

IN THE COURT OF GUNJAN THAKUR, JUDICIAL MAGISTRATE FIRST CLASS, KAITHAL (UID NO. HR0715).	
HRKH030068962021	
	
Date of Judgment: 03.07.2026	
CNR No: HRKH0300-6896-2021	
CIS No: CHI/792/2021	
FIR No: 228 dated 11.08.2021	
PS: Kalayat, Kaithal	
Under Section: 34, 341, 354-A, 354-B, 506, 354, IPC 1860	
COMPLAINANT	State of Haryana
REPRESENTED BY	Ld. APP for the state, assisted by Ms. Sanjam Dhanda, Legal Aid Counsel for complainant.
ACCUSED	Ompal and Pardeep
REPRESENTED BY	Ld. Sh. Nitin Chhabra, Advocate.

Date of Offence	05.08.2021
Date of FIR	11.08.2021
Date of Chargesheet	24.08.2021 (presented on 06.09.2021)
Date of framing of charges	02.08.2022
Date of commencement of evidence	11.11.2022
Date of Judgment	03.07.2026

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or Convicted	Sentence imposed	Period of Detention under gone during trial for the purpose of section 428, Cr.P.C
1.	Ompal	Accused produced on 19.08.221	20.08.21	34, 341, 354-A, 354-B, 506, 354, IPC 1860	Acquitted	Nil	Nil
2.	Pardeep	Accused produced on 19.08.21	20.08.21	34, 341, 354-A, 354-B, 506, 354, IPC 1860	Proceeding Dropped VOD 06.03.2025 (After verification of death)	Nil	Nil

JUDGMENT:

Above named accused persons had been sent up by Station House Officer, Police Station Kalayat, Kaithal to face trial for commission of offences punishable under Sections 34, 341, 354-A, 354-B, 506, 354 of the Indian Penal Code, 1860 (Hereinafter referred as “IPC”).

Prosecution case:-

2. Prosecution in this case was launched on the statement of Neelam wife of Dharambir (hereinafter referred to as complainant). The complainant stated that on 05.08.2021, at around 10:00 PM, when the complainant was returning from Kirtan, Ompal S/o Mangat Ram and Pardeep were hiding near her house in the night. Seeing her alone, they caught her, molested her and tore her clothes. When, she screamed, the neighbours came on hearing her voice. The culprits fled from the spot on seeing the neighbours coming and while leaving, they threatened to kill her. With these submissions, the complainant prayed for initiation of legal proceedings against the accused. On the basis of aforesaid complaint, a formal F.I.R. was registered and investigation was swung

into motion. The investigating officer visited the place of occurrence, recorded the statements of witnesses, prepared the site plan and took the MLR, X-ray report, etc. of the injured in police possession.

Investigation proceedings:-

3. Lodging of FIR triggered the investigating agency in motion and during investigation, statements of witnesses u/s 161 Cr.P.C. were recorded. During investigation, accused Ompal and Pardeep were joined in investigation in compliance of the judgment of the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar. After completion of all the usual formalities as necessary for the complete investigation of the offence, challan under Section 173 Cr.P.C. was prepared and was presented before the Court for putting the accused persons on trial.

4. Copy of challan and other documents were supplied to the accused persons free of cost as envisaged under Section 207 Cr.P.C.

Charge:-

5. After having heard the accused persons on aspect of charge, accused persons were charge-sheeted under Sections 34, 341, 354-A, 354-B, 506, 354, IPC 1860 by the court on **02.08.2022** to which, accused persons did not plead guilty and claimed trial. Thereafter, the prosecution was called upon to lead evidence in order to prove case against the accused persons.

PRE CASE MANAGEMENT

6. In compliance with the direction of the Hon'ble Supreme Court *in Re. Guidelines regarding inadequacies and deficiencies in criminal trial v. State of Andhra Pradesh, 2021*, while carrying out preliminary case management, a schedule for

examination of witnesses was prepared and accordingly followed while recording the evidence.

Prosecution evidence

7. In order to prove its case, prosecution has examined following witnesses
i.e.:-

Sr. No.	Witness No.	Name	Documents proved/ tendered
1.	PW-1	Neelam (complainant)	Ex. PW1/A (Application)
			Ex. PW1/B (Copy of statement of Neelam under Section 164 Cr.P.C.)
			Ex. PW1/C (Counselling Report)
			Ex. PW1/D (Identification Memo)
2.	PW-2	LHC Pinki Rani	Ex. PW2/A (Site plan)
			Ex. PW2/B (Application for recording statement under Section 164 Cr.P.C. of victim Neelam
			Ex. PW2/C (Application to MO,

			CHC Kalayat)
			Ex. PW2/D (Disclosure Statement of Ompal)
			Ex. PW2/E (Disclosure Statement of Pardeep)
			Ex. PW2/F (Site Identification Memo)
			Ex. PW2/G (Application for Medical Examination of Ompal and Pardeep)
3.	PW-3	EHC Kapil	--
4.	PW4 (PW-5)	SI Ujjawal	Ex. PW5/A (Formal FIR)
			Ex. PW5/B (Endorsement)
5.	PW5 (PW-6)	Dr. Pragati	Ex. PW6/A (Medical opinion of prosecutrix)
			Ex. PW6/B (Medical report on fitness of accused)

SHO Devender and Counsellor Meenakshi have been given up by ld. APP for the State, being unnecessary. (After examining total 5 witnesses, the ld. APP closed the prosecution evidence)

Note:- SI Ujjwal has been recorded as PW5 instead of PW4 and Dr. Pragati has been recorded as PW6 instead of PW5 in the prosecution evidence. Therefore, now referred as PW4 (PW5) and PW5 (PW6) respectively.

STATEMENT OF THE ACCUSED PERSON

8. Every incriminating fact which appeared in evidence against the accused persons were put to them and their separate statements under section 313 of CRPC were recorded. The accused persons pleaded innocence and opted to lead evidence in their defence. They asserted that they have not committed the alleged offence and the witnesses of the prosecution have not stated anything against them.

DEFENCE EVIDENCE:

9. In order to prove its case, defence has examined following witnesses i.e.:-

RANK	NAME	NATURE OF EVIDENCE
DW1	Saroj	Witness of fact
DW2	Mehar Singh	Witness of fact
DW3 (DW2)	Manju	Witness of fact
DW4 (DW3)	Banarasi	Witness of fact

Note:- Mehar Singh and Manju both are inadvertently recorded as DW2 in the defence evidence. Therefore, now referred as DW2 and DW3 (DW2) respectively. And Banarasi, recorded as DW3 in defence evidence is now referred as and DW4(DW3).

I have heard learned APP appearing for State as well as learned defence counsel at length whereby each has given their detailed arguments and I have gone through the case file carefully.

FINDINGS:

10. I have bestowed my thoughtful consideration to the rival contentions in the light of evidence on record. Accused namely Ompal is under trial for the commission of the offence punishable under Sections 341, 354-A, 354-B, 506, 354 read with Section 34, IPC 1860. The other accused namely Pardeep has been declared and verified as dead, after which criminal proceedings against him have abated.

11. Admittedly, the parties (complainant and the accused) are the members of the same village, in fact are residents of the same neighbourhood. Ld. Counsel for the defence has brought in evidence [DW1, DW2, DW3 (DW2) and DW4 (DW3)], who have testified that they knew the complainant Neelam, as they resided in the same vicinity and they also stated on oath that she was seen with man, who was not her husband. Ld. counsel has through the defence evidence tried to shake the credit of the complainant, by injuring her character whereby, the ld. Defence counsel has tried to establish that enmity between the complainant and the accused persons arose because they objected to her relations with a person namely Sanjay/ Sanjeev. This evidence even though directly not relevant, stems relevancy in order to establish motive of the complainant to falsely accuse Ompal and Pardeep and their bitter relations.

12. Bitter relations between both the parties if arguendo believed, such state of mind can manifest actions like the accused committing alleged offences against the complainant and vice versa, the complainant's action to falsely implicate accused persons. Therefore, rule of prudence requires extra caution and care while analyzing the evidence in such a case.

13. Reverting to the factual matrix of the case, the alleged occurrence took place on 05.08.2021, however, the complaint (**Ex. PW1/A**) was moved to SHO, Police Station Kalayat dated 11.08.2021 on the basis of which FIR was registered. Even though, there is a delay of 5 days and the complainant has not fully explained the circumstances warranting the delay in approaching the police, the Court can not lose sight of the fact that lodging an FIR alleging sexual offences carries considerable social stigma and places the prosecutrix to public scrutiny and societal repercussions. Therefore, the delay of 5 days does not give rise to any inference against the complainant at this stage.

14. It is settled principle of law that burden of proof in criminal case is much heavier i.e. beyond reasonable doubt. Therefore, the Court shall ascertain if the prosecution has successfully discharged its burden in the aforesaid terms.

15. In evidence, prosecution has examined only the complainant/ prosecutrix as eye witness as PW1, despite her statement in cross-examination that at the time of alleged occurrence on her call for help people from the vicinity gathered. No other eye witness has been brought in evidence to prove her case. It is noteworthy that the complainant/ PW1 has stated that due to her call for help when people gathered the accused out of fear left the scene of occurrence. No ocular evidence, even though material in this case to strengthen and corroborate the testimony of PW1 has been brought in evidence. Therefore, major lapse in prosecution evidence is witnessed when no eye witness is brought from the side of the prosecution despite the alleged opportunity. The testimony of eye witness could have created a link between the alleged occurrence and the accused Ompal and Pardeep. Therefore, in the light of the fact that no eye witness has been

examined by the prosecution, the Court sees the testimony of PW1 with some degree of suspicion.

16. It is trite that evidence has to be weighed and not counted. In the present case, in the absence of any other eye witness of the alleged occurrence complainant herself is the star witness. It is settled law that on the basis of sole testimony of the prosecutrix the Court can order conviction. However, for the sole testimony of the witness to be relied upon the utmost requirement that needs to be fulfilled is that there has to be sufficient corroboration and consistency throughout the testimony of such prosecutrix evidence. In the present case, it is pertinent to mention that previous statements made **Ex. PW1/A, Ex. PW1/B and Ex. PW1/C** and Section 161 statement they are inconsistent, and appear to depict different versions. Further, testimony of PW1 comes across as improvements. Further, perusal of testimony of PW1 shows that there are material omissions in the previous statements **Ex. PW1/A, Ex. PW1/B and Ex. PW1/C** and in the testimony of PW1. Therefore, the Court is of the opinion that PW1 has made improvements while giving her statement on oath, which she herself has admitted in her testimony as PW1.

17. The law is clear on proviso to Section 162 Cr.P.C. that treats material omissions in the previous statements as contradictions. Therefore, such contradictions find relevancy in the present case.

18. More so, the inconsistency, improvements, contradictions in the prosecutrix version and narration of the alleged offence has shaken the credibility, reliability and trustworthiness of the testimony of PW1 which only adds clouds of suspicion to the prosecution version.

19. Further, **PW1** stated that she had immediately told about the alleged occurrence to one person namely Narender, member of Panchayat, however despite the utmost relevance of the testimony of Narender in order to establish the prosecution story, he has not been examined as a witness.

20. Further, **Ex. MO1** (the torn clothes) admittedly were given to the IO on 18.08.2021, i.e. after the delay of around 7 days from the date of the filing of the FIR, without any explanation with respect to delay in depositing the clothes. Further, it cannot be ruled out that the torn clothes ipso facto do not prove anything and do not connect the accused in the present case with the alleged occurrence. And, considering the unexplained delay of 7 days the Court does not deem it appropriate to draw any conclusion from such evidence as cloth can be torn by anyone to create evidence.

21. Further, **PW5 (PW6)** Dr. Pragati who had medically examined the complainant and given her MLR Report (**Ex. PW6/A**) has deposed on the lines that at the time of medical examination, no fresh injury on the body of the prosecutrix were reported.

22. Further, law on relevancy on disclosure statements is very clear i.e. in memo of confession of the accused only the discovery of the fact is admissible, confessional statement so made in the disclosure statement is inadmissible. In the present case, **Ex. PW2/D**, **Ex. PW2/E** does not find relevance as no new fact is revealed by the statement of the accused in the nature of the disclosure statement, i.e. there is no such information revealed in such statement which is exclusively within the knowledge of the accused. Site of the alleged occurrence has been apparently identified on the basis of disclosure statements aforementioned,

however the Court is of the opinion that a site plan can be prepared by the IO with aid of the complainant as well. Therefore, a site plan is not in the nature of exclusive/ new fact, and therefore, cannot be the ground to connect the accused and the alleged offence.

23. Further, in defence evidence DW1, DW2, DW3 (DW2) and DW4 (DW3), the witnesses are neighbours of complainant and they have outrightly denied the alleged occurrence, contrary to the prosecution version. However, careful perusal of the testimonies of defence evidence reveals that bitter relations can be made out between the complainant and the accused. These witnesses have consistently deposed that out of personal vengeance the complainant has filed a false case against the accused Ompal and Pardeep. Rest of the evidence of the defence is discarded on the lines of character assassination of the complainant and testimony on personal life of the complainant as completely irrelevant.

24. Looking at the entire evidence of the prosecutrix and her previous statements i.e. **Ex. PW1/A, Ex. PW1/B and Ex. PW1/C**, there are a lot of material omissions i.e. in the nature of contradictions. Besides this, her statement is not corroborated by any material evidence. **Ex. MO1** produced in evidence is suspicious because of the unexplained delay. There is a lack of ocular evidence to corroborate her version despite her statement that at the site of occurrence crowd gathered. Medical evidence i.e. testimony of PW5 (PW6) does not bring out anything in favour of the prosecution.

25. In a criminal case, it is the bounden duty of the prosecution to prove the guilt of accused beyond shadow of reasonable doubt by leading cogent and convincing evidence, however, there is **nothing on record which could even**

connect the accused to the alleged occurrence. Hence, in the considered opinion of this Court, prosecution has miserably failed to prove the guilt of accused and even has failed to connect him to the alleged occurrence and consequently, accused namely Ompal in the absence of any cogent and convincing incriminating evidence against him, is hereby, **acquitted** from the charges levelled against him. His bail bonds and surety bonds stand discharged. File be consigned to records after due compliance.

Pronounced in open Court.

(Gunjan Thakur),
Judicial Magistrate First Class,
Kaithal, 03.07.2026. (UID no.HR0715).

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

(Annexure 1)

A. PROSECUTION:

RANK	NAME	NATURE OF EVIDENCE
PW1	Neelam	Complainant
PW2	LHC Pinki Rani	Witness of Fact
PW3	EHC Kapil	Witness of Fact
PW4 (PW5)	ASI Ujjwal	Witness of document
PW5 (PW6)	Dr. Pragati	Witness of document

Note 1: SHO Devender and Counsellor Meenakshi have been given up by Id. APP for the State.

Note 2: SI Ujjwal has been recorded as PW5 instead of PW4 and Dr. Pragati has been recorded as PW6 instead of PW5 in the prosecution evidence. Therefore, now referred as PW4 (PW5) and PW5 (PW6) respectively.

B. DEFENCE WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE
DW1	Saroj	Witness of fact
DW2	Mehar Singh	Witness of fact
DW3 (DW2)	Manju	Witness of fact
DW4 (DW3)	Banarasi	Witness of fact

Note:- Mehar Singh and Manju both are inadvertently recorded as DW2 in the defence evidence. Therefore, now referred as DW2 and DW3 (DW2) respectively. And Banarasi, recorded as DW3 in defence evidence is now referred as and DW4 (DW3).

C. COURT WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE
Nil		

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS
(Annexure 2)

A. PROSECUTION:

Sr. No.	Exhibit Number	Description
1.	Ex. PW1/A	Application
2.	Ex. PW1/B	Copy of statement of Neelam under Section 164 Cr.P.C.
3.	Ex. PW1/C	Counselling Report
4.	Ex. PW1/D	Identification Memo
5.	Ex. PW2/A	Site Plan
6.	Ex. PW2/B	Application for recording statement under Section 164 Cr.P.C. of victim Neelam
7.	Ex. PW2/C	Application to MO, CHC Kalayat
8.	Ex. PW2/D	Disclosure Statement of Ompal
9.	Ex. PW2/E	Disclosure Statement of Pardeep
10.	Ex. PW2/F	Site Identification Memo
11.	Ex. PW2/G	Application for Medical Examination of Ompal and Pardeep
12.	Ex. PW5/A	Formal FIR
13.	Ex. PW5/B	Endorsement
14.	Ex. PW6/A	Medical Opinion Report of prosecutrix
15.	Ex. PW6/B	Medical report on fitness of accused

B. DEFENCE:

S.NO.	Exhibit Number	Description
Nil		

C. COURT EXHIBITS:

S.NO.	Exhibit Number	Description
Nil		

D. MATERIAL OBJECTS:

S. NO.	Material Object Number	Description
1.	MO1	Torn shirt of the prosecutrix
2.	MO2	Sample Seal

Pronounced in open Court.

(Gunjan Thakur),
Judicial Magistrate First Class,
Kaithal, 03.07.2026.
(UID no.HR0715).

Note:-Certified that all 15 pages of this judgment have been checked and signed by me.

Garima, Stenographer Gr.III

(Gunjan Thakur),
Judicial Magistrate First Class,
Kaithal, 03.07.2026.
(UID no.HR0715)

Present: Ms. Arti Panwar, Ld. APP for the state assisted by Ms. Sanjam Dhanda, Legal Aid Defence Counsel.
Accused Om Pal on bail with Sh. Nitin Chhabra, Advocate.
Proceedings against accused Pardeep dropped VOD 06.03.2025.

Today the case was fixed for defence evidence, if any and for arguments. However, no evidence was led and it was closed vide the separate statement of accused of even date.

Arguments heard. Vide separate detailed order of even date, the accused has been acquitted of charges framed against him. Earlier bail bonds and surety bonds furnished, stands discharged. As accused Ompal is acquitted, therefore accused Ompal is directed to furnish personal bonds in the sum of **Rs. 40,000/-** for proper compliance of Section 437-A of Code of Criminal Procedure/ Section 481 of BNSS, 2023 and same are furnished, accepted and attested. After the expiry of period of six months, personal bail bonds shall stand discharged. The case property, if any, be disposed of as per rules after the expiry of period of appeal/ revision, if any. Superdiginama, if any shall also stand discharged after the expiry of period of appeal/ revision if any. File be consigned to record room, after due compliance.

Pronounced in open Court.

Date of Order 03.07.2026
Garima, Stenographer Gr.III

(Gunjan Thakur)
JMIC, Kaithal,
U.I.D.No:HR-0715