



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

Date of reserving Judgment: 11<sup>th</sup> May, 2026

Date of decision: 19<sup>th</sup> May, 2026

IN THE MATTER OF:

+ CRL.A. 136/2008

STATE

.....Appellant

Through: Mr. Mukesh Kumar, APP for the State with IO Inspector Gulshan Nagpal SHO Nabi Karim and SI Anil Kumar PS Sultan Puri.

versus

BEDI RAM @ BEDI

.....Respondent

Through: Mr. Rajesh Kumar Sharma, Adv. with Respondent-in-person.

**CORAM:**

**HON'BLE MR. JUSTICE VIMAL KUMAR YADAV**

**JUDGMENT**

**VIMAL KUMAR YADAV, J.**

1. The instant appeal is one of those few cases, where the State comes into appeal in a criminal case. The impugned judgment dated 05.02.2007, through which the Respondent Bedi Ram @ Bedi herein was given a clean chit, was not acceptable to the Prosecuting Agency, therefore, the instant appeal has been filed by the State.

2. The indispensable facts, in order to appreciate the contention of the parties, in nutshell are that on a playful evening on 13.11.2002 when the children of the locality were playing Badminton including the Respondent herein and the victim. The shuttlecock went on the terrace of a house nearby and without that it was not possible to continue with the play, therefore, not



only the victim and the Respondent, but some other children also went upstairs to the terrace. The Respondent Bedi Ram @ Bedi picked the shuttlecock and threw it down and all the children went down after it. However, the victim was prevented by the Respondent and he forcefully took her to a room on the terrace and raped her. He threatened her with dire consequences in case she dared to disclose it to anyone. The incident took place on 13.11.2002 at about 8:30 pm. The victim went back home and while she was having her dinner, her grand-mother spotted some blood stains on the salwar and she became curious and on being probed, the victim told the trauma undergone by her at the hands of Respondent Bedi Ram @ Bedi. The matter was reported to the police and on the basis of the complaint i.e. statement of the victim, an FIR, Ex. PW-7/A under Section 376/506 Indian Penal Code (“IPC”) was registered by the police of Police Station Sultanpuri.

3. On conclusion of the investigation, filing of charge-sheet, formal framing of charge, recording of evidence and Respondent being confronted with the evidence coming on record, learned Trial Court after considering the contentions raised by the rival sides, acquitted the Respondent herein. The judgment did not go down well with the State and the Prosecuting Agency/State through the instant appeal impugns the judgment.

4. Learned APP for the State asserted that there is ample evidence, which is clear, cogent and convincing both oral, scientific and technical, which leaves no room for any other inference, then that of the complicity of the Respondent. It is asserted that the learned Trial Court has fallen into error and did not care to go through the entire record meticulously so much so that there is practically, no reference of FSL result in the impugned judgment, which is a very strong evidence about the involvement of the



Respondent. There is a mere fleeting and, to some extent, careless reference of the FSL result in the impugned judgment, where the learned Trial Court seems to have been swayed by the fact that the blood samples were putrefied as per FSL reports Ex. PX and Ex. PY. However, learned Trial Court did not care to look into the other factors and results in the FSL report. The FSL result clearly binds the Respondent with the offence, therefore, on this very count, the impugned judgment is bound to be set aside.

5. It is further pointed out that even the MLC of the accused has very vital observations, which too have been ignored by the learned Trial Court. The presence of the Respondent at the spot on the date, time and place of incident, has not been disputed and when all these factors are taken into consideration conjointly with the statement of victim PW-1 and her grandparents examined as PW-2 and PW-3 respectively, it is conclusively established on record that the impugned judgment is not in consonance with the facts, evidence and the applicable law and, therefore, needs to be set right. No enmity has been shown or pleaded on behalf of the Respondent, which may give rise to a reason to falsely implicate him.

6. Learned counsel for the Respondent, on the other hand, came up with the plea that the statements of the victim are full of improvements and thus, becomes unreliable and lose its credibility. Both the statements i.e. one, on the basis of which, the FIR came to be registered Ex.PW-1/A and the statement made before the Court, are full of improvements and inconsistencies, which remain unresolved and un-reconciled thereby rendering the testimony of the victim susceptible to doubt and suspicion. In this context, learned counsel for the Appellant has placed reliance on the judgment titled as *Pardeep @ Sonu vs. State (Govt. of NCT of Delhi)*, 2011 II AD (CRL.) (DHC) 503.



7. It is further submitted that the MLC of the victim Ex. PW-11/A does not corroborate the version of the victim as the Doctor did not find even a sign of struggle let alone any injury on the person of the prosecutrix. It has also been mentioned that the hymen of the victim was intact too, therefore, in these circumstances, in the absence of any corroborative, scientific and medical evidence, mere oral testimony cannot be taken into account, as has been rightly done by the learned Trial Court.

8. It is submitted that the children including the Respondent were playing badminton and only a quarrel took place and that led to the false implication of the Respondent.

9. It is further submitted that the investigation conducted by the police is shoddy and defective. The existence of the site plan Ex. PW-12/B in itself becomes questionable indicating that the Investigating Officer has not cared to visit the place of incident, inasmuch as according to PW-2, the grandmother of the victim, the site plan was prepared by the Investigating Officer at the instance of the victim, but the site plan does not bear testimony to this effect. The site plan Ex. PW-12/B has the signatures of the Investigating Officer only, who has prepared and signed it. But at whose instance or for that matter, who else had witnessed the preparation of site plan, is not shown, as none other than the Investigating Officer has signed it. The site plan, in any case, is further defective as it does not properly reflect the exact place of the incident and does not go hand in hand with the narrative. It is further submitted that the Investigating Officer has not pointed out in the site plan as to where the blood was lying or where the children were playing, where the shuttlecock fell. Therefore, it is submitted that the impugned judgment is in consonance with the evidence leaving no scope for any interference.



10. On being asked about the FSL results Ex. PX and Ex. PY and its implications, the learned counsel for the Respondent, who did not touch upon the FSL result, as has been done by the learned Trial Court, contended that the blood samples of the victim and the Respondent, both got putrefied, therefore, no opinion could be given. However, on the aspect of the other findings recorded by the Scientific Officer of the FSL, it is submitted that there is no evidence that the blood group of the Respondent was AB and therefore, there is nothing to connect him with the offence.

11. There appears some lapse on the part of the Investigating Agency in not depicting the site plan properly and not caring to obtain the signatures on whose instance, the site plan was prepared or in whose presence it was prepared. Nevertheless, this in itself does not take away the prosecution's case. There may be several factors for such lapse, but in any case, it does not have the potential to fatally affect the case of the prosecution. It has been held in various judgments that such sort of shoddy or defective investigation, should not be permitted to substitute the findings of the Court, which otherwise should have been there. Reference in this context can be made to the following judgments:

*In C. Muniappan Vs. State of T.N.* (2010) 9 SCC 567, the Supreme Court held that it was a case of highly defective investigation but this was not the end of the matter, for if primacy was given to omissions and lapses by perfunctory investigation, faith and confidence of the people in criminal justice administration would erode. In such case, there is a legal obligation on the part of the Courts to examine prosecution evidence *de hors* such lapses, to find out whether evidence is reliable or not, and to what extent it is reliable and whether the lapses had affected the object of finding the truth. Reference was made to several decisions in support of said ratio.

*In Ganga Singh Vs. State of M.P.* (2013) 7 SCC 278, it was held that Courts cannot acquit an accused on the ground that there were some defects in the investigation, unless such defects cast reasonable doubt on the prosecution case.



Similar findings were recorded in *Sunil Kundu Vs. State of Jharkhand* (2013) 4 SCC, 422, holding that lapses or irregularities in investigation would not be material if the evidence produced on record, despite the said lapses or irregularities, does not go to the root of the matter and dislodges the substratum of the prosecution case.

In *Surjit Sarkar Vs. State of West Bengal*, (2013) 2 SCC 146, after referring to several earlier decisions, it has been held that deficiencies in investigation by way of omission and lapses by the investigating agency cannot themselves justify total rejection of the prosecution case and where prosecution evidence *de hors* such lapses, when carefully scrutinised and evaluated, does not affect the object of finding of truth.

12. So far as the so called improvements in the statements of the victim are concerned, what should be kept in mind is the fact that at the time of recording of *rukka*, the first statement of the victim, her mental state must have been under a severe shock and trauma, inasmuch as the victim was around 10 years of age at that time. The matter was fresh and she was threatened too, as the complaint was made to the police on the day of incident itself. The incident took place at around 8:30 pm, whereas the matter was reported to the police on 13.11.2002 at around 9:50 pm. Therefore, some details might go amiss while detailing the incident. However, the crux of the incident has been narrated and that part is present in subsequent statements also.

13. Giving a bit of detail that too in the cross-examination does not amounts to the kind of improvements, which may rob the credibility of the statement of the victim. The improvement pointed out is the fact that accused and victim and other children were playing and they too accompanied and went to the terrace, which was not mentioned in the *rukka*. This alone is not serious enough lapse to discard the statement of the victim. While appreciating the evidence, the context cannot be ignored and text is always to be read in context. At the time of statement of prosecutrix (*rukka*),



one can easily visualise the mental and psychological state of the victim of a tender age. The impact must be devastating and the trauma on the mind and body being fresh, so meticulous details can't be expected from a child of 10 years or so. Thus, contradictions/improvements in the subsequent statement are not unusual. As long as the soul of the testimony is intact, the same can be relied upon. In this context, reference can be made to the judgment in the case titled as ***Balu Sudam Khalde v. State of Maharashtra***, (2023) 13 SCC 365:

*“25. The appreciation of ocular evidence is a hard task. There is no fixed or strait jacket formula for appreciation of the ocular evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:*

*I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.*

*II. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.*

*III. When eyewitness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.*

*IV. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical*



*error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.*

*V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.*

*VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.*

*VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.*

*VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.*

*IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.*

*X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.*

*XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.*

*XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the*



*witness is giving a truthful and honest account of the occurrence witnessed by him.*

*XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.”*

14. Incidentally, on this very aspect, defective investigation has been pleaded by the learned counsel for the Respondent that the Investigating Officer should have recorded the statements of other children, who were playing there and had gone upstairs with the victim and the Respondent. None of the children were present when the incident took place, therefore, their statements would have been there to the fact that the shuttlecock had gone to the roof and they all went to the roof, where the shuttlecock was. It was thrown down by the Accused/Respondent, and the children came down. The only other thing which could have been deposed that the victim and the Respondent did not come down. But then, the children were, as any child would be, more involved into the game, therefore, this could have slipped their attention. In any case, this is only a surmise or a guess work, which could have happened. What is there on record is far more important than what could have been.

15. The prosecution has to show that the victim was not only violated by the accused against her will, but has to establish that there was no scope of any sort of consent or false implication and that the victim was threatened and intimidated. On both these counts, the statement of the victim alone is of utmost importance as narrated by the witness, either to the incident or to the threat. When the testimony of the victim is tested on this parameter, then what comes on record is that she is very categorical and clear as to what had



happened with her and who did it. There is no reason to disbelieve the victim as no amount of cross-examination, could shake her testimony. Her testimony has been corroborated too both from the medical record and from the FSL report. Notwithstanding the fact that the Doctor has opined that there was no signs of struggle, use of force or any injury on the person of the victim and that her hymen was intact, it cannot be ruled out in view of the fact that the victim was merely 10 year old girl and the Respondent/accused was 18 years of age, grown up and physically strong, therefore, must have neutralised the victim in such a manner that she could not resist or that she did not resist, but then this does not amount to consent. So far as the intact hymen is concerned, it cannot be said that intact hymen means no rape has been committed.

16. The victim was medically examined through the MLC Ex. PW-11/A on that very day i.e. 13.11.2002, the date of incident. The encircled portion A on the MLC is vital in the sense that it clearly reflects that vaginal swab was taken and sealed. The undergarment which was sealed was further examined and final opinion about the sexual assault could not be ruled out and in this context, vaginal swab report is sought to be looked into. Another notable feature in the MLC is that the hymen was found intact by the doctor during medical examination.

17. The Accused/Respondent was also medically examined and it has been opined by Dr. Alok Narang, examined as PW-13 that medical examination has nothing to suggest that the patient was incapable of performing sexual intercourse. However, the MLC Ex. PW-13/A has certain other important details i.e. the portion between z to z i.e. forensic opinion. The notable feature is that the clothes of the Accused/Respondent were examined i.e. shirt, T-shirt, jeans and underwear and it has been noted by the



Doctor concerned that the underwear shows blood like stains, which was seized and handed over to the police. Apart from that, under the heading of genital examination, the notable observation is the presence of tear of *Frenulum / Phrenulum* (under-surface), fresh blood was also found present, less than 24 hours of duration. Smegma was also absent.

18. From the MLC of the victim and the Accused/Respondent, one thing is clear that the clothes were seized and handed over to the police for forensic examination, which includes the underwear of the Accused-Respondent having some blood like stains. Similarly, the undergarments, that is, the salwar of the victim was also seized, as can be inferred from the testimony of PW-8 HC Sajni and the victim/PW-1 both, of whom former say that two pullandas were handed over to her by the doctor, whereas the victim PW-1 stated that the doctor took her salwar after her medical examination, which was stained with blood, as she was wearing the same salwar which she was wearing at the time of incident. The salwar is Ex. P-1, which was produced during the examination of the victim, who had identified the same. Thus, what emerges on record that the clothes of the Accused/Respondent and victim were seized and the underwear of the Accused had some blood like stains and the salwar of the victim also had some blood stains. It has come in the testimony of the grand-mother of the victim that she noticed some blood stains on her salwar and that is how, the whole thing came into light.

19. The riddle with regard to the undergarments of the victim as has been mentioned in the MLC, stands clarified in the testimony of PW-8. At the time of seizure of the pullandas from the doctor, document Ex. PW-8/A clearly reflects that the doctor had mentioned the undergarments, which is basically the salwar of the victim. The other item of the Seizure Memo is the



vaginal swab of the victim. All these seized articles were dispatched to the Forensic Science Laboratory (FSL), as can be inferred from the deposition of the victim PW-1, PW-8 HC Sajni, PW-12 SI Gulshan Nagpal and PW-10 MHC(M) HC Narender Kumar. Their depositions are to the effect that PW-8 HC Sajni received two sealed pullandas alongwith a sample seal of SGMH from the Doctor. She subsequently handed over these articles to the Investigating Officer SI Gulshan Nagpal (PW-12), who took into possession the two pullandas and the sample seal as received from HC Sajni and thereafter, PW-10 HC Narender made relevant entry in Register no. 19 of the Malkhana, which is Ex. PW-10/A and Ex. PW-10/B. The aforesaid pullandas and the sample seal were sent to FSL Malviya Nagar through PW-4 HC Gajender Singh and after depositing the said articles at FSL, he came back to the Police Station and handed over the copy of R.C. No. 440/21/2002 to PW-10 HC Narender Kumar. Thus, the chain is complete and the sample/pullandas remained intact till it reached the FSL. As such, the judgment relied upon by the learned counsel for the Appellant i.e. *Putai vs. State of Uttar Pradesh*, 2025 (4) RCR (Criminal) 249, does not come into play and is not attracted on the facts of the case.

20. The fate of the samples and articles seized, which were dispatched to the FSL, can be seen from the document Ex. PX, which contains the details of the articles received and the result of the analysis. According to Senior Scientific Officer (SSO), the blood was detected on Ex. '1', Ex. '2', Ex. '3', Ex. '4' and Ex. '5' i.e. Ex. '1' is printed salwar having brownish / whitish stains at places, Ex. '2' one cotton wool swab in a small plastic stick, Ex. '3' is one underwear (blue-BITTOO) having brownish stains, Ex. '4' is some dark-brown liquid having foul smell and Ex. '5' is some dark-brown liquid having foul smell. The human blood was detected on the aforesaid exhibits



‘1’, ‘2’, ‘3’, ‘4’ and ‘5’, which is of AB Group, as can be seen from the document Ex. PY. Human semen was detected on Ex. ‘1’, ‘2’ and ‘3’ i.e. on the salwar of the victim, cotton wool swab and underwear of the Accused/Respondent.

21. It has been contended on behalf of the Accused/Respondent that the blood samples were putrefied, as can be seen from the document Ex. PY, therefore, it cannot be ascertained that there was any connection between body fluids of the Accused/Respondent and the victim. However, the presence of the blood stains on the undergarments of the Accused/Respondent should be read with the observation made by the doctor on the MLC Ex. PW-13/A, which reflects that there was a tear of *Frenulum*. The available text on the subject is to the effect that *Frenulum* is soft part of the penis, which can get some injury or tear on account of aggressive sexual activity or similar to this type of act. The *Frenulum* is a sensitive strip of skin connecting the foreskin to the glans (head) of the penis.

22. The injury or the tearing of the *Frenulum* of the Accused/Respondent, answers the presence of the blood stains on the underwear of the Accused/Respondent. The result of the analysis of the blood stains on the underwear, reflects that it is of AB category. Incidentally, that very AB Group of blood was found on the salwar of the victim also. Thus, it is clear that the Accused/Respondent was having AB blood group. The next aspect which is of utmost importance, is the opinion from the FSL that the semen which was found on the underwear of the Accused/Respondent, cotton wool swab and the salwar of the victim and that belong to the Accused/Respondent.

23. The FSL result is also corroborative and supports the case of the



prosecution, notwithstanding the fact that the blood samples of the victim and the Respondent/Accused were putrefied. With the available samples, the FSL was able to extract that the blood group of the blood stains found, which was of AB group and so was the group of the human semen, which was found not only on the underwear of the Respondent/Accused, but on the salwar of the victim also. The most cogent evidence in this context is the presence of human semen of AB group on the cotton wool swab. The MLC substantiates this fact that the vaginal swab of the victim was taken and that very sample was sent to the FSL for examination. This is a conclusive scientific proof to connect the Respondent/Accused with the offence. Incidentally, learned Trial Court has totally ignored this aspect and thus, has fallen into an error of recording a finding which should not have been there in favour of the Respondent/Accused.

24. While the Appellant/State has sought a commensurate sentence for the Respondent/Accused, the learned counsel for the Respondent/Accused only submitted that the Respondent has already spent 02 years, 09 months and 24 days, out of 07 years and that was his only submission on the aspect of potential punishment.

25. In view of the conclusive evidence about the complicity of the Accused/Respondent in the offence, which is not only brought on record through the oral testimony, but corroborative, scientific and medical evidence, leaves no room to infer anything-else except the complicity of the Accused-Respondent in the offence, which is contrary to the finding of learned Trial Court. As has been pointed out earlier also, learned Trial Court has not considered the medical and forensic evidence and their correlation at all rather in a very fleeting and casual manner which has altered the judgment resulting into miscarriage of justice in the shape of acquittal of the



Respondent by learned Trial Court.

26. In view of the foregoing discussion, the impugned judgment is set aside and the Respondent is held guilty under Section 376/506 IPC and convicted thereof.

27. On the aspect of sentence, learned counsel for the Respondent has put forth the contention that he has already spent about three years in custody out of the maximum punishment of 07 years, which could have been there under Section 376/506 IPC (pre-amended), thereby seeking that the period already undergone in the custody may be treated as the substantial sentence. However, given the fact that the victim was a 5<sup>th</sup> standard student, merely 10-11 years of age at that time and the fact that the Respondent has breached the trust, which a neighbour can have in a neighbour and took advantage of the vulnerability of the child victim. Therefore, he does not deserve any indulgence on this count. As a result, the Respondent, in the fitness of circumstances, is sentenced to undergo 07 years of Rigorous Imprisonment and to pay a fine of Rs. 10,000, in default of which he has further undergo Simple Imprisonment for a period of six months.

28. Appeal is accordingly, accepted and allowed. Respondent is called upon to surrender forthwith in order to undergo sentence. He shall be entitled to the benefit of set off under Section 428 Cr.P.C.

29. Copy of the judgment be transmitted to learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

**VIMAL KUMAR YADAV, J**

**MAY 19, 2026/akc/tng/ah**