



2026:CGHC:18873-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 617 of 2022**

Ajay S/o Shivprasad Aged About 25 Years R/o Mahganwa, Namad Giri,
Surajpur District Surajpur Chhattisgarh.

... Appellant(s)**versus**

State of Chhattisgarh Through Station House Officer, P.S. Chirmiri,
District Koriya Chhattisgarh.

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Akhtar Hussain, Advocate.
For Respondent/State	:	Mr. Ntiansh Jaiswal, Deputy Government Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****24.04.2026**

1. Heard Mr. Akhtar Hussain, learned counsel for the appellant. Also heard Mr. Nitansh Jaiswal, learned Deputy Government Advocate, appearing for the State/respondent.



2. The present criminal appeal, preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is directed against the impugned judgment of conviction and order of sentence dated 01.04.2022 passed by the learned Additional Sessions Judge F.T.S.C (POCSO), Manendragarh, District Koriya (C.G.) (for short, 'learned trial Court') in Special Criminal Case No. 27 of 2019, whereby the appellant has been convicted and sentenced as follows:

<u>Conviction</u>	<u>Sentence</u>
Section 363 of the the Indian Penal Code (<i>for short</i> , 'IPC')	Rigorous imprisonment (<i>for short</i> , 'R.I.') for 02 years and fine of Rs.500/-, in default of payment of fine, 01 month R.I. more.
Section 366 of the IPC	R.I. for 05 years and fine of Rs. 500/-, in default of payment of fine, 01 month R.I. more.
Section 376(2)(N) of the IPC	R.I. for 20 years and fine of Rs.500/-, in default of payment of fine, 01 year R.I. more.
<i>All the sentences shall run concurrently.</i>	

3. The prosecution case, in brief, is that on the date of the incident, at around 11:00 p.m., the victim (PW-2) went to the courtyard of her house to use the bathroom. The appellant, Ajay, was present nearby. Upon being called by him, the victim went to him, after which he took her to his maternal uncle's house at Bagnachha Dafai, Haldibadi. He kept her there overnight and, on the pretext of marriage, committed rape upon her. On the following evening, the appellant took the victim



by bus to his house in Surajpur, where he again committed rape upon her during the night.

4. On the basis of a complaint lodged by the victim's mother (PW-3), FIR bearing Crime No. 279/2019 (Ex.P/5) was registered at Police Outpost Chirmiri under Section 363 of the IPC.

5. During investigation, statements of witnesses under Section 161 Cr.P.C. were recorded. Upon completion, a charge-sheet was filed against the appellant and other accused persons under Sections 363, 366, 376(2)(N), 368, and 34 IPC, along with Section 6 of the POCSO Act and Sections 19/21 thereof.

6. The learned trial Court framed charges against the appellant under Sections 363, 366, and 376(2)(N) IPC and Section 6 of the POCSO Act. Co-accused Sanjay, Shivkumar, and Suhano were charged under Section 368 read with Section 34 IPC and Section 21 of the POCSO Act. All accused denied the charges. The prosecution failed to prove charges against the co-accused beyond reasonable doubt, and they were acquitted.

7. The prosecution examined 23 witnesses and exhibited 34 documents. The appellant did not lead any defence evidence.

8. In his statement under Section 313 Cr.P.C., the appellant denied all incriminating circumstances and claimed false implication.

9. Upon appreciation of the evidence, the learned trial Court convicted the appellant and sentenced him as detailed in paragraph 02



of the judgment. Aggrieved, by the same the present appeal has been filed by the appellant.

10. Learned counsel for the appellant submits that the impugned judgment of conviction and order of sentence are contrary to law and evidence on record. It is contended that the learned trial Court has failed to properly appreciate the material contradictions and omissions in the prosecution evidence, which go to the root of the case.

11. It is further submitted by the learned counsel, appearing for the appellant that the prosecution has failed to conclusively establish that the victim was a minor at the time of the alleged incident. The reliance placed on the Admission–Discharge Register (Ex.P/16C) is misplaced, as the Headmaster (PW-12), in his cross-examination, admitted that there was no supporting document available regarding the date of birth of the victim at the time of her admission, nor was the source of such entry disclosed. In absence of cogent documentary evidence or medical determination of age, the applicability of the provisions of the POCSO Act becomes doubtful.

12. Learned counsel for the appellant further contends that the evidence on record indicates that the victim had accompanied the appellant voluntarily and there existed a relationship between them. It is urged that the conduct of the victim, including not raising any alarm or complaint during the period she remained with the appellant, creates a serious doubt regarding the allegation of force or absence of consent. The learned trial Court failed to consider this aspect in its proper



perspective. He also submitted that the medical and forensic evidence does not support the prosecution case. As per the MLC report (Ex.P/12), no external or internal injuries were found on the person of the victim. In absence of medical corroboration and in light of inconsistencies in the testimony of the prosecution witnesses, the conviction under Section 376(2)(N) IPC is unsustainable. The appellant is, therefore, entitled to benefit of doubt.

13. Learned counsel for the State supported the impugned judgment, submitting that the trial Court has rightly appreciated the evidence. It is contended that the testimony of the victim is reliable and sufficient to sustain conviction even without corroboration. No perversity or illegality is shown in the impugned judgment.

14. We have heard learned counsel for the parties and perused the record.

15. The primary question for consideration is whether the victim was a minor on the date of the incident.

16. In this regard, the prosecution relied on the Admission–Discharge Register (Ex.P/16C), which records her date of birth as 01.08.2005.

17. The Headmaster (PW-12) stated that the entry was made in the register at the time of admission; however, he admitted that he could not specify the basis or document for recording the date of birth, reducing its evidentiary value.

18. On cumulative assessment, the prosecution has failed to produce



reliable and admissible evidence to conclusively establish that the victim was below 18 years of age. Mere reliance on the school register, without proof of its basis, is insufficient.

19. The oral evidence regarding age is inconsistent and unreliable. Accordingly, the benefit of doubt must go to the appellant.

20. In the matter of ***Ravinder Singh Gorkhi Vs. State of UP, (2006) 5 SCC 584***, relying upon its earlier judgment in case of ***Birad Mal Singhvi Vs. Anand Purohit, 1988 supp. SCC 604***, the Hon'ble Supreme Court has held as under :-

"26. To render a document admissible under Section 35, three conditions must be satisfied, firstly, entry that is relied on must be one in a public or other official book, register or record; secondly, it must be an entry stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded."

21. The Hon'ble Supreme Court in paragraphs 40, 42, 43, 44 and 48 of its judgment in ***Alamelu and Another Vs. State, represented by Inspector of Police***, reported in ***(2011) 2 SCC 385***, has observed as under:

"40. Undoubtedly, the transfer certificate, Ex.P16 indicates that the girl's date of birth was 15th June, 1977. Therefore, even according to the aforesaid



certificate, she would be above 16 years of age (16 years 1 month and 16 days) on the date of the alleged incident, i.e., 31st July, 1993. The transfer certificate has been issued by a Government School and has been duly signed by the Headmaster. Therefore, it would be admissible in evidence under Section 35 of the Indian Evidence Act. However, the admissibility of such a document would be of not much evidentiary value to prove the age of the girl in the absence of the material on the basis of which the age was recorded. The date of birth mentioned in the transfer certificate would have no evidentiary value unless the person, who made the entry or who gave the date of birth is examined.

42. Considering the manner in which the facts recorded in a document may be proved, this Court in the case of Birad Mal Singhvi Vs. Anand Purohit¹, observed as follows:-

"The date of birth mentioned in the scholars' register has no evidentiary value unless the person who made the entry or who gave the date of birth is examined....Merely because the documents Exs. 8, 9, 10, 11, and 12 were proved, it does not mean that the contents of documents were also proved. Mere proof of the documents Exs. 8, 9, 10, 11 and 12 would not tantamount to proof of all the contents or the correctness of date of birth stated in the documents. Since the truth of the fact, namely, the date of birth of Hukmi Chand and Suraj Prakash Joshi was in issue, mere proof of the documents as produced by the aforesaid two witnesses does not furnish evidence of the truth of the facts or contents of the documents. The truth or otherwise of the facts in issue, namely, the date of birth of the two candidates as mentioned in the documents could be proved by admissible evidence i.e. by the evidence of those persons who could vouchsafe for the truth of the facts in issue. No evidence of any such kind was produced



by the respondent to prove the truth of the facts, namely, the date of birth of Hukmi Chand and of Suraj Prakash Joshi. In the circumstances the dates of birth as mentioned in the aforesaid documents 1988 (Supp) SCC 604 have no probative value and the dates of birth as mentioned therein could not be accepted."

43. The same proposition of law is reiterated by this Court in the case of Narbada Devi Gupta Vs. Birendra Kumar Jaiswal², where this Court observed as follows:-

"The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence, that is, by the "evidence of those persons who can vouchsafe for the truth of the facts in issue."

44. In our opinion, the aforesaid burden of proof has not been discharged by the prosecution. The father says nothing about the transfer certificate in his evidence. The Headmaster has not been examined at all. Therefore, the entry in the transfer certificate can not be relied upon to definitely fix the age of the girl.

48. We may further notice that even with reference to Section 35 of the Indian Evidence Act, a public document has to be tested by applying the same standard in civil as well as criminal proceedings. In this context, it would be appropriate to notice the observations made by this Court in the case of Ravinder Singh Gorkhi Vs. State of U.P.⁴ held as follows:-

"The age of a person as recorded in the school register or otherwise may be used for various purposes, namely, for obtaining admission; for obtaining an appointment; for contesting election; registration of



marriage; obtaining a separate unit under the ceiling laws; and even for the purpose of litigating before a civil forum e.g. necessity of being represented in a court of law by a guardian or where a suit is filed on the ground that the plaintiff being a minor he was not appropriately represented therein or any transaction made on his behalf was void as he was a minor. A court of law for the purpose of determining the age of a (2006) 5 SCC 584 party to the lis, having regard to the provisions of Section 35 of the Evidence Act will have to apply the same standard. No different standard can be applied in case of an accused as in a case of abduction or rape, or similar offence where the victim or the prosecutrix although might have consented with the accused, if on the basis of the entries made in the register maintained by the school, a judgment of conviction is recorded, the accused would be deprived of his constitutional right under Article 21 of the Constitution, as in that case the accused may unjustly be convicted.”

22. In case of ***Rishipal Singh Solanki Vs. State of Uttar Pradesh & Others, 2022 (8) SCC 602***, while considering various judgments, the Hon'ble Supreme Court has observed in para 33 as under:-

“33. What emerges on a cumulative consideration of the aforesaid catena of judgments is as follows:

33.2. If an application is filed before the Court claiming juvenility, the provision of sub-section (2) of section 94 of the JJ Act, 2015 would have to be applied or read along with sub-section (2) of section 9 so as to seek evidence for the purpose of recording a finding stating the age of the person as nearly as may be.



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33.3. That when a claim for juvenility is raised, the burden is on the person raising the claim to satisfy the Court to discharge the initial burden. However, the documents mentioned in Rule 12(3)(a)(i), (ii), and (iii) of the JJ Rules 2007 made under the JJ Act, 2000 or sub- section (2) of section 94 of JJ Act, 2015, shall be sufficient for prima facie satisfaction of the Court. On the basis of the aforesaid documents a presumption of juvenility may be raised.

33.4. The said presumption is however not conclusive proof of the age of juvenility and the same may be rebutted by contra evidence let in by the opposite side.

33.5. That the procedure of an inquiry by a Court is not the same thing as declaring the age of the person as a juvenile sought before the JJ Board when the case is pending for trial before the concerned criminal court. In case of an inquiry, the Court records a prima facie conclusion but when there is a determination of age as per sub-section (2) of section 94 of 2015 Act, a declaration is made on the basis of evidence. Also the age recorded by the JJ Board shall be deemed to be the true age of the person brought before it. Thus, the standard of proof in an inquiry is different from that required in a proceeding where the determination and declaration of the age of a person has to be made on the basis of evidence scrutinized and accepted only if worthy of such acceptance.

33.6. That it is neither feasible nor desirable to lay down an abstract formula



to determine the age of a person. It has to be on the basis of the material on record and on appreciation of evidence adduced by the parties in each case.

33.7. This Court has observed that a hypertechnical approach should not be adopted when evidence is adduced on behalf of the accused in support of the plea that he was a juvenile.

33.8. If two views are possible on the same evidence, the court should lean in favour of holding the accused to be a juvenile in borderline cases. This is in order to ensure that the benefit of the JJ Act, 2015 is made applicable to the juvenile in conflict with law. At the same time, the Court should ensure that the JJ Act, 2015 is not misused by persons to escape punishment after having committed serious offences.

33.9. That when the determination of age is on the basis of evidence such as school records, it is necessary that the same would have to be considered as per Section 35 of the Indian Evidence Act, inasmuch as any public or official document maintained in the discharge of official duty would have greater credibility than private documents.

33.10. Any document which is in consonance with public documents, such as matriculation certificate, could be accepted by the Court or the JJ Board provided such public document is credible and authentic as per the provisions of the Indian Evidence Act viz., section 35 and other provisions.

33.11. Ossification Test cannot be the sole criterion for age determination and a mechanical view regarding the age of a person cannot be adopted solely on the



basis of medical opinion by radiological examination. Such evidence is not conclusive evidence but only a very useful guiding factor to be considered in the absence of documents mentioned in Section 94(2) of the JJ Act, 2015."

23. Recently, in case of ***P. Yuvaprakash Vs. State represented by Inspector of Police, 2023 (SCC Online) SC 846***, Hon'ble Supreme Court has held in paras 14 to 17 as under :

"14. Section 94 (2)(iii) of the JJ Act clearly indicates that the date of birth certificate from the school or matriculation or equivalent certificate by the concerned examination board has to be firstly preferred in the absence of which the birth certificate issued by the Corporation or Municipal Authority or Panchayat and it is only thereafter in the absence of these such documents the age is to be determined through "an ossification test" or "any other latest medical age determination test" conducted on the orders of the concerned authority, i.e. Committee or Board or Court. In the present case, concededly, only a transfer certificate and not the date of birth certificate or matriculation or equivalent certificate was considered. Ex. C1, i.e., the school transfer certificate showed the date of birth of the victim as 11.07.1997. Significantly, the transfer certificate was produced not by the prosecution but instead by the court summoned witness, i.e., CW-1. The burden is always upon the prosecution to establish what it alleges; therefore, the prosecution could not have been fallen back upon a document which it had never relied upon. Furthermore, DW-3, the concerned Revenue Official (Deputy Tahsildar) had stated on oath that the records for the year 1997 in respect to the births and deaths were missing. Since it did not answer to the description of any class of documents mentioned in Section 94(2)(i) as it was a mere transfer certificate, Ex C-1 could not have been relied upon to hold that M was below 18 years at the time of



commission of the offence.

15. In a recent decision, in Rishipal Singh Solanki vs. State of Uttar Pradesh & Ors. this court outlined the procedure to be followed in cases where age determination is required. The court was dealing with Rule 12 of the erstwhile Juvenile Justice Rules (which is in pari materia) with Section 94 of the JJ Act, and held as follows:

"20. Rule 12 of the JJ Rules, 2007 deals with the procedure to be followed in determination of age. The juvenility of a person in conflict with law had to be decided prima facie on the basis of physical appearance, or documents, if available. But an inquiry into the determination of age by the Court or the JJ Board was by seeking evidence by obtaining: (i) the matriculation or equivalent certificates, if available and in the absence whereof; (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof; (iii) the birth certificate given by a corporation or a municipal authority or a panchayat. Only in the absence of either (i), (ii) and (iii) above, the medical opinion could be sought from a duly constituted Medical Board to declare the age of the juvenile or child. It was also provided that while determination was being made, benefit could be given to the child or juvenile by considering the age on lower side within the margin of one year."

16. Speaking about provisions of the Juvenile Justice Act, especially the various options in Section 94 (2) of the JJ Act, this court held in Sanjeev Kumar Gupta vs. The State of Uttar Pradesh & Ors that:



"Clause (i) of Section 94 (2) places the date of birth certificate from the school and the matriculation or equivalent certificate from the 2021 (12) SCR 502 [2019] 9 SCR 735 concerned examination board in the same category (namely (i) above). In the absence thereof category (ii) provides for obtaining the birth certificate of the corporation, municipal authority or panchayat. It is only in the absence of (i) and (ii) that age determination by means of medical analysis is provided. Section 94(2) (a)(i) indicates a significant change over the provisions which were contained in Rule 12(3)(a) of the Rules of 2007 made under the Act of 2000. Under Rule 12(3)(a) (i) the matriculation or equivalent certificate was given precedence and it was only in the event of the certificate not being available that the date of birth certificate from the school first attended, could be obtained. In Section 94(2)(i) both the date of birth certificate from the school as well as the matriculation or equivalent certificate are placed in the same category.

17. In Abuzar Hossain @ Gulam Hossain Vs. State of West Bengal, this court, through a three-judge bench, held that the burden of proving that someone is a juvenile (or below the prescribed age) is upon the person claiming it. Further, in that decision, the court indicated the hierarchy of documents that would be accepted in order of preference."

24. Upon appreciation of the evidence on record, it emerges that the victim (PW-2) has stated that she was below 18 years of age at the relevant time. PW-1 and PW-3, the father and mother of the victim, also deposed that her date of birth is 01.08.2005. PW-12, the Headmaster of the victim's school, relied upon the Admission–Discharge Register



(Ex.P/16C), wherein the same date of birth is recorded. However, in his cross-examination, PW-12 candidly admitted that he could not state the basis or the document on which the said date of birth had been recorded.

25. In view of the aforesaid evidence, this Court is of the considered opinion that the prosecution has failed to produce reliable, cogent, and legally admissible evidence to conclusively establish the age of the victim. The age of the victim has, therefore, not been proved in accordance with law, giving rise to a serious doubt on this crucial aspect.

26. Apart from the aforesaid material, no primary or foundational document, such as a birth certificate or any contemporaneous public record (for instance, entries in a Kotwari Register), has been produced by the prosecution to establish that the victim was below 18 years of age on the date of the incident. The oral testimonies of PW-2 (victim), PW-1 (father), and PW-3 (mother), coupled with the school record (Ex.P/16C), do not inspire confidence in the absence of proof regarding the source or basis of the recorded date of birth.

27. In the absence of foundational evidence, it cannot be ruled out that the date of birth recorded in the school register was based on approximation or assumption. The prosecution has also failed to produce the underlying documents on the basis of which such entry was made. Consequently, the evidence relating to the age of the victim falls short of the standard required to conclusively establish her minority. The



finding of the learned trial Court holding the victim to be a minor, therefore, cannot be sustained.

28. The next question that arises for consideration is whether the appellant committed rape upon the victim, particularly in light of the evidence on record and the defence of consent raised on behalf of the appellant.

29. The victim (PW-2) deposed that she knew the appellant, Ajay, who used to pass by her house. On the night of the incident, when she had gone to the courtyard to use the bathroom, the appellant came in front of her and caught hold of her. Thereafter, he took her on foot to Bagnachha Dafai, Haldibadi, to his maternal uncle's house, where she was kept overnight and subjected to sexual intercourse. She further stated that on the next day, the appellant took her by bus to Surajpur, where she was kept at his father's house and again subjected to sexual intercourse. On the following day, she was taken to Madanpur, where her parents arrived and she returned home with them, and thereafter a report was lodged at Police Station Chirmiri.

30. She stated that she narrated the incident to the police, whereupon her medical examination was conducted after obtaining her consent (Ex.P/2). She also stated that the police prepared the site map and obtained her signatures thereon, though she clarified that it was not prepared in her presence. She further stated that her statement was recorded before the learned trial Court and that she was not aware whether the house at Madanpur belonged to the maternal uncle of the



accused. In her cross-examination, the victim denied the suggestions that she was 18 years of age, that she had accompanied the appellant voluntarily, or that no wrongful act was committed with her. She also denied that the accused had informed her family members that she had gone with him of her own free will.

31. At the same time, she admitted that her police statement was not read over to her and that she had become frightened when her father woke up. She further admitted that she did not inform any person at Bagnachha, Haldibadi, Madanpur, or Surajpur about the alleged acts, nor did she raise any alarm or seek assistance, and that the disclosure was made subsequently. She also admitted that her mother was upset with her and the appellant, but denied that she was falsely implicating him.

32. The father (PW-1) and mother (PW-3) of the victim corroborated the statements made by the victim, affirming the accuracy and consistency of her account.

33. The medical examination of the victim was conducted on 08.08.2019 by Dr. Kalawati Patel (PW-11). In her deposition, with reference to the medical report (Ex.P/12), she stated that the victim was brought for examination by Woman Constable No. 25 Rukmani Banjare from Police Station Chirmiri.

34. On examination, the victim's breasts were not fully developed. No external injuries were observed on her body or private parts. The hymen was found to be recently torn, accompanied by slight bleeding and



tenderness on touch. A vaginal slide was prepared and sent for chemical examination. The victim's undergarment (panty), which was coffee-coloured and stained with blood, was seized, marked, and forwarded for chemical examination. She was also referred to Medical College, Ambikapur for determination of her age. The witness opined that recent sexual intercourse had taken place and that the victim was not habitual to sexual intercourse.

35. Dr. Sharda Prasad Sahu (PW-22), who examined the appellant, stated in his deposition, with reference to the medical report (Ex.P/26), that the appellant was brought for examination by Constable Harish Sharma from Police Station Chirmiri.

36. On examination, the appellant was found to be physically and mentally sound, with no external injuries on his body. The axillary and pubic hair were fully developed, and the genital organs were normal and fully developed, with testes present in the scrotum. Necessary tests, including HIV, VDRL, HBsAg, and HCV, were advised.

37. Two semen slides were prepared, sealed, and forwarded for chemical examination. A black undergarment with a pink stripe and three white stains on the front side was also seized, marked, sealed, and sent for chemical examination. The witness opined that the appellant was capable of performing sexual intercourse.

38. As per the report of the State Forensic Science Laboratory (Ex.P/34), which was produced during the course of evidence, semen stains and human spermatozoa were detected on the vaginal slide of



the victim as well as on her undergarment.

39. It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt by leading cogent, reliable, and unimpeachable evidence. Suspicion, however strong, cannot take the place of proof. It is equally well settled that a conviction in cases of sexual assault can be based solely on the testimony of the victim, provided that such testimony is found to be wholly reliable and inspires confidence.

40. Further, in ***Alamelu*** (*supra*), where the facts and circumstances were similar to that of the present case, the Hon'ble Supreme Court observed as under:

"51. This Court in Rameshwar v. State of Rajasthan {AIR 1952 SC 54} declared that corroboration is not the sine qua non for a conviction in a rape case. In the aforesaid case, Vivian Bose, J. speaking for the Court observed as follows:-

"The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge, ... The only rule of law is that this rule of prudence must be present to the mind of the judge or the jury as the case may be and be understood and appreciated by him or them. There is no rule of practice that there must, in every case, be corroboration before a conviction can be allowed to stand."



52. *The aforesaid proposition of law has been reiterated by this Court in numerous judgments subsequently. These observations leave no manner of doubt that a conviction can be recorded on the sole, uncorroborated testimony of a victim provided it does not suffer from any basic infirmities or improbabilities which render it unworthy of credence.*

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54. *Even PW5, Thiru Thirunavukarasu stated that Sekar (A1) had brought the girl with him to his house and told him that he had married her. They had come to see Trichy and requested a house to stay. This witness categorically stated that he thought that they were newly married couple. He had made them stay in Door No. 86 of the Police Colony, which was under his responsibility. On 10th August, 1993, the police inspector, who arrived there at 10.00 p.m. told this witness that Sekar (A1) had married the girl by threatening her and "spoiled her". The girl, according to the prosecution, was recovered from the aforesaid premises. Therefore, for six days, this girl was staying with Sekar (A1). She did not raise any protest. She did not even complain to this witness or any other residents in the locality. Her behavior of not complaining to anybody at any of the stages after being allegedly abducted would be wholly unnatural.*

55. *Earlier also, she had many opportunities to complain or to run away, but she made no such effort. It is noteworthy that she made no protest on seeing some known persons near the car, after her alleged abduction. She did not make any complaint at the residence of Selvi, sister of Sekar (A1) at Pudupatti. Again, there was no complaint on seeing her relatives allegedly assembled at the temple. Her relatives apparently took no steps at the time when mangalsutra was forcibly tied around her neck by Sekar (A1). No one sent for police help even though a car was available. She made no complaint when she was taken to the house of PW5, Thiru Thirunavukarasu and stayed at his*



place. Again, there was no protest when Sekar (A1) took her to the police station on 5th day of the alleged abduction and told at the Tiruchi Police Station that they had already been married. The above behaviour would not be natural for a girl who had been compelled to marry and subjected to illicit sexual intercourse.

56. In view of the aforesaid, we are of the considered opinion that the prosecution has failed to prove beyond reasonable doubt any of the offences with which the appellants had been charged. It appears that the entire prosecution story has been concocted for reasons best known to the prosecution.”

41. In the light of the aforesaid settled principles, the evidence on record has been carefully evaluated. The testimony of the victim (PW-2), though central to the prosecution case, is required to be assessed in its entirety. From the record, it emerges that despite travelling through different places and staying at more than one location, the victim did not disclose the alleged incident to any person, did not raise any alarm, and did not seek assistance, even when such opportunities were available. She has also admitted that the disclosure was made subsequently. These aspects, when considered along with the attendant circumstances, introduce an element of doubt which bears upon the overall reliability of the prosecution version.

42. The medical evidence, as deposed by Dr. Kalawati Patel (PW-11), indicates that the hymen was found to be recently torn with slight bleeding and tenderness. However, no external or internal injuries suggestive of use of force were noticed on the body or private part of the victim. The medical opinion records that recent sexual intercourse



had taken place, but does not conclusively indicate that the same was forcible in nature. In such circumstances, the medical evidence, while supporting the occurrence of sexual intercourse, does not, in itself, establish absence of consent.

43. The forensic evidence also requires careful scrutiny. As per the report of the State Forensic Science Laboratory (Ex.P/34), semen stains and human spermatozoa were detected on the vaginal slide and the undergarment of the victim. While this finding indicates that sexual intercourse had taken place, it does not, by itself, establish that the same was non-consensual or attributable to the appellant. In the absence of any conclusive linkage through serological or DNA evidence, and when considered in conjunction with the inconsistencies in the testimony of the victim and her admitted conduct, the forensic evidence does not conclusively support the prosecution case.

44. In view of the aforesaid, the testimony of the victim, which forms the foundation of the prosecution case, does not inspire the confidence necessary for sustaining a conviction. The inconsistencies in her version, coupled with the absence of conclusive medical evidence, render it unsafe to rely solely upon her testimony.

45. Consequently, this Court is of the considered opinion that the prosecution has failed to prove its case beyond reasonable doubt. The appellant is, therefore, entitled to the benefit of doubt.

46. Accordingly, the appeal is **allowed**. The impugned judgment of conviction and order of sentence dated 01.04.2022 are set aside. The



appellant is acquitted of all the charges levelled against him. He is reported to be in custody and shall be released forthwith, if not required in any other case.

47. Keeping in view the provisions of Section 437-A of the CrPC (now Section 481 of the Bhartiya Nagarik Suraksha Sanhita, 2023), the appellant is directed to forthwith furnish a personal bond in terms of Form No. 45 prescribed in the Code of Criminal Procedure of sum of Rs.25,000/- with one surety in the like amount before the Court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

48. The learned trial Court record along with the copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice