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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 413 of 2023

Raju Gond S/o Jagbali Gond Aged About 32 Years R/o Kariman Thakur Ke Dhera, Post Laxmipur, Police Station Shahpur, Bihar, At Present R/o Satipara Bachen Colony, On Rent, Ambikapur, District- Sarguja, Chhattisgarh.

... Appellant

versus

State of Chhattisgarh Through The Police Station Ambikapur, District- Sarguja, Chhattisgarh.

...Respondent

For Appellant	:	Mr. Shobhit Koshta, Advocate
For Respondent-State	:	Mr. Nitansh Jaiswal, Panel Lawyer

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Arvind Kumar Verma, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

30.04.2025

1. This criminal appeal is directed against the judgment of conviction and order of sentence dated 18.01.2023 passed by learned Additional Sessions Judge, Fast Track Special Court, (POCSO) Act, Ambikapur, District Sarguja in Special Criminal (POCSO) Case No. 20 of 2022, whereby the appellant has been convicted and sentenced as under:-

<u>Conviction</u>	<u>Sentence</u>
Under Section 370(A) (1) of the Indian Penal Code, 1860 (for short, 'IPC')	RI for 5 years and fine of Rs. 500/-, in default of payment of fine, additional RI for 01 month.
Under Section 323 of the IPC	RI for 01 year and fine of Rs. 500/-, in default of payment of fine, additional RI for 01 month.
Under Section 3(A)/4(2) of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act')	RI for 20 years and fine of Rs. 1000/-, in default of payment of fine, additional RI for 02 months.
All the sentences were directed to run concurrently.	

2. Case of the prosecution, in brief, is that on 13.06.2021, a written complaint was submitted by the victim/complainant at Police Station Ambikapur to the effect that on 24.02.2021 at about 08.30 A.M., driver of Truck bearing registration No. CG 15 AC 4895, Raju Gond, resident of Sattipara, came to his house and stated that he will teach the victim driving and asked him to come with him as a helper in the Truck, thereafter, the accused took the victim to Nepal and promised to give him Rs. 6000/- every month, and he lived and worked with him for 4 months and gave him only Rs.2000/- and did not give Rs.22000/-. A week ago, he threatened the victim and said that if he did not let him commit unnatural act, he remove the kidney of the victim and threw in a ditch and threatened to kill him, thereafter, he beat the victim with a diesel measuring gauge and had sex with him in the anus and after a day or two, he tried to have sex with him again. Thereafter, the victim returned to his home in Ambikapur out

of fear and told his father and others about the incident. Thus, on the basis of the written complaint (Ex.P/1) lodged by the victim/complainant, First Information Report (Ex.P/2) was registered in Ambikapur Police Station in Crime No. 529 of 2021 for offences punishable under Sections 363, 377, 506 and 323 of the IPC and Section 4 of the POCSO Act and the case was taken into investigation.

3. During the investigation, Investigation Officer Brijnath Sai Paikara (PW-9) obtained consent of the victim and his father, vide Exs.P/3 and P/17 and sent the victim to the District Hospital, Ambikapur for medical examination vide Ex.P/18, the medical report of which is Ex.P/9 in which Dr.Nitesh Kumar Karmendra (PW-5) found following injuries and symptoms:

- (1) pain during defecation.
- (2) tear in internal annal insfictor 7' o clock, 8' o clock direction.
- (3) tenderness present during anal examination.
- (4) local tenderness around external anal insfictor.
- (5) pain during walking.
- (6) No local swelling around anal region.
- (7) Swab taken from anal region for confirmation of spermatozoa & sample send for forensic expert.

Spot map of the incident was prepared vide Ex.P/4. The swab prepared by the doctor during the examination of the victim was

seized and seizure memo (Ex.P/12) was prepared. The memo vide Ex.P/19 was sent to the Tehsildar, Ambikapur for providing Patwari Nazri map of the incident site. During the investigation, the statements of the witnesses were recorded as per their statements and the case diary was handed over to the then Police Station Incharge for further investigation in the case. On receipt of the case diary of Crime No. 529 of 2021 of Ambikapur Police Station by the Investigating Officer Sub Inspector, Surjan Porte (PW-7), on 03.01.2022, he sent a memo (Ex.P/5) to the Headmaster of Primary School K.P. for presenting the attested copy of admission-discharge register of the victim and on the basis of the said complaint, on 08.01.2022, when the Headmistress, Smt. Jibiyani Bhagat (PW-2) presented the admission-discharge register of the victim, seizure memo (Ex.P/6) was prepared. The Admission-Discharge register is Ex.P/7, copy of which is Ex.P/7C. Memorandum statement of the accused (Ex.P/10) was recorded in front of witnesses. The accused was arrested in presence of witnesses and arrest memo vide Ex.P/11 was prepared and information regarding the arrest was given to the accused wife Ranilata Gond as per Ex.P/11A. The accused was sent to District Hospital Medical College, Ambikapur for medical examination vide Ex.P/13, the report of which is Ex.P/8. On presentation by Rakesh Rai on 07.03.2022, Truck vehicle no. CG 15 AC 4895 registration book, insurance, fitness CG permit and national permit papers were seized vide Ex.P/14. On 07.08.2021, through the Superintendent of Police, Surguja, the seized property

was sent to the Joint Director, Regional Forensic Science Laboratory for chemical examination and an acknowledgment receipt Ex.P/15 was received and on 23.07.2021, the chemical test report Ex.P/16 was received.

4. Statements of the witnesses were recorded by the police under Section 161 of the Cr.P.C.. After completing the entire investigation, charge-sheet was filed before learned Additional Sessions Judge, Fast Track Special Court, (POCSO) Act, Ambikapur, District Sarguja (C.G.) for commission of offence punishable under Sections 363, 370K(1), 377, 506 Part-II and 323 of the IPC and Section 3(a) read with Section 4(2) of the POCSO Act.
5. Learned trial Court has framed charges under Sections under Sections 363, 370K(1), 377, 506 Part-II and 323 of the IPC and Section 3(a) read with Section 4(2) of the POCSO Act. During trial, the prosecution has examined as many as 09 witnesses and exhibited 19 documents Exs.P/1 to P/19.
6. After appreciation of oral as well as documentary evidence produced by the prosecution, learned trial Court has convicted and sentenced the appellant as mentioned in opening paragraph of this judgment. Hence this appeal.
7. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case and the prosecution has completely failed to prove the guilt of the appellant. He further submits that as per case of the prosecution, the victim was minor on

the date of incident, but this fact has not been proved by adducing lawful evidence. In this regard, only Dakhil-Kharij register (Ex.P/7C) of the victim has been seized, which shows that date of birth of the victim is 25.04.2007, but it has not been proved by any of the witnesses that on what basis the aforesaid date of birth was recorded in the school. It is further submitted that since the prosecution has failed to prove by adducing cogent evidence that on the date of incident, the victim was minor, hence the finding recorded by learned trial Court in this regard is not sustainable. It has been contended that there are so many contradictions and omissions in the statement of the prosecution witnesses. As such, criminal appeal deserves to be allowed and the impugned judgment deserves to be set aside.

8. On the other hand, learned State counsel opposes the arguments advanced by learned counsel for the appellant and submits that the statement of the victim and other witnesses are fully reliable. He further submits that offence committed by the appellant was heinous in nature and thus, the trial Court had rightly convicted him. It has been contended that the trial Court had considered all the arguments made by the appellant and there was sufficient evidence to prove his guilt beyond reasonable doubt. Moreover, the victim was minor and below 16 years of age at the time of incident, which is proved by the school admission and discharge register (Ex.P/7C) which contains the date of birth of the victim as 25.04.2007. The evidence of the victim need not be required for any corroboration

and on the sole testimony of the victim, the conviction can be made. Therefore, there is no illegality or infirmity in the findings recorded by learned trial Court and the impugned judgment of conviction and order of sentence needs no interference.

9. We have heard learned counsel for the parties, considered their rival submissions made herein-above and also went through the original records of the learned trial Court with utmost circumspection and carefully as well.
10. In the instant case, conviction of the accused/appellant is substantially based on the testimony of the victim (PW-1) and admission-discharge register (Ex.P/7C).
11. As per case of the prosecution, date of birth of the victim is 25.04.2007 and on the said basis, on the date of incident i.e. 24.02.2021, the age of the victim was 13 years. To substantiate this fact, the prosecution has adduced admission-discharge register of the Government Primary School K.P., Thana Lundra, District Surguja (C.G.), which was proved by the Headmistress of the said school Smt. Jibiyani Bhagat (PW-2). This witness has clearly deposed in her deposition that in admission-discharge register information with regard to the victim has been noted in Serial No.616 and he was admitted in Class-I on 27.06.2013. She has also stated that as per this Register, the date of birth of victim is 25.04.2007.
12. The date of birth of the victim was recorded as 25.04.2007 in the

admission-discharge register prior to 18 years of the present incident, on the basis of which, the victim was found to be aged about 13 years on the date of incident. The appellant did not adduce any evidence to discard aforesaid age of the victim.

13. Thus, on the basis of aforesaid oral and documentary evidence, we find that learned trial Court has rightly held that on the date of incident the victim was child *i.e.* below the age of 16 years.
14. So far as the allegation with regard to rape committed by the appellant with the victim is concerned, PW-1, who is victim in the present case, in his deposition has stated that he knew accused Raju Gond. He recognize him because he used to visit his neighborhood. His date of birth is 25.04.2007 and he studied upto to Class 6th and then dropped out to work as a painter. The incident occurred about a year ago. Accused Raju Gond lured him by promising to teach him driving and providing a job with a monthly salary of Rs. 6,000/-. He convinced the victim to go to Nepal with him. The parents of the victim agreed after he told them about it. Thereafter, the accused took the victim to Bihar and then Nepal in Truck No. CG 15 AC 4895. The victim stayed with the accused in Nepal for three days, but he did not provide him job as promised. Instead, he demanded that he wants to engage in unnatural acts (Section 377) with him, threatening to sell kidney of the victim if he refused. He also wanted him to engage in such acts with another person, but he escaped from there alone. During his stay in Nepal,

accused Raju Gond had unnatural relations with him twice and wanted him to have relations with another person. However, he managed to escape. He used to beat the victim with an iron gauge. Thereafter, he fled from Nepal to Bihar, then to Daudnagar, Aurangabad, Garhwa, Balrampur, and finally Ambikapur. After returning home, he told their parents and uncle Vinay Singh about the entire incident. Subsequently, he went to the Police Station with his father and uncle and submitted a written complaint (Ex.P/1). Based on this complaint, the FIR (Ex.P/2) was registered. Before the medical examination of the victim, he gave his consent (Ex.P/3). Thereafter, the Police visited the crime scene and prepared a site map (Ex.P/4). The Police interrogated him and recorded his statement.

15. Father of the victim child (PW-8) has deposed that he knew the accused and that about a year ago the victim child had gone to Bihar to work in a truck with the accused and after about a month on returning home, he had told that he had a dispute and fight with the accused and regarding this the victim child had taken him with him to the Police Station Kotwali. He further stated that the Police had prepared the crime details form (Ex.P/4) in his presence and before the medical examination of his son a consent letter (Ex.P/17) of the victim child was taken from him and the Police had seized a sealed packet from the Constable in his presence and prepared the seizure memo (Ex.P/12). Father of the victim child on being questioned by the prosecution, accepted the prosecution's suggestion that the

accused had come to his house to take the victim child with him in the truck and had stated that he would give him six thousand rupees per month and when the victim child returned, he told him that the accused had given him only two thousand rupees and did not give twenty-two thousand rupees and the accused had done wrong things with him and the accused had told him that if he did not let him do wrong things, he will remove his kidney and sell it and get him thrown in the ditch and had beaten him with a diesel measuring hoe. The witness accepted the prosecution's suggestion that the victim child had told him that the accused had done sexual intercourse with him in the anus and after a day or two, he was trying to do sexual intercourse again. He further stated that the victim child had told him that the accused had done wrong things with him in the truck and the victim child ran away from there to save his life and came back to Ambikapur. Father of the victim child has accepted the defence suggestion in cross-examination that the report has been lodged on the basis of the accused doing wrong and not paying for the work done. Thus, it is clear from the evidence of the said witness that he came to know about the incident after the victim child told him and the report was lodged by him on the basis of the accused doing wrong and not paying for the work done.

- 16.** Vinay Singh (PW-4) has stated in para 2 of his evidence that the incident happened about a year ago. The age of the victim is currently about 14-15 years. The victim and his parents came to his house and told him that appellant Raju Gond had done a wrong

thing with the victim in a truck. The appellant had taken the victim to Nepal as a helper in his truck. The victim told him that the appellant had done unnatural act with him on a deserted road. The victim told him that the appellant had taken him to Nepal by promising to give him five thousand rupees per month. In para 5 of his evidence, he has admitted that the victim child had told that appellant Raju Gond had threatened him and stated that if he do not let him do wrong things with him in anus, he will get his kidney removed and throw him in the ditch. He has further admitted that the victim child had told that the appellant had beaten him with a gauge used to measure diesel. He has also admitted that the appellant then raped the victim boy in his anus. He has admitted that the appellant tried to rape the victim boy again after two days. The victim boy fled from Nepal and came back to Ambikapur.

17. Dr.Nitesh Kumar Karmendra (PW-5), who has examined the victim, has deposed that on 13.06.2021, when the victim child was brought for medical examination by Constable No. 333, Gajadhar from Police Station Ambikapur, District-Surguja in Crime No. 529 of 2021, he examined him. He found a mole mark on the left cheek of the victim child. During examination, he found that the victim child had reported pain while defecating. There was a tear in the direction of 7 o'clock and 8 o'clock in the internal anal insufficiency. During examination, he was reporting pain in his anus. Local tenderness external anal insufficiency was present. He was reporting pain even while walking. There was no swelling in the anal region. He advised

a forensic expert to take a swab from the anal region to confirm the presence of spermatozoa. As per the opinion of the doctor, he found signs of unnatural intercourse. The examination report prepared by him is Ex.P/9

18. Dr.J.S. Saruta (PW-3), who has examined the appellant, has opined that the accused was capable of performing sexual intercourse. The examination report prepared by him is Ex.P/8.
19. In view of above discussion, we also affirm the finding recorded by learned trial Court that the appellant is the perpetrator of instant crime.
20. During course of submission learned counsel counsel for the appellant draw our attention towards some contradictions and omissions in depositions of the prosecution witnesses, but the Hon'ble Supreme Court in the case of ***State of Punjab vs. Gurmit Singh***, reported in ***(1996) 2 SCC 384***, while considering the reliability of the statement of the victim has held that *“minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault was enough for conviction and does not require corroboration unless there were compelling reasons for seeking corroboration. The Court may look for some assurances of her statement to satisfy judicial conscience”*. The same was reiterated in ***Pappu vs. State of Uttar Pradesh***, reported in ***2022 SCC OnLine SC 176***.

21. Learned counsel for the appellant during course of argument also raised an objection that except victim there is no credible evidence in support of his statement even deposition of his father is based on information given by the victim, therefore, only on the basis of deposition of the victim holding guilty to the appellant by the learned trial Court is not sustainable.
22. We are not inclined with the submission made by learned counsel for the appellant as it is settled proposition of law that conviction of the accused could be based on sole testimony, without corroboration and it has also been held that the sole testimony of victim should not be doubted by the Court merely based on assumptions and surmises.
23. In the case of ***Ganesan vs. State***, reported in ***(2020) 10 SCC 573***, the Hon'ble Supreme Court observed and held that there can be a conviction on the sole testimony of the victim/prosecutrix when the deposition of the victim is found to be trustworthy, unblemished, credible and her evidence is of sterling quality. In the aforesaid case, the Hon'ble Supreme Court had an occasion to consider the series of judgments on conviction on the sole evidence of the victim. In paragraphs 10.1 to 10.3, it was observed and held as under:

*“10.1. Whether, in the case involving sexual harassment, molestation, etc., can there be conviction on the sole evidence of the prosecutrix, in **Vijay [Vijay vs. State of M.P., (2010) 8 SCC 191]**, it is observed in paras 9 to*

14 as under: (SCC pp. 195-98)

*“9. In **State of Maharashtra vs. Chandraprakash Kewalchand Jain** [State of Maharashtra vs. Chandraprakash Kewalchand Jain, reported in (1990) 1 SCC 550] this Court held that a woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Court observed as under: (SCC p. 559, para 16)*

‘16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the

Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence.'

10. In **State of U.P. vs. Pappu** [**State of U.P. vs. Pappu**, reported in (2005) 3 SCC 594] this Court held that even in a case where it is shown that the girl is a girl of easy virtue or a girl habituated to sexual intercourse, it may not be a ground to absolve the accused from the charge of rape. It has to be established that there was consent by her for that particular occasion. Absence of injury on the prosecutrix may not be a factor that leads the court to absolve the accused. This Court further held that there can be conviction on

the sole testimony of the prosecutrix and in case, the court is not satisfied with the version of the prosecutrix, it can seek other evidence, direct or circumstantial, by which it may get assurance of her testimony. The Court held as under: (SCC p. 597, para 12)

'12. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars. She stands at a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. However, if the court of facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration as understood in the context of an accomplice, would do.'

11. In State of Punjab vs. Gurmit Singh [**State of Punjab vs. Gurmit Singh**, reported in (1996) 2 SCC 384], this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a

prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under: (SCC pp. 394-96 & 403, paras 8 & 21)

'8. ...The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix. ...The courts must, while evaluating evidence, remain alive to the fact that in a

case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. ...Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. ...

21. ...The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence

which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.'

12. In **State of Orissa vs. Thakara Besra** [**State of Orissa vs. Thakara Besra**, reported in (2002) 9 SCC 86], this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.

13. In **State of H.P. vs. Raghubir Singh** [**State of H.P. vs. Raghubir Singh**, reported in (1993) 2 SCC 622], this Court held that there is no legal compulsion to look for any other evidence to corroborate the evidence of the prosecutrix before recording an order of conviction. Evidence has to be weighed and not counted. Conviction can be recorded on the sole testimony of the prosecutrix, if her evidence inspires confidence and there is

*absence of circumstances which militate against her veracity. A similar view has been reiterated by this Court in **Wahid Khan vs. State of M.P.** [**Wahid Khan vs. State of M.P.**, reported in (2010) 2 SCC 9] placing reliance on an earlier judgment in **Rameshwar vs. State of Rajasthan** [**Rameshwar vs. State of Rajasthan**, reported in AIR 1952 SC 54].*

14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix.”

10.2. In Krishan Kumar Malik vs. State of Haryana [**Krishan Kumar Malik vs. State of Haryana**, reported in (2011) 7 SCC 130], it is observed and held by this Court that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient, provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.

10.3. Who can be said to be a “sterling witness”, has been dealt with and considered by this Court in **Rai Sandeep vs. State (NCT of Delhi) [**Rai Sandeep vs. State (NCT of Delhi)**, reported in (2012) 8 SCC 21]. In para 22, it is observed and held as under: (SCC p. 29)**

“22. In our considered opinion, the “sterling witness” should be of a very high quality and caliber 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.”

24. In the case of ***State (NCT of Delhi) vs. Pankaj Chaudhary***, reported in ***(2019) 11 SCC 575***, it was observed and held by the Hon’ble Supreme Court that as a general rule, if credible, conviction of accused can be based on sole testimony, without corroboration. It was further observed and held that sole testimony of victim should not be doubted by Court merely on basis of assumptions and surmises. In paragraph 29, it was observed and held as under:

“29. It is now well-settled principle of law that

conviction can be sustained on the sole testimony of the prosecutrix if it inspires confidence. [Vishnu vs. State of Maharashtra [Vishnu vs. State of Maharashtra, reported in (2006) 1 SCC 283]. It is well-settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the “probabilities factor” does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming. [State of Rajasthan vs. N.K. [State of Rajasthan vs. N.K., reported in (2000) 5 SCC 30].”

25. In the case of **Sham Singh vs. State of Haryana**, reported in **(2018) 18 SCC 34**, the Supreme Court observed that testimony of the victim is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. It was further observed that seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to

injury. In paragraphs 6 and 7, it was observed and held as under:

*“6. We are conscious that the courts shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If the evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations or sexual assaults. [See *State of Punjab vs. Gurmit Singh* [***State of Punjab vs. Gurmit Singh***, reported in (1996) 2 SCC 384] (SCC p. 403, para 21).]*

7. It is also by now well settled that the courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement

*against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. (See **Ranjit Hazarika vs. State of Assam [Ranjit Hazarika vs. State of Assam, reported in (1998) 8 SCC 635]**).*"

26. Considering the aforesaid facts and circumstances of the case, particularly the evidences of the victim (PW-1), father of the victim (PW-8), evidence of Vinay Singh (PW4) to whom the victim along with his parents narrated the whole act committed by the appellant, further considering the admission-discharge register (Ex.P/7C), the

statement of Dr. Nitesh Kumar Karmendra (PW-5), who has examined the victim, it is quite clear from the documentary and oral evidence adduced by the prosecution and its analysis that the present appellant committed forceful unnatural act with the victim. The prosecution has proved its case beyond reasonable doubt that on the date of the incident, the victim was minor *i.e.* below the age of 16 years.

- 27.** Thus, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the trial Court is hereby upheld. The present appeal lacks merit and is accordingly **dismissed**.
- 28.** The appellant is stated to be in jail. He is directed to serve out the sentence as awarded to him by learned trial Court.
- 29.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
- 30.** Let a copy of this judgment and the original record be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-

(Arvind Kumar Verma)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice