

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No.1247 of 2023

(Against the Judgment of conviction dated 05.04.2012 and order of sentence dated 10.04.2012, passed by the learned 2nd Additional Sessions Judge, Deoghar, in Sessions Case No.222 of 2009)

Ajay Kumar Singh, son of Mahesh Prasad Singh resident of Bawan Bigha near Ambe Garden, P.O., P.S. and District Deoghar
.....
Appellant

Versus

The State of Bihar (Now Jharkhand)

.....
Respondent

P R E S E N T

**HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD**

.....
For the Appellant : Mr. A.K. Kashyap, Senior Advocate
Mr. Anurag Kashyap, Advocate
Mrs. Supriya Dayal, Advocate
Mrs. Lina Shakti, Advocate
For the State : Mrs. Vandana Bharti, A. P.P.

.....
C.A.V. on 26/03/2026

Pronounced on 21/04/2026

Per Sujit Narayan Prasad, J.

Prayer

1. The instant appeal has been filed under Section 374 (2) of the Code of Criminal Procedure against the Judgment of conviction dated 05.04.2012 and order of sentence dated 10.04.2012, passed by the learned 2nd Additional Sessions Judge, Deoghar, in Sessions Case No.222 of 2009, by which, the appellant has been convicted under section 376 of IPC and sentenced to undergo R.I. for 10 years along with fine of Rs.10,000/- and in default of payment of fine, he has further been directed to undergo R.I. for three months.

Prosecution Case

2. The prosecution case, in brief, as per the fardbeyan of the informant, P.W.-4 (named concealed, hereafter to be referred as 'victim'), which was recorded on 18.11.2008, is that the informant at the time of occurrence, was student of Class-X in Red Rose School Kaster Town, Deoghar, and at that time, she was aged about 15 years. She used to go near Subhash Chowk before Aantoshi Tiwari for coaching in social science. On 18.11.2008 at about 05.05 P.M., when she was returning from aforesaid coaching, then, near Baman Bigha, Ambe Garden, one Santanu Sidharth, who was her colleague in school and studied with her in the coaching, met with her and started talking together. At about 5.25 P.M., a man (appellant herein) aged about 30 to 35 stating him a person of C.I.D., threatened them and took them at his house and in his house, he prepared indecent photographs of the informant and committed rape upon her. Thereafter, the aforesaid man threatened, Santanu, and forced Santanu to commit rape on informant and also prepared photograph. Then, the aforesaid man made to write about marriage of the informant with Santanu Sidharth on stamp paper of Rs. 10/- and then, they were released and was threatened by the aforesaid man. Informant further stated that at the time of occurrence, wife of the aforesaid man (Ajay Kumar Singh) was also present there

and when she raised halla, then, Ajay (appellant herein) had beaten the informant.

3. Thereafter, on the basis of the fardbeyan of the informant, FIR being Town P.S. case no. 295 of 2008 dated 18.11.2008, under Sections 292(B), 465, 376/34 and 496 of the IPC was registered against the appellant.
4. After investigation, the charge sheet under Sections 292(B), 465, 376/34 and 496 of the IPC against the present appellant and co-accused Santanu Sidharath was submitted. The investigation continued against one of the accused Som Devi. At the time of taking cognizance, co-accused Santanu Sidharath was juvenile and his case was sent by the learned C.J.M. to Juvenile Justice Board for trial.
5. Thereafter, the case was committed to the court of sessions. Charges under Sections 292(2)/34, 465/34, 376/34 and 120B of the IPC were framed against the accused person and trial commenced.
6. The statement of the accused was recorded under Section 313 of the C.D.C., wherein, he denied the occurrence committed by him and stated that on 18.11.2008, he was present at roof of his house and from there, he saw victim and Santanu in objectionable position in semi-constructed house and took their photograph in his mobile phone and then, they became nervous. On query, they said that they love each other and they

will marry. Then, he told them to prepare document about the same, then, they made the document.

7. In course of trial, the prosecution had examined altogether six witnesses, out of whom, P.W.-4 is the informant of the case; P.W.-1 is the mother of informant; P.W.-2 and P.W.-3 are the father and uncle of the informant respectively; P.W.-5 Dr. Roja Minz and P.W.-6 is Sheo Kumar Pathak, who is the Investigating Officer of the case.
8. Accordingly, the appellant has been found guilty and as such, convicted and sentenced vide impugned judgment of conviction dated 05.04.2012 and order of sentence dated 10.04.2012, which is the subject matter of instant appeal.

Submissions of the learned senior counsel for the appellant

9. Mr. A.K. Kashyap, learned senior counsel for the appellant has submitted that the impugned judgment of conviction and order of sentence suffers from infirmity on the following grounds:
 - (i) The prosecution has miserably failed to establish the charge said to have been proved beyond all reasonable doubts.
 - (ii) It has been contended that the appellant has not committed the offence as alleged by the prosecution.
 - (iii) It has further been submitted that other witnesses are the relatives of the informant, hence they are related and interested witnesses and therefore, the testimony of the said witnesses cannot be relied upon.

- (iv) There is no any statement of any independent witnesses in support of statement of informant.
- (v) There are many vital contradictions in the evidence of the prosecution witnesses.
- (vi) Further, there are also many vital contradictions in the statement of informant in the FIR.
- (vii) P.W-4 victim made many contradictory statement in her fardbeyan and in her evidence, hence, she is not truthful and believable.
- (viii) In the instant case, only the informant is the eye witness of the occurrence and other witnesses of prosecution are only hear-say witnesses.
- (ix) Out of six witnesses examined, P.W-1, P.W.-2 and P.W-3 are highly interested witnesses.
- (x) The appellant has been acquitted of the charges under sections 292(2)/34, 465/34 and 120B of IPC.
- (xi) From the evidence it appears that victim and her friend Santanu were indulged in sexual act, in an under-construction house but, the story of prosecution has been twisted.
- (xii) Santanu Kumar, co-accused in the case, has not been examined by the medical expert, though as per story narrated by the prosecution, he had sexual intercourse with the victim.

- (xiii) It has further been submitted that although sperm was found, but, the investigating officer of the case did not send spermatozoa for examination of sperm.
 - (xiv) The testimonies of all the witnesses of prosecution are not reliable and trustworthy.
10. Learned counsel for the appellant, on the aforesaid premise, has submitted that the impugned judgment needs to be interfered with.

Submission of the learned A.P.P. for the respondent-State

11. *Per Contra*, Mrs. Vandana Bharti, learned Addl. Public Prosecutor appearing for the respondent-State has taken the following grounds in defending the impugned judgment of conviction and sentence:
- (i) It has been contended that all the witnesses in their statement have fully supported the case of the prosecution.
 - (ii) There is no any vital contradiction in the statement of witnesses of prosecution and their statements are reliable and trustworthy.
 - (iii) It has also been contended that taking into consideration the oral and documentary evidences, the prosecution has succeeded to prove all the charges beyond all reasonable doubts.

- (iv) Victim had informed the incident of rape committed on her just after the occurrence to P.W.-1, P.W.2 and P.W.-3.
 - (v) As per the testimony of the informant/victim P.W.-4, the present appellant after threatening, had taken obscene photograph of the informant and also asked the Santanu to put off his cloth and then, he had taken nude picture of her and Santanu.
 - (vi) The offence of rape committed by the accused/appellant is corroborated by the medical evidence of the doctor. In medical examination of the victim, Doctor had found had found spermatozoa.
 - (vii) The Investigating Officer has also corroborated the prosecution version by gathering the material in course of investigation.
12. Learned A.P.P., based upon the aforesaid submission, has submitted that the learned trial Court after taking into consideration the testimony of the prosecution witnesses more particularly the testimony of the informant/victim P.W.-4 corroborated by the medical examination, has passed the impugned judgment of conviction, therefore, the same requires no interference.

Analysis

13. We have heard learned counsel for the parties, perused the documents available on record and the testimony of witnesses

as also the finding recorded by learned trial Court in the impugned judgment.

14. This Court, on the basis of aforesaid factual aspect vis-à-vis the argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of impugned judgment of conviction and order of sentence.

15. This Court, before going into the legality and propriety of the impugned judgment of conviction and sentence, deems it fit and proper first to refer the testimony of prosecution witnesses.

16. **P.W.-1 is the mother of the informant/victim.** She has deposed in her evidence that the occurrence took place on 18.11.2008 at about 5:30 p.m. in evening. At that time, she was in her house and her daughter(victim), had gone for tuition at Baman Bigha Mohalla and when her daughter did not return back to house, she started searching for her. Her daughter, was found weeping at Baman Bigha turn and she stated that when she was coming back to house, her colleague Santanu met with her and then she and Santanu were talking and at that time, a man saying himself to be C.I.D., Inspector, took her to his house and her daughter out of fear went to his house, where his wife was also there.

17. P.W.-1 has further deposed that the said man (accused, Ajay Singh) brought her daughter in another room of his house and committed rape upon her and thereafter, he took obscene photographs of her daughter and prepared documents on

stamp paper about marriage of Santanu and her daughter. Her daughter any how fled away from there and saved her life. At that time, her daughter was aged about 14 to 15 years. Thereafter, she, along with her daughter and her husband went at Police Station and lodged an FIR.

18. In her cross-examination, P.W.-1 has deposed that Santanu Sidharath was studying with her daughter in Red Rose School. P.W.-1 has further stated that she had gone in search of her daughter by motorcycle and her daughter was found alone and Santanu was also found at some distance.

19. **P.W.-2 is the father of the informant.** He has stated in his evidence that occurrence was of 18.11.2008 at about 5-5.30 P.M., in the evening. At that time, he had gone to Jarmundi, due to work when his wife telephoned him and informed that something had happened to his daughter and on this information, he came to Deoghar. His daughter told him that she had gone to coaching(tuition) for studying Social Science at Tiwari *Chowk* and after studying she was returning home, then, on the way near Ambe Garden, she met one Santanu Sidharth, who was her colleague and they started talking together about studies. In the meantime, accused Ajay Singh of Baman Bigha Mohalla came and said he is CID Officer and threatened his daughter and took her to his house and committed rape on her. P.W.-2 further stated that he along with her daughter and wife went to Deoghar Town police station, where statement of her

daughter was recorded by the officer-in-charge. P.W.-1 has identified his signature on the fardbeyan which was marked as Ext.-1/1.

20. P.W.-3 is the uncle of the victim. He has stated in his evidence that occurrence was of 18.11.2008 at about 5.30 P.M., in the evening. Her sister-in-law (*bhabhi*), informed her on telephone and called him to his house. P.W.-3 further stated that when he reached to her *bhabhi's* house at Sahid Ashram Mohalla, there her niece told him that when she was returning home after studying from coaching, then on the way near Baman Bigha, a person named Ajay Singh, represented himself as CID Inspector, and took him to his house and that time a boy name Santanu was along with his niece. Accused Ajay Kumar Singh, threatened his niece and took her to his house and committed rape of his niece and at that time accused Ajay Kumar Singh, daughter was present there.

21. P.W.-4 is the informant and the victim of the case. She has stated in her evidence that occurrence took place on 18.11.2008 at about 6:00 p.m. in evening and at that time, she was returning after taking tuition in social science to her house. When she reached near Bamanbigha, her colleague of school, namely, Santanu Sidharath met with her, then, both started talking. In the meantime, a person (accused herein) came and said he belongs to C.I.D., and said both have to go to their

house, to which they refused, but they were threatened and forcefully taken to the house.

22. P.W.4, the Informant has further deposed that the said man asked many questions and when they requested him to permit them to return back to their house, then, this man (appellant herein) abused them and at that time the wife of that person was laying there and she was laughing. Informant further stated that she and Santanu were taken in another room they were made to write on stamp paper about their marriage and their signature were taken. Informant had identified the writing and signature of Santanu Sidharath and her writing and signature on the stamp paper, which were marked as Ext.-2 and Ext.-2/1 respectively. Informant had also identified the signature of accused Ajay Kumar Singh, on the stamp paper which was signed before her, which is marked as Ext.-2/2.

23. The Informant has further deposed that when she said that she has to go home, then, the accused slapped her and switched off the light of the room. He assaulted Santanu and ousted him from the room and closed the door of room and committed rape on her. Then, accused brought Santanu to the room and forced him to open his cloth and took obscene picture of her and Santanu. Thereafter, the said man gave her gold chain and told her to come there regularly and gave threatening to kill if they disclose about the occurrence to anyone. Thereafter, she along with Santanu moved towards their house

and in the way, her mother and brother met with her and then, she told them about the occurrence. Then, she went to Deoghar Nagar police station with her mother and father and give her statement before the police and put her signature on it. Informant has identified her signature on the fardbeyan which was marked Ext.-1/2.

- 24.** In her cross-examination, the informant has stated that on the day of occurrence she had gone to the house of Aantoshi Tiwari, for studying and she and Santanu, both used to read there. On the day of occurrence Santanu had not gone for studying and Santanu was not present in the batch in which madam (Aantoshi Tiwari), had taught. informant stated that she met Santanu at Bamanbigha, while she was returning home after studying from madam ((Aantoshi Tiwari). Informant further stated that the person who had come before them and said that he was in C.I.D., was not in police uniform, but, in plain cloth. The said accused person was walking with them and they reached the house of the accused person approximately within 5-7 minutes. The house was two storied and had a stair. She was taken at the first floor and Santanu was there and accused wife was also there. Accused was threatening them that he had revolver and answer what was questioned to her. The accused was not armed with revolver, but he had knife in his hand. The accused had told them to write on stamp paper about their marriage as ordered by him. When she was in the room, then

time Santanu was sent in the room. Santanu had not committed rape on her. Informant further stated that after coming out of the house of the accused, she reached her home at about 10-10.30 P.M., in the night and at that time she was conscious, but was she was disturbed. At paragraph-28, informant stated that after the occurrence, she saw Ajay Singh (appellant herein) at the police station and she had identified her.

25. P.W.-5, Dr. Roja Minz, had examined the informant/victim.

Doctor had stated in her evidence that on 19.11.2008, she was posted as medical officer at Sadar Hospital, Deoghar. On that day at about 12:00 O' clock in noon on requisition of police, she had examined the victim and found the following: -

Number of teeth :14-14=28

Height about 5" feet

Weight 44 Kg

Examination of external body -No injury found on her breast or at her pant of body.

Breast developed, Auxiliary hair developed.

Examination of private part: - Pubic hair developed. No foreign hair found on her pubic area. No injury mark on pubic area. Hymen not intact, and admits one finger during examination.

Complain of pain and tenderness present. Vaginal swab taken and sent to pathological examination which was done by pathologist doctor.

Finding: - epithelial 3+, R.B.C. 2+, W.B.C.1+

Very occasional spermatozoa were found. X-ray of hip bone and wrist bone ichial crest appears but not fused completely. Wrist joint appears and fused. Doctor opined age of the victim about 16 years. No foreign hair present on her pubic area during internal examination. Pain and tenderness present. Intercourse has been done.

Doctor had proved the medical report of the victim which was marked as Ext.-3.

26. P.W.-6 Shiv Kumar Pathak, is the Investigating Officer of

the case. He has deposed in his evidence that on 18.11.2008, he was posted in Deoghar Town P.S., as officer-in-charge. On that day, he had recorded the fardbeyan of the informant in his handwriting and signature and the fardbeyan was marked as Ext.-1/3. Investigating officer has proved the endorsement on the fardbeyan made by him, which was marked as Ext.1/4 and he has further proved the formal FIR which was marked as Ext.-4. Investigating officer further stated that during the investigation, he recorded the statement of witnesses and collected the evidence from the place of occurrence and seized it and prepared seizure list.

27. P.W.-6 has proved the search-cum-seizure list of Nokia Mobile set and copy Santanu Sidharath, recovered from the house of accused Ajay Kumar, which was marked as Ext.-5. P.W.-6 had also proved the production-cum-seizure list of clothes of the victim, which was marked as Ext.-6. P.W.-6 had stated that the first place of place of occurrence is 500 yards ahead of Ambe Garden, in an under-construction house, where victim and Santanu Sidharath, were taken by accused Ajay Kumar. The second place of occurrence is two storied houses of accused Ajay Kumar situated at Bamanbigha, where rape is said to be committed. P.W.-6 further stated that he had prepared the requisition for medical examination of the victim,

which is in his handwriting and signature and the medical examination requestion is marked as Ext.-3.

28. Now this Court is adverting to the contention of the learned counsel for the parties, wherein, the learned counsel for the appellant has mainly taken the ground that there is vital contradiction in the statement of the prosecution witnesses vis-à-vis in the deposition of informant/victim, therefore, the conviction of the appellant under section 376 of IPC cannot be based on the testimony of informant/victim, who is not reliable witness. It has further been contended that the prosecution witnesses P.W.-1, P.W.-2 and P.W.-3, are highly interested witnesses as they are mother, father and uncle respectively of the informant/victim and further the prosecution case has not been corroborated by the medical evidence. Therefore, the conviction of the appellant under Section 376 of IPC is not sustainable in the eye of law.

29. On the other hand, learned Addl. Public Prosecutor appearing for the State has stated that the discrepancies so pointed out by learned counsel for the appellant are not enough to disbelieve the prosecution story. Informant/victim in her evidence has categorically deposed that the appellant had threatened her and took her to his house and committed rape upon her and the aforesaid fact has been substantiated by the medical evidence.

30. This Court, on the basis of the aforesaid factual aspect *vis-à-vis* the argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of the impugned judgment of conviction and order of sentence by formulating following questions to be answered by this Court:

(I) *Whether the prosecution has proved the guilt of the accused/appellant Ajay Kumar Singh for the offence under section 376 of IPC?*

(II) *Whether not sending the spermatozoa for examination of sperm, is enough to disbelieve the case of the prosecution?*

Re: Issue No. (I)

31. This Court, is to decide the legality and propriety of the impugned judgment of conviction and order of sentence, more particularly, whether the informant/victim, P.W.-4, is trustworthy and reliable, to convict the appellant under Section 376 of IPC.

32. This Court finds from the impugned judgment that learned trial court has convicted the appellant under Section 376 of IPC relying on the testimony of the informant/victim P.W.-4 which was supported by the prosecution witnesses, i.e., P.W.-1, P.W.-2 and P.W.-3, who are the mother, father and uncle respectively of the informant/victim and further, by taking aid of the medical examination report, Ext.-3.

33. Learned trial court, in the impugned judgment had noted that just after the occurrence of rape, the victim/informant had said about occurrence to P.W.-1, P.W.-2 and P.W.-3.
34. It is evident from record that in the present case, FIR was registered against Ajay Kumar Singh (appellant herein) and Santanu Sidharth and charge sheet were submitted against both the accused persons. Since accused Santanu Sidharth was juvenile and hence, his case was sent to Juvenile Justice Board for trial.
35. Charges under Sections 292(2)/34, 465/34, 376/34 and 120B of the IPC were framed against the accused/appellant Ajay Kumar Singh and at the conclusion of trial, the appellant was acquitted of the charges under Sections 292(2)/34, 465/34 and 120 B of IPC, but he has been convicted under section 376 of IPC.
36. Before, we analyse and appreciate the circumstances that have weighed with the trial court, this court, thinks it apposite to refer the certain authorities pertaining to evidentiary value of the evidence of the prosecutrix in offence of rape.
37. It is settled proposition of law that once the statement of the prosecutrix inspires confidence and is accepted by the Court, as such, conviction can be based only on the solitary evidence of the prosecutrix.
38. The law is well settled that if evidence of the prosecutrix inspires confidence, it must be relied upon without seeking

corroboration of her statement in material particulars. If for some reason, the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations, as per the judgment rendered by Hon'ble Apex Court in the case of ***State of Punjab v. Gurmit Singh, (1996) 2 SCC 384***, for ready reference, paragraph-21 of the said judgment is being referred hereunder as :-

“21. Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating woman'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 courts, therefore, shoulder 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 prosecutrix, which are not of a fatal

nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.”

39. Likewise, the Hon'ble Apex Court in the case of **Vishnu v.**

State of Maharashtra, (2006) 1 SCC 283, has held as under: -

“25. The statement of the prosecutrix, in our view, is quite natural, inspires confidence and merits acceptance. In the traditional non-permissive bounds of society of India, no girl or woman of self-respect and dignity would depose falsely, implicating somebody of ravishing her chastity by sacrificing and jeopardising her future prospect of getting married with a suitable match. Not only would she be sacrificing her future prospect of getting married and having family life, but also would invite the wrath of being ostracised and cast out from the society she belongs to and also from her family circle. From the statement of the prosecutrix, it is revealed that the accused induced her to a hotel by creating an impression that his wife was admitted in the hospital and that he would see her first and then drop the prosecutrix at her residence whereas, in fact, she was not admitted in the hospital. On the pretext of going to Nanawati Hospital, he took her to a hotel, took her inside a room, closed the door of the room, threatened to finish her if she shouted and then forcibly ravished her sexually. In our view, a clear case of rape, as defined under Section 375 clause thirdly IPC has been established against the accused. It is now a well-settled principle of

law that conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence.”

40. Further, the Hon'ble Apex Court in the case of ***Raju v. State of M.P., (2008) 15 SCC 133***, held that evidence of a prosecutrix should not be suspected and should be believed, more so as her statement has to be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the court. Paragraph-8,9 and 10 of the aforesaid judgment are quoted hereinbelow-

“8. We have heard the learned counsel for the parties and gone through the record. It is true that rape is one of the most heinous and reprehensible of crimes that can be committed on a woman and it is for this reason that courts have leaned heavily in favour of such a victim. (See State of Punjab v. Gurmit Singh [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] .) In this matter, this Court allowed the State appeal against acquittal and while convicting the accused under Section 376 IPC, observed thus: (Gurmit Singh case [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] , SCC p. 403, para 21)

“21. Of late, 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 courts, therefore, shoulder 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 prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.”

(emphasis in original)

The Court also observed that the alarming frequency of crimes against women had led Parliament to make some special laws in the background that rape was a very serious offence and that this was another factor which was to be kept in mind while appreciating the evidence in such matters.

9. The observations in Gurmit Singh case [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] were reiterated in Ranjit Hazarika v. State of Assam [(1998) 8 SCC 635 : 1998 SCC (Cri) 1725] in the following terms: (Gurmit Singh case [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] , SCC pp. 395-96, para 8)

“8. ... The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should

not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. 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. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. (emphasis supplied) Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. 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. Inferences have to be drawn from a

given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable.”

(emphasis in original)

10. The aforesaid judgments lay down the basic principle that ordinarily the evidence of a prosecutrix should not be suspected and should be believed, more so as her statement has to be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the court.”

40. Again, the Hon'ble Apex Court in the case of **Narender Kumar v. State (NCT of Delhi), (2012) 7 SCC 171**, reiterated the earlier view laid down in the earlier judgments of the Hon'ble Apex Court. For ready reference, paragraphs -20, 21 and 22 of the aforesaid judgment are being quoted hereinbelow:-

“20. It is a settled legal proposition that once the statement of the prosecutrix inspires confidence and is accepted by the court as such, conviction can be based only on the solitary evidence of the prosecutrix and no corroboration would be required unless there are compelling reasons which necessitate the court for corroboration of her statement. Corroboration of testimony of the prosecutrix as a condition for judicial reliance is not a requirement of law but a guidance of prudence under the given facts and circumstances. Minor contradictions or insignificant discrepancies should not be a ground for throwing out an otherwise reliable prosecution case.

21. A prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. Her testimony has to be appreciated on the principle of probabilities just as the testimony of any other witness; a high degree of probability having been shown to exist in view of the subject-matter being a criminal charge. However, if the court finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or substantial (sic circumstantial), which may lend assurance to her testimony. (Vide Vimal Suresh Kamble v. Chaluverapinake Apal S.P. [(2003) 3 SCC 175 : 2003 SCC (Cri) 596 : AIR 2003 SC 818] and Vishnu v. State of Maharashtra [(2006) 1 SCC 283 : (2006) 1 SCC (Cri) 217 : AIR 2006 SC 508].)

22. Where evidence of the prosecutrix is found suffering from serious infirmities and inconsistencies with other material, the prosecutrix making deliberate improvement on material point with a view to rule out consent on her part and there being no injury on her person even though her version may be otherwise, no reliance can be placed upon her evidence. (Vide Suresh N. Bhusare v. State of Maharashtra [(1999) 1 SCC 220: 1998 SCC (Cri) 1595] .)”

41. Hence, the Hon'ble Apex Court in the aforesaid cases of rape has laid down that, conviction can be based solely on the solitary evidence of the prosecutrix, if evidence of the prosecutrix inspires confidence and it must be relied upon without seeking corroboration of her statement in material particulars. Evidence of a prosecutrix should be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary.

42. Hence, this court is now proceeding to examine the evidence of the informant/victim P.W.-4, in the backdrop of aforesaid legal proposition.

43. The Informant P.W.-4, has deposed in her examination-in-chief that on the date of occurrence, on 18.11.2008 at about 6:00 p.m. in evening she was returning to her house after taking tuition in social science. When she reached near Bamanbigha, her colleague of school, namely, Santanu Sidharath met with her, then, both started talking, in the meantime, a person (appellant herein) came and said he belongs to C.I.D., and said both have to go to his house, to which they refused, but they were threatened and forcefully taken to the house. Informant and Santanu were taken to the other room of the house and when informant said that she has to go home, then, that person (appellant herein) slapped her and switched off the light of the room and assaulted Santanu and ousted him from the room. Then, accused/appellant closed the door of room and committed rape on her and gave threatening to kill if they disclose about the occurrence to anyone. Thereafter, she along with Santanu moved towards their house and in way her mother and brother met with her and then, she told them about the occurrence.

44. Further, in her cross-examination informant/victim stated that on the day of occurrence, she had gone to the house of Aantoshi Tiwari(teacher) for her study. Informant further stated

that the person (appellant herein) who had come before them and told that he was in CID but he was not in police uniform, but he was in plain cloth. The said person had threatened her and Santanu and took them to his house and hence, they did not raise halla. The house was two storied and she was taken at the first floor. The accused was armed with knife in his hand. Informant had also deposed that she had stated before the police that accused Ajay Kumar Singh (appellant herein) had closed the room and forcefully committed rape upon her. Informant/victim further stated that after coming out of the house of the accused, she reached her home at about 10-10.30 P.M., in the night and at that time she was conscious, but was she was disturbed. The informant/victim stated that after the occurrence, she saw Ajay Singh (appellant herein) at the police station and she had identified her.

45. Further, in order to test the veracity of the testimony of the informant/victim, this Court has gone through the testimony of P.W.-1 and P.W.-3, who are the mother, and uncle of the informant respectively.

46. P.W.-1 mother of the informant has deposed that on 18.11.2008 at about 5:30 p.m. in evening her daughter had gone to read tuition at Baman Bigha Mohalla and when her daughter did not return back to her house, she started searching for her and her daughter, was found weeping at Baman Bigha turn. Her daughter has stated that when she was

coming back to house, her colleague Santanu met with her and then she and Santanu were talking and at that time, a man (appellant herein) saying himself to be C.I.D., Inspector, took her to his house, and her daughter out of fear went to his house. The said person (appellant herein) brought her daughter in another room of his house and committed rape upon her. Her daughter any how fled away from there and saved her life. Thereafter, she along with her daughter and her husband went at police station and lodged an FIR.

47. P.W.-3, uncle of the informant has deposed that on 18.11.2008 at about 5.30 P.M., in the evening, his sister-in-law (*bhabhi*), informed her on telephone and called him to his house. P.W.-3 further stated that when he reached to her *bhabhi's* house at Sahid Ashram mohalla, there her niece(informant/victim) told him that when she was returning home after studying from coaching, then on the way near Baman Bigha, a person named Ajay Singh (appellant herein), represented himself as CID Inspector, took him to his house and that time a boy named Santanu was along with his niece. Ajay Singh (appellant herein) threatened her niece and committed rape upon his nice.

48. Further, the Doctor P.W.-5, who has examined the informant, has deposed that very occasional, spermatozoa were found in private part of the victim and she further stated that sexual intercourse has been done with the victim.

49. P.W.-6 Shiv Kumar Pathak, is the Investigating Officer of the case. In his deposition, the Investigating Officer has deposed that there are two places of occurrence-first place of occurrence is 500 yards ahead of Ambe Garden, in an under-construction house, where victim and Santanu Sidharath, were taken by accused/appellant, Ajay Singh. The second place of occurrence was two storied houses of accused Ajay Kumar situated at Bamanbiga, and in this house of accused Ajay Singh, the incident of rape was said to have been taken place.

50. Thus, from the aforesaid, this Court finds that informant/victim in her evidence has deposed that on date of occurrence, on 18.11.2008 at about 6:00 p.m. in evening, when she was returning home after taking tuition from the house of Aantoshi Tiwari(teacher), in the meanwhile she met with her colleague Santanu and they were talking, then in the meantime, a man (appellant herein) saying himself to be C.I.D., Inspector, came and said both have to go to his house, to which they refused, but they were threatened and forcefully taken by the accused/appellant, to his house. In his house (appellant herein) slapped her and switched off the light and assaulted Santanu and ousted him from the room. Then, accused/appellant closed the door of room and committed rape on her and gave threatening to kill if they disclose about the occurrence to anyone.

51. Further, in her cross-examination, informant/victim has disclosed that the accused was armed with knife in his hand and had forcefully committed rape on her.
52. Further, from the evidence, this Court finds that when informant/victim did not return home after taking tuition, then Informant's mother (P.W.-1), started searching for her daughter and her daughter, was found weeping at the Baman Bigha *more* and her daughter make her known that accused/appellant had threatened her and took her to his house and committed rape on her.
53. Likewise, informant/victim just after the occurrence of rape has informed her father (P.W.-2) and uncle (P.W.-3), about the rape committed on her by the accused/appellant.
54. Doctor P.W.-5, who has examined the informant/victim, has also found occasional spermatozoa and had opined that the intercourse had been done.
55. Thus, in entirety on appraisal of evidences, this Court finds that informant/victim, in her examination-in chief as well in her cross-examination remained intact on the point that the appellant has forcefully took her to his house and committed rape upon her, which is corroborated by P.W.-1, P.W.-2 and P.W.-3, to whom the informant/victim, just after the incident of rape, has informed them about the alleged crime. Further, Doctor, P.W.-5 has found occasional spermatozoa and opined that intercourse had been done.

56. Thus, as per settled position of law as settled by the Hon'ble Apex Court as discussed and referred hereinabove that the evidence of a prosecutrix should be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary.

57. In the present case, the informant/victim in her examination-in-chief as well as in her cross-examination has deposed that she was threatened and forcefully taken by the accused/appellant in his house and was raped by the accused/appellant which has fully been substantiated by the evidence of other prosecution witnesses.

58. It is pertinent to note herein that at the relevant time, the informant/victim was student of class 10th and was in her adolescent and tender age of about 16 years supported by the doctor evidence and further, this Court has found that the case of prosecution has fully corroborated and substantiated by the other material evidences available on record and as such, it is the considered view of this Court that the charges under section 376 IPC has been established by the prosecution beyond reasonable doubt.

59. Accordingly, issue no. (i) is, hereby, answered against the appellant.

Issue no.(II)

60. With respect to the second issue, i.e., whether not sending the spermatozoa for examination of sperm, is enough to disbelieve the case of the prosecution?
61. Learned counsel for the appellant has submitted that although sperm was found, but, the Investigating Officer of the case did not send spermatozoa for examination of sperm.
62. Learned counsel for the appellant has also submitted that the informant/victim and Shantanu were indulged in sexual act, but in order to save their skin, false case has been lodged against the appellant and this real fact has not been considered by the learned trial Court.
63. Admittedly, the aforesaid instance is the indicative of perfunctory investigation but it is settled position of law that sterling evidence of the prosecution witness cannot thrown away due to laches in the investigation.
64. At this juncture, it would be pertinent to note the judgments rendered by the Hon'ble Apex Court on defective investigation. The law is well settled that in cases of defective investigation; the Court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect.
65. In case of ***Karnel Singh v. State of M.P., (1995) 5 SCC 518***, the Hon'ble Apex Court has held that in cases of defective investigation, the court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused

person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. Paragraph-5 of this judgment is quoted herein below :

“5. Notwithstanding our unhappiness regarding the nature of investigation, we have to consider whether the evidence on record, even on strict scrutiny, establishes the guilt. In cases of defective investigation the court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. Any investigating officer, in fairness to the prosecutrix as well as the accused, would have recorded the statements of the two witnesses and would have drawn up a proper seizure-memo in regard to the ‘chaddi’. That is the reason why we have said that the investigation was slipshod and defective.”

66. Further, in case of ***Ram Bihari Yadav v. State of Bihar, (1998) 4 SCC 517***, the Hon’ble Apex Court has laid down that acts or omissions of the officers of the prosecution should not be taken in favour of the accused, for that would amount to giving premium for the wrongs of the prosecution designedly committed to favour the appellant. For ready reference, paragraph-13 of this judgment is quoted hereinbelow:-

“13. Before parting with this case we consider it appropriate to observe that though the prosecution has to prove the case against the accused in the manner stated by it and that any act or omission on the part of the prosecution giving rise to any reasonable doubt would go in favour of the accused, yet in a case like the present one where the record shows that investigating

officers created a mess by bringing on record Exh. 5/4 and GD Entry 517 and have exhibited remiss and/or deliberately omitted to do what they ought to have done to bail out the appellant who was a member of the police force or for any extraneous reason, the interest of justice demands that such acts or omissions of the officers of the prosecution should not be taken in favour of the accused, for that would amount to giving premium for the wrongs of the prosecution designedly committed to favour the appellant. In such cases, the story of the prosecution will have to be examined dehors such omissions and contaminated conduct of the officials otherwise the mischief which was deliberately done would be perpetuated and justice would be denied to the complainant party and this would obviously shake the confidence of the people not merely in the law-enforcing agency but also in the administration of justice.”

67. Again, in case of ***State of Karnataka v. K. Yarappa Reddy, (1999) 8 SCC 715***, the Hon’ble Apex Court laid down that investigation is not the solitary area for judicial scrutiny in a criminal trial, the conclusion of the court in the case cannot be allowed to depend solely on the probity of investigation. It is settled that even if the investigation is illegal or even suspicious the rest of the evidence must be scrutinized independently of the impact of it. Relevant paragraph of this judgment is being quoted hereinbelow:-

“19. But can the above finding (that the station house diary is not genuine) have any inevitable bearing on the other evidence in this case? If the other evidence, on scrutiny, is found credible and acceptable, should the Court be influenced by the machinations demonstrated by the investigating officer in conducting investigation or in

preparing the records so unscrupulously? It can be a guiding principle that as investigation is not the solitary area for judicial scrutiny in a criminal trial, the conclusion of the court in the case cannot be allowed to depend solely on the probity of investigation. It is well-nigh settled that even if the investigation is illegal or even suspicious the rest of the evidence must be scrutinized independently of the impact of it. Otherwise the criminal trial will plummet to the level of the investigating officers ruling the roost. The court must have predominance and pre-eminence in criminal trials over the action taken by investigating officers. Criminal justice should not be made a casualty for the wrongs committed by the investigating officers in the case. In other words, if the court is convinced that the testimony of a witness to the occurrence is true the court is free to act on it albeit the investigating officer's suspicious role in the case."

68. In case of **C. Muniappan v. State of T.N., (2010) 9 SCC**

567, the Hon'ble Apex Court, laid down that there may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the Investigating officer and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal.

Paragraph-55 of this judgment is quoted hereinbelow:-

"55. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the IO and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded.

Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence dehors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation. (Vide Chandrakant Luxman v. State of Maharashtra [(1974) 3 SCC 626 : 1974 SCC (Cri) 116 : AIR 1974 SC 220] , Karnel Singh v. State of M.P. [(1995) 5 SCC 518 : 1995 SCC (Cri) 977] , Ram Bihari Yadav v. State of Bihar [(1998) 4 SCC 517 : 1998 SCC (Cri) 1085 : AIR 1998 SC 1850] , Paras Yadav v. State of Bihar [(1999) 2 SCC 126 : 1999 SCC (Cri) 104] , State of Karnataka v. K. Yarappa Reddy [(1999) 8 SCC 715 : 2000 SCC (Cri) 61 : AIR 2000 SC 185] , Amar Singh v. Balwinder Singh [(2003) 2 SCC 518 : 2003 SCC (Cri) 641] , Allarakha K. Mansuri v. State of Gujarat [(2002) 3 SCC 57 : 2002 SCC (Cri) 519] and Ram Bali v. State of U.P. [(2004) 10 SCC 598 : 2004 SCC (Cri) 2045])”

69. Again, in case of **Ashok Kumar Singh Chandel v. State of U.P., (2022) 20 SCC 114**, the Hon’ble Apex Court laid down that this Court has observed in a number of cases that defective investigation by the investigating authorities by itself does not vitiate the case of the prosecution when there are credible eyewitness testimonies as well as other compelling pieces of evidence. Paragraph-156 and 157 of the aforesaid judgment are being quoted herein below:-

“156. Fax is not part of the investigation. Even assuming that there is some defect in the investigation on this count, it will

have no bearing on the prosecution case. This Court has observed in a number of cases that defective investigation by the investigating authorities by itself does not vitiate the case of the prosecution when there are credible eyewitness testimonies as well as other compelling pieces of evidence. In Karnel Singh v. State of M.P. [Karnel Singh v. State of M.P., (1995) 5 SCC 518 : 1995 SCC (Cri) 977] this Court held that : (SCC p. 521, para 5)

“5. ... In cases of defective investigation the court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective.”

(emphasis supplied)

157. *Similarly in C. Muniappan v. State of T.N. [C. Muniappan v. State of T.N., (2010) 9 SCC 567 : (2010) 3 SCC (Cri) 1402] this Court held : (SCC p. 589, para 55)*

“55. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the IO and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded. Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence dehors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial.”

(emphasis supplied)

70. In the backdrop of the aforesaid settled position of law, this Court is of the considered view that since in the instant case, there is credible evidence of the informant/victim P.W.-4, who has deposed that the appellant had forcefully took her to his house and committed rape upon her, which has been corroborated by the prosecution witnesses, i.e., P.W.-1, P.W.-2 and P.W.-3, to whom the informant/victim, just after the incident of rape upon her, had informed them and further, the aforesaid fact has also been fortified by the Doctor, P.W.-5 who has also found occasional spermatozoa and opined that intercourse has been done, therefore, as per the ratio rendered by the Hon'ble Apex Court in the case of ***Ashok Kumar Singh Chandel v. State of U.P., (supra)*** the benefit of perfunctory investigation cannot be extended to the present appellant.

71. Accordingly, issue no. (ii) is, hereby, answered.

72. Further, appellant in his statement under Section 313 of the Cr.P.C., has denied the occurrence committed by him and stated that on 18.11.2008, he was present at roof of his house and from there, he saw victim and Santanu in objectionable position in semi constructed house and took their photograph in his mobile phone and then they became nervous. On query, they said that they love each other and they will marry. Then, he told them to prepare document about the same, then, they made the document.

73. But, informant/victim has deposed in her evidence that accused/appellant had threatened her and had taken to his house and forcibly committed rape on her.
74. Hence, this Court is of the view that the appellant cannot escape from the inference that he did not rape the informant/victim in his house.
75. This Court, after having discussed the factual aspect and legal position and considering the finding recorded by the learned trial Court, is of the view that the learned trial Court has well appreciated the evidences available on record and has also given thoughtful consideration to the testimonies of the witnesses and has come to the conclusion that the prosecution has been able to prove the charge beyond all shadow of doubts against the present appellant, therefore, the impugned order requires no interference by this Court.
76. This Court, in the entirety of the facts and circumstances, is of the view that the prosecution has proved the charges under section 376 of IPC against the appellant beyond all reasonable doubt for the reasons and grounds, as discussed hereinabove.
77. Accordingly, impugned Judgment of conviction dated 05.04.2012 and order of sentence dated 10.04.2012, passed by the learned 2nd Additional Sessions Judge, Deoghar, in Sessions Case No.222 of 2009, requires no interference by this Court.

78. In consequence thereof, the instant appeal stands dismissed.

79. In consequence upon dismissal of the appeal, the appellant since is enjoying the suspension of sentence after order having been passed by this Court directing to release him during pendency of the appeal, therefore, the bail bond of appellant is hereby cancelled and appellant is directed to surrender before the learned Trial Court for serving out the remaining sentence passed against him.

80. Pending Interlocutory Applications, if any, stand disposed of.

81. Let the Lower Court Records be sent back to the Court concerned forthwith, along with a copy of this Judgment.

I Agree.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

21/04/2026

High Court of Jharkhand, Ranchi

Rohit/-A.F.R.

Uploaded on 22.04.2026