



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

% Date of Decision: 19.11.2025

+ **CRL.A. 146/2019**

STATE OF NCT OF DELHIAppellant
Through: Ms.Shubhi Gupta, APP for State

versus

CHAIN SINGHRespondent
Through: Ms. Neelampreet Kaur, Advocate
(Amicus Curiae)

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal filed under Section 378(1) Cr.P.C. seeks to assail the judgment of acquittal rendered by the Court of Sessions in the trial held in the context of FIR No. 1210/2014 registered under Sections 376/377 IPC at P.S. Vasant Kunj, Delhi.
2. The investigation in the present case relates to an incident which statedly occurred on 02.12.2014, when the complainant allegedly, along with one 'M', reached House No. 22, Shanti Kunj Main, New Delhi, for doing the work of cooking, where she met a *chowkidar* (security guard). The house was stated to be under construction. While 'M' went away, the prosecutrix was offered tea, after drinking which she was taken to the second floor and raped after gagging her mouth. The prosecutrix alleged that not only sexual, but also carnal, intercourse was committed upon her. The prosecutrix was medically examined and her statement under Section 164



Cr.P.C. came to be recorded. The chargesheet was filed and charge was framed under Section 376 IPC against the respondent, who pleaded not guilty and claimed trial.

3. Learned APP for the State, while assailing the impugned judgment, contends that the Trial Court failed to appreciate the consistent testimony of the prosecutrix with respect to her allegations of rape and carnal intercourse against the respondent. The respondent was identified as he was already known to 'M', the lady who had accompanied the prosecutrix. Further, the forensic examination also lends support to the case of prosecution as the DNA profile generated from the source of vaginal swab and smear as well as underwear of the prosecutrix was found to be consistent with the DNA profile of the respondent.

4. Ms. Neelampreet Kaul, learned *Amicus Curiae* appointed to represent the respondent, on the other hand, defended the impugned judgment and submitted that the version of the incident narrated by the prosecutrix is not creditworthy and is unreliable as it not only contains material improvements but is also contradictory to the version narrated by 'M'. She contends that though the prosecutrix has alleged that she was slapped and dragged, no injuries were observed during her medical examination. She emphasizes that as per the conceded case of the prosecution, the site of the incident, i.e., the building, was a bare shell and did not have flooring even on the staircase. Without prejudice to the above, the learned *Amicus Curiae* contends that the respondent was falsely implicated on account of payment disputes for which the sexual relations were established with the consent of the prosecutrix. Another *lacuna* pointed out by the learned *Amicus* is that the chain of custody stands broken, as neither the person who carried the exhibits to the



FSL nor the storeroom keeper was examined.

5. As noted above, the FIR came to be registered in relation to an incident which statedly occurred on 02.12.2014 at 7:30 pm. In her initial statement recorded under Section 161 Cr.P.C., the prosecutrix stated that she met the accused, who was working as a *chowkidar*. In the Court deposition, the prosecutrix stated that she had gone along with her neighbour 'M' to Shanti Kunj on foot, where she was offered tea by the respondent after drinking which she fell dizzy. She stated that the respondent had offered the same tea to 'M' as well, but had thereafter taken her to the second floor. A further perusal of her testimony would show that in further cross-examination she stated about being dragged and beaten. A suggestion was given that 02.12.2014 was not the first time the prosecutrix had visited the site of the incident; in fact, the prosecutrix had also visited the site on 01.12.2014, on which date she was accompanied by 'M'; and on 02.12.2014, she had come alone. The suggestion was denied.

6. 'M', the neighbour who had accompanied the prosecutrix, was examined as PW-8. A perusal of her testimony would show that she had claimed that the respondent was already known to her as she had worked with one foreigner for the last 6 months during which period the respondent would meet her every day. She also met the respondent on 01.12.2014, however, the prosecutrix was taken to the respondent on 02.12.2014. She further deposed that after introducing the prosecutrix to the respondent she left the site.

7. The landlord of the building, Mr. *Pramod Singh*, was examined as PW-5. He deposed that the respondent was employed as a *chowkidar*. In cross-examination, he stated that he had visited the site 2-3 days prior to the



incident, as well as after the incident. He admitted that the entire building up to the 4th floor was under construction. There were neither any doors, nor any windows or flooring. In fact, there was no flooring even on the staircase.

8. The Trial Court noted that there are apparent inconsistencies in the statements of the prosecutrix made during investigation, and her Court deposition. During the course of hearing, learned *Amicus* submitted that in her initial statement the prosecutrix had described the respondent by his name as well as parentage, whereas in her cross-examination she had admitted that she was not aware of the native address of the respondent's parents or their names. Further, the mode and manner of reaching the place of incident is also stated differently by the two witnesses. While the prosecutrix stated that she went on foot, the other witness stated that it was by auto-rickshaw. The same assumes significance as the same would affect the time of the incident as narrated by the prosecutrix. At this stage, note is also taken of the fact that while in her initial statement, the prosecutrix had stated that the police call was made by the neighbour from her residence; in her cross-examination, she stated that after the prosecutrix had informed the neighbour, they had both come back to the spot from where a call was made by the prosecutrix. Learned *Amicus* has also pointed out other discrepancies, such as one *Neetu* being introduced by the prosecutrix at the stage of cross-examination. The said name had not figured in any earlier statement. The prosecution case hinges on the testimony of the prosecutrix alleging not only rape but also carnal intercourse. The same is stated to have occurred at the second floor of the said building. As per the conceded case of the prosecution in terms of the testimony of the prosecutrix, the neighbour as well as the landlord of the building stated that the building was under



construction at the time. The prosecutrix has further alleged that it was the first day she had visited the spot along with ‘M’, however, when compared with her initial version given at the time of her medical examination, the history of assault given by her would read that it was her second visit to the spot. She also alleged therein about being dragged and slapped by the respondent on the second floor. The MLC, however, does not record any injuries on her person. It has also come in the testimony of the landlord that the building is located in a locality where the neighbouring buildings were inhabited. It was also stated that there were no doors or windows. At this stage, it is pertinent to note that during medical examination, the vaginal and rectal swabs were collected and sent to the FSL. The vaginal swab has shown a positive result, whereas the rectal swab didn’t. This also casts a shadow of doubt on the creditability of the testimony of the prosecutrix. The Trial Court, looking into the aforesaid aspects, did not find favour in the prosecution case and extended the benefit of the doubt to the respondent.

9. It is well settled that an acquittal by the Trial Court carries with it a double presumption of innocence. An appellate Court must be slow to interfere in an appeal against acquittal unless the Trial Court’s view is perverse. 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.’”

10. The decision of the Supreme Court in Anwar Ali v. State of H.P., reported as (2020) 10 SCC 166, also categorically holds that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of accused persons in an appeal against 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.’’

11. This Court, after going through the entire record including the testimony of the prosecutrix, the other witnesses, as well as the medical and forensic evidence on record, finds no ground to interfere with the finding of acquittal recorded by the Trial Court. As a necessary sequitur, the present appeal is dismissed.
12. The bail bond furnished by the respondent stands cancelled and his surety is discharged.
13. Before parting, this Court records its appreciation for the valued assistance provided by Ms. Neelampreet Kaur, the learned *Amicus Curiae*.
14. A copy of this judgment be communicated to the Trial Court.

**MANOJ KUMAR OHRI
(JUDGE)**

NOVEMBER 19, 2025

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