



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2292 of 1984

Ram Autar

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	P.r.pal, Pravin Kumar, Rajeev Kumar
Counsel for Respondent(s)	:	A.G.A.

Court No. - 76

Reserved on : 03.07.2026

Delivered on : 06.08.2026

HON'BLE SAMIT GOPAL, J.

1. This appeal under Section 374(2) Cr.P.C. has been filed by the appellant Ram Autar against the judgment and order dated 21.08.1984 passed by the 2nd Additional Sessions Judge, Farrukhabad in Session Trial No. 183 of 1984 (State of U.P. Vs. Ram Autar) wherein he has been convicted and sentenced under Section 376 IPC to 7 years rigorous imprisonment.

2. The name of the prosecutrix is not being disclosed and mentioned in the present judgment in the light of directions of the Apex Court in various judgments and as per Section 228-A of the Indian Penal Code, 1860. She is thus referred to as 'victim X' in the judgment.

3. The prosecution case on the basis of an oral report of the informant Smt. Shanti Devi naming the appellant as an accused is that on 24.11.1983 at about 09:00 am her daughter victim 'X' aged about 6 years was playing on the road in front of her house. The informant was cooking food in the house and her son was taking his meal. The accused

Ram Autar took away the victim 'X' behind Baithak where 20-25 Karab were stored. He took victim 'X' inside the Karab and committed rape upon her. She cried and on hearing her cry, the informant came to the place of occurrence and saw the accused Ram Autar committing rape upon her. On her cry, her brother Dinesh and two persons namely Kailaso and Matru Lal also arrived and saw the accused committing rape on victim 'X'. The victim 'X' was bleeding from her private part. The accused ran away. Her report be lodged and action be taken.

4. The said oral report was registered as Case Crime No. 502 of 1983, under Sections 376, 363 IPC, P.S. Kotwali, District Farrukhabad on 24.11.1983 at 13:15 hours. The Chik FIR is Exb: Ka-1 to the records.

5. The corresponding GD was also prepared which is marked as Exb: Ka-2 to the records.

6. The victim 'X' was medically examined on 24.11.1983 at 06:30 pm by Dr. Anita Saini the Medical Officer, Women Hospital, Farrukhabad. The doctor found the height of the victim to be 43 inches, weight 15 kg and teeth 6/6, 6/6. On internal examination the following injuries were found:

“(i) Linear abrasion over upper part of inner aspect of Rt. thigh 5cm below labia majora, 1cm long. Direction - transverse. Brownish scab has started forming.

(ii) Abrasion over medial aspect of Lt. Ankle, size 3x2cm, bleeding on cleaning.”

7. On the examination of private parts, the doctor found as under:

“No injury over labia majora and minora. No injury over perineum. Clotted blood present over private part. On cleaning, bleeding from vaginal orifice is present. Clots of blood came out. No visible injury to vaginal orifice. Hymen is torn.”

8. The vaginal smear for spermatozoa was sent to the District Hospital and she was referred for x-ray of wrist and elbow joint. The said medical examination report is Exb: Ka-5 to the records. The x-ray examination of the victim 'X' was prepared and the doctor gave the following opinion as per x-ray report of the wrist and elbow joint:

“Epiphysis for medial & lateral epicondyle of humerus not present. Small epiphysis at upper end of radius present but not united. Epiphysis for lower end of radius present but not united. Epiphysis for upper & lower end of ulna not present. Pisiform not ossified.”

The said report is Exb: Ka-4 to the records.

9. GD No. 18 dated 25.11.1983 transcribed at 08:20 am was prepared regarding lodging of the accused in the lockup. The same is Exb: Ka-3 to the records.

10. Site plan of the place of occurrence was prepared on 27.11.1983. The same is Exb: Ka-6 to the records.

11. The investigation concluded and a charge sheet No. 503 dated 02.12.1983 was filed under Section 376 IPC against the accused appellant. The same is Exb: Ka-7 to the records.

12. The x-ray plate of the wrist and elbow were proved as Exb: 1 to the records.

13. Charge under Sections 363, 376 IPC was framed against the accused appellant Ram Autar vide order dated 26.06.1984 passed by the 2nd Additional Sessions Judge, Farrukhabad which were read and explained to the accused who pleaded not guilty and claimed to be tried.

14. It is relevant to note that the defence admitted the execution of certain documents under Section 292 Cr.P.C., the said documents are as under:

Srl. No.	Nature of document	Exb. Nos.
i.	Chik FIR	Exb: Ka-1
ii.	Corresponding GD No. 28 dated 24.11.1983 transcribed at 13:15 hours, P.S. Kotwali, District Farrukhabad.	Exb: Ka-10
iii.	GD No. 18 dated 25.11.1983 transcribed at 08:20 am was prepared.	Exb: Ka-3
iv.	X-ray examination report dated 01.12.1983.	Exb: Ka-4

v.	Medical examination report dated 24.11.1983	Exb: Ka-5
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15. The prosecution in order to prove its case produced and examined as PW-1 Smt. Shanti Devi the mother of victim 'X' and the first informant, PW-2 victim 'X', PW-3 Dinesh the brother of the victim 'X' and son of the first informant, PW-4 Dr. K.K. Jagtiyani the radiologist, PW-5 Dr. Anita Saini who conducted the medical examination of victim 'X', PW-6 Kripal Kureel the Investigating Officer of the case and PW-7 Constable Virendra Pal Sharma who transcribed the Chik FIR.

16. PW-1 Smt. Shanti Devi is the first informant of the matter and the mother of victim 'X'. She states that on the day of occurrence at about 09:00 am her daughter victim 'X' aged about 6 years was playing in front of her door. She was doing work in the house. Her son Dinesh was having food. She heard cry of her daughter on which she and her son came out of the house and then found that cry is coming behind the Baithak of Sangram. Both of them went there and found that Karab was kept inside in which the accused Ram Autar was committing rape upon her daughter. She exhorted the accused. He ran away. He was tried to be apprehended but could not be caught. The incident was seen by Kailaso the daughter-in-law of Rama and Matru Lal who came there. Both the said persons have now colluded with the accused and thus are not willing to give evidence. When she saw her daughter, her clothes were blood stained. She saw the accused committing rape on her daughter. She saw the accused penetrating his organ in the private part on her daughter and committing rape. Her daughter was bleeding from her private part. She then took her daughter to Kotwali, Farrukhabad where she made an oral report. Whatever she stated was written and after getting her thumb impression affixed its copy was given to her. Then she was sent to the hospital along with a police constable where her daughter was medically examined. She was then sent to Fatehgarh Hospital where her daughter was admitted. She was interrogated by the Investigating Officer on the third day in the hospital.

In her cross-examination she states that it is incorrect that the Investigating Officer took her statement on the 4th day. In her village Kurmis are influential people. She states that it is incorrect that after the death of her husband they used to help them. Rakesh Kurmi lives in her village and in his house police personnels used to come. The accused is a Nie (barber) and has a stitching shop in Bholepur. It is incorrect that the accused has got a pakka house constructed in the village. It is incorrect that Rakesh has enmity with the accused. Rakesh had gone with her to Kotwali. She is illiterate. She does not know 24.11.1983. She had given her oral version for the report but had not told 24.11.1983. The report was lodged by Rakesh at the police Station which was told by her to him. The condition of her daughter was bad and thus she immediately went to the police station. The police station is about 1-¼ mile from her place. It took half an hour to reach there. She reached the police station at about 09:30 am. The report was lodged at about 1-¼ hours. After getting the report she went for the hospital. The condition of her daughter was not good. She did not stay at the police station. Then she came back at the police station at 01:15 hours and stayed there for 15-20 minutes. The Baithak of Sangram has a road on its east which goes to Bholepur and Fatehgarh. The road is adjacent to the Baithak. The road is always busy. After 15-20 steps from the Baithak the abadi of the village starts. The Karab on the east of the Baithak is vacant. 20-25 bundles were kept in Karab. Baithak was of Sangram Singh. The bundles were kept on the east wall. The wall is about 15-20 steps long and running north to south. Her house is situated at a distance of 5-6 steps away from Baithak of Sangram. Her son is a labour and was at the house on the said day otherwise he used to go for work at 5-6 am. He did not see the accused taking away her daughter. On hearing the sound, she immediately came out of the house. The accused was with the girl at the centre of the wall. The cycle and shoes of accused were not there. The accused otherwise used to go his shop daily at about 7-8 am. Matru and Kailaso came after her to the place of occurrence and were not present there since before. They asked her about the incident and then she told

them about it. They have colluded with the accused and have refused given evidence. Victim 'X' was wearing pajama and t-shirt at the time of incident. Both the clothes were torn. Victim 'X' had become unconscious and had regained consciousness in the hospital. It is incorrect to state that while playing her daughter got injured from a wood due to which she received injury. It is further incorrect that she is giving a false statement on the saying of someone.

17. PW-2 Victim 'X' is recorded to be about 7-8 years old. Her statement was recorded on 19.07.1984. The learned trial judge had put certain questions to her and recorded that she understood the questions and was capable of giving answers. She identified the accused in Court. She states that she was playing on the door of her house at about 09:00 am. Ram Autar caught hold of her and took her to the Karab behind Baithak of Sangram which was vacant. He had gagged her mouth at that time. The accused present in court had caught hold of her and taken her in Karab. He penetrated his organs in her private part after which she shouted and cried. She was bleeding. Her clothes got blood stained. No one came there. Her mother took her to Kotwali. From Kotwali she went to the hospital along with her mother and brother.

In her cross examination, she states that she and her mother had come to the District Court a day before. They were there for the whole day and then in the evening went back home. The constable police had told them that her statement and statement of her mother would not be recorded. In the morning, they came to the place of Government Advocate. She has been told the statement since morning. She is terrified of police constables. She knows Rakesh who had gone with her to Kotwali. Her brother was called at the police station who does work of printing and had not gone for work on the said day. Her mother had asked about what had happened but she did not tell anything about it. She told about the incident at Kotwali. Rakesh told her on the way what is to be stated. Rakesh had told the name of the accused. She states that it is incorrect that injury was received from a wood to her private part due

to which it was bleeding. She states that after half an hour of the incident, there was sunrise.

18. PW-3 Dinesh is the brother of the victim 'X'. He states that he was eating food in the house and his mother was working therein. His sister victim 'X' was playing outside the house in its front. He heard her cry and then he and his mother came out of the house. The cry was coming from behind the room of Sangram. Both the persons went there. They saw that accused Ram Autar the appellant was committing rape on his sister. On his shout, the accused ran towards the east. The condition of his sister was critical and she was bleeding from her private part. His mother took her to Kotwali Farrukhabad. He stayed at home.

In his cross-examination, he stated that he had no suspicion that Ram Autar would commit such act with a small girl. He states that on seeing the blood he could understand that he has committed rape upon her. He further states that he cannot tell as to why he had taken his dinner earlier. He goes for work daily at about 6-7 am. He cannot tell the reason as to why he did not go to work on the said day. His mother took his sister to the police station and he remained at home. No one else went with his mother. Victim 'X' did not become unconscious. They went on a rickshaw. They took the rickshaw from the road. He did not go to the police station even later. He was interrogated after 2-3 days. He told about the incident to the Investigating Officer and to no one else. After they reached the place of occurrence Matroo and Kailaso reached after two minutes. He chased Ram Autar for about half mile and when he returned back his mother and sister were there. He does not know whether Ram Autar ran on foot or went on cycle. He states that it is incorrect to state that he did not see the incident and he was called from the workshop to Police Station Kotwali.

19. Dr. K. K. Jagtiyani PW-4 is the Radiologist of District Hospital, Farrukhabad. On 01.12.1983 he conducted the x-ray examination of victim 'X' and prepared a report of it. The details of the same have already been stated above. He proved the x-ray report as Exb: Ka-4 and

the x-ray plate was filed by him which was marked as Exb-1. He states that looking to the position of the bones victim 'X' was about 6 years of age. No cross-examination of the said witness was done.

20. Smt. (Dr.) Anita Maini PW-5 was posted as the Medical Officer, Women Hospital on 24.11.1983. She examined the victim 'X' at about 06:30 pm who was brought by police constable. She prepared the medical examination report. The details of the same have already been stated above. She proved the same as Exb: Ka-5. She states that on seeing the victim 'X' she appeared to be about 6 years of age. She further states that as per the report in her opinion there was an attempt to commit rape on the victim 'X' as the hymen was torn and was bleeding. She further states that it is possible that sexual assault might have been committed on her.

In her cross-examination, she states that a scab changes its colour according to its time and injury crystallizes as scab after about 10 hours after which it starts getting brown colour after about 6 hours. The injuries were of about 6-8 hours old and it is incorrect to state that it was about 16 hours of old. Linear abrasion is caused by sharp edged weapon and not by blunt object. She did not give the duration and opinion in her report. She does not give duration in her reports. She did not receive the x-ray report and smear report and thus did not give any supplementary report. Vaginal smear is taken only to check spermatozoa. Blood can clot in 15 minutes also. In her opinion if a girl falls down then the injury of this nature is not possible to be caused or is possible rarely.

21. Kripal Kureel PW-6 is the Investigating Officer of the matter. He took up the investigation and prepared the site plan of the incident and recorded the case diary. The site plan is marked as Exb: Ka-6 to the records. He recorded the statements of the witnesses and after receiving the medical report concluded the investigation and filed a charge sheet. It was proved by him as Exb: Ka-7.

In his cross-examination, he states that the house of victim 'X' is situated at a distance of about 100-150 steps from the place of

occurrence. He then states that it was about 50 steps away. There is no other house in between both the places. Witness Dinesh stated that previously they did not suspect Ram Autar to commit such incident with a small girl.

22. Constable Virendra Pal Sharma was examined as PW-7. He states that on 24.11.1983 he was posted as a Constable at Police Station I.T.I. He took victim 'X' to Fatehgarh hospital for her x-ray examination. Her clothes were sealed before him in Women Hospital, Farrukhabad which was brought by him and kept at the Police Station. He identified the same when opened before him. They were marked as Exb: 2 to the records. No cross examination was done of the said witness.

23. The accused in his statement under Section 313 Cr.P.C. denied the prosecution version and stated that he has been falsely implicated in the present case due to enmity. He states that Rakesh Katiyar had got his clothes stitched from him and did not give money for it and when he demanded money he threatened him of dire consequence. He states that he does not want to give any defence evidence.

24. The trial court then convicted and sentenced the accused appellant as above.

25. Heard Sri Pravin Kumar, learned counsel for the appellant, Sri Bade Lal Bind, learned counsel for the State and perused the records. The trial court records are also tagged with the present appeal which have also been perused.

26. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. It is submitted that there was no injury on the private part of the victim 'X'. The injuries as found by the doctor and noted in the medical examination report were due to fall and the nature of injuries do not in any manner show that she was sexually assaulted. It is further submitted that there are serious contradictions in the statements of PW-1 Smt. Shanti Devi, PW-2 victim 'X' and PW-3 Dinesh the brother of victim 'X' and son of the informant/PW-2. It is submitted that the conduct of PW-3 is very

unreasonable inasmuch as even after seeing his sister being raped he did not go with his mother and sister to the police station but remained at the house. It is further submitted that the fact that PW-3 was present at the house is also not properly justified inasmuch as he used to daily go to work in the morning but on the said day without any reason he stayed back. It is further submitted that the victim 'X' PW-2 states in her cross-examination that the Government Advocate had been telling her since morning what statements has to be given. She further states that she knows Rakesh who had gone with her to police station who was called by the police. It is submitted that Rakesh is the said person with whom the appellant has enmity as has been stated by him in his statement under Section 313 Cr.P.C. and thus Rakesh was the main person due to whom the present false FIR has been lodged. It is submitted that the victim 'X' further in her cross-examination stated that Rakesh has tutored her what to say and also the name of the accused. It is submitted that even the time of occurrence of the present incident as stated by the prosecution to be about 9:00 am is incorrect and false as the victim 'X' had stated that there was sunrise after about half an hour of the incident and thus there would have been dark at the said time since it is the end of the month of November. It is submitted that looking to the testimony of PW-2, the prosecution story becomes suspect. It is further submitted that even the statement of PW-1 Smt. Shanti Devi the first informant and the mother of the victim 'X' goes to show that in her cross-examination she states that Rakesh has an enmity with the accused appellant and Rakesh had got a report lodged at the police station after the incident was told by her to Rakesh. It is submitted that thus the prosecution story becomes false and clearly shows that the same has been manufactured by Rakesh who has falsely implicated the accused appellant. It is submitted that the present appeal thus be allowed.

27. Learned counsel for the State per contra opposed the submissions and the appeal and submitted that the appellant is named in the FIR which is a prompt report lodged on the same day. PW-1 Shanti Devi and PW-3 Dinesh her son are eye witnesses of the incident. Dinesh was aged

about 15 years at the time of recording of statement in Court. Both the witnesses support the prosecution story and also support the version given by PW-2 victim 'X'. The medical examination report corroborates the prosecution story. The doctor found the hymen to be torn which was bleeding. The same conclusively shows that the victim 'X' was sexually assaulted. Victim 'X' is a minor girl aged about 6 years. There is no reason coming forward to show why the victim 'X' would falsely implicate the accused appellant. The medical examination of the victim 'X' supports the prosecution version. The testimony of PW-5, the doctor who medically examined the victim 'X' also goes to show that the opinion therein is of sexual assault upon the victim 'X'. The same thus goes to show that the prosecution has succeeded in its case beyond reasonable doubt. It is submitted that thus the appeal is devoid of any merit and deserves to be dismissed.

28. After having heard learned counsels for the parties and perusing the records, it is evident that the appellant is named in the FIR. The victim 'X' while being examined as PW-2 identified the accused appellant and names him as the person who committed rape upon her. There are two eye witnesses in the present matter who are PW-1 Smt. Shanti Devi and PW-3 Dinesh. Both the persons although are family members of victim 'X' being her mother and brother respectively but are natural witnesses. The place of occurrence is very near to the house of the informant. The said two witnesses have witnessed the appellant committing sexual assault on victim 'X'. On a chase by PW-3 the accused appellant ran away. In so far as the testimony of victim 'X' is concerned, the same is without any contradictions or error with regards to the accused and sexual assault on her which is consistent and inspires confidence. The testimony of a victim 'X' in a case like the present one is of a grave importance. The same has been held by the Apex Court in the case of **State of Maharashtra Vs. Chandraprakash Kewalchand Jain : (1990) 1 SCC 550** in para 16 which is extracted herein:

“16. A prosecutrix of a sex offence cannot be put on 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. We have, therefore, no doubt in our minds that ordinarily the evidence of a prosecutrix who does not lack understanding must be accepted. The degree of proof required must not be higher than is expected of an injured witness. For the above reasons we think that exception has rightly been taken to the approach of the High Court as is reflected in the following passage:

“It is only in the rarest of rare cases if the court finds that the testimony of the prosecutrix is so trustworthy, truthful and reliable that other corroboration may not be necessary.”

With respect, the law is not correctly stated. If we may say so, it is just the reverse. Ordinarily the evidence of a prosecutrix must carry the same weight as is attached to an injured person who is a victim of violence, unless there are special circumstances which call for greater caution, in which case it would be safe to act on her testimony if there is independent evidence lending assurance to her accusation.”

(emphasis supplied)

29. The submission regarding Rakesh having enmity with the accused appellant is of no purpose in the present matter since Rakesh is not shown to be in any manner related to the first informant. The medical examination fully corroborates the prosecution version. Dr. Anita Maini,

PW-5 who conducted the medical examination of the victim 'X' also in her statement states of sexual assault of the victim 'X'.

30. The Apex Court in the case of **State of Rajasthan Vs. Chatra : (2025) 8 SCC 613** has reiterated the principles needed to kept in mind in the evidence of child-victim in child rape cases. It has also been held and reiterated that in cases of child rape, Courts are required to be more onerous in such cases. Paragraph nos. 14 to 22 reads as under:

“14. Let us now consider pronouncements of this Court in cases involving a child victim of sexual assault. In *State of Rajasthan v. Om Prakash* [*State of Rajasthan v. Om Prakash*, (2002) 5 SCC 745 : 2002 SCC (Cri) 1210] this Court sounded a warning against offences of sexual nature against children, in the following terms: (SCC p. 755, para 19)

“19. Child rape cases are cases of perverse lust for sex where even innocent children are not spared in pursuit of sexual pleasure. There cannot be anything more obscene than this. It is a crime against humanity. Many such cases are not even brought to light because of the social stigma attached thereto. According to some surveys, there has been a steep rise in child rape cases. Children need special care and protection. In such cases, responsibility on the shoulders of the courts is more onerous so as to provide proper legal protection to these children. Their physical and mental immobility call for such protection. Children are the natural resource of our country. They are the country's future. Hope of tomorrow rests on them. In our country, a girl child is in a very vulnerable position and one of the modes of her exploitation is rape besides other modes of sexual abuse. These factors point towards a different approach required to be adopted.”

15. In numerous cases, this Court as well as others, have discussed the applicability of the statement of a child witness to a case. We may notice a few of them.

16. In *Dattu Ramrao Sakhare v. State of Maharashtra* [*Dattu Ramrao Sakhare v. State of Maharashtra*, (1997) 5 SCC 341 : 1997 SCC (Cri) 685] this Court held: (SCC p. 343, para 5)

“5 ... A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness

is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored.”

17. In *Hari Om v. State of U.P.* [*Hari Om v. State of U.P.*, (2021) 4 SCC 345 : (2021) 2 SCC (Cri) 440], a three-Judge Bench reiterated the caution observed by this Court in *Suryanarayana v. State of Karnataka* [*Suryanarayana v. State of Karnataka*, (2001) 9 SCC 129 : 2002 SCC (Cri) 413], that “*corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence*”. It was further observed therein: (*Suryanarayana case* [*Suryanarayana v. State of Karnataka*, (2001) 9 SCC 129 : 2002 SCC (Cri) 413] , SCC p. 133, paras 6-7)

“6. This Court in *Panchhi v. State of U.P.* [*Panchhi v. State of U.P.*, (1998) 7 SCC 177 : 1998 SCC (Cri) 1561] held that the evidence of the child witness must be evaluated more carefully and with greater circumspection because a child is susceptible to be swayed by what others tell him and thus an easy prey to tutoring. The evidence of the child witness must find adequate corroboration before it is relied upon, as the rule of corroboration is of practical wisdom than of law (vide *Prakash v. State of M.P.* [*Prakash v. State of M.P.*, (1992) 4 SCC 225 : 1992 SCC (Cri) 853]; *Baby Kandayanathil v. State of Kerala* [*Baby Kandayanathil v. State of Kerala*, 1993 Supp (3) SCC 667 : 1993 SCC (Cri) 1084]; *Raja Ram Yadav v. State of Bihar* [*Raja Ram Yadav v. State of Bihar*, (1996) 9 SCC 287 : 1996 SCC (Cri) 1004] and *Dattu Ramrao Sakhare v. State of Maharashtra* [*Dattu Ramrao Sakhare v. State of Maharashtra*, (1997) 5 SCC 341 : 1997 SCC (Cri) 685]).

7. To the same effect is the judgment in *State of U.P. v. Ashok Dixit* [*State of U.P. v. Ashok Dixit*, (2000) 3 SCC 70 : 2000 SCC (Cri) 579].”

18. The rule regarding child witnesses was laid down by the US Supreme Court as far back as 1895 [*Wheeler v. United States*, 1895 SCC OnLine US SC 220 : 40 L Ed 244 : 159 US 523 (1895)] in the following terms: (*Wheeler case* [*Baby Kandayanathil v. State of Kerala*, 1993 Supp (3) SCC 667 : 1993 SCC (Cri) 1084], SCC OnLine US SC para 5)

“5. ... While no one would think of calling as a witness an infant only two or three years old, there is no precise age which determines the question of competency. *This depends on the capacity and intelligence of the child, his appreciation of the difference between truth and falsehood, as well as of his duty to tell the former. The decision of this question rests primarily with the trial Judge, who sees the proposed witness, notices his manner, his apparent possession or lack of intelligence, and may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligations of an oath.* As many of these matters cannot be photographed into the record, the decision of the trial Judge will not be disturbed on

review, unless from that which is preserved it is clear that it was erroneous.”

(emphasis supplied)

19. In interpreting the evidence given by a child victim of sexual assault, this Court in *State of H.P. v. Sanjay Kumar* [*State of H.P. v. Sanjay Kumar*, (2017) 2 SCC 51 : (2017) 1 SCC (Cri) 648], held that social realities have to be given due attention. It was observed by Sikri, J., writing for the Court that: (SCC pp. 66-67, para 30)

“30. By no means, it is suggested that whenever such charge of rape is made, where the victim is a child, it has to be treated as a gospel truth and the accused person has to be convicted. We have already discussed above the manner in which the testimony of the prosecutrix is to be examined and analysed in order to find out the truth therein and to ensure that deposition of the victim is trustworthy. At the same time, after taking all due precautions which are necessary, when it is found that the prosecution version is worth believing, the case is to be dealt with all sensitivity that is needed in such cases. In such a situation one has to take stock of the realities of life as well. Various studies show that in more than 80% cases of such abuses, perpetrators have acquaintance with the victims who are not strangers. The danger is more within than outside. Most of the time, acquaintance rapes, when the culprit is a family member, are not even reported for various reasons, not difficult to fathom. The strongest among those is the fear of attracting social stigma. Another deterring factor which many times prevents such victims or their families to lodge a complaint is that they find whole process of criminal justice system extremely intimidating coupled with absence of victim protection mechanism. Therefore, time is ripe to bring about significant reforms in the criminal justice system as well. Equally, there is also a dire need to have a survivor-centric approach towards victims of sexual violence, particularly, the children, keeping in view the traumatic long-lasting effects on such victims.”

20. In *Pradeep v. State of Haryana* [*Pradeep v. State of Haryana*, (2023) 19 SCC 221], it was held that the role of the trial Judge, when a case involves a child witness, becomes heightened. The Court recorded: (SCC p. 226, para 13)

“13. Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of

understanding the questions put to him and is able to give rational answers. It is advisable to record the preliminary questions and answers so that the appellate court can go into the correctness of the opinion of the trial court.”

21. In *Suryanarayana v. State of Karnataka* [*Suryanarayana v. State of Karnataka*, (2001) 9 SCC 129 : 2002 SCC (Cri) 413] referred to by a Bench of three Judges in *Hari Om v. State of U.P.* [*Hari Om v. State of U.P.*, (2021) 4 SCC 345 : (2021) 2 SCC (Cri) 440], it has been held thus: (*Suryanarayana case* [*Suryanarayana v. State of Karnataka*, (2001) 9 SCC 129 : 2002 SCC (Cri) 413], SCC p. 133, para 5)

“5. Admittedly, Bhavya (PW 2), who at the time of occurrence was about four years of age, is the only solitary eyewitness who was rightly not given the oath. The time and place of the occurrence and the attending circumstances of the case suggest no possibility of there being any other person as an eyewitness. The evidence of the child witness cannot be rejected per se, but *the court, as a rule of prudence, is required to consider such evidence with close scrutiny and only on being convinced about the quality of the statements and its reliability, base conviction by accepting the statement of the child witness.* The evidence of PW 2 cannot be discarded only on the ground of her being of tender age. The fact of PW 2 being a child witness would require the court to scrutinise her evidence with care and caution. If she is shown to have stood the test of cross-examination and there is no infirmity in her evidence, the prosecution can rightly claim a conviction based upon her testimony alone. *Corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence.* Some discrepancies in the statement of a child witness cannot be made the basis for discarding the testimony. Discrepancies in the deposition, if not in material particulars, would lend credence to the testimony of a child witness who, under the normal circumstances, would like to mix-up what the witness saw with what he or she is likely to imagine to have seen. While appreciating the evidence of the child witness, the courts are required to rule out the possibility of the child being tutored. In the absence of any allegation regarding tutoring or using the child witness for ulterior purposes of the prosecution, the courts have no option but to rely upon the confidence inspiring testimony of such witness for the purposes of holding the accused guilty or not.”

(emphasis supplied)

22. Recently, a coordinate Bench of this Court in *State of M.P. v. Balveer Singh* [*State of M.P. v. Balveer Singh*, (2025) 8 SCC 545] speaking through J.B. Pardiwala, J., considered a large number of prior decisions of this Court to lay down guidelines for the appreciation of the evidence of a child witness. We have perused through the same. Reference can also be made to other judgments

in *State of M.P. v. Ramesh* [*State of M.P. v. Ramesh*, (2011) 4 SCC 786 : (2011) 2 SCC (Cri) 493]; *Panchhi v. State of U.P.* [*Panchhi v. State of U.P.*, (1998) 7 SCC 177 : 1998 SCC (Cri) 1561]; and *State of U.P. v. Ashok Dixit* [*State of U.P. v. Ashok Dixit*, (2000) 3 SCC 70 : 2000 SCC (Cri) 579], etc.”

31. In the case of **Sham Singh Vs. The State of Haryana : (2018) 18 SCC 34** the Apex Court has held that Courts should be conscious of their responsibilities in cases of rape. It has been held in para 6 & 7 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 v. Gurmit Singh* [*State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384 : 1996 SCC (Cri) 316] (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 v. State of Assam* [*Ranjit Hazarika v. State of Assam*, (1998) 8 SCC 635 : 1998 SCC (Cri) 1725] .)”

32. In view of the same, it is clear that the prosecution has succeeded in proving its case beyond reasonable doubt. The appeal thus fails and is **dismissed**.

33. The appellant is on bail. He shall be taken into custody forthwith to serve out the remaining sentence as awarded by the trial court concerned.

34. Pending application(s), if any, stand disposed of.

35. A copy of this judgment along with trial court records be transmitted to the CJM, Farrukhabad for compliance and necessary action.

36. A report of compliance be sent by the CJM concerned to this Court within 30 days.

(Samit Gopal,J.)

August 06, 2026

M. Arif