her sister-in-law (Nanand) and got a CT scan etc. done at Bhuj. Further, this witness has admitted that, when her husband and her brother-in-laws (Der) took her sister-in-law (Nanand) to the doctor who treated her at Nakhatrana or the doctor who treated her and performed the CT scan at Bhuj for treatment, her sister-in-law (Nanand) did not tell anyone how her sister-in-law

(Nanand) was injured, that means, she did not tell the said facts to husband of witness, her brother-in-law (der) or anyone else. Further, this witness has admitted that, when her sister-in-law (Nanand) came to house of witness, she did not tell the witness how she was injured. Further, this witness has denied that, her brother-in-law (Nandoya) beat her sister-in-law (Nanand) and because of that, her husband or her sister-in-law (Nanand) did not tell the fact how her sister-in-law (Nanand) was injured nor write the same anywhere. Further, this witness has denied that her brother-in-law (Nandoya) had a quarrel with her sister-in-law (Nanand) due to bad character of her sister-in-law (Nanand) in which her sister-in-law (Nanand) got injury from her brother-in-law (Nandoya) and because of that, no one was told who did the injury. Further, this witness has admitted that, on 6/3/2022, her husband took her sister-in-law (Nanand) with him and treated her injuries thereafter, her sister-in-law (Nanand) stayed with them for about three to four months. Further, this witness has admitted that during these three to four months, husband of her sister-in-law (Nanand) never came to take her or meet her. Further, this witness has admitted that, later, when her community gathered, her sister-in-law's (Nanand) husband came to her village Mathal. Further, this witness has admitted that, when the people of the community gathered, there was a discussion about why her sister-in-law's (Nanand) husband was not taking her and why her sister-in-law's house was spoiled. Further, this witness has admitted that, the people of the community sat together and decided that if her

sister-in-law (nanand) complained against Ramesh, her husband would take her back. Further, this witness has admitted that, after that her husband, husband of her sister-in-law (Nanand) and the leaders of the community took her sister-in-law (Nanand) to the Nakhatrana police station and her sister-in-law (Nanand) filed a complaint against the accused and after that everyone returned to her house and after coming, her brother-in-law (Nandoya) took her sister-in-law (Nanand) with him and went to his village Virani. Further, this witness has admitted that, after writing the complaint in Nakhatrana and coming back, she made conversation with her husband and her sister-in-law (Nanand) and they told the witness that they had written such type of complaint. The such type of fact means the facts that she has stated in her examination-in-chief which was told to her by her sister-in-law (Nanand) and her husband. Further, this witness has admitted that, since her sister-in-law (Nanand) filed a complaint against Ramesh and the other accused Valji, her sister-in-law's (Nanand) family life has been going well. Further, this witness has admitted that, she has stated the same facts in her examination-in-chief before the court today, as those told to her by her sister-in-law (Nanand) and her husband after lodging the complaint and she has also stated the same facts when the police interrogated her. Further, this witness has admitted that, her sister-in-law (Nanand) has never given any jewelry or cash to anyone in her presence. Further, this witness has denied that her sister-in-law (Nanand) has not told her anything but she is stating the false facts raised by her

husband and her sister-in-law's (Nanand) husband before the Hon'ble Court.

- 16] Now, upon perusal and appreciation of the deposition of the main witness i.e. victim/ the complainant (PW1) at Exh.-18, she has mainly deposed that, about five to six years ago, an incident took place at her house, when accused Ramesh Dhanji forcibly raped her and she was at her house and at that time she was alone at home and there was no one else. Further, this witness has deposed that, it was around 11:00 a.m. and her children boys had gone to school and Ramesh Dhanji forcibly raped her. Further, this witness has deposed that, then on 6/3/2022, he came to her house again and there was no one there and she was alone and it was around 5:00 p.m. and he demanded money from her and threatened to make her photos viral. Further, this witness has deposed that, he forcibly took photos of her with him and threatened to make them viral, that he had taken these photos of her on his mobile phone. Further, this witness has deposed that, on 6/3/2022, he came to her and demanded money. Further, she has deposed that, on that day, when she refused to give him money, he pushed the witness, so her head hit on the wall, that he beat her and left, after which she called her husband. Further, she has deposed that, her husband was at the house where work was going on and her husband came home and the witness showed everything to her husband and talked to him. And as she got injured, they went to the hospital at Virani village to get medicine, but since it was Sunday, the hospital was closed, so they returned home and after coming home, she told her husband

everything and the witness also called her brother and he came home and took her to Mathal. Further, this witness has deposed that, accused Ramesh Dhanji used to threaten her oftenly and because of that she had to go with him in his car. Further, she has deposed that, he took her nude photos and took her jewelry and money by threatening her regarding these photos, that the jewelry included two gold rings and an earring and Rs. 3,00,000/- was taken. Further, this witness has deposed that, she know Valji Daya Jepar, who came to know about the photos that accused had captured, so he threatened her and took money from her.

- 16.1 But with this fact, if we look to the cross-examination of the complainant/ victim conducted by defence side, wherein she has clearly admitted that, her face is happy in the photos of her with the accused Ramesh produced on record. Even, this witness has admitted that, she had telephonic contact with accused Ramesh Dhanji Baliya since 2014. Further, this witness has admitted that, most of the calls were made from her mobile number to Ramesh Dhanji Baliya's phone. Further, this witness has admitted that most of the calls made from her phone to Ramesh Dhanji's phone number during the time when Ramesh Dhanji was out of the home for his work and returned home. Further, this witness has stated that, in the first month of the year 2022, her husband returned from Muscat. Further, this witness has denied that, after her husband returned from Muscat, she used to talk on Ramesh Dhanji's phone number from her phone until 6/3/2022. Further, this witness has denied that she was talking on Ramesh's phone during the above period,

although she is stating false on oath. Further, this witness has admitted that, her husband saw the fact in her mobile that conversation was conducted on Ramesh Dhanji's phone from her phone. Further, this witness has admitted that, on 6/3/2022, she went to her maternal house with her brother and she stayed there until she filed a complaint before the police on 25/4/2022 which is also indicative. Further, this witness has admitted that, she remained with her matrimonial house until she was ready to file a complaint against the accused. Further, this witness has stated that, she stayed at her maternal house for about eight to nine months from 6/3/2022. Further, this witness has admitted that, the reason for staying at her maternal house was Ramesh Dhanji. Even, this witness has admitted that, she stayed at her maternal home for eight to nine months because her family life was ruined. Further, this witness has admitted that, her family life was ruined because of her relationship with Ramesh. Further, after looking at the photo produced at Mark-25/1, this witness has stated that the photo of the woman in the photo is of her and the man who is seen is the accused and the said photo is of selfie taken by the victim her which is captured when they seated in the car of accused. The said document is exhibited vide Exh.-26. Further, after looking at the photo produced at mark-25/2, she has stated that the photo of the woman in that photo is of her in which she has seen wearing two rings in her hand in which she has worn a diamond ring on her second finger. The said photo is exhibited vide Exh.-27. Further, this witness has admitted

that, the photographs at Exh. 26 were sent to the accused through WhatsApp by taking a selfie by her. So, looking to the deposition of the victim, it appears that, the victim was in contact with the accused No.1 willingly and they had also conversation through whatsapp. Further, looking to the photographs of the victim with the accused produced on record, it clearly appears that, she has willingly captured the said photographs. Even, victim has clearly admitted in cross-examination that, her face is happy in the photos of her with the accused Ramesh produced on record. So, it transpires from the deposition of the victim that there was a love relation between victim and accused No.1. Now, if we look the entire evidence of the victim, it's clearly appeared mutual and consensual relationship between complainant/ victim & accused No.1 and there is no use of torture by the accused.

- 17]** Further, ,upon perusal and appreciation of the deposition of the husband of victim at Exh.-41, he has mainly deposed that, he came to know that there was an affair between his wife and accused No. 1 Ramesh. Even, this witness has deposed that, he had intended to divorce his wife but seeing his children, he did not give the divorce. Further, this witness has deposed that, his wife told him that she had done wrong deed and she will punish this man. So his wife filed a complaint before the police. Further, this witness has deposed that, the accused took gold and silver ornaments from his wife which he has not returned and in addition, the accused took Rs. 3,00,000/- in cash.

17.1 But looking to the cross-examination of this witness conducted by learned advocate for the accused. In his cross-examination, the witness has admitted that, he has no personal self knowledge regarding the incident. Further, this witness has stated that, he has shown eight photographs vide Exh.-21 and these are of his wife and accused No. 1 Ramesh and in those photographs his wife is seen in a happy state. It is also pertinent to note that, this witness voluntarily stated that, "clap cannot be made with one hand", his wife was also interested in having a relationship. So, it clearly transpires from the deposition of the husband of victim that there was a love relation between victim and accused No.1. Now, if we look the entire evidence of the husband of victim, it's clearly appeared mutual and consensual relationship between complainant/ victim & accused No.1 and there is no use of torture by the accused.

18] Further ,upon perusal and appreciation of the deposition of the Investigating Officer, P.S.I. Rambhai Jakhubhai Charan at Exh.-49, has admitted in his cross-examination conducted by defence side that, the complainant did not state any fact that she had given two gold rings and earrings to the accused Ramesh in her complaint. Further, this witness has clearly admitted in his cross-examination that, during his investigation it came out that the victim's husband was living abroad and there was a love affair between the victim and Ramesh. Even this witness has admitted that, during his investigation no evidence has been found that the

complainant has given any cash to the accused and no evidence has been found that the accused have threatened the complainant and complainant had given the two golden rings and earring.

18.1 So, looking to the deposition of this witness i.e. I.O., it clearly appears that, there was a love affair between complainant and accused No.1 and had a consensual relationship and looking to the deposition of the I.O., it does not appear that accused have taken the golden ornament from the victim and gave any type of threat to the victim .

19] Further, upon perusal and appreciation of the deposition of the Investigating Officer, P.I. Bhagyesh Mansinbhai Chaudhary at Exh.-52. He has admitted in his cross-examination conducted by defence side that, the present so-called complaint has been filed after 50 days of the alleged incident and no explanation has been given for it which is indicative. Further, it is pertinent to note that this witness has also admitted that there is no any facts found from the complainant's bank statement that he has given a single rupee to the accused. Further, it also appears from the deposition of the Investigating Officer that, all the photographs that he has seized for the purpose of investigation are of the complainant willingly posing for photographs and some of the photographs are of the complainant taking selfies herself. Further, this witness has admitted that according to the photographs seized for the purpose of investigation, it appears that the complainant is posing for photographs willingly, voluntarily and of her own accord and is having a relationship with the

accused. Further, this witness has admitted that in none of the photographs does it appear that the complainant is posing for photographs under threat or against her will. Further, this witness has admitted that in his investigation, no evidence has been found that the accused threatened the complainant and took her out of the house. Further, this witness has admitted that in his investigation, no evidence has been found that the accused took the complainant to the bank and the complainant withdrew money from there and gave it to the accused. It is also pertinent to note that, this witness has admitted that the facts came out in his investigation that the complainant and the accused were in a love affair and had a consensual and happy relationship. Further, this witness has admitted that some photographs of the complainant and the accused were also captured from the complainant's mobile phone. So, looking to the deposition of I.O., it clearly appears that, there was a love affair between complainant and accused No.1 and had a consensual relationship.

- 20] Further, ,upon perusal and appreciation of the deposition of the Sister-in-law (Bhabhi) of victim at Exh.-65. It clearly transpires from her cross-examination conducted by defence side that her husband took victim/ complainant with him and treated her injuries thereafter, victim/ complainant stayed with them for about three to four months. Further, this witness has admitted that during these three to four months, husband of victim/ complainant never came to take back her or meet her. Even, this witness has admitted that, the people of the community sat together and decided that if

the victim/ complainant filed complaint against Ramesh, her husband would take her back. Further, it also transpires from her deposition that, after lodging the complaint by the complainant/ victim against the accused husband of victim/ complainant had taken back her with him at his house. Further, this witness has admitted that, since the complainant/ victim filed a complaint against Ramesh and the other accused Valji, complainant's family life has been going well. Further, this witness has admitted that, her sister-in-law (Nanand) i.e. complainant/ victim has never given any jewelry or cash to anyone in her presence. So, looking to the deposition of the said witness, it clearly appears that, as per decision of their community that if the victim/ complainant filed complaint against accused, her husband would take her back. Therefore, she has filed the complaint. Further, it also transpires from her deposition that, after lodging the complaint by the complainant/ victim against the accused husband of victim/ complainant had taken back her with him. Therefore, looking to the evidence of this witness it's clearly appeared that the community and husband of complainant had forcibly filed a complaint by complainant/ victim.

- 21] Further, upon perusal and appreciation of the deposition of the **Dr. Tarkeshwar Pande** at **Exh.35**. In his examination-in-chief, this witness has mainly deposed that, the victim stated in her history that she had been in a physical relationship with her elder brother-in-law (Jeth) Ramesh Dhanji for the last three years. Even it also transpires

from his deposition that, no signs of injury or bleeding were found on her private parts, Further, this witness has deposed that, at the end of the examination, according to his opinion, no injury or blood was found on private parts of victim. Further, this witness has deposed that, in his opinion, the accused was found to be capable of having sexual intercourse. Now, looking to the cross-examination conducted by defence side , this witness has admitted that, the victim has not mentioned the fact in the history that the accused forcibly raped her. So, looking to the deposition of the medical officer, it clearly appears that there was a love affair between and accused No.1.

- 22] It is also required to note that Medical Report of victim and accused No.1 are produced at Exh.-36 and 38 which are also not support the case of the prosecution. Further, the FSL reports which are produced on record at Exh.56 & 57 does not suggests the act of forcefully sexual intercourse by the accused with the victim. Also, no any material was found on the any Muddamal article or in the samples which collected during investigation and thus, the FSL report also does not support the case of the prosecution.
- 23] It is to be noted that as discussed above, it's appeared from the deposition of the prosecution witnesses, that there was a love affair between the complainant/ victim and accused No.1 Further it clearly transpires from the deposition of Husband of victim as well as Investigating Officer, that, there was a love affair between complainant and accused No. 1 Ramesh. Even, husband of complainant has stated in his deposition before the Court that, he had

intended to divorce his wife but seeing his children, he did not give the divorce. Though, it is the case of prosecution that the accused No.1 and 2 threatened the complainant/victim to make the photographs and the facts of sexual intercourse viral and forcibly took out Rs.3,00,000/- and also took a gold ring and earring. But prosecution has not produced any evidence which can prove the said facts. Further, looking to the deposition of the Investigating Officer, P.S.I. Rambhai Jakhubhai Charan at Exh.-49, he has admitted in his cross-examination conducted by defence side that, during his investigation no evidence has been found that the complainant has given any cash to the accused and no evidence has been found that the accused have threatened the complainant and complainant had given two golden rings and earring. Even, looking to the deposition of the Investigating Officer, P.I. Bhagyesh Mansinbhai Chaudhary at Exh.-52, this witness has also clearly admitted in his cross-examination that, there is no any facts found from the complainant's bank statement that he has given a single rupee to the accused. Further, this witness has admitted that in his investigation, no evidence has been found that the accused threatened the complainant and took her out of the house. Further, this witness has admitted that in his investigation, no evidence has been found that the accused took the complainant to the bank and the complainant withdrew money from there and gave it to the accused. Even this witness has admitted in his cross-examination that there was a love affair between complainant and accused No.1 and had a consensual relationship.

24] Thus, as discussed above, there are contradiction in the deposition of material prosecution witnesses. Therefore, it can be noted that primary evidences of the prosecution are not supporting to the prosecution case. It is further noted that the other evidence which produced on record by prosecution like statement u/s. 164 of Cr.P.C. of the victim and history which recorded by the medical officers, etc, these all evidences are corroborative piece of evidence and it is settled principle of law that the corroborative piece of evidence (supporting evidence) can not take place of primary evidence (main evidence). In these circumstances, on over all appreciation of evidence and discussions made herein above, this Court concludes that the prosecution has failed to prove beyond reasonable doubt that the accused No. 1 repeatedly forcibly had sexual intercourse with the complainant/ victim and while having sexual intercourse, he took their nude photographs and informed accused No.2 about those photographs as well as about sexual intercourse with accused No.1 and the accused No.1 and 2 threatened the complainant/ victim to make the photographs and the facts of sexual intercourse viral and forcibly took out Rs.3,00,000/- and also took a golden ring and earring by taking into confidence the complainant and accused persons also threaten to kill the complainant and witness and thus, prosecution is not succeeded to prove the charge of the offence punishable u/s. 376(2)(n), 384, 506(2), 406, 323, 114 of the Indian Penal Code, beyond reasonable doubt by leading cogent and reliable evidence and Therefore, Point No.1 is answered in

the negative and for Point No.2, following final order is passed:

O R D E R

1. The **Accused No.(1) Ramesh Dhanji Baliya**, R/o. Virani Moti, Taluka:- Nakhatrana- Kachchh.and **Accused No.(2) Valji Daya Jepar**, R/o. Sangnara, Taluka:- Nakhatrana- Kachchh. are hereby acquitted from the charges under Sections 376(2)(n), 384, 506(2), 406, 323, 114 of the Indian Penal Code, 1860.
2. Bail bond executed by the accused at the time of releasing him on bail stands cancelled.
3. The accused persons shall execute bail bond of Rs.5,000/- (Rupees Five Thousand only) each with surety of the like amount in compliance with Section 437A of the Code of Criminal Procedure, 1973, to appear before the higher Court as and when such Court issues notice in respect of an appeal or revision/petition.
4. Non- Valuable Muddamal like clothes, samples etc. seized in this case shall be destroyed as per rules after the expiration of the Appeal period and in case Appeal is preferred, then as per the decision in the said appeal.
5. So far as valuable Muddamals if any are concerned, if any interim order passed, it is made permanent and if no order is passed, then it is hereby directed to do the procedure for its disposal as per law after the expiration of the Appeal period and in case Appeal is preferred, then as per the decision in the said appeal.

*Signed and pronounced in the open court today this on
30th day of August, 2025.*

Place: Bhuj.

Date : 30.08.2025

Hiren Dave

sd/-
(J.A. THAKKAR)
Additional Sessions Judge,
Bhuj- Kachchh.
(GJ-00631)