



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

% Reserved on : 08.09.2025  
Pronounced on : 11.09.2025

+ **CRL.A. 241/2023**

PROSECUTRIX M .....Appellant

Through: Ms. Radhika Gupta, Advocate

versus

STATE OF NCT OF DELHI AND ORS. ....Respondents

Through: Mr. Pradeep Gahalot, APP for State  
Mr. Sunil Dalal, Sr. Advocate with  
Ms. Meenu Sharma, Mr. Nikhil  
Beniwal, Ms. Shipra Bali and Ms.  
Riya Rana, Advocates for respondent  
Nos. 2 to 4.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT**

1. The present appeal has been instituted by the prosecutrix under Section 372 read with Section 482 Cr.P.C thereby seeking setting aside of the judgment of acquittal rendered by the Sessions Court in SC No. 417/2020 arising out of FIR No. 481/2019 registered under Sections 376/377/34 IPC at P.S. Chhawala.

2. The background of the facts is that on 04.12.2019, DD No. 44A came to be recorded in P.S. Chhawala wherein, the prosecutrix alleged that she was married to respondent no. 2/*Shailesh*, on 21.11.2016 as per Hindu rites and customs. Her in-laws, i.e., father-in-law *Ramesh*, brothers-in-law *Rohit* and *Devender*, sisters-in-law *Suman* and *Sheetal*, and her own husband, were



unhappy and used to beat her for bringing insufficient dowry. As her parents were not capable of giving more dowry, her brother in-law *Rohit* not only had an evil eye on her but also molested her.

The complainant further stated that on 20.10.2018, when she was alone at her matrimonial house, her brother-in-law *Rohit*, at about 10:00 a.m., raped her and also recorded the entire incident on his mobile. He further threatened her not to disclose the incident, otherwise he would make the said video viral on the internet. He thereafter raped her on many occasions. When she informed the incident to her husband and father, both asked her to keep quiet. Her husband also used to commit unnatural sex with her. She left for her parental home on 28.02.2019.

On 14.07.2019, when she reached her matrimonial house, she was beaten by all of her in-laws, whereupon a call at 100 number was also made. She then went to her parental house, and on 01.12.2019, her in-laws including her father in-law, her brother-in-law, *Devender*, and others, visited her house. One *Raghunath* was allegedly carrying a pistol and threatened to kill her and her family members. Her brother-in-law *Devender* also showed her the video recording and asked her to keep quiet, else the same would be made viral. The prosecutrix informed the incident to her Aunt *Omwati*, which resulted in the filing of the concerned complaint.

3. With these background facts, the FIR came to be registered and a chargesheet was filed against her husband *Shailesh*/respondent no. 2, her brothers-in-law, *Rohit*/respondent no. 3 and *Devender*/respondent no. 4, and her father-in-law *Ramesh*, while the names of her sisters-in-law and other accused were placed in column no. 12. The prosecutrix thereafter filed a protest petition seeking summoning of the accused mentioned in column no.



12; however, vide order dated 14.09.2020, the same was dismissed and cognizance was taken only against the persons mentioned in column no. 11. That order remained unchallenged and attained finality on 23.02.2021.

While all of the accused were discharged for the offences under Sections 406/498A, charges were framed only against *Shailesh* for offences under Sections 377/323 IPC, against *Rohit* under Sections 376/506 IPC, and against *Devender* for 506 Part 2 II IPC. The accused pleaded not guilty and claimed trial. The said order was not assailed and thus attained finality.

4. The prosecution examined 4 witnesses to prove its case. The prosecutrix was examined as PW-1; her aunt *Omwati* as PW-2; Amit Kumar, Deputy Director at ESIC Headquarters, Ministry of Labour and Employment was examined as PW-3; and the I.O., W/ASI *Saroj*, was examined as PW-4. Notably, the MLC of the prosecutrix, admitted under Section 294 Cr.P.C., was exhibited as PW-1/B. The medical examination was conducted on 05.12.2019 at DDU Hospital and the MLC does not show any external injuries, either on the body or the genital parts.

It is also pertinent to note that though, on the allegations of recording of the video, *Rohit's* mobile phone was seized and sent to FSL, learned counsels for the parties as well as the State, stated that no FSL report was placed on record. The I.O./PW-4 in her deposition, however, stated that she had checked the mobile phone and no such video was found.

### **CONTENTIONS**

5. Learned counsel for the prosecutrix assailed the impugned judgment on the ground that the Trial Court erred in not appreciating the testimony of the prosecutrix, wherein she had consistently stated about the commission of rape by respondent no. 3/*Rohit*, unnatural sex by her husband/respondent no.



2 *Shailesh*, and the threats extended by respondent no. 4/*Devender*. It was further submitted that the Trial Court erred in observing that there was a delay in reporting the incident, whereas the delay stood sufficiently explained as the last incident had occurred on 01.12.2019 and the FIR came to be registered on 05.12.2019.

6. The submissions made on behalf of the appellant were contested by learned Senior Counsel appearing for respondent nos. 2 to 4. It was submitted that the testimony of the prosecutrix is full of inconsistencies and material improvements over her previous statements, barring only one incident of rape allegedly committed on 20.10.2018. The allegations pertaining to other incidents of rape and anal sex are devoid of any specific details as to when and where the same were committed. It was further contended that from the date of her marriage till February 2019, i.e., when as per the case of the prosecution the prosecutrix left for her parental home, she had visited her home on a number of occasions, yet made no complaint during that time. He argued that the testimony of the prosecutrix stood falsified as respondent no. 3/*Rohit* was successfully able to establish a plea of alibi with respect to the incident dated 20.10.2018, which stood fortified by the testimony of PW-3 as well as documentary evidence collected during investigation.

### **DISCUSSION AND ANALYSIS**

7. At the outset, it is pertinent to note that though the prosecutrix, in her complaint and subsequent statements, levelled allegations attracting various offences including under Sections 406/498A IPC against various members of her matrimonial family, the Trial Court, upon consideration of the chargesheet, found no prima facie case to proceed against them. Charges



were framed only against respondent no. 2/*Shailesh* under Sections 377/323 IPC, against respondent no. 3/*Rohit* under Sections 376/506 IPC, and against respondent no. 4/*Devender* under Section 506 Part II IPC. The protest petition filed by the prosecutrix seeking summoning of the sisters-in-law and others named in column no. 12 was dismissed, and that order, having remained unchallenged, attained finality on 23.02.2021. It is therefore manifest that part of the version of the prosecutrix stood disbelieved at the very threshold.

8. In her initial written letter to SHO, P.S. Chhawala, dated 14.07.2019 (Ex. PW-1/D-1), there was no reference to any act of rape or anal sex. In her statement under Section 161 Cr.P.C. (Ex. PW-1/A), she specifically stated only about a single incident of rape dated 20.10.2018. In her statement under Section 164 Cr.P.C. (Ex. PW-1/C), she alleged that she had been raped by Rohit seven times. In her testimony before the Court, she alleged repeated rape by respondent no. 3/*Rohit*, unnatural sex by respondent no. 2/*Shailesh*, and threats extended by respondent no. 4/*Devender*. A perusal of the record makes it evident that the allegations as levelled by the prosecutrix have not been consistent.

9. It also emerges from the evidence that the prosecutrix had gone to her parental home on five to seven occasions between her marriage and February 2019. Yet, despite repeated opportunities, she did not disclose the alleged acts of rape, unnatural sex, or threats to her family members. The silence of the prosecutrix despite ample opportunity of disclosure, coupled with complete absence of details as to dates and times, materially detracts from the credibility of her version.

10. Insofar as the incident of 20.10.2018 is concerned, the Trial Court



rightly accepted the plea of alibi raised by respondent no. 3/*Rohit*. The Deputy Director at ESIC Headquarters, who was examined as PW-3, proved that *Rohit*'s biometric attendance recorded him present at ESIC Hospital, Faridabad at 10:00 a.m. on 20.10.2018. The I.O./PW-4 *Saroj* also confirmed in her deposition that her investigation corroborated *Rohit*'s presence at his duty. While biometric records such as in the present case may not be infallible, it is of significance that no suggestion to the contrary was put to PW-3 or PW-4 by the prosecution. Further, the location obtained from CDR records also corroborates the defence version. It also reflects that *Rohit* was present in Faridabad. Thus, *Rohit*'s alibi at the time of the alleged incident stands duly proved.

11. The prosecutrix also alleged that *Rohit* had recorded a nude video of her and that respondent no. 4/*Devender* later showed her the same while issuing threats. The mobile phone of respondent no. 3 was duly seized and sent to FSL, but no FSL report was placed on record. More importantly, the I.O. in her testimony as PW-4 stated that she had checked the device and no such video was found. The allegation regarding the video is thus unsubstantiated.

12. The contradictions between Ex. PW-1/D-1, Ex. PW-1/A, Ex. PW-1/C, Ex. PW-1/B, and her testimony in Court, coupled with the proved alibi of respondent no. 3 and the unsubstantiated allegation regarding the nude video, materially erode the credibility of the prosecutrix's version. It is settled law that a conviction can be based on the sole testimony of the prosecutrix only if it inspires confidence. In the present case, her testimony is neither consistent nor reliable.

13. The concerned contradictions go to the root of the matter. Once it is



shown that false allegations have been levelled against respondent no. 3 in respect of alleged incident dated 20.10.2018, and her allegation regarding the alleged nude video has been found to be unsubstantiated, her testimony cannot be bifurcated to accept some parts while discarding others. It must be assessed in its entirety, and on such assessment, it does not inspire confidence.

14. Even otherwise, the delay in registration of the FIR has not been satisfactorily explained, and this, when coupled with the fact that the prosecutrix's first written communication to the police dated 14.07.2019 (Ex. PW-1/D-1) contained no allegations of rape or unnatural sex, further weakens the prosecution case. The subsequent registration of the FIR on 05.12.2019, after notice of divorce proceedings had been served upon her, also cannot be overlooked, even if considered only as a background circumstance.

15. In light of the above, this Court finds that the Trial Court rightly extended the benefit of doubt to the respondents. The testimony of the prosecutrix, riddled with contradictions and false allegations, does not inspire confidence. The medical evidence (Ex. PW-1/B) also does not record any fresh injuries or signs of sexual assault. Taken cumulatively, the material on record falls far short of establishing guilt beyond reasonable doubt.

16. Furthermore, the law pertaining to double presumption of innocence operating in favour of an accused at the appellate stage, after his acquittal by the Trial Court, is settled. A gainful reference may be made to the Supreme Court's decision in Ravi Sharma v. State (NCT of Delhi), reported as (2022) 8 SCC 536, wherein it was observed as under:



“8. ... We would like to quote the relevant portion of a recent judgment of this Court in *Jafarudheen v. State of Kerala* [*Jafarudheen v. State of Kerala*, (2022) 8 SCC 440] as follows : (SCC p. 454, para 25)

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.””

17. The Supreme Court has also categorically held in *Anwar Ali v. State of H.P.*, reported as (2020) 10 SCC 166, that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of the accused in an appeal against an acquittal. The relevant portions are produced hereinunder:

“14.1. In *Babu* [*Babu v. State of Kerala*, (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179], this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)

‘ ...

13. In *Sheo Swarup v. King Emperor* [*Sheo Swarup v. King Emperor*, 1934 SCC OnLine PC 42 : (1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] , the Privy Council observed as under: (SCC Online PC: IA p. 404)

‘ ... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.’

...  
...



*(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*

*(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’’*

18. Accordingly, this Court finds no reason to interfere with the impugned judgment of acquittal. The benefit of doubt enures to the respondents. The appeal, along with pending applications, if any, is dismissed.

19. A copy of this judgment be communicated to the Trial Court.

**MANOJ KUMAR OHRI  
(JUDGE)**

**SEPTEMBER 11, 2025/nb**