$~60

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

Date of decision: 23rd November, 2026
Uploaded on: 25th November, 2026

\# **CNR No. DLHC010447922019**

\+ **CRL.A. 1295/2019**

PROSECUTRIX-A .....Appellant

Through: None.

versus

STATE & ANR .....Respondents

Through: Mr. Ritesh Kumar Bahri, APP with Ms. Divya Yadav & Mr. Lalit Luthra, Advs. with SI Ramakant PS Sadar Bazar. (M: 9871757734)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CRL.M.A. 36276/2026 (for early hearing) & CRL.A. 1295/2019

2. This is an application for early hearing of ***CRL. A. 1295/2019***.

3. According to the present application, the Appellant does not wish to pursue the present appeal. The Appellant has stated specifically in the application as under:-

> *"4. That the Applicant/Appellant, after due thought and deliberation, no longer wishes to pursue the captioned Appeal and has decided to withdraw the same.*
> *5. That the said decision has been taken by the Applicant/Appellant entirely of her own free will, and without any force, coercion, threat, undue influence, pressure or inducement from any person. The consequences of withdrawing the Appeal have been duly explained to her in the vernacular, which she has*

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

understood.

6. That the Appeal is presently listed on 17.02.2027, which is a considerable time away. Keeping the matter pending till then would serve no useful purpose, would continue to cause avoidable hardship and mental agony to the Applicant/Appellant, and would occupy the valuable time of this Hon'ble Court unnecessarily."

4. A perusal of the impugned judgment dated 07th September, 2018 passed by the ld. ASJ would show that the case arises out of a complaint dated 12th September, 2015. According to the case of the Prosecutrix/Complainant, there were various instances of threats, blackmailing and offences of rape on her by the Accused. These incidents, according to her, dated back to 2004 onwards. It is also alleged by the Prosecutrix that the accused had made certain videos and clippings of the sexual acts.

5. There are only two material witnesses in the case namely Prosecutrix PW-6 and her husband PW-9. All other witnesses are formal in nature. There is no specific instance or date which was mentioned by the Appellant. The relevant portions from the testimony of the Prosecutrix PW-6 is as under:

"*I met accused for the first time in the month of August or September, 2004. Shop was constructed upto ground and first floor. I used to sit on ground and first floor. It was wholesale and retail shop and lots of customers used to visit the shop to buy goods. There was no salesgirl or salesboy in the shop. Owner of the shop used to maintain sale counter. Conversations between me and accused used to take place when I used to leave the shop and accused used to follow me. I did not make complaint when accused used to follow me.*

xxx

I never gone with accused anywhere prior to October, 2004. On the same day we had decided to go to Ashok

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

Vihar. We had gone there by car bearing registration no. 3094. It was a Santro car.

xxx

.... I had gone at the first floor of that house. There were independence stairs approaching the first floor. Room was opened. It was a complete floor. One other family was also residing on that floor at that time. Accused left me in the drawing room after about five minutes of our reaching there. He had bolted the door from outside.

I had stated in my statement already Ex,PW6/D to Magistrate that accused after reaching Ashok Vihar asked me to wait for the person known to him who would help me in getting my husband reinstated but no person came for half an hour. Confronted with statement Ex.PW6/D wherein it is not so recorded.

Accused returned back after half an hour to 45 minutes in the said house in Ashok Vihar and at that time I was in drawing room. I had raised alarm when accused had committed rape with me forcibly but no public person collected there. I did not approach to the family who was residing on the first floor at that time. There was no person present on the floor at that time. I did not approach any neighbouring persons of that house after the incident. Accused and myself remained in the room for about one and a half hour. I left the room after about 10-15 minutes of leaving room by accused. I did not inform my husband on phone at that time about the incident. I never disclosed about the incident to any person, nor I made any complaint to police or any other authorities. I did not disclose about the incident till 12.09.2015 to anyone including police authority.

xxx

I had gone with accused at the same house in Ashok Vihar after about 8- 10 of the day he apologized to me after the first incident. Accused had met me 2-3 times on the way from my shop to my house during the period of

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

said 8 to 10 days. Second time when I sat in the car of accused it was decided that I and accused would go in the same house in Ashok Vihar. He had taken me in his car on that day after 06:30 p.m. We had reached there within 45 minutes. The premises at the ground floor was locked. However, I had gone at first floor which was opened. At that time no family persons or other persons were present there. We remained in the drawing room of the said house. Accused had been carrying juice with him on that day which he had picked up from his car. I raised alarm after this incident but no one came there. Accused had established physical relationship with me forcibly after about 20 minutes of our reaching there. I was not in a position to object or resist the acts of the accused after consuming the juice. I regained my consciousness after one hour or one and a half hour. Those two persons who had come there were not known to me from earlier.

I had not given the description of the two persons in my complaint Ex.PW6/A. I had also not given the same in my statement Ex.PW6/D.

I remained in drawing room for about one and a half hours - two hours. Both the said two persons had come after about half an hour of our reaching in the said house. I left all the three persons there in the said house and I alone returned from there by hiring a TSR and reached my house at about 10:30 p.m. my husband asked me for my being late and I explained him that I was not well, therefore, I stayed at my mother's house on the way. My husband did not take me to doctor. I did not report the matter to any police or concerned authorities till 11.09.2015.

xxx

I had not made any complaint till 11.09.2015 regarding the fact that accused had made video of rape committed by two persons and started blackmailing me and used to call me at different places i.e. Rohini, King

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

Palace Hotel at Jhandewala, office of accused at Dori Walan, Karol Bagh and shop of accused at Sadar Bazar and further he used to commit rape and unnatural sex with me and also used to videograph the same from his mobile phone.

I had come to know about the family of the accused when I had filed the case in the court. I never visited the house of accused,

I had mentioned in my complaint Ex.PW6/A that after making the video clip the accused used to circulate those videos with his close friends and the same was used to be enjoyed by them. This fact I had come to know in the year 2007. 1 had not made any complaint in this regard till 11.09.2015.

xxx

I am not aware if the accused is having number of properties. I had filed a civil case of property of the accused against him in Rohini Courts. I cannot say if the same has been withdrawn or pending. I cannot admit or deny if the case has been dismissed by the competent court in Rohini. Accused was in jail when I had filed the civil suit. It is wrong to suggest that I had filed the false case against the accused to pressurize hint in connivance of my husband grab his property or that accused has been falsely implicated in the present case by me and my husband."

6. She has also admitted in her testimony that she had not made any complaint till 11th September, 2015 regarding the fact that the accused had made a video of rape committed by two persons and had started blackmailing her and used to call her at different places for committing the offence in question.

7. Further, in her testimony, she had not given any description of the two more persons involved in the case and in her statements, Ex.PW-6/D (Prosecutrix's statement under Section 164 Cr.P.C.) or Ex.PW-6/A (Prosecutrix's complaint).

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

8. During the course of trial, when she was confronted with the complaint as well as statements Ex.PW-6/A and Ex.PW-6/D respectively, wherein as stated by her that she used to resist accompanying the accused to aforesaid places and did not want to continue relationship, was not mentioned.

9. Further, the relevant portion of the testimony of PW-9 (husband of the Prosecutrix) is extracted below:

> "*Prosecutrix had told me that accused had raped her at a place Doriwalan and in another place in Ashok Vihar. I was not told about any other place where prosecutrix was raped by the accused. Prosecutrix had not told me any date, month and year of the rape committed by the accused on the above said places. Prosecutrix had informed me that she was taken for the first time by the accused in Ashok Vihar and raped. I was not told any date, month and year of this incident.*"

10. After considering the said testimonies, the ld. Trial Court, in fact, came to the conclusion that the Prosecutrix and her husband were unable to give an explanation as to the long delay of 10 years in lodging the complaint. Observations of the Trial Court are relevant and are set out below:-

> *"85. The prosecution has not been able to seek any proper explanation from the prosecutrix and her husband regarding the long delay of more than ten years in lodging the complaint and of the various improvements and contradictions made in the deposition recorded in the court. As such the version mentioned by the prosecutrix is found to be improbable to the issue of rape as alleged by her. Hence, accused deserves to be given the benefit of doubt. Hence, accused Ajay Kumar Sharma is acquitted from the charges u/s 376 IPC, 328/376D IPC, 506/376(2)(n) IPC by giving him benefit of doubt.*

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

86. In terms of section 437 A Cr. P.C. accused is directed to execute bail bond in sum of Rs.25,000/- with one surety in the like amount.

87. Since the prosecutrix had been consenting party as per the discussion in my judgment hence, no compensation is awarded to her."

11. The ld. Trial Court has also came to the conclusion that the testimony of the husband of the Prosecutrix did not inspire confidence. Relevant observations of the Trial Court are extracted herein below:-

"76. On perusal of the testimony of the husband of the prosecutrix who was examined as PW9 Anil Kumar Yadav, it is found that he had also deviated from the facts of the case which he got recorded in his statement under section 161 Cr.P.C. to the I.O. He was cross examined by Ld. Addl. PP for State on material aspects. His overall testimony is not inspiring confidence at all. On a specific question of the counsel for accused to him if he could tell as to how many times accused had committed rape with prosecutrix, he stated that he cannot the exact numbers and stated that accused had established physical relationship so many times. He has also stated that prosecutrix had told that she was raped at a place in Doriwalan and in another place in Ashok Vihar and he was not told by any other place where prosecutrix was raped by the accused.

77. Further testimony of PW9 Anil Kumar Yadav is also shaky on the issue when he was asked if prosecutrix had told about date, month and year of the rape committed by the accused on the above said places, to which he could not explain any answer and only stated that she was taken for the first time in Ashok Vihar and was raped."

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15

12. The State has also not filed any appeal against the impugned judgment.

13. After perusing the impugned judgment, this Court is convinced that there is no ground to interfere with the judgment. The impugned judgment is, accordingly, upheld.

14. The appeal is dismissed. The pending application is also disposed of.

15. Next date of hearing i.e. 17th February, 2027 stands cancelled.

PRATHIBA M. SINGH
JUDGE

DINESH BHATT
JUDGE

NOVEMBER 23, 2026/*dk/nd*

Signature Not Verified
Signed By:RAHUL
Signing
Date:25.11.2026
18:02:15