



2026:AHC:124835-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

A.F.R.

Reserved on 17.04.2026

Delivered on 03.06.2026

CRIMINAL APPEAL No. - 6007 of 2018

Kiranpal Alias Kiran

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Dharmendra Kumar Chaubey, Ishwar Chandra Tyagi, Pravin Kumar Tiwari, Shiv Prasad
Counsel for Respondent(s)	: G.A.

In Chamber

**HON'BLE SIDDHARTHA VARMA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.**

(Per : Jai Krishna Upadhyay, J.)

1. This criminal appeal has been preferred by the accused appellant against the judgment and order dated 24.8.2018 passed by the Additional District & Sessions Judge-VIII/, Special Judge (POCSO Act), Muzaffarnagar in Special Session Trial No. 151 of 2015 (State vs. Kiranpal @ Kiran), arising out of Case Crime No. 660 of 2014, Police Station Nai Mandi, District Muzaffarnagar, convicting the appellant for the offences punishable under Sections 376, 323 of IPC and 5/6 POCSO Act and

sentencing him to undergo rigorous imprisonment of life and a fine of Rs. 25,000/- under Section 6 POCSO Act and to undergo six months imprisonment for the offence under Section 323 of IPC.

2. All the sentences were directed to run concurrently with default clause.

3. The facts of the case, in nutshell, as unfolded by the informant Tejvir Singh son of Samey Singh in the First Information Report (in short 'F.I.R.') are that in the night of 8/9.7.2014, the informant along with his wife Nirmala was sleeping near the animals and inside the house, the informant's sister, Satviri was sleeping with her children Komal and Chhotu and the informant's daughter, victim, who was about 10 years old. During the night, an unidentified individual abducted the daughter of the informant. In the morning, when victim was not found on her cot, the informant and his family members searched for her and at about 5:30 AM, the informant's neighbor, Ompal Prajapati, brought the victim home and reported that he had found the girl near the school and he noted that her condition was poor and it appeared that the child had been raped and subjected to physical injury.

4. On the basis of the written report (Ext. ka-1), chik First Information Report was registered at Police Station concerned on 9.7.2014 as Case Crime No. 660 of 2014, under Sections 376, 323 IPC and $\frac{3}{4}$ POCSO Act. After lodging of the FIR, the informant gave another report (tehrir) to the effect that in the night of 8/9.7.2014, he had filed a complaint against unknown persons regarding the rape and physical assault of her daughter, victim. On July 9, 2014, when his daughter regained consciousness, she uttered the name "Kiran." He then asked her whether

the incident had been perpetrated by Kiran, Sukhbir's son-in-law, who belongs to the 'Bhangi' community. Upon hearing this, tears welled up in his daughter's eyes, and she lost consciousness once again. He was now fully convinced that the crime was committed by Kiran, who resides right in his neighborhood. It was also possible that another young man was involved in the incident alongwith him.

5. Investigation in the matter was initiated by S.I. Jitendra Kumar Sharma. He inspected the place of occurrence and prepared site plan (Ext. ka-8). The Investigating Officer recorded the statement of the witnesses. Injured was medically examined and injury report was prepared. Statements of the victim under Sections 161 and 164 CrPC were also recorded. Memo in regard to pant shirt and underwear of the accused and kurti and salwar of the victim was prepared and sent for FSL. Memo in regard to plain soil and bloodstained soil was also prepared and the same were also sent for FSL.

6. On medical examination of the victim, following internal injuries were found :

- "1. *Both labia minora were red from the inner side.*
2. *Redness was present on the vestibule.*
3. *Hymen 'vaginal membrane' was lacerated at the 6 o'clock position. On touching, a drop of blood was oozing.*
4. *Posterior commissure/fourchette was red and on touching, blood was oozing.*
5. *Redness was present on the fossa navicularis, it was lacerated.*
6. *Periurethral redness was present.*
7. *Bleeding spotting stains were appearing."*

7. In the opinion of the doctor, the possibility of sexual assault could not be ruled out.

8. After completing the investigation, charge-sheet (Ext. ka-12) against the accused appellant was submitted before the concerned Magistrate and he took the cognizance. The case being exclusively triable by session court, was committed to the Court of sessions.

9. Accused-appellant appeared and charges under Sections 376, 323 of IPC and 5/6 POCSO Act were framed. Accused had denied the charges framed against him and pleading not guilty claimed his trial.

10. Trial proceeded and in order to prove its case on behalf of prosecution, six witnesses, namely, PW-1, Tejvir Singh (informant), PW-2 victim girl, PW-3 Dr. Abha Aatrey, PW-4 Dr. Vineet Kaushik and PW-5 S.I. Jitendra Kumar Sharma, were examined.

11. In documentary evidence, written report Ex. ka.-1, another written report Ext. ka-2, medical examination report Ext. ka-3, reference slip of victim Ext. ka-4, supplementary medical examination report Ext. ka-5, x-ray report Ext. ka-6, site plan Ext. ka-8, memo regarding kurta of victim Ext. ka-9, memo plain and bloodstained soil Ext. ka-10, site plan of place of occurrence Ext. ka-11, memo regarding clothes of accused Ext. ka-12, charge sheet Ext. ka-12, chik FIR Ext. ka-13, copy of G.D. entry Ext. ka-14, and FSL report have been proved.

12. P.W.-1 - Tejveer Singh has fully proved the prosecution version as taken in the First Information Report.

13. P.W.-2 the victim, with whom the offence is alleged to have been committed by the accused was examined. This witness had clearly stated in her evidence that on

the day of the incident, she was sleeping in her house. Her Bua and her siblings were sleeping near her. Her mummy and papa were sleeping in the house. At around 12.00 midnight, Kiran, who is her neighbour in the village, came inside and abducted her to the village school. He removed her clothes and salwar, committed a bad act with her meaning thereby he raped her, and fled from there. She became unconscious. The next morning, she regained consciousness at her home. She further stated that her clothes were soiled with blood. She had recognized Kiran in the light of the electricity bulb. Her medical examination was conducted. In this manner, the most important witness of the present case, the victim P.W.-2, had fully proved the incident by her testimony. This witness was cross-examined in detail by the defence side, but no such fact emerged in her cross-examination which could have an adverse impact on her testimony.

14. PW-3 - Dr. Abha Aatrey had also been examined in the Court. This witness had clearly stated in her evidence that there were 11 injuries on the body of the victim, which were in the nature of abrasions and contusions. In relation to the internal examination of the victim, she had stated that the victim's vaginal membrane 'hymen' was lacerated. On touching, a drop of blood was oozing. This witness also stated in her testimony that the internal injuries of the victim are possible to be caused by a penis, and the injuries sustained by the victim were possible to have been caused sometime during the midnight of 8/9-7-2014. Thus, the prosecution version is fully supported by the oral testimony of P.W.-3.

15. PW-4 - Dr. Vineet Kaushik, Radiologist stated before the Court that he had conducted the X-ray of the victim for age determination and on the basis of which

the age of the victim was determined by the Chief Medical Officer to be about 07 years.

16. PW-5 – S.I. Jitendra Kumar Sharma is the Investigating Officer. This witness in his evidence before the Court had proved the investigation proceeding and various documents in this regard.

17. The prosecution has also filed the Forensic Science Laboratory (FSL) report from Agra on the record as Paper No. 16k/3, dated 16-9-2015, which relates to the clothes of the victim Sonam (kurta and salwar), wherein the fact of human blood being found has been recorded.

18. After closure of prosecution evidence the incriminating evidence and circumstances were put to the accused in his statement under Section 313 Cr.P.C. wherein he claimed the entire prosecution case as false and fabricated and he was falsely implicated due to enmity.

19. The learned trial court upon scrutiny of the evidence on record concluded that the case of prosecution was proved beyond reasonable doubt against the accused appellant and recorded conviction and sentenced him, as mentioned here-in-above. Hence, this appeal.

20. We have heard Shri Dharmendra Kumar Chaubey, learned counsel for the appellant and Shri C. B. Dhar Dubey, learned AGA for the State at length, and perused the entire record carefully.

21. Assailing the impugned judgment on various grounds, learned counsel appearing for the appellant submitted that the prosecution has not proved its case beyond reasonable doubt. Several glaring inconsistencies and contradictions that manifest on a bare reading of the oral evidence were brushed aside by the trial court. It has

been submitted that the impugned judgment and order is not sustainable under law. Learned counsel has further submitted that PW-1, informant, father of the victim, is not an eye witness. It has further been submitted that medical evidence does not support the prosecution case. Victim is not a reliable witness rather she is tutored witness. Several other submissions have been made on behalf of the appellant to demonstrate the falsity of the allegations made against him.

22. Learned A.G.A. has supported the impugned judgment and order and has stated that the judgment is well reasoned and well-discussed. Testimony of PW-1, informant and PW-2, victim is constantly consistent. PW-3 doctor has also stated that possibility of sexual assault cannot be ruled out. Therefore, medical evidence fully supports the oral version. Findings recorded by trial court in the impugned judgment and order are based on correct appreciation of facts, evidence and law and do not suffer from any infirmity or illegality warranting interference by this Court.

23. We have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the impugned judgment and order carefully.

24. Before dealing with the submissions, we consider it appropriate to revisit the law laid down by the Hon'ble Apex Court regarding the weight to be attached to the testimony of the victim in matters involving sexual offences where the prosecution's case hinges on the victim's evidence.

25. The law on the point is settled that if the evidence of victim of offence of rape is found to be wholly reliable, the same can be made basis for conviction.

26. The Hon'ble Apex Court in the case of **State of Rajasthan Vs. Babu Meena reported in (2013) 4 SCC 206** wherein Hon'ble Apex Court has observed in para 9 as under:-

"We do not have the slightest hesitation in accepting the broad submission of Mr. Jain that the conviction can be based on the sole testimony of the prosecutrix, if found to be worthy of credence and reliable and for that no corroboration is required. It has often been said that oral testimony can be classified into three categories, namely (i) wholly reliable, (ii) wholly unreliable and, (iii) neither wholly reliable nor wholly unreliable. In case of wholly reliable testimony of a single witness, the conviction can be founded without corroboration. This principle applies with greater vigour in case the nature of offence is such that it is committed in seclusion. In case prosecution is based on wholly unreliable testimony of a single witness, the court has no option than to acquit the accused."

27. In the case of **Hem Raj S/o Moti Ram V. State of Harayana reported in JT 2014 (2) SC 399**, the Hon'ble Apex Court has again considered this aspect and has observed in paragraph no. 6 as under:-

"In a case involving charge of rape the evidence of the prosecutrix is most vital. If it is found credible; if it inspires total confidence, it can be relied upon even sans corroboration. The court may, however, if it is hesitant to place implicit reliance on it, look into other evidence to lend assurance to it short of corroboration required in the case of an accomplice. [State of Maharashtra v. Chandraprakash Kewalchand Jain [JT 1990 (1) SC 61 : 1990 (1) SCC 550]]. Such weight is given to the prosecutrix's evidence because her evidence is on par with the evidence of an injured witness which seldom fails to inspire confidence. Having placed the prosecutrix's evidence on such a high pedestal, it is the duty of the court to scrutinize it carefully, because in a given case on that lone evidence a man can be sentenced to life imprisonment. The court must, therefore, with its rich experience evaluate such evidence with care and circumspection and only after its conscience is satisfied about its creditworthiness rely upon it."

28. The Apex Court in **State of H.P. Vs. Asha Ram, (2005) 13 SCC 766**, has observed in para-5, which reads as under:-

"5. We record our displeasure and dismay, the way the High Court dealt casually with an offence so grave, as in the case at hand, overlooking the alarming and shocking increase of sexual assault on minor girls. The High Court

was swayed by the sheer insensitivity, totally oblivious of the growing menace of sexual violence against minors much less by the father. The High Court also totally overlooked the prosecution evidence, which inspired confidence and merited acceptance. It is now a well-settled principle of law that conviction can be founded on the testimony of the prosecutrix alone unless there are compelling reasons for seeking corroboration. The evidence of a prosecutrix is more reliable than that of an injured witness. The testimony of the victim of sexual assault is vital, unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty in acting 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. It is also a well-settled principle of law that 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 the given circumstances. The evidence of the prosecutrix is more reliable than that of an injured witness. Even minor contradictions or insignificant discrepancies in the statement of the prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case."

29. The Apex Court in **Ganesan Vs. State represented by its Inspector of Police, (2020) 10 SCC 573**, while considering the judgments of *Vijay v. State of M.P.*, (2010) 8 SCC 191, *State of Maharashtra v. Chandraprakash Kewalchand Jain*, (1990) 1 SCC 550, *State of U.P. Vs. Pappu*, (2005) 3 SCC 594, *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384, *State of Orissa v. Thakara Besra*, (2002) 9 SCC 86 and *Krishan Kumar Malik v. State of Haryana*, (2011) 7 SCC 130 has observed that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient, provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.

30. In the case of **Phool Singh v. State of Madhya Pradesh, (2022) 2 SCC 74**, the Apex Court has considered the judgment of *Sham Singh vs. State of Haryana*, (2018) 18 SCC 34, wherein the Apex Court has observed that the testimony of the victim 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 the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable.

31. Thus, the law that emerges on the issue is that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court can record conviction of the accused on the sole testimony of the prosecutrix.

32. In the case in hand, PW-2, the victim in her testimony had categorically stated that on the day of the

incident, she was sleeping in her house and about 12.00 midnight, Kiran came inside and abducted her to the village school. He removed her clothes and salwar, committed rape with her and fled from there. She became unconscious. The next morning, she regained consciousness at her home. She further stated that she had recognized Kiran in the light of the electricity bulb. PW-2, the victim had fully proved the incident by her testimony. This witness was cross-examined in detail by the defence side but she stood firm.

33. PW-1, informant – father of the victim has also supported the prosecution story.

34. PW-3 - Dr. Abha Aatrey had clearly stated in her examination before the Court that the victim's vaginal membrane 'hymen' was lacerated. On touching, a drop of blood was oozing. This witness also stated in her testimony that the internal injuries of the victim are possible to be caused by a penis, and the injuries sustained by the victim were possible to have been caused sometime during the midnight of 8/9-7-2014.

35. Applying the principle of law to the facts of the case at hand, in the backdrop of the prosecution evidence, in our view, the prosecution version is proved beyond reasonable doubt. The victim PW-2 informed her father PW-1 in the morning on returning home. The prosecutrix with clarity stated and identified the appellant- accused of having committed the offence of rape. The offence is duly corroborated by the testimony of the doctor PW-3. The statement of the victim is consistent right from the starting point till the end. Her evidence is natural and consistent with the case of the prosecution qua the accused. She is 'sterling witness'.

36. Further, the POCSO Act had been enacted to provide more stringent punishments for the offences of various kinds against the child. The crime committed by the appellant is very gruesome which calls for very stringent punishment. The impact of the obnoxious act on the mind of the minor victim will be life long. The impact is bound to adversely affect the healthy growth of the victim. There is no dispute that the age of the victim was less than twelve years at the time of the incident.

37. In view of the above discussions and considering the totality of the facts and circumstances of the case, medical examination report, testimony of the prosecutrix, we do not find any substance in the arguments of learned counsel for the appellant. The prosecution has fully proved its case beyond reasonable doubt. The impugned judgment and order of conviction and sentence dated 24.8.2018, which has been sought to be assailed, calls for no interference.

38. Accordingly, the criminal appeal is hereby **dismissed** and the impugned order is affirmed. Appellant is in jail. He shall serve the remaining sentence.

39. Office is directed to send a copy of this judgment along with trial court record to the court concerned forthwith for immediate compliance.

(Jai Krishna Upadhyay,J.) (Siddhartha Varma,J.)

June 03, 2026
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