



2026:CGHC:18592-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1865 of 2022

Sunil Yadav Alias Sanil S/o Shri Dharmendra Yadav Aged About 23 Years R/o Village Pandra Pathra, Outpost- Belgahna, Police Station Kota, District : Bilaspur, Chhattisgarh

... Appellant

versus

State of Chhattisgarh Through Police Station Ratanpur, District : Bilaspur, Chhattisgarh

... Respondent

For Appellant	:	Mr. Rishi Rahul Soni, Advocate (Through Legal Aid)
For State	:	Ms. Vaishali Mahilong, PL

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per, Ramesh Sinha, C.J.

23/04/2026

1. Heard Mr. Rishi Rahul Soni, learned counsel appearing for the appellant through legal aid. Also heard Ms. Vaishali Mahilong, learned Panel Lawyer, appearing for the respondent/State.
2. This criminal appeal has been preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') against the



impugned judgment of conviction and order of sentence dated 24.09.2022, passed by the learned Additional Sessions Judge, Second Fast Track Special Court, Bilaspur, C.G., in Special Criminal Case (POCSO Act) No.83 of 2019, by which the appellant has been convicted and sentenced as under:-

Conviction	Sentence
Under Section 363 of the Indian Penal Code	R.I. for 07 Years and fine of Rs.1000/-, in default of payment of fine additional imprisonment for four months
Under Section 366 of the Indian Penal Code	R.I. for 10 Years and fine of Rs.1000/-, in default of payment of fine additional imprisonment for Six months
Under Section 5(g)/6 of Protection of Children From Sexual Offences Act, 2012	Life Imprisonment, till natural death, and fine of Rs.2000/- in default of payment of fine, one year additional imprisonment
	All the sentences shall run concurrently.

3. pCase of the prosecution, in brief, is that on 25/05/2019, the complainant/informant, the mother of the victim, lodged an oral report before the Police Station Ratanpur to the effect that on 24/05/2019 at 6:00 pm, her daughter, the victim, aged about 14 years, had gone to buy vegetables from the weekly market in the village. She returned home with the vegetables. At 8:00 pm, after asking her, she went to buy some household articles. When she did not return, they searched the neighborhood but could not find her. When the complainant was at



home at night, at that time she heard the sound of someone falling near the door. She and her elder daughter went out and opened the door. They found her daughter, the victim, lying unconscious near the door, with blood-like stains visible on her clothes. She was then taken to Ratanpur Hospital for treatment. When the treatment of the victim was going on after some time, when the victim, regained consciousness, she recounted the incident. She said three unidentified men on a motorcycle approached her from behind, gagged her, forced her onto the motorcycle, took her to the woods near Kekati Plot, and raped her one by one. She would recognize them by sight. Before she could reveal their names, she fainted again. On the report of the complainant, a Dehati Nalishi was registered under Crime No. 0/19 under Section 363, 376D IPC and Section 4, 6 of POCSO Act. On the basis of the said Dehati Nalishi, a First Information Report was registered against an unknown person in Police Station Ratanpur by registering Crime No. 200/2019 under Section 363, 376D IPC and Section 4, 6 of POCSO Act. Statements of witnesses were recorded in the case. The accused was arrested and they were put to test Identification parade which was carried out by the Executive Magistrate. Thereafter, after complete investigation, the charge sheet was filed on 22/07/2019 under Section 363, 376D and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012 against the accused persons.

4. Charges against the accused persons under sections 363/34, 366/34, 376DA of the Indian Penal Code and sections 5 (g)/6 of the Protection of Children from Sexual Offences Act, 2012 were framed and



read them out to the accused persons, the accused persons denied the charges and claimed trial.

5. In order to prove the guilt, the prosecution examined as many as 23 witnesses and exhibited 36 documents. Statements of the accused persons under Section 313 of Cr.P.C. have also been recorded in which they denied the circumstances and pleaded that they have been falsely implicated in the offence. The trial Court upon appreciation of oral and documentary evidence on record and considering that it is the appellant who have committed aforesaid offence, convicted and sentenced him in the aforementioned manner. The co-accused could not be identified by the victim, therefore, the co-accused Yogesh Kumar Porte @ Malu has been acquitted from the alleged offences. Against the conviction and sentence the appeal under Section 374(2) of the Cr.P.C. has been preferred by the accused/appellant.

6. Learned counsel for the appellant submits that the impugned judgment of conviction and sentence passed by the learned trial Court is contrary to law and facts on record and is liable to be set aside. He would next submit that with regard to identification of the appellant, which goes to the root of the prosecution case, the Victim (PW-3), in her cross-examination, has clearly stated that at the time of the incident, her face was covered by the accused persons and therefore she could not see or identify them. This version finds corroboration from the testimony of PW-2 (mother of the victim), who has deposed that the victim informed her that the accused persons had covered her face, due to



which she was unable to recognize them. Learned counsel submits that once the victim herself admits that she could not identify the accused persons at the time of occurrence, her subsequent identification of the appellant becomes doubtful and unsafe to rely upon. It is further argued that the Test Identification Parade (Ex. P/2) does not inspire confidence, as the very basis of identification is shaken by the admission of the victim that she could not see the faces of the accused persons. The TIP, therefore, loses its evidentiary value. Learned counsel further contends that even in her Court statement, the victim has made contradictory versions regarding identification. On one hand stating that she knew the appellant earlier, and on the other hand admitting that she could not identify the persons who committed the offence. Such material contradictions go to the root of the case and render her testimony unreliable. It is also submitted that no independent witness has been examined to establish the identity of the appellant at the scene of occurrence, and the prosecution case rests solely on the inconsistent testimony of the victim. Therefore, he would submit that when identity of the accused is doubtful, conviction cannot be sustained, particularly in a case involving serious charges. It is further argued that the learned trial Court has failed to properly appreciate these material contradictions and has erroneously convicted the appellant. Therefore, it is prayed that the appellant be given the benefit of doubt, the conviction and sentence be set aside, and the appeal be allowed.

7. On the other hand, learned State counsel opposes the submissions made by the learned counsel for the appellant and submits



that the prosecution has proved its case beyond the reasonable doubt and the evidence led by the prosecution are sufficient to hold guilty against the appellant. She would next submit that the victim was minor on the date of incident which has been proved by the School record and the said School record has been proved in accordance with law. She would next submit that the victim suffered a gang rape committed by the accused persons and the appellant has been duly identified by the victim in test identification parade. She would next submit that the injuries have been found on the private part of the victim and the semen and sperm were found on the underwear of the victim and her vaginal slide further confirms that she suffered the alleged act of gang rape. She would next contend that the evidence of the victim alone is sufficient to convict the appellant for the alleged offence, therefore, the learned trial Court has rightly appreciated the evidence and convicted the appellant for the offence in question, which needs no interference.

8. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the learned trial Court with utmost circumspection and carefully as well.

9. The principal contention advanced on behalf of the appellant relates to the identity of the accused, particularly on the ground that the victim had stated that her face was covered at the time of the incident, thereby rendering her identification doubtful. On the other hand, learned counsel for the State has supported the findings of the trial Court by



contending that the victim was previously acquainted with the appellant and has duly identified him, and that her testimony stands corroborated by medical as well as scientific evidence. In light of the rival submissions and upon perusal of the evidence available on record, the following points arise for determination in the present appeal.

10. The first question arises for consideration is whether the victim was a minor on the date of incident?

11. The prosecution has mainly relied upon the evidence of PW-8, Headmaster of the School, who proved the School Register (Article-A) and the Certificate (Ex. P/10). PW-8 has stated in his evidence that he was the In-charge Headmaster of the School and the Police has seized the School Register (Article-A) from him vide seizure memo Ex.P/9. After retaining its attested true copy, the original was returned back to the School. As per the School Register, the date of birth of the victim is 06/06/2003 and she was admitted in the School in Class-1 on 06/07/2009. He proved his signature over the said School Register (Article -A), which was brought with him before the Court. In cross-examination he admitted that he is the author of the School Register and the relevant entries with respect to the date of birth of the victim have been made by him though he stated that the basis on which the date of birth of the victim has been recorded in the School Register he is not in know about the same. But the fact remains that he is the author of the School Register

12. The incident has occurred on 24/05/2019 whereas the victim have



got admitted in the School on 06/07/2009 i.e. much prior to the date of incident and no one can apprehend that she may have suffered an incident so that her age may be reduced to take benefit of the same. The School Register has duly been proved by its author PW-8.

13. In ***Jarnail Singh Vs. State of Haryana, reported in (2013) 7 SCC 263***, the Hon'ble Supreme Court laid down the guiding principles for determining the age of a child, which read as follows :

“22. On the issue of determination of age of a minor, one only needs to make a reference to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the 2007 Rules). The aforesaid 2007 Rules have been framed under Section 68(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000. Rule 12 referred to hereinabove reads as under :

“12. Procedure to be followed in determination of Age.? (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in



conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –

(a) (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;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board



or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub- rule(3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.”

23. Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is



ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.

24. Following the scheme of Rule 12 of the 2007 Rules, it is apparent that the age of the prosecutrix VW - PW6 could not be determined on the basis of the matriculation (or equivalent) certificate as she had herself deposed, that she had studied upto class



3 only, and thereafter, had left her school and had started to do household work. The prosecution in the facts and circumstances of this case, had endeavoured to establish the age of the prosecutrix VW-PW6, on the next available basis, in the sequence of options expressed in Rule 12(3) of the 2007 Rules. The prosecution produced Satpal (PW4), to prove the age of the prosecutrix VW – PW6. Satpal (PW4) was the Head Master of the Government High School, Jathlana, where the prosecutrix VW - PW6 had studied upto class 3. Satpal (PW4) had proved the certificate Exhibit-PG, as having been made on the basis of the school records indicating, that the prosecutrix VW – PW6, was born on 15.5.1977. In the scheme contemplated under Rule 12(3) of the 2007 Rules, it is not permissible to determine age in any other manner, and certainly not on the basis of an option mentioned in a subsequent clause. We are therefore of the view, that the High Court was fully justified in relying on the aforesaid basis for establishing the age of the prosecutrix VW – PW6. It would also be relevant to mention, that under the scheme of Rule 12 of the 2007 Rules, it would have been improper for the High Court to rely on any other material including the ossification test, for determining the age of the prosecutrix VW-PW6. The deposition of Satpal-PW4 has not been contested. Therefore, the date of birth of the prosecutrix VW - PW6 (indicated in Exhibit P.G., as 15.7.1977) assumes finality. Accordingly it is clear, that the prosecutrix VW-PW6, was less than 15 years old on the date of occurrence, i.e., on 25.3.1993. In the said view of the matter, there is no



room for any doubt that the prosecutrix VW – PW6 was a minor on the date of occurrence. Accordingly, we hereby endorse the conclusions recorded by the High Court, that even if the prosecutrix VW-PW6 had accompanied the accused-appellant Jarnail Singh of her own free will, and had had consensual sex with him, the same would have been clearly inconsequential, as she was a minor.”

14. The prosecution has further relied upon the evidence of Dr. Suresh Tiwari (PW-11), who conducted the ossification test of the victim. As per the ossification test of the victim vide Ex. P/15, she was found between 14 to 16 years of age. In his cross-examination the only suggestion given by the witness that there may be variation of 2 years on either side, however, in view of the school record and the evidence of the victim and her mother, the victim cannot be considered to be more than 18 years of age on the date of incident.

15. The second question arises for consideration is whether the appellant abducted the victim and committed sexual assault upon her?

16. The victim (PW-3) has stated in her evidence that she knew the appellant by name and face after the incident. On the date of incident when she had gone to the shop to purchase grocery item and when she returned back in the way two persons came on their motorcycle, gagged her mouth, covered her face and took her towards the canal where they committed rape upon her. She went unconscious and blood was oozing out from her private part. The persons who took her towards the canal and committed rape upon her, one of them is the present appellant



Sunil Yadav, which she knew by their conversation. Both the two persons after commission of rape threw the victim on the door of her house and thereafter her family members took her to the hospital.

17. The victim identified the appellant Sunil in TIP which was conducted at Ratanpur Tehsil Court. During the recording of her evidence, the victim also identified the appellant Sunil before the Court. She proved the TIP memo Ex. P/2. She further stated that in the TIP she could not identify the other accused and the TIP memo of other accused is Ex. P/3. In cross-examination she stated that the persons who took her towards the canal, she could not see them as they covered her face and the same has been disclosed to the police also. Though certain discrepancies have come on her evidence with respect to identification of the appellant Sunil Yadav but she re-affirmed that she identified the appellant Sunil. She denied the suggestion that the appellant Sunil has not committed rape upon her.

18. From the over all evidence of victim, the defence could not extract any material to disbelieve her evidence that she was not subjected to gang rape by two persons although the other accused Yogesh could not be identified by her but she firmly stated that she was kidnapped by two persons and gang rape raped by them.

19. Sunil Agrawal (PW-15), Executive Magistrate, who conducted the test identification parade of the accused persons at sub-tehsil Ratanpur, he stated in his evidence that pursuant to the memo dated 26/05/2019 sent by the Police Station, Ratanpur, he conducted the test identification



parade of the accused Yogesh Porte, but the victim did not identify him and the TIP memo Ex. P/3 was prepared. He further stated that on 26/05/2020 at 1.30 PM the test identification parade of the accused Sunil was conducted in presence of the witness Jagat Maravi and Premlata and the victim identified Sunil, his TIP memo is Ex. P/2. In cross-examination he firmly stated that he mixed the accused Sunil with the other persons wherein the victim identified the accused by raising her hand towards him. From the TIP Ex. P/2 it clearly reveals that the victim has duly identified the accused Sunil Yadav. From the evidence of the victim (PW-3), Executive Magistrate Sunil Agrawal (PW-15) and the TIP memo Ex. P/2, the identification of the appellant Sunil is proved unerringly that he was the person who committed offence with the victim.

20. The victim was medically examined by Dr. Poonam Singh (PW-7), who stated in her evidence that on 25/05/2019 she medically examined the victim wherein she found that fresh blood was coming out from vagina. A small fresh tear present at 6 o'clock at introitus. Hymen attenuated and congested. Blood clots removed from vagina. Lacerated wound present in right lateral post wall of vagina. Abrasion and congestion present in cervix. She further opined that the sexual assault has been done. Injuries in private part are fresh and within 24 hours of reporting time. For age confirmation and for confirmation of stains present on her clothes, she referred for FSL examination. In her cross-examination she denied the suggestion that the injuries found on the body of the victim may have also been caused while falling on the



ground. She admitted that she did not find any external injuries on back or waist of the victim.

21. From the evidence of the Dr. Poonam Singh (PW-7) the fact that the victim was subjected to rape has been established as there are three injuries found on her private part with bleeding and she has clearly opined that she was subjected to sexual intercourse.

22. The allegation leveled by the victim has further been corroborated by the FSL report Ex. P/32 in which semen and sperm were found on the underwear of the victim Article C; vaginal slide of the victim Article F; and underwear of the appellant Article J and blood was found on the clothes of the victim. Thus, the evidence of the victim against the appellant Sunil have duly corroborated and connected with each other and her evidence is supported by the medical evidence.

23. PW-2, mother of the victim, has stated in her evidence that on the date of incident the victim had gone to purchase some snacks in the shop and when she did not return for a considerable time then the family members started searching her. At about 12 o'clock in the night they heard the noise outside the house and when they opened the door she saw her daughter in unconscious condition. She wore the jeans pant and blood was coming out from her private part. They informed the police through the dial 112 and thereafter the victim was taken to the hospital. When the victim regained her conscious she stated that she was being taken by three persons on motorcycle by covering her face and gagged her mouth and she was taken towards the canal where



rape was committed with her. She also disclosed that she could identify the persons who committed the offence. She denied that her daughter has not informed about any incident.

24. From the evidence of this witness the fact that in the night her daughter was missing and after a considerable time she was found outside her house, blood was oozing out from her private part and she was unconscious which duly corroborates with the evidence of the victim as well as the medical evidence. The evidence of the victim further found support from the evidence of Dr. Vijay Kumar Chandel (PW-10), who medically treated the victim when she was taken to hospital. This witness stated in his evidence that on 25/05/2019 at about 5.15 AM the victim was brought before him and she was not in a position to say anything. Blood was oozing out from her private part and then he informed the incident to the police. He gave primary treatment thereafter referred her to the District Hospital for further treatment. When the victim came with the specific allegation that on the date of incident the accused persons committed rape upon her because of which she went unconscious and they threw her in front of her house, her evidence was duly corroborated with the evidence of this witness also, therefore, there is no reason to disbelieve the evidence.

25. The last question arises of consideration is whether the conviction of the appellant is sustainable in law?

26. On overall appreciation of the evidence, this Court finds that the testimony of the prosecutrix (PW-3) is cogent, reliable and inspires



confidence. It is duly corroborated by Medical evidence (PW-7, Ex. P/07), Scientific evidence (FSL report Ex. P/32), Statement under Section 164 CrPC (Ex. P/33), Identification evidence (Ex. P/2). The learned trial Court has properly appreciated the evidence and recorded a well-reasoned finding. Thus, the conviction of the appellant under Sections 363, 366 IPC and Sections 5(g)/6 of the POCSO Act is found to be fully justified and does not call for interference.

27. Having recorded findings on the issues arising for determination, this Court finds it appropriate to reiterate the settled principles governing appreciation of evidence in cases of sexual assault. The approach of the Court must be sensitive and realistic, keeping in view the nature of the offence and the social context in which it occurs. It is in this context that the evidentiary value of the testimony of the prosecutrix assumes great significance.

28. 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***, reported in ***(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...”

29. Crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault - it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The Court, therefore, shoulders a great responsibility while trying an accused on charges of rape. They must



deal with such cases with utmost sensitivity. 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 victim, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the victim 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 victim 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 molestation. This position was highlighted in ***State of Punjab v. Gurmeet Singh***, reported in **(1996) 2 SCC 384**.

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 Hon'ble Supreme Court in the matter of ***Ranjit Hazarika v. State of Assam***, reported in ***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 Hon'ble Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi**, reported in **(2012) 8 SCC 21** held as under:-

"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. On a careful appraisal of the testimony of the prosecutrix (PW-3), this Court finds that she has consistently deposed regarding the role of



the appellant in taking her away and committing sexual assault upon her. Her testimony is natural, cogent and inspires confidence. The fact that she was acquainted with the appellant lends further assurance to her identification. Her version stands substantially corroborated by her earlier statements as well as surrounding circumstances brought on record. The aforesaid testimony finds due corroboration from the evidence of PW-2 (mother) and other prosecution witnesses. The age of the victim stands duly proved by documentary evidence i.e. school records (Ex. P-8, P-9, P-10), establishing that she was below 18 years of age on the date of the incident. The medical evidence of PW-7 (doctor), including MLC report, indicates findings consistent with recent sexual assault. Further, the FSL report (Ex. P-32) and DNA report lend strong scientific corroboration to the prosecution case by confirming presence of biological material linking the occurrence. The chain of circumstances, thus, stands complete and unbroken.

34. In view of the aforesaid evidence, this Court is satisfied that the prosecution has been able to establish that the victim, being a minor aged about 15 years, 11 months and 18 days, was subjected to sexual assault by the appellant. The defence has failed to create any reasonable doubt in the prosecution case. Minor inconsistencies, if any, do not go to the root of the matter.

35. Thus, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. Consequently, the conviction of the appellant under Sections



363, 366 IPC and Sections 5(g)/6 of the POCSO Act is affirmed. The sentence imposed is also found to be just and proper in the facts and circumstances of the case and calls for no interference. The present appeal lacks merit and is accordingly **dismissed**.

36. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

37. 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.

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

SD/-
(Ravindra Kumar Agrawal)

Judge

SD/-
(Ramesh Sinha)

Chief Justice

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