



2026:CGHC:18062-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 336 of 2024

State Of Chhattisgarh Through Police Station Kasdol, District
Balodabazar-Bhatapara (C.G.)

...Appellant

versus

Devidas Manikpuri S/o Shambhudas Manikpuri Aged About 20 Years
R/o Village Dharashiv, Police Chowki Lawan, Police Station Kasdol,
District Balodabazar-Bhatapara (C.G.)

... Respondent

For Appellant : Mr.Nitansh Jaiswal, Deputy Government
Advocate

For Respondent : Mr.Aishwarya Kumar Dubey, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice and
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, C.J.

21/04/2026

1. Learned counsel appearing for the accused/respondent submits that, in pursuance of the order passed by this Court on 16.03.2026, the accused/respondent has furnished a bail bond, which has been approved by the concerned CJM and endorsed by the Principal and Sessions Judge, Balodabazar, and that an



affidavit has also been filed by the respondent, which is taken on record.

2. In view of the above, this Court proceeds to hear the appeal finally.
3. The appellant-State has filed this acquittal appeal under Section 14(A)(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act') against the impugned judgment dated 30.09.2023 passed by the Special Judge (Atrocities), Balodabazar, District Balodabazar-Bhatapara in Special Sessions Case No.15/2021, whereby the Special Judge while convicting the accused / respondent for offence under Section 454 of the IPC has acquitted him of the charges under Sections 376(1) & 323 of the IPC and Section 3(2)v of the Atrocities Act.
4. The case of the prosecution, in brief, is that the victim (PW-1) resides in village Dharashiv and does domestic work. The victim was sleeping home at night on 22.02.2021 and her husband had gone to the wedding ceremony in an Auto. At about 11.00 P.M., a man with intention to rape breaking the door of her house and forcefully entered her house and enter the hand inside her vagina. When she raised her voice, the accused/respondent attacked her fatally by putting a cloth in her mouth and biting her lips with his teeth. The victim raised a voice, at that time her husband came and tried to catch him after hearing the sound, the



accused/respondent also made a fatal attack on her husband, then hearing the sound, her father-in-law woke up and caught the accused/respondent. At that time, the accused / respondent was naked.

5. On the basis of complaint made by the victim, FIR in Crime No.0/2021 was registered against the accused / respondent at Police Station Lavan under Sections 450, 376 and 323 of the IPC. A memo was sent to the District Hospital, Balodabazar, for examination of the victim's genitals and the victim's genitals were examined vide Ex.P-3 and the doctor has opined that all signs of forceful penetration are present at the time of examination.
6. During the investigation, a blue petticoat was seized upon the victim's production as per Ex.P-4. A map of the scene of the incident was prepared as per Ex.P-5. After examination, a preserved slide of the victim's vaginal swab was jammed in a sealed packet by constable Memin Brahme. Injured Rohit Ghritalhar was examined at the District Hospital, Baloda Bazar. A complaint under Ex.P-9 was sent to the District Hospital, Baloda Bazar for examination of the petticoat worn by the victim at the time of the incident and a report was submitted. An application under Ex.P-17 was sent to the Judicial Magistrate First Class, Baloda Bazar, to have the victim's statement recorded in court. The accused was arrested as per the arrest memo Ex.P-18. The underwear worn by accused Devidas at the time of the incident



was seized as per seizure memo Ex.P-10 and a written complaint Ex.P.-7 was sent to the Community Health Centre, Lavan, for testing the seized underwear and submitting a report. A written complaint Ex.P.-20 was written to the Tehsildar, Lavan, for preparing a site map of the incident. On production of the victim's caste certificate by injured Rohit Ghritalhare, same was seized vide Ex.P-21. The statements of the witnesses were recorded. The examination of the victim and the accused was done at the State Forensic Science Laboratory, Raipur as per Ex.P-12 and the report was obtained as per Ex.P-14 in which semen and human sperm were found in the underwear and it was mentioned that semen stains and human sperm were not found in the petticoat slide.

7. After completing the investigation and getting sufficient evidence against the accused / respondent, a charge-sheet was presented in the court of Special Judge, Balodabazar on 03.05.2021 under Sections 450, 376, 323 of the IPC and section 3(2)(V-a) of the Atrocities Act, which was registered as Special Sessions Case No. 15/2021 and the trial was started.
8. After the charge sheet was prepared by the trial Court against the accused / respondent under Sections 450, 376(1), 323 of the IPC and Section 3(2)(v) of the Atrocities Act and its contents were read out and explained to him, the accused / respondent denied the charge and claimed trial. Under Section 313 of the Code of



Criminal Procedure, the accused / respondent stated that he was innocent and had been falsely implicated in the case.

9. In order to bring home the offence, the prosecution examined as many as 12 witnesses and exhibited 21 documents. The accused-respondent examined none in his defence nor any document has been exhibited in support of his case.
10. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 30.09.2023, while acquitting the accused / respondent of the charges punishable under Sections 376(1) & 323 of the IPC and Section 3(2)(v) of the Atrocities Act convicted him under Section 454 of the IPC and sentenced to undergo RI for one year and fine of Rs.1000/-, in default of payment of fine to further undergo additional imprisonment for three months. Hence, this acquittal appeal.
11. Learned Deputy Government Advocate for the appellant / State submits that the impugned judgment passed by the learned trial Court is contrary to the settled principles of law as well as the evidence available on record. Learned trial Court has failed to appreciate the prosecution evidence in its correct perspective and has thereby arrived at an erroneous conclusion. The evidence brought on record clearly establishes the involvement of the respondent/accused in the commission of the offence. He further submits that the victim (PW-1) has categorically affirmed the



commission of the offence by the respondent/accused and has given a detailed account of the manner in which the incident occurred. Learned trial Court failed to consider that the victim remained consistent in her statements, including the FIR, her case diary statement, her statement recorded under Section 164 of the Cr.P.C., and her deposition before the trial Court. The version of the victim stands duly corroborated by the statements of her husband (PW-3), her sister-in-law (PW-4) and Banshilal Chelak (PW-5), all of whom have supported the prosecution case. There is nothing on record to discredit or cast any reasonable doubt upon the testimony of the victim. He also submits that the police witnesses who participated in the investigation have also supported the case of the prosecution. Learned trial Court has based its findings on irrelevant considerations, ignoring material evidence on record. Learned trial Court has failed to properly appreciate the direct and cogent allegations made in the statements of the prosecution witnesses. He contended that the finding of the trial Court that the victim was a consenting party is wholly contrary to and inconsistent with the evidence on record. It is a settled principle of law that the sole testimony of the victim, if found credible and trustworthy, is sufficient to base a conviction and does not require further corroboration. The evidence on record is clear, cogent, and unambiguous, and proves the guilt of the respondent beyond reasonable doubt. Learned trial Court has failed to appreciate that the evidence available on record was



sufficient to warrant the conviction of the respondent/accused. In view of the foregoing, acquittal of the respondent for offence under Sections 376(1) & 323 of the IPC and Section 3(2)v) of the Atrocities Act is erroneous, perverse, and contrary to the evidence on record, and therefore deserves to be set aside by this Court.

12. On the other hand, learned counsel appearing for the respondent/accused submits that the impugned judgment of acquittal passed by learned trial Court is well-reasoned, legally sound, and based on a proper appreciation of the evidence on record, and therefore does not warrant any interference by this Court. It is contended that learned Deputy Government Advocate has sought to reappraise the entire evidence as if this were a trial, which is impermissible in an appeal against acquittal unless the findings of the trial Court are shown to be perverse or wholly unreasonable. In the present case, the trial Court has taken a plausible view based on the material available on record, and such a view ought not to be disturbed. Learned counsel further submits that the prosecution has failed to establish its case beyond reasonable doubt. The testimony of the victim (PW-1), which forms the foundation of the prosecution case, is not of sterling quality. It suffers from material omissions, improvements, and contradictions at various stages, including the FIR, her statement under Section 161 Cr.P.C., her statement under Section 164 Cr.P.C., and her deposition before the Court. These inconsistencies go to the root of the prosecution case and render



her testimony unreliable. It is further submitted that while it is a settled principle that conviction can be based on the sole testimony of the victim, such testimony must be of unimpeachable and sterling quality. In the present case, the victim's evidence does not inspire confidence and is not free from doubt. The learned trial Court has rightly scrutinized her testimony with caution and has found it unsafe to base a conviction solely on such evidence. Learned counsel also submits that the alleged corroboration by other prosecution witnesses, namely her husband (PW-3), her sister-in-law (PW-4) and Banshilal Chelak (PW-5), is not substantive in nature and does not independently establish the prosecution case. Their testimonies are either hearsay or based on what was allegedly narrated to them by the victim, and therefore cannot cure the inherent defects in the prosecution's case. It is further argued that the investigation in the present case suffers from serious lapses, and the police witnesses have merely given formal statements without addressing the core inconsistencies in the prosecution version. The benefit of such lapses must necessarily go to the accused / respondent. Learned counsel also supports the finding of the trial Court that the circumstances on record indicate the possibility of consent, or at the very least, create a reasonable doubt regarding the absence of consent. The prosecution has failed to conclusively establish the essential ingredients of the offence alleged. It is a cardinal principle of criminal jurisprudence that if



two views are possible on the evidence on record, the one favourable to the accused must be adopted. The presumption of innocence is further strengthened by an judgment of acquittal, and unless the conclusions drawn by the trial Court are wholly unreasonable or perverse, interference is unwarranted. He also submits that the accused / respondent has also received injuries during the scuffle, but he has not examined by the prosecution and no evidence has been produced by the prosecution. In view of the aforesaid submissions, it is prayed that the appeal filed by the State being devoid of merit deserves to be dismissed, and the judgment passed by the learned trial Court be affirmed.

13. We have heard learned counsel appearing for the parties, perused the impugned judgment of acquittal and record of the trial Court.
14. The question for consideration is whether learned trial Court has rightly acquitted the respondent of the charges under Sections 376(1) & 323 of the IPC and Section 3(2)v) of the Atrocities Act despite the presence of the testimony of the victim (PW-1) along with other material evidence available on record.
15. This is the appeal against the judgment of acquittal filed by the State. The appellate Courts are required to keep in mind that the trial Court had the advantage of looking at the demeanour of witnesses and observing their conduct in the Court especially in the witness-box and also required to keep in mind that even at



that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonably person would honestly and conscientiously entertain as to the guilt of the accused.

16. The Supreme Court in **C.Antony v. Raghavan Nair, AIR 2003 SC 182** has held that unless the High Court arrives at definite conclusion that the findings recorded by trial Court are perverse, it would not substitute its own view on a totally different perspective.
17. The Supreme Court in **Ramanand Yadav v. Prabhunath Jha, AIR 2004 SC 1053** has held that the appellate Court in considering the appeal against judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference.
18. The scope of interference in appeal against the judgment of acquittal is well settled. In **Tota Singh and another v. State of Punjab, AIR 1987 SC 1083** the Supreme Court has held in para 6 as under:-

“6.....the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the appellate Court in dealing with an appeal against an order of acquittal is circumscribed



by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any Court acting reasonably and judiciously and is, therefore, liable to be characterised as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the Court below has taken a view which is a plausible one, the Appellate Court cannot legally interfere within an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous.”

19. While exercising the appellate jurisdiction against judgment of acquittal the High Courts or the appellate Courts are fully empowered to appreciate and reappraise the evidence adduced on behalf of the parties while reversing the judgment of the trial Court. The appellate Court is required to discuss the grounds given by the trial Court to acquit the accused and then to dispel those reasons.
20. The question for consideration before us is whether the respondent committed rape on the victim, knowing fully well that she belongs to the Scheduled Caste category ?
21. Rape has been defined in Section 375 of the IPC as follows :



“375. Rape.-- A man is said to commit "rape" if he--

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With her consent when, at the time of giving such consent, by reason of unsoundness of mind or



intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. With or without her consent, when she is under eighteen years of age.

Seventhly. When she is unable to communicate consent.

Explanation 1. For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1. A medical procedure or intervention shall not constitute rape.

Exception 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

22. In the light of aforesaid dictum and proposition of law, we have examined the evidence adduced on behalf of the prosecution.

23. The victim has been examined as PW-1. In para 1 of her deposition, the victim stated that the incident occurred on a



Monday, five to six months ago. On that date, her husband had gone to install a generator at a wedding in the village. After returning home, he ate dinner and went back to the wedding venue. That same date, she was watching television at home around 11:00 P.M., she turned it off and went to sleep. At around 11:30 P.M., the accused pushed open the door and came to her bed. When she asked him his name, he refused to give her his name and pushed her off the bed, pressing her mouth shut. He began kissing me on the mouth. He said, "Your husband does not love you; I have come to love you." When she offered him water, he refused to give it to her and even slapped her. After that, she pushed the accused and went to drink water, then the accused again caught hold of her, pulled her and threw her on the ground and started beating her again due to which her nose ring fell somewhere there. In para 2 of her evidence, she has stated that the accused had inserted his hand deep into her genitals. After that, he also inserted his penis into her genitals. At that very moment, she heard the sound of her husband arriving in an auto-rickshaw and she screamed loudly. Hearing her voice, her husband came into her room. At that time, the accused was raping her by inserting his penis into her genitals. Her husband and she caught the accused immediately. They woke her father-in-law, who was sleeping in the house. Upon waking him, her father-in-law came into her room. Her father-in-law caught the accused and threw him to the ground. While trying to catch him,



he tried to escape. While trying to catch him, her husband suffered scratches on his hands and legs and his clothes were torn. After catching the accused, he was tied with a rope and kept in the house. In para 3 of her evidence, she has stated that after the incident, she went to call her sister-in-law Parvati that very night. Parvati and her son Jageshwar had come to their house. When she asked the accused, he was telling someone else's name instead of his father's name. After her sister-in-law Parvati came to her house, she went to call the village Kotwar and Sarpanch. Then the village Kotwar and Sarpanch came to her house. Other family members were also called. Sarpanch Banshi informed the police, on which the police came to her house in the village. The police caught the accused and took him to the police station. Her bangles were broken at the time of the incident. The accused had poured vegetable juice into her eyes.

24. In para 10 of her cross-examination, the victim denied that she did not recognize the man who entered her house at 11:30 P.M. on the night of the incident. She also denied that she did not ask who he was. She stated in her written report (Ex.P-1) and in her police statement (Ex.D.-1) that she asked him who he was. In para 11 of her cross-examination, she also denied that the accused did not gag her or throw her under the bed. She also denied that the accused did not kiss her on the mouth. She also denied that the accused did not say anything affectionate to her there.



25. Dr. Neha Gangeshri (PW-8) has stated in para 3 of his evidence

that the victim's body has signs of a struggle, including (1) a bite mark on the victim's lower lip, accompanied by a blood clot, (2) there were bruises on the victim's right and left arms, measuring approximately 0.2 x 0.1 cm. There were six bruises on the victim's right arm and five bruises on the victim's left arm and (3) a reddened, raised bruise on the right side of the back. In para 4 of her evidence, she stated that during the examination of the victim's genitals, she found a dried blood clot in the vulva. The vagina was slightly swollen and bleeding. The hymen was torn, with swelling all around, and a cut mark approximately 0.5 cm in size was present. In her opinion, the examination indicated signs of forced penetration of the victim's genitals.

26. In para 8 of her cross-examination, she admitted that the injuries mentioned in her report during the examination of the victim's genitals are unlikely to have occurred during sexual intercourse. She further admitted that the injuries she found on the victim's genitals could have been caused by physical assault. She also admitted that she did not find any sperm in the victim's genitals during the examination. She also admitted that if the person who caused the injuries had inserted their hands or any object into the vagina, unless the object or hand was washed, evidence of vaginal discharge and blood could have emerged.



27. The victim (PW-1) in her 164 CrPC statement (Ex.P-6) before the Judicial Magistrate First Class, Balodabazar has stated that the incident occurred on Monday, February 22, 2021. On that date, her husband had gone to a wedding to install a generator. She was alone at home. Around 11:00 P.M., the accused, whose name she do not know, broke in. It was dark inside, so she could not see him. He threw her to the floor and began forcefully kissing her on the mouth. She tried to push him away and run away, but he pulled her back towards him, slapped her, threw her to the floor, and attempted to rape her. He put his hand in her vagina, causing her to scream loudly. Her screams led to the accused biting her lips and telling her that her husband does not love her, so he is come to make love to her. Her husband then came home and apprehended the accused. They tied him up with a rope. After daybreak, they informed the Sarpanch about the incident, then the Sarpanch and the Kotwar recognized the accused. They do not know the accused by name, they only recognize him by face.
28. Husband of the victim (PW-2) has stated that the incident occurred approximately 8-9 months ago. There was a wedding ceremony taking place at Gautia home in his village, Dharashiv, where she had taken his auto. Around 11:00 P.M., he was returning home when he heard the victim's voice, "Babu Babu!" He pushed open the main door and found it locked from the inside. He turned around and entered the house from the backyard. He saw accused Devidas raping his wife. At that very



moment, he grabbed accused Devidas by his hair. While he was trying to separate him from the victim, he began assaulting him and the victim. He yelled for his father to run, and his father got up and ran to them. Together, they tied accused Devidas with a rope.

29. In the Indian society refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the sine qua non for conviction in a rape case. The observations of Vivian Bose, J. in **Rameshwar v. The State of Rajasthan, AIR 1952 SC 54** were:

“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...”.

30. A victim of a sex-offence cannot be put on 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 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 victim. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short ‘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 victim 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 victim must necessarily depend on the facts and circumstances of each case. But if a victim is an adult and of



full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discloses that the victim does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

31. The Supreme Court in the matter of **Ranjit Hazarika v. State of Assam, AIR 1998 SC 635** has held that the evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice.

32. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

"22. In our considered opinion, the 'sterling witness' should be of a very high quality and caliber 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 everyone 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 similar such tests to be applied, it can 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.”

33. Upon hearing learned counsel for the parties and perusing the record, the central issue that arises for consideration is whether the appreciation of evidence by the trial Court suffers from such infirmity or perversity as would justify interference in an appeal against acquittal.
34. It is a settled principle of law that though an appellate Court should exercise caution in interfering with a judgment of acquittal, such restraint does not bar interference where the findings of the trial Court are perverse, manifestly unreasonable, or founded on a misappreciation of material evidence.
35. The prosecution case primarily rests upon the testimony of the victim (PW-1). A careful examination of her statement under Section 164 Cr.P.C., and deposition before the trial Court indicates that her version on the core aspects of the incident remains broadly consistent, particularly regarding the occurrence, the nature of the act, and the identity of the accused / respondent.
36. The defence has highlighted certain omissions and contradictions. However, the legal position is that minor inconsistencies which do not go to the root of the matter cannot be treated as fatal to the prosecution case. The Court is required to assess whether such discrepancies materially affect the credibility of the witness.



37. The contention that the victim is not a “sterling witness” must be examined in light of the principles laid down by the Supreme Court. A “sterling witness” is one whose testimony is wholly reliable, consistent, and inspires confidence without reservation. In the present case, while certain variations exist, the core narrative of the victim does not appear to have been shaken in cross-examination. The alleged discrepancies must be tested against the overall consistency and inherent probability of her version. The absence of material contradictions on the essential ingredients of the offence may weigh in favour of treating her testimony as reliable, though not necessarily flawless.
38. It is also a settled principle that conviction can be based on the sole testimony of the victim if it is found trustworthy and of sufficient quality. Corroboration, though desirable in some cases, is not a rule of law.
39. The testimony of PW-2 (husband) assumes significance, as he claims to have reached the spot during the occurrence. His version, if found reliable, lends assurance to the prosecution case. Similarly, the medical evidence indicating injuries suggestive of struggle may provide corroboration, though it must be carefully weighed in light of the doctor’s cross-examination.
40. At the same time, the defence argument regarding the absence of certain forensic indicators and the possibility of alternative



explanations for injuries cannot be brushed aside and requires cautious evaluation.

41. The question of consent must be determined from the totality of circumstances. Factors such as alleged resistance, surrounding circumstances, conduct of the parties, and medical findings are all relevant. The trial Court's conclusion on this aspect must be tested against whether it reasonably flows from the evidence on record.
42. In an appeal against acquittal, if two views are reasonably possible on the evidence, the view favouring the accused ordinarily prevails. However, if the trial Court has ignored material evidence or its conclusions are not supported by the record, the appellate Court would be justified in reappreciating the evidence. Accordingly, the determination would ultimately depend on whether the testimony of the victim, read as a whole and in conjunction with other evidence, inspires sufficient confidence to displace the presumption of innocence reinforced by the acquittal.
43. Upon a cumulative consideration of the testimony of the victim (PW-1), her statement under Section 164 Cr.P.C., and her deposition before the trial Court, this Court finds that her evidence on the core substratum of the prosecution case remains consistent, cogent, and inspires confidence. The minor inconsistencies pointed out by the defence do not go to the root of the matter so as to discredit her version or render it unreliable.



44. The testimony of PW-2, the husband of the victim, who reached the spot during the occurrence, lends further assurance to the prosecution case. His presence at or near the place of occurrence has not been successfully dislodged in cross-examination. The medical evidence indicating injuries consistent with physical struggle also provides corroboration to the prosecution version.
45. The reasoning adopted by the trial Court in disbelieving the prosecution case, in the opinion of this Court, suffers from misappreciation of material evidence and undue emphasis on minor discrepancies, while overlooking the consistent core narrative of the victim and the corroborative medical and oral evidence.
46. The defence raised by learned counsel for the respondent is bogus and absurd on the face of record. The medical report fully corroborates the statement of the victim, and her evidence falls within the category of a sterling witness. The contention of learned counsel for the respondent that the victim's evidence is not of sterling quality is absolutely fallacious.
47. It is significant that immediately after the incident, the victim and her husband caught hold of the accused/respondent and physically restrained him at the spot. At that time, the village Kotwar and the Sarpanch also reached the house of the victim. The Sarpanch thereafter informed and called the police, and upon their arrival, the accused/respondent was handed over to them.



This sequence of events clearly establishes the presence of the accused/respondent at the scene of occurrence and lends strong support to the prosecution case regarding his involvement in the alleged offence. The prompt apprehension of the accused by the victim and her husband, followed by the arrival of the village Kotwar and Sarpanch and immediate intimation to the police, rules out the possibility of false implication or mistaken identity and provides substantial corroboration to the testimony of the victim and other prosecution witnesses. Such immediate restraint and subsequent handover to the police, when considered along with the consistent ocular evidence on record, forms an important link in the chain of circumstances and reinforces the credibility of the prosecution version.

48. In an appeal against acquittal, though interference is circumscribed, it is equally well-settled that where the findings of the trial Court are perverse or based on an erroneous appreciation of evidence, the appellate Court not only has the power but the duty to correct such findings. In the present case, the view taken by the trial Court does not appear to be a reasonably possible view on the evidence available on record.

49. This Court is, therefore, of the considered opinion that the prosecution has been able to establish its case beyond reasonable doubt. The testimony of the victim, duly corroborated by medical and ocular evidence, unerringly points towards the



guilt of the accused/respondent and rules out the hypothesis of innocence.

50. For the foregoing reasons, the acquittal appeal filed by the State under Section 14A(1) of the Atrocities Act is hereby **allowed**. The impugned judgment dated 30.09.2023 passed by learned Special Judge (Atrocities), Balodabazar, District Balodabazar-Bhatapara, in Special Sessions Case No. 15/2021 is **set aside**. The respondent/accused is hereby convicted for offences punishable under Sections 376(1) and 323 of the IPC and Section 3(2)(v) of the Atrocities Act, and is sentenced to undergo imprisonment for life along with a fine of Rs.1,000/- for offence under Section 376(1) of the IPC, in default of payment of fine, to further undergo rigorous imprisonment for six months. For offence under Section 323 of the IPC, he is sentenced to undergo rigorous imprisonment for six months along with a fine of Rs.1,000/-, in default of payment of fine, to further undergo rigorous imprisonment for one month. For offence under Section 3(2)(v) of the Atrocities Act, he is sentenced to undergo imprisonment for life along with a fine of Rs.1,000/-, in default of payment of fine, to further undergo rigorous imprisonment for six months. His conviction and sentence under Section 454 of the IPC are hereby **affirmed**. All the sentences shall run concurrently.

51. The accused / respondent is directed to surrender before the concerned trial Court within a period of three weeks from today to



serve the sentence imposed upon him by this Court, failing which the trial Court shall take him into custody for execution of the sentence. A compliance report shall be submitted to this Court thereafter.

52. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice