



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

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CRL.A. 280/2020

ALOK KUMAR DUBEYAppellant
Through: Mr. Rajesh Kajla with Mr. Aakash,
Advocates (M: 9811239251).

versus

STATERespondent
Through: Mr Pradeep Gahalot, APP for State
with SI Anisha, P.S. Bindapur.
Ms. Neelampreet Kaur, Advocate
(*Amicus Curiae, pro bono*) for the
victim.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal arises out of the conviction rendered by the Court of Sessions in proceedings arising out of FIR No. 132/2013 registered under Sections 376/120B/506 IPC at P.S. *Bindapur*.
2. The appellant was convicted for the offences punishable under Sections 328/506 IPC and Section 6 POCSO. He, however, was acquitted of the offence under Section 384 IPC.
3. *Vide* the order on sentence passed on 05.02.2020, the appellant was directed to undergo RI for a period of 10 years and pay a fine of Rs.3,000/-, in default whereof he would undergo SI for 6 months, for the offence



punishable under Section 6 POCSO; undergo RI for a period of 5 years and pay a fine of Rs.2,000/-, in default whereof he would undergo SI for 6 months, for the offence under Section 328 IPC; and undergo RI for a period of 6 months, for the offence under Section 506 IPC. All the sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was provided to the appellant.

4. The investigation in the present case commenced when a complaint from the prosecutrix was received on 19.03.2013, resulting in the registration of the subject FIR. In the complaint, it was claimed that the prosecutrix and her family used to reside as tenants under the tenancy of the appellant's father in the same building as the appellant and his family. The appellant, being the son of the landlord, had misbehaved with the prosecutrix, for which he was even rebuked by the prosecutrix's mother. On 21.11.2012 at about 05:00 PM, the appellant, on the pretext of showing the prosecutrix some books, called her to his house and gave her a drink laced with a sedative, on drinking which the prosecutrix fainted. When she regained consciousness, she realised that the appellant had committed rape upon her. She did not disclose the incident to anyone. On the next day, the appellant came to her school and asked her to accompany him, and when she refused, he threatened to disclose the incident to her father. Out of fear, she accompanied him and was again raped by the appellant in his house. Thereafter, the act was repeated multiple times and even recorded by the appellant on his mobile phone. The ultrasound of the prosecutrix revealed that she was pregnant, on which she was asked by the mother of the appellant to bring money from her house. She stole Rs.50,000/- from her own house and gave it to the appellant and his mother. The appellant's mother and brother threatened her not to disclose the happenings to anyone.



After completion of the investigation, charges were framed, to which the appellant as well as the co-accused persons pleaded not guilty and claimed trial.

5. Pertinently, the appellant was tried along with his brother, *Shiv Lok Dubey*, and mother, *Smt. Pan Kumari Dubey*, who were both acquitted of the offence under Sections 384/34 and convicted for the offence punishable under Sections 506/34 IPC. They were sentenced to the period already undergone by them in custody.

6. The prosecution examined 19 witnesses in support of its case. The prosecutrix herself was examined as PW-1, her mother as PW-2, and her father as PW-3. A friend of the prosecutrix studying in the same class as her was examined as PW-9. Medical witnesses, PW-4, PW-5, and PW-6, proved the MLC of the prosecutrix. Medical witness PW-8 proved the prosecutrix's discharge summary. Dr. *Partima Shrivastav*, who was running Anand Poly Clinic, *Janakpuri*, at the relevant time, was examined as PW-7. A teacher from the school the prosecutrix was attending was examined as PW-11 and proved school records in order to establish the prosecutrix's age. PW-13 is the learned MM who recorded the prosecutrix's statement under Section 164 Cr.P.C. The remaining witnesses were police officials who deposed as to various aspects of the investigation.

7. While assailing the impugned judgment of conviction and the order on sentence, the learned counsel for the appellant contended that the physical relations established between the parties were consensual and that the present case is simply a relationship gone sour being given the colour of rape. In this regard, he submitted that the prosecution had failed to prove that the prosecutrix was a minor as per the law in force at the time of the incident(s) and fully capable of giving consent. He contended that the



POCSO Act came into force on 14.11.2012 and, the incident(s) in question being prior thereto as no specific dates have come on record, the appellant could not have been tried under the provisions of the POCSO Act. Lastly, it was contended that even otherwise, not only does the testimony of the prosecutrix not provide specific details, it also contains material improvements and does not inspire confidence.

8. The aforesaid contentions were repelled by the learned APP for the State as well as by Ms. Neelampreet Kaur, learned *Amicus Curiae* representing the prosecutrix. Learned *Amicus* contended that the prosecutrix had categorically stated that she was repeatedly raped, lastly on 21.11.2012, which would bring the act in question within the four corners of the POCSO Act. Learned *Amicus*, while drawing the attention of the Court to the MLC of the prosecutrix, further submitted that the testimony of the prosecutrix finds support in her MLC, which noted her to be 18-20 weeks pregnant, as well as in the DNA report on record, according to which the appellant was opined to be the biological father and the prosecutrix the biological mother of the foetus. On the aspect of the prosecutrix being a minor, learned *Amicus* as well as the learned APP submitted that the school records of the prosecutrix, duly proved by the concerned school teacher, reflect her date of birth as 20.03.1996. Further, the prosecutrix's matriculation certificate was also placed on record.

9. The prosecutrix, examined as PW-1, deposed that she used to reside at the house of the appellant's father as a tenant, where the appellant started harassing her. She told this fact to her mother, who in turn informed the mother of the appellant, whereafter the harassment stopped for some time. In the month of June 2012, the appellant, on the pretext of showing the prosecutrix some books for Class-12, took her to his house and gave her a



cold drink, after drinking which she felt numbness and her head started spinning. Thereafter, the appellant took off her clothes and inserted his penis into her vagina. She became unconscious and upon regaining consciousness, she noticed blood on her clothes and felt pain in her vagina. On the next day, the appellant again asked her to accompany him to his house, which she refused to do. The day after, when she was returning from the market, the appellant pulled her inside his house and again committed rape upon her. The prosecutrix deposed that the appellant had committed rape upon her on 2-3 occasions in his house. Thereafter, the appellant asked her to have sexual intercourse with him again, and when she refused, he showed her a video clip on his mobile phone, in which he could be seen establishing physical relations with her. The prosecutrix stated that under threat of the said video being uploaded on the internet, she followed the appellant's instructions. The appellant started visiting her school along with his friend and stated that his friends also wanted to have sexual intercourse with her. After some time, the prosecutrix's family shifted to *Rajapuri*, where also the appellant committed rape upon her at knifepoint. She deposed that in the month of November 2012, she felt pain in her stomach, on which the appellant took her to his mother. An ultrasound revealed that she was pregnant. On the asking of the appellant as well as his mother, the prosecutrix brought Rs.1,000-2,000/- from her house and gave the same to them. She was also beaten by them. The next day, when she was going to school, the appellant and his mother came to her and made her sit in a car. There were two other unknown persons in the car, who were identified by the mother of the appellant as her brothers. The said persons, as well as the mother of the appellant threatened the witness that if she does not bring more money, she would be killed. Under this threat, she stole Rs.50,000/-



from her house and gave it to the mother of the appellant. She was taken to different hospitals, and again on 19.03.2013, she took Rs.10,000/- from her house and was taken to a hospital at *Janakpuri* by the appellant and his family. Her father came to know about the situation, came and got her from the hospital, and took her to the police station, resulting in the lodging of the concerned complaint with the police. The police thereafter took her for medical examination. She identified her signatures on the complaint (Ex. PW-1/A) and exhibited her MLC as Ex. PW-1/B. She also proved the proceedings in which her statement under Section 164 Cr.P.C. was recorded (Ex. PW-1/F).

10. In cross-examination, multiple suggestions were given by the defence to establish a case of consent and love affair. The prosecutrix was confronted with two photographs (Ex. PW-1/D1 and PW-1/D2), on seeing which she admitted that the said photographs featured her; and as per the defence, the other person featured in the photographs is the appellant. It was suggested that the appellant used to give tuitions of economics subject to her and her friend 'S' but the same was denied. She stated it to be correct that she and the appellant had both attended the marriage of her friend 'N'. Further suggestions were given to her that she had sent messages to the appellant from her father's mobile phone as well as the mobile phone that used to stay at her house, but she denied the same. She, however, admitted that she used to call the appellant at his instance. A suggestion was given that on her birthday she had gone to Pizza Hut in *Janakpuri* along with the appellant, which was denied. She also denied the suggestion that she used to frequent the Domino's outlet in *Uttam Nagar* with the appellant. She admitted that she knew the meaning of the term "pregnancy" and that stoppage of monthly menstrual periods was an indication of pregnancy. She



stated that she had told her mother about the missing her menstrual period prior to 19.03.2013, whereas she had informed the appellant about her stomach pain only in November of 2012. She stated that she could not recall the names of the doctors or clinics she was taken to by the appellant and his mother; however, she stated that the same were situated in *Janakpuri*, near her later house in *Rajapuri*, and behind her school. She did not tell any doctor or nurse about her situation. On 19.03.2013, she was taken to Anand Poly Clinic, *Janakpuri*, where she was given medicine. No one apart from the doctor and his staff was present at the time, yet she did not tell them about her situation. A suggestion was given that she was having a love affair with the appellant, which she denied. She also denied that physical relations with the appellant were established out of her own free will. She admitted that her parents did not lodge a police complaint regarding theft of money from their house; notably however, she volunteered that a ruckus was created and even her friends were called. On one occasion, the appellant tried to send a letter to the witness through her younger brother, but the same was intercepted by her father. After going through the contents of the same, he called up the appellant's mother, whereafter the appellant's family got the portion of their house tenanted by the witness' family vacated. The contents of this letter were not elaborated upon. The witness admitted it to be correct that prior to March 2013, she made no complaint about the appellant to her parents. She stated that she did not complain to her parents, school teacher, or the police about the appellant threatening to slash her face with a blade, or about the appellant and his family giving beatings to her. Interestingly, the prosecutrix denied the suggestion that her father had not asked for Rs. 25 lakhs from the accused persons.



11. The mother of the prosecutrix was examined as PW-2. She deposed that while they were staying as tenants in the appellant's house, a young child handed a letter to her which detailed why the prosecutrix wouldn't come to the ground floor. The witness thereafter talked with the appellant's mother, who reassured her. About one and a half months after vacating the said premises, the witness was informed by a friend of the prosecutrix that the appellant had caught hold of the prosecutrix's hand outside their school. This was again reported to the appellant's mother, who again reassured her. The witness put forth a cryptic version of events, stating that during examination time in 2013, a person she could not name informed her husband on the phone that they should inquire about the whereabouts of the prosecutrix as she was in danger. Thereafter, they approached the police and a search for the prosecutrix was launched. The younger sister of the prosecutrix informed the witness' husband over the phone that the prosecutrix was sitting outside the nursing home in *Janakpuri* and crying, on which he went there and brought the prosecutrix to the police station.

As the witness had not stated about the factum of Rs.50,000/- being stolen from their home by the prosecutrix, she was cross-examined by the learned APP for the State, on which she admitted the aforesaid fact.

In cross-examination by the learned counsel for the accused, she stated that she was aware of the denomination of currency kept at their house and she had not made any complaint regarding the theft of money from their house. She further admitted that the prosecutrix had told her that she had taken away Rs.50,000/-. She stated that neither she nor her husband lodged a complaint against the appellant *qua* the harassment meted out to the prosecutrix. Ordinarily, the witness (who is a homemaker) and her mentally challenged son used to stay in the house itself during the daytime.



Notably, she denied the suggestion that the accused persons, including the appellant, had threatened her daughter. She stated that she was aware about the monthly menstrual cycle of the prosecutrix and then denied having any knowledge that the prosecutrix was not having regular menstrual cycle. She did not make any complaint to the police when the prosecutrix's friend told her that the appellant had caught hold of the prosecutrix's hand.

12. The father of the prosecutrix was examined as PW-3. He deposed that in the morning of 19.03.2013, he received a call from one *Rajeev*, who told him that some incident had taken place and the prosecutrix was in danger. The police were contacted, who then accompanied the witness to the house of the appellant. The witness asked his younger daughter to search for the telephone number of the appellant and inquire about the whereabouts of the prosecutrix. The prosecutrix's sister accordingly spoke to the appellant over the phone but he did not reveal anything about the prosecutrix. After some time, the prosecutrix's sister informed the witness that the prosecutrix had called and told her that she was in a nursing home in *Janakpuri*. The prosecutrix was then taken to the police station and her complaint was recorded. Regarding the theft of money from their house, the witness stated that two months prior to 19.03.2013, Rs.50,000/- was found missing from their house. He had made inquiries from his children and their friends, but they denied their involvement. It was only after 19.03.2013 that the prosecutrix told him that she had taken the Rs.50,000/-.

During cross-examination, the witness stated that he was aware of the denomination of currency kept at their house, and also that he did not make any complaint regarding the theft of money from their house. The cross-examination of PW-3 was largely on the same lines as that of his wife, PW-2.



13. Medical witnesses, PW-4, PW-5, and PW-6, proved the MLC of the prosecutrix exhibited as Ex. PW-1/B. Medical witness PW-8 proved the prosecutrix's discharge summary (Ex. PW-8/A).

14. Dr. *Partima Shrivastav*, who was running Anand Poly Clinic, *Janakpuri*, at the relevant time, was examined as PW-7. She deposed that on 19.03.2013, the prosecutrix was brought to her clinic by the appellant, who claimed to be her (the prosecutrix's) husband. The witness was told that they wanted the child to be aborted and she accordingly obtained a consent form for investigation as well as collected Rs.6,000/- fees for investigation. Thereafter, when she got free, she observed that the prosecutrix had gone away from the clinic.

During cross-examination by the learned APP for the State, she denied the suggestion that the mother of the appellant had also accompanied the prosecutrix to the clinic. She further stated that since no lady had accompanied the appellant, the question of any lady introducing herself as mother of the appellant did not arise.

In cross-examination by the learned counsel for the accused, the witness stated that there is no CCTV installed in her clinic. When asked as to whether she was aware about the requirement to maintain an admission register in terms of Section 5 of the Medical Termination of Pregnancy Regulations, 2003, she stated that she was aware of the same but did not maintain a register as she was only looking after patients in her OPD and did not conduct any Medical Termination of Pregnancy (MTP). She admitted that her clinic was not an authorized centre for conducting MTP. At this point, the witness changed her stand and stated that she had deposed incorrectly in her examination-in-chief; when she clarified that the appellant and the prosecutrix had not approached her for an abortion but had instead



come with the complaint that the prosecutrix was having abdominal pain. She stated that she does not maintain any record in respect of the patients who come to her clinic and denied the suggestion that she was deposing falsely at the instance of the I.O.

15. The friend of the prosecutrix, who was studying in the same class as her, was examined as PW-9. She deposed that one day in March 2013 at about 2:00-2:30 p.m., when the witness and the prosecutrix came out of their school, the appellant met them outside the main gate, held the prosecutrix's hand, and walked with her for some distance. She further stated that on one occasion, the prosecutrix had told her that she had stolen money from her house to hand over to the appellant.

Upon being cross-examined by the learned APP for the State, the witness categorically denied the suggestion that the appellant took the prosecutrix by holding her hand forcibly. She further denied the suggestion that the prosecutrix had told her that the appellant had raped her (the prosecutrix) on several occasions.

In cross-examination by the learned counsel for the accused, she stated that neither she nor the prosecutrix complained about the appellant holding the prosecutrix's hand. She admitted that the concerned school is in an area that is densely populated at any given point in time. She did not complain to even her own family about the said incident.

16. PW-11 is a teacher from the school that the prosecutrix attended from Class-6 onwards. She proved a copy of the relevant entries from the Admission Register of the concerned school, stating that the date of birth of the prosecutrix was 20.03.1996. The prosecutrix was admitted to Class-6 on 03.04.2006 on the basis of her school leaving certificate of Class-5 and admitted to Class-11 on 20.06.2011.



17. The appellant's statement was duly recorded under Section 313 Cr.P.C., wherein he admitted that the prosecutrix resided in his father's house as a tenant but denied all allegations of harassment. He specifically stated that in 2012, the prosecutrix had represented herself to him as a major. He alleged that she subsequently attempted to extort a large sum from him after becoming pregnant, asserting that his refusal to pay led to his false implication in the present case. In support of this defence, the appellant examined two witnesses.

18. *Sh. Chander Shekhar*, Nodal Officer, M/s. Bharti Airtel Ltd., was examined as DW-1. He stated that the mobile number ending in "1180" was issued to one 'K' and proved the Call Detail Records (CDR) of the same from 01.12.2012 to 19.03.2013 as Ex. DW-1/3. *Sh. Rajeev Ranjan*, Nodal Officer, Tata Tele Services Ltd., was examined as DW-2. He deposed that the mobile number ending in "2630" was also issued to 'K' and proved the call details of the same from 01.06.2012 to 19.03.2013 along with location chart as Ex. DW-2/B. Notably, 'K' is the father of the prosecutrix.

19. I have heard the learned counsels for the parties and perused the record placed before me.

20. The question for consideration at the very outset is the age of the prosecutrix at the time of the alleged incident(s) and, consequently, whether she was capable of giving consent under the law in force at the time.

21. In her initial complaint to the police, the prosecutrix stated that the appellant first committed sexual assault upon her on 21.11.2012. However, in her statement recorded under Section 164 Cr.P.C., she stated that the first incident occurred in June 2012, which version was subsequently reiterated by her during her Court deposition. In neither of the subsequent statements is there any mention of any incident on 21.11.2012. The learned APP for the



State did not cross-examine the prosecutrix on this aspect. In the absence of any suggestion from the learned APP that the witness was resiling from the prosecution version, this Court can only infer that the prosecution version is that the first incident of rape occurred in June 2012. It is also trite that the information given to the police cannot be pressed into service to reject the substantive evidence tendered by a witness before the Court (Ref: Ram Swaroop Vs. State of Rajasthan¹ and State of Uttar Pradesh Vs. Krishna Master & Ors.²).

22. The date of birth of the prosecutrix, as per the school records which have been duly proved by the concerned school teacher (PW-11), is 20.03.1996.

23. The above clearly shows that the prosecutrix, at the time of the first alleged incident of rape, was over the age of 16 years.

24. Now, it is pertinent to note that at the time of the incident in question, the Criminal Law (Amendment) Act, 2013³ had not been brought into force. Article 20(1) of the Constitution mandates that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence. This necessitates that the relevant statutory provisions, as they existed at the material time, be examined. The relevant portion of the provision defining the offence of “rape”, i.e., Section 375 IPC, as it stood then, is extracted below:-

“375. Rape.—A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—

* * *

Sixthly.—With or without her consent, when she is under sixteen years of age.

¹ (2004) 13 SCC 134

² (2010) 12 SCC 324

³ Act 13 of 2013



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25. A plain reading of the provision as it stood then makes it clear that the statutory age of consent at the time relevant to the facts of the present case was 16 years. Consequently, if a woman had attained the age of 16, her voluntary participation in sexual relations would not attract the offence of "rape" under the unamended Section 375 IPC (Ref: K. P. Thimmappa Gowda Vs. State of Karnataka⁴).

26. Another aspect requiring consideration is whether the provisions of the POCSO Act, under Section 6 of which the appellant stands convicted, are applicable in this case, in view of the fact that the said Act came into force only on 14.11.2012. To positively answer the said question, the date of the last alleged incident of rape must be determined.

27. Since no specific date in this regard has been plainly stated in the Court deposition of the prosecutrix, it is deemed apposite to extract portions of the prosecutrix's testimony *qua* the alleged incidents of rape committed by the appellant after the initial alleged incident which occurred in June 2012:-

"On the next day, when I was coming from the market, accused Alok had pulled me inside his house and accused had committed rape upon me. Accused Alok had committed rape upon me 2-3 times in his house.

...Thereafter, my parents had vacated the house of the accused and started residing in Rajapuri. Accused Alok used to come to my home. After sometime, on seeing me alone in the house, accused had committed rape on the point of knife.

In the month of November, I felt pain in my stomach and accused took me to his mother and mother of accused got conducted ultrasound of my stomach and mother of accused told me that I had become pregnant..."

28. On a perusal of the above, it is evident that the prosecutrix has alleged



commission of rape on 2-3 occasions in the aftermath of the initial incident in June 2012, and on one occasion after she and her family had relocated to *Rajapuri*. In her cross-examination, the prosecutrix deposed that her family vacated the appellant's house in the month of August 2012. The father of the prosecutrix (PW-3) deposed that they vacated the house of the accused persons in July 2012.

29. Based on the above stated factual matrix, it is clear that the last alleged incident of rape occurred after the prosecutrix and her family vacated their tenanted premises in the appellant's house (around July/August 2012), but it is pertinent to note that no allegation of rape in the month of November 2012 has been put forth by the prosecutrix in her Court deposition. In fact, on a reading of the testimony of the prosecutrix, it appears that the last alleged incident of rape which supposedly occurred in the prosecutrix's house at *Rajapuri*, occurred before November 2012, which is when the fact of the prosecutrix's pregnancy was discovered.

30. A reference may also be made to the MLC of the prosecutrix dated 19.03.2013 (Ex. PW-1/B), which mentions that she was about 18-20 weeks pregnant at the time. In the Discharge Summary, the final diagnosis has been mentioned as "*Midtrimester abortion on 22.03.2012*". Accordingly, if the age of the foetus is calculated as 20 weeks, then the pregnancy commences from October 2012, which implies that the date of conception was prior to the POCSO Act coming into effect.

31. Based on the above, this Court is of the considered view that it would be erroneous to read beyond the record and assume that the last incident of rape occurred after the cut-off date of 14.11.2012, when the POCSO Act

⁴ (2011) 14 SCC 475



came into force. The benefit of the doubt must go to the appellant in the peculiar facts and circumstances of the present case; and consequently, the provisions of the POCSO Act are held to not apply.

32. Coming now to the testimony of the prosecutrix and the evidence on record, it is observed that the building owned by the appellant's father had approximately 20 persons residing in it. PW-2, the mother of the prosecutrix, admitted that she and her mentally challenged son ordinarily stayed in the house during the daytime. In such circumstances, the contention raised is that the allegation that the appellant committed forcible sexual intercourse with the prosecutrix within the same premises, while her family members were present, appears improbable.

33. It is worthwhile to mention that the prosecutrix was a student of Class-12 and capable of reading and writing English. She was a young adult who possessed the intellectual maturity to understand her circumstances as she admitted to being aware of the implications of pregnancy and that the cessation of menstrual periods was an indication of the same. Despite this, and notwithstanding the fact that it has come on record that she was alone with the doctor and their staff during her visit to a clinic, she did not disclose her situation to the medical staff, her teachers, the school principal, or her friends. Her prolonged silence is particularly difficult to reconcile with her background and capabilities.

34. Furthermore, the prosecutrix was confronted with photographs (Ex. PW-1/D1 and PW-1/D2) which she admitted featured her. It is apparent from the record that the boy featured in the said photographs is the appellant. The nature of these photographs is not consistent with the conduct of a person being subjected to harassment or sexual violence. The CDR on record shows several calls between two phone numbers registered in the



name of the prosecutrix's father and a number which apparently belongs to the appellant. This also indicates that the appellant and the prosecutrix remained in contact even after her family had relocated to *Rajapuri*.

35. The testimony of the prosecutrix's friend, PW-9, who was of the same age as the prosecutrix and studied in the same class, raises serious doubts about the prosecution case. While PW-9 stated that the prosecutrix had mentioned to her that she had stolen money from her house to give to the appellant, she categorically denied that the prosecutrix ever informed her that the appellant had raped her. PW-9 also expressly denied the suggestion that the appellant had forcibly grabbed the prosecutrix's hand outside the school. The picture painted on a perusal of the said testimony is one of a consensual relationship between the appellant and the prosecutrix, rather than one premised on coercion.

36. Further, both parents deposed that they were aware that a substantial sum of Rs.50,000/- was missing. Although they purportedly questioned their children and their friends, no police complaint was lodged despite the amount being far from inconsequential.

37. The prosecution version is further undermined by the testimony of PW-7 (Dr. *Partima Shrivastav*), who categorically denied the presence of the appellant's mother at the clinic. Although she initially supported the case of the prosecution to the extent that the appellant and the prosecutrix had approached her to seek an abortion, she resiled during cross-examination, stating that they came to her only with a complaint of abdominal pain.

38. Other material gaps exist in the investigation. No incriminating video as alleged was recovered from the appellant's phone and the contents of the letter allegedly sent by the appellant to the prosecutrix, which was intercepted by the prosecutrix's father, were never elaborated upon.



Furthermore, PW-2 denied the suggestion that the appellant and his family had threatened the prosecutrix, and the prosecutrix herself admitted she made no complaint regarding the appellant's conduct until March 2013.

39. As contended, the possibility that the prosecutrix and the appellant were in a consensual relationship, the discovery of which subsequently led to the present proceedings, cannot be ruled out. While individual aspects of the evidence might be explained away, when viewed collectively, these infirmities are too glaring to hold that the charges stand proved beyond reasonable doubt. In the peculiar facts and circumstances of the case, the benefit of the doubt must necessarily enure to the appellant.

40. Accordingly, the present appeal is allowed, and the appellant is acquitted of all charges.

41. The personal bond furnished by the appellant stands cancelled and his surety is discharged.

42. The present appeal is disposed of in the above terms.

43. Before parting, this Court records its appreciation for the valuable assistance rendered by Ms. Neelampreet Kaur, the learned *Amicus Curiae* appointed to represent the prosecutrix.

44. A copy of this judgment be communicated to the Trial Court as well as the Jail Superintendent concerned.

**MANOJ KUMAR OHRI
(JUDGE)**

FEBRUARY 06, 2026

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