



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

%

*Reserved on: 28th January, 2025
Pronounced on: 09th May, 2025*

+

CRL.L.P. 120/2021

THE STATE (NCT of Delhi)

Through

Additional Public Prosecutor

Delhi High Court

New Delhi-110003

.....Petitioner

Through: Ms. Meenakshi Dahiya, Additional
Public Prosecutor for State with SI
Radha Kanwar, P.S. Subhash Place

Versus

SANAUL KHAN

S/o Late Lukman Khan

B/11-12, DDA Market,

Shakarpur, Delhi

Permanent Add:

Vill. Kinder Kela, PO Moranf,

P.S- Basiya, Distt. Gumla,

Jharkhand

.....Respondent

Through: Ms. Swati Rathi, Ms. Chetishtha
Malik, Mr. Prem Sood and Mr. Luv
Sharma, Advocates for Respondent.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

CRL.L.P. 120/2021



1. The present Criminal Leave Petition under Section 378(3) read with Section 482 Cr.P.C. has been preferred on behalf of the Petitioner against the Judgment dated 24.06.2020 whereby the Appellant has been acquitted in FIR No. 250/2018, under Section 376(2) (n) read with Section 506 IPC, Police Station Subhash Place, Delhi.
2. For the reasons stated in the Petition, it is allowed.
3. Registry is directed to register the Appeal and assign number to it.
4. The Leave Petition is accordingly disposed of.

CRL. A. /2025 (to be numbered)

5. The Appellant/State has challenged the Judgment dated 24.06.2020 whereby the Appellant has been acquitted for the offences under Section 376(2) (n) read with Section 506 IPC in FIR No. 250/2018, Police Station Subhash Place, Delhi
6. The factual background of *prosecution case* is that on 29.06.2018, Prosecutrix made a call at Help Line No. 181 and disclosed her whereabouts in response to a telephonic call received by her from Women Counselling Cell. The police reached the address at Shakurpur, Delhi and Prosecutrix was counseled by NGO. She gave her complaint to WASI Parvati wherein she stated that about one year ago, she had come to Delhi from Jharkhand with one Pappu in search of a job, who left her at the house of one Amit at Shakurpur. Amit got her employed at a Kothi at Yamuna Nagar, where she worked for one year. Thereafter, she came back to the office of Amit, where Sanaul Khan used to do the work of picking and dropping the girls at their Workplace. The Prosecutrix alleged that he made forcible and repeated physical relations with her from 24.06.2018 to 26.06.2018. She alleged that



on 28.06.2018, Sanaul Khan was insistent to take her to Bangalore to work as maid, to which she refused on which he gave her beatings. Therefore, she made a rescue call, upon which the police arrived and she gave the Complaint.

7. On the Complaint of the Prosecutrix, FIR No. 250/2018 was registered under Sections 376/506 IPC at Police Station Subhash Place, Delhi. The Investigating Officer got the Prosecutrix physically examined; collected the MLC prepared the site plan and got the statement of the Prosecutrix recorded under Section 164 Cr.P.C before the learned MM on 30.06.2018.

8. The Respondent/Accused was arrested. After completion of investigation, Chargesheet was filed in the Court.

9. *Vide* Order dated 27.10.2018, Charge under Sections 376(2)(n)/323/506 IPC was framed against the Respondent, to which he pleaded not guilty and claimed trial.

10. The Prosecution examined nine witnesses in support of its case. PW-2/ASI Dhruv Raj and PW-3/HC Awadesh on receipt of the call and DD had gone to meet the victim along with Counsellor of Women Helpline. They had produced the victim before the Investigating Officer ASI Parvati. PW-4/HC Munender and PW-7/w/Constable Suman got Ossification Test of victim done.

11. PW-5/Dr. Aparna Aggarwal, Senior Resident (OBS and Gyne) proved the MLC EX PW1/A of the Prosecutrix/ Victim.

12. PW-6/Dr. Rajiv Ranjan, HoD (Radiology) proved the Ossification Report PW6/B.



13. PW-8/HC Jai Ram arrested the Respondent/Accused *vide* Arrest Memo EX PW8/A, and recorded his Disclosure Statement PW8/B and also got him medically examined.

14. PW-9/ASI Parvaati is the Investigating Officer of this case who had recorded statement of the Prosecutrix/ Victim under Section 164 Cr.P.C. (Ex.PW9/2) before the learned Metropolitan Magistrate. She also got prepared the site plan PW1/D of the Placement Agency at the instance of the Prosecutrix and got the Potency Test EX PW9/3 of the accused got done.

15. The Respondent/accused in his statement under Section 313 Cr.P.C. pleaded innocence and claimed trial. He got examined DW-1/Pappu in his defence.

16. The learned Trial Court in the light of testimony of the witnesses and material on record held that the prosecution has failed to establish its case by way of cogent and reliable evidence, so as to establish the offence beyond reasonable doubt. The Accused/Sanaul Khan was, therefore, given benefit of doubt and acquitted of the Charges framed against him.

17. ***The Appellant/State has challenged the acquittal on the ground*** that the learned Trial Court has erroneously concluded that Prosecution has failed to establish its case as testimony of the Victim/ Prosecutrix is sufficient to prove the prosecution case.

18. *Learned Additional Public Prosecutor* has submitted that the victim has given consistent statement in her examination-in-chief and had categorically deposed about the commission of offence by the Respondent/Accused. The victim has deposed that the accused had established physical relations with her by putting her under threat to kill her



and there was no question of raising hue and cries. For this reason, she also did not disclose the incident to anyone before making the Complaint on 29.06.2018. She fully supported the case of prosecution and corroborated her previous statement under Section 161 as well as under Section 164 Cr.P.C.

19. The Id. ASJ should have examined the broader possibilities of the case and not swayed by minor contradictions or insignificant discrepancies in the statement of Prosecutrix, as has been observed by the Apex Court in the case of State of Punjab Vs. Gurmit Singh & Ors. (1996) 2 SCC 384.

20. Reliance is also placed on Apex Court's decision in State (Govt. of NCT of Delhi) Vs. Pankaj Chaudhary and Ors. (2019) 11 SCC 575 to submit that conviction can be sustained on the sole testimony of the Prosecutrix if it inspires confidence.

21. Similarly, in State of Himachal Pradesh Vs. Sanjay Kumar, (2017) 2 SCC 51, the Apex Court has held that unless there are compelling reasons which necessitate looking for corroboration of a statement, the Courts should find no difficulty to act on the testimony victim of sexual assault alone to convict the accused.

22. **Learned Additional Public Prosecutor for Appellant/State** has submitted that accused in his statement recorded under Section 313 Cr.P.C. admitted that he was working as an Agent in the office of Amit and he used to bring girls from village for placing them in job. To the contrary, defence witness Pappu/DW-1 stated that the accused was not working as an Agent with Amit, but used to run a Kirana shop with him. It is submitted that this



material contradiction defeats the version put forth by the Accused, who has failed to establish his innocence.

23. Thus, the impugned Judgment and Order deserves to be set aside and the Accused be convicted for the offences charged with.

24. **Submissions heard and record perused.**

25. The entire case of the Prosecution is based on the sole testimony of the Prosecutrix, who appeared as PW-1. She in her examination-in-chief deposed that she had been brought to Delhi from Jharkhand by one Pappu, who left her at the Office of Amit at Shakarpur and thereafter, returned back home. Amit got her employed as a maid in a house at Yamuna Nagar where she worked for a period of about one year, after which she was brought back by Amit to his Office where she started residing. She deposed that she expressed her desire to return back to her Village in Jharkhand, but Amit told her that she could not go back as yet and made her reside in the Office.

26. The prosecutrix deposed that accused Sanaul Khan was working as an Agent in the Office of Amit and used to bring the girls from the Villages for placing them on job. She further deposed that from 24th to 26th June, 2018, the Respondent forcibly made physical relationship with her in the Office of Amit. He took away her mobile phone and also threatened to kill her if she raised any voice. After much cajoling and by giving an assurance that she would not inform anybody, she was able to convince the Respondent to return her mobile phone. Thereafter, Amit started forcing her to go to Bangalore for a job, without her consent. She then made a Complaint to the Police about being raped by the Respondent.



27. She made certain pertinent admissions in the cross-examination. She explained that in the Office of Amit, aside from her, three other girls and boys were also staying. She denied that the Office consisted of only one room but stated that there was a room adjoining to the Office of Amit, on the same floor where mother, wife and children of Amit were residing. Other boys and girls were staying in the Office of Amit. She was not given a separate room in the Office and was sleeping with them on the floor.

28. According to her deposition, the Respondent for the first time established forcible physical relationship with her in the night at about 12 midnight. She explained that at that time, the Respondent was sleeping on the bed whereas she along with the boys and girls was sleeping on the floor. She volunteered that the Respondent came to her while she was sleeping on the floor and made forcible physical relationship with her. She further stated that no other person woke up while the Respondent committed the wrong act. Again, on the next day, the forcible physical relationship, according to her deposition, was made in the similar manner while she was sleeping on the floor between the boys and girls, but she explained that the other boys and girls did not come to know about the incident even though they were sleeping in the same room.

29. She was confronted that she had stated that the Accused had held both her hands with his two hands and then, how was the alleged act of rape was committed, to which she explained that he had already removed his clothes and while she was sleeping, he firstly removed her *Salwar* and thereafter, forcibly held her down and made physical relationship. She further



explained that her *Salwar* did not have any string but elastic, which was forcibly pulled off by the Accused.

30. From her admissions in the cross-examination, it emerges that alleged rape on three nights, was committed upon her while she was sleeping in one room with three other boys and girls. It is difficult to comprehend that had she been forcibly raped, and the other boys and girls in the room had not even woken up. Also, if she was allegedly being forcibly raped, it is not understandable as to why she did not raise an alarm especially when there were other members present in the room.

31. The admissions made in the cross-examination bring out the falsity of her allegation of having been raped without her consent by the Respondent; rather it emerges that if at all, the physical relationship established between the Prosecutrix and the Respondent, was consensual.

32. No offence of rape is proved and the learned ASJ has rightly concluded that the testimony of the Prosecutrix is not only full of contradictions, but most unreliable and unworthy of credence and her testimony is liable to be discarded outrightly.

33. The Respondent has been rightly acquitted of the Charges under Section 376(2)(n)/323/506 IPC.

34. There is no merit in the Appeal, which is hereby dismissed. The pending Application(s), if any, are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 09, 2025/r