



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-AD-6-2021 (O&M)
Date of Decision: 02.07.2025

XXXX

.....Appellant

Versus

STATE OF HARYANA AND ANR

.....Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Amit Kumar Nain, Advocate for
Mr. Gopal Sharma, Advocate,
for the appellant.

Mr. Deepak Bhardwaj, DAG, Haryana.

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ANUPINDER SINGH GREWAL, J. (Oral)

In view of the directions issued by the Supreme Court in the case of *Nipun Saxena Versus Union of India, (2019) 2 SCC 703*, the identity of the appellant, being the alleged victim, is being masked.

2. This appeal by the prosecutrix 'A', is directed against the judgment of the trial Court dated 12.03.2020 whereby respondent No.2 has been acquitted of the charges framed against him under Sections 376(2)(n), 385 and 506 of the IPC in FIR No.67 dated 23.06.2018 registered under Sections 376, 450 and 201 of the IPC at PS Women Police Station, Rewari.

3. Learned counsel for the appellant submits that respondent No.2 has been erroneously acquitted, although, there was cogent evidence



warranting his conviction. The prosecutrix herself had narrated the incident and her testimony has been corroborated by the evidence of PW-4, who is husband of the appellant, which is sufficient to convict respondent No.2.

4. Heard.

5. It is the case of the prosecution that the appellant had moved a complaint Ex.P2 seeking action against respondent no.2. In her complaint, she had stated that the accused used to call her on her phone regularly and had been blackmailing her that she should talk to him or else he would upload the video of their intimate moments on the internet. Thereafter, respondent No.2 had first assaulted the appellant on 18.02.2018 and thereafter, he had been repeatedly assaulting her till May, 2018. The FIR was registered on 23.06.2018 on the basis of the complaint of the appellant. The statement of the witnesses was recorded under Section 161 CrPC. The police visited the spot and prepared the site plan. The prosecutrix was medically examined. The final report under Section 173 CrPC was submitted before the trial Court. Charges were framed under Sections 376 (2)(n), 385, 506 of the IPC and the accused claimed trial. The prosecution examined as many as 16 witnesses to prove its case and closed its evidence on 04.12.2019. The defence examined 3 witnesses.

6. The appellant had appeared in the witness box as PW3 and had reiterated the version as set out in the FIR. She stated that she had 2 daughters and her husband is a farmer. The accused is a resident of the same village. In February 2018, the accused called her on her mobile phone bearing no.xx9208, from his mobile no.xx6502 and xx0296 and threatened



her that he was having a recording of her and in case of 'disobedience' he would defame her. On 18.02.2018, in the night while her husband was away for work and her children were sleeping, respondent no.2 came to her house and raped her. He then demanded Rs 5000/- from her and due to fear she paid him. Thereafter, he visited her house three times and on each occasion, he raped her and demanded Rs 10,000/- on every occasion. He would repeatedly threaten her that if she resisted, he would upload the video of their intimate moments on the internet.

7. PW4, who is her husband had also appeared in the witness box and corroborated the version of the appellant. He deposed that on 23.06.2018, he asked his wife for the cash which he had given to her earlier. She started weeping and told him that the accused had been raping her and had demanded money threatening her that if she resisted, he would upload the video of their intimate moments on the internet.

8. PW-14 ASI Suman Lata deposed that on 25.12.2018, she had moved an application to the Cyber Cell, Rewari for the Call Data Records (CDR), CAF ID of the accused and the appellant. After going through the CDR, it was found that the appellant and respondent no.2 were in regular touch. According to the CDR the accused used to call the appellant from two different phone numbers xx0296 and xx6502. The accused destroyed the second mobile phone as well as both the sim cards. The remaining witnesses who were official witnesses deposed qua their role in the investigation.

9. The statement of the accused was recorded under Section 313 CrPC wherein he pleaded that he had been falsely implicated as his sister



had lodged an FIR under Section 354A of the IPC against the husband of the appellant. The defence had examined three witnesses who include Ajit Dagar, Criminal Ahlmad who was examined as DW1, HC Mahipal who was examined as DW2 who produced complaint dated 22.06.2018 (Ex. D1) which showed that one day prior to the registration of the present FIR, the complainant had moved a complaint against the accused which only makes mention of ‘uncivilised behaviour’. A complaint (Ex. D3) revealed that a complaint had been lodged by the sister of the present accused under sections 354A, 341, 506 IPC stating that on 20.06.2018 and 22.06.2018 the husband of the appellant had outraged her modesty, but the FIR was lodged on 20.07.2018 and Ramesh Singh, Nodal Officer was examined as DW3.

10. The fundamental issue for our consideration in the instant case is whether the evidence adduced by the prosecution, particularly the testimony of the prosecutrix is trustworthy, credible and worthy of reliance, so as to warrant the conviction of respondent No.2 under Sections 376(2)(n), 385 and 506 of the IPC.

11. It is a settled principle of law that in cases involving offences which are sexual in nature, a conviction can be based solely on the testimony of the victim of sexual assault without being corroborated by any other evidence. Where the testimony is of such a nature that it instils confidence in the Court, the same can be relied upon for convicting the accused. It is also a well settled principle of law that when a conviction is to be based on the sole testimony of the prosecutrix, the Court has to be extremely careful while examining this sole testimony. Reference can be made to the judgment of the



Supreme Court in the case of ***Sadashiv Ramrao Hadbe v. State of Maharashtra***, (2006) 10 SCC 92, wherein the Supreme Court made the following observation:

“8. It is true that in a rape case the accused could be convicted on the sole testimony of the prosecutrix, if it is capable of inspiring confidence in the mind of the court. If the version given by the prosecutrix is unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, the court shall not act on the solitary evidence of the prosecutrix. The courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen.”

(Emphasis supplied)

12. The Supreme Court in ***Rai Sandeep vs. State (NCT of Delhi)*** (2012) 8 SCC 21 had the occasion to define as to who can be said to be a ‘sterling witness’. The relevant extract of the judgment is reproduced below:

“15. In our considered opinion, 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 everyone 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 similar such tests to be applied, it can 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."

13. Analysis of the testimony of the prosecutrix in the light of the above mentioned principles laid down by the Supreme Court, makes it crystal clear that there are several material inconsistencies in the prosecution evidence, particularly the testimony of the prosecutrix and therefore, she is not a reliable witness. It is manifest that although the first incident is stated to have taken place on 18.02.2018 but the FIR was lodged four months after the first incident. The appellant, a matriculate, was stated to be 25 years old at the time of incident and was married with two daughters. In her cross-examination, she admitted that on 20.02.2018 a quarrel had taken place between her and her neighbours, and she had immediately called the police



at emergency number 100 and had narrated the incident to the police. From her conduct, it cannot be said that the appellant was a gullible and meek woman. If she had no hesitation to reach out to the authorities when a quarrel took place, it is difficult to believe that it took her so long to inform the authorities at the time of her alleged assault. Furthermore, as per her version, respondent No.2 had entered her house at night in the absence of her husband. She also stated that her two daughters were sleeping next to her. However, she did not raise any hue and cry especially when her two daughters were also present in the room. The site plan had been placed on record (Ex. P28), which indicated that her brother-in-law (*jeth*) was also residing in the same house and lived in the room adjacent to that of the appellant. This fact was also confirmed by the IO in his deposition as PW-16. However, both the appellant and her husband denied the fact that the *jeth* lived in the same house. In her cross-examination, she admitted that on no occasion did she inform her *jeth* about the incident.

14. The CDR details had been produced on record as Ex.P22/1 and Ex.P25/1 which revealed that there were as many as 17 phone calls between them on 18.02.2018 i.e., the date of incident itself and there were total 47 phone calls between them from 01.02.2018 to 17.02.2018 and there were also number of phone calls between them after the incident. The last call between the appellant and respondent no.2 took place around 11.27 pm. It is likely that the appellant was having a friendship with respondent No.2.

15. Furthermore, the appellant had stated in the complaint that the accused had an objectionable video of her and had threatened that he would



upload the same on the internet and that is why she started talking to him. However, in her statement under section 164 Cr.P.C. she had stated that the accused had threatened to harm her daughter and that is why she started talking with the accused. In her deposition she reiterated the version set out in the complaint about the alleged objectionable video but no material in this regard had been produced on record. The only electronic evidence which had been produced on record was the phone call details between the appellant and respondent No.2.

16. It is in this background that the evidence led by the defence gains greater credence. We may notice the following observations of the Apex Court in **Dudh Nath Pandey v. State of U.P., (1981) 2 SCC 166**, wherein it was observed as under:

“19. ...Defence witnesses are entitled to equal treatment with those of the prosecution. And, courts ought to overcome their traditional, instinctive disbelief in defence witnesses. Quite often, they tell lies but so do the prosecution witnesses. ...”

It is also significant to note that the accused in his defence had stated that he had been falsely implicated in the instant case by the appellant and that the instant FIR is a counter blast to the FIR lodged by his sister against the husband of the appellant. As noted above, the husband of the appellant is alleged to have sexually harassed the sister of the accused on 20.06.2018 and 22.06.2018, which is prior to the FIR lodged in the instant case by the appellant.

17. In view of the above, we are of the considered view that the prosecution case suffers from material contradictions and the impugned



judgement of the trial Court is based upon proper appreciation of the evidence on record.

18. Even otherwise, it is trite that interference in an appeal against acquittal would be warranted only where the judgment is perverse or manifestly illegal. By the judgment of acquittal, the presumption of innocence of the accused is reinforced. Even if, another view is possible from appreciation of evidence, the appellate Court should refrain from interfering in an order of acquittal. Reference may be made to the judgment of the Supreme Court in the case of **Chandrappa & Ors vs State of Karnataka**, (2007) 4 SCC 415. The relevant extract of the judgment is reproduced as under:

“xxx xxx the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) to (3) xxx xxxx xxx

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

xxx xxx”

(Emphasis supplied)



19. Consequently, we do not find any manifest illegality in the judgment of the trial Court acquitting respondent No.2 and the instant appeal stands dismissed accordingly.

20. All pending miscellaneous application(s) also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

02.07.2025

sandeep

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No