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

**Date of Decision: 22<sup>nd</sup> May, 2025.**

+ CRL.A. 575/2018, CRL.M.(BAIL) 501/2025

SANJAY @ SANJU

.....Appellant

Through: Mr. Adit S. Pujari (DHCLSC),  
Mr. Bhavesh Seth and Ms. Mantika  
Vohra, Advocates.

versus

STATE

.....Respondent

Through: Mr. Mukesh Kumar, APP for State  
with Mr. Vinod Bhati, SI, PS-  
Mehrauli.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

1. The present appeal under Section 374(2) read with Section 383 of the Code of Criminal Procedure, 1973<sup>1</sup> is directed against judgment of conviction dated 25<sup>th</sup> January, 2018 and the order on sentence dated 9<sup>th</sup> February, 2018. By the aforesaid orders, the Appellant has been convicted for the offence under Section 376 of Indian Penal Code, 1860<sup>2</sup> and has been sentenced to undergo rigorous imprisonment for a period of 12 years, along with a fine of INR 10,000/- and simple imprisonment for a period of 1 month in default thereof.

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<sup>1</sup> "Cr.P.C."



### **Factual Background**

2. Briefly stated, the facts of the case, leading to the filing of the present appeal, are as follows:

2.1. On 11<sup>th</sup> June, 2017, upon receipt of DD No. 20A, SI Kamlesh Meena proceeded to the jhuggi of the Prosecutrix located behind Chhatarpur Pahari, and recorded the Prosecutrix's statement, marked as Ex. PW-8/A. The Prosecutrix, aged approximately 60 years, stated that she had been residing at the said address with her son for over two decades and worked as a domestic help in the nearby area. She alleged that on the night of 10<sup>th</sup> June, 2017, while her son had gone to visit his sister at Jaitpur for some work, she was alone at home. At around 12:30 a.m., while she was asleep, the Appellant, who lived nearby with his sister (Babita), allegedly entered her jhuggi, covered her mouth with his hand, removed her *salwar*, and forcibly raped her. Although she raised an alarm, no one responded due to the late hour of the night. Thereafter, at approximately 3:30 a.m., she went to the residence of her niece near Chhatarpur Mandir where she narrated the incident to her niece and son-in-law. In the meantime, the Appellant fled from the scene. Her son-in-law then made a call to the police control room at 100 number, following which police arrived at the location. Pursuant to this complaint, the impugned FIR was registered.

2.2. Upon recording the statement of the Prosecutrix, the Investigating Officer seized the *dari* lying on the cot of the Prosecutrix *vide* seizure memo (Ex. PW-4/A). She endorsed the complaint and forwarded the *rukka* through Constable Rajinder (PW-6) for registration of the FIR. The Prosecutrix was then sent for medical examination to AIIMS under the escort of Constable

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<sup>2</sup> "IPC"



Asha (PW-4). After the Prosecutrix was brought back to the spot, the IO (PW-9) prepared the site plan of the place of incident and also seized the medical exhibits, *vide* seizure memo (Ex. PW-4/B), which were duly deposited in the *malkhana*.

2.3. On the same day, a police team comprising ASI Barmeshwar Goswami (PW-11), ASI Shyambir, and Head Constable Shonis apprehended the Appellant. He was brought to the police station, where he was identified by the Prosecutrix and subsequently arrested. He was then sent for medical examination and potency testing at AIIMS Hospital under the escort of Constable Rohit (PW-5). His blood samples and other exhibits were seized by the IO and deposited in the *malkhana vide* seizure memo (Ex. PW-5/A).

2.4. The statement of the Prosecutrix was recorded under Section 164 Cr.P.C., wherein she deposed that on 10<sup>th</sup> June, 2017, at around 12:00 midnight, while she was sleeping alone, the Appellant entered her jhuggi, covered her mouth, removed her *salwar*, and committed rape. The next morning, she informed her son-in-law, following which the police were contacted.

2.5. Upon completion of investigation, the IO submitted the chargesheet. Thereafter, a supplementary chargesheet was filed on 8<sup>th</sup> November, 2017, along with the RFSL report. On 18<sup>th</sup> July, 2017, charge was framed against the Appellant under Section 376 of the IPC, to which he pleaded not guilty and claimed trial.

2.6. The Prosecution examined eleven witnesses in support of its case:

PW-1: ASI Suresh Chand, the then Duty Officer at P.S. Mehrauli;

PW-2: Ms. Rajat Goyal, the Metropolitan Magistrate who had recorded the Prosecutrix's statement under Section 164 of the Cr.P.C.;



PW-3: Constable Sunil Kumar;

PW-4: W/HC Asha Rani, who had taken the Prosecutrix for her medical examination at AIIMS Hospital;

PW-5: Constable Rohit, who had accompanied the Appellant to AIIMS Hospital for his medical examination;

PW-6: Constable Rajender Singh;

PW-7: Dr. Shinjini, the medical officer who examined the Prosecutrix and prepared the MLC;;

PW-8: the Prosecutrix;

PW-9: W/SI Kamlesh Meena, the Investigating Officer of the case;

PW-10: Dr. Garima Chaudhary, expert witness who proved the RFSL Report; and

PW-11: ASI Barmshewar, who apprehended the Appellant and produced him before the IO.

2.7. In his statement recorded under Section 313 Cr.P.C., the Appellant denied all allegations and incriminating circumstances put to him. He claimed false implication, stating that he and the Prosecutrix's younger son were co-accused in another criminal case, and the Prosecutrix was known to him. The Appellant, however, did not lead any evidence in defence.

2.8. After evaluating the evidence on record, including the statement of the Prosecutrix, the Trial Court concluded that the Prosecution had proved its case beyond reasonable doubt. Consequently, the Appellant was convicted for the offence under Section 376 IPC. He was sentenced to undergo rigorous imprisonment for a term of 12 years, along with a fine of INR 10,000/-, and in default of payment, to undergo simple imprisonment for a further period of one month.



2.9. Aggrieved by his conviction and sentence, the Appellant has approached this Court, seeking setting aside of the impugned judgement.

**Appellant's Case**

3. Counsel for the Appellant assails the order and raises the following grounds:

3.1. The Prosecution's case is riddled with material inconsistencies and improbabilities. The sequence of events as narrated by the Prosecutrix is marred by contradictions that undermine the credibility of her account. On a cumulative assessment, the Prosecution has failed to establish the charge beyond reasonable doubt, warranting interference by this Court.

3.2. No independent public witness has been examined. Considering the fact that the alleged incident occurred around 12:00 a.m. within a congested jhuggi cluster, where neighbouring dwellings are in close proximity, as admitted by the Prosecutrix, her claim of having raised an alarm without any response appears implausible. The absence of even a single corroborative public witness casts a cloud of doubt over the occurrence of the alleged assault.

3.3. The Prosecution's case, in the absence of any public witnesses, rests solely on the statement of the Prosecutrix. However, the Prosecutrix's testimony suffers from glaring contradictions and lacks the consistency expected of a sterling witness. In such a case, where corroboration is absent and the statement is fraught with infirmities, reliance on her sole testimony is misplaced.

3.4. The scientific evidence is inconclusive. The doctor, PW-10, who proved the DNA report, admitted during cross-examination that the "Electropherogram" report, was not furnished. The omission of such a



critical report dilutes the evidentiary value of the scientific findings and fails to conclusively link the Appellant to the offence.

3.5. The Prosecutrix's deposition is also beset with improvements. She claimed the incident occurred at 12:30 a.m., yet admitted that no clock was present in her jhuggi to ascertain the precise time. Furthermore, she asserted that her jhuggi had no gate, allowing the Appellant to enter. These inconsistencies raise doubt as to the accuracy and spontaneity of her statement.

3.6. The medical evidence does not support the allegation of forcible sexual assault. PW-7, Dr. Shinjini, who prepared the MLC based on information from the Prosecutrix, deposed "*The prosecutrix told during her examination that she was raped by accused after threatening with "KNIFE"*". However, neither the Prosecutrix nor any other witness testified that the Appellant threatened her with a knife before the alleged rape.

3.7. The Prosecutrix claimed that her *jeth* (brother-in-law) who lived in an adjoining jhuggi, was not contacted because of strained relations. The Prosecutrix deposed that she and her son were not on speaking terms with her *jeth* and therefore she directly approached her son-in-law. It is, however, improbable for a prudent person, facing grave circumstances, to bypass an immediate relative living nearby, and instead seek help from a relative, who lives at a distance.

3.8. The failure to examine key witnesses further weakens the Prosecution's case. The Prosecutrix's son-in-law, who allegedly called the police and was an immediate confidant after the incident, was not produced as a witness. Her son, who had purportedly travelled to Rajasthan, was also not examined to corroborate her version. These omissions are unexplained



and materially affect the reliability of the Prosecution's story.

3.9. The Prosecutrix stated that the Appellant was heavily intoxicated and unable to walk properly at the time of the incident. It defies reason that a person in such a condition could forcibly restrain the Prosecutrix, cover her mouth for a prolonged period, and commit the alleged act of rape without resistance or interruption.

3.10. Despite claiming that the Appellant was well known to her, the Prosecutrix did not name him in the FIR. The relevant column titled "Details of Known/Suspect/Unknown Accused" was left blank. This omission is significant and raises doubts about the authenticity of the allegations and suggests an afterthought or embellishment.

3.11. Without prejudice to the above submissions, counsel for the Appellant, in the alternative, prays that the sentence be reduced to the period already undergone, considering the mitigating factors and the age and background of the Appellant.

#### **Prosecution's Case**

4. Mr. Mukesh Kumar, APP for the State, on the other hand, defends the impugned order, and advances the following submissions:

4.1. The judgment of the Trial Court is grounded in cogent, consistent, and reliable evidence. Contrary to the Appellant's suggestion, the Prosecution's case does not rest solely on the statement of the Prosecutrix. It is duly corroborated by scientific and medical evidence, including the DNA report, which has not been successfully impeached at trial.

4.2. The Appellant's contention that the DNA report is inconclusive is misconceived. The absence of the Electropherogram does not, by itself, diminish the probative value of the DNA profile. If the defence considered



the document indispensable, it was open to them to move an application before the Trial Court to summon it. Having failed to do so, and having not undertaken meaningful cross-examination on the reliability of the DNA findings, the Appellant cannot now challenge the sufficiency of the forensic evidence. The DNA analysis presented on record is clear, unambiguous, and supports the Prosecution's case.

4.3. The Prosecutrix's account is credible and withstands scrutiny. The Appellant, it is submitted, has a history of criminal antecedents, which demonstrates a pattern of behaviour and lends weight to the Prosecutrix's allegations. The trial record does not disclose any enmity or motive for false implication, nor has the defence been able to suggest one.

4.4. The nature of the crime and the place of occurrence, a private, enclosed jhuggi, reasonably explains the absence of eyewitnesses. In such circumstances, it would be misplaced to expect the presence of independent public witnesses. The Prosecutrix's testimony, supported by medical and scientific evidence, is sufficient to sustain the conviction. The defence has failed to cast any doubt capable of dislodging the Prosecution's case or shaking the findings returned by the Trial Court.

### **Analysis**

5. Allegations of rape often unfold in the shadows of silence, without account of eyewitnesses or unimpeachable material proof. The law, however, does not falter for lack of spectacle, it demands a careful calibration of credibility, consistency, and the totality of circumstance. In cases of sexual assault, the testimony of the prosecutrix stands not as a mere allegation, but as substantive evidence capable of sustaining conviction if found cogent, coherent, and trustworthy. Where the incident occurs in the





solitude of the night, in secluded places, and without independent witnesses, the Court must rely not on the volume of evidence but on its veracity. In the present case, the Trial Court found the testimony of the Prosecutrix to be unwavering, inherently consistent, and adequately supported by medical and forensic material. The defence seeks to dislodge this finding by pointing to perceived inconsistencies and omissions. The Court accordingly proceeds to reappraise the evidence, not in abstraction but with due regard to the surrounding circumstances and the cumulative effect of the material on record. The standard is not one of mathematical infallibility, but of whether the evidence, taken as a whole is credible, consistent, and reliable . It is the cumulative effect of these elements, and not the absence of every conceivable doubt, that must weigh the Court's determination of guilt.

6. In her initial complaint, the Prosecutrix stated that she had been residing in her jhuggi for the past two decades along with her son. She alleged that on the night of 10<sup>th</sup> June, 2017, while her son was away visiting his sister, the Appellant entered the premises at approximately 12:30 AM and subjected her to sexual assault. Though she claimed to have raised an alarm, no assistance came, presumably owing to the late hour. At approximately 3:30 a.m., she made her way to the residence of her niece and son-in-law, to whom she narrated the incident. It was her son-in-law who thereafter dialled the police helpline (100), prompting police officials to arrive at the location.

7. In her statement recorded under Section 164 of the Cr.P.C., the Prosecutrix broadly reiterated her account. She alleged that at around 12:00 AM on 10<sup>th</sup> June, 2017, while she was asleep in her jhuggi, the Appellant entered the premises, forcibly shut her mouth, and raped her. She further



stated that on 11<sup>th</sup> June, 2017, she met her son-in-law and thereafter informed the police. Pursuant to the complaint, the police arranged for her medical examination.

8. The Prosecutrix deposed before the Trial Court as PW-8, wherein, she made the following statements:

*“11. On 11.06.2017 during night hours around 12:00 midnight, I was sleeping in my jhuggi. My son had gone to Rajasthan to meet his sister. I was alone in my jhuggi. There is no door in my jhuggi only one curtain is put on the main door. When I was sleeping on a cot, accused entered in my jhuggi and shut my mouth with his hand. Accused forcibly removed my salwar and committed rape upon me despite my protest. I raised alarm but nobody came to rescue me as it was night hours. After committing rape upon me, accused ran away from there. In the morning, I went to the house of my son-in-law namely Jogga Singh and narrated the incident to him. I asked my son-in-law to make a call to the police on 100 number and police reached at the house of Jogga Singh. Thereafter I took the police to my jhuggi.”*

9. The Prosecutrix’s narrative reveals consistency across all material stages of the proceedings, namely, in her initial complaint to the police, her statement recorded under Section 164 Cr.P.C., and her deposition before the Trial Court. She also deposed about the medical examination conducted at AIIMS Hospital and identified the relevant case property, including the *dari* on her cot and the clothes she was wearing at the time of the incident.

10. However, it is equally necessary to take into account the Trial Court’s detailed appraisal of her deposition, which was subjected to close scrutiny, and led to the following observations:

*The prosecutrix proved her complaint as Ex.PW-8/A. She further deposed about her medical examination at AIIMS Hospital and proved her MLC as Ex.PW-7/A. She then deposed that the examining doctor had seized her clothes at the time of her medical examination and that the dari which was spread on the cot, at the time of incident, was seized by the police vide seizure memo Ex.PW-4/A. The prosecutrix also proved her thumb impression on the arrest memo Ex.PW-8/B of accused.*



13. During her further examination, the prosecutrix stated that she was produced before the learned MM for recording of her statement u/s. 164 CrPC and proved the same as Ex.PW-2/B.

14. The prosecutrix also identified the case property i.e. dari as Ex.P-dupatta and green coloured salwar as Ex.P-2 to Ex.P-4 respectively. She stated that the dari Ex.P-1 was spread on the cot on which she had been sleeping and clothes Ex.P-2 to Ex.P-4 were the same which she was wearing at the time of the incident.

15. The cross-examination of the prosecutrix brought out that she had not told the police in her complaint Ex.PW-8/A that her son had gone to Rajasthan. She had further not stated in Ex.PW-8/A that there was no door in her jhuggi and that only a curtain was fixed on the main gate of the jhuggi.

16. During her further cross-examination, she deposed that there was no watch in her jhuggi. She also deposed that accused had stayed in her jhuggi for about one hour. She volunteered to state that accused was in a heavily drunken condition and was not walking properly. She then deposed that accused had closed her mouth with his hand for entire one hour of his stay in her jhuggi and that she had raised alarm twice but nobody came to rescue her due to night hours. She further deposed that she left for house of her son-in-law as soon as accused had left her jhuggi. She also stated that there were 4-5 other jhuggies adjoining her jhuggi. She further deposed that her jeth was also residing in the jhuggies adjoining her jhuggi and that his sons were major and were aged about 20-23 years. She, however, clarified that further deposed that she was not on talking terms with the family of her Jeth as he used to quarrel with her after taking liquor and that she had not spoken to her Jeth since last about 1- 2 years. She further deposed that her son was also not on talking terms with her Jeth and that the sons of her Jeth also did not talk with her son.

17. During her further cross-examination, the prosecutrix deposed that she did not inform her neighbours about the incident but had straightaway gone to the house of her son-in-law and that she had gone on foot and that it had taken her about one hour to reach the house of her son-in-law. She further deposed that she had left her jhuggi at about 12 at night and reached her son-in-law's house at about 1 A.M and that as soon as she reached his house, she told him everything and that her son-in-law took her to police station immediately thereafter.

18. She further deposed that her statement was recorded as soon she reached police station and that she reached police station at about 5 -5.30 A.M and then the present case was registered. She termed it correct that after reaching her son-in-law's house, they waited till 5-5.30 A.M for going to the police station and that police had also recorded statement of her son-in-law. She further deposed that police made inquiry and recorded statement of 2-4 neighbours but she was unable to remember their names. She further deposed that the name of her son was Prem and that he was



*aged about 25 years and that he was well acquainted with accused Sanjay. She termed it correct that her son Prem and accused Sanjay were co-accused in a case of theft and that there was only one case against her son but she did not know how many cases were there against accused Sanjay.*

*19. She denied that no incident of rape had taken place with her or that her son had not gone to the house of her daughter or that he was present in the jhuggi itself. She termed it correct that accused used to visit her jhuggi frequently being a friend of her son. She denied that accused had been falsely implicated in the case as accused, had refused to give her money which she had asked for from him.”*

11. A careful scrutiny of the Prosecutrix’s cross-examination reveals emergence of several details not present in her earlier statements, alongside certain inconsistencies. For the first time, she stated that the Appellant was heavily intoxicated and unsteady on his feet at the time of the alleged incident. She also introduced the detail that her jhuggi had no door and was covered only by a curtain, an assertion absent from her initial complaint and statement under Section 164 of the Cr.P.C. Additionally, she clarified that there was no clock in the jhuggi, thereby rendering her estimation of the time of occurrence approximate at best.

12. The Prosecutrix further stated that the Appellant remained inside the jhuggi for about an hour, during which he allegedly kept her mouth shut with his hand throughout, a claim that raises a question of physical plausibility given the alleged state of intoxication. Although she maintained that she raised an alarm twice, she also acknowledged that no one responded, despite there being four to five neighbouring jhuggis in close proximity.

13. Her testimony also brought on record that her *jeth* (brother-in-law) and his adult sons resided in the adjoining jhuggi. Yet, she did not approach them for assistance, attributing this to longstanding familial discord. Instead, she claimed to have walked alone for nearly an hour, from approximately



12:00 a.m. to 1:00 a.m., to reach her son-in-law's residence, where she disclosed the incident. However, she also stated that they waited until around 5:00-5:30 a.m. before approaching the police, a delay for which no cogent explanation was offered.

14. She further deposed that her son and the Appellant were co-accused in a theft case, and that the Appellant was previously acquainted with her family. Although she denied any motive to falsely implicate him, the omission of this background from her initial statement remains notable. She also claimed that police officials had recorded statements of two to four neighbours, but did not name them, and none were examined during the trial. Lastly, the FIR registered on her complaint did not mention the name of the Appellant, despite her stating that he was known to her.

15. There are also discrepancies with respect to the time of the alleged incident and the time she reported it to her son-in-law. The Prosecutrix, in her complaint, stated that the Appellant reached her jhuggi at around 12:30 AM and committed the alleged offence, after which she went to her son-in-law's residence at about 3:30 AM. Similarly, in her statement under Section 164 Cr.P.C., she mentioned that the Appellant entered her jhuggi at around 12:00 AM on the night of 10<sup>th</sup> June, 2017, and that she met her son-in-law on 11<sup>th</sup> June, 2017. However, in her examination-in-chief, she deposed as follows:

*On 11.06.2017 during night hours around 12:00 midnight, I was sleeping in my jhuggi. My son had gone to Rajasthan to meet his sister. I was alone in my jhuggi. There is no door in my jhuggi only one curtain is put on the main door. When I was sleeping on a cot, accused entered in my jhuggi and shut my mouth with his hand.*

16. Thereafter, in her cross-examination, she deposed:



*“I did not inform my neighbours about the incident but straightaway went to the house of my son-in-law. I had gone on foot and it took me about one hour to reach the house of my son-in-law. I left my jhuggi at about 12 at night and reached my son-in-law's house at about 1 A.M. As soon as I reached his house, I told him everything. My son-in-law took me to police station immediately. As soon I reached P.S, my statement was recorded and case was registered. I reached police station at about 5-5.30 A.M.”*

17. Thus, while certain discrepancies do appear in the statements of the Prosecutrix, this Court is of the considered view that they are minor and do not, in any meaningful way, undermine the substantive credibility of her account. Such variations are not uncommon in the recounting of traumatic experiences and, by themselves, are insufficient to weaken the core of the Prosecution's case.

18. In assessing whether the inconsistencies in the Prosecutrix's deposition undermine the integrity of the Prosecution's case, it is essential to bear in mind that the testimony of a rape survivor must not be evaluated with a hyper-technical mind set. The omissions and additions elicited during cross-examination, such as the absence of a door, the lack of a clock, the approximate timing of the offence, or the familial discord with neighbouring relatives, do not pertain to the core allegation of sexual assault. Rather, they concern peripheral aspects that often elude precision in recollection, especially from a traumatised witness recounting events in a high-stress environment.

19. The Supreme Court has repeatedly held that minor contradictions or insignificant variations in the victim's statement cannot be treated as a ground for discrediting or rejecting an otherwise reliable and truthful



prosecution case.<sup>3</sup> In *Narender Kumar v. State (NCT of Delhi)*,<sup>4</sup> the Supreme Court specifically observed that in cases involving charges of rape, courts must assess the broader probabilities of the case and should not be unduly influenced by trivial inconsistencies in the witness' testimony that do not affect the core of the prosecution's case. Furthermore, it is imperative to underscore that the testimony of a victim of sexual assault must be approached with sensitivity, recognizing the profound social and psychological trauma such an incident inflicts upon her.

20. In the instant case, the discrepancies relating to a difference of a few hours in the timing of the alleged incident and the time when the Prosecutrix reported the matter to her son-in-law are minor and inconsequential. Similarly, the slight clarifications or 'improvements' made during cross-examination regarding the absence of a door and a clock in the house are also trivial in nature, and do not undermine the veracity of the core allegations levelled against the Appellant. Viewed in totality, none of the discrepancies cited by the Defence dislodge the central narrative of the Prosecutrix. Her evidence, in its cumulative effect, remains consistent, cogent, and trustworthy on the material aspects of the case. This Court, therefore, finds no reason to disbelieve her version solely on the basis of peripheral contradictions or omissions.

21. At this juncture, it is necessary to reiterate the well-settled principle of law that, in cases involving sexual assault, the sole testimony of the victim can form the basis of conviction, provided it is found to be credible and commands the confidence of the Court. The Supreme Court, in *Nirmal*

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<sup>3</sup> State of Punjab v. Gurmit Singh, (1996) 2 SCC 384.

<sup>4</sup> (2012) 7 SCC 171.



*Premkumar v. State*,<sup>5</sup> undertook a nuanced evaluation of the evidentiary weight accorded to a victim's testimony in cases of sexual assault. The Court broadly classified such testimony into three categories, reflecting differing degrees of reliability and the extent to which the evidence inspires judicial confidence:

*"11. Law is well settled that generally speaking, oral testimony may be classified into three categories, viz.: (i) wholly reliable; (ii) wholly unreliable; (iii) neither wholly reliable nor wholly unreliable. The first two category of cases may not pose serious difficulty for the Court in arriving at its conclusion(s). **However, in the third category of cases, the Court has to be circumspect and look for corroboration of any material particulars by reliable testimony, direct or circumstantial, as a requirement of the rule of prudence.**"*

xx...x...x...

13. *The Court can rely on the victim as a "sterling witness" without further corroboration, but the quality and credibility must be exceptionally high. **The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistencies excepted), from the initial statement to the oral testimony, without creating any doubt qua the prosecution's case. While a victim's testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded.**"*

22. Applying these legal principles to the present case, this Court is of the view that the narrative given by the Prosecutrix is, on the whole, reliable and inspires the confidence of the Court. While certain minor discrepancies were elicited in cross-examination, these do not undermine the core narrative of the offence. At the highest, her testimony may be classified in the third category identified by the Supreme Court, *i.e.*, neither wholly reliable nor wholly unreliable. In such cases, the rule of prudence demands that the testimony be corroborated in material particulars. The Court is thus required

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<sup>5</sup> 2024 SCC OnLine SC 260.





to examine whether the account of the Prosecutrix is substantiated by other evidence on record, be it medical, forensic, or circumstantial, so as to lend sufficient assurance to the case against the Appellant.

23. In this regard, the corroborating scientific evidence presented by the Prosecution assumes particularly significance. Dr. Garima Chaudhary (PW-10), who appeared as an expert witness before the Trial Court, deposed unequivocally that the DNA profile derived from the blood sample of the Appellant matched the male DNA profiles isolated from the vaginal smear (Exhibit 14), vaginal swab (Exhibit 15), the *salwar* worn by the Prosecutrix (Exhibit 16), the Appellant's blood (Exhibit 21) and the Appellant's own clothing (Exhibits 22a and 22b). She tendered a detailed allelic data report (Ex. PW-10/B), which she affirmed had been derived from a validated forensic methodology. The relevant findings of the Trial Court on this scientific evidence are as follows:

*"20. The PW-10 Dr. Garima Chaudhary, Sr. Forensic Examiner, Biology Division, RFSL Chanakyapuri, New Delhi, deposed that on 06.10.2017 she examined a total of 22 exhibits, with intact seal, in the present case and prepared her detailed report Ex. PW10/A dated 06.10.2017.*

*21. She further deposed that she also conducted DNA examination of male profile generated from the source of exhibits '14' (vaginal smear), '15' (vaginal swab), '16' (salwar), '21' (blood of accused), '22a' (T-shirt) & exhibit '22b' (trouser) and that alleles from the source of exhibit '21' (blood of accused) were accounted for in the alleles from the source of exhibits '14' (vaginal smear), '15' (vaginal swab), '16' (salwar), '22a' (T-shirt) & exhibit '22b' (trouser).*

*22. She deposed that on basis of said DNA examination, she opined that male DNA profile generated from the source of exhibits '14' (vaginal smear), '15' (vaginal swab), '16' (salwar), '22a' (T-shirt) & exhibit '22b' (trouser) were sufficient to conclude that male DNA generated from the source of exhibits '14' (vaginal smear), '15' (vaginal swab), '16' (salwar), '22a' (T-shirt) & exhibit '22b' (trouser) were similar to DNA profile generated from the source of exhibit '21' (blood of the accused). She proved the report of allelic data as Ex.PW10/B.*



23. *During her cross examination by Ld. Defence counsel, she deposed that she had not brought electro pherogram on basis of which she had prepared Ex.PW10/B. She volunteered to state that electro pherogram remained in the computer. She further stated that they did not give copy of electro pherogram to the IO even on written request made in this regard and that the IO of the present case had not made any such written request to her.*

24. *A court question was asked from the witness as to why copy of electro pherogram was not given to anyone. In response to said question, the witness stated that electro pherogram was a technical document which could be read by a specially trained person only and hence, allelic data report, which is based on electro pherogram and is readable, was only provided for general purpose.*

25. *She then deposed that since the very beginning of giving opinions on DNA examination, the electro pherogram was not provided to anyone. She denied that electro pherogram report was generally provided. She further denied that the DNA in the present case did not match or that she had given a false report at the instance of the IO.”*

24. The DNA report from the Regional Forensic Science Laboratory comprehensively explains the conclusions of the DNA examination, establishing a match between the Appellant’s DNA profile and the DNA profiles generated from the exhibits. The Appellant’s contention that, in the absence of the “Electropherogram” report, the DNA evidence was insufficient to corroborate the Prosecutrix’s version, is unsubstantiated. Significantly, the Defence did not confront the expert witness (PW-10) with any meaningful challenge beyond a perfunctory inquiry about the non-disclosure of the electropherogram. Moreover, no forensic expert was summoned to rebut PW-10’s findings, nor was any precedent or technical material placed on record to suggest that the absence of the electropherogram rendered the DNA analysis unreliable or incomplete. In the absence of any substantive cross-examination or expert rebuttal, this Court finds no reason to doubt the integrity of the DNA evidence, which provides compelling scientific corroboration of the Prosecutrix’s testimony.



25. Pertinently, the Trial Court specifically queried PW-10 as to why the Electropherogram report was not furnished to anyone. In response, she adequately explained that it is a highly technical document readable only by individuals with specialized training. She further clarified that the “Allelic Data” report, which is derived from and based on the Electropherogram, is the accessible and interpretable document. The Allelic Data report for this case (PW-10/B) was duly proved by PW-10. Therefore, the contents and findings of the Electropherogram were effectively encapsulated in the Allelic Data report, which was proved by an expert witness. Accordingly, the Prosecution’s contention that the evidentiary value of the DNA report is diminished due to the absence of the Electropherogram report is without merit.

26. The Appellant’s contention that the Prosecution failed to examine any public witnesses to corroborate the Prosecutrix’s version also does not merit acceptance. It is well-settled that offences of this nature are often committed in isolated or secluded locations, where the presence of eyewitnesses is generally rare or altogether absent.<sup>6</sup> The alleged incident occurred within the secluded confines of the Prosecutrix’s jhuggi, in the early hours of the morning, when her son, the only other occupant, was away. In such circumstances, absence of independent eyewitnesses is neither surprising nor unnatural, given the nature, location, and timing of the offence. The law does not mandate the presence of public witnesses for every offence, particularly when the alleged act transpires in a private, enclosed space, at a time when most residents in the vicinity would naturally be asleep. The Appellant’s contention that the alarm purportedly raised by the Prosecutrix



should have alerted her neighbours, who could then have been examined as public witnesses, is speculative and lacks any substantive basis. Considering that only four to five jhuggis adjoined the Prosecutrix's dwelling, and given the late hour, it is entirely plausible that the alarm raised by the Prosecutrix went unheard by any of the neighbours.

27. The Supreme Court in *Nirmal Premkumar*, held that the testimony of the victim, if not wholly reliable, should be corroborated by "reliable testimony, direct or circumstantial, as a requirement of the rule of prudence." However, law does not impose an absolute requirement for corroboration by direct eyewitnesses, if the nature of the offence itself often precludes the availability of direct eyewitnesses. In any event, the Prosecutrix's account is supported by scientific evidence, which adequately establishes the culpability of the Appellant. Accordingly, the absence of ocular or direct eyewitness testimony is not, in the opinion of this Court, fatal to the Prosecution's case, particularly in light of the nature of the offence and the corroborative forensic material placed on record.

28. The Appellant has further contended that the statements of the Prosecutrix, specifically, that he was intoxicated and barely able to walk, yet managed to keep her mouth shut for the entire duration of approximately one hour, are inherently inconsistent. He argued that it is improbable for a man in such a state to exercise such control and restraint. However, the Trial Court rightly observed that, considering the significant age difference between the Prosecutrix, who was 60 years old at the time, and the Appellant, who was only 24 years old, it is entirely plausible that the Appellant, even in a drunken condition, was able to overpower the

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<sup>6</sup> *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat*, (1983) 3 SCC 217.



Prosecutrix.

29. Another contention raised by the Appellant pertains to the fact that the Prosecutrix's *jeth* resided in close proximity to her *jhuggi*, as elicited during her cross-examination, yet she did not seek help from him following the alleged incident. Instead, she approached her son-in-law, who lives farther away. It is contended that this conduct is contrary to what would reasonably be expected from a victim in such circumstances. However, the Prosecutrix adequately explained during cross-examination that her relationship with her *jeth* was strained, as he was in the habit of quarrelling with her after consuming liquor. As a result, she and her son had not been on speaking terms with him for approximately one to two years. In this context, the Trial Court correctly noted that it is entirely understandable that a victim of such a traumatic offence would be reluctant to seek assistance or support from an individual with whom she has a troubled history. Rather, the Prosecutrix informed her son-in-law on the very same night about the alleged incident, which culminated in the FIR being registered in the early hours of the intervening night on which the offence was committed. The promptness and immediacy with which the Prosecutrix reported the matter to her son-in-law, despite the late hour, strongly reinforce the veracity and genuineness of her claim, thereby further solidifying the case of the Prosecution.

30. The Appellant sought to suggest before the Trial Court that he had been falsely implicated by the Prosecutrix, attributing a motive rooted in a prior association. He pointed out that both he and the Prosecutrix's younger son were co-accused in an unrelated criminal case, and that the Prosecutrix was familiar with him on account of this connection. However, this line of defence finds no foundation in the evidence on record. During her cross-



examination, the Prosecutrix readily acknowledged that the Appellant was acquainted with her family, he was a friend of her son and had visited their residence on several occasions. She, however, firmly denied the suggestion that she had demanded any money from the Appellant or that his refusal had triggered the present complaint.

31. Pertinently, the Appellant did not lead any defence evidence to substantiate the plea of false implication, whether by way of documentary material or witness testimony. No effort was made to establish any pre-existing enmity, monetary dispute, or other circumstance that might cast doubt on the integrity of the complaint. In the absence of even *prima facie* material supporting this allegation, the defence remains entirely speculative. Mere assertions of false implication, unaccompanied by credible supporting evidence, cannot be permitted to erode the otherwise consistent and cogent narrative of the Prosecutrix.

### **Conclusion**

32. The legal position is firmly settled that a conviction can be sustained solely on the basis of the testimony of the victim or prosecutrix, provided that her evidence is found to be trustworthy, credible, unblemished, and of sterling quality.<sup>7</sup> The consistent jurisprudence of the Supreme Court has underscored that in prosecutions relating to sexual offences, the solitary statement of the victim, if it inspires the confidence of the Court, requires no further corroboration.

33. In the present case, as has been discussed hereinabove, the testimony of the Prosecutrix is found to be cogent, consistent, and free from material embellishments. Her account stands unshaken under the rigour of cross-



examination and does not suffer from any material infirmity that would warrant its rejection. The version presented by the Prosecutrix not only withstands judicial scrutiny, but is also amply substantiated by the testimonies of expert witnesses, medical professionals, and police officials, including the Investigating Officer. Crucially, the scientific evidence placed on record, *i.e.*, the DNA analysis conducted by an expert, unequivocally corroborates the allegations made by the Prosecutrix and links the Appellant to the crime. Thus, the narrative of the Prosecution is not only consistent, but also corroborated by reliable and admissible evidence.

34. In light of the foregoing facts and circumstances, this Court is of the considered view that the Trial Court rightly arrived at the conclusion that the Prosecution had succeeded in proving its case beyond reasonable doubt. Accordingly, this Court finds no reason to interfere with the well-reasoned findings rendered by the Trial Court.

35. At this juncture, it is relevant to record that the Counsel for the Appellant prays for a reduction of the sentence to the period already undergone by the Appellant. However, this Court is unable to accede to the limited prayer for reduction of sentence. The offence in question pertains to the commission of rape upon a woman aged 60 years, by the Appellant, a young man aged 24 years, during the late hours of the night when the victim was alone in her jhuggi. The record reveals that the Appellant was in an intoxicated condition at the time of the incident and took advantage of the vulnerability of the victim, an elderly woman. Considering the nature and the gravity of the offence, the Court is of the opinion that the sentence awarded by the Trial Court is neither excessive nor disproportionate to the

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<sup>7</sup> Ganesan v. State, (2020) 10 SCC 573.



offence committed. Rather, it is commensurate with the seriousness of the crime and the circumstances under which it was perpetrated. Therefore, this Court finds no justification to alter or reduce the sentence imposed. The request for reduction of sentence to the period already undergone is thus, rejected.

36. Accordingly, the appeal is dismissed, both on merits and with respect to the plea for reduction of sentence.

**SANJEEV NARULA, J**

**MAY 22, 2025**

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