



UPHM010024912021

IN THE COURT OF SESSIONS JUDGE, HAMIRPUR

PRESENT : Manoj Kumar Rai..... H.J.S. (UP2004)

Sessions Case No. 574 of 2021

State of U.P.

..... Prosecution

versus

Mulayam Singh Yadav (aged about 28 years) S/o Kallu Yadav,

Resident of village Indrapuri, Police Station Kurara, District Hamirpur (U.P.)

..... Accused

Case Crime No. 156 of 2021

Under section 452,354,376,323,506 IPC

Police Station Kurara, District Hamirpur.

For the State	Sri Rajesh Kumar Shukla, DGC (Crl.)
For the defence	Sri Khalil Azmat, Advocate

JUDGMENT

1. The aforesaid Sessions Case was received in this court by way of committal order dated 18.10.2021 by the then learned Chief Judicial Magistrate, Hamirpur for the trial of accused Mulayam Singh Yadav in case crime no. 156 of 2021, under section 452,354,376,323,506 IPC, Police Station Kurara, District Hamirpur.

2. Alleged incident belongs to the trial of allegation of rape of a girl/women. **Section 228-A of the Indian Penal Code** bars the disclosure of identity of a victim of rape which also has been approved by **Hon'ble Supreme Court in cases of State of Odisha Vs. Sukru Gauda; AIR 2009 SC 1019**. Thus, according to the above legal provision and directions of the Hon'ble Apex Court, the judgment is being passed without disclosing identity of the victim.

FACTUAL MATRIX OF THE CASE

3. Facts of the case in brief are that an FIR had been lodged in police station Kurara on the basis of *tehrir* submitted by the complainant Jagat Prasad S/o Shivram Nishad wherein it was mentioned that -

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On 19.07.2021 at about 10:00 o'clock in the morning, his daughter "victim" was alone in the house. At the same time, Phool Singh S/o Babulal of his village, came to his home and asked to victim about her (victim's) father and mother. His daughter told, her parent are at tube-well. Thereafter he had gone. Later on, accused Mulayam S/o Kallu Yadav of his village, came and started molesting to his daughter. When his daughter resisted and raised alarm, the accused beaten her, due to which victim's nose and face got injured. Thereafter, the accused go away by threatening her for life. When the accused was going from his house, his younger daughter Jyoti came, but accused pushed her. On the aforesaid grounds, necessary action by the police was requested.

4. On the basis of the *tehrir*, Chick FIR at Case Crime Number 156 of 2021 under Section 452,354,323,506 IPC was registered against accused Mulayam on 19.07.2021 at 19:11 o'clock. The lodging of the FIR was mentioned at GD No. 63 dated 19.07.2021 at 10:00 o'clock.

5. After lodging of FIR, the victim was sent for her medical examination and she was medically examined by Dr. Syed Umer Ali on 19.07.2021 at CHC Kurara. Following injuries were found on the victim's body -

1. *Complain pain in skull region and left ear.*
2. *Contusion 11 X 3 cm present in left forehead to base of left ear dark reddish in colour.*
3. *Contusion 10 X 2 cm present in right forehead to base of right ear of face reddish in colour.*
4. *Abrasion 1 X 1 cm present in upper nose anteriorly red in colour.*
5. *Contusion 4 X 2 cm present in left side of neck reddish in colour.*
6. *Contusion 5 X 1.5 cm present in right clavicle head to laterally reddish in colour.*

6. The investigation of the matter was entrusted upon SI Pankaj Tiwari on 19.07.2021. On that day, he incorporated copy of chick, copy of GD into the case diary, and recorded the statement of scribe of chick Constable Suresh Kumar in case diary. On 21.07.2021, the investigating Officer has recorded the statement of complainant Jagat Prasad and inspected the place of incident and prepared site plan at the instance of complainant. The investigating Officer has recorded the statement of "Victim" on 22.07.2021. On 24.07.2021 the victim was produced before the Civil Judge (J.D.)/FTC, Hamirpur, wherein the

statement under section 164 CrPC was recorded, in which the victim stated that -

“On 19.07.2021, at about 10:00 o’clock in the morning, Phool Singh Yadav came and asked to my younger sister, that “where is your parents” then she told they are on tube-well, also asked to her aunt the same. Thereafter, Jyoti (her sister) went for defecation, and I was resting alone in my home. Then Mulayam Singh Yadav, who is the familiar of Phool Singh, came and raped me, grabbed my hair and slammed against the wall, and struck me on the head and ear, causing me to lose my hearing. When my sister arrived and asked how he had come to be there, the accused pushed her and left. That day, the accused threatened me. Phool Singh's family members have visited the house twice for compromise.”

7. On the basis of the statement under section 164 CrPC of the victim, section 376 IPC was added in the matter. Thereafter, the victim was produced before Dr. Asha Sachan for medical examination on 26.07.2021 at 07:00 PM at District Women Hospital, Hamirpur. No injury was seen on private part of the victim, hymen was old heal ruptured. The accused was arrested on 25.07.2021 at 13:30 o’clock from village Indrapuri.

8. Having completed the investigation, the investigating officer submitted charge sheet against accused Mulayam Singh Yadav, under section 452,354,376,323,506 IPC.

9. The charges under section 452,354,376,323,506 IPC were framed by then learned predecessor on 12.11.2021 against accused Mulayam Singh Yadav. The accused pleaded not guilty and claimed trial.

10. The prosecution has examined following witnesses to prove its case-

PW1	“Victim”
PW2	Jagat Prasad (the complainant)
PW3	Jyoti
PW4	Head Constable Suresh Patel
PW5	Dr. Syed Umer Ali
PW6	Dr. Asha Sachan
PW7	SI Pankaj Tiwari

11. Following documents have been proved by the aforesaid witnesses.

Exhibit Ka-1	Statement of victim under section 164 CrPC
Exhibit Ka-2	Written complaint (FIR)
Exhibit Ka-3	Chick FIR
Exhibit Ka-4	GD No. 63 Dated 19.07.2021 at 19:11 o'clock
Exhibit Ka-5	Injury report of victim
Exhibit Ka-6	Medical report of victim
Exhibit Ka-7	Site Plan
Exhibit Ka-8	Arrest memo
Exhibit Ka-9	Charge sheet

12. After recording statements of witnesses, the prosecution has concluded its evidence and then statements of accused was recorded under Section 313 CrPC on 13.07.2026, wherein the accused denied the prosecution case and stated that the witnesses have given false statements and fake case proceeded against him.

13. After recording the statements of accused under Section 313 CrPC, opportunity was given to accused to produce evidence in his defence but no evidence was submitted by the defence.

WITNESSES EXAMINED BY PROSECUTION

14. Prosecution has examined seven witnesses to prove his case which details are as under -

15. **PW1 the “Victim”** stated on oath in her examination in chief that on 19.07.2021 at about 10:00 o'clock in the morning, she was at her home and her sister Jyoti had gone for defecation outside from home. Thereafter, Phool Singh S/o Babulal of her village, came and her sister was come after defecation and standing outside. Phool Singh asked her sister regarding their parents, then her sister replied that they are on tube-well at farm, and Phool Singh had gone. Thereafter, accused Mulayam came to her home and she was lying in her room, and Mulayam grabbed her and started molesting and further raped her. She knows the means of Rape. When she cried, accused slapped her brutally due to which her mouth and teeth were injured. Mulayam threatened her that if she tells anyone regarding this incident, he would kill her. When the accused was going from her home, her younger sister Jyoti has come. Her

brother had informed to her father regarding the incident, then her father returned from farm and she also informed him. She did not tell her father about the incident of rape due to disgrace. She had gone to the police station for lodging the complain with her father at the same day of the incident, when the case was registered on the basis of written complain of her father. The lady constable had recorded her statement and she told regarding the incident. She carried by police for medical examination at District Hospital, Hamirpur and Primary Health Centre, Kurara. The witness/victim has identified her photo and thumb impression mentioned on medical report and admitted that the doctor had recorded her statement and she put her thumb impression. She carried by SI to the court for recording her statement. At this stage, a sealed envelop was opened in the Court with the permission, and got the statement under section 164 CrPC dated 23.07.2021 and witness identified her photo and signature mentioned on the statement. The statement was read-over to the witness thereafter, the witness admitted that she has given the same statement to the Court without any pressure and stated the same version of the incident, happened with her on, which Exhibit Ka-1 was marked. The accused has raped her.

In her cross examination, the PW1 the “Victim” stated that, her father are four brothers, and they lives separately in attached houses. These people lives in the village and works in their farms and as a labourer. Her father has three bighas land and they do their farm work themselves. A Government tube-well is situated in her farm. They have many domestic animals, who cared by her mother. She told the whole incident to her father, happened with her. Her brother studying in Kurara. She has studied up to the class fifth. She does not know how much education her father has. Her father can read and write. The complaint was written by her father, but she does not know whether her father had written the complaint at home or at police station. When her father has submitted the complaint, she was also with him, but she does not know the time. She also does not know, whether she went police station on the day when she got injured or afterwards. They were remain present at police station since three to four hours. They went hospital from police station and again came to police station, thereafter came to home.

When they went to police station from hospital, she cannot tell, how long they had stayed at the police station. Her father had come to home from tube-well at 11:00-12:00 o'clock. Her father went to tube-well for farm work. Her father had gone to the tube-well at 07:00-08:00 o'clock in the morning. Her father has mobile. It takes five minutes to go from her house to tube-well. Her brother Hariom had come to home before her father went. Her sister Jyoti has told the whole incident to her father. Her father and mother had asked to her, then she also told the whole incident to them. She told the truth to her father and mother, not lie. Her brother is 15-16 years old. Her brother is studying in high school at Kurara. The school was close, when the incident has taken place. Her younger sister Jyoti does not study, and also studied up to class five like her. Her mother had gone to tube-well before making meal. Her parents go to the tube-well every day at 07:00-08:00 o'clock and come back at 11:00 o'clock after finish their work. They again go to tube-well after an hour or two hours and thereafter they returned at 05:00 o'clock in the evening. They have approximately 2-3 bighas farm. Mulayam's farm is not next to her farm. She does not go to the farms for farm work; she only goes occasionally for the purpose of walk. Jyoti also visits the farm sometimes. No attached latrine has been built to her house. When Jyoti went for defecation, she did not tell her. Jyoti was not ill, normally they go at morning to defecate. A forest is situated from short distance of her house; that is where they go for defecation. The place of defecation visits after half an hour from her home. She does not go for defecation at evening. She neither closes the door of her room nor the door of outside. She cannot tell that how long Hariom was out from the home. Hariom went to release goats at farm, he does not do it everyday. On that day, he (Hariom) went at 09:00 o'clock and returned at 10:00 o'clock. Her main door opens towards public path and the room is situated from two-four steps from there and doors are also with that room. She was inside, when Phool Singh came and called from outside, her sister Jyoti was present at the home at that time and it was her sister who talked to him. She did not came out from her room because she did not know, why Phool Singh had came. Where she used to lei, the main door does not reflect. She did not hear the voice of Jyoti. There are houses near her house and people live in. Udal's home is in front of

her home. The shop of Balendra is situated on public path at the distance of 10-15 steps from Udal's Home. Balendra has a *parchoon* shop betel (पान) and *gutkha* (गुटखा). They used to purchase articles from his shop. She was taking rest after washing the utensils of meal. None other came except Phool Singh. She was lying in her room, when Jyoti came from defecation. She had not swept after Jyoti came, Jyoti had done the sweeping. Jyoti had taken meal, not she. She would have been eaten after one or two hours from coming of Jyoti. Neither her father nor mother had scolded her or Jyoti. She was remain present at home, after her father arrived and did not go anywhere. Her father and mother had eaten after returning from tube-well or not, she did not serve meal to them. She was remain lying in her room. After cooking, she would sometimes lie down if she felt, or she would start working. Jyoti did not tell her about coming of Phool Singh at that time. When Jyoti was standing there holding the latrine bucket, met her in room. Jyoti had only told him about meeting of Mulayam at out door. She did not know, whether her brother informed her father regarding the incident on phone, or not. Her brother and sister had come at home before parents. Jyoti came first, further her brother just came. Jyoti met her first and asked her about Mulayam that, whether Mulayam came. When Jyoti arrived from defecation, she had asked her that. She did not remember, whether Jyoti had taken bath after coming from defecation or not and sat down to eat as she was. The people, who lives in her neighbourhood, well behaved to them. When she had gone to police station with her father, a lady constable had interrogated her. There was the SI also, and he also interrogated her. She had been told what statement to give before the magistrate, and she gave her statement on that basis. She and her mother also went to the Magistrate. Her mother was sitting outside, lady constable was also there. She had given the statement, as she had been told by them. Now, her father has come with her to have her statement recorded. Her father has also hired a private advocate. She had been told at home that she had to go to court to give a statement, and she has to give the same statement in court that she gave before the magistrate, and she has given the same. The lady doctor has talked to her. Her parents have also visited to doctor. No money was spent there. Doctor had not talked to her parents before her, if talked later,

she could not say. They are two brothers and two sisters. Her youngest brother is Indrapal. She does not know, how old she is. Indrapal was present at home at that time, he must be playing outside. He went for play since morning and came to home after Jyoti. She does not remember, after how much time he came. She also does not remember that who served the meal to him. She does not remember what she was doing when her youngest brother came home. She knows that no dispute has taken place between her father and with the family of Mulayam regarding the transaction of money. She does not know, whether the tube-well situated in the farm of Mulayam are older than her tube-well. There was no dispute between Mulayam and her regarding the water of tube-well. Mulayam does not come to her house before the incident. Mulayam had never come to her house before that incident. The house of Mulayam is in another area, and is very far to her village. She cannot tell that toilets are made in every houses from Government grant or not. It is incorrect to say that a toilet has been built in her house since before, and she is deliberately hiding this fact. It is also incorrect to say that Mulayam Singh did not come to her house on 19.07.2021 at about 10:00 AM, and did not molest or rape her. It is also incorrect to say that, her parents scolded her and beaten her and she got injured. It is also incorrect to say that, Mulayam Singh did not come to her home and did not beat her. It is also incorrect to say that, she given her statement before the Magistrate under the pressure of her parents. It is also incorrect to say that, she got injured due to fallen in home at work. It is also incorrect to say that, that she got injured due to fight between she and her sister. It is also incorrect to say that, a false case was filed against Mulayam based on fabricated facts to avoid repaying the fifty thousand rupees borrowed from him, and she gave a false statement under pressure of her father. When they went to police station, police came but she has not met them. She was interrogated by lady constable, only when she went to police station, nothing were written. The application was given on that day and statement was recorded. Thereafter no statement was recorded.

16. PW2 Jagat Prasad has stated on oath in his examination in chief that he knows accused Mulayam Singh Yadav S/o Kallu Yadav, belongs to his village. The incident took place on 19.07.2021, he and her wife went to his

tube-well situated at his farm. At the same time, Phool Singh of his village came and asked to her daughter Jyoti that “Where is your parents?” her daughter replied that they went at tube-well, thereafter, he (Phool Singh) had gone from his home. Thereafter, her daughter Jyoti went for defecation outside at farm. At that time, Mulayam came to his house, his second daughter “Victim” was lying in the room and the door was closed but not locked. Mulayam Yadav entered into his house at 10:00 AM and grabbed her daughter in her room and beaten her, molested her and further raped her. When accused Mulayam was going from his home, threatened the victim for her life. When accused Mulayam Yadav came out from home, Jyoti met him and asked “how did you come inside”, then the accused pushed Jyoti and fled away by threatening her also. Thereafter, he and his wife came from tube-well at 11:00 AM and saw that her daughter was raising alarm and crying, when he asked, her daughter (Victim) told him regarding the incident. He approached the police station with his both daughters, victim and Jyoti as well as his wife and submitted that application and a report was registered. The witness identified his signature mentioned on paper No. 5Ka, which was written outside from police station by a person, on which Exhibit Ka-2 was marked.

In his cross examination, the PW2 stated that his farms are his personal. The distance of his farm from his home is not more than five minutes. He takes water in his farms from Government tube-well. His mobile number is 9792442151. His wife has not any mobile. He carries his mobile always with him. His house is built in population. The houses of his brother Surjan and Ramsajivan are attached with his house. The main door of his house opens towards the main path. There is the house of Udal S/o Ramnath at the another side of his house. There are many others houses built near Udal’s house. There is a shop of Raju, in his *mohal* (मुहल्ले), which is far from his house. Government toilets have built in some houses in his *mohal* and not built in some houses. He has not got the grant of Government toilet. They go towards the farms for defecation. These farms are connected with the population. There are total four members in his family, in which two daughters “Victim” and Jyoti and two boys namely Hariom and Indrapal. Hariom is near about 13 years old and Indrapal is 12 years old. Hariom studies. Both of her

daughters help in domestic work, not in farming. He departed from his house at 07:00-08:00 o'clock on the day of incident. His wife was also with her. He returned at about 11:00 o'clock and stopped at home about two hours and thereafter they went to police station. He had departed from his home without application. The application was written in police station, where his both daughters were present. The application was written under the dictation of "Victim" and he put his signature. He and his wife came together from tube-well. He asked to his daughters regarding the incident after coming home. He was not informed regarding the incident. When he arrived at home, there was a noise, then he asked his daughters, then they told him regarding the incident. Phool Singh S/o Babulal is not of his *mohal*, but from village. He does not often come to his home. He did not ask Phool Singh, why he came to his house. His both daughters or sons did not come to inform him during the entire time he was at the tube-well. His relation to his brothers are normal. Police has recorded his statement at home and in police station also. His daughter was also interrogated by lady constable. When they went to police station, then victim's statement was recorded, not of Jyoti. His sons were towards the farms and his daughter Jyoti went for defecation at farms also. There was no mobile near his children at home. The house of Mulayam is not in his *muhal* but in another *Dera*. He does not know the mobile numbers of his both brothers. Mulayam does not already visit his house. In his knowledge, he never came to his house before that day of incident. His both sons have already arrived at home before him, about 15-20 minutes before. He and his wife have asked his sons regarding the incident and got whole information. It is incorrect to say that, after hearing the incident, they beaten "Victim". He does not know, what Mulayam do. There are five rooms in his home. They sleeps separately in different rooms. Jyoti and "Victim" sleep together. They and children sleep in different rooms. He told the incident of rape to Sub-inspector in his statement under section 161 CrPC. If the same is not mentioned in his statement, he cannot tell the reason. Her daughter "Victim" had told the incident of rape in the house itself and also in police station at the time of lodging the FIR. When the complaint had written, his wife was also with them. Neither they nor "Victim" did hide anything in the complaint. It is

incorrect to say that, he had borrowed fifty thousand rupees from Mulayam, due to which he got registered this false complaint. It is also incorrect to say that, to avoid to repaying the said money, he falsely got registered this case. It is also incorrect to say that, he himself beaten her daughter after got the complain against her. It is also incorrect to say that, to include the seriousness in the matter, he remain change his statements and he got recorded the statement of victim under pressure. It is also incorrect to say that he kept changing his statement to lend gravity to the case and pressurise the victim into having her statement recorded before a magistrate and given the false statement.

17. PW3 Jyoti stated on oath in her examination in chief that the incident was taken place on 19.07.2021 at 10:00 o'clock in the morning. She was outside from her home, then Phool Singh S/o Babulal, belongs to her village came and asked her "Where is your parents?" she replied that they went at tube-well. The same question was asked to her aunt Geeta by Phool Singh, and her aunt also replied the same. Thereafter, he stood at the shop of Balendra S/o Raju. She had gone for defecation. When she returned after defecation and entering to her home, accused Mulayam S/o Kallu Yadav was coming out, she asked "what are you doing in my home", the accused pushed her and fled away. She went inside, her elder sister(Victim) was crying and in the state of agitation. When she asked, her sister told that Mulayam has raped her forcefully. Then she informed her parents and younger brother Hariom, who informed regarding the incident on 112 helpline. Thereafter, her father went to police station with her sister(Victim). The SI has recorded her statement.

In her cross examination, PW3 Jyoti stated that she had been narrated to her by Government counsel. She studied up to class five. She have two mobile phones at home: one with my father and one with her brother. Her parents had gone to the farms, and she had not informed Mulayam about it. Phool Singh had come home before the incident. She went for the defecation ten minutes after Phool Singh's arrival. They do not have a Government toilet in their house. She went to the defecation around 10:00 in the morning. She used to go at 10:00 every day. Her sister did not have a set time for going to the toilet. We used to go to our farms to defecate. The distance from where

they used to defecate to the farm was about fifty meters. Raju's shop was on the same route as her house. Raju's shop was about 20 to 25 meters from her house. Her uncle's house is adjacent to her. Her uncle has fights with others. She visit the other neighborhood's houses. Her brother Hariom has a mobile phone. Hariom is two years younger than her. Hariom studies in Kurara. Hariom did not go to school on the day of the incident. She do not remember if Hariom's school was closed on the day of the incident. It is incorrect to say that, her parents has taken back their mobile phones after the incident. Hariom told their parents about the incident. She did not go to the farms to tell her parents about the incident. The police came home and interrogated her. She did not tell the sub-inspector where she went to defecate. She told the sub-inspector where she found Mulayam. First, her parents came, then the 112 police arrived. The police arrived half an hour after the incident. Her elder sister also accompanied her mother and father to the police station. The sub-inspector interrogated her at the police station and took her statement at home. She had stated to the Sub-Inspector that when she went inside the house, her sister was in a distraught state and was crying, if the Sub-Inspector did not record this in her statement, she cannot explain the reason. She had told the Sub-Inspector in her statements that when she asked her sister, she (victim) told her that Mulayam had raped her (victim), if the Sub-Inspector did not record this specific point in the statement, she cannot explain the reason. At the time of the incident, she had gone to defecate and ten minutes spent behind this. Her youngest brother was with mother and father, her elder brother was returning home from the farm when she met him on the way. When she left the house for the toilet, she had locked the door, she did not inform her sister before leaving. Mulayam had never visited her house before this. Phool Singh had never visited her house either. Her paternal aunt (uncle's wife) Geeta's house is opposite her. Her uncle's name is Udal. That house is just two or three steps away from her. she did not tell her aunt about the incident; she only told her parents. It is incorrect to say that, she did not mention the rape to the Sub-Inspector. She did not tell the Sub-Inspector that Phool Singh, alias Babulal, called out and asked about her father. If the Sub-Inspector recorded such a statement anyway, she cannot explain why. No one else was present when she

met Phool Singh. When she returned, she found Mulayam at the house. Her brother was not there at that time. No one else was present when she met Mulayam. She already knew Mulayam by name and appearance. Mulayam's house is quite far from her, it is near the river. Neither her sister nor she usually go towards the river. Her parents went to Mulayam's house after returning home. They had hired a vehicle to go to the police station. She does not know the driver. They returned from the police station at 05:00 PM. The police from the station arrived that same night. The police did not come to her house. Her father has been visiting the police station. It is incorrect to say that she did not see Mulayam leaving the house. It is also incorrect to say that she is stating Mulayam left her house for fabricating a case, only because she received advice to do so. It is also incorrect to say that Mulayam did not come to her house at 10:00 AM on 20.07.2021, or that he did not rape and assault her sister "Victim". It is also incorrect to say that her parents assaulted her sister. It is also incorrect to say that the statement given in court was false and based on legal advice. It is correct to say that her father is present with her in the courtroom.

18. PW4 HC Suresh Patel stated on oath in his examination in chief that he was posted as head *muharrir* at police station Kurara in the year 2021. On 19.07.2021, the complainant Jagat Prasad S/o Shivram Nishad, Resident of Indrapuri PS Kurara, District Hamirpur, has come with his daughter and given the written complaint. He was present at duty and registered the case crime no. 156 of 2021 under section 452,354,323,506 IPC against accused Mulayam, under the direction of Inspector In-charge. The witness identified paper no. 4Ka/1 to 4Ka/3 was the same computerised FIR, which was prepared by the computer operator under his dictation and registered. The witness also identified his signature upon which Exhibit Ka-3 was marked. The registration of FIR was mentioned in GD No. 63 on 19.07.2021 at 19:11 o'clock. Paper no. 7Ka is the same copy of computerised GD which was prepared by the computer operator under his dictation. The investigation officer has recorded his statement.

In his cross examination PW4 Constable Suresh Patel stated that he sent the letter for medical examination and lady constable took with her. He

himself did not see any injury on the body of victim, so that the same is not mentioned in GD. Since section 452,354,323 IPC was charged in FIR, so he given the letter for medical examination. It is incorrect to say that he prepared the letter for medical examination under the pressure of senior officers. The letter for medical examination is not available in the file.

19. PW5 Dr. Syed Umer Ali stated on oath in his examination in chief that, on 19.07.2021, he was posted as medical officer in Community Health Centre Kurara. On the same day, he medically examined injured "Victim" (aged about 21 years). The injured was carried by lady constable Roshni along with police papers from police station Kurara. He started the medicolegal of injured/victim at 08:15 PM and concluded at 08:40 PM. He has obtained the consent of the injured/victim and got her right thumb impression. The physique of the victim was average. Total six injuries were found on the body of injured/victim, which are as follows -

1. Complain pain in skull region and left ear.
2. Contusion 11 X 3 cm present in left forehead to base of left ear dark reddish in colour.
3. Contusion 10 X 2 cm present in right forehead to base of right ear of face reddish in colour.
4. Abrasion 1 X 1 cm present in upper nose anteriorly red in colour.
5. Contusion 4 X 2 cm present in left side of neck reddish in colour.
6. Contusion 5 X 1.5 cm present in right clavicle head to laterally reddish in colour.

All the injuries were of simple in nature, caused by hard and blunt object. The duration of injuries was before 7-10 hours. The witness identified medico-legal report paper No. 10Ka/7 to 10Ka/10 to be prepared in his own handwriting and signature, on which Exhibit Ka-5 was marked. The investigating officer has recorded his statement.

In his cross examination, PW5 Dr. Syed Umer Ali stated that Complain of pain is not any visible injury. The duration of injuries are written in 06, 12, 18, 24 in hours. It is not possible to say the accurate time of injury. The FIR was available, when he examined the injuries, and to perused that, he mentioned the name of injured. Simple injuries can be made manually. All

injuries carry redness. The redness remain present till 24 hours in any injury. This injury can be within 24 hours. These injuries could be happened about 07:00-08:00 o'clock in the evening as well as could be happened about 12:00 PM. It is incorrect to say that he has mentioned the said time as per the version of FIR.

20. PW6 Dr. Asha Sachan stated on oath in her examination in chief that on 26.07.2021, she was posted as medical officer at District Women Hospital, Hamirpur. On the same day, the "Victim" was carried with lady constable Roshni from police station Kurara along with police papers and identified the same. After having the consent of victim, she medically examined her. She mentioned the black mole on right cheek, 6 cm. from right ear, as identification mark of the victim. The photo of the victim was pasted, further she obtained the right thumb impression of victim. The victim was unmarried and the date of last monthly period was 30.06.2021. As per the FIR, victim narrated that on 19.07.2021 at 10:00 o'clock in the morning, she was alone in her home, then Phool Singh came into her house and further Mulayam S/o Kallu entered into her house and did wrong with her. She certified the statement of victim obtaining her thumb impression, after the statement. The mental state and consciousness of victim was normal. Axillary and pubic hair of victim were present, breasts were developed. The victim had already changed her cloths, which was wearing at the time of incident. The medical examination of external injuries of the victim had been concluded on 19.07.2021 at 08:15 PM. No injury was found in the private part of the victim, bleeding was not seen, hymen was old heal ruptured. To secure the present sperm, the vaginal swab were collected and sent for examination. She has started the medical examination of victim at 07:00 PM and concluded the same at 08:00 PM. The witness identified medico-legal report (paper no. 10Ka/1 to 10Ka/6) to be prepared in her handwriting and signature, in which she has pasted the photograph and got the thumb impression of victim and certified the same, on which Exhibit Ka-6 was marked. The examination report and sample were handed over to the lady constable Km. Roshni. The investigating officer has recorded her statement.

In her cross examination, PW6 Dr. Asha Sachan stated that she has perused the FIR and on the basis of the same, she prepared the Exhibit Ka-6. She observed old healed hymen, but it cannot be observed that how old it was. She has prepared the vaginal slide and handed over the same to the lady constable Km. Roshni. She does not remember that, whether the parents of the victim were present at the time of medical examination, or not. She also does not remember that whether any injury was present on the face of victim, or not.

21. PW7 SI Pankaj Tiwari stated on oath in his examination in chief that on 19.07.2021, he was posted as Sub-inspector at police station Kurara. On that day, the case crime no. 56 of 2021 under section 452,354,323,506 IPC against Mulayam Yadav was registered and he entrusted the investigation. He started the investigation having copy of chick and copy GD. On 19.07.2021, he incorporated the copy of chik and GD into the case diary and recorded the statement of scribe of chick HC Suresh Kumar. On 21.07.2021, he recorded the statement of complainant Jagat Prasad in case diary and inspected the place of incident at the instance of complainant and prepared site plan in his own handwriting and signature and put his signature, which is mentioned as paper no. 8Ka/1 on which Exhibit Ka-7 was marked. Thereafter, he asked about victim then the complainant told that she has gone for medicine for, mother. The statement of victim under section 161 CrPC could not be recorded. He received the medical papers of victim and mentioned the same in case diary. Total six injuries were found on the body of victim, which has been mentioned in case diary. On 22.07.2021, he has recorded the statement of the "Victim". On 23.07.2021, the statement under section 164 CrPC of the victim was recorded before Magistrate. On 24.07.2021 he incorporated the statement under section 164 CrPC and medical report into the case diary. He further added section 376 IPC in the matter after perusing the statement under section 164 CrPC of the victim. The further investigation shall be proceeded under section 452,376,354,323,506 IPC. On 25.07.2021 at 13:30 o'clock, he arrested accused from village Indrapuri by the information of informer. The information of arrest was given to the brother of accused, Shyam Yadav and prepared the arrest memo on the sight. The witness identified arrest memo

(paper no. 13Ka/1) to be prepared in his handwriting and signature, upon which he and his companion constable have put their signatures, on which Exhibit Ka-8 was marked. The statement of the accused was recorded and sought remand from the Court. On 07.08.2021, he has mentioned the medical report of victim into case diary. On 19.09.2021, he recorded the statement of Dr. Asha Sachan in case diary. He has also recorded the statements of Phool Singh Yadav, independent witness Balendra S/o Raju Nishad, independent witness Rajendra Nishad, Geeta W/o Udal Nishad, Raju S/o Ramdin, Jyoti D/o Jagat Nishad into the case diary. On 20.09.2021, on the basis of medical report as well as statements of the victim under section 161 & 164 CrPC, the investigating officer has submitted charge sheet against accused Mulayam Singh Yadav S/o Kallu Yadav under section 452,354,376,323,506 IPC. The witness identified paper no. 3Ka/1 to 3Ka/5 was the same charge sheet which was prepared under his direction by computer operator on which Exhibit Ka-9 was marked.

In his cross examination, PW7 SI Pankaj Tiwari stated that he has recorded the statement of Dr. Asha Sachan. She observed that it was difficult to say that whether any instant sexual activity was happened with the victim or not. Jyoti did not tell him regarding the presence of injuries on the body of victim in her statement under section 161 CrPC, after reaching home. Jyoti did not tell him also that “I asked to my sister then she told that Mulayam has raped with her.” Jyoti has deposed in her statement that “I was standing at my door, then Phool Singh S/o Babulal of her village, was asking about her father loudly.” The complainant Jagat did not tell him regarding the incident of rape in his statement under section 161 CrPC. It is right that the complainant has neither mentioned the incident of rape on the application, on the basis of which, the case was registered nor told in his statement under section 161 CrPC. The statement under section 164 CrPC of the victim was recorded on 23.07.2021. The victim was came with her father. it is right that the victim remain present with her parents from registering of case to recording of statement under section 161 CrPC. He has recorded the statement of Balendra Nishad, he did not tell the fact regarding arrival of Mulayam to the complainant's house. He did not receive any information regarding the

financial transaction between the complainant and accused. It is incorrect to say that, he is hiding the fact of financial transaction. It is also incorrect to say that he did not investigate the matter fairly and statement false statement.

ANALYSIS OF RIVAL ARGUMENTS OF BOTH THE PARTIES

22. Heard learned counsels for both the parties and perused the record pensively.

23. Learned DGC (Crl.) for the State, has submitted that the accused Mulayam Singh Yadav, firstly entered into the house of victim and molested her and when the victim opposed, accused beaten her and further raped her. The victim as PW1, has categorically supported the version of prosecution and the other witnesses of fact have also supported the same and their testimonies of trustworthy. There is no discrepancy found in the entire testimonies of the fact witnesses, hence the prosecution has well established its case beyond the reasonable doubt on the basis of evidence on record. In this regard, the prosecution prayed for the conviction of accused Mulayam Singh Yadav.

24. *Per Contra*, the learned defence counsel for the accused has vehemently argued that the prosecution could not prove its version. The prosecution story of the case is fabricated. The statement of victim is not reliable and she has improved her testimony step by step. Her statement under section 161 CrPC and deposition before the Court and during the trial, her deposition are totally and entirely different and the witnesses have also improved their statements. The victim has made an allegation in FIR has a different one and in the statement under section 161 CrPC after legal advice, she made a different statement, when she came before the court during the evidence recording, she also improved her deposition, hence the victim is not reliable witness and her statement is not trustworthy for the conviction of the accused.

25. The first argument of the defence is that the victim is totally tutored witness and she has forced by her family to make the story before the police, doctor and also before the Court. In this regard, defence has draw the attention on the statements of PW1 the victim, where in her cross examination at para 2 of page 11, she has stated that *'She had been told what statement to give before the magistrate, and she gave her statement on that basis. She and her mother also went to the Magistrate. Her mother was sitting outside, lady*

constable was also there. She had given the statement, as she had been told by them.’ She has also stated that ‘her father has come with her to have her statement recorded. Her father has also hired a private advocate. She had been told at home that she had to go to court to give a statement, and she has to give the same statement in court that she gave before the magistrate, and she has given the same.’

This entire version of the victim states clearly that she has been tutored to make such statement in that manner in this regard. It can be a presumption in the favour of the accused that victim had made statement in an accelerated form.

26. The defence has also argued that initially after this occurrence, the FIR has been lodged by the victim’s father regarding the outraging of modesty of victim in her house and beaten her by the accused under section 452,354,323, 506 IPC. In this regard, the victim’s father PW2 Jagat Prasad has also made statement before the police under section 161 CrPC only for supporting the version of FIR. In section 161 CrPC the victim itself stated that the accused has entered into her room and misbehaved with her and after opposing, he has beaten and threatened to kill her and just ran away from there and while going, her sister PW3 Jyoti met accused and accused pushed her and fled away. Later on, in the statement under section 164 CrPC the PW1 victim has stated a different story regarding rape against her and made the statement before the Magistrate.

27. The defence counsel has further argued that PW1 stated in her chief examination that she went with her father in police station and FIR has been lodged on the application of her father. She stated before the court that after the occurrence, she told her father about whole story of incident. In her chief examination she has also deposed that her younger brother has told regarding the occurrence to her father. In her cross examination, PW1 stated that she has told each and everything to her father whatever happened with her. She has also unable to told that where FIR has been written. She also stated in her cross examination that her sister PW3 Jyoti also told each and everything to her father which was happened with her (victim). In this regard, PW2 Jagat Prasad, who is the father of the victim, stated in his chief examination that

when he came to his house, he asked to her daughter why she was crying, then victim told regarding the occurrence and that all occurrences have been scribed to one other person outside the police station who has written their complaint and FIR has been lodged. He also stated that application has been written in police station, where her both daughter, the victim and PW3 Jyoti were present. The application was dictated by victim and signed by him.

28. In this regard the defence has opposed that this is the only incident, where rape has not been described or stated by the victim and it proves that later on, only for making this occurrence grievous and serious one, all the witnesses have made the statement about the commission of rape. In this regard also PW6 Dr. Asha Sachan has been examined where she has stated she has examined the victim on her written consent. She also stated that *the medical examination of external injuries of the victim had been concluded on 19.07.2021 at 08:15 PM. No injury was found in the private part of the victim, bleeding was not seen, hymen was old heal ruptured. To secure the present sperm, the vaginal swab were collected and sent for examination. She has started the medical examination of victim at 07:00 PM and concluded the same at 08:00 PM.*

29. In this regard, the report of Forensic Science Laboratory, Phaphamau (Shantipuram) Prayagraj has been perused which is available as 52Ka on record. The forensic report 52Ka shows that no blood has been found in vaginal swab. It is also mentioned that any sperm or semen were also not found in vaginal swab of victim.

Hence, on the basis of the aforesaid report of forensic science laboratory as well as the testimonies of witnesses of fact, it leads to the conclusion that no rape was committed by the accused with the victim. In physical terms also in the eye of forensic report. In the case of **Aman Kumar v. State of Haryana 2004 CrLJ 1399 (SC)**, Hon'ble Supreme Court has held that -

“In that case the testimony of the prosecutrix and the medical evidence we got from the statement given before the court during the investigation, specified in the case of rape. In this case also victim's father lodged the complaint merely regarding pulling and molesting. Therefore, it was held that it was not proper to convict on the rape on

the basis of investigation. Also in this case it has been said in such type of situation it cannot be said accused wanted to have sexual intercourse with victim in any circumstances and it cannot be said it is a attempt to rape. Therefore the accused was held guilty for the offence of section 354 IPC.”

30. PW1 victim has stated in her chief examination that *when her sister was out from the house for defecation. At that time accused Mulayam has entered in her room and molested her and after opposing, beaten her.* This version has also been supported by her sister PW3 Jyoti. The defence is not able to rebut this version of story of prosecution that the accused has entered in the house of victim and thereafter molested and beaten her. The discrepancy has not been occurred only to extent this offence of rape.

31. Defence has also argued that the prosecution story only establish the case under section 323 against the accused and no motive or intention has been proved by the prosecution for the commission of offence of outraging the modesty of the victim.

32. In this regard it has been established by the law that where the testimonies of eye witnesses are worth credence, there is no need to prove any motive behind the offence. The motive is mostly relevant with circumstantial cases. In this case, all the witnesses produced by the prosecution clearly established the proved that the accused Mulayam Singh Yadav entered into the house of victim through *kachcha* verandah and crossing the courtyard and entered into victim’s room and assaulted her. All these conduct of accused reflects that the accused knew that the victim was alone in her room, then he has entered with such intention and when the victim resisted, the accused beaten her. **Section 354 IPC** provided as under -

354. Assault or criminal force to woman with intent to outrage her modesty—*Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty,....*

33. In the case of **Aman Kumar vs. State of Haryana (supra)**, it has also been held by the Hon’ble Supreme Court that “*having the knowledge that*

modesty is likely to be outrage it sufficient to constitute the offence even if there is no intentional purpose to outrage her modesty.”

Hon’ble Supreme Court in the case of **Shailendra Nath Hati vs. Aswini Mukherji 1988 CrLJ** held that -

“Intention is not the sole criterion of the offence under s. 354 and an offence under s. 354 can also be committed by the person assaulting or using criminal force to any woman, if he knows that by such acts the modesty of the woman is likely to be affected.”

In this regard also reaction to the woman would not alleged to the outrage is irrelevant.

34. In this case, it has found that the fresh injury on the face of the victim which has been alleged to be caused by the accused and by the chance witness PW3 Jyoti who has seen the accused coming from the house. In this regard all the ingredients of the offence of the outraging the modesty of the woman has been fulfilled by the evidence of the victim girl. In this regard in this case charge has been clearly proved except section 376 IPC. In this matter the victim of molestation and intimidation is in the same position as an injured witness.

35. From the discussions made above in the light of analysis, material evidence/medical documents, and legal provisions, it is concluded that the prosecution has successfully established the charges under section 452,354,323,506 IPC against accused Mulayam Singh Yadav beyond reasonable doubt, whereas the prosecution has failed to prove the charge under section 376 IPC beyond reasonable doubt against accused Mulayam Singh Yadav, and the accused is liable to be acquitted from the charge under section 376 IPC.

36. Thus, under the totality of facts, circumstances as well as the prosecution evidence available on the record, accused Mulayam Singh Yadav is hereby acquitted from the charge of offence under section 376 IPC, whereas accused Mulayam Singh Yadav is held guilty for the offences under Section 452,354,323,506 IPC. Accused Mulayam Singh Yadav is on bail, his bail bond is cancelled and sureties are discharged. Accused is present before the Court

and he shall be taken into custody for the offence under section 452,354,323,506 IPC forthwith.

Put up the matter for hearing on quantum of sentence today after lunch.

Dated: 03.08.2026

**(Manoj Kumar Rai)
Sessions Judge, Hamirpur
(J.O. Code UP2004)**

03.08.2026 (After Lunch)

The matter taken up. Called out. Convict Mulayam Singh Yadav is present in custody.

Heard learned counsel for the convict, and learned DGC (Criminal) on the quantum of sentence to be awarded to the convict.

Learned counsel for the convict submitted that convict is poor and sole earning member of his family. He has further submitted that the convict is not the habitual offender. In these circumstances, he prayed that benefit of Probation of Offenders Act might be granted to the convict.

Per Contra, learned DGC (Criminal) submitted that the victim has been sexually harassed and beaten by the convict, and sought the maximum punishment.

Heard the submissions of both the parties. This matter relates to the offence of assault to the woman with intent to outrage her modesty as well as house trespass, voluntarily causing hurt and criminal intimidation. In this case the accused has committed the offence of outraging the modesty to a young and unmarried girl, which is the serious and grievous offence. Hence, the benefit of Probation of Offenders Act cannot be extended to the accused. Heard the submissions of learned counsels for the parties and considering the facts and circumstances of the case, the Court is fully convinced that purpose of justice may be served by awarding the following sentence to the convict.

ORDER

In Sessions Case Number 574 of 2021 State of U.P. Vs. Mulayam Singh Yadav-

The convict Mulayam Singh Yadav has been acquitted from the charge under section 376 IPC, whereas the convict Mulayam Singh Yadav itself has

**(Manoj Kumar Rai)
Sessions Judge, Hamirpur
J.O. Code - UP2004**

been held guilty by this Court for the offence punishable under section 452,354,323,506 IPC.

1. In Section 452 IPC, Convict Mulayam Singh Yadav is sentenced with 03 years (Three years) rigorous imprisonment and a fine of Rs. 2,000/- (Rs. Two Thousand Only) and in case of default of the said fine, he shall undergo simple imprisonment of two months.

2. In Section 354 IPC, Convict Mulayam Singh Yadav is also sentenced with 03 years (Three years) rigorous imprisonment and a fine of Rs. 10,000/- (Rs. Ten Thousand Only) and in case of default of the said fine, he shall undergo simple imprisonment of three months.

3. In Section 323 IPC, Convict Mulayam Singh Yadav is also sentenced with 06 months (six months) simple imprisonment and a fine of Rs. 500/- (Rs. Five Hundred Only) and in case of default of the said fine, he shall undergo simple imprisonment of 15 days.

4. In Section 506 IPC, Convict Mulayam Singh Yadav is also sentenced with 01 year simple imprisonment and a fine of Rs. 500/- (Rs. Five Hundred Only) and in case of default of the said fine, he shall undergo simple imprisonment of 15 days.

All the sentences shall run concurrently. The period already spent in prison earlier shall be adjusted as per section 428 Cr.PC. Conviction warrant of convict Mulayam Singh Yadav be prepared and sent him to jail forthwith for serving out the sentences awarded to him.

The 60% of the total amount of fine i.e. Rs. 7,800/- shall be given to the victim as per rule.

Free copy of this Judgment be furnished to the convict forthwith as per rules.

Dated: 03.08.2026

(Manoj Kumar Rai)
Sessions Judge Hamirpur
J.O. Code UP2004

Judgment signed, dated and pronounced today in open Court.

Dated: 03.08.2026

(Manoj Kumar Rai)
Sessions Judge Hamirpur
J.O. Code UP2004

(Manoj Kumar Rai)
Sessions Judge, Hamirpur
J.O. Code - UP2004