



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

**(1) D.B. Criminal Misc Suspension Of Sentence Application
(Appeal) No. 1192/2025**

Rupa Alias Rupaji Bheel S/o Varda Bheel, Aged About 26 Years,
Sripura, Police Station Bhainsrodgarh Tehsil Rawatbhata District
Chittorgarh.

(Presently Lodged At The Central Jail, Udaipur)

----Petitioner

Versus

State Of Rajasthan, Through The Learned Pp At Jodhpur.

----Respondent

Connected with

(2) D.B. Criminal Appeal (DB) No. 212/2025

Rupa Alias Rupaji Bheel S/o Varda Bheel, Aged About 26 Years,
Sripura, Police Station Bhainsrodgarh Tehsil Rawatbhata District
Chittorgarh. (Presently Lodged At The Central Jail, Udaipur)

----Appellant

Versus

State Of Rajasthan, Through The Learned PP At Jodhpur.

----Respondent

For Appellant(s)	:	Mr. Vikram Choudhary
For Respondent(s)	:	Mr. Sharwan Singh Rathore, PP

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**

Judgment

23/03/2026

1. Heard learned counsel for the parties.
2. Although the matter is listed on an application preferred by the applicant-appellant seeking suspension of sentence, learned

counsel for the applicant-appellant submits that he does not want to press the said application.

3. Accordingly, the application filed by the applicant-appellant seeking suspension of sentence is dismissed as not pressed.

4. At this stage, learned counsel for the applicant-appellant prays that the appeal itself may be heard finally.

5. With the consent of learned counsel for the parties, the main appeal is taken up for final hearing and is heard and decided accordingly by this order.

6. The present criminal appeal has been preferred under Section 415 of the Bharatiya Nagarik Suraksha Sanhita (B.N.S.S.) by the accused-appellant Roopa @ Roop Lal Bheel, assailing the legality and validity of the judgment and order dated 02.12.2024 passed by learned Additional District and Sessions Judge, Begun, District Chittorgarh (hereinafter referred to as "the learned trial court") in Sessions Case No.118/2021 (175/2018), whereby the accused-appellant has been convicted and sentenced for the offence under Section 376 of the Indian Penal Code as under:-

376 IPC	Life imprisonment and Fine of Rs.10,000/-	In default of payment of fine to further undergo 3 year's Simple Imprisonment.
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7. As per the prosecution case, the prosecutrix Rekha wife of Devilal Bhil, submitted a written report on 14.08.2018 alleging that on 13.08.2018 at about 2:00 PM, she had gone along with a minor girl, Durga (aged about 9 years), to a pond for washing clothes and bathing. It is alleged that after she had washed her clothes and was about to bathe, the accused Rupa @ Roopa, son

of Barda Bhil, resident of village Shripura, suddenly arrived there. Despite being asked to leave, the accused threatened the prosecutrix and, taking advantage of her being alone, forcibly lifted her and took her to nearby bushes. It is further alleged that the accused-appellant undressed her and then removed his clothes and then committed rape upon her. She further alleged in the report that the accused gagged the prosecutrix to prevent her from raising alarm and continued the act for some time. Thereafter, the accused-appellant threatened the prosecutrix with dire consequences, including threat to life, if she discloses the incident to anyone. It is further alleged in the report that after the occurrence, the prosecutrix returned to home and narrated the incident to her husband Devilal, her mother-in-law Kalibai and one Surajmal. Upon being confronted, the accused-appellant threatened them as well, warning them not to report the matter to the police.

8. On the basis of the aforesaid written report, a formal FIR No. 61/2018 came to be registered at Police Station Bhensrodgarh, Chittorgarh for the offence under Section 376 of the Indian Penal Code.

9. After completion of investigation, the police filed a charge-sheet under Section 376 of the Indian Penal Code against the accused-appellant before the learned Additional District and Sessions Judge, Begun, District Chittorgarh.

10. Learned trial court, upon taking cognizance, framed charges against the accused-appellant for the offence under Section 376

IPC. The charges were read over and explained to the accused-appellant, who denied the same and claimed trial.

11. During the trial, the prosecution examined as many as 14 witnesses. In support of its case, the prosecution also produced documentary evidence, Exhibits P-01 to P-18 along with along with 2 Articles.

12. The statement of the accused-appellant was recorded under Section 313 Cr.P.C., wherein he denied the prosecution allegations in toto and claimed to be innocent, asserting that he had been falsely implicated in the present case. No defence evidence was led.

13. Learned Trial Court, after hearing the arguments advanced on behalf of both sides and upon appreciation of the oral and documentary evidence brought on record, convicted and sentenced the accused-appellant for the offence under Section 376 IPC vide judgment dated 02.12.2024.

14. Being aggrieved by the aforesaid judgment of conviction and order of sentence dated 02.12.2024 passed by the learned trial court; the accused-appellant has preferred the present appeal before this Court.

15. Learned counsel for the accused-appellant submits that the impugned judgment and order dated 02.12.2024 passed by the learned Additional Sessions Judge, Begun, District Chittorgarh is wholly illegal, perverse and unsustainable in the eye of law, and the same deserves to be quashed and set aside.

16. Learned counsel for the accused-appellant submits that the prosecution has miserably failed to establish the guilt of the

accused-appellant beyond reasonable doubt and the findings recorded by the learned trial court are contrary to the material available on record as well as the settled principles of criminal jurisprudence.

17. Learned counsel for the accused-appellant submits that the learned trial court has failed to properly appreciate the material contradictions, inconsistencies and improvements in the statements of the prosecutrix (P.W.01 Smt. Rekha) recorded at different stages i.e. at the time of lodging the FIR and at the time of deposition before the learned trial court. These discrepancies go to the root of the case and seriously affect the credibility and reliability of the prosecution story, and thus, the conviction based solely on such unreliable testimony cannot be sustained.

18. Learned counsel for the accused-appellant further submits that there is an unexplained and inordinate delay in lodging the FIR. Though the alleged incident said to have occurred on 13.08.2018, the FIR was registered belatedly without any satisfactory explanation. Such delay creates a serious doubt regarding the authenticity of the prosecution case and raises the possibility of false implication.

19. Learned counsel for the accused-appellant submits that the prosecution has failed to produce any cogent medical or forensic evidence to substantiate the allegation of rape. The medical examination conducted by P.W.08 Dr. Gangu Jivaji Parmar does not indicate any injuries suggestive of forcible sexual assault and the FSL report (Ex.P-14) also does not conclusively connect the accused-appellant with the alleged commission of offence. The

absence of such crucial corroborative evidence renders the prosecution case doubtful.

20. Learned counsel for the accused-appellant submits that the statements of alleged corroborative witnesses, namely P.W.02 Devilal and P.W.03 Kalibai, are purely hearsay in nature and based on what was allegedly told to them by the prosecutrix. Being interested witnesses, their testimonies lack independent corroboration and could not have been relied upon by the learned trial court for recording conviction against the accused-appellant. He further submits that no independent witness has been examined by the prosecution, despite the alleged incident having taken place at a public place near a "*khal*" in a village where the presence of other persons is quite natural. The absence of independent corroboration raises serious doubt about the veracity of the prosecution case.

21. Learned counsel for the accused-appellant further submits that the learned trial court has failed to properly consider the defence of the accused-appellant as taken in his statement recorded under Section 313 Cr.P.C., wherein he categorically denied the allegations and claimed false implication. The possibility of false implication has not been adequately considered by the learned trial court. He further submits that the learned trial court has mechanically recorded the conviction without proper appreciation of evidence and without applying the fundamental principle that the prosecution must prove its case beyond reasonable doubt. The impugned judgment is based on

conjectures and surmises rather than on legally admissible evidence.

22. Learned counsel for the accused-appellant submits that the prosecution case is not consistent and suffers from material contradictions among the witnesses, which have not been properly addressed by the learned trial court. The findings recorded are thus not based on a sound and logical appreciation of evidence. He also submits that the evidence available on record is wholly insufficient to establish the guilt of the accused-appellant and there is no reliable material connecting him with the alleged commission of offence. The conviction is thus contrary to the weight of evidence and settled principles of law.

23. Learned counsel for the accused-appellant submits that the impugned judgment suffers from misinterpretation and selective appreciation of both oral and documentary evidence and has been passed without proper consideration of the merits of the case. He further submits that the learned trial court has failed to apply the settled principle that any reasonable doubt arising from the evidence must ensure to give benefit of doubt to the accused-appellant. The material on record raises serious doubts regarding the prosecution case, which ought to have resulted in acquittal of the accused-appellant.

24. Lastly, learned counsel for the accused-appellant submits that the sentence awarded to the accused-appellant is excessively harsh and disproportionate. The learned trial court has failed to consider mitigating circumstances, including the possibility of the appellant being a first-time offender with no criminal antecedents.

Even otherwise, a more lenient and proportionate sentence ought to have been awarded by the learned trial court in the present facts and circumstances of the case.

25. In view of the aforesaid submissions, learned counsel for the accused-appellant prays that the impugned judgment and order of sentence may be set aside and the accused-appellant may be acquitted of the charges levelled against him.

26. Per contra, learned Public Prosecutor has vehemently opposed the submissions advanced on behalf of the accused-appellant and has supported the findings recorded by the learned trial court. He submits that the impugned judgment dated 02.12.2024 does not suffer from any infirmity or illegality and that the conviction of the accused-appellant for the offence under Section 376 of the Indian Penal Code has been rightly recorded on the basis of reliable and cogent evidence available on record.

27. We have bestowed our anxious consideration to the submissions advanced by learned counsel for the parties and have carefully re-appreciated the entire oral as well as documentary evidence available on record including the impugned judgment dated 02.12.2024.

28. Upon a comprehensive appreciation of the evidence available on record, it emerges that P.W.01 Rekha (the prosecutrix) has, in her deposition, fully supported the prosecution case. She stated that on the date of the incident at about 2:00 PM, she was present near a "khal" at village Shripura and at that time the accused-appellant Rupa @ Ruplal arrived there, threatened her and forcibly took her to nearby bushes. She further deposed that the accused-

appellant undressed her and committed forcible sexual intercourse against her will, and whenever she attempted to raise alarm, he gagged her and assaulted her. The accused-appellant also threatened her with dire consequences if she discloses the incident. She thereafter returned home and narrated the occurrence to her husband and family members, and on the following day, the report was lodged. The prosecutrix identified the accused-appellant present in the Court and proved the written report (Ex.P-01), site inspection memo (Ex.P-02), medical report (Ex.P-03), seizure memo of ghagra (Ex.P-04), and her statement recorded under Section 164 Cr.P.C. (Ex.P-06). Despite extensive cross-examination, her testimony remained consistent and trustworthy, and no material contradiction could be elicited to discredit her version.

29. P.W.02 Devilal, husband of the prosecutrix, corroborated the version of the prosecutrix to the extent that she narrated the incident to him soon after its occurrence. He stated that the accused-appellant had forcibly taken his wife and committed rape upon her. He also proved the relevant documents including the site plan (Ex.P-02), seizure memo (Ex.P-04) and FIR (Ex.P-01). His testimony remained unshaken in cross-examination.

30. P.W.03 Kalibai, mother-in-law of the prosecutrix, also supported the prosecution case and deposed that she came to know about the incident from the prosecutrix and thereafter accompanied her to lodge the report. She denied the defence suggestion regarding any false implication on demand of rupees one lakh from the accused-appellant and that since the accused-

appellant failed to pay the amount, false case was subsequently instituted against him.

31. P.W.04 Modulal, stated that in his presence, the site inspection memo (Ex.P-02) and seizure memo (Ex.P-04) were prepared and his thumb impressions were obtained on the said documents at the spot. He denied the suggestion that his signatures were taken on blank papers. P.W.05 Surajmal, though declared hostile, but it does not materially affect the prosecution case.

32. P.W.06 Ramesh Chandra, a constable, proved the arrest memo of the accused (Ex.P-11), seizure memo of underwear (Ex.P-10) and the memorandum prepared at the instance of the accused-appellant (Ex.P-09), where P.W.01 Rekha (the prosecutrix) washing clothes at this very place. His testimony establishes the procedural steps taken during investigation. P.W.07 Dr. Pallavi singh (Medical Officer of the prosecutrix) stated that no external injuries were found on the body of the prosecutrix; however, this by itself does not negate the allegation of rape.

33. P.W.08 Dr. Gangu Jivaji Parmar, who conducted the potency test of the accused-appellant, opined that the accused-appellant was capable of performing sexual intercourse. The medical report of potency is Ex.P-13 and the FSL report is Ex.P-14.

34. P.W.09 Satyanarayan proved the forwarding of samples to the FSL and the relevant documentation (Ex.P-15), establishing proper chain of investigation done by the Investigating Agency.

35. P.W.10 Parvat Singh, the Investigating Officer, proved the registration of FIR (Ex.P-01), preparation of site plan (Ex.P-02),

seizure of articles (Ex.P-04 and Ex.P-10), recording of statements, arrest of the accused (Ex.P-11), and sending of samples for FSL examination (Ex.P-17). His testimony supports the fairness of the investigation. P.W.11 Baldhari Singh corroborated the arrest and seizure proceedings.

36. P.W.12 Bhanwarlal, the *Malkhana* in-charge, proved the safe custody of seized articles and their dispatch to the FSL, maintaining the chain of evidence. P.W.13 Gopal Nath proved the filing of the charge-sheet after completion of investigation. During cross-examination, P.W.13 stated that it is true that the statements of the witnesses recorded in the case file were not personally recorded by him and that the samples related to the accused's potency were not collected by him, but he stated that it is incorrect to suggest that there was a love affair between the accused-appellant and the prosecutrix. P.W.14 Deshraj proved the delivery of sealed samples to the FSL, Udaipur and receipt thereof (Ex.P-18).

37. Upon careful consideration of the evidence on record, it is observed that nothing material has emerged from the testimony of P.W.01, which may create any doubt that the accused-appellant did not engage in forcible sexual intercourse with the prosecutrix against her will. P.W.02, Devilal husband of the prosecutrix has deposed that the accused-appellant forcibly took away his wife and committed rape upon her against her will. His testimony stands duly corroborated on material particulars, and nothing has been elicited in his cross-examination so as to cast doubt on his credibility. P.W.04, Modulal, in his cross-examination, has clarified

that it is incorrect to suggest that the place where people bathe on the rock is visible from the *puliya*; rather, there exist *Babool* trees and other vegetation in between, obstructing visibility. He has further denied the suggestion that his thumb impression was obtained by the police on a blank paper.

38. P.W.06-Ramesh chandra has proved that on 23.08.2018, while he posted as a Constable at Police Station Bhainsrorgarh, the accused Rupa @ Ruplal Bhil was arrested in connection with Case No. 61/2018 lodged under Section 376 IPC in his presence and in the presence of Constable Baldhari Singh. He has further deposed that on the same day, the underwear worn by the accused-appellant at the time of the incident was also seized. He has also proved that pursuant to the information furnished by the accused-appellant under Section 27 of the Indian Evidence Act, the investigating agency proceeded to the place of occurrence near a *Khal*, where the accused-appellant pointed out the exact spot of the incident. The memorandum of site identification (Exhibit P-09), the seizure memo of the underwear (Exhibit P-10), and the arrest memo (Exhibit P-11) have been duly proved by this witness, bearing his signatures at the relevant places. Thus, the arrest of the accused-appellant, recovery of incriminating articles, and identification of the place of occurrence stand duly established through his testimony.

39. As per the FSL report (Exhibit P-14), human semen was detected on the underwear seized from the accused-appellant. This scientific evidence lends further corroboration to the prosecution case. With regard to the contention concerning the

prosecutrix being habituated to sexual intercourse, it is observed that the prosecutrix is a married woman, and such a consideration is immaterial in determining the question of consent. Dr. Pallavi Singh (P.W. 07), the Medical Officer, has stated that no external injury marks were found on the body of the prosecutrix. However, absence of injuries is not decisive, particularly when the prosecutrix has consistently and unequivocally stated in her deposition recorded under Section 164 Cr.P.C., and in the First Information Report that the accused-appellant forcibly abducted her and committed rape upon her against her will and without her consent. The prosecutrix has also categorically denied any prior relationship or consensual involvement with the accused-appellant Ruplal, and has duly identified the place of occurrence. The medical evidence further establishes that the accused-appellant was capable of performing sexual intercourse.

40. From the cumulative appreciation of the evidence, particularly the cogent and reliable testimony of the prosecutrix, which stands corroborated by surrounding circumstances and other prosecution witnesses, it is evident that the accused-appellant committed sexual intercourse with the prosecutrix against her will and without her consent. The minor discrepancies and absence of injuries do not go to the root of the case so as to discredit the prosecution version. The defence has failed to probabalise its case or create any reasonable doubt.

41. In view of the foregoing discussion, the prosecution has successfully established the guilt of the accused-appellant Roopa @ Roop Lal Bheel, for committing the offence punishable under

Section 376 IPC beyond reasonable doubt. The learned trial court thus has rightly convicted and sentenced the accused-appellant for commission of the aforesaid offence.

42. On the question of quantum of sentence, we have also heard learned counsel for accused-appellant and have carefully considered the facts and circumstances of the case as well as the entire material available on record. We are of the considered view that the learned trial court has rightly passed the sentence against the accused-appellant and therefore no interference in the same is warranted.

43. In view of aforesaid discussions, we find no infirmity or perversity in the findings recorded by learned Additional District and Sessions Judge, Begun, District Chittorgarh below convicting and sentencing the accused-appellant for the offence under Section 376 of the IPC. Hence, impugned judgment of conviction and sentence dated 02.12.2024 is hereby upheld.

44. Accordingly, the present Criminal Appeal is dismissed.

45. Office is directed to send the record forthwith.

(CHANDRA SHEKHAR SHARMA),J (VINIT KUMAR MATHUR),J