



2026:DHC:7370



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

% *Judgment Reserved on: 24.08.2026*
Judgment pronounced on: 02.09.2026

CNR No. DLHC010796202024

+ **CRL.A. 1056/2024**

SHRI RAJENDER PRASAD JINDALAppellant

Through: None.

Versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Utkarsh, APP for State.
Mr. Himanshu A. Gupta, Advocate
(DSL SA) with Ms. Mansi Yadav and
Mr. Karan Jain, Advocates.
Mr. Harshit Jain along with Ms.
Devangi Gupta, Mr. Arjun Drall, Ms.
Priyanka, Advocates for prosecutrix.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 415 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (the BNSS), the sole accused in
Sessions Case No. 879/2018 on the file of the Special Judge



(PoCSO)/ Additional Sessions Judge-02 (SC-RC), Karkardooma Courts, Delhi, challenges the judgement dated 31.08.2024 and the order on sentence dated 16.10.2024 as per which, he has been convicted and sentenced for the offence punishable under Section 376 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that between 01:30 p.m. to 02:30 p.m. on 25.04.2017 at B-3/194, Jindal Medicare and Ultrasound, Delhi, the accused administered PW3 an injection of some stupefying, intoxicating or unwholesome drug, due to which she lost consciousness, during which time he raped her. Hence, as per the charge sheet/final report, the accused was alleged to have committed the offences punishable under Sections 328 and 376 IPC.

3. On the basis of Ext. PW3/A FIS/FIR of PW3, the prosecutrix, given on 25.04.2017, Crime No. 150/2017, Bhajan Pura Police Station, that is, Ext. PW1/A FIR alleging the



commission of the offences punishable under Sections 328 and 376 IPC was registered by PW1, Assistant Sub-Inspector. PW6, Sub-Inspector, conducted investigation into the crime and, on completion of the same, submitted the charge sheet/final report before the Court, alleging the commission of the offences punishable under the aforementioned sections.

4. When the accused was produced before the Committal court, all the copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.P.C. The matter was committed to the Court of Session under 209 Cr.P.C. After hearing both sides, the trial court, *vide* order dated 04.11.2019, framed a Charge under Sections 328 and 376 IPC, which was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs 1 to 8 were examined and Exts. PW1/A-D, PW2/A, PW3/A-C, PW6/A-F, PW6/PX1-



PX5, Mark PW5/A and Mark PW3/X1-X2 were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. According to the accused, he has been falsely implicated by PW3 in order to extort money from him. PW3 had come to his clinic solely to take medicine and not for an ultrasound. In fact, PW3 never even entered the ultrasound room on the said day. CCTV camera has been installed in the ultrasound room. Ram Bharan Das (DW1), the compounder, was present in the clinic on the date of the incident.

7. After questioning the accused under Section 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232



Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89: 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

8. DW1 and DW2 were examined on behalf of the accused. No documentary evidence was adduced.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgment dated 31.08.2024, held the accused guilty of the offence punishable under Section 376 IPC. *Vide* order on sentence dated 16.10.2024, the accused has been sentenced to rigorous imprisonment for a period of 07 years, along with fine of ₹4,12,000/-, and in default of payment of fine, to simple



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imprisonment for a period of six months for the offence punishable under Section 376 IPC. Aggrieved, the accused has come up in appeal.

10. The learned Additional Public Prosecutor, appearing on behalf of the respondent/State, supported the impugned judgment and order on sentence and submitted that it does not suffer from any illegality or infirmity calling for an interference by this Court.

11. When the appeal was taken up for hearing on 24.08.2026, there was no representation for the appellant/accused today. *Vide* order dated 20.08.2026 in SLP (Crl.) 1981/2026, the Apex Court has requested this Court to hear and dispose of this appeal within a period of one week from the date of the order. Hence, relying on the dictum in **Bani Singh & Ors. vs. State of U.P., (1996) 4 SCC 720**, I proceed to consider the appeal on merits after going through the entire records in the case.



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12. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW3/A FIS/FIR given by PW3, the prosecutrix, recorded on 25.04.2017 in Hindi, translated reads thus:- *“On 15.04.2017, I went to Jindal Hospital accompanied by my employer, namely, Saima, for an ultrasound. The doctor asked me to return in 02 days to get the medicines, as I had swelling in my stomach. I returned two days later, collected the medicines, and came back home. I received a call asking me to collect additional medicines that had arrived. On 23.04.2017, I underwent another ultrasound, after which they asked me to return in two days to get an injection administered. Accordingly, I went there today, that is, 25.04.2017, at around 01:00 p.m., and was administered an injection. Thereafter, I became slightly unconscious, during which time the doctor raped me. All my clothes had been removed. Once I regained consciousness, I dressed myself and came outside. I*



called my madam, narrated the entire incident to her and asked her to join me. I then called the police.”

13. Ext. PW3/X2 the Section 164 statement of PW3 recorded in Hindi on 27.04.2017, translated reads thus:- *“On 25.04.2017 at about 01:00 p.m., I went to Dr Jindal’s clinic for an ultrasound of her stomach. As soon as I reached the clinic, I felt dizzy and fell unconscious. I was shifted to the doctor’s bedroom in an unconscious state. The doctor woke me up by splashing water on me. My shirt was pulled up, (मेरी कमीज ऊपर हुयी थी). I was instigated by other patients, which made me nervous (और मरीज़ो ने मुझे बहुत भडकाया। मै घबरा गयी...). When I came outside, the ultrasound technician told me that I had been wronged. I became mentally disturbed and called the police. No one has done anything wrong to me. (किसी ने भी मेरे साथ कुछ गलत नहीं किया है।)”*



14. PW3 when examined before the court deposed that in the year 2017, she was residing with her father in Vijay Park, Delhi. She was undergoing treatment with Dr. Rajender Pal (the accused) for swelling in her stomach. The accused had given her some medicine for her illness and had asked her to return for ultrasound. On the following day, the accused conducted her ultrasound and told her that she had swelling in her stomach. He asked her to come again the next day, stating that he would give her medicine. PW3 was unable to recall the date or month in which the accused had conducted her ultrasound. She went to the clinic of the accused. The accused gave her a tablet and an injection and asked her to lie down and take rest on a bed as there was a possibility of her feeling giddy due to the injection. She lay down on the bed as she was feeling giddy. When she regained consciousness, she found that her salwar was not on her body and felt that wrong act had been committed by the accused on her (*jab*



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main uthi to mere saath bahut galat ho chukka tha, meri salwar utri hui thi). When asked what she meant by “*mere sath bahut galat ho chukka tha*,” she deposed that when she woke up, she was unable to get up and felt that something had been done to her (“*mere sath kuch hua tha*”). On being asked what she meant by “*mere sath kuch hua tha*,” she deposed that she had been raped (*mere sath rape hua tha*). PW3 could not recall the date, month, or time of the said incident, but stated that it took place in the afternoon. She filed a complaint, which was written by a police official on her instructions. PW3 identified her handwriting and signature in Ext. PW3/A complaint dated 25.04.2017. She was taken to the hospital for medical examination. According to PW3, at the time of the incident she was wearing a red-colour *pajami* and *kameez*. When a sealed envelope bearing the seal of DSFSL, Delhi, was opened before the trial court during her examination, a pink-colour top, a blue-colour jeans, and a purple-colour brassiere



found, were identified by PW3 as clothes worn by her at the time of the incident. They were marked as Exts. P1, P2 and P3 respectively.

14.1 The prosecutor is seen to have sought permission to “*cross-examine*” PW3 on the ground that she had from her previous statement. The said request was granted. On further examination, PW3 deposed that due to passage of time, she had forgotten that she was actually wearing a pink-colour top and blue-colour jeans and, therefore, had mistakenly stated that she was wearing a red-colour *kameez* and *pajami*. She was wearing a pink-colour top, blue-colour jeans, and a purple-colour brassiere at the time of the incident and that the same had been taken from her by the doctor (the accused) after her medical examination.

14.2 PW3 in her cross-examination deposed that she had gone to the clinic of the accused about 02 to 03 times. It was in the afternoon she had visited his clinic. No other person had



accompanied her to the clinic of the accused. There was the accused and a compounder in the clinic. The injection was administered by the doctor in her buttock. When she regained consciousness, there was only the accused in the clinic. She informed Saima, her employer, about the incident. She went to the PS alone. Saima met her at the police station and then accompanied her to the hospital. She denied the suggestion that she had made a false complaint against the accused at the instance of Saima. The Metropolitan Magistrate (MM), who had recorded her statement, had asked her whether she was giving her statement voluntarily and without any force or pressure from others. According to PW3, she had given her statement to the MM in her “*full consciousness*.” The statement given to the MM is correct. Nobody had instructed her the manner in which she was to give her statement in the court. Her clothes were seized while she was in the hospital. She denied the suggestion that her clothes had been



taken from her home. She denied the suggestion that she had lodged a false case against the accused in collusion with Saima to extort money from him.

15. PW5, the father of PW3, deposed that PW3 was his seventh child and had studied up to 12th standard. The incident had occurred on the 24th day of a month in the year 2017. He could not recall the month of the incident. Saima used to reside on the ground floor of the building of their house and used to work in the same place as his daughter (PW3). Saima took his daughter (PW3) to a doctor for treatment. When they returned home, Saima informed him that his daughter had been raped by a doctor. But he was not told the name of the doctor. As insisted by PW3 and Saima, he accompanied them to the police station.

15.1. The prosecutor is seen to have sought permission to “*cross-examine*” PW5 on the ground that he had resiled from his previous statement. Permission was granted. On further



examination, PW5 denied the suggestion that, despite coming to know that it was the accused who had raped her daughter, he was deliberately concealing facts from the court.

16. PW5 in his cross-examination admitted that his daughter (PW3) had no prior history of stomach pain and that he possessed no medical records concerning her condition.

17. I also make a brief reference to the evidence adduced by the accused. DW1, receptionist in the clinic of the accused deposed that on 25.04.2017, while he was at the clinic, at about 12:00 - 01:00 p.m., the prosecutrix came to the clinic and asked for the doctor (the accused). He took her into the cabin of the accused, where she was medically examined. He was inside the cabin during the check-up. The accused gave her (PW3) some medicines and prescribed some medicines to purchase from the medical store. About 05 to 07 days before 25.04.2017, PW3 had come to the clinic along with another lady. After the accused was taken away



by the police, he went to the police station at about 08:00 - 09:00 p.m. The accused informed him that PW3 had been demanding money from the former. According to DW1, no wrong act had been committed on PW3 in his presence.

17.1 DW1 in his cross-examination denied the suggestion that on 25.04.2017, the accused had administered an injection due to which PW3 became unconscious, during which time the accused removed her clothes and raped her.

18. The accused offered himself as a witness and hence he was examined as DW2. DW2 deposed that on 25.04.2017 at about 12:00 p.m., a lady (PW3) came to his clinic for a check-up. His receptionist brought her into his cabin. He examined her (PW3), gave her some medicines and prescribed some medicines to be purchased from the medical store. She (PW3) told him that she did not have any money. His receptionist/compounder, namely, Ram Baran Das (DW1), was present at the time of check-up. Later, he



came to know from Ram Baran Das (DW1) that PW3 was threatening to file a case against him. About 05 to 07 days prior to 25.04.2017, she (PW3), along with another woman had visited the clinic. The police took him to the police station. While he was sitting in the police station, PW3 demanded money from him. During this period, he received phone calls from unknown numbers, which turned out to be from PW3 and Saima. He had not wronged PW3 who, with the assistance of Saima, has falsely implicated him in the present case.

18.1. DW2, in his cross-examination, deposed that he does not remember the phone number from which PW3 and Saima had called him. He denied the suggestion that during the checkup, his receptionist/compounder, DW1 was not present. He denied the suggestion that on 25.04.2017, he had injected any drug into PW3 or that due to the injection, she had become unconscious during which time he raped her.



19. The question that arises for consideration in this appeal is whether, from the materials on record, the trial court was right in concluding that the prosecution has succeeded in establishing beyond reasonable doubt that the appellant/accused committed the offence punishable under Section 376 IPC. The reasoning given by the trial court in concluding that the prosecution succeeded in establishing the case contained in paragraph 24 of the impugned judgment reads thus:

“24. The following facts surfaced in the trial which are essential to be considered in order to reach a conclusion whether the testimony of the prosecutrix is trustworthy, reliable, unblemished, inspires confidence and is of sterling quality:-

Prosecutrix/ PW-1 is the star witness of the present case. In her testimony before the Court the prosecutrix has categorically stated that on 25 .04.2017 she visited the clinic of the accused. He gave some intoxicants to her due to which she felt giddiness and when she woke up she found that her clothes were not on her body and she has been feeling that she has been raped. She promptly approached the police. Her internal medical examination was done, sexual assault kit was opened, exhibits collected, scaled by Doctor, same were sent to FSL



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and the FSL report (Ex. PW-6/F) has concluded that human semen found from cervical mucus, washing from vagina and vaginal secretion as well as jeans pant of the prosecutrix were found similar to the DNA profile generated from the blood sample of accused.

From the testimony of the prosecutrix corroborated by medical and scientific evidence, it has been proved on record that the prosecutrix was raped by the accused on 25.04.2017.”

(Emphasis supplied)

Was the trial court right in concluding that the testimony of PW3 is “*trustworthy, reliable, unblemished, inspires confidence and of sterling quality*”? Let me examine.

20. The prosecution case is founded on the testimony of PW3, the prosecutrix. There can be no quarrel with the settled proposition that conviction for an offence of rape can rest upon the sole testimony of the prosecutrix if such testimony is found to be wholly reliable and inspires confidence (See **Ganesan v. State, (2020) 10 SCC 573**). The absence of corroboration alone is not a ground to discard her evidence. At the same time, where the



testimony of the witness suffers from material contradictions, omissions and inconsistencies on matters going to the root of the prosecution case, the Court is required to examine the evidence with appropriate caution and determine whether the standard of proof beyond reasonable doubt has been satisfied.

21. At the risk of reputation, I once again refer to the version of PW3 contained in the FIS/FIR; her 164 statement and her testimony before the trial court. In Ext. PW3/A FIS/FIR, the case is that on 25.04.2017, after being administered an injection, PW3 became slightly unconscious and that, during such state, the doctor raped her. She stated that her clothes had been removed and that, upon regaining consciousness, she dressed herself and came outside. However, Ext. PW3/X2 164 statement presents a materially different version. In the Section 164 statement, her case is that as soon as she reached the clinic, she felt dizzy and became unconscious. She was shifted to the doctor's bedroom. The doctor



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woke her by splashing water on her. When she woke up she found her shirt pulled up. She was incited/provoked/instigated by the other patients, which made her nervous. The ultrasound technician told her that she had been wronged. She became mentally disturbed and hence, informed the police. PW3 also stated further that nobody had wronged her (किसी ने भी मेरे साथ कुछ गलत नहीं किया है।). Therefore, in her 164 statement PW3 has no case that the accused had administered any injection due to which she felt giddy and became unconscious. On the other hand, her case is that as soon as she reached the clinic she became unconscious. She has also no case that the accused had raped her or assaulted her in anyway. On the other hand, she has stated that no wrong had been done to her. This version is totally against what has been stated in the FIS/FIR. The discrepancy is significant as the 164 statement was not recorded after long lapse of time. Ext. PW3/A FIS/FIR of



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PW3 is seen recorded on 25.04.2017. Ext. PW3/X2 164 statement is seen recorded after just two days, that is, on 27.04.2017.

22. The relevant portion of the testimony of PW3 in the box reads thus:

“Accused had gave me some medicine for my illness and asked me to come next date for ultrasound. On next day, accused did my ultrasound and told me that I had swelling in my stomach and asked me to come again on next day as he will give medicine on next day. I do not remember the date or month when accused had done my ultrasound. I went to Dr. Rajender /accused. Accused gave me one tablet and injection and asked me to take rest in bed as I might have feeling of giddiness due to injection. I lie down on bed as I was having feeling of giddiness. When I woke up, I found that my salwar was not on my body and I felt that the wrong act had been done by accused (jab main uthi to mere sath bahut galat ho chuka tha, meri salwar utri hui thi).

Q. What do you mean by “mere sath bahut galat ho chuka tha”?

Ans. When I woke up, I was not able to get up and I felt something has been done with me (mere sath kuch hua tha).

Q. What do you mean by “mere sath kuch hua tha”?



Ans. Mere sath rape hua tha.

I started weeping and went to PS Bhajanpura while weeping.

I do not remember the date, month and time of the said incident but it was of afternoon time. I lodged the complaint in the PS which was written by some lady police official on my instructions.....”

However, PW3 when asked about her 164 statement in her cross examination deposed thus:- *“The Ld. Magistrate who recorded my statement has asked me that I am coming to the court and giving statement without any force and pressure from anybody. I had given my statement to Ld. MM in my full consciousness. I have given my correct statement to the Ld. MM.”*

23. PW3 has no case that her 164 statement is wrong. On the other hand, she has asserted that the said statement is true and that she had given the same voluntarily and being fully aware and conscious of the same. If that be so, she has no case of rape in her 164 statement. It is true that no attempt had been made on behalf of the appellant to bring out and prove the contradictions between



her 164 statement and her testimony before the Court. But, Section 164 statement can be used for corroboration as well as for contradicting the maker. The prosecution here relies on the 164 statement of PW3 for the purpose of corroborating her version in the box. However, the same in no way corroborates the version of PW3 in the box. On the other hand, the 164 statement disproves the version of rape. In the box, her case seems to be that she felt that “*wrong act had been done by the accused.*” Of course she also further clarified that the accused had raped her. In the box she has again a case of injection being administered by the accused, loss of consciousness and rape during her state of unconsciousness. But at the same time she also asserts that her 164 statement is true and correct. In the light of such highly inconsistent versions of PW3, it is beyond my comprehension as to how the trial court found the testimony of PW3 to be “*trustworthy, reliable, unblemished, inspires confidence and of sterling quality.*”



24. Further, the trial court is seen to have believed PW3's version of losing consciousness due to the accused administering some intoxicants. It is true that the trial court did not find the accused guilty under Section 328 IPC. Nevertheless, the court seems to have believed the version of PW3 regarding administering of some intoxicant. As noticed earlier, PW3 has no such case in her 164 statement. Further, though her blood sample is alleged to have been taken on the day of her medical examination which was on 25.04.2017, the date of the incident, the prosecution has failed to produce the result. Therefore, there is absolutely no evidence of PW3 being administered any intoxicant. Apparently, the trial court went wrong in believing the version of PW3 that she had been administered some intoxicant which made her unconscious.

25. Further, PW3 admits that DW1 was present in the clinic on the said day. She has no case that DW1 was also hand in glove



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with the accused in the crime. DW1 asserted that no wrong had been done to PW3 in his presence. If the accused had done any wrong act on her, why did she not raise any alarm? Going by the version of PW3, there were other patients also present in the clinic, who are supposed to have goaded her into believing that she had been wronged. However, none of them were examined. In the light of such unsatisfactory materials, the trial court clearly erred in concluding regarding the guilt of the accused based on the highly inconsistent testimony of PW3.

26. It is true that Ext. PW6/F FSL report establishes that human semen was detected on the cervical swab, vaginal swab and smear, vaginal washing and jeans of PW3. PW8, Junior Forensic Chemical Examiner, Biology, was examined to prove Ext. PW6/F the FSL report. As per the report, the male DNA profile generated from Exts. '1h, 1i and 1k' (cervical swab, vaginal swab & smear and vaginal washing) and '2a' (jeans), was found similar to the



DNA profile generated from the source of Ext. '3' (blood sample of accused). Thus, the forensic evidence supports the prosecution case. However, the forensic evidence alone cannot establish rape, especially when PW3 herself admits in her 164 statement that no wrong had been done to her. The medical and forensic evidence admissible under Section 45 of the Indian Evidence Act, 1872 can only corroborate the testimony of the witness. The purpose of an expert opinion is primarily to assist the court in arriving at a conclusion. Such report is not binding upon the court. The court is expected to analyse the report, read it in conjunction with the other evidence on record and then form its opinion as to whether such report is worthy of reliance or not.

27. The appellant/accused has also led oral evidence in support of his defence. DW1, the receptionist/ultrasound technician, asserted his presence at the clinic on the relevant day and denied any wrongdoing by the accused. The accused himself



entered the box and asserted his innocence. Though, the accused has a case that CCTV cameras have been installed in his clinic, no footage was produced by the accused. However, in the case on hand, the prosecution has failed to discharge the initial burden of proving the charge beyond reasonable doubt. Even if the defence evidence does not inspire complete confidence, the accused would still be entitled to the benefit of doubt as the prosecution evidence has failed to establish his guilt beyond reasonable doubt.

28. The aforesaid aspects raise doubts in the mind of the Court regarding the prosecution case, and hence it cannot be held that the materials on record are sufficient to conclude that the prosecution has succeeded in establishing the guilt of the accused beyond reasonable doubt. Therefore, I find that the appellant/accused is entitled to the benefit of doubt.

29. In the result, the appeal is allowed. The impugned judgment is set aside, and the appellant is acquitted under Section



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235(1) Cr.P.C. of the offence punishable under Section 376 IPC.

He shall be set at liberty, and his bail bonds shall stand cancelled.

30. Applications, if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

SEPTEMBER 02, 2026

mj/p'ma