



2026:DHC:487



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

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***Judgment Reserved on: 16.01.2026***

***Judgment pronounced on: 21.01.2026***

+ CRL.A. 113/2018

SHAKEEL & ORS

.....Appellants

Through: Ms. Manika Tripathi, Advocate  
(DHCLSC) with Mr. Gautam Yadav  
and Mr. Akash Mohar, Advocates.  
All appellants in person except  
Neeraj.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State  
with W/SI Pinki, PS Sultanpuri, Delhi  
Mr. Harsh Prabhakar, Advocate  
(DHCLSC) with Mr. Dhruv  
Chaudhry, Mr. Shubham Sourav and  
Mr. Vijit Singh, Advocates for victim.  
Mr. Himanshu Anand Gupta, Adv  
(DSLSA) with Ms. Mansi Yadav, Mr.  
Sidharth Barua, Mr. Shekhar A.  
Gupta, Ms. Navneet Kaur and Ms.  
Shivani Rampal, Advocates.

+ CRL.A. 135/2018

RAHMAN

.....Appellant

Through: Ms. Manika Tripathi, Advocate  
(DHCLSC) with Mr. Gautam Yadav  
and Mr. Akash Mohar, Advocates.  
All appellants in person except  
Neeraj.



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versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State  
with W/SI Pinki, PS Sultanpuri, Delhi  
Mr. Harsh Prabhakar, Advocate  
(DHCLSC) with Mr. Dhruv  
Chaudhry, Mr. Shubham Sourav and  
Mr. Vijit Singh, Advocates for victim.

+ CRL.A. 406/2018  
NEERAJ @ NEMRAJ

.....Appellant

Through: Mr. Abhyankar Panth, Advocate.

versus

STATE

.....Respondent

Through: Mr Pradeep Gahalot, APP for State  
with W/SI Pinki, PS Sultanpuri, Delhi  
Mr. Harsh Prabhakar, Advocate  
(DHCLSC) with Mr. Dhruv  
Chaudhry, Mr. Shubham Sourav and  
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(DSLSA) with Ms. Mansi Yadav, Mr.  
Sidharth Barua, Mr. Shekhar A.  
Gupta, Ms. Navneet Kaur and Ms.  
Shivani Rampal, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**



1. This appeal under Section 374 read with Section 482 of the Code of Criminal Procedure, 1908 (the Cr.PC), has been filed by the five accused persons in SC No. 114/2015 on the file of the Sessions Court, North-West, Rohini Courts, Delhi, assailing the judgment dated 11.12.2017 as per which they have been convicted and sentenced for the offences punishable under Sections 342, 365, 376 (f) & (g) and 506 (ii) of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that all the accused persons, five in number entered into a criminal conspiracy to kidnap PW3 for ransom and in furtherance of the said conspiracy, on 14.12.2010 forcibly took her away and wrongfully confined her in the house of the 5th accused (A5). An amount of ₹ 10,000/-, and jewellery was demanded and if the demand was not met, PW3 was threatened that her only brother would be killed. All the accused persons also raped PW3 during the period of confinement. Hence, as per the



chargesheet/ final report A1 to A5 are alleged to have committed the offences punishable under Sections 342, 364A, 376 (f) & (g), 506 and 120B IPC.

3. On the basis of Ext. PW16/A FIS of PW16, the father of PW3, the victim, given on 16.12.2010, Crime no. 436/2010, Sultanpuri Police Station, that is, Ext. PW2/A FIR, was registered by PW2, Head Constable (HC). PW28, the Woman Sub-Inspector (WSI) conducted the investigation into the crime and on completion of the same filed the charge-sheet/final report against A1 to A4 alleging the commission of the offences punishable under the abovementioned sections. Subsequently, a supplementary charge-sheet against A5 alleging the commission of the very same offences was submitted.

4. When the accused persons were produced before the trial court, all the copies of the prosecution records were furnished to them as contemplated under 207 Cr.PC. After hearing both sides,



the trial court as per order dated 24.03.2011 framed a charge under Sections 364A, 342, 376 (g), (f), Part II of 506 and 120B IPC, which was read over and explained to A1 to A4, to which they pleaded not guilty. Thereafter, when A5 was produced before the trial court, after compliance of S. 207 the Cr.PC, on 25.07.2011, the trial court framed a charge under Sections 364A, 342, 376 (g) & (f), 506 (ii) and 120B IPC, which was read over and explained to him, to which he pleaded not guilty.

5. On behalf of the prosecution, PWs.1 to 28 were examined and Exts. PW1/A, PW2/A-B, PW4/A, PW5/A, PW6/A, PW7/A, PW8/A-C, PW9/A-B, PW11/A1-6, 12/A-C, PW14/A-G, PW16/A-B, PW17/A-C, PW18/A-E, PW19, PW20, PW21/A-D, PW22/A, PW24, PW25/B-D, PW27/A-B, PW28/A, P-X/1-3 were marked in support of the case.

6. After the close of the prosecution evidence, the accused persons were questioned under Section 313 Cr.P.C regarding the



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incriminating circumstances appearing against them in the evidence led by the prosecution. They denied all those circumstances and maintained their innocence.

7. After questioning the accused under Section 313 CrPC, compliance of Section 232 CrPC was mandatory. In the case on hand, no hearing as contemplated under Section 232 CrPC is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him. No oral or documentary evidence was adduced by the accused.

8. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the



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impugned judgment dated 11.12.2017 held all the accused persons guilty of the offences punishable under Sections 342, 365, 376 (f) & (g) and 506 IPC. However, the trial court acquitted the accused persons for the offences punishable under Sections 365A and 120B IPC. Consequently, the trial court vide order on sentence dated 18.12.2017 sentenced A1 to A5 to undergo rigorous imprisonment for a period of 10 years each for the offence punishable under Section 376 (f) & (g) IPC and to fine of ₹ 5,000/- each, and in default of payment of fine, to undergo simple imprisonment for three months each; rigorous imprisonment for one year each for the offence punishable under Section 342 IPC and fine of ₹ 1,000/- each, and in default of payment of fine, to undergo simple imprisonment each for one month; rigorous imprisonment for seven years each for the offence punishable under Section 365 IPC and fine of ₹ 1,000/- each, and in default of payment of fine, to undergo simple imprisonment for three months, and to rigorous



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imprisonment for five years each for the offence punishable under Part II of Section 506 IPC and fine of ₹ 1,000/- each, and in default of payment of fine, to undergo simple imprisonment for three months. The sentences have been directed to run concurrently. Aggrieved, the accused persons, have preferred the present appeals.

9. It was submitted by the learned counsel for A1 to A5 that in the light of the unsatisfactory evidence on record, the trial court went wrong in convicting them. According to the learned counsel, there are several contradictions and inconsistencies in the statement of the material prosecution witnesses. Pertinently, inconsistencies are found in the statements of PW1, PW3 and PW16. PW1 stated that PW3 was found tied-up in the room of A5 whereas the same was not stated by PW3 and PW16. It was further submitted that as per the site plan, the room of A5 in which PW3 was allegedly found confined is not situated in an isolated place.





On the other hand, it is a room in a row of nine other rooms which had a common washroom, suggesting that the area was thickly populated.

9.1 Further, the learned Counsel also submitted that while the case of PW3 is that she was sexually assaulted and raped over two days by 5 persons, there is no injury or marks noted in the MLC. The attention of the Court was also drawn to the fact that while there were many eye witnesses when A5 and thereafter A2 were apprehended, none of them were examined by the prosecution.

10. *Per contra*, it was submitted by the learned Additional Public Prosecutor that the testimony of PW3 and PW16 are consistent and corroborated by the medical evidence placed on record. The witnesses have given consistent statements all throughout the proceedings. Their testimony has not been discredited in any way and hence, there is no reason(s) to disbelieve them. There is no infirmity in the impugned judgment



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calling for an interference by this Court, argued the prosecutor.

11. Heard both sides and perused the record.

12. I will briefly refer to the evidence on record relied on by the prosecution in support of the case. Ext. PW16/A, the FIS given on 16.12.2010 by PW16, the father of PW3, the victim, reads:-  
“On 14.12.2010, at about 08:00 P.M., when I returned home, my younger daughter ‘N’ told me that ‘R’ (PW3) left the house by about 01:00 P.M. saying that she was going to her maternal grandmother’s house. However, she has not so far returned. When I made enquiries with my-in-laws, I was informed that ‘R’ (PW3) had not reached there. For the sake of honor of the family, we on our own made enquiries about ‘R’ (PW3). But she was not traceable. On 15.12.2010, when I returned home in the evening, my younger daughter ‘N’ told me that during daytime ‘R’ (PW3) had come home along with some boys who stood outside the house. ‘R’ (PW3) was searching for something. She took a mobile



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phone and left the house. She was taken by the boys who were waiting outside the house in a rickshaw. Today, that is, on 16.12.2010, my younger daughter 'N' had gone out in the morning for bringing milk and on return she informed me that she had seen one of the boys who had taken 'R' (PW3) in a rickshaw and that she had seen the boy outside the same house where I used to live on rent. I, along with my daughter 'N' went to the house where I found Neeraj (A5). I enquired about my daughter. When I gave him one or two slaps, Neeraj (A5) told me that my daughter has been confined in a room in his house on the third floor. I along with Neeraj (A5) went to the room which was locked from outside. I opened the room with the key given by Neeraj (A5). My daughter 'R' (PW3) was found inside the room in a disturbed state. I was told by Neeraj (A5) that his friends Taseer (A2), Shakeel (A1), Rahman (A4) and Taufiq (A3) had together kidnapped my daughter in a white van on 14.12.2010 from Mangolpuri for the



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purpose of extorting money. On 15.12.2010, my daughter was threatened that my son would be killed and she was pressurized to bring money and jewelry from the house. Neeraj (A5) told me that all of them along with my daughter had gone to my house. When I was talking to my daughter, Neeraj (A5) escaped. Thereafter, I received a phone call from Taseer (A2) who threatened that if I wanted the safety of my daughter, I should take ₹ 10,000 near the flyover at Mangol Puri. So, I along with my brother Rakesh and daughter 'R' (PW3) went to the flyover at Mangolpuri. My daughter identified Taseer (A2). I along with my brother Rakesh overpowered Taseer (A2). Taseer (A2) along with his friends Neeraj (A5), Shakeel (A1), Rahman (A4) and Taufiq (A3) kidnapped my daughter for ransom and confined her at their house and by threatening her that they would kill her, they had pressurized her to take money and jewellery from my house.”

13. The 164 statement of PW3 is seen recorded on



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20.12.2010, in which she has stated thus:— “On 14.12.2010, when I went to the bus stop for going to my grandmother's place, Neeraj (A5) was there. I overheard him talking on the phone and asking somebody to bring a van as I was at the bus stop. About five minutes later, five boys came in a white Maruti van. They dragged me into the car and took me to a house in Krishna Vihar. They locked me up in a room. They forcibly made me drink alcohol. The boys then did wrong things with me. They undressed me and put their private part into my private part. Then, they locked me up in a room and went away. The next day the boys repeated the wrong things on me. On 16.02.2010, at about 9:30 A.M., my father came and rescued me. For two days, the boys did not give me anything to eat. All of them did wrong things to me.”

14. PW1, the mother of PW3 deposed that in the year 2010, she was working in Sector-10, Rohini as a maid. PW3 used to come to her place of work between 12:00 and 1:00 P.M. However,



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on the said day PW3 did not reach her place of work. In the evening, when she returned home, her two other children told her that PW3 had left the house saying that she was going to her place of work. She along with her husband tried tracing out PW3. However, their attempts failed. The next day also they tried tracing out their daughter. Her another daughter who was younger to PW3 informed her that the former had been told by her friend that PW3 has been confined in a room at Krishna Vihar and that her hands were tied. She was informed of this fact by her daughter 'N'. Pursuant to the same, she along with her husband and sister in law Madhu went there. When they reached there, they noticed Neeraj (A5) coming down the stairs after locking the room in which her daughter (PW3) was confined. When they made enquiries with Neeraj (A5), he opened the lock of the room and then they found their daughter 'R' (PW3) under the folding bed in a tied condition. The boy, Neeraj (A5), managed to escape with the assistance of



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the landlord. She along with her daughter and husband went to the police station at Sultanpuri. However, the police directed them to trace out the kidnapper on the basis of his mobile number. Her daughter (PW3) made a call to Taseer (A2), who was located on the basis of his mobile number. Taseer (A2) then demanded ₹ 10,000 from PW3. According to PW1, Taseer (A2) was overpowered by her, her sister in law and by her husband and thereafter, they informed the police. PW1 also deposed that her daughter had told her that the latter had been raped by four persons, namely, Taseer (A2), Rahman (A4), Taufiq (A3), PW1 was unable to recall the name of the fourth person.

14.1 PW1 in her cross examination deposed that the room in which PW3 was found, belonged to Neeraj (A5). They had gone to the room of Neeraj (A5) at about 8:00 A.M., at which time her daughter was alone in the room with her hands and legs tied up. The room was locked from outside. Members of the public



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had also gathered there. PW1 also admitted that her daughter had come to their house when Taseer (A2) had demanded ₹ 10,000 from her.

15. PW3, the victim when examined deposed that on 14.12.2010, she told her younger sister 'N' that she would be going to the house of her maternal grandmother. When she reached the bus stop of route number 901, Neeraj (A5), residing near her house at Krishan Vihar was there at the bus stop. She overheard his conversation on the phone. He was asking somebody to bring a van as she was present at the bus stop. Within 5 minutes, Tassir (A2) came in a van in which Rahman (A4) was also there. Rahman (A4) gagged her mouth and pushed her inside the van. All the accused persons were inside the van. They took her to the room of Neeraj (A5). One by one, all the accused persons committed rape on her. Taseer (A2) threatened her that if she disclosed the fact to anybody, they would kill her only brother. When she tried to





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scream, all the accused persons gagged her mouth. When she was confined in the room of Neeraj (A5), the latter demanded ₹ 10,000 and jewellery of her mother as he was in need of money. When such a demand was made, she returned to her house. However, she was unable to find anything at home. There was only one mobile phone belonging to her aunt (bua), which she took along with her, at which time she was in the custody of Taseer (A2) and Rahman (A4). They took her back to the room of Neeraj (A5). She handed over the phone to Neeraj (A5). Her bua was repeatedly calling on the mobile phone. However, the accused disconnected the same. All the accused persons forcibly undressed her and committed rape on her. On 14.12.2010 as well as on 15.12.2010, they raped her and then left her in the room. On 15.12.2010, Neeraj (A5) tied her hands and feet with a rope and kept her under the folding cot so that she could not escape. On 16.12.2010, her tai and sons; sister and mother came in search of her. Neeraj (A5) was found on the



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street. She came to know that her sister 'N' had been informed by some girls that she had been confined by Neeraj (A5) in his room and it is pursuant to the receipt of the said information, her family had come to the room of Neeraj (A5). Her tai and his two sons beat Neeraj (A5), who then opened the room in which she was confined. She was released from the clutches of Neeraj (A5) and taken back home. On reaching home, her father slapped her two to three times and asked her about the whereabouts of the persons who had raped her and demanded money. She disclosed the address of Taseer (A2) and Neeraj (A5). Thereafter, she called Taseer (A2) on his phone from the phone of her bua and told him that she had brought the money as demanded by him. Taseer (A2) came to the bridge near Peeragarhi. Taseer (A2) was not known to her tau. The moment Taseer (A2) reached the place, her tau overpowered him and beat him. They took Taseer (A2) to the police, where he was interrogated by the police and further action



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taken.

15.1 PW3 in her cross examination deposed that Neeraj (A5) had demanded ₹ 10,000 from her as he wanted to do some work. Neeraj (A5) had asked her to call Tassir (A2) and demand ₹ 10,000 on the pretext of the marriage of her sister. She called Tasser (A2) and made the demand as instructed by Neeraj (A5). On the next day of the incident, she came to her house, at which time the house was locked and therefore, she broke the lock of the house. Nobody was at home. Neeraj (A5) then was standing on the ground floor of her house. She handed over a mobile phone and ₹ 350 to Neeraj (A5). Neeraj (A5) took her back to his room at Kishan Vihar. The house of Neeraj (A5) is on the second floor. PW3 admitted that it was during daytime she had come home. She was confined in the house of A5 for about two days. She further deposed that one uncle had seen her in the room of Neeraj (A5) and so had informed her sister, who in turn informed her father.



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15.2 PW3 also deposed that she did not raise any alarm as the accused had threatened to kill her brother. When her father came to the house of Neeraj (A5), she was alone in the room. PW3 also admitted that at the time of the incident, her father was searching for a suitable match for her. She denied the suggestion that she was about 19 to 20 years old at the time of the incident. PW3 admitted that the room in which she was confined was one among a row of about 8 to 10 rooms. The rooms had a common toilet and a common staircase. There were rooms adjacent to the room where she was confined.

16. PW4, Senior Gynae, SGM Hospital, Delhi deposed that on 16.12.2010, she had examined PW3 and issued Ext. PW4/A certificate.

17. PW9, Record Keeper, MC Primary School, Mangolpuri, Delhi deposed that as per the register maintained in the school, the date of birth of PW3 at the time of her admission has been



recorded as 10.05.2000. PW3 was admitted in the school on 25.07.2007. A copy of the relevant page of the admission register has been marked as PW9/A. PW9 had brought the original register and after comparison with the copy, the original was returned. The certificate issued by the principal of the school based on the admission register has been marked as PW9/B.

18. PW15, the uncle of PW3 deposed that about two years back PW3 had gone missing. He was told by his brother Surender that the latter had received a phone call from the person who had kidnapped PW3 demanding ₹ 10,000. As informed by PW16, he along with PW3 went to the flyover at Mangolpuri. PW3 identified the caller who was present there. They overpowered Tassir (A2) and brought him to the police station.

19. PW16, the father of PW3, deposed that PW3, his third daughter, was about 13 years old at the time of the incident. On 14.12.2010, he and his wife had left for work, at which time all his



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children were at home. When he returned in the evening, PW3 was missing. He was told by his daughter 'N' that PW3 had gone to her nani's house. On the next day also, when he returned from work, PW3 had not returned. When his wife made enquiries at her maternal house, they came to know that PW3 had not reached there. He and his wife searched for PW3. On 16.12.2010, his bhabhi and niece came to his house and told him that PW3 had been to their house and had taken away the former's mobile phone. He then informed his bhabhi that PW3 had been missing since 14.12.2010. His daughter 'N' informed him that she had seen PW3 in the company of a boy. Thereafter, he along with his daughter 'N'; his bhabhi and his niece went to the house as identified by his daughter 'N', who took them to the room of Neeraj (A5). He apprehended Neeraj (A5) and enquired about his daughter. Initially Neeraj (A5) did not disclose anything. However, after giving him one or two slaps, Neeraj (A5) disclosed that PW3 had been



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confined in a room on the third floor of the building. When he apprehended Neeraj (A5) and slapped him, people of the locality had also gathered there. Neeraj (A5) opened the lock of his room and then they found PW3 inside the room.

19.1 PW16 further deposed that when he searched the pocket of Neeraj (A5), he found a mobile phone. According to him, PW3 was found in a perplexed condition inside the room. So, he consoled PW3 and asked her what had happened and then PW3 told him that she had been raped by five persons and that three of them had left in the morning for their village. When he enquired with Neeraj (A5), he was told that latter along with his associates had kidnapped PW3 on 14.12.2010 in a Maruti van and had threatened her to bring money and jewellery from her house and that if she did not accede to their demand, they would kill her brother. When he was busy talking to his daughter, Neeraj (A5) escaped from the spot. Thereafter, they returned home. He then



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handed over the phone to his daughter which had been recovered from the pocket of Neeraj (A5). His daughter informed him that one of the associates of Neeraj (A5) would give a call and ask for money. Within 30 to 35 minutes of them reaching home, one of the associates of Neeraj (A5), made a call and asked whether arrangements had been made for the money. The caller asked PW3 whether she had made arrangements for money. On instructions, PW3 told the caller that she had arranged an amount of ₹ 10,000 and asked about the place where the money had to be delivered. The caller directed PW3 to deliver the money at the furniture market at Mangolpuri. On receipt of the said information, he along with his wife; brother; bhabhi; sister and PW3 reached the furniture market. They left PW3 alone and maintained a distance from her and directed PW3 to give a signal as and when she received the call. After waiting for some time, PW3 informed them that she had received a call on her mobile phone and that she had been asked to





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go near the Mandir after crossing the furniture market at Mangolpuri. When they proceeded to the said place, the caller asked them to reach on the flyover at Mangolpuri. Therefore, they proceeded to the said place. At the flyover, PW3 identified Taseer (A2).

19.2 PW16 further deposed that he with the help of his brother overpowered Taseer (A2) and slapped him two to three times, at which time, other members of the public had also gathered. Two or three persons among the public also slapped Taseer (A2). There was a PCR man nearby. They took A2 to the said officials who informed the Sultanpuri police station. The police arrived and took all of them to the police station and further proceedings were initiated.

20. As far as the age of PW3 is concerned the testimony of PW9 shows that her date of birth is 10.05.2000. The incident of kidnapping and subsequent rape are alleged to have occurred



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during the period from 14.12.2010 to 16.12.2010. If that be so, at the time of the incident, PW3 was only 10 years old. However, that is doubtful because both PW3 and PW16 admit that in year 2010, the parents were on the look-out for a suitable alliance for PW3. The copy of the admission record marked as PW9/A and the Certificate of birth received from the school is not seen challenged in the cross-examination of PW9. In such circumstances, the appellant/accused cannot challenge the same in the appeal. However, it seems improbable that PW3 was only 10 years at the time of the incident. The age of PW3 on the date of the examination before the court on 05.04.2017 is seen recorded as 14 years. In Ext. PW4/A MLC, her age as on 16.12.2010 is seen recorded as 13 years. In column 16 of the final report dated 05.03.2011, PW3 is stated to be 13 years. In the witness list, her age is stated to be 11 years. In Ext. PW16/A FIS, her age is stated to be about 13 years. In the 164 statement recorded on 20.12.2010,



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her age is stated to be 13 years. Therefore, the evidence regarding age is not satisfactory. I will assume for argument sake that PW3 was in fact a minor at the time of the incident and then consider whether the evidence on record is sufficient to sustain the conviction.

21. As stated earlier, the prosecution case is that PW3 was kidnapped by the accused persons on 14.12.2010 and thereafter, rescued by her father and other relatives on 16.12. 2010. PW16 in his FIS itself says that his daughter had come home on 15.12.2010, had taken a mobile and again left the house again. However, PW16 in the box deposed that PW3 had gone to her aunt's house and taken away the phone of the latter. PW3 on the other hand, deposed that when she came home on 15.12.2010, the house was locked so she broke open the lock, entered the house and took away a mobile phone kept in her house. Going by the version of PW16, when PW3 had come home on 15.12.2010, his younger



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daughter 'N' was very much present in the house. But PW3 has no such case. Quite strangely, PW3 never raised any alarm despite the fact that one of the accused that is, A5 had brought her home. The site plan of the place of confinement of PW3 shows that the room is one among a row of eight rooms. The staircase as well as the toilet to the said 8 rooms is a common one. PW3 has no case that she was not allowed to attend the call of nature for the two days of her confinement. PW1, the mother of PW3, has a case that the latter was found tied up when they rescued her. However, PW3 and PW16 have no such case. Further, when they are alleged to have rescued PW3 from the room of A5, people of the locality is supposed to have gathered there. But none of the said independent witnesses have been examined by the prosecution. Further, the accused persons are supposed to have called on the mobile of PW3 and demanded the ransom. It was pursuant to the second call, PW16 and relatives had proceeded to the place as demanded by the



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abductors. Going by the version of PW 15 and PW16, they had overpowered A2, at which time also people of the locality had gathered. In fact, they also have a case that some of the members of the public had beaten up A2. But none of the said independent witnesses who had gathered at the said time was examined, for which no reason(s) whatsoever has been furnished by the prosecution. The call record details of neither PW3 or her aunt or the accused persons have been produced by the prosecution, for which also no reasons have been furnished.

22. Further, PW3 deposed that on return home, her father had slapped her and it was then that she had revealed the name of the accused persons. PW16 also deposed that he had slapped his daughter and it was only then she revealed the details of her alleged kidnappers/abductors. This conduct of PW16 coupled with the remaining evidence on record raises doubts in the mind of the court as to whether this was really a case of abduction/kidnapping



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or a case of “misadventures” of PW3, a young girl of impressionable age. The testimony of the prosecution witnesses raise several doubts in the mind of the court. Despite the fact that PW3 was brought back home by one of her abductors, she never raised any alarm and the reason given does not appear convincing in any manner whatsoever. The room in which PW3 was alleged to have been confined was not an isolated room or a room situated in a desolate place. There were many persons living in the adjacent rooms. As noticed earlier, the toilet and the staircase to the room in which PW3 was confined was a common one. Therefore, PW3 had every opportunity to raise alarm or to escape the clutches of the alleged kidnappers. However, no such attempt is seen made. From an entire reading of the statements and testimony of the prosecution witness, it appears that PW3 had left home on her own accord. Being a minor, the consent of PW3 is immaterial. However, the testimony of PW3 is not free from doubts and on the



basis of her sole testimony, is impossible to arrive at a conclusion regarding the guilt of the accused. Her testimony does not in any way prove the case of the prosecution beyond reasonable doubt.

23. Further, the medical evidence also does not support the version of PW3 that she was repeatedly raped by five persons for two continuous days. There were no injuries whatsoever on PW3 when she was examined by the doctor. It is true that mere absence of external injuries is also no ground to disbelieve a case of rape. However, when the case is that PW3 was repeatedly raped by five persons on two consecutive days, there is bound to be some injury or mark on her genitals. There are absolutely no injuries. The hymen is reported to be torn. But PW3's version of rape cannot be held to have been proved beyond reasonable doubt on the basis of the materials on record.

24. In such circumstances, I find that the accused are entitled



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to the benefit of doubt. Hence, I find that the trial court went wrong in convicting the accused on the basis of the unsatisfactory materials on record.

25. In the result, the appeals are allowed and the impugned judgment by which the appellants/accused (A1 to A5) have been convicted and sentenced is set aside. The appellants/accused are set at liberty, if not required in any other case. Their bail bond shall stand cancelled.

26. Applications, if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA  
(JUDGE)**

**JANUARY 21, 2026/RS**