



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

% Date of Decision: 13.11.2025

+ **CRL.A. 732/2017**

BABA BAMDEV RAM Appellant
Through: Mr. Sanjeev Kumar Baliyan,
Advocate (DHCLSC). With Ms.
Shivanshi Panwar, Advocates.

Versus

STATE OF NCT OF DELHI. Respondent
Through: Ms. Shubhi Gupta, APP for State
with SI Rajiv Ranjan PS Khyala and
SI Kiran PS Moti Nagar, Delhi
Mr. Himanshu Anand Gupta with Mr.
Siddarth Barua, Advocates for
DSL SA
Mr. Shiv Chopra, Advocate
(DHCLSC) with Mr. Shravan Pandey
and Ms. Surbhi Arora, Advocates for
victim.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal seeks to assail the judgment of conviction dated 13.04.2017 and the order on sentence dated 19.04.2017 passed by the learned ASJ (SFTC)-01, West, Tis Hazari Courts, Delhi in SC No. 02/2013 arising out of FIR No. 138/2011 registered under Sections 376/506 IPC at P.S. Moti Nagar, whereby the appellant was sentenced to undergo RI for 10 years alongwith fine of Rs.1,00,000/-, in default whereof he would undergo



SI for 1 year, for the offence punishable under Section 376 IPC. He was further sentenced to undergo SI for 1 year, for the offence under Section 506 IPC. All sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was granted to the appellant.

2. The present FIR came to be registered on 04.06.2011, wherein the prosecutrix stated that she was employed through a placement agency run by Ms. *Salmi* and Mr. *John*, and sent to Amritsar, where she worked for about 5 years in the house of one *Anurag*. She alleged that during this period she was raped several times by the father-in-law of *Anurag*. She was brought back to Delhi and complained to Ms. *Salmi* about the same. She further alleged that Ms. *Salmi* introduced her to the appellant herein, and he, on the pretext of helping her, committed rape upon her in the office of Ms. *Salmi* on 06.05.2011, and threatened to kill her if she disclosed the same to anyone.

3. In the backdrop of the aforesaid allegations, the investigation commenced, the prosecutrix was medically examined, and her statement under Section 164 Cr.P.C. was recorded. Upon completion of investigation, the charge-sheet came to be filed and charges were framed under Sections 376 and 506 IPC on 15.02.2013 with respect to the incident that had occurred in Delhi, to which the appellant pleaded not guilty and claimed trial.

4. Mr. *Baliyan*, learned counsel for the appellant, while assailing the impugned judgment and order on sentence, contends that the conviction rests solely on the testimony of the prosecutrix, as the medical examination, carried out nearly a month after the incident in question, did not lend any support to the prosecution version. No exhibits were collected during the



examination and hence no forensic report was sought. He further contends that the testimony of the prosecutrix is neither reliable nor credible as there are inconsistencies on material particulars in her various statements. Though the prosecution examined Ms. *Salmi* (PW-5) and *Harinder Singh* (PW-6), the owner of the placement agency and the owner of the building respectively, both turned hostile and did not support the prosecution case.

5. Learned APP for the State, duly assisted by Mr. Chopra, learned *Amicus Curiae* representing the victim, has defended the impugned judgment and order on sentence, submitting that the prosecutrix clearly stated that the appellant is the offender and also identified him during her deposition.

6. The prosecutrix, in her initial statement which resulted in registration of the present FIR, stated that while the appellant was physically examining her on 06.05.2011, he raped her twice. She further stated that the appellant threatened to kill her if she disclosed the same to anyone. In her statement recorded under Section 164 Cr.P.C., however, she stated that the incident had occurred on 06.04.2011, when the appellant bolted the room from inside and raped her twice. She further stated that she tried (to raise an alarm) but couldn't as the appellant had tied her mouth. Notably, in this statement she did not mention the aspect of the appellant threatening to kill her.

7. During trial, the prosecutrix, examined as PW-9, first deposed about the incident that had occurred in Amritsar. With respect to the subject FIR, she stated that the incident in question had occurred in the office of Ms. *Salmi*. She stated that when she was brought back to Delhi, the appellant came to the office of Ms. *Salmi* twice and inquired about the incident in Amritsar, and after two days he again approached her and made further



inquiries, whereafter he took her to a separate room, closed the door, and raped her. She tried to shout but he put his hand on her mouth. After committing the offence, he left. She disclosed the incident to Ms. *Salmi* after 1-2 days, who asked her to not disclose about the same to anyone else. She further stated that two days thereafter, she went to police station and lodged a complaint about the said incident around 12:00 midnight, whereafter she was sent back with Ms. *Salmi*. The prosecutrix further deposed that thereafter Ms. *Salmi* again called the appellant, who continued to rape her on several occasions.

8. Interestingly, during the trial, the prosecutrix filed an application seeking to withdraw her allegations regarding the incident stated to have taken place in Amritsar. The said application was exhibited as Ex. PW-9/C. During her testimony, she stood by the application, however she also continued to stick with the allegations made by her against the father-in-law of *Anurag*. With respect to the incident at Delhi, there are no specific dates in her deposition. It was only during her cross-examination, on questions being put to her regarding her whereabouts on 06.04.2011 and 06.05.2011 that she answered that she was at her employer's house in Malviya Nagar on both dates. Notably, in her initial statement she had alleged that the appellant committed rape upon her at Ms. *Salmi*'s house in Moti Nagar on 06.05.2011, and in her statement under Section 164 Cr.P.C. she had alleged that the appellant committed rape upon her on 06.04.2011. On another question being put to her with respect to her whereabouts on 02.06.2011 and 04.06.2011, she answered that she remained at her employer's house in Malviya Nagar for the entire day on both the said dates. The aforesaid suggestion with respect to 02.06.2011 and 04.06.2011 assumes significance



as the I.O., Inspector *Vipnesh*, examined as PW-13, stated that the prosecutrix had come to the police station on 02.06.2011 and 04.06.2011.

9. Ms. *Salmi*, the person running the placement agency was examined as PW-5. Though the prosecutrix has alleged that it was Ms. *Salmi* who introduced the appellant to her, the witness did not support any of the allegations. She was declared hostile and cross-examined by the learned APP for the State, in which she denied all the suggestions put to her.

10. The prosecution further examined one *Muni Raj Kaushik* (PW-10), to whom the custody of prosecutrix was handed over. His testimony reveals that he was running an NGO and he claimed that the prosecutrix had disclosed all the incidents to him in detail.

11. As noted above, though the prosecutrix was medically examined and her MLC was proved by Dr. *Deep Shikha* (PW-14) a perusal of the MLC shows that no injuries were noted therein. Rather, it was stated that the incident had occurred two months prior to the medical examination; no exhibits were collected, resulting in no FSL report being on record.

Notably, the history recorded in the MLC, as told by the prosecutrix, mentions sexual assault by “*some man in Ludhiana*” and makes no mention of the incident(s) that form the subject matter of the present proceedings. The prosecutrix also alleged that on account of the said incident, she became pregnant and the pregnancy was subsequently terminated. However, there is neither any documentary evidence on record nor any investigation in this regard.

12. The appellant, in his statement recorded under Section 313 Cr.P.C., while answering Q. No. 15, stated that he was running an NGO and so was *Muni Raj Kaushik* (PW-10). He further stated that the NGO run by *Muni Raj*



Kaushik was committing acts of extortion by implicating innocent persons in rape cases and an FIR was lodged against *Muni Raj Kaushik* and his associates bearing FIR No. 206/2011 under Sections 376/371/374 IPC, Sections 23/26 JJ Act, and Sections 3/14 Bonded Labour Act. Further, in cross-examination of *Muni Raj Kaushik* (PW-10), the witness admitted to having obtained bail with respect to FIR No. 175/2011 registered at P.S. Rani Bagh.

13. While a conviction can rest upon the sole testimony of a prosecutrix, the same is subject to such testimony being consistent and reliable. In the present case, a reading of the statements of the prosecutrix reveals that while in her initial statement she had alleged that the incident happened on 06.05.2011 at the office of Ms. *Salmi*, and that the appellant had threatened to kill her if she disclosed the incident to anyone, her statement under Section 164 Cr.P.C. states that the incident occurred on 06.04.2011 and makes no mention of any threats. In her Court deposition, the prosecutrix went on to say that the incident occurred once whereafter it was reported to the police, but the appellant continued to commit rape upon her on several occasions after the fact. Her testimony is silent as to why, having reported the first incident, she did not report the subsequent incidents. The aforesaid aspect itself casts a shadow of doubt on her testimony. Further, her testimony does not provide any specific dates or reveal any details regarding the way in which the stated incident occurred. Rather, the prosecutrix has stated that she was at the house of her employer in Malviya Nagar on the concerned dates.

14. In light of what has been observed above, this Court does not find the testimony of the prosecutrix to be credible enough to uphold the conviction



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of the appellant and thus the benefit of doubt goes to the appellant.

15. Consequently, the present appeal succeeds and the impugned judgment as well as order on sentence are set aside, and the appellant is acquitted.

16. The present appeal stands disposed of in the above terms.

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

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 13, 2025/*rd*