



2026:AHC:167451

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 765 of 1988

Chandrika

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Abida Syed (Ac), Adya Prasad Tewari, Hari Narayan Singh, Om Prakash Singh, Ram Chandra Solanki, Ravindra Kumar Yadav
Counsel for Respondent(s)	: A.G.A.

Judgment Reserved on 1.7.2026
Judgement Delivered on 11.8.2026

Court No. - 90

HON'BLE ABDUL SHAHID, J.

1. Heard Dr. Abida Syed, learned Amicus Curiae for the appellant and Sri Rajesh Kumar Singh, learned counsel appearing for the State.
2. This appeal is directed against the impugned judgment and order dated 1.4.1988, passed by the learned Additional Sessions Judge, Gorakhpur, in Sessions Trial No. 336 of 1987, Police Station Shahpur, District Gorakhpur, convicting the appellant under Sections 376 and 323 of the IPC and sentencing him to undergo four years' rigorous imprisonment under Section 376 of the IPC and six months' rigorous imprisonment under Section 323 of the IPC.
3. The prosecution case, in brief, is that the informant, Rajendra, son of Munni Lal, resident of Village Sarkin Jungle Tulsi Ram (Akolwa), Police Station Shahpur, District Gorakhpur, lodged the First Information Report alleging that on 12.04.1986, at about 4:30 p.m., his sister, aged about 12 years, had gone out of the house to attend the call of nature. It is alleged that when she reached the pit situated to the north of their house, near a eucalyptus grove adjoining the Bichhiya P.A.C. Camp, the accused, Chandrika, son of Dulare Yadav, reached there and, finding her alone at a secluded place, caught hold of her with the intention of committing rape.
4. It is further alleged that when the victim raised an alarm, the accused threatened and assaulted her, tore her clothes, and gagged her by stuffing

a piece of cloth into her mouth. Despite the same, the victim managed to raise cries for help. Upon hearing her cries, Srinivas, son of Balihari, a resident of the same village, reached the place of occurrence and allegedly saw the accused committing rape upon the victim. Thereupon, Srinivas raised an alarm and attempted to apprehend the accused, whereupon the accused got up and attempted to flee from the place of occurrence.

5. It is also alleged that on hearing the alarm, the informant, along with Ganesh, son of Jawahar Lal, Lala, son of Shyam Lal, Raj Bahadur, son of Ram Lal, and several other villagers, reached the place of occurrence. They surrounded and apprehended the accused and also assaulted him. Thereafter, upon being questioned by the informant, the victim narrated the entire incident. In the meantime, two constables from the Bichhiya Police Outpost also reached the place of occurrence after receiving information. With their assistance, the accused was taken into custody and brought to the police station, whereupon the present First Information Report came to be lodged, praying for appropriate legal action against the accused in accordance with law.

6. The medical examination of the victim took place on 12.4.1985 at 11:05 p.m. During the internal examination, no fracture or injury to the private parts was found, and she was referred to the Radiologist for the determination of her age. During the medical examination conducted on 12.9.1985, the following injuries were found on the body of the victim:

- i. Abrasion measuring 3 cm × 2 cm on the (R) side of the face, 3 cm below the lateral cartilage of the (R) eye.
- ii. Contused swelling measuring 4 cm × 2 cm over the (R) collarbone in the middle part, 3 cm from the medial end. Kept under observation. Advised X-ray of the (R) collarbone – AP Joint.
- iii. Contused swelling around the (L) upper and lower lids, bluish-reddish in colour.
- iv. Lacerated wound measuring 1 cm × ½ cm over the chin, 1 cm below the lower lip. Clotted blood present.
- v. Multiple contusions varying from 3 cm × 1 cm to 1 cm × ½ cm, in size

in an area of 10 cm × 8 cm over the front of the chest, movee towards the (R) side, extending up to the (R) collarbone.

vi. Lacerated wound (L.W.) measuring $\frac{1}{2}$ cm × $\frac{1}{2}$ cm on the (L) forearm in the middle, 9 cm above the wrist joint. Clotted blood present.

7. In the opinion of the doctor, Injuries Nos. 2 to 6 were caused by a blunt, hard object. Injury No. 2 was kept under observation for the (R) collarbone; the others were simple. Injury No. 1 was caused by friction against a hard object and was simple. All the injuries were fresh in duration.

8. After complete investigation, the charge sheet was filed against the appellant. The charges were framed under Sections 323, 354, 376 IPC on 29.6.1987. After complete trial, appellant had been convicted and sentenced under Sections 323, 376 IPC.

9. Learned counsel for the appellant has vehemently contended that the appellant has not committed any offence and has been falsely implicated in the present case. It has further been submitted that there are material contradictions in the statements of the prosecution witnesses. However, the learned trial court failed to appreciate the evidence on record in its proper perspective and in accordance with law. Consequently, the impugned judgment and order passed by the learned trial court are liable to be set aside, and the appellant deserves to be acquitted of the charges levelled against him. Hence, it is prayed that the present appeal be allowed.

10. Per contra, learned A.G.A. has vehemently contended that the appellant has committed the offence alleged against him. It has been submitted that the prosecution has succeeded in proving the charge against the appellant beyond reasonable doubt by leading cogent and reliable evidence. The learned trial court has rightly appreciated the evidence on record and has recorded the conviction in accordance with law. It is, therefore, submitted that the impugned judgment and order does not suffer from any illegality or infirmity warranting interference by this Court. Accordingly, the present appeal, being devoid of merit, is liable to be dismissed.

11. Rajendra Prasad, the brother of the victim, who deposed as P.W.-1, stated that about one and a quarter years ago, at about 4:30 p.m., his sister, who was about twelve years of age at the time of the incident, had gone from their house towards the eucalyptus grove of Jagdamba Srivastava, where there was also a pit, to ease herself. From that direction, he heard the voices of Srinivas and his sister. Thereupon, he ran towards the grove of Jagdamba Prasad Srivastava. Besides him, Ganesh, Raj Bahadur, Lala, and others also accompanied him. They saw that the accused, Chandrika, who was present in Court, was running towards the north from the grove. His sister was crying in the grove. She told them that Chandrika had committed rape upon her, had assaulted her, and had torn her clothes.

12. They chased and apprehended Chandrika, who is present in Court. In the meantime, two constables arrived at the spot. The constables took custody of the accused and proceeded towards the police station. The witness remained at the spot to get the report scribed. Thereafter, he got the report written by Raj Kumar. Upon being shown the written report available on the record, the witness identified it as the same report that had been scribed at his instance. It bears his signatures and was marked as Exhibit Ka-1. The report was read over to him, and he affirmed that whatever he had stated was correctly recorded therein.

13. Thereafter, he, his sister, the accused Chandrika, and the two constables went to the police station, where he submitted the report. The Station House Officer (Daroga Ji) was present at the police station and recorded his statement. Thereafter, the Daroga Ji took his sister to the District (Sadar) Hospital, where her medical examination was conducted. At the time of the incident, victim was wearing a salwar and a sameez. The Daroga Ji took those clothes into possession, sealed them, and prepared the necessary seizure memos, which are available on the record and were marked as Exhibits Ka-2 and Ka-3. The witness identified his signatures on those documents.

14. In his cross-examination, P.W.-1 deposed that he had also engaged his own advocate, Shri Musafir Singh. He had met him on the previous day. No other witness had accompanied him. He had spoken to him regarding

the present case. He had not gone to his advocate's house; rather, he met him in the court premises on Saturday while the advocate was conducting a case in the upper court. The advocate told him, "Come, when we go downstairs, then tell him." Today, of his own accord, the witness stated that the advocate merely informed him that the matter had been dismissed and then left. Till the date of his deposition, the advocate had never instructed him regarding what he was required to depose in the present case. However, on the day his statement was recorded before the Court, the learned Government Counsel had informed him about the matters on which he was to depose. The Government Counsel had similarly briefed the other prosecution witnesses.

15. The witness further stated that the accused, Chandrika Yadav, is a resident of another village situated about one kilometre from his village. He did not know whether the accused owned any cow or buffalo. (Earlier, the witness had stated that the accused owned one buffalo.) He explained that he had stated so only because the accused belongs to the Ahir caste, whose members generally keep buffaloes. In fact, he had never visited the accused's house. He further stated that the accused had not brought any buffalo to the place of occurrence.

16. The witness denied the suggestion that the field of the accused was situated immediately to the west of the eucalyptus grove. According to him, the accused had no agricultural land adjacent to the grove. The name of the accused's father is Dulare Yadav. However, the witness could not say whether Dulare Yadav owned any land near the grove. Voluntarily, the witness stated that he himself did not own any agricultural land. He denied the suggestion that the accused had agricultural land near the place of occurrence or that he was deliberately concealing this fact.

17. The witness stated that he knew the accused Chandrika even before the incident and was also aware of his name and the name of his village. He knew only a few persons from the accused's village, particularly those belonging to his own caste. He belongs to the Chamar caste, and all the prosecution witnesses also belong to the same caste. His house is situated about one hundred paces to the west of the grove.

18. The witness further stated that after the incident he obtained

employment in the Railways. At the time of the incident, he was unemployed. There are two brothers and two sisters in the family, and his father was serving as a constable in the P.A.C. at Gonda. The family's household expenses were met from his father's earnings. He is the eldest among the siblings. He was about nineteen to twenty years of age at the time of his deposition. After him was a sister who had since died. She was about two to two and a half years younger than him. Another sister, who was about one year younger than the deceased sister, is alive. The victim, is about two and a half years younger than that sister.

19. The witness further deposed that immediately before the incident, while he was at his house, he heard Srinivas shouting, "Catch him, catch him," and also heard his sister crying. He did not hear his sister shouting. He admitted that in the First Information Report he had got it written that he had heard both Srinivas and his sister shouting. However, the fact that he had heard his sister crying was not mentioned in the written report (Exhibit Ka-1). He explained that since the report had been lodged in haste, the omission might have occurred. He further stated that although the Daroga Ji had recorded his statement during the investigation, he had not stated before the Investigating Officer that he had reached the place of occurrence on hearing his sister crying or shouting.

20. He further deposed that he had studied only up to Class VI. The scribe wrote the First Information Report (Exhibit Ka-1) and thereafter read it over to him. He did not tell the scribe that he had omitted to mention that his sister was crying, nor did he ask him to include the said fact. He voluntarily stated that at that time, he was not in his senses.

21. He further stated that the sound of his sister's cries did not reach his house because she was inside a pit situated in the orchard. The pit was about one yard deep. He did not show the said pit to the Investigating Officer after the incident. When the Investigating Officer arrived, he was at the hospital with his sister. Consequently, he was not present when the Investigating Officer inspected the place of occurrence.

22. His house is situated about 150 paces to the south of the eucalyptus orchard. Immediately before hearing the cries, he was sitting at his house. The houses of Ganesh and Lala are situated to the east of his house, while

the house of Raj Bahadur is situated to its north-east. Ganesh's house is about 15–20 paces from his house, Lala's house is about 25 paces away, and Raj Bahadur's house is adjacent to Lala's house. On hearing the cries, he alone rushed from his house, and immediately thereafter the other witnesses also reached the spot. His sister was inside the southern portion of the orchard. When he reached the spot, she was lying on the ground. Her clothes were torn, and she had sustained injuries. She was lying on her back, with her head towards the south and her feet towards the north. Upon his inquiry, she wept and told him that accused Chandrika had committed rape upon her and had also assaulted her. He spoke with his sister for about five to seven minutes. The witnesses and many other persons were present there. The witnesses apprehended accused Chandrika a short distance away from the place of occurrence, within the same orchard. After apprehending him, the people assaulted him with their hands.

23. He further stated that there were bloodstains at some places on his sister's salwar. He voluntarily stated that the blood had come from her face, and she had wiped it with her salwar. He did not see blood oozing from his sister's body on account of the alleged rape. His sister is still residing at his house and has not yet been married. He further stated that the police took accused Chandrika away from the place of occurrence. Thereafter, he returned home and got the First Information Report written. It took him about ten minutes to get the report written.

24. He does not know whether the witnesses returned to their respective houses from the place of occurrence or went elsewhere; however, they did not accompany Chandrika. The police station is situated about one *kos* from his house. He does not know whether the distance between his house and the police station is more than one kilometre. At the time when the report was being written, his mother was at the police station along with his sister and the constables. After getting the report written, he went straight to the police station. The constables had tied the accused with a *gamcha* (cotton towel), probably around his hands. He went to the police station on his bicycle and met the constables on the way. He initially stated that Raj Kumar had not gone to the police station and that no witness had gone there. He, however, subsequently stated that Raj Kumar

had in fact gone to the police station and that it was through him that he dictated and got the report written.

25. He further stated that the Investigating Officer was present at the police station and questioned him. He denied the suggestion that Exhibit Ka-1 had been written at the police station by Raj Kumar at the instance of the police. He did not remember whether he had stated in Exhibit Ka-1 that accused Chandrika Yadav had been apprehended and brought to the police station. After looking at Exhibit Ka-1, he stated that the said fact had been mentioned at the end of the report. He further explained that since they were all to reach the police station together, he had got it written in the report at his house itself that accused Chandrika had been apprehended and brought to the police station. He categorically admitted that he had not personally witnessed the rape being committed upon his sister. He denied the suggestion that his sister was of loose character. He further denied that his family suspected her of having an illicit relationship with accused Chandrika. He also denied the suggestion that accused Chandrika had not been apprehended in the orchard. He further denied the defence suggestion that the accused had been grazing his buffalo in his field situated at some distance from the orchard, that they had apprehended and assaulted him there, had also beaten his sister, and thereafter lodged a false First Information Report against him.

26. P.W.-2, Srinivas, deposed that there is a eucalyptus orchard situated to the north of his hamlet, at a distance of about 200 paces from his house. He knows the victim, the daughter of Munni Lal, who belongs to his hamlet. He also knows the accused, Chandrika, who was present in Court, as he is a resident of his village, Bichhiya.

27. He further deposed that about one and one-quarter years prior to his testimony, at about 4:30 p.m., he was returning home after grazing his buffalo to the north of the said eucalyptus orchard. The path to his house passes along the eastern embankment of the orchard. When he reached the eastern side of the orchard, he heard the voice of a girl. On hearing the voice, he went about 10–15 paces inside the orchard and saw that the accused, who was present in Court, had torn the clothes of the victim, was lying on top of her, and was committing rape upon her. On witnessing the

incident, he raised an alarm. Hearing his cries, accused Chandrika left the victim and attempted to flee. On his raising the alarm, Rajendra Prasad, Ganesh Prasad, and a few other persons arrived, and all of them apprehended Chandrika. After Chandrika had been apprehended, two police constables from the police outpost or police station arrived. Thereafter, the constables took Chandrika, the victim, and Rajendra with them, while he returned home. He further stated that on the following day, at about 10:00–11:00 a.m., the Investigating Officer questioned him regarding the incident.

28. He deposed that to the north of the orchard where the incident occurred, there is a drain, beyond which are agricultural fields. He could not say who owned those fields. To the south of the orchard lies the field of Babu Lal, while to the east is the field of Sahai. On the western side, the same drain turns around, and beyond it are more fields, though he did not know their ownership. He also stated that he did not know whether the fields situated beyond the drain on the western side belonged to accused Chandrika. He denied the suggestion that he was deliberately concealing this fact. He further stated that he knew accused Chandrika even before the incident. However, he had never visited his house, nor did he know the other members of his family. He knew Bhagwan Das of the accused's village, as Bhagwan Das and two or three other boys had studied with him, although he did not remember the names of the others.

29. He deposed that when he first saw the accused at the time of the incident, the accused was about 15 paces to his west. The accused had made the victim lie on the ground and was forcibly committing sexual intercourse with her. There was no cloth spread on the ground. The girl's head was towards the east and her feet towards the west. Chandrika's face was also towards the east and his feet towards the west. As soon as he witnessed the incident, he started shouting, "Run, brothers, run! Look here!" Immediately upon hearing his alarm, the accused got up and ran away. Within about one minute of his raising the alarm, Rajendra, Ganesh, Lala, and two or three other persons reached the spot. At that time, the girl's mother had not arrived. When the witnesses reached, the accused was running away. However, he had not succeeded in escaping from the orchard and had run only about 15–20 paces from the place of

occurrence. He was apprehended within the orchard itself.

30. He further stated that while apprehending the accused, and thereafter, the people assaulted him. After the accused had been apprehended, two police constables arrived at the orchard. In his presence, they took the accused away from the orchard. Thereafter, he went in search of his buffalo, which had wandered away. He did not see whether the police had tied the accused before taking him away or how exactly they had taken him.

31. He further deposed that after the accused had been apprehended, he had no conversation with the victim. He also did not speak with Rajendra or any other witness. He stated that the buffalo, which he had gone in search of, was found a short distance away. He took it home and reached his house at about 5:00 p.m. His house is immediately adjacent to that of Rajendra. At that time, neither Rajendra nor Rajendra's mother was present at their house.

32. He further deposed that the Investigating Officer recorded his statement on the day following the incident. He also stated that after the incident, and before giving his statement to the Investigating Officer, he did not discuss the incident with anyone. He stated that the buffalo which he had taken out for grazing on the day of the incident was no longer with him, as he had subsequently sold it. He further deposed that at the time of the incident, he did not see any blood oozing from the body of the victim. However, her cheeks, face, and chest had become red and had sustained abrasions. He further stated that when the accused fled, the victim got up and stood; she did not run away.

33. Lastly, he deposed that he belongs to the same community (biradari) as Rajendra, though he is not a member of Rajendra's family. He denied the suggestion that no such incident had taken place or that the accused had not been apprehended. He also denied the suggestion that he had neither taken any buffalo for grazing nor witnessed any such occurrence, and that he was falsely deposing merely because of his community relationship with Rajendra.

34. Ganesh, examined as P.W.-3, deposed that he is a resident of Akolwa

Harijan Basti. The victim, daughter of Munni Lal, also resides in the same locality, and he has known her from before the incident. The accused, Chandrika, who was present in Court, is a resident of Bichhiya Tola, and he too was known to him prior to the incident. There is a eucalyptus grove situated to the north of his village.

35. He further stated that about one and a quarter years prior to his deposition, at about 4:00–4:30 p.m., he was sitting at his house. The said grove is situated about 200 paces from his house. At that time, he heard cries of "Save me, save me." On hearing the alarm, he immediately rushed towards the grove. Besides him, Raj Bahadur, Lala Prasad, and Rajendra also went there. Srinivas was already present inside the grove. There, he saw the accused Chandrika, who was present in Court, running away. No other person was present at that place. Thereupon, they chased and apprehended the accused.

36. In response to a Court question regarding the whereabouts of the victim, the witness stated that she was lying inside the grove and that her sameez was torn. The victim informed them that the accused, Chandrika, who was present in Court, had committed rape upon her. The witness further stated that after the accused had been apprehended, two police constables arrived at the spot. They took the victim, Rajendra, and the accused Chandrika to the police station, while he returned to his house.

37. He further deposed that the Investigating Officer (Daroga Ji) had interrogated him in connection with the present case. His statement was recorded at his residence on the day following the incident. He specifically stated before the Investigating Officer that the victim was lying in the grove and that her sameez was torn. He could not assign any reason as to why the Investigating Officer omitted to record this fact in his statement under Section 161 Cr.P.C. He further stated that he had informed the Investigating Officer that Rajendra had reached the place of occurrence, but he could not explain why this fact was also omitted from his statement under Section 161 Cr.P.C. He denied the suggestion that these facts had been stated at the instance of someone else after tutoring. The witness further stated that he belongs to the same caste as Rajendra, although they are not related to each other.

38. He further deposed that the grove where the incident occurred belongs to Jagdamba Prasad. There are no agricultural fields adjoining the grove. A drain lies to the west of the grove, another drain lies to the east, the village is situated towards the north, and a mango orchard is situated on the southern side. He further stated that he had known the accused Chandrika even before the incident. However, prior to the occurrence, he had never had any conversation with him, nor had he discussed him with any other person. He did not ask anyone the name of the accused because he already knew him and knew that he was a resident of Bichhiya. He also knew several other residents of the accused's village. The witness further stated that the accused Chandrika did not own any agricultural land in his village. Lala Tulsi Ram is a resident of his village. He did not know the name of the village Patwari. He denied the suggestion that the accused owned agricultural land in his village and that he was deliberately suppressing that fact. He further stated that when he reached the grove, Chandrika was running away towards the north. The accused was apprehended within four or five paces inside the grove. The persons who apprehended him were himself, Rajendra, Srinivas, Lala Prasad, and Raj Bahadur. Neither while apprehending the accused nor thereafter did anyone assault or beat him.

39. In his cross-examination P.W-3 deposed that after apprehending the accused, they took him to the house of Rajendra. They remained seated there for about 10 to 15 minutes. The accused was not tied up and remained seated freely. All the prosecution witnesses were present at Rajendra's house at that time. The victim had also returned to the house with them. While they were still in the grove, the victim informed them that Chandrika had assaulted her and committed rape upon her. On that day, no conversation took place between them and Srinivas regarding the incident.

40. The witness further stated that after they had reached Rajendra's house, two police constables arrived there about 20 minutes later. The constables did not speak to him. They took the victim and the accused to the police station, accompanied by some other persons. Initially, the constables held the accused by his hands while taking him to the police station. He then clarified that both hands of the accused were tied behind

his back with a rope. The constables took them to the police station on foot. Rajendra also accompanied the constables from his house. Raj Bahadur, Lala Prasad, Srinivas, and Raj Kumar also went to the police station with Rajendra.

41. When confronted with the question as to whether Rajendra's mother was present at the house on the day of the incident, the witness clarified that Rajendra's mother had gone somewhere in the morning. She returned in the evening, whereupon she came to know about the incident and thereafter proceeded to the police station. She also went to the police station along with the police personnel. The witness denied the suggestions that no such incident had occurred, that he was deposing falsely merely because he belonged to the same caste as Rajendra, or that the accused had not been apprehended at the place of occurrence.

42. The victim, examined as P.W.-4, initially stated that no incident had occurred with her and that no such incident had taken place. She thereafter deposed that the occurrence had taken place more than one year prior to her deposition, during the month of Chait, i.e., the Chait preceding the one that had recently passed. At about 4:30 p.m., she had gone to a eucalyptus grove belonging to another person to answer the call of nature. As soon as she sat down to ease herself, the accused, Chandrika, who was present in Court, came from behind and caught hold of her. She stated that she did not know the accused prior to the incident.

43. She further deposed that the accused assaulted her, threw her to the ground, and at that time she was wearing a salwar and sameez. The accused tore both her salwar and sameez, climbed on top of her, stuffed her odhni into her mouth, and committed a wrongful act with her. In response to a question from the Court as to what she meant by the expression "wrongful act," she stated that the accused had outraged her modesty. He removed her undergarment (janghia) and committed the wrongful act with her. Upon being specifically asked whether she meant that the accused had inserted his male organ into her urinary passage, she answered in the affirmative. She further stated that she struggled to free herself. When the cloth stuffed into her mouth came out, she began shouting for help. On hearing her cries, Srinivas arrived at the spot and

also started raising an alarm.

44. The witness further deposed that upon Srinivas raising an alarm, Raj Bahadur, Ganesh, Lala, other villagers, and her brother Rajendra reached the place of occurrence. On seeing Srinivas, the accused Chandrika moved away from the spot by about twenty paces. She further stated that her brother Rajendra, Ganesh, and the others apprehended the accused Chandrika. She narrated the entire incident to her brother and the other persons present there. Shortly thereafter, one police constable and one Sub-Inspector (Daroga Ji) reached the place of occurrence. They apprehended the accused and took him to the police station. She, her brother, her aunt, and several other persons also went to the police station. From the police station, she was taken to the hospital along with the police personnel and other persons, where she underwent medical examination. She remained admitted in the hospital for about three to four days. She further stated that the Investigating Officer recorded her statement about three to four days after the incident at the police station.

45. In her cross-examination, P.W-4, the victim stated that she is illiterate and does not know the English calendar. She does not understand the significance of the date 12.04.1986. She stated that the Investigating Officer recorded her statement two days after her medical examination. She informed the Investigating Officer that the incident had occurred on the 12th day of the month, but she had not mentioned the figures "4" or "86." She knew that the date was the 12th without anyone informing her. She further stated that even on the date of her deposition she knew that it was the 12th without being told by anyone. However, she could not state whether the current month was according to the English or Hindi calendar. She thereafter stated that it was the month of Bhado. The witness further stated that she had informed the Investigating Officer that the accused had stuffed her odhni into her mouth. If that fact was not recorded in her statement, the Investigating Officer might have forgotten to write it. She further deposed that she had also informed the Investigating Officer that the accused had inserted his male organ into her urinary passage. If those specific words were not recorded in her statement, she could not assign any reason for such omission. She further stated that she did not know the meaning of the word "rape." However,

she had informed the Investigating Officer that the accused had committed rape upon her.

46. When asked how she could have used the expression "rape" despite not knowing its meaning, she clarified that she had actually explained the incident in Hindi by stating that the accused had inserted his male organ into her urinary passage.

47. The witness further deposed that there were agricultural fields to the west of the grove where she had gone to answer the call of nature. The field immediately adjoining the grove belonged to Samhas. Beyond that field there was a drain, but she did not know to whom the adjoining fields belonged. There was also a drain on the northern side of the grove, beyond which she did not know whose fields were situated. There were fields on the eastern side of the grove as well, but she could not identify their owners. On the southern side there was a mango orchard. She initially stated that her house was situated about one bigha to the north of the grove and thereafter corrected herself by stating that her house was situated about one bigha to the south of the eucalyptus grove.

48. She further deposed that there was no water inside the grove, although there was water in the nearby drain. She had carried water in a container while going to answer the call of nature. She had not taken that container to the police station, and it remained at her house. She further stated that she was unable to answer the call of nature because the incident occurred before she could do so. The witness further stated that the accused was apprehended inside the grove itself after he had run only about ten paces. Srinivas, Ganesh, Raj Bahadur, and other persons apprehended him. She further deposed that when Srinivas reached the place of occurrence upon hearing her cries, he came alone and was not carrying anything with him.

49. The witness further stated that after the accused had been apprehended, she and the accused Chandrika were taken to her house by her brother Rajendra and the other villagers. The accused was neither tied with anything while being taken to the house nor thereafter. About one to one and a half hours after they reached her house, the police personnel arrived there and took the accused into custody from her house. At that time, she, her brother, her aunt, and several other persons also went to the

police station. She initially stated that Raj Kumar had not gone to the police station, then stated that she had not seen him there, and thereafter stated that Raj Kumar had indeed gone to the police station. She further stated that Srinivas, Lala, and Ganesh had also gone to the police station.

50. She further stated that the police personnel took the accused from her house after tying him with a gamchha. She did not notice whether the gamchha had been tied around his hands or around his waist because she was crying at that time. The witness stated that she could not remember whether the Sub-Inspector who had come to her house had also accompanied them to the police station. She further deposed that at the police station the Investigating Officer questioned her regarding the occurrence, and she narrated the entire incident. She stated that she was not present at the place where the written report was prepared. She then stated that the written report had been prepared at the hospital and that her brother had taken it from the hospital to the police station and submitted it there. The witness further stated that when the accused Chandrika was brought to her house after being apprehended, her mother was present there. However, her mother did not accompany her to the police station. She further deposed that the accused committed the offence in the northern portion of the grove. There was no pit at that place; there was only a raised embankment (medh) and a drainage pit. The witness further stated that when Srinivas reached the spot, she had already sat up, and by the time the other witnesses arrived she had stood up. She further deposed that the accused had caught hold of her and assaulted her with his fists. She sustained injuries on her mouth, hands, eyes, and shoulders, and suffered abrasions on different parts of her body, including her chest. The accused also bite her mouth, causing bleeding. She further stated that before the present incident no man had ever committed such an act with her.

51. The witness further deposed that bleeding occurred from her private part during the incident, and the blood stained her salwar. She voluntarily added that her clothes had been torn and that she had changed into another set of clothes before going to the police station and the hospital. She further stated that the torn clothes had been shown to the Investigating Officer, and thereafter clarified that perhaps her family

members had shown them to him. She further stated that her salwar was white with floral designs and that her sameez was of the same colour and material. The witness further deposed that no cloth or bedding had been spread on the ground where the accused committed the offence.

52. She further stated that the accused subjected her to the sexual assault for about two to three hours. She had been crying even before Srinivas arrived. According to her, the accused repeatedly inserted and withdrew his male organ "countless times." She stated that she continued crying throughout the incident. The accused had held her hands, and her hands were not on his back. She kept struggling throughout the occurrence. She further stated that she did not like the repeated acts committed by the accused. The witness further stated that she came to know the name of the accused because all the persons present at the spot were calling him "Chandrika." Prior to the incident, she did not know him.

53. Finally, the witness denied the suggestions that her family members were dissatisfied with her character; that they suspected her of having an illicit relationship with the accused; that she had never gone to the grove on the day of the incident; that no incident had taken place with her; or that she knew whether the accused owned any agricultural field situated on the north-western side of the grove. She further stated that her locality is inhabited by members of the Scheduled Caste community. She denied the suggestion that on the day of the incident her brother and other residents of the Harijan locality had apprehended the accused from his agricultural field and assaulted him. She also denied the suggestion that her brother had assaulted her or that she was deposing falsely under the pressure of her brother.

54. P.W.5 Jata Shanker, Tiwari, who was the Head Constable has verified the check FIR and GD Entry of the said offence.

55. In cross-examination he deposed that it is belied to state that Ext. Ka-1 FIR has been registered with our consultation and it is registered as anti-timed.

56. P.W.-6, S.I. S.N. Rai, the Investigating Officer, deposed that he was posted as Sub-Inspector at Police Station Shahpur on 12.04.1986. He

stated that the case was registered in his presence and he recorded the statements of Head Moharrir Jata Shankar Tiwari, the scribe of the FIR, Raj Kumar, and the complainant. He further deposed that on 13.04.1986, accused Chandrika was detained in the lock-up (hawalat). He also recorded the statement of the accused, took into possession the clothes of both the accused and the victim, and prepared and sealed the same. Thereafter, he recorded the statements of Srinivas, Ganesh, Lala, and other witnesses and made the relevant entries in the case diary. He also recorded the statements of other witnesses at the police station. He inspected the place of occurrence in the presence of the witnesses. The site plan was proved by him as Ext. Ka-7, and thereafter he submitted the charge sheet, which was marked as Ext. Ka-8. He further deposed that witness Rajendra Kumar had not informed him that upon hearing weeping and screaming, he reached the place of occurrence. However, Rajendra Kumar himself stated that he had reached the spot after hearing the noise and voice of Srinivas.

57. There are material contradictions in his testimony. Prima facie, it transpires that he did not hear any weeping, screaming, or cries of the victim, who was his sister. He further deposed that at the time of registration of the FIR at the police station, both the victim and the accused had come to the police station along with the complainant. He stated that he prepared the requisite papers and sent the victim for medical examination. However, he did not record the statement of the victim either at the police station or on 13.04.1986 at the hospital, stating that she had been admitted there.

58. Thereafter, he contradicted himself by stating that he had taken possession of the victim's salwar and *sameez* from inside the ward. He further stated that he did not record the statement of the victim at the hospital, although the injury report does not indicate that she had sustained such serious injuries as would have rendered her incapable of making a statement. He further deposed that he did not send the victim's salwar and *sameez* for forensic examination. He also admitted that he had taken the victim's underwear into possession but did not send it for forensic examination either. No reasonable explanation was offered by him as to why the clothes of the victim as well as those of the accused

were not sent for forensic examination.

59. He further stated that when the accused was brought to the police station, there were simple injuries on his body. However, he did not send the accused for medical examination either with regard to those injuries or for examination of his private parts. The injuries sustained by the accused remained unexplained, which, *prima facie*, enures to the benefit of the accused. He candidly admitted that he was not in a position to explain why the accused was not sent for medical examination of his injuries or of his private parts.

60. He further cast serious doubt on the prosecution case regarding the place of occurrence by specifically deposing that no pit existed either at the alleged place of occurrence or in its vicinity. He stated that the entire area consisted of a eucalyptus orchard and the land of the orchard was approximately one and a half feet lower than the adjoining agricultural fields. He further stated that he did not record the statements of the two persons who had allegedly brought the accused from the place of occurrence to the police station. According to him, the victim was lying in the orchard and her *sameez* was torn. He further stated that he did not remember whether the witnesses, namely Ganesh, Raj Bahadur, and Lalaram, had mentioned the name of Rajendra Kumar in their statements recorded under Section 161 Cr.P.C. There is no reference in those statements to Rajendra Kumar having reached the place of occurrence. He further deposed that the victim had not stated before him that on the date of the incident, the accused had gagged her by stuffing her *odhani* into her mouth. He also specifically stated that the victim had not informed him that the accused had inserted his private parts into hers.

61. He denied the suggestion that the case had been falsely registered at the police station. He also denied the suggestion that he had conducted a biased investigation and had wrongfully submitted the charge sheet against the appellant.

62. P.W-4/victim in her examination-in-chief which was recorded on 12.8.1987 stated that she did not depose any specific allegation about the insertion of male organ to her urinary place wherein the examination-in-chief where leading question has been asked with the victim about the insertion of the male organ to her urinary place and committed bad act.

63. It is settled law that a leading question is not permissible during examination-in-chief. Although the learned defence counsel objected to the leading question, the trial court permitted it, subject to the objection. Only thereafter did the victim answer the question in the affirmative. Prima facie, it appears that the prosecution was attempting to put words into the mouth of the victim so as to implicate the accused.

64. Investigating Officer has also verified the fact that the victim did not tell that the accused has inserted his male organ into her urinary place.

65. P.W.-7, Dr. Kiran Bala Srivastava, conducted the medical examination of the victim on 12.04.1986. She specifically deposed that upon internal examination, no injury was found on the victim's private parts. This is contrary to the prosecution case, wherein the victim had stated that she was subjected to rape by the accused continuously for 2 to 3 hours. The medical evidence, therefore, does not corroborate the prosecution version.

66. The victim had also deposed that the accused had forcibly laid her on the ground and committed the offence. According to the prosecution, the place of occurrence was a pit situated in a eucalyptus orchard. However, the medical examination does not support the prosecution case, as no bleeding was found during the internal examination of the victim.

67. A radiological examination of the victim was also conducted, which assessed her age to be between 16 and 17 years. However, a radiological examination is not an exact method for determining age, as it is subject to a variation of approximately 2 years.

68. The pathological examination of the victim was also conducted. On the basis of the pathological findings, the doctor opined that no definite opinion regarding rape could be given. However, she stated that the

victim appeared to be habitual to sexual intercourse.

69. During cross-examination, the doctor deposed that on physical examination, the victim appeared to have been habitual to sexual intercourse even prior to the alleged incident. She specifically stated that no injuries were found either on the victim's private parts or on any other part of her body. She further deposed that no blood stains or signs of bleeding were found on the victim's body at the time of examination. The doctor also stated that the victim was not present before her in Court and that she did not personally know her.

70. P.W.-8, Murli Dhar, deposed that he had conducted the radiological (X-ray) examination of the victim for determination of her age on 12.04.1986. He proved the X-ray plates prepared during the examination.

71. P.W.-9, Dr. Rajesh Kumar, who conducted the medical examination of the victim on 12.04.1986, deposed that he found several injuries on the body of the victim. However, no injury was found on the back of her body. The injuries found on her face and right hand were simple in nature.

72. Learned counsel for the appellant has argued that in view of the aforesaid medical evidence, the victim was habitually meeting the accused and that their relationship was opposed by her family members. It is contended that she was assaulted by her brother and, consequently, both the victim and the accused sustained injuries. However, the injuries sustained by the accused were neither medically examined nor explained by the prosecution.

73. During cross-examination, the doctor specifically deposed that all the aforesaid injuries were possible if the victim had fallen down. He further stated that all the injuries were present only on the front side of the victim's body. This is inconsistent with the prosecution case that the victim was raped by the accused in a pit situated in a eucalyptus orchard, where, according to the prosecution, there was no cloth spread on the ground. Despite this version, not a single injury was found on the back of the victim's body, which casts doubt on the prosecution case.

74. The statement of the accused under Section 313 Cr.P.C. was recorded, wherein he denied all the allegations levelled against him and the entire prosecution case. He stated that the complainant's agricultural field was adjacent to his own field and that the complainant used to graze his cattle in his field. Whenever he objected to the same, the complainant and his family members threatened and assaulted him. He further stated that he was apprehended from his field, beaten, and falsely implicated in the present case.

75. Upon a careful examination of the evidence available on record and after considering the submissions advanced by the learned counsel for the parties, this Court finds that the prosecution case is attended by material contradictions, omissions, and inconsistencies, which create serious doubt regarding its veracity. The testimonies of the prosecution witnesses are not wholly consistent on material particulars relating to the manner of the occurrence, the place of occurrence, the apprehension of the accused, and the sequence of events. The testimony of the victim also suffers from material improvements over her previous statement, particularly with regard to the allegation of penetration, which is not supported by the statement recorded by the Investigating Officer.

76. The medical evidence does not lend corroboration to the prosecution version. No injury was found on the private parts of the victim, the pathological examination did not permit a definite opinion regarding rape, and the doctor opined that the victim appeared to be habitual to sexual intercourse. Furthermore, although the prosecution alleged a prolonged forcible sexual assault on rough ground, no injury was found on the back of the victim, thereby rendering the prosecution story doubtful. The failure of the Investigating Officer to send the clothes of the victim and the accused for forensic examination, to medically examine the accused despite the existence of injuries on his body, and to explain such lapses has further weakened the prosecution case.

77. It is well settled that a conviction can be sustained only when the prosecution succeeds in proving the guilt of the accused beyond reasonable doubt. In the present case, the cumulative effect of the inconsistencies in the ocular evidence, the lack of medical corroboration,

and the deficiencies in the investigation creates a reasonable doubt which must necessarily enure to the benefit of the appellant. Accordingly, this Court is of the considered view that the prosecution has failed to establish the charge against the appellant beyond reasonable doubt. The impugned judgment of conviction and sentence, therefore, cannot be sustained and is liable to be set aside.

78. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to establish its case against the appellant beyond reasonable doubt. Consequently, the appellant is entitled to the benefit of doubt. The findings of conviction and the order of sentence recorded by the learned trial court cannot be sustained in the eyes of law and are, accordingly, set aside. The appeal is, therefore, allowed.

79. The appellant, Chandrika is acquitted of the charges levelled against him. Since the appellant is already on bail, he need not surrender. His bail bonds are cancelled, and the sureties stand discharged.

80. Let a certified copy of this judgment, along with the trial court record, be transmitted to the court concerned forthwith for information and necessary compliance.

81. The High Court Legal Services Committee is directed to pay a sum of Rs. 20,000/- (Rupees Twenty Thousand Only) to Dr. Abida Syed, learned Amicus Curiae for the appellant towards her remuneration for the legal assistance rendered in the present, in accordance with the applicable Rules.

(Abdul Shahid,J.)

August 11, 2026

M. Tarik