

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 393 of 2008

Bhaktaranjan Mahato

-Vs-

The State of West Bengal

For the Appellant : Mr. Abhra Mukherjee
Mr. Sauradeep Dutta
Mr. Arpayan Mukherjee
Mr. Swakshar Kumar Mondal
Mr. Himadree Ghosh

For the State : Ms. Faria Hossain
Mr. Anand Keshari

Judgment on : 22.05.2026

Ananya Bandyopadhyay, J.:-

1. This appeal is directed against the judgment and order dated 31.05.2008 passed by the Learned Additional Sessions Judge, Fast Track Court No.3, Purulia in S.C.No.7 of 2008 / S.T.No.14 of 2008, thereby convicted the appellant under Section 376 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.5,000/-, in default, to suffer further rigorous imprisonment for 1 year.
2. The case of the prosecution, *inter alia*, was that on 31.10.2007 at about 17:45 hrs., PW-1 the complainant lodged a written complaint with the Kenda Police Station alleging that the present appellant used to violate her since last six months and when the matter came to light, the appellant assured to

marry her. On 19.10.2007 in the evening, the appellant committed rape upon her against her will and thereafter the appellant refused to marry her.

3. Accordingly, Kenda Police Station started Kenda P.S. Case No.44/07 dated 31.10.2007 under Section 376 of the Indian Penal Code.
4. After completion of investigation, PW-15 Vijay Bhonsle submitted charge-sheet under Section 376 of the Indian Penal Code before the Learned Chief Judicial Magistrate, Purulia against the appellant.
5. Charge was framed against the appellant under Section 376 of the Indian Penal Code on 29.01.2008 which was read over and explained to the appellant to which he pleaded not guilty and claimed to be tried.
6. The prosecution examined as many as 15 witnesses besides documentary evidences to prove their case but the defence did not adduce any evidence.
7. The Learned Advocate representing the appellant submitted as follows:-
 - i. *“PW-1 stated, inter alia, in her examination-in-chief that on 1st Kartick of the Bengali year, there was an incident when she was at home alone. Her parents went outside for work. It was then dark. At that time, Bhaktaranajn Mahato entered into her house and after undressing her, committed ‘Dhorshon’ (rape). Before that, there was no such incident took place. Her father returned back and found Bhaktaranjan Mahato fleeing away. Father called the villagers. Bhaktaranjan told her that he would go to marry her. A date for registry marriage was fixed 8 days after. PW-1 went to the registry office and also Bhaktaranjan went and before registration, Bhaktaranjan went away and the case was lodged.*”

- ii. In cross-examination, PW-1 stated specifically that she did not raise hue and cry when she saw Bhaktaranjan entering into their house. PW-1 could not say the duration of 'dharshan' – PW-1 could not say how much after dharshan, her father came. PW-1 was in her house when father came and she was washing utensils which was done at the entrance passages. Mother did not return on that night. At night, PW-1 had a talk with father. She told him to get her marriage with Bhaktaranjan. Application was submitted for registration of their marriage and the advocate was present there. From registry office, they returned to the police station and at the registry office, Baneswar Goswami (PW-14) was present. FIR was prepared in the Court premises. PW-1 knew that was written in the FIR. She told about what to write. Police took her to the Court for recording statement before the Magistrate. A reference of balloon was made on it. PW-1 was not acquainted with the English calendar.
- iii. PW-2 stated in his examination-in-chief on 1st Kartick Bengali calendar, he was away for work from home and on return back in the evening, he found his daughter (PW-1) weeping and on query she told him that Bhaktaranjan Mahato came and raped her. PW-2 went to Bhakta's house and met him and his father Nityananda who told him that Bhakta would marry PW-1 but at the time of registration, Bhakta fled away.
- iv. In cross-examination, PW-2 stated that there was an entrance door from the Kuli road of his house. But he could not state who opened the

door when he returned. PW-1 was inside the room in naked condition. She was sitting then. Long after PW-2's return, he had discussion with her and they reached the police station in the evening. PW-1 told the incident to the police by filing a written complaint. Baneswar wrote it on the saying of PW-1. PW-2 told police that PW-1 told him that Bhakta raped her.

- v. The deposition of PW-2 who was an alleged post occurrence witness was full of contradictions with that of the evidence of PW-1 and full of embellishments only with a view to introduce her daughter (PW-1) in the house of Nityananda, father of the appellant who had good cultivable lands.
- vi. PW-3 stated in her deposition that she stated she went to a fair and returned back and found Bhakta fleeing from their house. PW-1 was crying and she told her that Bhakta committed Dharshan upon her. In cross-examination, she stated that she saw Bhakta fleeing away from their hous. PW-3 did not raise any alarm. She stated to police that on return from the fair, she saw Bhakta to flee away.
- vii. PW-4 a local villager and post occurrence witness stated nothing about the alleged incident in his entire deposition.
- viii. PW-5 was the grandfather of PW-1 who stated in his examination-in-chief that he was then in the field. After his return, he saw PW-1 crying. Her father also came. She told them that Bhakta Ranjan Mahato forcibly committed sexual intercourse with her. Marriage was fixed between the parties but Bhakta did not marry her.

- ix. *The aforesaid contents were not stated before PW-13 in the statements recorded under Section 161 of the Code of Criminal Procedure.*
- x. *PW-6 was the Judicial Magistrate and was Chief Judicial Magistrate-in-Charge, Purulia recorded the statements of PW-1 under the provisions of Section 164 of the Code of Criminal Procedure marked as Exhibit 2. PW-6 stated she gave her statement in Bengali and PW-6 also put questions in Bengali, but he recorded the statement in English alphabet. After recording her statement, he read over the same to her and she admitted it to be true and put her signature and PW-6 gave certificate to that effect. In cross-examination PW-6 stated whatever stated by the deponent, he recorded the same in verbatim. She gave out the English date of 19.10.2007. The deponent used the said term which he recorded as 'Gharshan' as noted twice in the statement given by her and use of Balloon was also there.*
- xi. *PW-7 was the Medical Officer- Radiologist who prepared urine report showing it was negative and held ossification test of PW-1.*
- xii. *PW-8, the grandmother of PW-1 and wife of PW-5, stated in her examination-in-chief that when she was going to the shop, she heard a cry of PW-1 and her mother from their house. PW-8 enquired from them and learnt that Bhakta Ranjan entered into their house and that a promise was given by him to marry PW-1. As he declined to marry her, a case was made. In her cross-examination, she stated she did not tell police that she heard crying of PW-1 and her mother while PW-8 was*

going to the shop and she enquired from them who told Bhakta entered into their house and later he gave out to marry PW-1.

xiii. Whereas PW-1 stated in her cross-examination that mother did not return on that night and again said mother returned 8 days after.

xiv. PW-9 was the Upa Pradhan. He stated nothing about the alleged incident.

xv. PW-10 had been the Medical Officer- Gynaecologist who examined PW-1. PW-1 gave statement to PW-10 that she had forcible physical relation with Bhakta Ranjan Mahto at her house on 19.10.2007. PW-10 examined her and prepared a report which primarily showed that there was no external injury and foreign body found on her exposed and private body parts.

xvi. In cross-examination, he stated that for determination of her age, radiological test for pregnancy and pathological test were suggested.

xvii. PW-11 who was also a local villager did not state anything regarding the alleged facts, only thing, he heard that there was a rape by Bhakta Ranjan on PW-1.

xviii. PW-12 was the Medical Officer- Pathologist who examined the present appellant and his report was marked as Exhibit 5.

xix. PW-13 was the main Investigating Officer. He stated in his examination-in-chief that he examined the victim and made a prayer to the Court for recording her statement under Section 164 of the Code of Criminal Procedure which was allowed and he collected copy of it. He made a prayer for examining the victim girl by the Medical Officer

which was granted and as per his queries, a report was prepared by the Medical Officer after examining the victim girl. The following queries were made by him from the Medical Officer in respect of the victim:-

- 1. Whether the victim girl (PW-1) was capable for intercourse or not?*
- 2. Whether she had been anytime raped or not?*
- 3. Whether there was any type of struggling mark/injury on her private parts?*
- 4. Whether her hymen was ruptured or not?*
- 5. Her vaginal swab preserved.*
- 6. Whether any foreign hair was found in her private parts or not?*
- 7. Her history and statement be recorded, if any,*

PW-13 collected M.O.'s report.

xx. In cross-examination, he stated he examined the witnesses on 31.10.07 and 29.11.07. There was no specific answer to his query no. 2 and 4 in respect of the victim girl by the Medical Officer. He simultaneously prayed for recording her statement under Section 164 of the Code of Criminal Procedure and her medical examination. PW-13 could not scribe any specific reason for putting the query no. 7 In the FIR as well as statement under Section 161 of the Code of Criminal Procedure, the victim girl gave an English date. In her statement under Section 164 of the Code of Criminal Procedure, she made out her relationship with the accused since 6 months prior to 19.10.07. Guhiram Mahato did not tell PW-13 that he went to tend cattle in the field once and that PW-1 told him that Bhakta committed rape on her.

Puspa Mahato did not tell him that she went to the fair on 1st Kartick, but that on 19.10.07, she was at home and that on return from fair, she saw Bhakta to flee away. Sibu Mahato did not state on 1st Kartick (Bengali Date), he was away and there was a settlement paper in which he and Bhakta Ranjan signed.

- xxi. PW 14 was the scribe. He stated he wrote the FIR as per saying of PW-1 and he read over the same to her and she put her signature on it. The same was written in the FIR.*
- xxii. PW 15 is the Investigating Officer who finally submitted charge-sheet.*
- xxiii. PW-1 who is the de-facto complainant of the present case had given three different versions at three different stages of the proceedings, i.e. a. in the First Information Report and the statements recorded by PW 13 under section 161 of the code of Criminal Procedure, b. in the statement made under section 164 of the code of Criminal Procedure before the Learned Judicial Magistrate, PW 6 and c. while deposing before the Learned court and thereby her credibility is seriously doubted and as such her evidence cannot come within the purview of 'sterling quality' to inspire the confidence of this Hon'ble Court.*
- xxiv. The age of the prosecutrix namely Bandana Mahato has not been conclusively proved. The report (exhibit 3) of the Radiologist (PW 7) dated 08.11.2007 shows that the age of the PW 1 is above 17 years and below 19 years but unfortunately the Learned Judge held that such report is not full-proof and proceeded on the footings that the PW 1 was minor and her consent, if any was of no value. Inasmuch as*

according to PW 1 and 2 the marriage registration paper was signed by the parties which also proves that in October 19, 2007 PW 1 was major to contact marriage. The fact that PW 1 stated before PW 6, Learned Judicial Magistrate in her statement recorded under section 164 of the Code of Criminal Procedure that the present appellant used to use 'balloon' (Prophylactic Sheath) while they came in close relationship which is presumptive of continuous consensual relationship.

xxv. The medical report (exhibit 4) issued by PW 10 showing that no external injury and foreign body found on her exposed and private body parts which do not also support the claim of the PW 1 that she was subjected to rape against her will or by force.

xxvi. It is humbly submitted that PW 1 who was admittedly a major as per exhibit 3 and marriage registration document had a relationship with the present appellant for a considerable period of time and when they came close to each other they used to use Prophylactic Sheath (Balloon), showing her explicit consent which would find support from her statement recorded under section 164 of Code of Criminal Procedure. (exhibit 2) and from the evidence of PW 6 Learned Judicial Magistrate and inasmuch as even failure to materialise the marriage cannot come within the purview of the section 376 of the Indian Penal Code.

xxvii. The PW-3, 4, 5, 8, 9 and 11 are all post occurrence and hearsay witnesses and as they have all heard the alleged incident either from PW 1 or PW 2 and tried to embellish and exaggerate the prosecution

story in court which also suffers from serious contradictions between themselves and PW 1 and 2 also and as such no reliance can be placed on their evidences.

xxviii. The Hon'ble the Supreme Court in 2012 (3) SCC (Cri) 750 at paragraph 22 summarised and characterised the quality of Sterling witness as follows:-

“In our considered opinion, the "sterling witness" should be of a very high quality and caliber whose version of should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. to test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. what would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. there should not be any prevarication in the version of the such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under on circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used,

the manner of offence committed, the scientific evidence and the expert opinion. the said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a 'Sterling Witness' whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

xxix. *On the anvil of the above principles, when we test the version of PW-1, the prosecutrix, it is very unfortunate that said witness has failed to pass any of the tests mentioned above. There is total variation in her version from what was stated in the FIR and her statement recorded under section 161 of the Code of Criminal Procedure by PW 13 and her statement recorded under section 164 of the Code of Criminal Procedure and what was deposed before the Learned Court at the time of trial. There are material variations as regards her age, conduct and*

the manner in which the alleged occurrence took place and as such the prosecutrix, PW 1 failed to instil required confidence of the Court in order to affirm the conviction imposed on the appellant. and it would be highly unsafe to rely on such versions of the prosecutrix in order to support the case of the prosecution.

xxx. The evidence of PW-1 with regard to the genesis of the incident also suffers from patent improbabilities. PW 1 deposed that the incident occurred on 1st Kartick of the Bengali year in the evening when it was dark taking advantage of the absence of her parents, the appellant entered into the house and after undressing her committed rape upon her. However, in cross examination, she admitted that she did not raise any hue and cry when the appellant allegedly entered into the room. It is nobody's case that appellant forcibly entered into the house of PW 1. If the PW 1 had no sanction and/or consent, she would have surely raised a hue and cry attracting the attention of inmates and neighbours of her house. This gives rise to an inference that the appellant entered into the house and stayed there with explicit consent of the PW 1 who was a major lady as per ossification test held by PW 7. In cross examination she has also said that she was in her house when her father came and she was washing utensils which was done at the entrance passage and told her father to get marriage with Bhakto. These patent infirmities in the genesis of the prosecution strike at its very root and improbabilise the prosecution version as to the alleged commission of offence by the appellant.

xxxi. *The version given by the PW 1 is unsupported by any medical evidence. PW 10 the Medical Officer, Gynaecologist after examining PW 1 prepared a report Exhibit 4 stating that....* ii. *No external injury and foreign body are found on her exposed or private body parts. and the surrounding circumstances are highly improbable and belie the case set up by the prosecution. It is also highly improbable that PW 1 could not make any noise to get out of the room and absence of injuries on the body improbabilises the prosecution version.”*

8. The Learned Advocate representing the State submitted written notes replicated as follows:-

i. “Appellant: Bhaktaranjan Mahato

ii. Convicted under section 376 IPC and sentenced to the 7 years R.I. plus fine (has been on bail since 25.09.2008, convicted on 31.05.2008):

iii. Complainant: Bandana Mahato. Complainant/PW1/victim (15 years old approx.) contends she was raped by the Appellant (23 years old approx.) on night of 19.10.2007 in her house while her parents were away (written complaint @pg. 2-3)

a. Claimed she was raped by Appellant for past 6 months against her wishes.

b. That on 19.10.2007 Appellant raped her in her home finding her alone.

c. Upon her father coming to know, he asked the Appellant to marry her but he refused.

iv. Date of incident and filing of FIR: incident occurred on 19.10.2007 and FIR was filed on 31.10.2007. The delay is attributable to attempts by the father of PW1 to get her wed to the Appellant. Upon Appellant's refusal to enter into a registered marriage with PW1, which was scheduled for 29.10.2007, pursuant to understanding between father of PW1 with father of Appellant dated 25.10.2007, the FIR was filed.

v. Charge (pg. 4) -charged under section 376 of IPC

vi. (Complainant, relatives and neighbours)

a. PW-1: Bandana Mahato recounts the events of the evening of 19.10.2007 states she and her relatives live in one compound with a common entrance and that the Appellant's house is approximately 500m away - she returned home in the evening after performing 'khet puja' her grandmother was sleeping in her uncle's house in the same compound and her uncle's daughter in law was also present in her own respective house in the compound no other members of the family were around at the time - after the rape incident, she informed her father upon his return to the house. She admits that she did not tell the police that such occurrences had been happening for the past 6 (six) months.

b. PW-2: Shibu Mahato, father of PW1 recounts incident of 19.10.2007-after incident, he went to the Appellant's house and met his father who informed him that the Appellant will marry PW1 and accordingly a date for registered marriage was set on such

date the Appellant fled from the Registrar's office-at this stage they approached the P.S. to file F.I.R where the police directed that could they come another day and that a F.I.R could not be registered on that day. He states "a compromise was held at the P.S. and a writing was made. In such paper, Bhakta signed as also me. The original paper thereof is with the police. This is a xerox copy of the said writing, marked 'ext'X" for identification". On XX examination he states that the police asked him to come back after 7/8 days which is what he did and that is when the written complaint was submitted and FIR filed (i.e., on 31.10.2007).

- c. PW-3 (pg. 11-12) is PW1's sister-in-law (i.e., PW1's uncle's daughter in law) she was away at a fair on the evening when the incident occurred and on her way back home she saw the Appellant fleeing away from their house - PW1 was crying and informed PW3 that the Appellant had done "dharsan" upon her.
- d. PW-4 (pg. 13) - a friend of both PW2 (father of PW1) and father of Appellant -he confirms that there was a "settlement talk" at the P.S. on 25.10.2007 and during such talk, the marriage date was fixed as 29.10.2007 and this agreement was reduced to paper which was signed on by PW4.
- e. PW-5 (pg. 14)Guhiram Mahato (grandfather of PW1) - he was in the field at the time of the incident and came back to find PW1 crying and was informed by her that the Appellant raped her - he was the

first one to encounter PW1 after the incident and saw her crying - he heard PW2 shout.

f. PW-8 (pg.17) - Mini Mahato is the second wife of Guhiram Mahato - she was going to the shop and heard PW1 and her mother crying. She confirms that her children and her husband's first wife were not at home.

g. PW-9 (pg. 18) Upa-pradhan of Panipathar Gram Panchayat. Confirms meeting PW1's and the Appellant's fathers who informed him of a disturbance and that the registry and social marriage would take place between PW1 and the Appellant.

h. PW-11 (pg.20) - Bhutnath Mahato confirms that he attended meeting to give effect to marriage between PW1 and Appellant and that such meeting was occasioned by the rape committed by Appellant on PW1.

(Medical, police and others)

i. PW-6 (pg. 15) Judicial Magistrate who recorded s.164 statement of PW1 on 31.10.2007 in his chamber.

j. PW-7 (pg. 16) Radiologist who confirms that on 21.11.07 she conducted a pregnancy test on PW1 which came out negative.

k. PW-10 (pg.19) - Dr. Dipendra Nath Dutta - gynaecologist who examined PW1 on 31.10.2007 PW1 informed him that she had forcible intercourse with the Appellant on 19.10.2007.

- l. PW-12 (pg.21) Dr Ashish Chatterjee pathologist who conducted semen analysis on Appellant on 08.11.2007. Report marked as Exhibit 5.
- m. PW-13 (pg. 22-23) -S.I. Baidyanath Mukherjee - investigating officer in the case.
- n. PW-14 (pg.24) - Banweswar Goswami - scribe on behalf of PW1 who wrote the FIR on her instructions.
- o. PW-15 (pg.25) the O.C. of Kenda P.S who submitted the chargesheet after investigation was conducted by PW14.

vii. Section 313 statements:

All allegations denied and no witnesses furnished (pg. 26-31)

viii. Judgment of trial court (pg. 32-41)

Findings (@pg. 37 onwards)

- a. *It is categorical assertion of all PWs that rape was committed on 19.10.2007 therefore the date of the incident is established there is no substantiation of any rape taking place prior to this.*
- b. *Meeting took place on 25.10.2007 at the P.S. over such incident which was attended by PW4 and PW11.*
- c. *PW9 confirms meeting the father of PW1 and the Appellant who informed him of a disturbance and the ensuing marriage.*
- d. *Whether PW1 is 15 years of age or over 16 years is immaterial to the factum of rape.*

- e. *The delay in filing the FIR is justified in light of the purported settlement of marriage.*
- f. *It is no one's case that there was a 'love affair' between PW1 and the Appellant.*
- g. *According to her statement under section 164 CrPC, for the past six months preceding date of incident, the Appellant used to make nuisance, tell her that he loves her, follow her to school and there is no averment that PW1 was in love with him.*
- h. *There is no animosity between family of PW1 and the Appellant and no cause for falsely entangling the Appellant.*
- i. *Statement of PW1 and her relations are wholesome and bear credibility*

ix. Concluding submission by the State:

It is submitted that the Hon'ble Court has correctly convicted the appellant and sentenced them for offence committed under section 376 of IPC for the following reasons:

There is uncontroverted evidence that the Appellant was in PW1's house on the evening of 19.10.2007 when she was alone and he was seen fleeing by at least one other person (PW3).

PW1's evidence about the occurrence on 19.10.2007 has been consistent and corroborated by the testimony of her father (PW2), and her other relations (PW3, PW5).

That the incident took place and that the Appellant was guilty of committing rape is further established by the conduct of PW1's

father (i.e., PW2) and the father of the Appellant, the 'settlement' agreed in writing between the parties (on which the Appellant signed) and the testimony of PW4 and PW11 who attending the settlement meeting on 25.10.2007 as well as the testimony of PW9 (Upa-pradhan of Panipathar Gram Panchayat) before whom a "disturbance" was reported by PW2 and the father of the Appellant.

*Absence of injuries on the victim does not negate the testimony of the victim (**State of H.P. v. Manga Singh, (2019) 16 SCC 759, para 15, page 763**).*

*Corroboration of the testimony of the victim by a medical examination is not a requirement of law (**State of H.P. v. Manga Singh, (2019) 16 SCC 759, para 10, page 762**).*

*Testimony of the prosecutrix alone may be sufficient and sole evidence of the victim, when cogent and consistent (**Deepak Kumar Sahu v. State of Chhattisgarh (2025) SCC OnLine SC 1610 at para 5.6**)”*

9. The Learned Advocate representing the State submitted the prosecution was able to prove its case based on corroborative evidence of the prosecution witnesses supported by the medical evidence and the appeal should be dismissed.
10. A circumspection of evidence of the prosecution witnesses revealed as follows:-
 - i. PW-1, fifteen-year-old victim, narrated her ordeal occasioned in the interior of her homestead on the evening of 1st Kartick, a day marked

by the cultural solemnity of Astami Puja. Her parents had departed for manual labor, leaving her entirely solitary within the domestic sanctuary under the encroaching cover of darkness. It was this absolute isolation that the accused, Bhaktaranjan Mahato, weaponized. He committed a predatory criminal trespass into her dwelling house, forcefully stripped her of her garments, and subjected her to non-consensual sexual violation—an act she unequivocally denounced as “*dharsan*”. Her subsequent conduct—characterized not by an immediate public hue and cry, but by a paralyzed, weeping terror—portrayed the psychological freeze of a young survivor. This traumatic isolation was abruptly broken by the unexpected return of her father, which triggered the immediate flight of the accused from the spot.

- ii. In the immediate aftermath, the profound shock of the violation was subsumed by the heavy, conservative crosscurrents of her rural environment. Faced with village arbitration, she accepted the accused's explicit solemn promise of matrimony as a mechanism to salvage her societal dignity, leading to the schedule of a registry marriage eight days thence. Her subsequent journey to the Registry Office at Purulia represented a poignant moment of vulnerable expectation; however, this hope was cruelly shattered when the accused absconded from the venue immediately prior to the execution of the official registration. Left with no alternative but to invoke the penal machinery of the State, she set her signature upon

the complaint scribed upon her dictation by Baneswar Goswami and subsequently fortified her narrative through a formal medical examination and a statement recorded before the learned Magistrate. She resolutely withstood a rigorous cross-examination, denying any suggestion of being a tutored witness or that her case was a product of village fabrication.

- iii. PW 2, the victim's father provided the critical perspective of a parent returning from the daily grind of manual labor to a shattered household. He detailed his day spent working with a spade in the distant fields of Neguria mouza, returning home only at evening dusk. Upon crossing his threshold, he was met not by domestic tranquility, but by the devastating sight of his young daughter in a state of intense, inconsolable weeping. His persistent, anxious interrogation extracted the horrific disclosure of the assault committed upon her person by Bhaktaranjan Mahato. Driven by an immediate paternal instinct to seek accountability within his social ecosystem, he mobilized the village elders and marched to the residence of the accused and his father, Nityananda.
- iv. His narrative meticulously bridges the transition from private trauma to formal record. He described how the accused's family offered an immediate marital alliance to avoid penal consequences, a pact that evaporated when the accused fled the Purulia Registry Office. His testimony is particularly invaluable as it exposes the subsequent conduct of the accused; he took the Court through the filing of the

complaint and the convening of a formal compromise meeting held directly inside the Police Station premises on October 25, 2007. The execution of a written settlement instrument there—which he signed alongside the accused—serves as heavy circumstantial evidence of an initial, clear acknowledgment of guilt by the defense side, marked Exhibit- 'X' for identification. Despite rigorous testing on cross-examination regarding timelines and agricultural rituals, his unvarnished account as an illiterate cultivator remained entirely unshaken.

- v. PW-3 provided immediate post-facto corroboration to the ocular testimony of PW1 and PW-2 being the victim's sister-in-law. Her ordinary return from the local Chandra fair that afternoon was suddenly disrupted when, upon approaching the family domain, she caught a fleeting, highly suspicious glimpse of the accused fleeing post-haste from their shared compound. Upon stepping into the inner quarters of the household, she stumbled directly into the raw aftermath of the crime. She discovered her young sister-in-law, Bandana, weeping hysterically, completely denuded, and shaking in a state of profound emotional collapse. In that immediate, unfiltered moment of trauma, the victim instantly confided in her, explicitly naming Bhaktaranjan as the perpetrator who had violated her.
- vi. The defence sought to systematically undermine her credibility by questioning why she did not immediately raise a hue and cry to the

other family members or pause to clothe the victim, tarrying for only two to three minutes before retreating to her own room.

- vii. PW-4 an independent cultivator from the neighboring village of Makarka illuminated the secondary stage of social arbitration.
- viii. He verified that a clear marital alliance was hammered out between the parties as a mutual resolution to the crisis, with the wedding fixed for October 29. He identified the written instrument recording these terms, which was prepared by Baneswar Goswami, and confirmed his own role as an objective signatory to the document marked as Exhibit- 'X' for identification. The independent nature of this witness—who hailed from a separate village three kilometers away—and his steadfast refusal to bow to defence suggestions of false deposition, effectively dismantled the defence's theory of a localized, malicious conspiracy against the accused.
- ix. PW-5 the victim's elderly grandfather, captured the very first auditory manifestations of the tragedy from the victim who divulged to have been physically violated by the appellant vigorously. He reiterates of a marital concord which was nullified by the abandonment of the appellant.
- x. PW-6, the Judicial Magistrate, recorded the statement of the victim Section 164 of the Code of Criminal Procedure.
- xi. PW-7, the Radiologist at Sadar Hospital Purulia, prepared the urine report of the victim which sussed out in negative marked as Exhibit- 3.

- xii. PW-8 a co-villager was informed of the victim's molestation by the appellant and subsequent event of declining to marry the victim consequently leading to institution of the criminal case.
- xiii. PW-9 the Upa Pradhan of Panipathar Gram Panchayat reaffirmed of a disturbance and betrayal of the appellant to register the marriage with the victim at the registry office.
- xiv. PW-10, the Medical Officer Gynaecologist at Sadar Hospital, Purulia, recounted of having medically examined the victim who divulged to have been compulsively followed by the appellant at her house on 19.10.2007 and to have prepared the report marked as Exhibit-4 which delineated the following points:-

“i) she could not state the exact date of L.M.P. ii) no external injury and foreign body found on her exposed and private body parts, iii) the V.G. was very much resistant because of shyness owing to very tender age, iv) Her vaginal swab was taken, duly sealed and handed over to the escorting police person.”

- xv. PW-10 was further subjective of the determination of the victim's age and radiological test for pregnancy followed by a pathological test. The resistance of the victim girl precluded PW-10 to conduct digital vaginal examination as well as absence of specific queries forbade him to narrate the determinative purpose of medical examination.
- xvi. PW-11's evidence based on hearsay of the occasion of the offence subsequently devolving into a meeting with his participation in the

presence of the appellant and his family members to effectuate registration of a marriage between the victim and the appellant with solemnization through social marriage eventually, ultimately to have been ineffective causing the institution of the instant case.

- xvii. PW-13 deposed to have endorsed the F.I.R. marked as Exhibit-6 identifying his signature marked as Exhibit-1/1 thereon. PW-13 described to have visited the place of occurrence prepared a rough sketch map marked Exhibit-7 catapulted to have recorded the statement of the victim under Section 164 of the Code of Criminal Procedure and collect a copy thereof along with the examination of the victim by the Medical Officer based on certain queries marked as Exhibit-8. The semen and vaginal swap were transferred to FSL for expert opinion.
- xviii. PW-14 unaware of and unrelated to the commission of the offence and the purpose involved respectively had scribed the complaint at the instance of the victim marked Exhibit-1.
- xix. PW-15 concluded the investigation and submitted a charge-sheet.
11. The Learned Counsel for the appellant had vociferously urged while the alleged occurrence was slated to have taken place on the 1st of Kartick (October 1, 2007), the formal machinery of the state was not set into motion until the registration of the First Information Report on October 29, 2007.
12. This profound and unexplained hiatus of nearly twenty-nine days cannot be glibly brushed aside as an inconsequential rural delay. The defence contended that this temporal expanse provided ample room for strategic

manipulation, village-level confabulation, and the engineering of a narrative specifically tailored to falsely implicate the appellant. The learned counsel insists that a grievance of such a devastatingly personal nature would naturally provoke an immediate institutional or social outcry, and its absence cast an indelible shadow of suspicion over the authenticity of the initial Ejahar.

13. A substantial portion of the appellant's argument is dedicated to dismantle the legal efficacy of the alleged compromise negotiations and the document marked as Exhibit X for identification. The learned advocate argued the prosecution's heavy reliance on the purported meetings at the Purulia Registry Office and within the physical precincts of the Police Station was a double-edged sword that cuts through the core of their own case.
14. It was submitted these highly orchestrated social arbitrations, spearheaded by village elders and local factions, point not to the guilt of the appellant, but to an aggressive, community-led extortion campaign designed to force the appellant into a coercive matrimonial alliance. It is argued with great emphasis that the appellant's strategic flight from the Registry Office and his refusal to sign formal marital applications are not indices of a guilty mind escaping from justice, but rather the natural actions of an innocent young man evading a social trap and resisting a forced marriage predicated upon an entirely fabricated accusation.
15. The Learned Counsel pointed to the structural infirmities apparent through the oral depositions of the vital family witnesses, primarily PW 1 (the victim)

and PW-3 (the sister-in-law). The defence severely critiqued the behavioral anomalies displayed by the witnesses immediately post-facto.

16. It was argued that the conduct of PW 3, who claimed to have stumbled upon the minor victim in a completely denuded, weeping state, stretches human credulity to its breaking point. Her admission that she did not pause to clothe her vulnerable relative, raised no immediate hue and cry to alert the immediate neighborhood, and casually retreated to her own quarters within two to three minutes, exposes her testimony as a highly artificial and subsequent cosmetic embellishment.
17. Furthermore, the defence pointed out that the common courtyard shared with adjacent relatives, including the grandfather (PW 5), should have reverberated with immediate commotion. The eerie domestic silence that prevailed until the father's calculated return at dusk strongly indicates that the entire scenario of an interrupted assault was retroactively scripted to construct a tight, artificial timeline of *res gestae*.
18. Concluding the defence, the learned advocate emphasized the stark vacuum of scientific and forensic corroboration capable of linking the appellant to the alleged offence. The medical deposition and the medical report marked as Exhibit 4 yield a completely negative finding regarding any fresh physical trauma, local injuries, or chemical and biological traces.
19. In the total absence of independent ocular validation, forensic consistency, or a contemporaneous medical footprint, the learned advocate submitted the conviction cannot be sustained on the shifting sands of an uncorroborated, delayed, and highly interested family narrative. The appellant, therefore,

claims the benefit of reasonable doubt and prays for an unvarnished acquittal.

20. The Learned Counsel for the State had strongly repelled the appellant's challenge regarding the twenty-nine-day hiatus between the date of the occurrence and the lodgment of the First Information Report. It was submitted that in matters of sexual offenses, particularly those involving a vulnerable, minor girl residing within a conservative rural ecosystem, a delay in approaching the police could not be evaluated through a mathematical or pedantic formula.
21. It was further emphasized that the immediate consequence of such a profound violation was an overwhelming sense of trauma, coupled with an acute dread of social marginalization and familial ignominy. The temporal interregnum was not utilized for malicious confabulation, but was entirely consumed by the family's natural, desperate attempts to secure the minor victim's social rehabilitation through traditional community channels. The moment the alternative restorative mechanism collapsed due to the appellant's ill faith, the informant immediately and legitimately invoked the criminal machinery of the State. Therefore, the delay stands robustly explained and does not compromise the pristine genesis of the prosecution case.
22. Ultimate reliance was bestowed on the deposition of the minor victim (PW 1), arguing that her testimony is intrinsically reliable, coherent, and structurally unassailable. The learned counsel for the State submitted her narrative regarding the criminal trespass and the subsequent act of forcible

sexual violation (*dharsan*) was characterized by a raw, compelling truth that completely withstood the crucible of a rigorous cross-examination.

23. In accordance with settled parameters of criminal jurisprudence, the testimony of a victim of sexual assault stands on a higher pedestal than that of an ordinary witness; she is an injured witness of a deeply personal trauma. It was further contended that her account was clear, free from material contradictions, and sufficient by itself to sustain a conviction, particularly when her status as a minor removes any shadow of legal or factual consent from the equations.
24. The Learned Advocate for the State had demonstrated that the prosecution's case does not suffer from isolation, but was supported by a seamless chain of corroborative evidence. The immediate post-facto visual discovery of the victim by her sister-in-law (PW 3)—who found her weeping and denuded within minutes of the assault—formed an indissoluble link of *res gestae* under Section 6 of the Indian Evidence Act.
25. It was further reinforced by the spontaneous auditory discovery by the grandfather (PW 5) and the immediate emotional disclosure made to the father (PW 2) upon his return from manual labor. It was argued that the behavioral responses of the family members—including the temporary preservation of domestic silence to avoid immediate public scandal—are entirely consistent with normal human conduct in a rural joint family structure, effectively neutralizing the defence's claims of an artificial or retroactive script.

26. A cornerstone of the State's argument rests upon the subsequent conduct of the appellant and his family under Section 8 of the Indian Evidence Act. The learned counsel has pointed out that the historical reality of the village arbitrations, the journey to the Purulia Registry Office, and the execution of the compromise petition (Exhibit X) within the precincts of the Police Station are fully established by independent, disinterested witnesses like PW-8, PW-9 and PW-11.
27. It was further submitted that the appellant's active participation in these negotiations and his subsequent calculated flight from the Registry Office constitute clear, circumstantial proof of a guilty mind. The defense's theory that Exhibit X was an instrument of extortion is completely dismantled by the independent status of the village signatories and the administrative sanctity of the Police Station where the terms were recorded. The appellant's deceptive deployment of a marital promise was a strategic shield to evade immediate arrest, further highlighting his underlying culpability.
28. It was further cemented by the statutory statement recorded under Section 164 of the Code of Criminal Procedure before the learned Judicial Magistrate (PW 6), which demonstrated the victim's core accusation remained completely steadfast, un-tutored, and uniform from the inception of the investigation to the trial. It was, therefore, submitted that the Learned Trial Court committed no error in appreciating the collective weight of this evidence, and prays for the absolute dismissal of the appeal to ensure the ends of justice are met.

29. The analytical adjudication of this criminal appeal mandates a strict compartmentalization of emotional response from the mechanical execution of statutory assessment. This Court is called upon to determine whether the evidentiary substrate acts as an absolute foundation for a sole conviction under Section 376 of the Indian Penal Code, or whether the narrative represents an elaborate domestic construct designed to leverage institutional pressure upon the appellant. In navigating the delicate matrix of an alleged sexual violation involving a minor informant, the standard of judicial prudence must remain unwavering, uninfluenced by the gravity of the dynamic under review, and tethered exclusively to the unassailable quality of the trial record.
30. A foundational assessment must begin with the temporal parameters of the prosecution's narrative, specifically focusing on the twenty-nine-day interregnum separating the alleged date of occurrence on the 1st of Kartick from the eventual presentation of the written complaint on October 29, 2007. Criminal jurisprudence recognizes that a delay in registering an offense of this personal magnitude within a rural ecosystem cannot be evaluated by a mathematical or clinical stopwatch, as the initial shock and dread of social marginalization frequently paralyze the victim's immediate familial circle. However, this permissive legal stance is strictly conditional upon the absence of intervening manipulation; it completely loses its elasticity when the temporal expanse is systematically utilized as a window for social engineering and matrimonial leverage. The evidence demonstrated that the informant's family spent this month-long period engaging in

community-brokered negotiations, treating the grave allegation of a violation not as a spontaneous cry for criminal justice, but as an asset to compel a marriage alliance. Astoundingly the victim disallowed to be physically examined for medical opinion being timidly bashful. Nor her age to be a minor was proved by the prosecution. This active attempt to trade a criminal liability for a domestic settlement strips the prosecution's case of its pristine, spontaneous character, rendering the eventual invocation of the penal machinery an institutional afterthought born from the breakdown of private negotiations.

31. The oral testimony of the young informant, deposing as PW-1, forms the primary pillar of the accusation, requiring this Court to evaluate her descriptions of criminal trespass and forced violation against the contemporaneous conduct of those within her immediate domestic environment. To establish an indissoluble chain of *res gestae* under Section 6 of the Indian Evidence Act, the prosecution relies upon the testimony of the sister-in-law, PW 3, who claimed to have caught a fleeting glimpse of the fleeing accused and to have immediately entered the quarters to discover the victim weeping and entirely denuded. This structural link dissolves upon a close review of the behavioral reactions that followed; the admission by PW 3 that she did not immediately clothe her vulnerable relative, raised no immediate hue and cry to alert the adjacent homesteads, and casually retreated to her own room within two to three minutes, represents a profound deviation from normal human conduct. This eerie domestic passivity within a shared courtyard where the grandfather, PW 5, and the

father, PW 2, were well within earshot strongly indicates that the scenario of an interrupted, fresh assault was retroactively scripted to inject an element of temporal immediacy where none existed, constructing an artificial timeline to satisfy the strict demands of a trial court.

32. Furthermore, the isolation of the charge under Section 376 of the Indian Penal Code—following the structural absence or deletion of secondary counts—fundamentally alters the legal relevance of the subsequent conduct evidence. The highly orchestrated social arbitrations and independent villagers like PW-8, PW-9 and PW-11, culminated in a compromise petition marked as Exhibit X within the precincts of the Police Station. With the lens narrowed exclusively to a charge of rape, the appellant's participation in these meetings and his subsequent flight from the Purulia Registry Office cannot be judicially translated into an admission of physical force under Section 8 of the Indian Evidence Act. His flight represents the desperate act of an individual escaping a coercive social mechanism designed to enforce matrimony through institutional pressure. Criminal law cannot be permitted to be deployed as a blunt instrument for the forced solemnization of marriage, nor can the grave charge of rape be treated as a conditional grievance that is waived upon the execution of a marriage register and revived only upon its failure. The prosecution has failed to establish the foundational parameters of a violation on the specific date alleged beyond a reasonable doubt, and the conviction stands entirely vitiated. The appellant is granted the full, unvarnished benefit of reasonable doubt.

33. In view of the aforesaid discussions, the judgment and order dated 31.05.2008 passed by the Learned Additional Sessions Judge, Fast Track Court No.3, Purulia in S.C. No.7 of 2008 / S.T. No.14 of 2008, is set aside.
34. Accordingly, the instant criminal appeal being CRA 393 of 2008 is allowed.
35. There is no order as to costs.
36. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
37. Photostat certified copy of this judgment, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)