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2026:DHC:9974

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on:*** ***03.11.2026***
Pronounced on: ***06.11.2026***
Uploaded on: ***06.11.2026***

CNR No. DLHC011141772014

\+ CRL.A. 1050/2014

NARAYAN .....Appellant

Through: Mr. Pradeep Kumar Sharma, Mr. Agam Sharma and Ms. Charvi Kwatra, Advs.

versus

STATE .....Respondent

Through: Mr. Satinder Singh Bawa, APP with SI Monika, PS Bhalswa Dairy.
Ms. Astha, Advocate [DHCLSC] with Ms. Megha Singh, Advocate for prosecutrix.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.

1. The present appeal has been filed under Section 374 of the Code of Criminal Procedure, 1973 ["**Cr.P.C.**"], against the judgment of conviction dated 09th May, 2014 ["**impugned judgment**"] and the

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order on sentence dated 10th May, 2014 passed by the learned Additional Sessions Judge, Special Fast Track Court, North West District, Rohini Court ["**Trial Court**"], in SC no. 111/2013 arising out of case FIR no. 162/2012 registered at Police Station Bhalswa Dairy ["**PS**"] under Sections 376/323 of the Indian Penal Code, 1860 ["**IPC**"].

2. The factual matrix of the present case as under:-

i) It is the case of the prosecution that on 10th November, 2012, at about 12:00 noon, while the prosecutrix was present at her house, the appellant, whom she had known for approximately two years as he used to visit her husband, came to her house on the pretext that he had spoken to her husband and had come to purchase their motorcycle. The prosecutrix made him sit in a room where she was residing and went to fetch water for him. Upon her return, the appellant caught-hold of her hand, pushed her onto the bed and forcibly committed sexual intercourse with her against her consent. Thereafter, he poured some unknown chemical into her private parts. Owing to a sense of shame, prosecutrix did not immediately disclose the incident to anyone. However, on experiencing burning sensation in her private parts, she went to Base Hospital, where, she received first aid.

ii) Police came at the Base Hospital, and from there, prosecutrix was shifted to BJRM Hospital, where, her internal medical examination was conducted. Thereafter, she was brought to the police station, where, her statement [**Ex. PW-13/A/Mark PX-1**] was recorded.

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iii) On the basis of her statement and the medical examination, FIR No. 162/2012, under Section 323 and 376 IPC [**Ex.PW-1/A**] was registered.

iv) The appellant was arrested on the identification of the complainant on 12th September, 2012. His medical examination *vide* MLC [**Ex. PW-4/A**] was conducted at BJRM Hospital. Exhibits were seized and were later sent to Forensic Science Laboratory, Rohini ["**FSL**"] for examination.

v) Upon completion of investigation, charge sheet for the offences punishable under Sections 323 and 376 IPC was filed against the appellant before the Trial Court.

vi) Charges under Section 376/324 IPC were framed against the appellant on 22nd January, 2013, to which, he pleaded not guilty and claimed trial.

vii) In order to prove its case, prosecution examined 15 witnesses, including prosecutrix [PW-5], doctors who examined her at Base Hospital and BJRM Hospital [PW-3, PW-4 and PW-8], Senior Scientific Officers from FSL [PW-12 and PW-15] and the Investigating Officer [PW-13].

viii) Statement of the appellant/accused was recorded under Section 313 Cr.P.C., wherein, he stated that he was innocent. He chose not to lead any defence evidence.

ix) Upon conclusion of the trial, the learned Trial Court *vide* impugned judgment dated 09th May, 2014, convicted the appellant for the offences punishable under Section 376 and 324 IPC, holding that

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the prosecution has established its case through cogent and reliable evidence and succeeded in proving the guilt of the appellant beyond reasonable doubt, leaving no room for any hypothesis consistent with his innocence.

x) *Vide* order dated 10th May, 2014, the appellant was sentenced to undergo Rigorous Imprisonment for ten years with a fine of Rs. 20,000/-, in default of payment thereof, to undergo further Rigorous Imprisonment for two years for the offence under Section 376 IPC. He was further sentenced to undergo Rigorous Imprisonment for three years with a fine of Rs. 5,000/-, and in default of payment thereof, to undergo further Rigorous Imprisonment for six months for the offence under Section 324 IPC. It was directed that the substantive sentences shall run concurrently.

3. Aggrieved by the impugned judgment and the order on sentence, the appellant preferred the present appeal.

Submissions on behalf of the Appellant:

4. The learned counsel for the appellant submitted that the impugned judgment of conviction suffers from serious errors in the appreciation of evidence, inasmuch as, the prosecution has failed to establish the charge of rape. It was contended that the prosecutrix, examined as PW-5, had turned completely hostile and did not support the prosecution's case in material particulars. Despite being confronted with her previous statements, she categorically denied having made the allegations attributed to her and resiled from the prosecution version.

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5. The learned counsel submitted that the prosecutrix completely denied the averments recorded in the FIR and the previous statement recorded under Section 161 Cr. PC, and therefore, her testimony could not have been treated as reliable evidence to sustain the conviction. Reliance was placed upon the judgment of the Supreme Court in the case of ***Jayantibhai Chaturbhai Patel v. State of Gujarat***, 2025 SCC OnLine SC 2822, wherein, the Hon'ble Supreme Court, in a case involving allegations of sexual assault, set aside the conviction after taking note that the prosecutrix had turned hostile and the allegations were not substantiated by cogent medical evidence. It was submitted that merely because allegations had been levelled in the FIR or were reiterated by the Investigating Officer, the same could not be treated as proved, unless established through admissible and reliable evidence during the trial.

6. The learned counsel further argued that there is a considerable delay in recording of the FIR, inasmuch as, the incident allegedly took place on 10th September, 2012 at about 12:00 noon, whereas, the FIR was registered on 11th September, 2012. It was submitted that the prosecutrix, who was aged about 48 years at the relevant time, admittedly knew the appellant for the last about two years, yet she did not immediately disclose the incident to her husband, neighbors or other family members, including her four major children. The first narration of the alleged sexual assault was made before the doctor at Base Hospital (PW-3) on 11th September, 2012 at about 10:00 am.

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7. The learned counsel further submitted that the prosecutrix admitted the presence of tenants at the ground floor of her house, including one Sushila, who would have been material witnesses to the circumstances surrounding the alleged incident. However, neither the said tenant nor any independent witness was examined by the prosecution. Admittedly, the statement of the said tenant was not recorded even by the police. No photographs of the alleged place of occurrence were taken and nothing was seized from the spot. It was further pointed out that prosecutrix herself met her husband only on 16th/17th September, 2012, nearly five to six days after the alleged incident, which, according to learned counsel, was another circumstance requiring consideration while assessing the overall probability of the prosecution version.

8. It was further argued that the medical and scientific evidence, do not establish the commission of rape. The first MLC [Ex. PW-3/A], prepared at the Base Hospital after examination of the prosecution, does not record any fresh injury on her person, while the second MLC [Ex. PW-4/B], prepared at BJRM Hospital, reveal only two superficial abrasions on either side below the neck, with no other external injuries on the body or private parts of the prosecutrix. It was further submitted that MLC [Ex. PW-4/A] of the appellant also does not record any fresh external injury on his person. Accordingly, it was submitted that the absence of injuries on the body of the appellant and any significant injury on the person of the prosecutrix, were relevant circumstances, which the Trial Court failed to properly appreciate

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while determining whether the alleged act was committed forcibly and against the will of the prosecutrix.

9. It was argued that the learned Trial Court selectively relied upon the testimony of PW-8 Dr. Latika to hold that there were scratch marks over right and left side of the neck extending towards the chest, even though, PW-4 admitted that the superficial abrasions on the neck could have been caused due to shrugging of clothes. It was argued that such observation of the doctor in cross examination with the absence of injuries on any other part of the prosecutrix, could not have been ignored and the appellant was entitled to the benefit of doubt.

10. The learned counsel further submitted that the FSL and DNA reports [Ex. PW-12/C], at best, establish a DNA match between the blood sample of the appellant [Exhibit 4] and the cloth piece/bed-sheet recovered from the house of the prosecutrix [Exhibit 1/A]. Even if the said evidence establishes the sexual contact between the parties, it does not, by itself, establish that such contact was without the consent of the prosecutrix. It was emphasized that the version of the prosecutrix in the FIR was that appellant was sitting the room, while she had gone to fetch the water and therefore mere recovery of some DNA material, cannot be treated as conclusive proof of rape.

11. The learned counsel further drew attention to the Chemical Examination Report [Ex. PW-15/A], which did not detect hydrochloric acid, sulphuric acid, nitric acid or any other such chemical substance in the exhibits, including the vaginal swabs, vaginal secretions, pubic hair clippings, nail scrapings and other

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samples collected from the prosecutrix. No semen traces or chemical was detected from her body. It was submitted that the Chemical Examination Report was particularly significant because the initial allegation was that the appellant had poured some unknown chemical substance on the private parts of the prosecutrix. It was thus argued that the learned Trial Court, instead of appreciating the absence of any chemical substance, sought to explain it away by observing that the prosecutrix had taken a bath, douched or might have urinated several times. Such a reasoning was speculative and cannot substitute the absence of corroborative scientific evidence.

12. The learned counsel for the appellant lastly contended that the impugned judgment demonstrates a fundamental misreading of the evidence and an impermissible shifting of the burden of proof upon the appellant. It was submitted that the Trial Court, in its impugned judgment, incorrectly characterized the testimonies of PW-3, PW-4 and PW-8 as clear, cogent and reliable, despite there being no medical opinion from these witnesses, which conclusively supported the prosecution case of forcible sexual intercourse. Furthermore, it was submitted that the learned Trial Court failed to appreciate that appellant had no external injury on his person, particularly when, the prosecution case is that the act had been committed forcibly. With respect to the DNA evidence, learned counsel submitted that the learned Trial Court erroneously placed the obligation upon the appellant to explain as to how and under what circumstances the allelic data from his blood sample came to be accounted for in the

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mixed allelic data from the source of Exhibit 1-A [cloth piece/bed sheet], thereby, shifting the burden of proof onto the accused. It was further argued that the learned Trial Court committed a serious error in the impugned judgment by drawing an adverse inference against the appellant for not having cross examined the prosecutrix [PW-5], despite her having turned hostile and denying the material allegations against him. The Trial Court thereafter presumed that sexual intercourse had taken place merely from the appellant's admitted presence in the house and the presence of his DNA on the bed sheet and further concluded that such intercourse was forcible by relying upon the superficial abrasions on the neck of the prosecutrix, while ignoring the opinion of PW-4 that the injuries could have been caused by shrugging of clothes and the absence of injuries elsewhere either on the person of the appellant or the prosecutrix. It was contended that the findings of the learned Trial Court were thus based on selective appreciation of evidence and could not sustain a conviction for rape.

Submissions on behalf of the State & Prosecutrix:

13. *Per contra*, the learned Additional Public Prosecutor [“**APP”**] for the State, supported by the learned counsel, appointed by the Delhi High Court Legal Services Committee (**DHCLSC**) to protect the interest of the prosecutrix, supported the impugned judgment of conviction. It was submitted that the findings returned by the learned Trial Court are based on a proper appreciation of the oral, medical and scientific evidence available on record and do not warrant any interference. It was contended that merely because the prosecutrix

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resiled from her earlier version during her deposition before the Court, would not, by itself, render the entire prosecution case doubtful, particularly when, the material allegations stand corroborated by independent medical and scientific evidence. The learned APP submitted that the DNA analysis and the FSL reports establish independently, the presence of the appellant's DNA on the cloth piece/bed-sheet Exhibit 1A, thereby, lending corroboration to the prosecution case regarding the commission of sexual intercourse. It was further submitted that the injuries noticed on the neck of the prosecutrix and the testimonies of the examining doctors lend support to the prosecution version regarding the use of force.

14. It was argued that the evidence has to be appreciated cumulatively and the testimony of the prosecutrix cannot be considered in isolation from the surrounding circumstances and the scientific evidence on record. The learned APP further pointed out that the presence of appellant inside the house of the prosecutrix at the relevant time, was not disputed by him and the scientific evidence, establishing his biological connection with the material recovered from the place of occurrence, assumes significance in this regard. It was therefore contended that the learned Trial Court had rightly relied upon the cumulative effect of the medical, scientific and other circumstantial evidence to conclude that the prosecution was able to establish the guilt of the appellant beyond reasonable doubt. Accordingly, it was prayed that the appeal be dismissed and the impugned judgment of conviction be upheld.

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Analysis and Conclusion:

15. Having heard the learned counsels for the parties and having gone through the evidence led by the prosecution before the Trial Court, the main question for consideration in the present appeal before this Court, is whether the prosecution has been able to establish beyond reasonable doubt that the appellant had committed sexual intercourse with the prosecutrix against her consent and further caused hurt to her by administering an unknown chemical substance.

16. The prosecution case primarily rests upon the initial allegations attributed by the prosecutrix against the appellant, the medical evidence [MLCs Ex.PW-3/A and Ex.PW-4/B], the DNA analysis [Ex.PW-12/C] and the surrounding circumstances. However, the most significant aspect of the case is that the prosecutrix, who was the star witness of the prosecution being the victim herself, did not support the prosecution version. She was examined as PW-5 before the learned Trial Court, and in such testimony, she deposed that on 10th September, 2012 at about 12.00 – 12.30 pm, while she was present at the first floor of her house, appellant Narayan Pradhan came to her house. He told her that he has talked to her sons for the purchase of motorcycle. She asked him to sit in the room and to have water. He accordingly sat in the room. She gave him a glass of water and thereafter a cup of tea. She deposed that a quarrel was going on between her neighbors and therefore she left from there, and by the time she came back, appellant Narayan had already left. She further stated that she consumed tea in the kitchen and thereafter felt

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giddiness and went to sleep. She woke up after 4-5 hours. She started feeling itching in her private parts and went to Base Hospital, where, doctor medically examined her. She deposed that she had told the doctor whatever she had stated before the Court. She stated that police came from PS Bhalaswa Dairy and took her to Jahangirpuri Hospital and also took the accused to the police station. She further stated that she was not aware, whether police had recorded her statement. According to her, her signatures were obtained by the police on some papers. She categorically stated that appellant Narayan had not done anything wrong with her.

17. PW-5 was declared hostile and was cross examined with the permission of the Court. In such cross examination, she was confronted with her previous statement under Section 161 Cr. PC. However, she categorically denied the allegation attributed to the appellant by her in the statement mark PX-1/Ex. PW 13/A. She denied having made the allegations contained in the FIR. The lengthy cross examination by the learned APP has been of no help in establishing that the appellant committed sexual intercourse with her against her will or had administered any chemical substance in her private parts.

18. It is a settled law that the testimony of the prosecutrix in a case involving sexual offences, ordinarily deserves great weight, and where found trustworthy and reliable, can form the basis of conviction even without corroboration. Equally, however, where the prosecutrix turns hostile and disowns the material allegations, the Court is required to carefully examine whether the remaining evidence independently

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establishes the ingredients of the alleged offence. The previous statement of the prosecutrix Mark PX-1/Ex.PW-13/A cannot be treated as substantive evidence of the facts stated therein.

19. The Court is conscious that the mere fact that prosecutrix did not support the prosecution case, cannot automatically result in the acquittal of the accused, inasmuch as, the part of the testimony of even a hostile witness coupled with the other admissible evidence, may still be relied upon. Prosecutrix having turned hostile, the prosecution was required to establish through other reliable evidence that the alleged sexual act was committed without the consent of the prosecutrix. The mere fact that the appellant was present inside the house at the relevant time is not by itself sufficient to establish the commission of rape. The absence of any statement of the prosecutrix under Section 164 Cr. P.C. is also a relevant factor, though, not independently fatal to the prosecution. The evidence must, therefore, be examined to determine whether the medical and scientific material on record bridges the gap created by the failure of the prosecutrix to support the prosecution version.

20. Coming to the medical evidence, PW-3 and PW-4 proved the medical records Ex.PW-3/A and Ex.PW-4/B, respectively. PW-3 deposed that the prosecutrix was brought to the hospital on 11th September, 2012 at about 10:00 AM with the alleged history of sexual assault and injection of some substance into her genital area at her house on 10th September, 2012 at about 12:00 noon, and that the assailant was known to her for the preceding two years. PW-4 deposed

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that the prosecutrix was examined by Dr. Shabir under his supervision, noted two curvilinear superficial abrasions, one on either side just below the neck, and referred her for gynecological examination. PW-8 Dr. Latika, who conducted the gynecological examination, also noticed scratch marks on both sides of the neck extending towards the chest. However, no other signs or symptoms of injury were found, and the external genitalia were healthy with no signs of injury. Significantly, PW-4 admitted in cross-examination that injuries of the nature recorded in Ex.PW-4/B could be caused by the shrugging of clothes, although their precise cause would depend upon the manner in which the clothes were worn or used. Further, the MLC of the appellant, Ex.PW-4/A, recorded that no fresh external injury was present on his person. Thus, the medical evidence establishes the presence of superficial abrasions on the neck of the prosecutrix but does not conclusively establish that they were caused by the use of force during a sexual assault.

21. It is well settled that the absence of injuries, either on the prosecutrix or the accused, is not by itself decisive of the question whether rape was committed; nevertheless, in the peculiar facts of the present case, where the prosecutrix herself has denied the allegations, the limited nature of the injuries and the medical witness's admission regarding their possible alternative cause assume relevance. The Trial Court, while relying upon these abrasions as indicative of the use of force, failed to adequately consider the possibility of their having been caused in the manner suggested in cross-examination. Consequently,

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the medical evidence cannot be treated as sufficient independent corroboration of the allegation that the sexual act, if any, was committed against the will of the prosecutrix.

22. The scientific evidence, particularly the DNA analysis report Ex.PW-12/C, has also been relied upon by the Trial Court to conclude that the appellant had committed sexual intercourse with the prosecutrix. PW-12 Ms. L. Babyto Devi proved the DNA reports Ex.PW-12/A and Ex.PW-12/C, along with the corresponding allele data Ex.PW-12/B and Ex.PW-12/D. The report Ex.PW-12/C establishes a DNA match between the appellant's blood sample, marked as Exhibit 4, and the cloth piece/bed sheet, marked as Exhibit 1/A; however, the evidentiary value of this finding has to be appreciated in its proper perspective. Even assuming that the presence of the appellant's biological material on the bed sheet establishes sexual contact, it does not, by itself, establish that such contact was without the consent of the prosecutrix. The distinction between proof of sexual intercourse and proof of rape is fundamental, and the former cannot automatically lead to the conclusion that the latter has been established. It is also relevant that the presence of the appellant's DNA on the bed sheet may be consistent with his presence in the house, which is an admitted position and is not disputed by the appellant. In the absence of reliable evidence independently establishing that the sexual act was without the consent of the prosecutrix, the DNA evidence cannot be treated as conclusive proof of rape. The Trial Court, therefore, fell into error in treating the DNA findings as

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sufficient to establish not merely the occurrence of sexual contact but also its alleged non-consensual nature.

23. There is yet another material aspect concerning the allegation that the appellant had poured an unknown chemical substance into the private parts of the prosecutrix. PW-15 proved the Chemical Examination Report Ex.PW-15/A, which categorically records that hydrochloric acid, sulphuric acid and nitric acid were not detected in the exhibits sent for examination, including the samples collected from the prosecutrix. No chemical substance corresponding to the allegation was detected in the samples examined, thereby lending no scientific support to the averment that any such substance had been administered/poured. Further, the prosecutrix herself did not support the allegation of forcible sexual intercourse or the administration of any chemical substance and categorically denied the allegations attributed by her in her earlier statements. The Trial Court sought to explain the absence of chemical traces by observing that the prosecutrix might have taken a bath, douched or urinated several times after the incident. However, such an explanation remains speculative and is not supported by any specific medical or scientific evidence establishing that the alleged chemical substance had been washed away. More importantly, in the absence of any chemical traces in the samples examined and in view of the prosecutrix having disowned the allegation, the prosecution has failed to establish the administration of any such chemical substance. Nor is there any other reliable evidence connecting the appellant with the alleged act. In these circumstances,

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the prosecution has failed to prove beyond reasonable doubt that the appellant caused hurt to the prosecutrix by administering an unknown chemical substance.

24. This Court also finds considerable merit in the contention of the appellant that the Trial Court has proceeded on an erroneous appreciation of the evidence while returning the finding of guilt. The Trial Court drew an adverse inference against the appellant on account of his failure to cross-examine PW-5, without adequately appreciating that the prosecutrix had herself denied the material allegations and had not supported the prosecution case. The absence of cross-examination by the defence could not have been treated as an admission of allegations which the witness had categorically disowned in her examination-in-chief before the Court.

25. Further, the Trial Court placed an impermissible burden upon the appellant to explain the presence of his DNA on the bed sheet, overlooking that the initial burden of establishing every essential ingredient of the offence continued to rest upon the prosecution. The failure to explain the presence of biological material cannot, in the facts of the present case, substitute proof of absence of consent.

26. The prosecution also failed to examine the tenant of the prosecutrix, who was residing in the same house, and whose testimony could have provided relevant evidence or even clarity regarding the circumstances surrounding the alleged occurrence.

27. The cumulative effect of these omissions, the prosecutrix's categorical and absolute denial, and the inconclusive medical and

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scientific evidence creates substantial doubt regarding the prosecution's version. The circumstances relied upon by the Trial Court, even when considered collectively, do not form a complete and conclusive chain pointing towards the guilt of the appellant and excluding every reasonable hypothesis consistent with his innocence.

28. It must also be borne in mind that an offence under Section 376 IPC is undoubtedly grave and serious, carrying consequences of immense magnitude for both the accused and the victim. The seriousness of the offence, however, makes it all the more necessary for the prosecution to establish the charge through cogent and reliable evidence, and for the Court to carefully scrutinize the entire material before recording a finding of guilt. While the Court must remain sensitive to the trauma and dignity of the victim, it must equally ensure that an accused is not convicted on the basis of conjectures, assumptions or evidence that falls short of the standard of proof beyond reasonable doubt. A wrongful conviction in such a case would cause grave injustice to the accused, just as the failure to secure justice in a genuine case of sexual assault would cause grave injustice to the victim. The balance, therefore, lies in ensuring that neither the gravity of the allegation nor the sensitivity of the offence supplants the fundamental requirement of proof beyond reasonable doubt.

29. Accordingly, this Court is of the considered opinion that the prosecution has failed to establish the charges under Sections 376 and 324 IPC against the appellant beyond reasonable doubt. The findings returned by the learned Trial Court are based on an erroneous

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appreciation of the evidence, particularly in treating the presence of DNA as proof of non-consensual sexual intercourse and the superficial abrasions as conclusive evidence of force. The fact that the prosecutrix turned hostile would not, in isolation, be sufficient to discard the prosecution case, however, when considered alongside the absence of reliable independent and scientific evidence establishing the essential ingredients of the offences, it assumes considerable significance. The Trial Court has failed to give due weight to the material deficiencies and the absence of scientific corroboration concerning the alleged administration of a chemical substance. The conviction of the appellant, therefore, cannot be sustained merely on the basis of presumptions drawn from his presence at the house and the DNA findings relating to the bed sheet. The impugned judgment of conviction and the order on sentence dated 10th May, 2014 are accordingly set aside. The appellant is acquitted of all the charges framed against him, and the appeal is allowed.

30. Bail bond of the appellant is cancelled and surety bond stands discharged.

31. A copy of this judgment be sent to the learned Trial Court and Jail Superintendent for information and necessary compliance.

RAVINDER DUDEJA, J.

NOVEMBER 06, 2026/*NA*