**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRA-S-1849-SB-2004

**Reserved on: 05.03.2026
Pronounced on: 10.03.2026
Uploaded on:11.03.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/**full judgment***

DHARMINDER KUMAR

….Appellant

Versus

STATE OF HARYANA

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Vishal R. Lamba, Advocate
for the appellant.

Ms. Shaveta Sanghi, DAG, Haryana.

Mr. Karan Kalia, Advocate
for the complainant.

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RUPINDERJIT CHAHAL, J. (ORAL)

1. The present appeal has been filed by the appellant assailing his conviction and sentence ordered by learned Additional Sessions Judge, Panchkula vide judgment dated 04.06.2004. The appellant was convicted under Sections 363 and 376 of the Indian Penal Code (for short 'IPC') and sentenced to undergo rigorous imprisonment for seven years with fine of Rs.1000/- and in default of payment of fine, to further undergo simple imprisonment for three months for commission of offence punishable under section 376 IPC. He was further sentenced to undergo rigorous imprisonment

for two years with fine of Rs.500/- and in default of payment of fine, to further undergo simple imprisonment for two months under Section 363 IPC.

2. The prosecution case, in brief, is that on 29.06.2003 the prosecutrix, aged about 16 years and resident of village Bhairon Ki Sair, Police Station Kalka, made a statement to the police alleging that the accused Dharaminder Kumar @ Kaka had been approaching her for about 20–25 days prior to the occurrence near the Housing Board, Kalka, and had proposed marriage to her, to which she responded that the decision would be taken by her parents. It is alleged that on 28.06.2003 at about 11:30 A.M., the accused again met her and induced her to accompany him to Pinjore Gardens on the pretext that he would speak to her parents regarding marriage, whereafter they roamed together throughout the day, and in the evening he allegedly took her to the Kaushalya rivulet on the pretext of visiting a temple and committed sexual intercourse with her against her will, thereafter detaining her during the night. On the next morning, he took her towards Surajpur on foot and subsequently left her there on the pretext of arranging money, but did not return, upon which she eventually came back home and narrated the incident to her parents, who approached the police and lodged the complaint. During investigation, the prosecutrix as well as the accused were medically examined, her date of birth certificate was obtained from the school showing her date of birth as 07.01.1988, the site plan of the place of occurrence was prepared, the accused was arrested on 30.06.2003, and after completion of investigation, a report under Section 173 Cr.P.C. was presented against the appellant and he was Charge-sheeted for commission of offences punishable under Sections 363 and 376 of the IPC to which he pleaded not guilty and

claimed trial.

3. Learned counsel for the appellant has contended that the impugned judgment of conviction and the consequent order of sentence are legally unsustainable and liable to be set aside. It is argued that the learned Trial Court has misread and misappreciated the evidence on record and has recorded findings which are contrary to the material available on the file.

4. Learned counsel for the appellant argued that on the date of incident, the prosecutrix was major and went with the appellant and had sexual intercourse with her consent. He further argued that the age of the prosecutrix has not been proved beyond reasonable doubt. The prosecution has relied only upon a private school leaving certificate, which cannot be treated as conclusive proof of age in the absence of primary evidence such as a birth certificate issued by the Registrar of Births and Deaths. Learned counsel submits that no ossification test was conducted for determining age of the prosecutrix, as such the prosecution has left lacunas during the investigation, which is fatal to the case of prosecution. Learned counsel further contends that even according to the prosecution evidence, the prosecutrix was around 16 years of age at the relevant time. Her conduct in voluntarily accompanying the appellant to Pinjore Gardens, remaining with him throughout the day and night without raising any alarm, offering resistance, or seeking help despite being present in public places, and allegedly expressing willingness to accompany him further, renders the allegation of forcible sexual assault highly improbable and suggests that the relationship, if any, was consensual in nature.

5. Learned counsel for the appellant further submits that the Medical Officer who examined the prosecutrix shortly after the alleged occurrence did not observe any external or internal injuries suggestive of forcible sexual intercourse, which clearly suggests that the intercourse was consensual. This finding of the medical officer, further weakens the prosecution version.

6. It is also argued that there is no independent corroboration of the prosecution story from any material witness. The entire case rests solely upon the testimony of the prosecutrix, and material contradictions, omissions, and inherent improbabilities in her version have not been properly appreciated by the learned Trial Court. Learned Counsel for the appellant further argued that the prosecution case suffers from serious procedural and evidentiary infirmities as there was an unexplained delay in lodging the FIR. Thus, on these grounds, it is submitted that the possibility of false implication cannot be ruled out, and the findings recorded by the learned Trial Court have resulted in a grave miscarriage of justice, thereby warranting interference by this Court in the exercise of its appellate jurisdiction. Hence, he prays that the present appeal be allowed and the appellant be convicted of the charges framed against him.

7. Learned counsel for the appellant lastly argued that the incident in the present case had taken place 23 years ago. The victim (prosecutrix) and the appellant have entered into a compromise (Annexure A-1) stating therein that the prosecutrix does not want to proceed with the case against the accused and wants to close the case. Both of them are married (not to each other) and have settled in life. On 05/10/2025, the appellant suffered a paralytic attack

and left side of his body has become dysfunctional, and is under treatment at PGI, Chandigarh and the same can be verified from the affidavit dated 14.11.2025 filed by the learned state counsel. The learned counsel for the appellant contends that these are "adequate and special reasons" for awarding lesser sentence and prays that lenient view be taken. In support of his contention, he has placed reliance upon decision of Hon'ble Supreme Court in ***Nehnu Ram @ Narendra v. State of Rajasthan, 2020 (4) RCR (Criminal) 104;*** wherein the sentence under section 376 was reduced to sentence already undergone.

8. Per contra, learned State counsel has argued that the learned Trial Court has meticulously appreciated both the oral and documentary evidence on record and has returned a well-reasoned finding of guilt. It is contended that no perversity, illegality, or misreading of evidence has been demonstrated by the appellant so as to justify interference by this Court.

9. She argued that the learned Trial Court has rightly held that in the case of a minor, consent is legally immaterial, and any act of sexual intercourse would constitute the offence of rape under Section 376 IPC. She further submitted that the prosecutrix was duly proved to be below 16 years of age on the date of the incident, as established through reliable evidence including the school records and the testimony of her mother (PW-1). It is further submitted that the date of birth of the prosecutrix (07.01.1988) stands corroborated by the school leaving certificate as well as the testimony of competent witnesses. The non-availability of a municipal birth record has been duly explained, and the prosecution had produced the best available evidence in the circumstances. The Trial Court thus rightly relied upon the

settled legal principle that school records prepared prior to the incident possess significant evidentiary value in determining age.

10. Learned state counsel further contends that the conviction is primarily based on the direct testimony of the prosecutrix (PW-2), which is consistent, natural, and inspires full confidence. Her testimony remained unshaken during cross-examination. It is a well-settled principle of criminal jurisprudence that the sole testimony of the victim of sexual assault, if found credible and trustworthy, is sufficient to sustain conviction even in the absence of independent corroboration.

11. On these premises, learned State counsel submits that the findings recorded by the learned Trial Court are well-reasoned and supported by credible evidence, and therefore no ground for interference in appellate jurisdiction is made out. Consequently, the present appeal, being devoid of merit, deserves to be dismissed.

12. Learned counsel for the complainant has affirmed the factum of compromise between the parties and submitted that he has no objection if the present appeal is allowed and the appellant is acquitted of the charges against him or in the alternate the sentence of appellant is reduced to the period already undergone by him.

13. Learned counsel for the State has rebutted the contention of learned counsel for the appellant as well as of the learned counsel for the complainant regarding the factum of compromise and submitted that, since, the prosecutrix was minor at the time of alleged incident, hence, the present matter cannot be compromised between the parties.

14. This Court has heard learned counsel for the parties at length and carefully perused the record of the case as well as the impugned judgment passed by the learned Trial Court.

15. The principal contention raised on behalf of the appellant relates to the age of the prosecutrix and the plea that the alleged relationship between the parties was consensual in nature. Learned counsel for the appellant has argued that the prosecution failed to conclusively establish that the prosecutrix was a minor, as the prosecution relied upon a school leaving certificate instead of producing a birth certificate issued by the competent municipal authority. It has also been argued that no ossification test was conducted. This Court finds no merit in the said submission. The prosecution has produced the school leaving certificate reflecting the date of birth of the prosecutrix as 07.01.1988, which was duly proved during trial. The same stands corroborated by the testimony of the mother of the prosecutrix (PW-1). Nothing substantial has been elicited in the cross-examination of the said witness so as to discredit the authenticity of the document. It is well settled that school records prepared prior to the occurrence constitute relevant and reliable evidence for determining the age of a victim. In ***Jarnail Singh v. State of Haryana***, ***2013 (7) SCC 263***; the Hon'ble Supreme Court held that the date of birth recorded in school records can be relied upon for determining the age of a victim when such record was prepared in the normal course of business. The relevant paragraphs are reproduced as under:

> *"20. On the issue of determination of age of a minor, one only needs to make a reference to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as*

the 2007 Rules). The aforestated 2007 Rules have been framed under section 68(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000. Rule 12 referred to hereinabove reads as under :

*"**12. Procedure to be followed in determination of Age** - (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.*

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining -

(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act

and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule(3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law."

Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, ***we are of the view that*** *the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For,* ***in our view, there is*** *hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore,* ***in our considered opinion, it*** *would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would*

conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.

21. Following the scheme of Rule 12 of the 2007 Rules, it is apparent that the age of the prosecutrix VW - PW6 could not be determined on the basis of the matriculation (or equivalent) certificate as she had herself deposed, that she had studied upto class 3 only, and thereafter, had left her school and had started to do household work. The prosecution in the facts and circumstances of this case, had endeavoured to establish the age of the prosecutrix VW-PW6, on the next available basis, in the sequence of options

expressed in Rule 12(3) of the 2007 Rules. The ***prosecution produced Satpal (PW4), to prove*** *the age of the prosecutrix VW - PW6. Satpal (PW4) was the Head Master of the Government High School, Jathlana, where the prosecutrix VW - PW6 had studied upto class 3. Satpal (PW4) had proved the certificate Exhibit-PG, as having been made on the basis of the school records indicating, that the prosecutrix VW - PW6, was born on 15.5.1977. In the scheme contemplated under Rule 12(3) of the 2007 Rules, it is not permissible to determine age in any other manner, and certainly not on the basis of an option mentioned in a subsequent clause.* ***We are therefore of the view, that*** *the High Court was fully justified in relying on the aforesaid basis for establishing the age of the prosecutrix VW - PW6. It would also be relevant to mention, that under the scheme of Rule 12 of the 2007 Rules, it would have been improper for the High Court to rely on any other material including the ossification test, for determining the age of the prosecutrix VW-PW6. The deposition of Satpal-PW4 has not been contested. Therefore, the date of birth of the prosecutrix VW - PW6 (indicated in Exhibit P.G., as 15.7.1977) assumes finality. Accordingly it is clear, that the prosecutrix VW-PW6, was less than 15 years old on the date of occurrence, i.e., on 25.3.1993. In the said view of the matter, there is no room for any doubt that the prosecutrix VW - PW6 was a minor on the date of occurrence. Accordingly, we hereby endorse the conclusions recorded by the High Court, that even if the prosecutrix VW-PW6 had accompanied the accused-*

appellant Jarnail Singh of her own free will, and had had consensual sex with him, the same would have been clearly inconsequential, as she was a minor."

16. Similarly, the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Anoop Singh***, ***2015 (7) SCC 773;*** it was reiterated that school certificates carry evidentiary value where no better evidence is available. The relevant paragraphs read as under:

"12. This Court in the case of Mahadeo S/o Kerba Maske v. State of Maharashtra and Anr., 2013(3) RCR (Criminal) 932 : 2013(4) Recent Apex Judgments (R.A.J.) 580 : (2013) 14 SCC 637, has held that Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007, is applicable in determining the age of the victim of rape. Rule 12(3) reads as under:

"Rule 12(3): In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining -

(i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted

Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law."

13. This Court further held in paragraph 12 of Mahadeo S/o Kerba Maske (supra) as under:

"Under rule 12(3)(b), it is specifically provided that only in the absence of alternative methods described under Rule 12(3)(a)(i) to (iii), the medical opinion can be sought for. In the light of such a statutory rule prevailing for ascertainment of the age of the juvenile in our considered opinion, the same yardstick can be rightly followed by the courts for the purpose of the ascertaining the age of a victim as well."

(Emphasis supplied)

This Court therefore relied on the certificates issued by the school in determining the age of the prosecutrix. In paragraph 13, this Court observed:

> *"In light of our above reasoning, in the case on hand, there were certificates issued by the school in which the prosecutrix did her V standard and in the school leaving certificate issued by the school under Exhibit 54, the date of birth has been clearly noted as 20.05.1990 and this document was also proved by PW 11. Apart from that the transfer certificate as well as the admission form maintained by the Primary School, Latur, where the prosecutrix had her initial education, also confirmed the date of birth as 20.05.1990. the reliance placed upon the said evidence by the Courts below to arrive at the age of the prosecutrix to hold that the prosecutrix was below 18 years of age at the time of occurrence was perfectly justified and we do not find any grounds to interfere with the same."*

17. In the present case, the Trial Court has rightly concluded that the prosecutrix was below 16 years of age on the date of occurrence by relying upon the school leaving certificate. Once the prosecutrix is proved to be a minor, the question of consent becomes legally immaterial. The law is well settled that even if the prosecutrix had accompanied the accused voluntarily, the same would not absolve the accused from criminal liability.

18. The argument advanced by the learned counsel for the appellant regarding the conduct of the prosecutrix in accompanying the appellant to

public places without raising alarm also does not persuade this Court to doubt the prosecution case, particularly when the prosecutrix was a minor at the relevant time. The conviction in the present case primarily rests upon the testimony of the prosecutrix (PW-2). The prosecutrix categorically deposed that the accused enticed her on the pretext of marriage. He took her to the Pinjore garden and subsequently to the Kaushalya river, where he committed sexual intercourse twice against her will. He then abandoned her there under the guise of fetching money. Upon careful examination, her testimony appears consistent, natural and trustworthy. Despite detailed cross-examination, no material contradiction or improvement could be brought out which would undermine the credibility of her version. It is a settled principle of law that the sole testimony of the prosecutrix, if reliable and trustworthy, is sufficient to sustain a conviction even in the absence of independent corroboration. Reliance in this regard can be placed upon judgment of Hon'ble Supreme Court in ***State of Punjab v. Gurmit Singh, 1996 AIR (SC) 1393,*** wherein the Hon'ble Apex Court observed that the evidence of a girl or a woman who complains of a rape or sexual molestation be not viewed with doubt, disbelief or suspicion, such evidence of victim of sexual assault stands almost at par, with evidence of an injured witness and to an extent even more reliable just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be good witness in the sense that he is least likely to shield the real culprit, evidence of victim of sexual offence is entitled to great weight. The relevant paragraphs are reproduced below:

"8. …… 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 of 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. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion ? The Court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is

no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subject to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undersidable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable. In State of Maharashtra v. Chandraprakash Kewalchand Jain, JT

1990(1) SC 61 : 1990 (1) SCC 550, Ahmadi, J. (as the Lord Chief Justice then was) speaking for the Bench summarised the position in the following words :

"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 the 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 reasons 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."

9. We are in respectful agreement with the above exposition of law. In the instant case our careful analysis of the statement of the prosecutrix has created an impression in our minds that she is a reliable and truthful witness. He testimony suffers from no infirmity or blemish whatsoever. We have no hesitation in acting upon her testimony alone without looking for any 'corroboration'. However, in this case there is ample corroboration available on the record to lend further credence to the testimony of the prosecutrix."

19. The contention regarding absence of injuries on the person of the prosecutrix is also not sufficient to discredit the prosecution case. The Hon'ble Supreme Court in ***State of Himachal Pradesh v. Raghubir Singh & Ors. 2024 AIR (SC) 2395;*** has held that absence of injuries on the body of the prosecutrix cannot by itself negate the occurrence of rape.

20. Learned counsel for the appellant strongly argued that there was an unexplained and fatal delay in lodging the FIR, suggesting deliberation and manipulation by the complainant party. The record shows the prosecutrix went missing during the daytime on 28.06.2003, returned to her house the

next day (29.06.2003), and the FIR was registered by PW-5, ASI Narinder Kumar, at 8:15 P.M. This Court finds no undue or fatal delay in these circumstances. It is entirely natural human conduct that when a minor girl goes missing, the parents first make frantic efforts to search for her on their own at the houses of relatives and acquaintances before knocking on the doors of the police. Furthermore, upon her return and the revelation of the sexual assault, it takes time for the family to reconcile with the trauma. Cases involving sexual offences carry a heavy social stigma that impacts the honor of the unmarried girl and the prestige of the entire family. Parents naturally hesitate and require time for cool deliberation before making the matter public via a police complaint. The trial court rightly observed that this natural hesitation explains the timeline, and it does not reek of any false manipulation. It would be apposite to refer herein a judgment rendered in ***Om Parkash v. State of Haryana, 1999(1) Recent Criminal Reports 266 (P&H),*** wherein it has been held that a complaint regarding a sexual offence is generally lodged only after giving a cool thought. The delay in lodging FIRs in rape cases can be attributed to a variety of reasons, particularly the natural reluctance of the prosecutrix or her family members to approach the police; as such matters deeply concern the dignity of the prosecutrix and the overall honour of the family. It is pertinent to note that in the said case, there was a delay of 01 day in reporting the matter to the police, which was not considered detrimental. Therefore, in view of the facts, circumstances, and the settled proposition of law discussed above, the delay in lodging the FIR to the police in the present matter is not fatal to the case of the prosecution.

21. This Court also finds that the learned Trial Court has properly appreciated the oral as well as documentary evidence on record and has recorded a well-reasoned judgment. No perversity, illegality or misreading of evidence has been demonstrated by the appellant so as to warrant interference in appellate jurisdiction.

22. From the totality of the oral, medical, and documentary evidence, this Court comes to the inescapable conclusion that the prosecution has successfully established its case beyond all reasonable doubt. The appellant enticed the minor prosecutrix away from her lawful guardianship and subjected her to rape. The findings of the learned Additional Sessions Judge, Panchkula, holding the appellant guilty for the offences punishable under Sections 363 and 376 of the IPC, are well-reasoned, legally sound, and require no interference.

23. In view of the foregoing discussion and the reasons recorded hereinabove, the prosecution has successfully proved its case against the appellant beyond reasonable doubt and this Court finds no illegality, perversity or infirmity in the impugned judgment of conviction passed by the learned trial Court., and no ground is made out warranting interference by this Court in exercise of appellate jurisdiction. The judgment of conviction passed by the learned trial Court is hereby upheld and affirmed.

24. Insofar as the order of sentence is concerned, this Court is of the view that peculiar facts and circumstances of the present case warrants some degree of leniency. It has been brought to the notice of this Court that during the pendency of the present appeal, the appellant suffered a paralytic attack as a result of which the left side of his body has become dysfunctional and

for which he is under treatment at PGI, Chandigarh. It is also not disputed that the occurrence in question is more than 23 years old. Furthermore, it has been stated that the appellant and the prosecutrix have married though not to each other and the prosecutrix has entered into a compromise with the appellant. These circumstances taken cumulatively, constitute adequate and special reasons within the meaning of proviso to section 376(2) IPC for taking a lenient view in the matter of sentence. Accordingly, while maintaining the conviction of the appellant as recorded by the learned trial Court, this Court deems it appropriate to modify the order of sentence. The substantive sentence awarded to the appellant is reduced to the period already undergone by him. The appeal is disposed of accordingly.

(RUPINDERJIT CHAHAL)
JUDGE

10.03.2026
Puneet....

i) Whether speaking/reasoned? Yes
ii) Whether reportable? Yes