



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

% **Reserved on: 04th August, 2025**
Pronounced on: 16th September, 2025

+ **CRL.A.12/2025**

NAND LAL SINGH

S/O Late Sh. Jag Narayan

.....Appellant

Through: Mr. Dinesh Malik (DHCLSC) and
 Mr. Puneet Jain, Advocates with
 Appellant in person.

versus

1. **STATE THROUGH SHO PS ADARSH NAGAR**

Through S.H.O.,
 P.S. Adarsh Nagar, Delhi.

2. **VICTIM "A"**

Through S.H.O.,
 P.S. Adarsh Nagar, Delhi.

.....Respondents

Through: Mr. Shoaib Haider, APP for State
 with SI Dipika, PS: Adarsh Nagar.
 Mr. Harsh Prabhakar, Advocate from
 DHCLSC for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 528 read with Section 374(2) of Bhartiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as "BNSS"*) has been filed on behalf of the Appellant, *Nand Lal Singh* against **judgment of conviction dated 25.07.2024**, whereby he has been convicted under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (*hereinafter referred to as "POCSO"*) and 376(3) Indian Penal Code, 1860 (*hereinafter*



referred to as “IPC”) and **Order on sentence dated 26.10.2024** whereby sentenced to undergo *RI for 20 years with fine of Rs.500/-* (in default of payment of fine to undergo SI for 15 days).

2. The case of the prosecution is that the Complainant/Victim, aged about 11 years at the time of incident, gave a statement on 08.11.2019 that she went to the tea stall of the Appellant Nand Lal Singh, to inquire if whether her elder sister had come to his shop. The Appellant took her and her younger brother to his home. He made her brother leave on pretext of buying Lassi for outside, while he detained her in his house. He then removed her leggings, lifted her frock and pulled down his pants till his knees. He then made the victim lie on the floor and inserted his penis in her vagina. She resisted the same and started crying, but the Appellant did not pay any heed. In the meanwhile, her brother returned and knocked at the door, on which the Appellant wore his pants and victim also wore her leggings. She further stated that the Appellant then gave them rice to eat and after some time, her mother came there.

3. She further stated that when her mother and brother had gone outside the house, the Accused gave Rs.50/- to her and told her not to disclose about the incident to anybody. She went to her house and on repeated asking by her mother, she narrated the incident to her and further told that the Accused had committed such acts many times before also and every time he used to send her brother out. She further stated that Accused also used to offer money to her like Rs.200/- or Rs.50/- or more or less, for not disclosing his acts to anyone.



4. On her statement, FIR No.0384/2016 dated 08.11.2019 was registered under Section 6 POCSO and Section 376 IPC. Investigations were conducted and medical examination of the Victim was done vide MLC dated 1919/2019 dated 08.11.2019. The floor mat on which the Accused allegedly raped the Victim, was recovered from his house. Statement of the Victim was recorded under Section 164 Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*).
5. On completion of investigations, Chargesheet was filed. Charges under Section 6 POCSO and Section 376 IPC were framed against the Appellant on 08.11.2021, to which he pleaded not guilty.
6. The prosecution had relied on 16 prosecution witnesses, out of which only three; ***PW-1 Prosecutrix, PW-2 SI Nisha, IO*** of the case and ***PW-3 Ms. Manpreet, Junior Assistant, GS*** who proved the Birth Certificate of the Prosecutrix, have been examined.
7. The Appellant admitted all the other documents under Section 294 Cr.P.C. On 06.01.2024 without admitting their contents, which are FIR No.0384/2019 along with Certificate under Section 65(B) India Evidence Act, 1972 [Ex.P-1 (colly)]; Statement of Victim / PW-1 under Section 164 Cr.P.C. (Ex. PW-1/B); DD No.33A dated 08.11.2019 (Ex.P-2); MLC No.1919/19 dated 08.11.2019 of Victim (Ex.P-3); MLC No.180795 dated 10.11.2019 of the Accused (Ex.P-4); and MLC No. 180013 dated 11.11.2019 regarding Potency Test (Ex.P-5). The Appellant has also admitted the FSL Report dated 06.01.2020 (Ex.X-1).
8. ***Statement of the Accused was recorded under Section 313 Cr.P.C.*** wherein he pleaded his innocence and claimed that he has been falsely



implicated by the mother of the prosecutrix and one person namely Bandhu, as there was some dispute between him and Bandhu over his tea stall. He further asserted that all the witnesses were interest and deposed falsely. In support of his defence, he produced **DW-1 Prem Singh**.

9. *Ld. Trial Court vide Judgment of Conviction dated 25.07.2024 and Order on Sentence dated 26.10.2024 has convicted and sentenced the Appellant to undergo RI for 20 years with fine of Rs.500/- (in default of payment of fine to undergo SI for 15 days).*

10. Conviction and sentence have been challenged on the **grounds** that there are *material contradictions in the deposition of the witnesses*, which raise a serious doubt about the case of the prosecution.

11. Ld. ASJ has not appreciated the facts and circumstances correctly in the light of the law laid down by Hon'ble Supreme Court of India as well as by this Court. He has been falsely implicated as evidence suffers from several loopholes and contradictions in the versions of the prosecutrix.

12. The case of the prosecution is based on the circumstantial evidences and rests solely on the testimony of the prosecutrix. Apex Court in the case of R. Shaji vs. State of Kerala, (2013) 14 SCC 266, has observed that the in order to bring home conviction on an ocular evidence or on a circumstantial evidence, it must be established beyond reasonable doubt and cannot derive any strength from the weaknesses in the defence put up by the Accused. However, a false defence may be brought to notice only to lend assurance to the Court as regards the various links in the chain of circumstantial evidence, which are in themselves complete. The circumstances must



establish the guilt of the Accused fully beyond the reasonable doubt and must exclude all possible hypothesis except his guilt.

13. *PW-1 Victim* had deposed in her Complaint that after her school got over, she had gone to the tea stall of Uncle Nand Lal Singh/Appellant to enquire, whether her elder sister had come to take her and younger brother Ishant. She along with her younger brother went to the house of the Appellant, which was at a little distance from the tea stall. However, in her statement under Section 164 Cr.P.C., she had stated that she along with younger brother Ishant was returning to her home after the school got furnished and had gone to the house of Uncle Nand Lal Singh / Appellant to enquire about her elder sister.

14. Another version has emerged in her testimony as *PW-1, Victim* wherein she deposed that “*Phir ek din, trikh mujhe yaad nahi hai, mummy kaam se aate hue late ho gyi aur mei wahan Nand Lai ki dukaan par mummy ka wait kar rahi thi. Maine unn ko bola tha ki mei apni mummy ka wait karungi.*”

15. She further deposed that Uncle/Appellant told her to come with him to his home and he would make her talk with her sister. Thereafter, Appellant Nand Lal Singh took her to his house. She then told him that she would wait for her mother, on which he stated that he had been told by her mother that he should leave her at their house.

16. It is claimed that there are three different versions given by the prosecutrix, which have not been appreciated by the learned Trial Court.

17. Furthermore, she in her statement had given time of offence as 12:45 PM on 08.11.2019. However, she changed the time to 01:30 PM on



08.11.2019. Furthermore, it has not been appreciated that the testimony of prosecutrix as **PW-1, Victim** was prompted by her mother, which is reflected in her testimony.

18. Her testimony is patently false and has been wrongly accepted by the learned Trial Court. The MLC of Prosecutrix also does not corroborate the sexual assault, as deposed by her. There was no swelling, redness or bleeding found on the person of the prosecutrix. It is unlikely that such an act on a minor child would not lead a mark or injury on her body.

19. Further contradictions are that *in her Complaint* she had stated that she along with her mother and younger brother, had gone back to their home and on scolding by her mother who had enquired if she was hiding something, she narrated the entire incident of rape. However, in her statement under *Section 164 Cr.P.C.*, she had stated that she went to her house after having rice, on repeatedly asking by her mother, she narrated the entire incident. *She told that such Act had been done by the Appellant many times before as well.*

20. In *her examination-in-chief*, she stated that on coming back home, when her mother repeatedly enquired, she narrated the entire incident to her, on which her mother went to the tea stall of the Appellant to confront him and they had fight. *She further stated that the Appellant had done this act with her many a time in the past also.* She further clarified in her cross-examination that she narrated about the incident to her mother after about one month. On the date when she told her mother, she took her to the Appellant's tea stall and thereafter, Police was called.



21. Further, *in her cross-examination*, it is clarified that school was at a distance from her house and she used to take a rickshaw to reach school and return to her house and it takes about half an hour to reach from school to home. Her school gets over at 01:00 PM and thereafter, she is able to reach home at about 01:30 PM.

22. Ld. ASJ has failed to consider that if the prosecutrix was going to school to and fro through rickshaw from home every day, there is no explanation as to why no rickshaw was taken on the date of incident. Moreover, she has falsely deposed that the Appellant had sent her brother to take *Lassi* on the date of incident. It is evident that the allegations are false and concocted.

23. Furthermore, in her Complaint, she stated that the Appellant had opened the door and drank the *Lassi* brought by her brother. However, she does not depose about drinking of *Lassi* in her statement under Section 164 Cr.P.C. or in her examination-in-chief, but merely stated that after some time her brother returned and on his knocking, she as well as the Appellant wore their respective leggings and pants and thereafter, she ate rice given by the Appellant and they went back to home. In her examination-in-chief, she merely stated that when her brother returned, the Appellant opened the door.

24. It has not been considered that a child who has been subject to such sexual assault, would not be comfortable in eating the food in the same house before leaving it .

25. Further, *PW-2 SI Nisha*, who is the IO of the case, in her cross-examination stated that shop of *Lassi* was opened on the date of incident, but the shopkeeper told that he did not have *Lassi*. This fact also has not been



appreciated by the Ld. Trial Court. However, from where the *Lassi* came in the hand of Victim's brother, which he took to the Appellant's house is also not explained.

26. *PW-2 SI Nisha, IO* deposed that she had inspected the CCTV cameras installed near the place of incident, but no clue could be found about the Appellant. She thereafter, went to the Appellant's house where he was found. She in her cross-examination stated that one CCTV camera was installed between the school and Tea Stall of the Appellant, but no clue was found regarding the Appellant and Victim going together, on the date of incident.

27. Reliance has been placed on *Harjit Singh vs. State of M. P.*, AIR 2010 SC 1540 and *Rajoo vs. State of M.P.*, AIR 2009 SC 858 stating that the sole testimony of the Prosecutrix cannot be always accepted as gospel truth.

28. Reliance is further placed on *Panchhi and Others vs. State of U.P.*, (1998) 7 SCC 177; *State of U.P. vs. Ashok Dixit and Another*, (2000) 3 SCC 70; and *State of Rajasthan vs. Om Prakash*, (2002) 5 SCC 745, where the Hon'ble Apex Court has consistently held that evidence of a child witness must be evaluated carefully as the child may be swayed by what others tell him and he is an easy prey to tutoring.

29. In the case of *Abbas Ahmed Chaudhary vs. State of Assam*, 2010 CRI.L.J. 2062, Hon'ble Apex Court has held that in a matter of rape, the statement of the Prosecutrix must be given primary consideration but at the same time, the broad principle that the prosecution has to prove its case beyond reasonable doubt applies equally to a case of rape and there can be



no presumption that a Prosecutrix would always tell the entire story truthfully.

30. Furthermore, in the case of *Ashok Nagar vs. State*, CRL.A.932/2009, the coordinate Bench of this Court held that where witness makes two inconsistent statements in their evidence either at one stage or both stages, the testimony of said witness becomes unreliable and unworthy of credence and in the absence of special circumstances, no conviction can be based on the evidence of said witness.

31. In the case of *Badrudin Rukonddin Karpude vs. State of Maharashtra*, AIR 1981 SC 1223, it was held that an interested witness cannot be relied upon when he has made improvement in material particulars.

32. In respect of an *unimpeachable nature of a sterling witness*, reliance has been placed on *Rai Sandeep @ Deepu vs. State*, (2012) 8 SCC 21, wherein the essentials of *sterling witness* were laid down and it was opined that the “*sterling witness*” should be of a very high quality and calibre whose version should, therefore, be unassailable. The Court considering the version of such witness, should be in a position to accept it for its face value without any hesitation. To test the *quality of such a witness*, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in



the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a “*sterling witness*” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.

33. Similarly, in *Lallu Manjhi & Anr. vs. State of Jharkhand*, (2003) 2 SCC 401, it was observed that it is not the number of witnesses which is relevant for proof of a given fact. Even a single witness may be relied upon, if found wholly reliable.



34. It is further contended that testimony of *DW-1 Prem Singh*, who deposed about false implication of the Appellant, has not been considered.

35. Further ground taken for assailing the judgment of conviction is that on his arrest, Police had given information to her sister-in-law Rekha (*Sali*) instead of giving information to his family members, as provided under Section 41B Cr.P.C. and Section 36 BNSS. Due process of arrest has not been followed by the Police.

36. The recovery of *Chatai* (Floor Mat) allegedly received from the Appellant's house was planted by the Police Officials at the behest of the mother of the Prosecutrix, who worked as a maid at the residence of Bandhu and the Appellant has been falsely implicated due to his dispute with Bandhu over his tea stall.

37. The Exhibits of blood sample, pubic hair and scalp hair was collected from the Appellant, to be matched with the alleged *Chatai* (Floor Mat). However, as per the FSL Report dated 06.10.2020, no blood or semen was detected on that *Chatai*. Also, no semen was found on the clothes of prosecutrix in her biological examination. Bare deposition of the prosecutrix proves that not only is she trustworthy and reliable, but is also an interested witness.

38. No independent witness has been examined to sustain the case of Prosecution. It has not been considered that if there is any shadow of doubt circumstances, it has to be rejected or not to be considered in the chain and the benefit of doubt has to be given to the Appellant.



39. Reliance is placed on Ram Reddy Rajesh Khanna Reddy vs. State of A.P., [(2006) 10 SCC 1721]; Anil Kumar Singh vs. State of Bihar, (2003) 9 SCC 67 and Reddy Sampath Kumar vs. State of A.P., (2005) 7 SCC 603.

40. It is contended that the Appellant was a poor man and was not able to engage a private counsel and was depending upon the legal aid counsel. The witnesses were not subjected to proper cross-examination, which became a basis of his conviction. Supreme Court in Criminal Appeal No.771 /2024 titled as Ashok vs. State of Uttar Pradesh, had highlighted the role of the Public Prosecutor and appointment of legal Aid Lawyers and had emphasized the duty of the Court to ensure that proper legal aid is provided to an accused.

41. **Order on sentence 26.10.2024** has also been challenged on the ground that in the case of Sangeet vs. State of Haryana, (2013) 2 SCC 452, Hon'ble Apex Court held that no matter how ruthless a criminal might be, convict is nevertheless a human being and is entitled to a life of dignity notwithstanding his crime. The Prosecution and the Courts must determine whether such a person, notwithstanding his crime, can be *reformed and rehabilitated*. To obtain and analyse this information is certainly not an easy task, but must nevertheless be undertaken.

42. Co-ordinate Bench of this Court in CRL.M.C.4877/2023 titled as Suraj Prakash vs. The State (NCT of Delhi) & Anr., observed that the provision of Section 376 IPC must not be exercised as a weapon to unnecessarily harass the male counterpart.

43. *It is therefore submitted that conviction and sentence be set aside.*



44. *Ld. Counsel for the Appellant has vehemently argued* for setting aside of the conviction dated 25.07.2024 and order on sentence dated 26.10.2024 essentially on the grounds, which have been stated in detail in the Appeal. *It is submitted that the Appellant is entitled to be acquitted.*

45. *Ld. APP for the State asserted* that the evidence has been rightly appreciated by the Ld. Trial Court and has noted the consistent deposition of the Prosecutrix about the incident of rape. It has been rightly noted that the contradictions as relied upon by the Appellant, are only incidental and do not in any way create a doubt about the main incident, about which the prosecutrix has remained consistent in all three statements.

46. *It is submitted that the true version of the incidents, have emerged in the Prosecution evidence and that the Appeal is without merit and is liable to be dismissed.*

Submissions heard and record perused.

47. The case of the Prosecution is essentially based on the testimony of the *PW-1 Prosecutrix*, who was child aged about 11 years at the time of incident. The *main contention of the Appellant* is that there are material contradictions in three statements given by the Prosecutrix. In her first statement to the Police Ex.PW-1/A, she narrated in detail that she was studying in Class 4th. On 08.11.2019, after her school got over, she along with her younger brother went to the Tea Stall of the Appellant which was opposite to her school, to enquire about her elder sister, who was going to take her and her younger brother for home. The Appellant told her to come along with him to his house, where he would make her talk to her elder



sister. She along with her younger brother went to Appellant's house, which was at a little distance.

48. Thereafter, the Appellant told her brother to get *Lassi* from a shop and sent him away, then he lowered his pants to his knees, removed the leggings of Prosecutrix, lifted her frock, made her lie on the floor and inserted his penis in her vagina. She resisted the same, but the Appellant did not agree. He got up from her when her younger brother knocked at the door and they both wore their respective pants and leggings. The Appellant drank *Lassi*, which was brought by her brother, and thereafter, gave some rice to them to eat. After some time, her mother came to the Appellant's house, when they were leaving, the Appellant gave Rs.50/- to the victim and told her not to tell about the incident to anyone. She went to her home and on insistence of her mother, she narrated the entire incident to her. She also told that he had taken them with him many times in the last some months and he always used to offer money to her like Rs.200/- or Rs.50/- or more or less, for not disclosing his acts to anyone and every time he used to send her brother out.

49. Also, in her statement under *Section 164 Cr.P.C.*, she had been consistent in deposing the manner, in which she was raped by the Appellant on 08.11.2019.

50. In her testimony as PW-1, she essentially deposed on similar lines about the incident.

Contradictions in the testimony of Victim:

51. Ld. Counsel for the Appellant has asserted that there were material contradictions in the testimony of the Prosecutrix making them unreliable. The *first contradiction* pointed out is that in the Complaint, she had given



time of incident as 12:45 PM, while the time got changed to 01:30 PM in her testimony. The *second contradiction* pointed out is that in her Complaint she had stated that she had gone to the Appellant's shop to enquire if her elder sister had come to take her and younger brother from school, on which the Appellant told them to come to his house to talk to her sister. However, in her statement under Section 164 Cr.P.C. she stated that she had gone to the Appellant's house to enquire about her sister. In her examination-in-chief, she stated that on one day, as her mother got late in coming back from work to take them, she went to the Appellant's shop to wait for her mother, when the Appellant told her that he had been told by her mother to take her to his house.

52. The *third contradiction* pointed out is that in her examination-in-chief, she stated that she had informed her mother on the same day of incident, while in her cross-examination, she stated that she informed her mother about the incident after one month, on which her mother took her to the Appellant's tea stall and called the Police.

53. The *fourth contradiction* is with regard to *Lassi* being brought by her brother. In her Complaint, she has stated that her brother was sent to get lassi, which he brought after some time. In her statement under Section 164 Cr.P.C., she merely stated that the brother was sent to get lassi, while in her examination-in-chief, she has clearly stated that her brother was sent to get *Lassi*, after which the Appellant committed rape on her.

54. Ld. ASJ in the Impugned Judgment of conviction has considered all three statements of prosecutrix in detail and also these contradictions. It has been rightly observed that these contradictions are minor in nature and are



incidental, which do not touch the main incident. Whether the prosecutrix went to the Appellant's tea stall looking for her elder sister or to wait for her mother, it consistently emerges from all her three statements that she and her younger brother were taken by the Appellant to his house.

55. It is also consistent that her brother was sent to buy *Lassi* and when he was out the house, rape was committed upon her and when her brother returned and knocked the door, the Appellant and Prosecutrix wore their respective pants and leggings. There is no contradiction on these aspects.

56. Even if there is a minor variation here and there, it does not touch the main incident of rape. Also, it has rightly noted by the Ld. Trial Court that the child was of a tender age of 11 years and her testimony was recorded after a gap of three years. It is natural that there may be some deviation in the exact narration of the incident by her. Pertinently, rather minor variations further led credence to her truthfulness, as if she had been a tutored witness, her statement and evidence would have been consistent. These minor variations, which do not touch the incident of rape, have rightly been discounted by the learned Trial Court by observing that these in fact, are not contradictions, but are confirmation that the act of rape was committed by the Appellant.

57. Not only this, the Prosecutrix had been consistent in saying that she accompanied her mother and brother to their house after the incident and it was only on the insistence of her mother, who found something amiss, then she narrated the entire incident. In every instance, she has stated that this was not the first time, but the Appellant had been sexually abusing her for



the last one month and every time he gave her some money and told her not disclose the incident to anyone.

58. It cannot be overlooked that the prosecutrix is a minor child of 11 years age, who would naturally be scared and traumatised and not find the courage to disclose the incident to the mother, till she was cajoled and repeatedly asked by her mother.

59. The Co-ordinate Bench of this Court in the case of *Jabbar vs. State*, MANU/DE/2062/2018, observed that where the child witness is found to be competent to depose to the facts and is reliable, it shall constitute the basis of conviction as credibility is attached, to the evidence of a competent child witness, as children classically are assumed to bear no ill-will and malice against anyone, and it is therefore, much more likely that their evidence would be unbiased and uninfluenced by any extraneous considerations.

60. Similarly, in the case of *State of U.P. vs. Krishan Master*, AIR 2010 SC 3071, it was observed by the Hon'ble Apex Court that a child is always receptive to abnormal events which take place in his life and would never forget those events. The child may be able to recapitulate carefully and exactly what had happened when asked about the same in future. In case the child explains the relevant events of the crime without improvements or embellishments and the same inspire confidence of the Court, his deposition does not require any corroboration whatsoever. A child of tender age is incapable of having any malice or ill-will against any person.

61. In the case of *State of Himachal Pradesh vs. Prem Singh*, AIR 2009 SC 1010, the Hon'ble Apex Court observed that there are several factors,



which may weigh in the mind of the Prosecutrix and her family members before coming to the police station to lodge a Complaint.

62. It has been rightly concluded by the Ld. ASJ that that though the child was being sexually assaulted for the last one month, but it is a young age coupled with trauma and fear that prevented her from telling about the incident to her mother. Further, some minor peripheral variations would not be a ground to disbelieve the testimony of the Prosecutrix who has been consistent about the alleged act of rape.

No evidence as per the CCTV:

63. The *second ground of challenge* is that the CCTV footage was obtained by PW-2 *SI Nisha*, IO, but she has admitted in her testimony that in the CCTV camera, installed between the school and the shop of the Appellant, the Appellant and the victim could not be seen going together. It is pertinent to observe that what was relevant was not the child having come from the school to Appellant's tea stall, but that she had accompanied him from his shop to his house. Secondly, CCTV camera may not have 360° view to capture everything and merely because the prosecutrix and the accused were not seen together in the CCTV footage, cannot be a ground to discredit the testimony of the Prosecutrix, as has been rightly observed by Ld. ASJ.

Role of the Brother of the Prosecutrix:

64. *Another ground* for questioning the conviction of Appellant is that according to the Prosecutrix, her brother had been sent to buy *Lassi* which he bought and the same was consumed by the Appellant. However, PW-2 *SI*



Nisha, IO has deposed in her testimony that the *Lassi* shop was open on that day, but the shopkeeper has told that he did not have *Lassi* on that day. Interestingly, the IO has nowhere asserted or deposed that the boy had gone to that particular shop and not to any other shop to buy *Lassi*. In any case, whether the *Lassi* was bought or not, there is no inconsistency in the testimony that the boy was sent out of the house and he returned after some time. There is no contradiction in this regard.

No injury recorded in the MLC of the Victim:

65. The *next ground of challenge* is that the MLC of the Prosecutrix does not reflect any injury which could be suggestive of the sexual assault. It is settled law that merely because injury could not be noticed in an MLC, it cannot be a ground to disbelieve the evidence of the prosecutrix, if it is found to be absolutely reliable.

66. In *State of Punjab vs. Gurmit Singh* (1996) 2 SCC 384, the Apex Court has observed that *the absence of injuries on the private part of the prosecutrix can be of no consequence in the facts and circumstances of the present case*. Similarly, in *Lok Mal alias Loku vs. State of Uttar Pradesh*, (2025) 4 SCC 470, the Apex Court has observed that the absence of injuries on the private parts of the victim, is not always fatal to the case of the Prosecution.

67. Likewise, the FSL Report in regard to the semen specimen, may have been negative, but the FSL Report as well as MLC are only the corroborative piece of evidence. They may be non-conclusive, but merely because it is not able to detect the semen or the telltale injury marks in the MLC, it cannot be the ground to disbelieve the testimony of the prosecutrix.



68. *Ld. ASJ has rightly held and correctly appreciated that these factors do not take away the credibility of the Prosecution Evidence.*

Sole Testimony of the Prosecutrix:

69. Much has been argued that there is no independent corroboration of the evidence of the Prosecutrix and considering her wavering evidence and contradictions, it cannot be asserted that the prosecution has been able to prove its case beyond reasonable doubt.

70. ***First and foremost***, it is not the number of witnesses which is relevant for proof of a given fact but the quality of evidence. Even a single witness may be relied upon, if found wholly reliable as held by the Apex Court in the case of *Lallu Manjhi & Anr. vs. State of Jharkhand*, (2003) 2 SCC 401

71. ***Secondly***, where the prosecution case rests on sole testimony of a witness, the test is whether the evidence is of *unimpeachable and sterling quality*.

72. The essentials of *unimpeachable nature of a sterling witness*, were explained in the case of *Rai Sandeep @ Deepu vs. State*, (2012) 8 SCC 21. It was opined that the “*sterling witness*” should be of a very high quality and calibre whose version should, therefore, be unassailable and the Court should be in a position to accept it on its face value without any hesitation. To test the *quality of such a witness*, it is not the status but the truthfulness and consistency of the statement of the witness from the starting point till the end, which would be material and relevant. There should not be any prevarication in the version of such a witness and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. She should be able to



withstand the cross-examination of any length and howsoever strenuous it may be. Only if the version of such a witness qualifies the above test, can it be held that such a witness can be called as a “*sterling witness*” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished.

73. The credibility of the prosecutrix was sought to be shattered on the ground that if the child was subjected to such a heinous crime, she would not sit and eat rice in the house of the assailant; rather it reflects that no such incident had happened. It may be observed in this context that it is not denied that the Appellant was known to the Prosecutrix and her family since long and apparently she had been going to his shop/house in the past as well. It is also evident from the totality of circumstances that while she was being harassed and sexually exploited in the past, but because of her tender age and the allurements of money/threats did not let her disclose the incident to her mother or to any other person. With this kind of a background to say that after the incident she along with her brother ate the rice at the house of the Appellant, cannot be held as a circumstance to disbelieve her testimony or to hold that it is not safe to rely on her testimony.

74. The testimony of the Prosecutrix is of *sterling quality* and has been *consistent* on the core spectrum of the crime which remained intact. It has been rightly observed by the Ld. ASJ that her testimony alone was sufficient to bring home the culpability of the Appellant.

Motivated Complaint:

75. In the end, *the Appellant has taken a defence* that the Complaint was motivated, as he had disputes with one Bandhu, in whose house the mother



of the Prosecutrix was working as maid, and he has been falsely implicated by the mother of the Prosecutrix at the instance of Bandhu.

76. To support this defence, he had examined *DW-1 Prem Singh*. However, the frailty of the defence is evident from the fact that the dispute is claimed to be with one Bandhu. It was claimed that Bandhu intended the Appellant to shut his tea stall so that it can be run by the mother of the Prosecutrix. The absurdity of this defence is visible on its own face.

77. There is nothing forthcoming, as to why Bandhu want the Appellant's tea stall to be shut and why he wanted the mother of the Prosecutrix to run that tea stall. Secondly, it has been rightly noted by the Ld. ASJ that there is no evidence that while the Appellant was in jail, the mother of the prosecutrix was able to run the tea stall from the same place.

78. The defence of the Appellant is too fantastic to be accepted as genuine and has been rightly discarded by the Ld. ASJ.

Conclusion:

79. The Appellant has been convicted and sentenced after taking all the aspects into consideration by the ld. ASJ in the well-reasoned judgment.

80. There is no merit in the present Appeal, which is hereby dismissed along with pending Applications, if any.

81. The Appellant is directed to surrender before the Ld. Trial Court within ten days and correspondingly, Ld. Trial Court shall ensure the surrender of the Appellant to undergo his remaining sentence.

**(NEENA BANSAL KRISHNA)
JUDGE**

SEPTEMBER 16, 2025/R