2026 INSC 290

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1275 OF 2015

STATE OF HIMACHAL PRADESH ... APPELLANT(S)

Versus

HUKUM CHAND ALIAS MONU ... RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

1. The State of Himachal Pradesh, aggrieved by final judgment and order dated 3rd June 2014 in Criminal Appeal No 721 of 2008[1] whereby the learned Division Bench set aside the findings of guilt and consequent sentence returned by the District and Sessions

[1] Impugned judgment

Judge, Mandi[2] in Sessions Case No. 12 of 2008 in terms of the judgment dated 12th September 2008 and instead, entered a finding of acquittal against the respondent-accused, has preferred this appeal.

2. A nine-year-old girl was sent by her mother to fetch buttermilk bright and early in the morning of 27th August 2007, however, the brightness was soon extinguished. She was taken into a cowshed by the neighbour's son and sexually assaulted. Upon returning home, she described the horrifying incident to her mother and later in the day to her father, who was a *mason* by profession and worked elsewhere. He made a couple of phone calls, including one to the little girl's maternal uncle, who visited their home subsequently and they went and filed the First Information Report[3] with the police. The victim was medically examined, and her bloodstained clothes were handed over to the authorities. Upon conclusion of the investigation, the police filed a charge sheet under Sections 376, 201 of the Indian Penal Code,1860[4] and Section 3(xii)

[2] Trial Court
[3] FIR No. 355 of 2007 registered at PS Sunder Nagar
[4] IPC

of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989[5].

3. The Trial Court, having appreciated the testimony of sixteen witnesses for the prosecution and three for the defense, convicted the accused under Section 376 IPC and the offence under the SC/ST Act, and acquitted him under Section 201 IPC. The sentence awarded was rigorous imprisonment for ten years and a fine of Rs. 10,000/- for the former offence, with a further rigorous imprisonment of one year in default of payment of fine. For the latter offence, imprisonment of the same description for five years and a fine of Rs. 10,000/- with a further rigorous imprisonment of one year in default of payment of fine. To arrive at this conclusion, reliance was placed on the testimony of the victim, and its corroboration by subsequent witnesses such as her parents, the medical witnesses and also the person from whom she was sent to fetch buttermilk, altogether forming a web of factors pointing to the guilt of the accused-respondent.

[5] SC/ST Act

4. The impugned judgment reverses these findings. The sum and substance of the High Court's reasoning is that major contradictions in the witness testimonies have been ignored by the Trial Court. It was found that the prosecution version suffered from serious improbabilities. The prosecutrix had apparently gone to fetch *lassi* from a house that was about 8 kilometers away. This meant she would have had to travel approximately 16 kilometers to go and return within two hours, which appeared to the Court to be highly improbable. Next considered was the aspect of the acrimonious relationship between the two families in so far as alleged theft of grass and fuelwood from the accused's land. Importantly, a quarrel had taken place between the families on the very same day as the alleged incident. The prosecutrix herself admitted that her parents had cut grass from the accused's land that day and that tensions already existed. Further, the Court found material contradictions and inconsistencies in the statements of the prosecutrix, her mother, her father, and her maternal uncle. There were differences regarding how and when the incident was reported, who went where before lodging the FIR, and whether the maternal uncle came to the house or met them on the road. These inconsistencies were considered significant.

Still further, the Court also questioned the conduct of the prosecutrix's mother. She stated that she had become aware of the incident in the morning when she noticed bloodstains, yet no immediate report was made. Instead, the matter was disclosed only after the father returned home at night, and the FIR was lodged the next morning. The Court found this delay relevant in the overall evaluation of the case. With respect to the SC/ST Act charges, the Court noted that these provisions were not included in the original FIR. They were added later by the supervising officer. Similarly, Section 201 IPC was added later, even though the Investigating Officer did not find grounds for it during the initial investigation.

Although the medical evidence indicated that the prosecutrix had been exposed to a sexual act, the Court held that medical opinion alone could not be treated as substantive evidence. In view of the inconsistencies and surrounding circumstances, the medical evidence was not sufficient to sustain the conviction.

5. The State challenges the said judgment in these proceedings. At the outset, a disturbing fact must be acknowledged. The Legislature had as far back as 1983 introduced a provision into IPC seeking to protect the identity of the victim of the offence under

Section 376 IPC, in the aftermath of the ***State of Maharashtra v. Tukaram***[6]**.** The amendment was made apparently to address a specific mischief that emerged starkly from the way sexual offence cases were handled: the public disclosure of a survivor's identity. Before 1983, there was no statutory bar on publishing the name or particulars of a woman against whom a sexual offence was alleged; Court reporting and media coverage could expose survivors to social stigma, ostracism, and lifelong reputational harm. This perspective is reflected in academic discussions on the evolution of the law on sexual assault[7], which identify the 1983 amendments as marking the beginning of a victim-centred orientation in Indian criminal law; protections such as in-camera trials, evidentiary presumptions, and anonymity were designed to reduce the barriers and fears that previously discouraged reporting and effective prosecution of sexual offences. Clearly, the intent of this Section has been given a miss in these proceedings. The name of the victim is treated like that of any other witness and is freely used throughout the record. This must be deprecated in the strongest terms. In fact, this Court has

[6] (1979) 2 SCC 143
[7] Shruti Bedi, *The Indian Rape Law: Vocabulary of Protest, Reactionary Legislations and Quality of Equality Culture,* Udayana Journal of law and Culture, Vol 7 No.1, (2023) https://doi.org/10.24843/UJLC.2023.v07.i01.p01

noticed earlier also that the mandate of this provision is not being followed.

6. Moving further, it is important to note that this is a case of differing views from the Trial Court and the High Court. The effect of this Court interfering in this appeal would be that an acquittal would be set aside despite the well-established position that this Court is loath to interfere in acquittals unless the said conclusion has been arrived at in disregard of principles of law or on an entirely misdirected analysis of evidence leading to injustice. This Court recently in ***State of U.P. v. Ajmal Beg***[8], observed as follows:

> *"15. Having appreciated the provisions and the judgments as aforesaid, let us now proceed to consider whether, in view of the evidence, the High Court was justified in setting aside the findings of the Trial Court. However, prior to that we will undertake the task of examining the scope of this Court's power under Article 136 of the Constitution of India in criminal matters.*
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> *15.1 In Surajdeo Mahto v. State of Bihar, it was held:*
>
> *"25. It may be highlighted at the outset that although the powers vested in this Court under Article 136 of the Constitution are wide, this Court in a criminal appeal by special leave will ordinarily loath to enter into a fresh reappraisement of evidence and question the credibility of witnesses when there is a concurrent finding of fact, save for certain exceptional circumstances. While it is difficult to lay down a rule of universal application, it has been affirmed time and again that except*

[8] 2025 SCC OnLine SC 2801

> *where the assessment of the High Court is vitiated by an error of law or procedure, or is based on misreading of evidence, or is inconsistent with the evidence and thus has led to a perverse finding, this Court will refrain from interfering with the findings of the courts below."*
>
> *15.2 On a reading of various judgements, viz., Ramaniklal Gokaldas v. State of Gujarat, Nadodi Jayaraman v. State of T.N., Banwari Ram v. State of U.P., the generally accepted standard - which it ought to be stated, is not a rule - is that when the Courts below concurred, this Court does not enter into the reappreciation of the evidence, in a criminal case. In the present case, the Courts below have, in fact, arrived at opposite findings and as such, to set the matter to rest either by conviction or acquittal, this Court must analyse the evidence on record."*

The above observations were followed and referred in ***State of H.P. v. Chaman Lal***[9]**.**

7. Before proceeding further, however, it is important to also take note of principles *qua* appreciation of the testimony of child witnesses. In **S*tate of Rajasthan v. Chatra***[10] this Court through one of us, (Sanjay Karol J.,) formulated the following principles for the appreciation of the testimony of child witnesses:

> ***"22.*** *Recently, a coordinate Bench of this Court in State of M.P. v. Balveer Singh [State of M.P. v. Balveer Singh, (2025) 8 SCC 545] speaking through J.B. Pardiwala, J., considered a large number of prior decisions of this Court to lay down guidelines for the appreciation of the evidence of a child witness.*

[9] 2026 SCC OnLine SC 85
[10] (2025) 8 SCC 613

We have perused through the same. Reference can also be made to other judgments in State of M.P. v. Ramesh [State of M.P. v. Ramesh, (2011) 4 SCC 786 : (2011) 2 SCC (Cri) 493] ; Panchhi v. State of U.P. [Panchhi v. State of U.P., (1998) 7 SCC 177 : 1998 SCC (Cri) 1561] ; and State of U.P. v. Ashok Dixit [State of U.P. v. Ashok Dixit, (2000) 3 SCC 70 : 2000 SCC (Cri) 579] , etc.

23. *The principles that can be adduced from an overview of the aforesaid decisions, are:*

23.1. *No hard and fast rule can be laid down qua testing the competency of a child witness to testify at trial.*

23.2. *Whether or not a given child witness will testify is a matter of the trial Judge being satisfied as to the ability and competence of the said witness. To determine the same the Judge is to look to the manner of the witness, intelligence, or lack thereof, as may be apparent; an understanding of the distinction between truth and falsehood, etc.*

23.3. *The non-administration of oath to a child witness will not render their testimony doubtful or unusable.*

23.4. *The trial Judge must be alive to the possibility of the child witness being swayed, influenced and tutored, for in their innocence, such matters are of ease for those who may wish to influence the outcome of the trial, in one direction or another.*

23.5. *Seeking corroboration, therefore, of the testimony of a child witness, is well-placed practical wisdom.*

23.6. *There is no bar to cross-examination of a child witness. If the said witness has withstood the cross-examination, the prosecution would be entirely within their rights to seek conviction even solely relying thereon."*

(emphasis supplied)

An earlier instance in ***State of Himachal Pradesh v. Manga Singh***[11] is also noteworthy. It was held:

[11] (2019) 16 SCC 759

> *"**10.** The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law, but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix.*
>
> ***11.** It is well settled by a catena of decisions of the Supreme Court that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the "probabilities factor" does not render it unworthy of credence. As a general rule, there is no reason to insist on corroboration except from medical evidence. However, having regard to the circumstances of the case, medical evidence may not be available. In such cases, solitary testimony of the prosecutrix would be sufficient to base the conviction, if it inspires the confidence of the court.*

8. When it comes to inconsistencies and omissions in testimonies, which is one of the primary grounds on which the reasoning of the High Court rests, it is well recognised that human perception, memory and narration are imperfect. As such, the Court has consistently held that minor inconsistencies or trivial discrepancies in the testimony of witnesses do not by themselves make the evidence unreliable. In ***State of U.P. v. M. K. Anthony***[12], this Court explained that while appreciating evidence, courts must

[12] (1985) 1 SCC 505

not attach undue importance to minor discrepancies. Variations in trivial matters that do not affect the core of the case should not lead to rejection of credible testimony in its entirety. The evidence must be assessed as a whole to determine whether it carries the ring of truth. Similarly, in ***Appabhai v. State of Gujarat***[13], the Court cautioned against placing undue weight on minor contradictions or omissions. Truthful witnesses may differ in detail due to normal lapses of memory or differences in perception. The essential question is whether the inconsistencies materially compromise the backbone of the prosecution narrative. In ***State of Rajasthan v. Kalki***[14], the Court distinguished between normal discrepancies arising from errors of observation or memory and material discrepancies that go to the core of the case. Only the latter undermine the prosecution in a substantial manner. [See also: ***Rakesh v. State of Uttar Pradesh***[15]***]***

In conclusion, it may be said that a truthful witness may make honest mistakes or omit immaterial details, and such normal variation should not result in wholesale rejection of evidence. However, when omissions or contradictions relate to material facts

[13] 1988 Supp SCC 241
[14] (1981) 2 SCC 752
[15] (2021) 7 SCC 188

that form the foundation of the prosecution's version, they assume significance and may create reasonable doubt.

9. Keeping the aforesaid principles in view, we now move to the appreciation of evidence. We have perused all the testimonies. The following is a snapshot of the main witnesses:

PW-1, who is aged 9-10 years, is the victim/prosecutrix. In her examination-in-chief she has positively identified the accused-respondent as being present in Court, and he being the one who took her to the cow-shed and committed sexual assault on her. She described informing her mother and later father of the incident, and also the subsequent actions of the father leading to the registration of the FIR. Certain facts elicited in the cross-examination are that the parents of the victim and the accused respondent had quarreled several times over the alleged theft of grass. She has categorically denied the suggestion that she was not sexually assaulted and the injury to her private parts was a result of her mother's insertion of her finger, therein, in order to frame the accused. The one significant departure from the testimony of other witnesses, that can be noticed here is that she has specifically deposed qua the factum of the respondent accused's mother coming to PW-2, the mother of the prosecutrix and requesting her not to disclose this incident to the

villagers. However, this position has been specifically denied by DW-2, Phula Devi. Nothing has been discussed about the same in cross-examination.

PW-2, namely Roshani Devi, testified that the prosecutrix informed her about the acts of the respondent accused, which she relayed to DW-2 too, and the latter asked her to refrain from disclosure as it would bring disrepute to both families. She categorically said that she disclosed the incident to her husband, PW-3, namely Jia Lal, upon his return home at 9:30 pm in the evening, and was scolded for not having done so earlier. Jia Lal called up Hemraj PW-15 who apparently called them to the road, whereafter all of them, together, went to the police station to lodge the FIR. In her cross-examination she has denied that the incident is fabricated in order to teach the family of the respondent-accused, a lesson. She further denied injuring PW-1 on purpose to that end.

PW-5 was Suresh Kumar, who was the person from whom the prosecutrix was sent to secure buttermilk. It is while coming back from having bought buttermilk that the alleged incident took place. PW-5 positively states that the prosecutrix did take buttermilk from him.

PW-7, namely Dr. Sushma Dutta, Medical Officer, Civil Hospital, Sundar Nagar, deposed that although the medical examination of the prosecutrix had taken place one day after the alleged incident, i.e., on 28th July 2007, the victim was wearing the same clothes that she allegedly had on, at the time of the incident. The injuries reported were as follows:

> *"Local examination:*
>
> *Mens pubis not well developed public hairs absent. There was lacerated wound on right paraurethral region of size 1 x 1/2 c.m. red looking with slight bleeding on touch.*
>
> *2. There was lacerated wound on left paraurethral region of size 2x2x1/2 c.m. which also bleed on touch.*
>
> *Vagina could admit little finger easily. Hymen was torn at position 9' clock. There was no injury seen around anus.*
>
> *Vaginal swabs and smear were taken. Clothes were preserve, sealed and handed over to the police. Public hair were not available for examination. There was no history of any disease or any drug in take.*
>
> *Vide chemical analysis report reported by Chemical Examiner vide Ext. PH, human blood was present on the salwar of the victim, but no semen was present. This report was shown to me by the police on 13.02.2007.*
>
> *In my opinion, she has been exposed to sexual act and my opinion remained the same after the report of Chemical Examiner. The probable duration of injuries was within 48 hours. I issued the MLC Ext. PJ which bears my signatures and is in my hand. The victim was referred to Z.H. Mandi for age verification vide X-ray from Ext. PK by me, shirt Ext. P1 and salwar Ext. P2 are the same."*

Nothing in the cross-examination substantially dislodges the testimony in the examination-in-chief.

PW-10 was Dr. S.K. Fotedar, Medical Officer, CHC, Ratti. He is the one who examined the respondent accused. He deposed that the accused was capable of sexual intercourse. The injury that he suffered was testified to be possible in the course of agricultural work. The description of the injury is as follows:

> *One superficial abrasion 0.5 cm x 0.75 cm on right ear, medially on pinna opposite right mastoid with blood stains on mastoid area. No fresh bleedings was present. The wound was 24 to 36 hours old.*

But at the same time, it was further submitted that an injury is not necessary on the commission of rape.

10. We may observe that the approach adopted by the High Court is one of attempting to pick holes in a case that otherwise has withstood the test of cross-examination. The prosecutrix has positively identified the respondent-accused and has unequivocally stated that it was he who forced himself upon her. Not even a shred of doubt could be created by cross-examination on these two most essential points. Neither the testimony of the mother nor the father, that supported the version of the prosecutrix could be credibly questioned. The discrepancy that does appear pertains to the alleged quarrel between the families of the prosecutrix and the accused-

respondent. The prosecutrix and PW-2 state that repeated quarrels between the two families were a regular feature but PW-3 submits otherwise. That apart, one major improbability noticed by the High Court was that the prosecutrix had travelled 16 kms *to and fro* from the house of PW-5 within two hours. This has been observed to be almost impossible.

11. Be that as it may. Even if it is the case that to travel 16 kilometres was not possible in two hours, it still is an uncontroverted reality that the factum of sexual assault has not been disturbed. In proving the occurrence of an offence within a particular time frame, the Court does not look for mathematical precision. For the purposes of argument, even if the alleged time frame is extended by an hour, the possibility of the occurrence of the offence is still not shaken.

12. At this stage, let us deal with the rejection of the medical evidence of PW-7 on account of 16 kilometre distance being improbable and the apparent site map which is a part of record. In the considered view of the High Court, these two combined falsify the medical evidence. It is well-established that medical evidence is in the nature of expert opinion and is corroborative in nature. It is equally well established that medical evidence when it contravenes

other credible evidence particularly ocular evidence, then in such a situation, it can be kept aside or ignored. That is not the case here. It cannot be lost sight of that the expert evidence squarely corroborates the evidence of the prosecutrix, that she was sexually assaulted. In her evidence, at the cost of repetition, it may be stated positively that she identified him and attributed the act to him. The same has not been challenged or questioned by the process of law. Then the question is, on the basis of some alleged improbability of time, can we ignore other credible evidence? We think not. That would be a stand entirely in contravention of law.

13. As already referred above, the evidence of the prosecutrix alone, in matters such as these is sufficient to convict the accused. As such, on PW-1's evidence alone the offence stands established. The evidence of others only adds further credence to the statement of the victim. We may add that animosity is a double-edged sword and if given undue weight, may lead to injustice, in view of the uncontroverted testimony of the victim.

14. In that view of the matter, the impugned judgment acquitting the respondent- accused cannot stand and is required to be set aside.

Appeal is accordingly allowed. He is directed to surrender forthwith and serve the remainder of the sentence.

15. In the end, we direct that a copy of this judgment be sent to all the Registrars General of the High Courts to ensure that in all matters dated prior to the passing of this Court's judgment in ***Nipun Saxena v. Union of India***[16] which has mandated the non-disclosure of the victim's identity, and still pending, the proscription in Section 228-A IPC is followed strictly. This has been the long-standing position in law but, it has not been followed. The primary reason thereamongst, one supposes, is the general indifference of the Courts below and possibly even the lack of awareness of the deep stigma that follows such offences. Immediate reference can be made to ***State of Punjab v. Gurmit Singh***[17] which touched upon this issue in connection with Section 327 CrPC, and also ***Bhupinder Sharma v. State of HP***[18]**.** Suffice it to say that both these judgments were pronounced by this Court much prior to the incident in question.

[16] (2019) 2 SCC 703
[17] (1996) 2 SCC 384
[18] (2003) 8 SCC 551

Pending applications, if any, shall be disposed of.

.....J.
(SANJAY KAROL)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi;
March 24, 2026