



CGHC010101362025



2026:CGHC:33404-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 558 of 2025

1 - Sajid Lakhani S/o Shri Abdul Salim, Aged About 26 Years, Permanent R/o Bazar Para Ward No. 11, Saraipali, Police Station Saraipali, District Mahasamund, Chhattisgarh.

... Appellant

versus

1 - State of Chhattisgarh Through Station House Officer, Police Station Tikara Para, District Raipur, Chhattisgarh.

... Respondent

(Cause-title taken from Case Information System)

For Appellant : Mr. Awadh Tripathi, Advocate.

For State : Mr. Saumya Rai, Deputy Govt. Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

03-08-2026

1. The present criminal appeal has been filed under Section 14A(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act') filed by the appellant against the impugned judgment of conviction and order of sentence dated 04.03.2025 passed by learned Special Judge under the SC/ST Act, Raipur, District Raipur (C.G.), in Special Criminal Case No. 3/2024 whereby the appellant has been convicted and sentenced in the

following manner with a direction to run all the jail sentences concurrently:-

Conviction	Sentence
U/s 376(2)(k)(n) of the IPC	R.I. for 10 years and fine of Rs.2000/-, in default of payment of fine, additional R.I. for 02 months,
U/s 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989	Life Imprisonment and fine of Rs.2000/-, in default of payment of fine, additional R.I. for 02 months.

2. The case of prosecution is that on 06.11.2023 the victim lodged a written complaint to the police with the allegation that on 05.09.2021 she introduced with the accused/appellant through Instagram and they came to know that they are batchmate of the same school. The accused used to meet her to help her in her studies. On 23.07.2022, on the pretext of marriage he made forceful physical relation with her which continued upto 20.05.2023 and he consistently stuck on his pretext that he will marry her, but all of a sudden he stopped talking her. It is also alleged that in between that period when she conceived pregnancy he administered pills by which she has got miscarriage of her fetus. She came to know that the accused is going to be married with another girl and when she tried to meet him his family members not permitted her to meet him, then she lodged the complaint. Based on the written complaint Ex.-P/2 the FIR Ex.-P/3 was registered against the accused for the offence under Section 376, 376(2)(n) of the IPC. The social status certificate of the victim has been seized vide seizure memo Ex.-P/1. As per the social status of the victim, she belongs to Scheduled

Caste community. The victim was sent for her medical examination to UPHC Bhatagaon where she was medically examined by PW-12 Doctor Harshita Tekam and she gave her report Ex.-P/16. While medically examining the victim the doctor has not noticed any external injuries on her body and opined that no sign of recent vaginal penetration seen, for confirmation two glass slides prepared and sent for FSL examination. Spot map, Ex.-P/4 was prepared by the police and Ex.-P/13 was prepared by patwari. The underwear of the victim has been seized vide seizure memo Ex.-P/9. The accused was sent for his medical examination to UPHC Bhatagaon where he was medically examined by PW-4 Doctor Amogh Upadhyay who gave his report Ex.-P/11A. While medically examining the accused the doctor has not noticed any external injuries on his body, found him capable to perform sexual intercourse. During examination before the Court the victim produced a complaint made to Chhattisgarh State Women Commission, Raipur which has been marked as Ex.-P/10 which is with respect to allurement made by the accused to the victim. The vaginal slide of the victim and her underwear were sent for chemical examination to State FSL, Raipur from where report has been received, however, no semen and sperm were found on the sent articles. Statement of the victim under Section 164 of the Cr.P.C. and statement of the witnesses under Section 161 of the Cr.P.C. have been recorded and after completion of usual investigation charge sheet was filed against the accused before the learned trial Court for the offence under Section 376, 313, 376(2)(n) of the IPC and Section 3(2)(va) of the SC/ST Act.

3. The learned trial Court framed charge against the accused for the offence under Section 376(2)(k)(n) and also under Section 313 of the IPC and Section 3(2)(v) of the SC/ST Act. The accused denied the charge and claim trial.

4. To prove the charge against the accused/appellant, the prosecution has examined as many as 12 witnesses. The statement of accused under Section 313 CrPC has also been recorded in which he denied the circumstances that appears against him, pleaded innocence and has submitted that he has been falsely implicated in the offence in question.

5. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has convicted the accused and sentenced him as has been mentioned in the earlier part of this judgment, however, the accused has been acquitted from the offence under Section 313 of the IPC by the learned trial Court. Hence this appeal.

6. Learned counsel appearing for the appellant/accused would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of the prosecution witnesses which cannot be made basis to convict the appellant/accused for the offence in question. The victim is fully grown up major girl having love affair with the accused and she on her own will engaged in making consensual physical relation. At any point of time she has not raised any objection while making physical relation with him. He would further submit that the marriage between the

accused and the victim could not be solemnized due to objection raised by her family members for their caste differences, however, the accused has never allured her on the false promise of marriage. The victim knowing about their caste differences, engaged in making physical relation which is consensual and therefore, the accused cannot be blamed for forceful sexual relation or physical relation on the pretext of marriage. He would refer the document Ex.-P/10 and would submit that the victim despite knowing the fact that their family members are not ready for their marriage, continued the physical relation with the accused and thus, the requisite components of the offence of rape is missing and the accused cannot be convicted for the said offence. He would further submit that the prosecution could not establish by leading cogent evidence that the victim belongs to Scheduled Caste community by producing the relevant certificate issued by the competent authority and therefore, the appellant cannot be convicted for the offence under Section 3(2)(v) of the SC/ST Act merely on the fact that the victim belongs to Scheduled Caste community. There is inconsistency in evidence produced by the prosecution and therefore the accused is entitled for his acquittal. In support of his submission he would rely upon the judgment of the Hon'ble Supreme Court in the matter of **Deepak Gulati Vs. State of Haryana**, AIR 2013 S.C. 2071 and judgments of this High Court in the case of **Pankaj Sharma Vs. State of Chhattisgarh** in **CRA No.839 of 2025** and **Praveen Sahu Vs. State of Chhattisgarh** in **CRA No.1373/2025** and on the order passed by this

Court in **CrMP No.571/2026 (Deelip Kumar Uike Vs. State of Chhattisgarh).**

7. Per contra, the counsel for the State opposes the submissions made by learned counsel for the appellant and has submitted that the prosecution has proved its case beyond reasonable doubt. But for minor omissions and contradictions the evidence of the prosecution witnesses are reliable and sufficient to hold the appellant guilty for the alleged offence. From the evidence of the victim it is quite clear that she was sexually exploited by the appellant on the pretext of marriage. Her consent was obtained by giving her allurements that he will marry her and subsequently he resiled from his allurements. He would further submit that from her earlier complaint Ex.-P/10 made by before the Chhattisgarh State Women Cell, Raipur also it reflected that the victim was sexually exploited by the accused who was kept under assurance that the appellant will marry her. The evidence of the victim alone is sufficient to hold the conviction of the appellant and her evidence does not require any corroboration. The social status certificate has also been proved by the prosecution by producing her social status certificate Article A/1 which has been proved by the victim PW-2. Further, in her cross-examination the accused/appellant could not be able to rebut her social status. The definition of Section 3(2)(v) itself suffices to implicate the appellant for the offence of Section 3(2)(v) of the SC/ST Act as the victim belongs to Scheduled Caste community. There are sufficient and overwhelming evidence against the appellant with respect to sexual exploitation of the victim by him on the pretext of marriage. Therefore,

the learned trial Court has rightly convicted the appellant and sentenced him for the alleged offences and the appeal filed by the appellant is liable to be dismissed.

8. We have heard the counsel for the parties and perused the record of the trial Court with utmost circumspection.

9. In the present case, the victim PW-2 raised allegation that the appellant/accused on the pretext of marriage sexually exploited her and subsequently he tried to marry with another girl and thereby the appellant committed rape upon her. The appellant is charged for the offence of Section 376(2)(k) and (n) of the IPC. Though the appellant had also been charged for the offence under Section 313 of the IPC, however, after considering the evidence led by the prosecution, the learned trial Court has acquitted the appellant from the offence under Section 313 of the IPC. Further, the appellant has also been convicted for the offence under Section 3(2)(v) of the SC/ST Act as the victim belongs to Scheduled Caste community.

10. Before appreciating the evidence against the appellant it is relevant her to take notice of the provision of Section 376(2)(k) and (n) of the IPC which reads as under:-

“376. Punishment for rape.— xxxxxx xxxxxx

(2) Whoever,—

xxxxxx xxxxxx

(k) being in a position of control or dominance over a woman,
commits rape on such woman; or

XXXXXX XXXXXX

(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.”

11. In order to appreciate the sufficiency of evidence against the appellant to convict him for the alleged offence we examine the evidence of the victim PW-2. She stated in her evidence that she belongs to Scheduled Caste community and the appellant belongs to Mohammedan community. Since the appellant was her batchmate, therefore, he knew that she belongs to Scheduled Caste community. They introduced through Instagram, they came to know about each other that they were the fellow of the same school. She is residing at Tikarapara in rented house since April, 2022. The appellant used to come to her house to help her in studies. On 23.07.2022 the appellant came to her house and after giving allurement that he will marry her, committed forceful sexual intercourse with her against her will. On the pretext of marriage he continued in making physical relation with her till 22.05.2023, thereafter, he stopped talking with her. Due to the physical relation made by the appellant she conceived pregnancy and when she informed the appellant he administered pills for abortion. Subsequently, she came to know that the appellant engaged with another girl and going to be married with her. When she tried to meet him his family

members have not permitted her to meet him. Then she lodged the report to the police, which is Ex.-P/2 and FIR Ex.-P/3 was registered. She produced her social status certificate before the police which is Article A/1 which has been seized vide seizure memo Ex.-P/7. In further examination she produced the original copy of the social status certificate and after its comparison from its Xerox copy the original certificate has been returned to her. In cross-examination she admitted that she came into contact with the appellant on 05.09.2021 through Instagram. She denied that the appellant was junior to her, but voluntarily stated that the appellant was a student of Commerce and she was a student of Maths. The written report Ex.-P/2 was typed on her instance and after read over it she made her signature. She also explained that she knew the appellant by face and both were studied together but does not acquainted him through his name. The appellant started coming to her house from 23.07.2022. Since the appellant allured her that he will marry her, she not made any complaint to anyone. She also explained that the appellant made physical relation with her lastly on 20.05.2023. She also deposed that she disclosed the incident to her friend, but the police persons belonged to Mohammedan community he he was not having in talking terms she did not disclose him about the incident.

In further cross-examination she admitted that before lodging the report Ex.-P/2 she made a complaint to State Women Cell in which both were called and on 24.08.2023 there was first hearing before the Women Cell. She also produced the original copy of the

acknowledgment received from the said Women Cell, which has been marked as Ex.-P/10. She further admitted that the State Women Cell has not taken any action on her complaint. She denied the suggestion given by defence that the appellant informed her that he could not perform marriage with her against the wishes of his parents. She admitted that she had gone to appellant's village to meet his parents on 23.07.2023, however, she denied that his parents have convinced her that their marriage could not be possible due to their caste differences. She further stated that before making physical relation with her the appellant should have thought about their caste differences. She also denied that she has not protested when the appellant made physical relation with her. On the pregnancy test kit provided by the appellant she has tested her pregnancy which was found positive and then the appellant administered pills. She denied that she herself called the appellant to her. She further denied that she trapped the appellant and she herself made physical relation with him. She denied that it is the appellant who informed her that he engaged somewhere else. She voluntarily stated that she was unaware about his engagement.

From the evidence of this witness, the defence could not be able to abstract any material that the victim voluntarily and consensually engaged in making physical relation with the appellant rather her evidence clearly spells about the allurements and pretext of marriage which the appellant gave to the victim while making physical relation with her. From her entire evidence she stuck on her sexual exploitation by the appellant on the pretext of marriage.

12. The case of the appellant is that their physical relation was consensual, however, the case of the victim is that the consent was obtained by misrepresentation and by allurements that he will marry her. Section 90 of the IPC provided consent obtained under fear or misconception which defines that a consent is not such a consent as it intended, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception. In the case of **State of U.P. Vs. Naushad**, AIR 2014 SC 384 : 2013 (16) SCC 651, the Hon'ble Supreme Court has held that if a consent is given by the victim under a misconception of fact, it is vitiated. The appellant committed sexual intercourse with the victim by giving false assurance that he will marry her and after having consensual relation for some time, he refused to do so. From this, it is evident that he never intended to marry her and procured her consent only for the reason of having sexual relations with her, which act of the accused squarely falls under the definition of rape and in paragraph Nos.17, 18 and 20 it has been observed that:-

“**17.** Section 376 of IPC prescribes the punishment for the offence of rape. Section 375 of the IPC defines the offence of rape, and enumerates six descriptions of the offence. The description “secondly” speaks of rape “without her consent”. Thus, sexual intercourse by a man with a woman without her consent will constitute the offence of rape. We have to examine as to whether in the present case, the accused is guilty of the act of sexual intercourse with the prosecutrix ‘against her consent’. The

prosecutrix in this case has deposed on record that the accused promised marriage with her and had sexual intercourse with her on this pretext and when she got pregnant, his family refused to marry him with her on the ground that she is of 'bad character'.

18. How is 'consent' defined? Section 90 of the IPC defines consent known to be given under 'fear or misconception' which reads as under:-

"90. Consent known to be given under fear or misconception – A consent is not such consent as it intended by any section of this Code, if the consent is given by a person under fear of injury, or *under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception;*" (emphasis supplied)

Thus, if consent is given by the prosecutrix under a misconception of fact, it is vitiated."

20. In the case of Yedla Srinivas Rao v. State of A.P. [(2006) 11 SCC 615], with reference to similar facts, this Court in para 10 held as under:-

"10. It appears that the intention of the accused as per the testimony of PW1 was, right from the beginning, not honest and he kept on promising that he will marry her, till she became pregnant. This kind of consent obtained by the accused cannot be said to be any consent because she was under a misconception of fact that the accused intends to marry her, therefore, she had submitted to sexual intercourse with him. This fact is also admitted by the accused that he had committed sexual intercourse which is apparent from the testimony of PWs 1, 2 and 3 and before Panchayat of elders of the village. It is more than clear that

the accused made a false promise that he would marry her. Therefore, the intention of the accused right from the beginning was not bona fide and the poor girl submitted to the lust of the accused completely being misled by the accused who held out the promise for marriage. This kind of consent taken by the accused with clear intention not to fulfil the promise and persuaded the girl to believe that he is going to marry her and obtained her consent for the sexual intercourse under total misconception, cannot be treated to be a consent.”

Further, in para 17 of the said judgment, this Court held that: (Yedla Srinivas Rao v. State of A.P. (2006) 11 SCC 615, SCC p.624)-

“17. In the present case in view of the facts as mentioned above we are satisfied that the consent which had been obtained by the accused was not a voluntary one which was given by her under misconception of fact that the accused would marry her but this is not a consent in law. This is more evident from the testimony of PW1 as well as PW6 who was functioning as Panchayat where the accused admitted that he had committed sexual intercourse and promised to marry her but he absconded despite the promise made before the Panchayat. That shows that the accused had no intention to marry her right from the beginning and committed sexual intercourse totally under the misconception of fact by prosecutor that he would marry her.”

Thus, this Court held that the accused in that case was guilty of the offence of rape as he had obtained the consent of the prosecutrix fraudulently, under a misconception of fact.”

13. The evidence of the victim, in the manner in which she deposed before the Court inspires confidence of the Court that she sexually exploited by the appellant on the pretext of marriage. When the evidence of the victim inspires confidence of the Court, it does not require any corroboration and conviction can be made solely on the basis of the evidence of the victim as has been held by the Hon'ble Supreme Court in the case of **Phool Singh Vs. State of Madhya Pradesh**, (2022) 2 SCC 74, in para 8 and 9 its judgment, which read as under :-

“8. In the case of Ganesan [Ganeshan v. State, (2020) 10 SCC 573], this Court has observed and held that there can be a conviction on the sole testimony of the victim/prosecutrix when the deposition of the prosecutrix is found to be trustworthy, unblemished, credible and her evidence is of sterling quality. In the aforesaid case, this Court had an occasion to consider the series of judgments of this Court on conviction on the sole evidence of the prosecutrix. In paragraphs 10.1 to 10.3, it is observed and held as under: (Ganeshan case, Ganeshan v. State, (2020) 10 SCC 573, SCC pp. 578-82)

“10.1. Whether, in the case involving sexual harassment, molestation, etc., can there be conviction on the sole evidence of the prosecutrix, in Vijay [Vijay v. State of M.P., (2010) 8 SCC 191], it is observed in paras 9 to 14 as under: (SCC pp. 195-98)

“9. In State of Maharashtra v. Chandraprakash Kewalchand Jain [(1990) 1 SCC 550] this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a

victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Court observed as under: (SCC p.559, para 16)-

‘16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in

the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence.'

10. In *State of U.P. v. Pappu* [(2005) 3 SCC 594] this Court held that even in a case where it is shown that the girl is a girl of easy virtue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This Court further held that there can be conviction on the sole testimony of the prosecutrix and in case, the court is not satisfied with the version of the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony. The Court held as under : (SCC p. 597, para 12)

“12. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars. She stands at a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. However, if the court of facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration as understood in the context of an accomplice, would do.”

11. In *State of Punjab v. Gurmit Singh* [(1996) 2 SCC 384], this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial

conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under : (SCC pp. 394-96 & 403, paras 8 & 21) “

8. ... The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix. ... The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the

prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. ... Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. ...

* * *

21. ... The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to

its responsibility and be sensitive while dealing with cases involving sexual molestations.”

12. In *State of Orissa v. Thakara Besra* [(2002) 9 SCC 86], this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, nonexamination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In *State of H.P. v. Raghubir Singh* [(1993) 2 SCC 622], this Court held that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is absence of circumstances which militate against her veracity. A similar view has been reiterated by this Court in *Wahid Khan v. State of M.P.* [(2010) 2 SCC 9] placing reliance on an earlier judgment in *Rameshwar v. State of Rajasthan* [1951 SCC 1213]

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable,

requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix.'

10.2. In *Krishan Kumar Malik v. State of Haryana* [(2011) 7 SCC 130] , it is observed and held by this Court that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient, provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.

10.3. Who can be said to be a "sterling witness", has been dealt with and considered by this Court in *Rai Sandeep v. State (NCT of Delhi)* [(2012) 8 SCC 21]. In para 22, it is observed and held as under : (SCC p. 29)

'22. In our considered opinion, the "sterling witness" should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version

of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have correlation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a “sterling witness” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other

supporting materials for holding the offender guilty of the charge alleged.' ” (emphasis in original)

9. In *Pankaj Chaudhary [State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575]*, it is observed and held that as a general rule, if credible, conviction of the accused can be based on sole testimony, without corroboration. It is further observed and held that sole testimony of the prosecutrix should not be doubted by the court merely on basis of assumptions and surmises. In para 29, it is observed and held as under : (SCC p. 587)

"29. It is now well-settled principle of law that conviction can be sustained on the sole testimony of the prosecutrix if it inspires confidence. [*Vishnu v. State of Maharashtra [Vishnu v. State of Maharashtra, (2006) 1 SCC 283]*. It is well settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the "probabilities factor" does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming. [*State of Rajasthan v. N.K. [(2000) 5 SCC 30]*]."

14. From the evidence of the victim she can be put to be in the category of sterling witness as she duly supported the prosecution case and the allegation of sexual exploitation by the appellant on the pretext of marriage. The Hon'ble Supreme Court in the matter of **Santosh Prasad @ Santosh Kumar v. State of Bihar**, 2020 (3) SCC 443, has held that:-

“5.4.2 In the case of Rai Sandeep alias Deepu [Rai Sandeep alias Deepu v. State (NCT of Delhi), (2012) 8 SCC 21], this Court had an occasion to consider who can be said to be a “sterling witness”. In paragraph 22, it is observed and held as under:

“22 In our considered opinion, the “sterling witness” should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should

give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a “sterling witness” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”

15. Reverting to the other evidence available on record, we examine the evidence of PW-1 who is cousin brother of the appellant. He stated in his evidence that one year back the victim informed him that the appellant on the pretext of marriage sexually exploited her, but has not

performed marriage with her. She also disclosed that the appellant has engaged with another girl. In cross-examination he admitted that when the victim disclosed about the sexual exploitation by the appellant he has not made any complaint to any police station. From the evidence of this witness it has been unrebutted that there was physical relation between the appellant and the victim on the pretext of marriage by the appellant and the appellant engaged with another girl. This witness is cousin brother of the appellant and has deposed against him.

16. PW-3 is the friend of the victim who was roommate of the victim. She deposed that the appellant used to come to their rented house and she saw him visiting the house. He assured the victim that he will marry her. The victim also disclosed her that in between 2022 to May, 2023 the appellant committed forceful sexual intercourse with her on the pretext of marriage. In cross-examination she stated that she disclosed before police that she saw the appellant coming to her house and if in her police statement it has not been mentioned in verbatim she could not tell the reason. She also states that in her police statement she disclosed that the victim disclosed her that the appellant made physical relation with her on the pretext of marriage. She denied the suggestion given by the defence that the victim has not disclosed anything to her. Being roommate it is quite natural that she had seen the appellant visiting the victim and the victim disclosed her about the incident. From the document Ex.-D/1 though the allegation against the appellant is not in the same fashion, but the substantive allegation that the victim disclosed her about sexual exploitation by the appellant on the pretext

of marriage is very much there in her 161 Cr.P.C. statement and no material contradictions are there.

17. PW-5 is another friend of the victim she too has stated that when she was roommate of the victim, the appellant used to come there to meet the victim. The victim also disclosed her that the appellant made physical relation with her between 2022 to May, 2023 on the pretext of marriage and subsequently refused to marry her and engaged with another girl. In cross-examination she remained firm in saying that the victim was sexually exploited by the appellant on the pretext of marriage which has been disclosed by her.

18. PW-12 who is medical doctor who medically examined the victim and gave her report Ex.-P/16 has stated in her evidence that on 07.09.2023 she medically examined her and during her medical examination she informed her that due to unwanted pill she suffered vaginal bleeding. She prepared two vaginal slides, but did not notice any sign of recent sexual intercourse. In cross-examination nothing substantive could be abstracted by the defence to disbelieve her evidence. Even otherwise, she has not noticed any external injuries on her body.

19. PW-7 is the Investigating Officer who registered the FIR and investigated the offence against the appellant. She proved the process of investigation which she conducted.

20. PW-8 is the Deputy Superintendent of Police who further investigated the offence under the SC/ST Act as the victim belongs to Scheduled Caste community and the offence of Section 3(2)(va) of the

SC/ST Act has been added and after due investigation charge sheet was filed. He too remained firm in his part and filing of the charge sheet.

21. From all these evidence, the prosecution has duly proved the allegation against the appellant that he committed rape upon the victim on the pretext of marriage and subsequently denied for marriage. It also reflected from the conduct of the appellant that he never intended from very beginning to marry with the victim and despite their caste differences he assured the victim that he will marry her and developed physical relation, in such a circumstances the act of the appellant falls under the offence of rape.

22. The appellant has also been convicted for the offence under Section 3(2)(v) of the SC/ST Act. It is relevant here to notice Section 3(2)(v) of the SC/ST Act which reads as under:-

“3. Punishments for offences of atrocities.—

xxxxxx xxxxxx

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

xxxxxx xxxxxx

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine”

23. From the provision of Section 3(2)(v) of the SC/ST Act it is quite vivid that when a person knowingly commits an offence against a person belonging to Scheduled Caste, he shall be punished. In the

present case from the evidence of the victim PW-2 it is clear that since the appellant was batchmate of the victim in the school, he knew the fact that the victim belongs to that particular community. The victim has clearly stated in para 1 of her evidence that the appellant knew that she belongs to Scheduled Caste community as both of them were studied together. She also stated that she produced her social status certificate before the police which is Article A/1. In cross-examination the appellant could not able to rebut the fact that he was not batchmate of the victim in the school. She further denied the suggestion given by the defence that the appellant disclosed that he could not marry her against wishes of her parents. She also denied the suggestion given by the defence that the parents of the appellant tried to convince her that both of them belongs to different community and marriage between them is not possible. She firmly stated that the appellant ought to have considered the said fact of caste differences before making physical relation with her and should have considered that she does not belong to same community.

24. From the evidence of the victim as well as her social status certificate Article A/1, the prosecution is able to prove that the appellant was well within knowledge that the victim belongs to Scheduled Caste community and despite knowing about their caste differences he made physical relation with the victim on the pretext of marriage and therefore, the offence under Section 3(2)(v) of the SC/ST Act does operate and the learned trial Court has rightly considered the evidence as well as the provisions of Section 3(2)(v) of the SC/ST Act and has

convicted the appellant in which also we do not see any perversity or infirmity.

25. After meticulous examination of the evidence available on record, we do not find any scope for interference in the appeal filed by the appellant. Accordingly, the appeal fails and is hereby **dismissed**.

26. The appellant is reported to be in jail since 04.03.2025. He shall serve the entire sentence as awarded by the learned trial Court. The appellant is entitled for set off his undergone period during trial as well as the present appeal.

27. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

28. Record of the trial Court be sent back along with copy of this judgment.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice