



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

% Reserved on : 10.12.2025
Pronounced on : 12.12.2025
Uploaded on : 12.12.2025

+ **CRL.A. 969/2018**

RINKU

.....Appellant

Through: Ms. Saahila Lamba and Ms. Nidhi
Sharma, Advocates

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with
SI Neha Bana, P.S. Karawal Nagar.
Ms. Sagarika Kaul, Advocate (Amicus
Curiae)

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The appellant stands convicted vide the impugned judgment dated 05.05.2018 for the offences punishable under Sections 354/376/506(1) IPC and Section 6 POCSO. By way of the impugned order on sentence dated 10.05.2018, he was sentenced as under:

Under Section 4 POCSO:

- (i) RI for a period of 10 years and,
- (ii) Fine of Rs.5,000/-, in default whereof he would undergo SI for 3 months.

Under Section 354 IPC:



- (i) RI for 2 years and,
- (ii) Fine of Rs.1,000/-, in default whereof he would undergo SI for 1 month.

Under Section 506(1) IPC:

- (i) RI for a period of 2 years and,
- (ii) Fine of Rs.1,000/-, in default whereof he would undergo SI for 1 month.

All sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was extended to the appellant.

2. The impugned judgment was rendered in the context of FIR registered on 05.08.2016 on the statement of the victim wherein she stated that her parents had abandoned her at a young age, and since then she had been residing with her grandparents. She further stated that on account of family disputes, the appellant had been residing at the house of her grandmother for the last 1-1/2 months. He used to consume liquor and beat her grandmother. She alleged that on 29.07.2016 at about 1.30 PM, the appellant came to her room and moved his hand over her chest. On 30.07.2016 at about 11.30 PM, the appellant asked her to play ludo with him and thereafter put a condom on his penis and committed rape upon her. The next morning, she disclosed all the facts to her grandmother, and they went to Bangla Sahib Gurudwara. They stayed in the Gurudwara till 04.08.2016. Thereafter, her aunt came there and then she took prosecutrix to the police station.

3. The medical examination of the victim was conducted, and the relevant exhibits were duly seized. Her statement under Section 164 Cr.P.C. was also recorded. On completion of investigation, the chargesheet came to be filed; and



charges were framed subsequently, to which the appellant pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined 15 witnesses in total. The primary witnesses among them being the victim, who was examined as PW-7; her grandmother as PW-4; her aunt as PW-2; and one neighbour 'M' as PW-3. The victim's MLC was exhibited through the testimony of Dr. *Vinamrata Singh*, who was examined as PW-10; and the appellant's MLC was proved by Dr. *Ankit Gupta* (PW-5). The FSL report was proved through Manish Gupta, examined as PW-13. The I.O. of the case, SI *Monika*, was examined as PW-14. Ms. *Preeti Agarwal*, MM (Mahila Court), NE District, Karkardooma Courts, who was examined as PW-12, exhibited the statement of the victim recorded under Section 164 Cr.P.C. The other witnesses deposed about various aspects of the investigation.

5. The appellant, while denying the prosecution case, in his statement recorded under Section 313 Cr.P.C., claimed false implication on account of him having objected to the victim's affair with her neighbour 'M'.

6. Learned counsel for the appellant contended that though the alleged incidents are stated to have been committed on 29th and 30th July 2016, the FIR was lodged after a delay of 4 days, i.e., on 5th August 2016, which casts doubt on the reliability of the victim's allegations. The testimony of the victim also does not find any support in her medical examination, where she refused to undergo internal examination; and the FSL report on record is unsupportive, as well. The incident is also doubtful as the victim, her grandmother, and the



appellant, were concededly sharing one room. Rather, the conduct of the appellant shows that he is not involved in the incident, as it was him who informed the aunt of the prosecutrix that the victim and her grandmother were missing; and as he continued to stay in the same house. Lastly, it was contended that the neighbour 'M' has not supported the case of the prosecution in its entirety as he did not say that he was informed by the victim/grandmother that rape was committed upon the victim by the appellant.

7. The said contentions, however, are repelled by learned APP for the State and Ms. Sagarika Kaul, the learned counsel appointed as *Amicus Curiae* to represent the victim. Learned *Amicus* submitted that the version of the victim is captured in the *rukka*, as well as in her statement recorded under Section 164 Cr.P.C., and that the same is consistent with her Court deposition. In all aspects relating to the incidents that took place on 29th and 30th July 2016, while placing reliance on State of HP Vs. Sanjay Kumar¹, it is submitted that once the testimony of the prosecutrix is held to be cogent and consistent, it can form the sole basis for conviction. It has come on record that the appellant has a history of being an alcoholic and continued assault. In his statement recorded under Section 313 Cr.P.C., the appellant provided evasive answers and further, did not lead any defence evidence. Though the appellant has claimed that the grandmother and aunt are interested witnesses, once the Court reaches the conclusion that their testimonies inspire confidence, their testimonials cannot be discounted. In this regard, reference is made to the decision of the Supreme

¹ (2017) 2 SCC 51



Court in Subal Ghorai and Ors. Vs. State of West Bengal². Lastly, on the aspect of delay of 4 days in lodging of the FIR, the deposition of the victim and her grandmother provides sufficient explanation for the same, namely, that they were scared of the appellant, that they found a temporary shelter at Bangla Sahib Gurudwara, and that they found the prosecutrix's aunt from there, which led to the lodging of the present FIR. In this regard, learned *Amicus Curiae* refers to the decision of the Supreme Court in Tulshidas Kanolkar Vs. State of Goa³.

8. The prosecutrix was examined as PW-7. She deposed that she was abandoned by her parents in childhood and brought up by her grandmother. In fact, in school records, the name of her grandfather was recorded in place of her father. She further deposed that the appellant is her real uncle and was a TSR driver. The appellant started residing in her grandmother's house sometime in July 2016 as the appellant's wife had started residing at her parental house along with their son. The witness further stated that the appellant used to come home after consuming liquor. On 29.07.2016, the appellant did not permit the victim to go to school and asked her to study at home. On that day at about 01.00-01.30 PM, when her grandmother had gone out of the house for some work, the appellant, taking advantage of the same, touched her breast. Upon this, she pushed him and went out of the house. She stated that on earlier occasion(s) also, while playing ludo, he used to touch her on her back and on

² (2013) 4 SCC 607

³ (2003) 8 SCC 590



her breast, and then used to apologise, saying that he had done it accidentally. She further deposed that, her grandmother used to take medicine at about 10.00 PM and sleep, and she used to sleep with her. The appellant used to sleep on the floor. At about 11.30 PM, the appellant demanded food and thereafter he asked her to play ludo. While playing ludo, the appellant touched her breast and made her sit on the floor. She tried to wake up her grandmother; however, the appellant told her that it was of no use as he had mixed sedatives in her grandmother's medicine. He thereafter touched other parts of her body and when she objected, he threatened that he would hit her with the hammer that was lying in the house. The appellant thereafter used a pink coloured condom and committed rape upon her. The victim had also bled from her private parts. When the appellant slept, she woke her grandmother up and told her everything. They decided to go to the house of her aunt but were afraid that the appellant would also reach there. Then, they decided to go to Ambala to the house of her uncle (*taau*) and went out of the house. As they had not met him for a long time, they decided to go to Gurudwara Bangla Sahib instead. At that time, she was having a mobile phone of her neighbour 'M'. The phone was taken from the neighbour 'M' as the appellant had broken the mobile phone of her grandmother. After reaching Gurudwara Bangla Sahib, she called her neighbour 'M' and returned back the mobile as they were planning to go to Ambala. They, however, stayed in the Gurudwara from 31.07.2016 to 04.08.2016 as they were indecisive. On 04.08.2016, at about 1.30 AM, her aunt reached there and met them. She brought them to her house where the victim's



grandmother told her all the facts. On the advice of her aunt, the witness along with her grandmother and aunt went to P.S. Karawal Nagar and lodged the concerned FIR.

In cross-examination, the victim stated that prior to the incidents in question, the appellant used to stay over at the most for a day or overnight. However, during those visits, the appellant's wife and children never used to come with him, and even during those visits he used to touch the victim's back and then apologize. She denied the suggestion that the neighbour 'M' was regularly visiting her house and that she was quite friendly with him, or that when the appellant saw it and raised objections, she got annoyed and falsely implicated him in the present case. She also stated that she had told about the earlier acts of the appellant touching her body parts to the daughter of her aunt, who was quite friendly with her.

9. The grandmother (PW-4), aged about 72 years, stated in her deposition that she had three children, i.e., one daughter and two sons. The victim is her granddaughter and the daughter of her elder son, who had abandoned her when she was three months old, and since then the victim had been residing with her, and she had brought up the victim. She stated that both her sons were alcoholics. The appellant is the younger son of the witness; his wife had deserted him and was residing with her own parents along with their 9-year-old son. The witness stated that the appellant is of a quarrelsome nature and about 1-1 ½ months prior to the incident in question, the appellant came to her house to reside with her. She was taking medicines, being a heart patient. At times,



the victim had asked her to turn the appellant out from the house. She stated that on 30.07.2016, she took food and went to sleep after taking medicine from the appellant. He then asked the victim to play ludo with him. The witness woke up on 31.07.2016 (which was a Sunday). The victim closely embraced her and told her about the act of rape committed by the appellant in the night. They both went out of the house and after some thinking, went to Gurudwara Bangla Sahib with some clothes. They had planned to go to Ambala, and from there to the house of the witness' maternal nephew. She knew neighbour 'M', who used to take care of her and bring ration whenever needed. The appellant had broken her mobile phone and for the said reason, her neighbour 'M' had provided his mobile phone. When they reached Gurudwara Bangla Sahib, they decided to return the said mobile phone to 'M'. The said neighbour was called at Gurudwara Bangla Sahib, and the mobile phone was returned to 'M' after taking out the SIM card. They remained at the Gurudwara till 4th August 2016, when her daughter came to take them to her house and they lodged the concerned FIR. She also deposed that the appellant also used to mix sedatives in the medicine and after taking medicine, she used to fall asleep.

In cross-examination, she denied the suggestion that the victim had any love affair with their neighbour 'M'; that the appellant had seen them and upon the appellant expressing his objection to the said affair, the victim had falsely implicated him in the present case. A suggestion was given that on the intervening night of 30th/31st July 2016, the victim was with the neighbour 'M', and the appellant had seen them, whereafter a quarrel had taken place between



the parties and the victim then levelled false allegations against the appellant – the suggestion was denied.

10. The victim's aunt (PW-2) also stated during her deposition that when the victim was 2-3 months old, she was abandoned by her parents. The appellant was also not taking care of his own family and was residing separately. About 1-1½ months prior to the incidents, the appellant had been residing with her mother. He would always ill-treat, abuse, and even beat their mother. She was regularly keeping contact with her mother. She was aware that the neighbour 'M' used to take care of her mother and provided household articles as and when requested. Prior to the incident, her daughter had informed that the appellant was not having a good eye upon the victim. The appellant had even broken the mobile phone of her mother. She received a phone call on 31.07.2016 from the appellant, stating that the victim and her mother were not present in the house. On 2nd August 2016, she approached the appellant regarding their mother and the victim being missing. On 3rd August, the appellant again called her on her phone and stated that the mother and the victim had gone away with the neighbour 'M'. He also shared the mobile number of the neighbour. When she contacted 'M', he asked her to meet him at GTB Hospital. On 4th August 2016, 'M' disclosed that the witness' mother and the victim were living at Gurudwara Bangla Sahib. He also stated that the witness' mother had informed him that the appellant had committed rape upon the victim. Thereafter, she went to Gurudwara Bangla Sahib and brought the victim and her mother to her house. She was told by her mother about the



offence committed by the appellant, whereafter they approached the police station.

In cross-examination, she stated that they personally had never lodged any complaint against the appellant to the police regarding his behaviour before this incident, but there were other complaints against him by various persons. She admitted that she knew the neighbour 'M' for the last 3-4 years. She denied the suggestion that she regularly used to quarrel with the appellant over share in the property.

11. Neighbour 'M' (PW-3) during his Court deposition stated that he was an electrician by profession and knew the victim and her grandmother who were residing near his house. The victim's grandmother always treated him like a son, and he used to help her with household affairs like bringing ration etc. He had given his mobile phone to the victim's grandmother as her mobile phone had been broken by the appellant. He stated that it was a Sunday when he received a call from victim, asking him to come to Gurudwara Bangla Sahib and take his phone back. He went there and met the victim and her grandmother. They were sad. His phone was returned. He was told by the victim's grandmother that the appellant had beaten, abused, and done "jabardasti" with the victim. After 3-4 days, he received a phone call from an aunt of the victim, on which he met her at GTB Hospital and told her about the whereabouts of the victim and her grandmother.

As the witness did not state about the incident of rape being informed by the victim's grandmother, he was asked a leading question, however, this



suggestion was denied. He, however, admitted that it was 4th August 2016 when he received a call from the victim's aunt.

During cross-examination by learned counsel for the appellant, the witness stated that the grandmother of the victim had never told him that the appellant was giving beatings to her and quarrelling with her; he volunteered, however, that this fact was known to everyone in the locality. He had given his phone to the victim's grandmother about 10-15 days prior to the incident. He denied the suggestion that the victim or her grandmother had gone to Gurudwara Bangla Sahib, being disturbed by the family disputes. He denied the suggestion that, being close to the family of the victim and her grandmother, he was deposing falsely at their behest.

12. The victim was medically examined on 5th August 2016. Dr. *Vinamrata Singh* (PW-10) identified the signatures of Dr. *Ritik Gupta*, the examining doctor, and exhibited the victim's MLC (Ex. PW-10/1). As per the MLC, the victim was brought to the hospital at about 6.30 PM by her aunt and a lady constable with a history of sexual assault by the appellant at her house on 30.07.2016 at 11.00 PM. She further stated that vaginal examination was not done as the patient was not ready. Samples of sexual assault evidence collection kit were not taken as the incident had taken place beyond 96 hours before the examination. However, in local examination, the victim's hymen was found torn.

13. The victim being 14-years-old has not been contested before the Trial Court or during the present appeal. Now, coming to the contentions raised on



behalf of the appellant. It has been contended that there was delay in lodging of the FIR. A perusal of the testimony of the victim and her grandmother shows that after the act was committed in the night of 30th July 2016, the victim and her grandmother escaped from the house the next day and, being indecisive, went to Gurudwara Bangla Sahib, where they stayed till 4th August 2016. The victim was aged 14 years, and her grandmother was aged about 69 years at the relevant time. It has further come on record that the appellant is an alcoholic and had a history of abusing and giving ill-treatment to his mother. Both the victim and her grandmother stated that fearing the appellant, they did not even go to the house of their relatives, afraid that the appellant may come over there. It was only when the victim's aunt became aware of the incident that she persuaded the victim and her grandmother to lodge a complaint. The delay of 4 days stands sufficiently explained.

14. In her deposition, the victim narrated the details of both the incidents dated 29th and 30th July 2016 and was consistent with her earlier statements. During her Court deposition, there was no confrontation of any contradiction. The testimony of the victim is found to be cogent and consistent on all material aspects. During her medical examination, her hymen was found torn. Though the appellant has taken the ground of false implication upon having objected to the affair of the victim and her neighbour, the same has no significance in light of the testimonies of the victim, her grandmother, and her aunt. All the aforesaid witnesses have deposed about the appellant having a bad eye on the victim and having touched her inappropriately even earlier.



15. To claim innocence, it has been contended that it was the appellant who had informed his sister about the victim and her grandmother staying at Gurudwara Bangla Sahib; however, the same is not evident from the facts of the case. Rather, as per the testimony of the appellant's sister (PW-2), the only information given was about the victim and her grandmother not being present in the house, and then about them having gone away with the neighbour. In the considered opinion of this Court, this contention even otherwise has no merit, in light of the evidence that has come on record.

16. During the hearing, it was canvassed on behalf of the State that the victim had stated that after commission of rape she had noticed bleeding in her private parts, and that in the FSL report, the presence of blood was noted on the victim's underwear; however, it is noted that in her statement recorded during investigation as well as the seizure memo, she stated that she had washed her underwear. Be that as it may, the FSL report was exhibited through the testimony of Dr. *Manish Gupta* (PW-13), and no question in this regard was put to him. Even if this report is eschewed from consideration, the testimony of the victim, in the considered opinion of this Court, draws support from the MLC as well as the testimonials of her grandmother and aunt.

17. The victim's testimony inspires confidence and is held to be reliable and credible enough to uphold the impugned judgment. The appellant has failed to make out any case. As a necessary *sequitur*, the present appeal stands dismissed.

18. The personal bond furnished by the appellant stands cancelled and his



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surety is discharged.

19. Before parting, this Court records its appreciation for the valuable assistance rendered by Ms. Sagarika Kaul, Advocate, the learned *Amicus Curiae* appointed to represent the victim.

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

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 12, 2025
pmc