

COURT OF ADDITIONAL SESSIONS JUDGE, SRINAGAR

Challan: 179/2015

CNR No JKSG010010112012

Date of Instt: 11-08-2012

Date of Order: 01-06-2026

In the case of:

**State of J&K through Police
Station Railway Hamray
Through: Mr. Reyaz Ahmad Bhat Ld. APP**

Versus

**Imtiyaz Ahmad Rather.
S/o Mohammad Maqbool Rather.
R/o Gotapora Budgam at present
Employee Railway Hamray**

(Accused)

Through Advocate Mushtaq Ahmad Dar.

**Case FIR No 01/2012 P/S Railway Hamray
Under Sections 363,376,342 RPC**

**Coram: Mr. Farooq Ahmad Bhat
J.O.Code: JK-00119**

J U D G M E N T

1. This charge sheet bearing FIR No. 01/2012 for the commission of offences under Sections 363, 376, and 342 RPC of Police Station Railway Hamray came to be presented before the court of the Ld. Judicial Magistrate, Pattan, who vide order dated 11th August 2012 committed the same to the court of the Ld. Principal Sessions Judge, Baramulla. The challan thereafter came to be transferred to the court of the Ld. 1st Additional Sessions Judge, Baramulla by the Ld. Principal Sessions Judge, Baramulla vide order dated 18th August 2012. However, during the pendency of the challan before the court of the Ld. 1st Additional Sessions Judge, Baramulla, the complainant filed a petition seeking transfer of the case from the court of the Ld. 1st Additional Sessions Judge, Baramulla to the court at Srinagar, which petition came to be allowed, and the Hon'ble High Court vide order dated 17/02/2014 transferred the challan from the court of the Ld. 1st Additional Sessions Judge, Baramulla to this court. Thereafter, the Ld. 1st Additional Sessions Judge, Baramulla, in compliance with

the orders passed by the Hon'ble High Court, submitted the challan to this court vide order dated 29/08/2014.

2. Briefly stating the case of the prosecution is that the prosecution witness No.4 named in the challan on 14-07-2012 has presented an application filed by PW-1 endorsed by SHO police station Pattan wherein it is submitted that on 11-07-2012 the accused named in the challan has given a false promise of marriage to the PW-1 and after deception took her to his government residential quarter for committing illegal intercourse with her and kept her in the said quarter for 2 days and 2 nights and has forcibly committed illicit intercourse with her many times. On this police station Pattan has entered the application of PW-1 in the daily Roznamcha her medical examination was conducted. As per the medical report the commission of the offences under section 376 RPC was established. Since the area does not fall under the police station Pattan as such report was entered in the Naqalmad and sent to police station Railway Hamray along with the PW-1 for further action.

On this a case FIR No. 01/2012 for the commission of the offences under-sections 363,376 RPC was registered in the police station Railway Hamray and the investigation of the case was entrusted to PW-12. During the investigation after reaching at the place of occurrence the site map was prepared and on the identification of the PW-1, separate site Map was prepared regarding the residential quarter block 103 Room No.C of the accused named in the challan and photography was also conducted. The accused named in the challan was not present on the spot. The search of the residential room of accused was conducted and during the search from the room concerned 3 No. condoms and little handful cotton was found on the spot and accordingly seized. The room was sealed on the spot. The statements of the witnesses conversant with the facts of the case have been recorded. Since the PW-1 was student of 9th class, as such the accused named in the challan has enticed the said PW-1 and taken her to government residential quarter and kept her in his room for committing illicit sexual intercourse with her. The accused for 2 days and for 2 nights has several times committed forcible sexual

intercourse with her. During investigation the statement of the PW-1 named in the challan was recorded under section 164 Cr.P.C before the competent court at Pattan. The medical report was obtained and the potency test of the accused named in the challan was conducted and the certificate regarding the same was obtained. Separately the wearing apparels of the PW-1 named in the challan and the wearing apparels of the accused named in the challan were seized in the case and were separately sealed. Thereafter, they were re-sealed again before the Executive Magistrate 1st Class Pattan and sent to FSL for the opinion. On the basis of the facts, circumstances and the evidence collected the offences punishable under-sections 363,376,342 RPC were established against the accused named in the challan. The accused was taken into custody on 15-07-2012 who has been released on bail. Lastly, the challan came to be presented before the court for judicial determination.

3. The accused was charged for the commission of the offences punishable under sections 376,363,342 RPC by the court vide order dated 18/12/2012. The contents of the charge were read over to the accused who pleaded not guilty and claimed for the trial of the case. The prosecution was accordingly directed to produce the evidence in support of their case. The prosecution out of 13 listed witnesses has succeeded in producing 12 witnesses. The evidence of the prosecution came to be closed on 12th of September 2019. The statement of the accused under-section 342 Code of Criminal Procedure came to be recorded on 14th of October 2019. Since the accused could not be acquitted under the provisions of section 273 Code of Criminal Procedure, as such accused was directed to lead the evidence in his defence. The accused in his defence has also produced four witnesses and the defence evidence came to be closed on 30/10/2024. Thereafter Ld.APP has filed a petition under section 540 Code of Criminal Procedure for producing Principal and Admission Clerk Holy Mission Secondary School Pulwama as witnesses in the case which petition came to be allowed by this court vide order dated 28/8/2025 and the aid witnesses were allowed to be produced before this court as prosecution witnesses. The statements of the said two witnesses

came to be recorded on 25th of September 2025. The further statement of the accused under section 342 Code of Criminal Procedure after recording the statements of said two witnesses came to be recorded on 24/11/2025 and the accused opted not to produce any further defence evidence as such the file was posted for final arguments.

4. The details of witnesses examined by prosecution are as under :

PW-1) XXX (Name Withheld) (witness to occurrence, first information report and seizure) examined on 3/9/2013 & 30/8/2013).

PW-2) Mohammad Ashraf Dar S/o Gh.Rassool Dar R/o R/o Check Kigam Pulwama (witness to occurrence and seizure) examined on 20/01/2014.

PW-3) Nazir Ahmad Mir S/o Abdul Khaliq Mir R/o Dursoo Pulwama (witness to occurrence) examined on 02/05/2013.

PW-5) Mohammed Yasin Ansari Sub Inspector Incharge RPF Hamray (witness to occurrence) examined on 20-12-2017

PW-6) Dr.Rubina Medical Officer Govt. Hospital Pattan (Witness to medical report) examined on 1/04/2015.

PW-7) Dr.Manzoor Ahmad Medical Officer Govt. Hospital Pattan (Witness to potency test of accused) examined on 20/04/2014.

PW-8) Head Constable Ghulam Qadir Police station Railway Hamray (Witness to seizure) examined on 30/09/2015.

PW-9) Head Constable Mohammad Yousuf Police station Railway Hamray (Witness to seizure and arrest) examined on 20/04/2013.

PW-10) Lady Constable SG Jawahira) (Witness to seizure) examined on 30/09/2015.

PW-11)Constable Mrehraj-ud-din Photo section Police station Railway (Witness to photography) examined on 30/09/2015.

PW-12) Sh.Ghulam Hyder Sub Inspector police station Railway (Investigating Officer) examined on 10/08/2017.

PW-13) Khalid Paul Inspector SHO Police station Railway (witness to lodging of FIR, seizure and satisfaction of investigation) examined on 22/11/2017.

PW-14) Inayat Hussain Wani Principal Holy Mission Secondary School Pulwama(Witness to the DOB certificate of Prosecutrix) examined on 25/09/2025.

PW-15) Mohammad Ashraf Bhat Admission clerk Holy Mission Secondary School Pulwama(Witness to the DOB certificate of Prosecutrix) examined on 25/09/2025.

5. The memos and other documents produced in this case along-with the challan and their respective exhibits during the trial of the case are detailed as under:

S.No	Details of documents	Exhibit No
1.	Application of complainant for registration of case	EXTPW-1
2.	Site map regarding quarter No 103 Block Railway	EXPW-12
3.	Site map of place of occurrence	EXPW-12/1
4.	Seizure memo regarding 3 No Condoms and cotton	P ½
5.	Search and seizure memo regarding the accused	EXT-P9
6.	Seizure memo regarding the wearing apparel (under wear) of accused	EXT-P 9/1
7.	Seizure memo regarding the wearing apparels of prosecutrix	EXT-P10
8.	Medical report regarding examination of prosecutrix	EXT-P5
9.	Certificate regarding date of birth of Prosecutrix	Mark-A
10.	Arrest memo regarding accused	EXPW-12/2
11.	Handover memo regarding prosecutrix	EXT.P-2

6. As stated here-in-above that prosecution besides producing 12 listed witnesses in this case has also produced further two witness under the provisions of section 540 Cr.P.C, as such the gist of their evidence is reproduced as under:

PW-1 Prosecutrix Dated 30-08-2013.

During the examination-in-chief, the witness deposed that she knows the accused present in the court. The occurrence took place on 10th July 2012. She went out from her home after obtaining permission from her family for going on a picnic, which her family had refused to permit. She reached Pulwama and changed her plan. She

thought that she would go sightseeing by railway. She reached Kakapora and boarded a train. She reached Hamray Railway Station where all the passengers deboarded the train. When she came out from the railway station, she met the accused present in the court. The accused asked her where she wanted to go, and she replied that she had to go to Pulwama. The accused told her that he was working in the Railway Department and asked her to stay in his quarter till he arranged her ticket. After the accused returned, he committed illegal acts with her. She stayed in the quarter of the accused. Her condition at that stage indicated that the accused had committed forcible acts with her, as she was looking obliquely towards the accused. The accused committed forcible sexual intercourse with her. She remained detained in the quarter of the accused for two days. On Friday, at the time of Namaz, she knocked at the door and someone opened it. She could not see who had opened the door because, as soon as it was opened, she came out from the room and ran away. Thereafter, she reached the road, boarded a Sumo vehicle, and reached Pattan. She went to a park and was weeping there because she was unfamiliar with the area. Later, two boys entered the park and came to her. They handed her over to Police Station Pattan. She was told at the police station to lodge a written report. She herself wrote the report regarding the occurrence. She saw the written report annexed with the file and identified her signature on the same. She had read the contents of the application and understood them to be correct. When she wrote the report, she was frightened. The contents of the application were dictated to her by someone, and the report was marked as EXTP-1. SHO Pattan questioned her as to whether she could identify the place of occurrence, i.e., the quarter. She replied in the affirmative that she could identify the place of occurrence. Personnel of Police Station Pattan took her to the said place of occurrence. SHO Police Station Pattan questioned her at the place of occurrence as to whether she could identify the accused, and she replied in the affirmative. The accused had fled away from the place of occurrence, due to which he was not present there. SHO Police Station Pattan told one person there to call the accused on the phone.

The said person called the accused and asked him where he was, to which the accused replied that he was at his home. She then returned to Police Station Pattan and remained there for the night. On the next day, she, along with the police personnel of Police Station Pattan, went to Hamray where SHO PS Hamray asked her to show them the room of the accused where he had committed wrong acts with her. When the police opened the room, they recovered condoms and other articles from inside and seized the same. Thereafter, they again returned to Police Station Pattan. Later, for conducting her medical examination, she was taken by Police Station Pattan to Baramulla Hospital. At Hamray, the SHO Railway Police asked for the phone number of her family, which she provided, and he called her family members. Her family members came to Railway Station Hamray. Her father and maternal uncle came there. Thereafter, she returned to her home. She had given her statement before the court of Sub Judge Pattan. She identified her signature on her statement recorded under Section 164-A Cr.P.C. She herself had read the statement recorded under Section 164-A in the court, and the contents of the same were true. She had given her first statement before the court of Sub Judge Pattan, which was marked as Mark-P 1/1. After giving the statement, she went to her home. On the day of occurrence, she was a student of Class 9th.

During the cross-examination, the witness deposed that it is true that EXTPW-1 bears her signatures. She does not know who dictated the contents of EXTPW-1 to her. She was shown the seizure memo regarding the condom and identified her signatures on the same. However, the signatures appearing on EXTPW-1 and on the seizure memo regarding the condom do not appear to match. The seizure memo regarding the condom was marked as P-1/2. She further stated that she is known by the name "XXX (Name Withheld)" at her home, whereas her actual name is "XXX (Name Withheld)." She had written her name as "XXX (Name Withheld)" on application EXTPW-1, whereas on seizure memo P-1/2 regarding the condom, she had written her name as "XXX (Name Withheld)." She stated that there was otherwise

no difference. She further deposed that the statement given by her before the Court at Pattan was correct. It is incorrect that she had not put her signatures on P-1/1; however, the same bears her signatures. She does not remember whether she had put her thumb impression on Mark P-1/1. She also does not remember whether she had affixed her thumb impression on her statement recorded under Section 164-A Cr.P.C. before the Court at Pattan, as the statement was given in the year 2012. She further stated that, on the day of occurrence, she had gone for a picnic, meaning thereby that she had gone for entertainment and enjoyment. She does not remember the exact time she had left for the picnic, as she did not possess a watch. Prior to the day of occurrence, she had never visited Hamray Railway Station or travelled by train. When she sought permission from her maternal family members, they did not ask her to take anyone else along with her. She often travelled alone to her maternal home on Saturdays after seeking permission. However, before the day of occurrence, she had never gone alone for a picnic, and on that particular day she had gone alone without any special reason. She stated that she had not boarded the train specifically for going to Hamray; rather, when the passengers de-boarded at Hamray Railway Station, she too got down from the train. She had purchased a railway ticket, but it was not with her because she had lost it while she was kept in the room by the accused. She further stated that, before Friday, she had never knocked at the door because the accused had kept her locked inside the room. On the day of occurrence, the accused had not locked her inside the room, but during the following two days he kept her confined in his quarter while he went for duty. She further deposed that she submitted application EXTPW-1 at the police station after returning home. At this stage, the witness started weeping. She admitted that she had boarded the train for going to Baramulla and for sightseeing in Baramulla town. She did not possess a mobile phone on the day of occurrence. She had not disclosed to her maternal family members that she intended to visit Baramulla town. She stated that she reached Hamray Railway Station during daytime but did not know whether the train had come from Hamray to

Baramulla or vice versa. She got down from the train at Hamray because many passengers had de-boarded there, and she followed them. She saw a board displaying the name "Hamray" at the railway station but did not verify exactly where she had reached. She did not ask any passenger or other person about the place or about the route to Baramulla. She further stated that the person who dictated the contents of the FIR application was in civil dress and did not appear to be a police official. That person dictated the contents to her, and after reading the same she signed it in both Urdu and English. She came from her home for a picnic on 10th July 2012 and reached Hamray Railway Station on the same day. On 10-07-2012, she remained in the accused's quarter throughout the night. On 11-07-2012 and 12-07-2012, she also remained in the said quarter, and on 13-07-2012 she ran away from the said quarter. She further stated that, before running away, she had not complained to any railway staff member or pedestrian that the accused had detained her in the room. When she left her home for the picnic, she was carrying Rs. 500/-, out of which Rs. 350/- remained with her when she reached Hamray. While travelling in the Sumo vehicle to Pattan, other passengers were also present, but she did not disclose to any of them that she had been detained for three days or that any illegal act had been committed against her. She also did not narrate the occurrence to the two persons who had taken her from Pattan Park to the police station. She further deposed that she reached Police Station Pattan on 13th July 2012 and, on the same evening, was taken by the police to Hamray. By that time, it had become dark. The police had not recorded her statement at that stage. She presented the first information report, i.e., EXTPW-1, before the police station, but her statement was not recorded then. Her statement before the learned Judge at Pattan was recorded on the following day. She had gone from her home to the Court at Pattan for recording her statement. During that night, she stayed at Police Station Pattan. She further stated that Police Station Pattan first took her to Pattan Hospital for medical examination, where she was examined by a lady doctor. Thereafter, she was taken to Hamray Police Station and subsequently to Baramulla Hospital. On

the first day, neither she nor the police visited the accused's quarter. On the next day, she accompanied the police to the quarter where she had allegedly remained for three days. The SHO of the Railway Police accompanied her to the quarter on the following day. She identified the quarter, which was situated on the first floor above the ground floor. However, she could not tell how many other quarters were situated there. The police asked her which quarter belonged to the accused, and she identified the same. She further deposed that she entered the quarter along with the police and pointed out the place. The police seized condoms lying in the room. She herself could not identify what a condom was. She denied the suggestion that the accused had telephoned her and lured her to Hamray Railway Station on the false promise of marriage. She also denied the correctness of Nakalwad Report No. 31 dated 13-07-2012 to the extent that such facts had been attributed to her. She further stated that, when she left home for the picnic, she had not made any specific plan regarding her destination. However, before changing her plan, no particular place was in her mind. She left her home on 10th July 2012 and reached Hamray Railway Station on the same day. She was not questioned by the police regarding the exact date. The date 11th July 2012 mentioned in the Nakalwad and attributed to her was incorrect. She does not remember whether she had written the date on the initial application for registration of the report. However, after the application was read over to her, she acknowledged that the application and the date written therein were in her handwriting. She further stated that the police seized one unused condom, which remained in its packet. Apart from that, no other article was seized in her presence. She could not tell how many condoms were seized by the police, though one condom was seized in her presence. She had not eaten anything during those days and had only consumed water. She did not know whether the accused had eaten anything, though in her presence he had not eaten in the room. She further stated that, as she was kept confined in the room, she could not tell whether there was any bathroom there. During those three days, she had not gone to the bathroom because of shock. She further stated that her father

and maternal uncle had come to Hamray Railway Station after contacting her on phone, though she did not know at what time they arrived. When they reached Hamray, she accompanied the police from the accused's quarter, where the condom had been seized. She was taken to Baramulla Hospital by the police on Saturday. She does not remember whether the police took her to Baramulla Hospital on the same day the condom was seized. Her medical examination was conducted at Baramulla Hospital by a lady doctor. She admitted that Police Station Pattan had also taken her to SDH Pattan before taking her to Baramulla Hospital. She does not remember whether her statement recorded under Section 164-A Cr.P.C. bore her thumb impression. During the night she stayed at Police Station Pattan, she slept with a lady constable. A lady constable also accompanied her to Hamray. At the time she left her home, she was wearing a purple-coloured trouser and frock, and she had not changed her clothes while staying in the accused's quarter. She further stated that, being a minor on the date of occurrence, she did not understand what constituted rape or wrongful acts. During the period she stayed in the accused's quarter, she never caused any injury to the accused, though she had touched him. Her clothes were not torn, and she changed them only after returning home. On a question put by the Court, the witness replied in a blushing manner that the accused had inserted his male organ/penis into her genitals. Thereafter, the defence counsel was permitted to further cross-examine the witness, during which she stated that the accused had committed wrongful acts with her, namely by inserting his penis into her private parts.

PW-2: Mohammad Ashraf Dar Dated: 20-01-2014.

During examination in chief witness deposed that he knows the accused present in the court since the day of occurrence. The occurrence took place about one and half year ago. On the day of occurrence his daughter was reading in class 9th in Holy Mission Public School Pulwama. On the day of occurrence his daughter went out from her home for going to house of some relative. His daughter is residing at maternal home. His daughter has gone to railway station Kakpora

and from there she boarded in the train for going to Baramulla. The train was stopped at Hamray railway station where lot of passenger deboard the train in which his daughter was also included. After coming out from the railway station his daughter had started going towards national highway. His daughter got interacted with the accused present in the court at Hamray. The accused is employee in the railway department. The accused has enticed his daughter and took her to his residential quarter situated at Hamray and kept her hostage in the quarter for two days and two nights. The accused has committed intercourse with his daughter and the day was Friday. On Friday his daughter kept hostage by the accused in his residential quarter has knocked the door of the room on which some person has opened the door. His daughter ran away from the residential quarter of the accused and went towards National Highway. After reaching at National Highway his daughter boarded in a Sumo and reached to a track at Pattan. After reaching to a park at Pattan. His daughter was weeping there due to which people gathered there and people took his daughter to the police station Pattan. His daughter has registered a case FIR against the accused in police station Pattan. The Pattan police handed over his daughter to police station Hamray. She was knowing that his daughter has to go to Baramulla for picnic through train, however when his daughter did not return back she had filed a missing report in police station Pulwama regarding his daughter. Police station Pattan handed over his daughter to police station Hamray then SHO police station Hamray made a phone call to him and told that his daughter has been recovered by the police. She went to police station Hamray where police has handed over the daughter to him. Police has taken receipt from him regarding his daughter. The receipt memo regarding the abductee was prepared by the police station which bears his signature. He identifies his signature on the receipt memo ,the contents of the hand over memo were read over to him and admits to be true and correct which is marked as EXTP-2. He recorded his statement before the police. Police has conducted the medical examination of his daughter. On the second day after she was hand over to him, her medical examination was conducted. In his presence

police has not completed any formality, however his daughter was handed over to him.

During the cross-examination by the defence counsel witness deposed that his daughter was undergoing education on the day occurrence and was residing at the home of her maternal uncle. The name of maternal uncle of her daughter is Nazir Ahmad Mir. His daughter is putting up at the house of her maternal uncle since her childhood. He was knowing that his daughter has to go to Baramulla for picnic however, he does not know when her daughter boarded in the train. He was told by his daughter regarding the occurrence. When he was called on phone by police station Hamray then he went to the police station Hamray and came to know about the occurrence there. When his daughter did not return back in the evening i.e. not returned back to maternal home the maternal uncle of his daughter told him on the phone that his daughter is missing. On the next day i.e. 13th July he has registered a missing report in police station Pulwama. His daughter has gone from her maternal home on 12th July. It was told to him by the maternal uncle of his daughter that his daughter has gone from the maternal home on 12th. The maternal uncle of his daughter has not himself filed any missing report to the police however, he has called him on phone. He has registered the missing report in police station Pulwama at about 11.00 AM. He was not shown the copy of the missing report. He does not know whether police has kept the missing report with this case. When his daughter was detained in the residential quarter of the accused she has knocked the door and some person has opened the door. He does not know that person nor does know his name. Today also he does know the name of the person who has opened the door. His daughter has not told anything about the said person who has opened the door of the residential quarter of the accused. His daughter has deboard the train at Pattan and had not came to home. He does not know the names of the persons who have taken his daughter to police station Pattan nor his daughter has taken anyone's name. When his daughter ran away from the residential quarter time was about 2:30 afternoon. He has not entered into the

quarter of the accused however he has seen the quarter from outside. The quarter was two storied. He does not know whether besides accused anyone is residing in the said quarter. SHO police station Hamray has called him on the phone at 11:00 AM during the day. His daughter was knowing his phone number and she had given his phone No to the SHO. His daughter was not having any phone no. due to which he had not contacted her. His daughter was frightened a lot. He reached at police station Hamray at about 1:30 during the day. He was not having any contact with police station Pattan. His daughter wants to travel in the train due to which reason she boarded in the train at Kakpora and was willing to go towards Baramulla. He has no relative in village Hamray or village Baramulla nor has friendship with anyone. When train stopped at Hamray railway station lot passenger deboard there. His daughter also deboard from train at Hamray. He waited in police station Hamray for lot of time. During this police station Hamray has conducted the formalities regarding the case. His signatures were taken on the handover memo by police at 4.00 PM. He cannot tell the date, however perhaps date was 15th July. He has recorded his statement before the police after 2 days his daughter was handed over to him. After second day of handling over his daughter police has conducted her medical examination.

PW-3 Nazir Ahmed Mir Dated: 02-05-2013.

During the examination-in-chief, the witness deposed that he had seen the accused at Hamray after the occurrence. The occurrence pertains to 11.07.2012 or 12.07.2012. His niece had gone from her home towards Pulwama. From Pulwama, Kakapora Railway Station is situated at a short distance, from where the abductee boarded the train. She did not know where she had to go; however, she intended to go for a picnic. The abductee suddenly got down at Hamray Railway Station and started proceeding towards the road. All the passengers had already left the place and the abductee was alone there. At that time, the accused came there, met the abductee and asked her where she intended to go. The abductee replied that she wanted to return to Pulwama on a return ticket. Thereafter, the accused told her to

accompany him and assured her that he would arrange her return ticket. The accused then took the abductee to his quarter and kept her there for two days and two nights. During this period, the accused committed illegal acts with the abductee. Thereafter, on Friday, the abductee knocked at the door of the room where the accused had confined her. When someone opened the door, she ran away from the room and reached Hamray Crossing. From there, she travelled in a vehicle to Pattan, where she sat in a park and was weeping. Thereafter, some people handed her over to the police. Subsequently, the Hamray Police informed them over the telephone. At the time of the occurrence, the abductee was a student of Class 9th. Her statement was thereafter recorded by the police.

During the cross-examination, the witness deposed that the abductee was residing at Kegam Check and is his niece, which now falls within District Shopian. There is a distance of about 10 kilometers between Darsu and Check Kegam. The abductee was studying at Holy Mission Higher Secondary School, Pulwama, while residing with him at Darsu. The school is situated at a distance of approximately one kilometer from his residence. The abductee was residing with him and, therefore, he had greater knowledge regarding her activities. On the day of the occurrence, the abductee had not gone to school. The abductee informed his wife, i.e., her maternal aunt, that she would go to her home at Check Kegam on that day. On the following day, they verified from her home whether the abductee had reached there or not. They were informed that the abductee had not reached there. Thereafter, he made inquiries from all the relatives. The father of the abductee then came to his house so that the abductee could be searched for. On the third day, they came to know that the police at Police Station Hamray had informed Police Station Pulwama regarding the matter. He does not remember the exact date on which they went to the police station; however, it was a Saturday. They went to Police Station Pulwama at about 9:00 PM and thereafter proceeded to Pattan. The abductee has one more sister but no brother. Prior to the incident, the abductee did not possess any mobile phone. Before the

occurrence, the abductee was not going for the picnic without his permission. When he came to Pattan, he was accompanied by the father of the abductee, and one neighbour, namely Mushtaq Ahmad, also accompanied them. Mushtaq Ahmad is a resident of Darsu. It is incorrect to suggest that Mushtaq Ahmad is a police official; rather, he is a civilian and their neighbour. When they reached the police station, the prosecutrix was kept with a lady constable. They then went to Police Station Hamray, where the accused was arrested. They saw the accused with police personnel from a considerable distance. The accused was not present in the said room. The abductee informed them about the identity of the accused. The application was submitted by the abductee and not by them. At that time, they also saw the residential quarter where the abductee was allegedly kept. According to them, the abductee had been kept there by the accused. The police themselves took the abductee to a doctor at Baramulla. They did not accompany them but remained present at the police station. Apart from this, no other proceedings were conducted by the police in their presence. From Baramulla Hospital, the abductee returned to Hamray at about 4:30 PM in the evening. Thereafter, they did not stay there for the night. She had given her statement before the police on Monday. It is correct that the statement given by him before the Court today was based on what he had heard from the abductee.

PW-5 Mohammad Yaseen Ansari Dated 20-12-2017.

During his examination-in-chief, the witness deposed that in the year 2012 he was posted as a Sub-Inspector at Hamray Railway Station, Pattan. From Room No. 103, Block-C, three condoms and a handful of cotton were seized, and a seizure memo regarding the said recovery was prepared by the police, bearing his signatures. He identified the same and stated that the contents thereof are true and correct. The document has already been marked as Exhibit P-1/2. His statement was recorded by the police.

During cross-examination by the defence counsel, the witness deposed that he could not state in whose name Quarter No. 103, Block-C, was allotted. No person accompanied the police party at that

time. The accused present in the Court was not accompanying the police at that time. The identification of the room was made by the Investigating Officer, namely Haider Sahib. The police party was accompanied by a girl. However, he did not remember whether the said girl was taken by the police inside the quarter or was kept outside. He could not state how many police personnel were present at the spot. No local railway official accompanied the police party. The condoms were seized and thereafter sealed by the police.

PW-6 Doctor Rubina Azeez (Medical Officer) Dated: 01-04-2015.

During the examination-in-chief, the witness deposed that a girl, namely XXX (name withheld), was brought to SDH Pattan on 13.07.2012 at about 9:30 PM by the local police for medical examination. After conducting a proper gynecological examination, she found that one finger could be passed inside the vagina with pain. Vaginal smear samples and dried secretions from the pubic hair near the labia were collected and sent for laboratory examination. The report of the vaginal smear showed dead spermatozoa, along with a few epithelial cells (++) and mucus (++) . In her opinion, the intercourse appeared to have taken place approximately 8 hours prior to the examination. The hymen was found ruptured. The age of the girl was assessed to be about 13-14 years. She issued a certificate in her own handwriting bearing her signatures. The contents thereof were stated to be correct, and the certificate was marked as EXTP-5.

On cross-examination by the defence counsel, she stated that she had not mentioned the year in Certificate EXT-P5, though the day and month were mentioned. She further stated that she had not mentioned the parentage, residence, or identifying marks of the said girl in the certificate. The SHO, Pattan, brought the girl before her for examination. She does not clearly remember whether the SHO was accompanied by the police personnel who had brought the girl before her. No lady constable accompanied the girl at the time of examination. She asked the girl about the place from where she had come, but the girl provided incorrect information regarding her

whereabouts and residence. After a period of 10-15 days or one month, some police personnel from Police Station Pattan contacted her over the phone and enquired about the whereabouts and location of the girl. She informed them that the girl was at PHC Vanigam and asked them to come there. Subsequently, three police personnel arrived, to whom she provided the exact address from where the girl had been brought. The witness further stated that the girl had incorrectly mentioned the date of examination. She also stated in the certificate that the girl had again been brought before her. However, she could not explain why the girl was again brought before her. She received the smear report analysis within half an hour to one hour. She prepared the smear slides and further stated that she had placed vaginal secretions and secretions from pubic hair on the slides, though she was unaware of the remaining details regarding the preparation of the slides. She did not remember the number of slides she had prepared for examination. The pubic hairs were not shaved. The analysis of the slides was not conducted in her presence. The slides were not sealed before being sent for examination. She verbally informed the police regarding the conduct of the ossification test and dental examination of the girl for determination of age. However, she did not record the same in Certificate EXT-P5. She stated that the age mentioned in the certificate was based on the statement of the girl. In Certificate EXT-P5, the line quoted below, namely, "Final Opinion Reserved" and "Second Opinion would be taken by the Gynecologist," had been struck off, though the same was not done by her. She further stated that the final opinion was to be given by the expert gynecologist. According to her, the duration of such intercourse must have been eight years earlier. She admitted that the duration mentioned in her handwriting was incorrect and stated that such an error may have occurred due to pressure of work.

PW-7: Dr. Manzoor Ahmed (Medical Officer SDH)
Dated: 20-04-2016

During the examination-in-chief conducted by the APP, the witness deposed that on 16-07-2012 at about 12:15 PM, the accused,

namely Imtiyaz Rather S/o Mohammad Maqbool Rather, R/o Gotipora, Budgam, was brought by the SHO, Police Station Railways, Hamray Baramulla, to SDH Pattan for a potency test. The witness medically examined the accused and rendered the following opinion: "The secondary sexual characteristics were found to be normal. The patient gave a history of nocturnal penile tumescence (NPT). Both the testes and penis were well developed and normal. The patient was found to be sexually potent; however, the accurate and final opinion was to be given by the Department of Endocrinology at SKIMS." The witness further stated that the certificate was correct and bore his signatures. The same was marked as EXPW-7.

On cross-examination by the defence counsel, the witness deposed that he had not given the final opinion and that his opinion was based on guesswork.

PW-8 H.C Ghulam Qadir Dated: 30-09-2015.

During the examination-in-chief, the witness deposed that on 14-07-2012 he was performing his duties in the Railway Police at Hamray and was posted as Track In-charge. The occurrence pertains to 14-07-2014. He stated that he was called by the personnel of the Police Station from the track and was informed that they had to proceed to Quarter No. 103/C, where the accused was residing. He identified the accused present in the Court and stated that the accused was performing his duties there during those days. He further deposed that, besides the SHO and Dy. S.P., one Sub-Inspector namely Ghulam Haider was also present at the spot. He accompanied them to the quarter where the search was conducted. During the search of the room of the accused, three condoms and a handful of cotton were recovered, which were seized in his presence by the Investigating Officer as proof/evidence. A seizure memo regarding the said recovery was prepared, on which he was cited as a witness. The seizure memo is annexed with the file and has already been marked as P-1/2. The contents thereof are true and correct. He identified his signatures on the same. He further stated that he had made a similar statement before the Investigating Officer and

identified his signatures on his statement recorded under Section 161 Cr.P.C.

During the cross-examination by the defence counsel, the witness deposed that no written order had been issued to him for conducting a search at the quarter of the accused. He further stated that he did not know who allotted the quarters to the persons residing therein. The witness also stated that he was unaware whether Quarter No. 103-C had been allotted in the name of the accused. None of the police personnel accompanying him made any inquiry regarding whether Quarter No. 103-C was allotted to the accused or not.

The witness further deposed that Quarter Nos. 102/C and 104/C were adjacent quarters in the building where the railway personnel were residing. In his presence, no person from Quarter Nos. 102/C, 104/C, or any other adjacent quarter to Quarter No. 103/C was called to the spot. He stated that he does not remember whether any independent witness was present at the spot. According to him, no private person was associated as a witness in his presence.

The witness further stated that from 12th July to 14th July, 2012, he was not performing duties with the accused at Gate No. 6-C. He knew that the personnel posted at the gate used to perform their duties there till 8:00 p.m. During those days, he was residing in a government quarter near the railway Fatak (Gate). His quarter was situated at a distance of 21 kilometres from the police station, whereas Hamray Police Station was situated at a distance of about two and a half kilometres.

The witness further stated that the Investigating Officer had seized both used and unused condoms. The seizure memo annexed with the file was shown to the witness in Court; however, the Investigating Officer had not specifically mentioned "used condoms" and "unused

condoms" therein, but had merely mentioned "sealed condoms." The Investigating Officer asked the witness to put his signatures thereon, and accordingly he signed the same. The witness further stated that he had not seen the seized articles in Court on that day.

PW-9: H.C. Mohammad Yousuf Dhobi Dated: 20-04-2016.

During the examination-in-chief, the witness deposed that the occurrence took place on 14.07.2012. The complainant came to Hamray Railway Station and submitted an application stating therein that his minor daughter had been kidnapped by a boy. On the basis of the said application, a case was registered and investigation was initiated. On 15.07.2012, the accused was arrested. The witness further deposed that the accused, who was present in the Court, was the same person who had been arrested in connection with the case. The search of the accused was conducted, and from his possession, an amount of Rs. 4,900/-, one mobile phone, and one perfume bottle were recovered. A search memo relating to the accused was prepared, on which the witness appended his signatures as an attesting witness, and he identified the same before the Court. The contents of the said search memo are true and correct, and the same has been marked as EXPW-9. The witness further stated that one undergarment of the accused was seized, and a seizure memo in this regard was prepared and annexed with the case file. The contents thereof are true and correct. The witness identified his signatures on the said seizure memo, which has been marked as EXTP-9.

During the cross-examination by the counsel for the accused, the witness deposed that the report presented before him by the complainant did not mention the name of his daughter. He further stated that he does not know whether the application bears the signature of the complainant. The abductee herself was not the complainant in the said application. The witness was shown application EXPW-1 before the Court, wherein the name of the complainant was written as XXX (name withheld) Bano. At the time of the personal search of the accused, no civilian witness was associated as a witness.

He does not know from where the accused was arrested. He further stated that he does not know whether the complainant had mentioned the name of the kidnapper in his written report. The personal search of the accused was conducted on 15th July 2012. On 15th July 2012, he recorded his statement before the police. Only four articles were seized during the seizure proceedings.

PW-10: SG. Jawahira 767/GRP Dated 30-09-2015.

During her examination-in-chief, the witness deposed that in the year 2012 she was posted at Railway Police Station Hamray. On 14-07-2012, she was performing her official duty, i.e., conducting a search. A lady was present near the police station and was directed to accompany them to Block 103-C, where certain seizures were effected. Thereafter, she, along with two to three police personnel and the said girl, proceeded to the said block. The said girl personally produced certain articles before the police, including three condoms, some cotton, one undershirt, a frock, and a pajama, which belonged to the said girl and were subsequently taken into possession by the police. A seizure memo was prepared on the spot. The seizure memo pertaining to the apparel produced by the girl is annexed with the file and bears her signatures. The said document has been marked as EXP-10. She further stated that her statement was recorded by the police to that extent. The statement recorded under Section 161 Cr.P.C. bears her signatures, which she identified.

During cross-examination by the counsel for the accused, the witness deposed that the seized wearing apparels, as reflected in seizure memo EXPW-10, were produced before the police by the girl herself. In the said seizure memo, there is no mention of any condom; rather, it is stated that the condoms were produced by the girl herself. The witness further deposed that, in her presence, 2/3 condoms were seized. However, the police did not mention the presence of any person in the seizure memo prepared with respect to the wearing apparels. The witness also stated that some of the condoms were used. From the seized articles, she has not seen any article in the Court today. She does not know how many families are

residing in the said blocks. The witness further stated that Quarter No. 103/C belonged to the accused; however, she could not tell who was residing in Quarter Nos. 102 and 104. She also could not identify whose room was adjacent to the quarter of the accused. The witness further deposed that no person was called in her presence to act as a witness, nor were any signatures obtained from anyone on the seizure memo relating to the wearing apparels. The abductee had brought those wearing apparels from her home along with her.

PW-11: H.C. Mehraj Din war Dated 30-09-2015.

During the examination-in-chief, the witness deposed that in July 2012 he was posted at the SDPO Office, Baramulla, as a photographer. Whenever any incident occurred, he was called by the officers to take photographs. His area of duty extended from Baramulla to Pattan. On 14th July 2012, he was called by the SHO, Railway Station Hamray, for conducting photography. Thereafter, he was taken to a quarter. He does not know who was residing in the said quarter; however, he conducted photography inside the quarter and took photographs of a girl. Besides this, he also photographed three condoms, some cotton lying in the room, bed sheets, clothes, etc. The photographs were 12 in number, which were shown to him by the APP before the Court. The photographs shown to him are the same photographs which have been marked as Mark-A.

During the cross-examination by the counsel for the accused, the witness deposed that he had not been informed through any written docket; rather, he was called by the SHO Hamray over the phone in the morning. He went alone along with the police from the police station to the spot. He does not know whether the police tried to ascertain if Quarter No. 103 was allotted in the name of the accused, nor did they verify whether Quarter No. 103/C had been allotted to some other person. He stated that the quarters in the said building are generally allotted to residents. The witness further deposed that the people residing in the building were not called to the spot, and the police instructed him only to conduct the photography. At the time he conducted the photography, no one except the police

personnel and the girl was present there. He took the photographs at the instance and direction of the police. He does not know when the police entered the quarter. He also stated that he had not taken any photographs adjacent to the said quarter. He does not know who had kept the articles there, the photographs of which he had taken. The witness further stated that no relative of the girl was present at the spot. When the girl came from her home, he does not know. He also does not know whether the key of the quarter was with the police or not. He stated that the police opened the quarter after breaking the lock, but he has no knowledge regarding the same. He further stated that he does not know the accused present in the Court.

PW-12: Ghulam Haider Sub Inspector Dated: 10-08-2012.

During his examination-in-chief, the witness deposed that in July 2012 he was posted at Railway Police Station, Hamray. On 14.07.2012, while he was performing his official duties, he was required to submit a report when a train from Hamray Station proceeded towards Anantnag and Baramulla. Upon his return to the police station, FIR No. 01 of 2012 under Section 363 RPC was entrusted to him for investigation. At that time, the complainant, Ms. XXX (name withheld), was also present in the police station. The said FIR was entrusted to him by the then SHO. The witness stated that he first met the complainant and inquired about the occurrence. During the inquiry, the complainant stated that two days earlier she had come from her home at Keygam, Shopian, for a picnic after obtaining permission from her family. When she reached Railway Station Kakapora, she changed her mind and boarded the train for the picnic. Upon reaching Hamray Station, a large number of passengers alighted from the train, and the complainant, believing it to be the last station, also got down from the train while the train proceeded towards Baramulla. The complainant remained alone on the platform, became anxious, and started thinking about what to do next. Thereafter, when the complainant came out of the station and proceeded towards the highway, one person, namely accused Imtiyaz Ahmad, met her, introduced himself as a railway employee, and

assured her that he would arrange a ticket for her. The accused then allegedly took the complainant to his nearby residential quarter and wrongfully confined her there for two days, during which period he allegedly committed forcible sexual intercourse with her. The witness further deposed that the copy of the FIR was annexed with the file and had been entrusted to him by the then SHO for conducting investigation in the matter. The application submitted by the complainant before Police Station Pattan, already marked as EXTPW-1, was annexed with the file. Thereafter, Police Station Pattan submitted Nakalnad Report No. 31 along with the application of the complainant, on the basis of which the FIR was registered at Hamray Railway Police Station against the accused. He further stated that the medical examination of the complainant was conducted and her statement under Section 164-A Cr.P.C. was recorded before the Court at Pattan. The copy of the statement obtained from the court was placed on the file. Prior to this, the complainant had been taken for medical examination before the Medical Officer, SDH Pattan, and the medical report obtained therefrom was annexed with the challan. As per the medical report, offences under Sections 367 and 373 RPC were established. The witness further deposed that he prepared the site plan regarding the occurrence, which was annexed with the file and marked as EXPW-12. He identified his signatures on the same, marked as EXPW-12/1, and stated that the contents thereof were true and correct. He also identified his signatures on EXPW-12 and affirmed the correctness of its contents. The witness further stated that a seizure memo regarding three sealed condoms and a handful of white cotton seized from the spot was prepared. He identified his signatures on the seizure memo, which had already been marked as P-1/2. During the investigation, he also prepared the seizure memo regarding the wearing apparel of the accused, which was marked as EXTP-11, and identified his signatures thereon. He further stated that he prepared the arrest memo of the accused in his own handwriting, the contents whereof were true and correct. He identified his signatures on the same, which was marked as EXTW-12/2. During the investigation, the father of the complainant produced

the birth certificate of the prosecutrix, on the basis of which it was established that the complainant was a minor. The certificate was annexed with the file. Thereafter, the complainant was handed over to her father against proper receipt, and the memo regarding the receipt was annexed with the challan. The witness identified his signatures on the said memo. The undershirt, trouser, and dupatta of the prosecutrix were sent to the FSL for expert opinion. After receipt of the FSL report, the same was annexed with the challan. Statements of witnesses under Section 161 Cr.P.C. were also recorded and annexed with the file. The witness further stated that photographs of the place of occurrence, numbering twelve, were taken and annexed with the challan, marked as Mark-A to Mark-L. After completion of all departmental formalities and upon obtaining a satisfaction report from the SHO regarding the investigation, the challan was presented before the competent court at Pattan. According to the investigation conducted by him, offences under Sections 363, 376, and 342 RPC were established against the accused.

During the cross-examination, the witness deposed that on 14-07-2012 he was entrusted with the investigation of the case. The medical examination of the prosecutrix was conducted through Police Station Pattan. The First Information Report was presented before Police Station Pattan. He obtained the FIR from his Sarishta for the purpose of investigation. The FIR was handed over to him by Police Station Hamray. He received the application of the abductee vide Nakalmad No. 31 dated 13-07-2012 from the Railway Police Station. After commencing the investigation, he recorded the statement of the abductee under Section 161 Cr.P.C., on which the signatures of the abductee were obtained. The challan annexed with the file was prepared by the SHO and bears his signatures. The statement of the prosecutrix recorded under Section 161 Cr.P.C. was not annexed with the challan. The statement of the abductee recorded under Section 161 Cr.P.C. was entered in the Zimniyat. It is correct that the complainant had stated in the application that the accused had called her on the phone. The FIR was registered on the basis of application

EXPW-1 and Nakalmad Report No. 31 dated 13-07-2012. It is mentioned in the Nakalmad that the matter falls within the jurisdiction of Police Station Hamray. He further stated that he had not conducted any investigation regarding the reason as to why the accused had called the prosecutrix on the phone. Regarding spot map EXPW-12, he had not obtained any report from the Railway Office as to in whose name Quarter No. 103 stood allotted. He did not know whether the quarter concerned was allotted in the name of the accused or not. In this regard, he had not written any docket to the Railway Department. On 14-07-2012, he was entrusted with the investigation of the case. The complainant stayed in the quarter of the SHO, Police Station Pattan, during the night. He could not state whether the statement of the prosecutrix recorded under Section 164-A Cr.P.C. was contradictory to the First Information Report EXPW-1 and Nakalmad No. 31. After recording the statement under Section 164-A Cr.P.C., there was no requirement to annex the statement recorded under Section 161 Cr.P.C. with the challan. He stated that such a direction had been issued by the Hon'ble High Court; however, he could not specify the year in which the said ruling was issued. It is provided under the Cr.P.C. that the statement recorded under Section 161 Cr.P.C. need not be annexed with the challan when a statement under Section 164-A Cr.P.C. has been recorded. He had conducted investigation in several such cases. The last Zimni was prepared by the SHO. Besides their employees, the father of the prosecutrix had also given his statement. He further stated that the radiology test of the abductee was conducted for determination of her age and the medical opinion was obtained. However, he admitted that no radiology test of the complainant regarding her age was conducted by him. The doctor, during the medical examination of the girl, had assessed the age of the abductee to be between 13 and 14 years. It is correct that the complainant was taken by the SHO, Police Station Pattan, for medical examination and not by him, although he had received the report. On 16-07-2012, he received the opinion from the doctor. On the same day, the statement of the abductee was recorded under Section 164-A Cr.P.C. He further

stated that during the course of investigation, it did not come to his notice that talks regarding marriage between the abductee and the accused were going on. He had not written any docket regarding the school certificate annexed with the file. He had not personally visited the school concerned for verification of the certificate or to ascertain whether the same was genuine or not. The wearing apparel of the complainant was seized on 14th, whereas the wearing apparel of the accused was seized on 15th. A letter was issued to the FSL through the Executive Magistrate, Pattan, and a copy of the docket was to be annexed with the challan. After obtaining the copy of the statement recorded under Section 164-A Cr.P.C., he perused the same. However, after obtaining the said statement, he did not inquire from the complainant as to why there existed contradictions between her statement, the First Information Report, and Nakalmaid No. 31. Regarding the condom, cotton, and application EXPW-1/2 allegedly sent to the FSL, he had not mentioned the same in his Zimniyat. The condom and cotton, as referred to in EXPW-1/2, were not sent to the FSL. From 14th to 16th, the complainant remained with her father. They later called the father of the complainant; however, due to hartal on that day, the statement of the abductee could not be recorded. It is possible that since the abductee had remained with her parents, contradictions arose in the statement recorded under Section 164-A Cr.P.C., the First Information Report, and the Nakalmaid Report.

PW-13: Khalid Pal Inspector Dated: 22-11-2017.

During his examination-in-chief, the witness deposed that he had accorded his satisfaction regarding the investigation conducted in FIR No. 01/2012 under Sections 367, 342, and 376 RPC. He stated that, after examining the facts and circumstances of the case, he found the investigation to be proper and accordingly recorded his satisfaction. Thereafter, the challan was presented before the Court. The investigation of the case was conducted by Ghulam Haider, SI, who, after completion of the investigation, presented the instant challan before the competent Court. Besides this, the witness also attested the seizure memo marked as P-1/2 annexed with the file. He

has seen the said seizure memo in the Court today and identified his signatures appearing thereon.

During the cross-examination by the defence counsel, the witness deposed that the First Information Report was presented before him. He read the report, which is already marked as EXPW-1. He also perused Nakalmad Report No. 31 of Police Station Pattan. The copy of the FIR was written in his presence. At the time of registration of the FIR, the statement of the complainant in support of the First Information Report was recorded in his presence. He put his signature on the FIR, which he identifies. The FIR was presented before him on 14th July, 2021. Perhaps on that very day, the statement of the girl was also recorded under Section 164-A Cr.P.C. It is not correct that the prosecutrix was first handed over to her parents and thereafter her statement under Section 164 Cr.P.C. was recorded. The abductee herself had written the application which she presented before the police. He cannot say whether the abductee had mentioned in her initial report that the accused person had called her on the phone. At the time of giving his satisfaction regarding the investigation, he had perused the First Information Report, Nakalmad, and the statement recorded under Section 161 Cr.P.C. He did not find any contradictions between the statement recorded under Section 161 Cr.P.C., the First Information Report, and the statement recorded under Section 164 Cr.P.C. It is wrong to suggest that during the investigation the abductee first went back to her home for 2-4 days and that her statement under Section 164 Cr.P.C. was recorded thereafter. It is true that the statement of the abductee under Section 161 Cr.P.C. was recorded on the same day.

PW-14. Inayat Hussain Wani (Principal Holy Mission School Pulwama) Dated: 25-09-2025.

During the examination-in-chief conducted by the learned APP, the witness deposed that he does not know the accused present in the Court and is unable to identify him. He further stated that he has been serving as the Principal of Holy Mission School, Pulwama for the last five years and, prior thereto, was working as a teacher in the said

school. He has been associated with the institution since the year 2009. The witness further deposed that, as per the official records produced by him, the particulars of XXX (Name Withheld) Kounser are recorded under Admission No. 489. As per the admission register dated 20-11-2011, the date of birth of XXX (Name Withheld) is entered as 24-07-1999. The names of the parents are recorded as Mohammed Ashraf Dar and Hasena. The date of birth, in words, is recorded as "Twenty-Fourth of July, Nineteen Hundred Ninety-Nine," and the place of residence is mentioned as Checkpow Trechal Kiegam. The witness further stated that, as per the school records, the discharge certificate in favour of the said XXX was issued on 25-03-2013. He also deposed that he is presently serving as the Principal of the institution and that the admission register produced before the Court was obtained by him today from the admission department of the school.

During the cross-examination by the learned defence counsel, the witness deposed that the admission register produced by him pertains to the 9th class. He further stated that the details mentioned in the admission register regarding XXX (Name Withheld) were neither written by him nor do they bear his signatures. The entries in the said register were made on the basis of the old admission register of XXX (Name Withheld). In the relevant entry column of the said register, it is clearly mentioned that the entries were "transferred from the Middle Department vide Admission No. 558." The witness further stated that he could produce the said admission register, which remained with his clerk. He did not know what documents were produced by the parents of XXX (Name Withheld) at the time of her admission. According to him, he had merely been asked to depose before the Court. The witness further stated that he had seen the school record pertaining to XXX (Name Withheld). In the admission register, under Admission Serial No. 491 relating to student Faisal Ayoub Pandit, there is no mention of the documents on the basis of which the date of birth was recorded. He further deposed that he did not know whether the date of birth of

XXX (Name Withheld) had been entered on the basis of any certificate issued by a Government Department or Corporation. He also stated that no vaccination card or certificate relating to the date of birth of XXX (Name Withheld) had ever been shown to him prior to the present proceedings, nor was any such document produced before him earlier. The annexed certificate relating to the date of birth of XXX (Name Withheld) was shown to him in Court for identification purposes and was marked as Mark-A. However, he stated that he had no knowledge regarding the particulars of the certificate, as it neither bore his handwriting nor his signatures, and had instead been issued by the then Principal. The Principal who had issued the certificate at the relevant time was Mohammad Ismail Wani, S/o Ali Mohammed Wani, R/o Riathan, Pulwama. The witness further deposed that he was neither a handwriting expert nor had he received any training in that regard. The certificate marked as Mark-A bears the seal of Holy Mission School. On the seal, the words "Office of the Principal" are written in the inner circle, while "Holy Mission Secondary School Pulwama" is written in the outer circle. The witness further stated that he had no knowledge as to on whose application the certificate marked as Mark-A had been issued, or as to who had actually issued the same. He further deposed that the admission form pertaining to XXX (Name Withheld) had neither been seen by him on that day nor shown to him before the Court.

PW-15: Mohammad Ashraf Bhat (Admission Clerk)
Dated: 25-09-2025.

During his examination-in-chief, the witness deposed that he is presently posted as an Admission Clerk at Holy Mission Secondary School and has been working in the said school as an Admission Clerk since the year 2021. He further stated that the admission registers pertaining to the Middle and Secondary classes were brought by him to the Court from the concerned admission section of the school. The witness further deposed that, as per the admission register of the Middle Class bearing Serial No. 558 dated 20-11-2008, the date of birth of XXX (Name Withheld) is recorded as 24-07-1999, and the name of her father is entered as Mohammed Ashraf Dar, resident of

Checkneel Trechal Kegam. He further stated that, as per the Secondary Class admission register under Admission No. 489 dated 24-04-2011, the date of birth of XXX (Name Withheld) is also recorded as 24-07-1999, and the parentage is mentioned as Mohammed Ashraf Dar, while the mother's name is recorded as Haseena Akhtar, resident of Checkneel Trechal Kegam. The witness further deposed that the certificate regarding the date of birth, marked as Mark-A and annexed with the file, also reflects the date of birth as 24-07-1999. He stated that the same particulars are mentioned in both the admission registers, and in both the registers the date of birth is recorded as 24-07-1999.

During the cross-examination by the defence counsel, the witness deposed that he has been posted in the said school since 2021. The entries in the said two registers and Certificate Mark-A annexed with the file are neither in his handwriting nor do they bear his signatures, nor were the same entered in his presence. He has no knowledge as to on what basis those details were entered. He further stated that he has no knowledge regarding the secondary admission register, middle admission register, as well as Certificate Mark-A, including under whose handwriting and signatures the entries were made or what proof regarding the date of birth of XXX (Name Withheld) was produced by her father at the time of admission. He further deposed that he had neither seen the admission form of XXX (Name Withheld) prior to that day nor was the same shown to him. He stated that he saw the primary admission register for the first time in the court on that day. He also deposed that in the year 2012, he was not working in the said school and, therefore, has no knowledge regarding the documents issued during that period.

7. The statement of the accused under section 342 Cr.P.C was recorded on 24-10-2019 and the incriminating evidence brought on the record against him was put to him for his explanation to which he has replied, which is summarized as under:-

(Q) Prosecution witness No.1 stated that on 10-07-2012 when she was minor she went for picnic, however later on she boarded in a train and

was going towards Baramulla. She came down from the train at Hamray Railway Station where you met the prosecution witness No.1 and asked him where she wants to go. She replied that she wants to go to Pulwama, you told the witness that he is an employee of Railway and he can arrange the railway ticket. Later on you took the witness to your quarter and kept her detained in the quarter from evening of 10-07-2012 till 13-07-2012 and has committed forcible sexual intercourse with her and on 13-07-2012 she hardly managed to ran away from the quarter and after boarding in a Sumo reached to Pattan Town and where she was seen by the two boys who told her to report the matter to police station on which PW-1 has given a report written in urdu EXPW-1/1. Later on during the investigation the Witness No.1 has shown the quarter to the police she was kept hostage by you, where from police have recovered Condoms. Later on the PW-1 was medically examined and was handed over to her legal heirs as such you have enticed the PW-1 and for committing sexual intercourse you have kept her detained in the quarter and thereafter has committed forcible sexual intercourse with her and what you have to say?

(Ans) The witness has given totally wrong statement. Actually, he from 10-07-2012 till 13-07-2012 was performing his duties at gate C-6 which is about 2 $\frac{1}{2}$ to 3 KM's away from the Hamray railway station.

(Q) The prosecution witness No.3 Nazir Ahmad stated that on 11/12 July 2012 PW-1 went from her home towards Pulwama and then she boarded in a train and reached to Hamray railway station where she met with you and took her to your quarter on the pretext of providing her the ticket. Then you kept her in your possession for two nights and has done wrong acts with her and on Friday the witness No.1 ran away from the quarter and gave report to police. Those days the witness No. 1 was student of class 9th and was reading in Holy Mission School Pulwama. What you has to say about this?

(Ans) Sir, the witness has given false statement neither he has committed any occurrence nor he was performing his duties on the station those days. He was performing his duties at railway entry point which is at a distance 2/3 KM's.

(Q) Prosecution witness Mohammed Ashraf has stated that you have enticed the witness No.1 and kept her hostage in the quarter for two nights and has committed forcible sexual intercourse with her their for two days and on Friday witness No.1 has knocked the door and ran away from the quarter. She boarded in the Sumo and reached at Pattan and gave information to police. Later on police after completing the formalities has handed over the witness No.1 to his legal hears regarding which handover memo EXPW-2 was prepared?

(Ans) Sir, the prosecution witness No.1 has given false statement as he has been involved by GRP personal falsely. Actually, quarter 201 is in his name and during the days when the occurrence is alleged to have taken place, he has not gone there but the quarter was locked. From 12-07-2012 till 13-07-2012 he was performing his duties at his place and in the evening Bashir Ahmed Malla who is a railway Gatemen came to duty in his place and he went back to his home.

(Q)The prosecution witness Dr. Rubina Aziz has stated that on 13-07-2012 she has conducted the medical examination of the PW-1 and found that the prosecution witness who was aged about 13-14 years at that time and someone has committed sexual intercourse with her and also she found that the Hymen of PW-1 was ruptured and one finger passed into Vagina with pain. What you have to say regarding the same?

(Ans) Sir, he has no knowledge regarding the same. On 13-07-2012 after performing his duties when he reached to his home he received a phone call from an unknown number whereby he called back. On 14-07-2012 he went back to the station where he was taken into custody by the police and implicated in a false case.

(Q) The prosecution witness H.C Mehraj Ud-Din stated that he has conducted the photography after going to quarter situated at Hamray station which photographs are on the file and are marked as mark A to L. While as witness SG Jawahira has stated that from the spot three Condoms, Cotton and one undershirt ladies and Trouser was seized as detailed in EXPW-10?

(Ans) Sir, quarter No 201-A is allotted in his name. So far as the quarter regarding which police has stated the GRP personal were residing there.

(Q) The witness Ghulam Qadir stated that during the search of the quarter three Condoms were recovered?

(Ans) Sir, the witness has given false statement and regarding same he has given his statement here-in-above.

(Q)The witness namely Ghulam Hayder has stated that the investigation of the case FIR. No. 01/2012 was handed over to him and during the investigation the offences under sections 363,376 RPC were established, while as Dr. Manzoor has stated that you were found to be fit and potent. What you have to say regarding the same?

(Ans) Sir, the case of the police is baseless and forged. Actually, GRP personal have cut down the tress regarding which he has filed a complaint before the higher officers. For raising voice against the GRP personal, he was implicated in a false case.

(Q)Witness H.C. Mohammed Yousuf, Khalid Pal Inspector and Mohammad Hussain Ansari has supported the police investigation. What you have to say regarding the same?

(Ans) Sir, the witnesses has given false statement. He does not know the said girl nor has he seen her.

(Q) Why the prosecution witnesses in their statements have given evidence against you?

(Ans) Sir, He has filed complaint against the GRP Officers especially against SI. Ghulam Haider for cutting the tress and has also filed a complaint against the SHO concerned who for taking revenge against him in connivance with the police has prepared a baseless and concocted case and involved him in the same. During the patrolling on the track SI. Ghulam Hayder has threatened him of killing. He has filed a complaint and also contacted his union at that time and union has contacted with the SSP. and told to him that he was been threatened by the police and on this very basis GRP. Personal were

having rivalry with him. They had implicated him in the case in order to teach me a lesson.

(Q) The prosecution witness Inayat Hussain has stated that as per the school record the DOB of XXX (Name Withheld) is 24-07-1999 and as per the entry in the records the name of the father and mother of XXX (Name Withheld) is recorded besides her residence is also written. The witness has further stated that on 25-03-2013 he has issued discharge certificate regarding XXX. What you have to say?

(Ans) The evidence given by the witness is concocted and baseless as no such record has been produced in the court nor any such evidence has been produced on the basis of which the DOB of the victim would be found correct because no school admission form was presented nor that admission form regarding the DOB was proved before the court. On what certificate or document, the DOB of the victim was entered.

(Q) The witness Mohammad Ashraf has stated in his statement before the court that he is working in the Holy Mission Secondary School as Admission Clerk. He has brought the record along with him. As per the record under serial No. 558 dated 20-11-2008, the DOB of XXX (Name Withheld) is entered as 24-07-1999 and the name of her father as Mohammed Ashraf Dar and the Resident of Checkneel Trichal Kegam. He has further stated that under the admission register bearing No. 489 dated 20-09-2011 the DOB of Kausar is 22-07-1999 and as per the admission register his parentage is Mohammed Ashraf Dar, mother's name Haseena Akhtar and residence Checkneel Trichal Kegam and regarding this birth certificate placed on record is marked as Mark-A. On both the registers the DOB is mentioned as 22-0-7-1999. What you have to say?

(Ans) The clerk who has given his evidence has not entered the DOB in the concerned register. The clerk concerned and Head Master and the Principal who have recorded the DOB of the victim on the admission register have not been cited witness in the case as the evidence is concocted and baseless and false because the age of the victim at that time was 25 years.

(Q) Whether he want to lead any defence evidence with regard to above witnesses?

(Ans) He does not want to produce any defence evidence in this regard nor any medical record regarding the vaccination in which the DOB of the victim is mentioned. Those documents have not been produced by the complainant or complainant party or I/O nor any certificate was produced before the court on the basis of which the DOB of the victim was recorded, as such the DOB of the victim mentioned in the certificate is false and fabricated. The DOB which is shown in the certificate has been falsely prepared after the occurrence as such same is not correct.

8. The accused in his defence has produced four witnesses namely DW-1 Javid Ahmed Ganie S/O Mohammed Sultan Ganie R/O Panivah Kulgam, DW-2 Hafizullah Mir S/O Abdul Ahad Mir R/O Sunur Kulipora, DW-3 Fayaz Ahmad Bhat S/O Abdul Hamid Bhat R/O Ompora Budgam and DW-4: Bashir Ahmad Mallah S/O Ghulam Hassan Mallah R/O Dewsar Edigam Kulgam. The gist of the defence evidence is reproduced as under:-

DW-1 Fayaz Ahmad Bhat Dated: 01-02-2020.

During the examination-in-chief, the witness deposed that he knows the accused present in the Court. He stated that the accused was employed in the Railway Department as a Gateman. The witness further stated that from 09-07-2012 to 14-07-2012, the accused was performing his duties at Hamray Railway Station on Gate No. C-6. During those days, the accused was residing in a quarter situated near the railway crossing (Fatak). The witness further deposed that on 13-07-2012 at about 8:30 PM, he, along with the Station Master, was proceeding towards the quarter after completing their duties. When they reached near the quarter, they heard noise coming from outside. Upon coming out, they found some police personnel present there, accompanied by a girl. The police personnel present there asked the witness about the whereabouts of the accused. The witness replied that the accused, Imtiyaz Ahmad, was performing his duties at Gate No. C-6, which is situated near the railway track towards Budgam

Railway Station. Thereafter, the police personnel started searching for the accused and handed over the girl to the SHO, GRP. The witness further stated that during those days, the SHO, GRP was Ghulam Haider, who allegedly had rivalry with the accused. The accused was then performing his duties on the main gate, whereas earlier he had worked as a Keyman. The duty of the accused was to report, prior to the movement of trains, that the railway track was clear and free from any obstruction. One copy of such report was to be submitted to the GRP officer and another to the Station Officer. The witness further deposed that although the accused was submitting correct reports, the SHO, GRP continued to maintain hostility towards him. The SHO allegedly used to threaten the accused and, at times, also threatened the witness. The SHO had allegedly stated that he would implicate the accused in the present case. The witness further stated that the accused had been allotted Quarter No. 201-A, while the witness was residing in Quarter No. 201-D. During the period of the alleged occurrence, the accused was not residing in his allotted quarter; rather, GRP personnel were residing there. The witness stated that he used to meet the accused every day. The witness further deposed that on the day of occurrence, when he and the Station Master were proceeding towards the quarter and heard noise, he saw that the prosecutrix was accompanied by personnel of Police Station Pattan. Finally, the witness stated that the accused is a man of good character and that the allegations levelled against him are false and baseless.

During the cross-examination by the learned APP, the witness deposed that the SHO, GRP, was misbehaving with the accused and was also threatening the witness. It is true that, had the police party of Police Station Pattan not brought the prosecutrix to the quarter, the GRP police would not have come there, as the GRP police was not competent to bring her nor would they have registered the case. It is further true that the Pattan Police brought the girl to the quarter, after which she was handed over to the GRP personnel. Until the prosecutrix was brought to the railway quarter by Police Station

Pattan, no one was aware of the occurrence that had allegedly taken place. The police personnel inquired from him about the accused, to which he replied that the accused was performing his duties at the Fatak, which is approximately two and a half kilometres away from the station. He has no knowledge regarding the investigation conducted thereafter. He does not know on which day the police registered the case. He stated that the accused had asked him to give his statement, and accordingly he is deposing before the Court today. The accused had not provided him with any information regarding the occurrence; however, he has stated only those facts which he personally witnessed and mentioned the same in his statement. He does not know whether the girl was present in the quarter of the accused or whether she had been kept there; however, he did see the girl in the company of the police personnel.

DW-2: Hafeez-u-llah Mir Dated: 13-02-2023.

During the examination-in-chief, the witness deposed that the accused had been transferred and that Quarter No. 201-A was allotted to him on 07-03-2013. The witness further stated that the Investigating Officer of the case had worked with him for about one and a half months; however, his behaviour was not good. At the time of the occurrence, the accused was performing his duties at Gate C-3, due to which he frequently used to visit the Budgam office. The witness further deposed that prior to the allotment of Quarter No. 201-A to the accused, the said quarter had already been allotted to him. The witness stated that the character of the accused was good. Before the accused, another person had been working there as a Keyman. The duty of a Keyman is to keep watch and ward over the railway track and railway property, including ERC. The witness also stated that there is one room at Hamray Station bearing No. 103-C. Although Quarter No. 201-A had been allotted to the accused, Quarter No. 103-C was not registered in the name of the accused. The witness further stated that railway personnel reside in Quarters Nos. 103-A, 103-B, 103-C, and 103-D, and that no person other than the allottee is permitted to enter the allotted quarter. Lastly, the witness

deposed that the Investigating Officer had personal rivalry with the accused, and for that reason, the accused has been falsely implicated in the present case.

During the cross-examination by the learned APP, the witness deposed that on 13-02-2012 he was not posted at Hamray Railway Station. He stated that he was appointed as an employee in the Railway Department in the year 2008 and that, in the year 2012, he was posted at Hamray Railway Fatak. In the year 2012, the accused was posted at Hamray Railway Station as a Keyman. There is a distance of about 30 kilometers between the Railway Fatak and Hamray Railway Station. The witness does not know whether, on 13-07-2012, the accused had performed his duties there, nor does he know what the accused had done or eaten during the day. He is unable to state with whom the accused met on 13-07-2012 during the day. The witness has no personal knowledge regarding the events that allegedly occurred at Hamray Railway Station involving the accused on 13-07-2012, or regarding any occurrence allegedly committed by the accused. However, during the course of his duty at the Budgam office, he heard that the accused had been falsely implicated in the case. The accused had previously filed a complaint against the Investigating Officer alleging that the Investigating Officer had cut down trees belonging to the property and sold the same. However, the witness has no personal knowledge as to whether the Investigating Officer had in fact cut down any trees belonging to the Railway Station. The Investigating Officer was Station House Officer Haider Sahib, who, according to the witness, prepared the false case against the accused. The witness has no personal knowledge regarding the occurrence. On the date of the occurrence, he was not accompanying the accused. He does not know the prosecutrix and has never made any inquiry from her.

DW-3: Bashir Ahmed Malla Dated: 25-03-2024.

During the examination-in-chief conducted by the counsel for the accused, the witness deposed that he knows the accused present in the Court and is also acquainted with his name and address. He

stated that, on the day of the occurrence, he was posted at Hamray Railway Station and was deputed at Ladu Crossing. He further stated that he had handed over the charge of his post to the accused from 9th July to 13th July, 2012, as he had proceeded on leave during the said period. The witness further deposed that, on the day of the occurrence, he was posted at the Railway Station Level-C Crossing as a gateman and was performing his duties at Gate No. C-6. He stated that he had properly recorded his duty entries, which he could produce before the Court. He further stated that, after availing leave, he resumed his duties on 13th July, 2012, in the evening. According to him, the gateman is required to remain present at the place of duty, and the gateman's room is situated near the place of posting. The witness further deposed that, after rejoining his duties on 13th July, 2012, he did not hear about any occurrence involving the accused, nor had he heard that the accused had committed rape upon any lady or girl. He stated that he relieved the accused from duty on the evening of 13th July, 2012, and that the accused handed over the key of the quarter to him on the same evening. He further stated that the duty hours of a gateman commence at 6:00 a.m. and conclude at 9:00 p.m. He stated that the accused had been deputed to his gate by the J.E. so that the accused could perform his duties during the witness's leave period. The witness stated that he knew the accused even prior to the date of occurrence and described him as a person of good character. He further deposed that the accused was not on bad terms with G.R. Pali, nor did G.R. Pali bear any resentment against him. The witness stated that he had no personal knowledge regarding the occurrence; however, after about 10 to 15 days of the alleged occurrence, he came to know that allegations of rape had been levelled against the accused. According to the witness, the allegations against the accused are baseless and devoid of truth. He further stated that Haider Sahib was posted as Sub-Inspector at Railway Station Hamray and had prepared the case against the accused.

During the cross-examination, the witness deposed that he was on sanctioned leave from 9th July to 13th July 2012, which had been

approved by the Junior Engineer (J.E.). He further stated that he had not brought the leave application with him to the Court on that day. During the leave period, he remained at his home. He stated that he did not know who met the accused during the period from 9th July to 13th July, nor did he know what the accused had done during the said period. He further deposed that, in his presence, the accused had not marked his attendance in the attendance register. He also stated that he did not know with whom the accused had stayed during the nights of 11-07-2012 and 12-07-2012. He further stated that he did not know the complainant and had not made any inquiry from the complainant regarding the occurrence. The witness further deposed that the attendance documents produced by him were for his own clarification. He stated that no direction had been issued by the Court requiring him to produce his attendance record. He further stated that he had obtained the attendance record from his officer and that he could also produce the application on the basis of which the attendance record had been obtained. He stated that on 13th July 2012, he reached his place of duty in the evening at about 6:30 p.m. He further deposed that he had not submitted any report regarding his rejoining to his officer. The witness stated that the accused had produced him before the Court as a defence witness and had informed him that he was required to depose regarding the defence evidence in connection with the occurrence before the Court. He further stated that he did not know what the accused had done during the period when he was on leave. He also stated that he had come to the Court on his own and had not been brought by the accused. According to the witness, it was his first appearance before the Court. He further deposed that when the FIR was registered against the accused, he was not present with the accused. He also stated that the GRP Police had not registered any complaint against any other employee and that Hayder Sahib (SI) had not registered any complaint against him. Lastly, he stated that it was not necessary for him to know what the accused was doing, and that he was not an eyewitness to the occurrence.

DW-4: Javaid Ahmed Ganie Dated: 08-09-2023.

During the examination-in-chief by the defence counsel, the witness deposed that he knows the accused present in the Court. At present, the accused is posted as a Gateman in the Railway Department. Prior to this, on 09-07-2012, the accused was posted in the Railway Department as a Trackman at Hamray Station. During that period, the accused had obtained training for the post of Gateman from the department. In those days, whenever any Gateman proceeded on leave or remained absent in connection with official work or any other purpose, the accused used to be deputed as a Rest Giver or Leave Reserve. During his deposition, the witness voluntarily produced certain photocopied documents, including a certificate issued by him and written on 26-10-2019, bearing his signatures. However, the original record is stated to be lying with the department. The photocopied record consists of six pages, which were shown by the witness before the Court, and he stated that he could produce the original record before the Court if required. The said documents consist of the attendance register of the accused, quarter allotment records, and vacation applications relating to the quarters. The witness further deposed that Quarter No. 103-C at Hamray was never allotted to the accused. Rather, the accused had been allotted Quarter No. 201-A at Hamray. The witness also stated that, on the day of the occurrence, the accused was posted as a Gateman, and a Gateman during the course of his duty cannot remain absent even for a minute. It is further true that Railway Police personnel were residing in Quarter No. 103-C despite the fact that the said quarter had not been officially allotted to them.

During the cross-examination by the learned APP, the witness deposed that he is residing at Kulgam. On the date of occurrence, he was posted at Budgam Station. He stated that the distance from Budgam to Hamray is approximately 24 kilometers and thereafter stated it to be about 30 kilometers. He further stated that no CCTV camera was installed in the office where he was sitting on the relevant day. The witness stated that he could not tell how many times the

accused had moved here and there on the date of occurrence. He also could not state at what time the accused went to his quarter; however, he stated with certainty that the accused could not have left the gate and gone anywhere during duty hours. He further stated that he did not know whom the accused had met on that day and that he did not know the complainant. The witness further deposed that, on the date of occurrence, the accused was neither with him nor had he remained with him for three days, i.e., on the 11th, 12th, and 13th. He stated that he had never met the complainant. After the allegations were leveled against the accused, he called the accused to his office and inquired from him; however, he believed that the accused had been performing his duties, which, according to him, was also established from the official record. The witness further stated that, as an officer, he had not conducted any formal inquiry against the accused because he himself was not the Incharge Officer. He stated that he was merely a Section Officer and that conducting an inquiry was not his responsibility. Since he was neither the Incharge Officer nor had he conducted any inquiry in the matter, he could not state whether the accused had committed any offence or not. He further stated that he did not remember what day it was on 11-07-2012 and that he did not know when the alleged occurrence had taken place. He stated that he had knowledge regarding the FIR lodged by the complainant concerning allegations of rape and kidnapping; however, he had no knowledge regarding what the police had established during the course of investigation. He further stated that he had no knowledge as to where the accused had gone or where he had stayed/slept during the relevant period.

9. Heard the arguments advanced by the learned APP as well as the learned counsel for the accused. Learned APP, Mr. Riyaz Ahmad, while addressing the Court, submitted that the statement of the prosecutrix recorded before this Court is highly incriminating and goes to the very root of the prosecution case. It has been argued that there is no circumstance emerging from her testimony which may be considered doubtful or unreliable in nature. According to the learned

APP, the facts narrated by the prosecutrix before the Court admit of no inference other than the guilt of the accused. It has further been contended that the prosecutrix had no ulterior motive or reason to falsely implicate the accused and that her testimony is a truthful narration of the ordeal and trauma to which she had been subjected. The learned APP further submitted that the Hon'ble Supreme Court, in a catena of judgments dealing with offences punishable under Section 376 IPC, has consistently emphasized the evidentiary value and credibility of the testimony of a rape victim. Reliance was placed upon the observations of the Hon'ble Apex Court wherein it was held:

"We must bear in mind human psychology and behavioural probability when assessing the testimonial potency of the victim's version. What girl would foist a rape charge on a stranger unless a remarkable set of facts or the clearest motives are made out."

Placing reliance upon the aforesaid principle of law, the learned APP argued that the statement of the prosecutrix in the present case is natural, cogent, trustworthy, and unimpeachable in character. It was further argued that the medical evidence adduced by PW-6, Dr. Rubina, and duly proved through her testimony before the Court, fully corroborates the version of the prosecutrix and thereby lends substantial assurance and credibility to her statement. The learned APP further contended that nothing material has emerged during the cross-examination of the prosecutrix which could remotely undermine her veracity or impeach her credibility. According to the prosecution, the defence has failed to point out any contradiction, inconsistency, or infirmity of such magnitude as would discredit the otherwise coherent and convincing testimony of the victim. It was argued that the defence contentions, whether considered individually or collectively, do not in any manner detract from the reliability of the prosecution case. The learned APP also addressed the contention raised by the defence regarding the alleged delay in lodging the FIR. It was argued that, in offences of such nature, even assuming there was some delay, though according to the prosecution there was none, the same would not materially affect the merits of the case. The law is well settled that delay in reporting an offence of rape does not, ipso facto, render

the prosecution case doubtful or false. In support of this contention, reliance was placed upon the judgment of the Hon'ble Supreme Court in Krishna Lal v. State of Haryana, AIR 1980 SC 1252. Lastly, the learned APP propagated that the prosecution, through cogent oral, documentary, and medical evidence, has succeeded in proving the guilt of the accused beyond all reasonable doubt. It was, therefore, prayed that the accused be convicted for the offences with which he stands charged.

10. The learned Sr. Counsel for the accused Advocate Mushtaq Ahmad Dar, while advancing arguments on behalf of the defence, submitted that there has been an unexplained delay of four days in lodging the FIR. It has been contended that the prosecutrix herself stated that she had left her home on 10.07.2012 and allegedly remained with the accused from 10.07.2012 to 13.07.2012. According to the learned defence counsel, the FIR came to be registered only on 14.07.2012, i.e., after more than 96 hours from the time of the alleged occurrence. It has been argued that, as per the prosecution story itself, the period for registration of the FIR ought to have commenced from the afternoon of 10th July, and therefore the delay in lodging the FIR is deliberate, intentional, wilful, and remains unexplained either on facts or in law. The learned counsel further argued that the father of the prosecutrix had produced a forged and fabricated Date of Birth certificate before the Investigating Officer. It has been submitted that the certificate bearing Reference No. HMSSP/15/12 dated 14.07.2012 does not disclose the authority or institution from where it was obtained prior to its production and annexure with the charge-sheet. Emphasis was laid on the fact that the FIR as well as the said certificate bear the same date, namely 14.07.2012. It was further argued that the person who allegedly prepared or issued the said certificate has not been examined as a prosecution witness. The defence also contended that neither the admission form of the prosecutrix was seized and proved by the Investigating Officer, nor was any evidence adduced to establish as to who had filled up the admission form at the time of her admission in the school. Furthermore, no birth certificate from the hospital

concerned, nor any record relating to the place of delivery of the prosecutrix, has been brought on record. It was also contended that the Investigating Officer failed to collect vaccination records or other contemporaneous documents which could have reflected the date of birth of the prosecutrix along with the name of her mother. The learned counsel further submitted that there are material improvements, exaggerations, and embellishments in the prosecution story as projected in the FIR vis-à-vis the subsequent report filed under Section 173 Cr.P.C. According to the defence, the prosecutrix herself departed from the version initially projected in the FIR and failed to substantiate the allegations levelled therein. It was argued that neither the mobile phone number of the prosecutrix nor that of the accused was verified during investigation. Further, no Call Detail Records (CDRs) or call observation reports were obtained by the Investigating Agency. According to the learned counsel, the failure to collect such material evidence creates a serious dent in the prosecution case and entitles the accused to acquittal. It was further argued that the evidence collected by the Investigating Officer and produced by the prosecution is riddled with contradictions and inconsistencies, rendering the same wholly unreliable. The learned counsel submitted that the prosecutrix, being the star witness of the prosecution, has allegedly deposed falsely and inconsistently, thereby making her testimony unworthy of reliance. It was contended that the accused has been falsely implicated at the instance of the Investigating Officer, namely Sub-Inspector Ghulam Hyder, owing to personal animosity and ulterior motives, as allegedly demonstrated through the testimony of defence witnesses. The learned defence counsel also argued that it appears highly improbable that a school-going girl would voluntarily avoid attending school, accompany the accused on a picnic, and thereafter level false allegations against him. According to the defence, the prosecution story is inherently improbable and has been fabricated at the behest of the Investigating Officer. The learned counsel further contended that no railway tickets, travel documents, or related material were recovered or produced during investigation. According to the defence counsel, the

absence of such evidence further weakens the prosecution case and renders the story projected by the prosecutrix false, frivolous, and baseless. Another limb of the defence argument was that although the FIR was registered on 14.07.2012, the medical examination of the prosecutrix was allegedly conducted at SDH Pattan on 13.07.2012. The learned Sr. Counsel submitted that the medical certificate dated 13.07.2012 appears doubtful and concocted, particularly because the application addressed to the Medical Officer, SDH Pattan, also bears the date 13.07.2012, whereas the FIR was admittedly registered only on 14.07.2012 at Police Station Railway Hamray. It was thus argued that investigation had commenced even prior to the formal registration of the FIR, which, according to the defence, is contrary to law. The defence further submitted that the investigation allegedly conducted prior to registration of the FIR has neither been properly explained nor appropriately reflected in the charge-sheet. It was also contended that initially the SHO of Police Station Pattan had conducted part of the investigation and had taken the prosecutrix for medical examination, but none of the officials from Police Station Pattan were examined as prosecution witnesses during trial. Further, according to the defence, no application under Section 540 Cr.P.C. was moved by the prosecution for summoning such material witnesses. The learned counsel argued that non-examination of such material witnesses is fatal to the prosecution case and, therefore, the accused deserves acquittal on this ground as well. The learned counsel further argued that the Investigating Agency ought to have conducted a DNA test of the accused in light of the law laid down by the Hon'ble High Court and the Hon'ble Supreme Court in the judgment reported as (2011) SCC (Cri) 61. It was submitted that the failure to conduct such a scientific examination adversely affects the credibility of the prosecution case. It was lastly argued that the accused has led cogent defence evidence demonstrating that the Investigating Officer harboured personal hatred, vengeance, and bias against him, which ultimately resulted in his false implication in the present case. In support of this contention, reliance was placed upon the judgment dated 08.05.2025 passed by the Hon'ble Supreme Court of India in

State v. Gulzar Ahmad Bhat and Others, wherein, according to the learned counsel, the plea of false implication was upheld in affirmation of the judgments rendered by the learned District and Sessions Judge, Budgam, as well as the Division Bench of the Hon'ble High Court of Jammu and Kashmir. During the course of arguments, the learned counsel for the accused also placed reliance upon the judgments reported in 2011 (2) SCC (Cri) 915, (2011) SCC (Cri) 983, (1979) SCC (Cri) 954, (1994) 2 SCC (Cri) 1180, (2010) 1 SCC (Cri) 910, (2010) 1 SCC (Cri) 1445, and (2008) 2 SCC (Cri) 207.

11. Considered the arguments advanced by both the sides and have minutely perused the challan, the documents in support of the case placed on the file, the evidence lead by the prosecution during trial, statement of the accused recorded in terms of Section 342 Cr.P.C and the evidence lead by the accused in his deference.
12. The charge as framed against the accused is that on 11/07/2012 you have enticed the prosecutrix and taken her to Govt. quarter and kept her hostage there for two days and committed sexual intercourse with prosecutrix who was minor against her wishes, where after she somehow succeeded in escaping from there and reporting the matter to police and the police during investigation has seized from your residential Quarter, 3 No condoms and handful cotton, thereby have committed the offences under section 376,363,342 RPC. Admittedly this case stands registered on the report of the victim after she has managed herself to ran away from the spot of occurrence and report the matter to the police at police station Pattan. Therefore the events which took place in the instant case which lead to the registration of the case in the police station Railway Hamary requires to be minutely gone through in light of the material on record especially the evidence lead by the prosecution, for deciding the involvement of the accused in the crime of year 2012 where by heinous and barbarous crime is alleged to have been committed with the minor girl of about 13 - 14 years.
13. While appreciating the statement of the prosecutrix recorded before the Court, it emerges that she has narrated the sequence of events relating to the occurrence in a cogent, consistent, and unequivocal

manner. She stated that on 10.07.2012, after obtaining permission from her family members to go for a picnic, she left her home and reached Pulwama. Thereafter, intending to go sightseeing by train, she proceeded to Kakapora and boarded a train which ultimately reached Hamray Railway Station. The prosecutrix further deposed that after alighting from the train along with other passengers and while coming out of the railway station, she encountered the accused, who represented himself to be an employee of the Railway Department. The accused allegedly persuaded her to stay temporarily in his railway quarter on the pretext that he would arrange a ticket for her. Believing the representation made by the accused to be genuine, she accompanied him to the said quarter. According to the prosecutrix, after returning to the quarter, the accused committed forcible sexual intercourse with her against her will and without her consent. She further stated that the accused wrongfully confined and detained her in the said quarter for approximately two days. She specifically deposed that on Friday, during the time of Namaz, when somebody opened the door after she had knocked repeatedly, she managed to escape from the room and fled from the spot. The prosecutrix further stated that thereafter she reached the roadside, boarded a Sumo vehicle, and proceeded towards Pattan. Upon reaching Pattan, she went to a nearby park where she was found weeping. Two boys approached her and subsequently escorted her to Police Station Pattan. She was advised by the police officials to lodge a written report regarding the occurrence. The prosecutrix categorically stated that she herself authored the written report pertaining to the incident, identified her signatures thereon, and affirmed that the contents thereof were true and correct. The said report was marked as Exhibit EXPW-1. During her cross-examination, the prosecutrix remained steadfast and substantially consistent with her earlier version. She specifically stated that she had left her home for a picnic on 10.07.2012 and reached Hamray Railway Station on the same day. She further clarified that she remained in the said quarter on 11.07.2012 and 12.07.2012, and ultimately escaped from the quarter on 13.07.2012. The trial Court, while recording her testimony, also observed her

demeanor and noted that she appeared visibly distressed and hesitant while narrating the occurrence, particularly when referring to the acts committed by the accused. The Court recorded that she was speaking in an emotionally disturbed condition and was avoiding direct eye contact with the accused while describing the incident. In order to obtain greater clarity regarding the nature of the act committed, the Court put specific questions to the prosecutrix, to which she replied in a blushing and embarrassed manner that the accused had inserted his male organ into her genitalia. Even during further cross-examination conducted by the learned counsel for the accused with the permission of the Court, the prosecutrix consistently maintained that the accused had committed sexual intercourse with her forcibly by inserting his penis into her private parts. Therefore, the testimony of the prosecutrix, when read as a whole, fully supports the prosecution case regarding the commission of the offence. Despite extensive cross-examination, the defence could not elicit any material contradiction, omission, or inconsistency sufficient to create reasonable doubt with respect to the truthfulness or credibility of her statement. The prosecution has further corroborated the testimony of the prosecutrix through the medical evidence adduced by PW-6. The said witness proved the medical certificate marked as Exhibit P-5 and stated before the Court that the victim, namely XXX (Name Withheld), was brought to SDH Pattan by the local police on 13.07.2012 at about 9:30 PM for medical examination. PW-6 deposed that upon conducting a proper gynecological examination, she found that one finger could be inserted into the vagina with pain being caused to the victim. The vaginal smear examination reportedly revealed dead spermatozoa. The medical witness further opined that the sexual intercourse appeared to have taken place approximately eight hours prior to the examination. It was also noted that the hymen of the victim was ruptured.

14. That during the course of trial, the prosecution has successfully established and proved the authenticity, correctness, and admissibility of all documents placed on record through the cogent, reliable, and corroborative evidence of the concerned prosecution witnesses. The

documentary evidence so duly proved includes: the FIR lodged by the complainant/PW-1 (Ext. PW-1); the site plan of the place of occurrence, namely Residential Quarter Block-N/103, Railway Station, prepared by the Investigating Officer (Ext. PW-12); twelve photographs of the place of occurrence marked as Mark-A to Mark-L; another site plan of the place of occurrence prepared by the Investigating Officer (Ext. PW-12/1); the seizure memo pertaining to the recovery of three condoms and a handful of cotton from the quarter room; the seizure memo relating to the wearing apparel of the prosecutrix (Ext. P-10); the seizure memo relating to the wearing apparel of the accused (Ext. P-9/1); the search and seizure memo of the articles of the accused (Ext. P-9); the handing-over memo whereby the prosecutrix was entrusted to the custody of her father (Ext. P-2); and the arrest memo concerning the arrest of the accused prepared by the Investigating Officer (Ext. PW-12/2). The aforesaid documents have remained duly proved in accordance with law and have not been materially shaken during cross-examination. The prosecution evidence, both oral and documentary, forms a complete and consistent chain, thereby lending full support to the case set up by the prosecution against the accused.

15. The prosecution has placed on record the date of birth certificate of the prosecutrix, which reflects her date of birth as 24.07.1999. The said document has been duly proved in accordance with law through the testimonies of PW-14 and PW-15. PW-14, the Principal of Holy Mission Secondary School, Pulwama, stated before the Court that as per the official school records, the particulars of the prosecutrix, namely XXX (Name Withheld), are entered under Admission No. 489. He further deposed that, as per the admission register dated 20.11.2011, the date of birth of XXX (Name Withheld) is recorded as 24.07.1999. He also stated that the discharge certificate in favour of the prosecutrix was issued on 25.03.2013 in accordance with the said school records. PW-15, the Admission Clerk of the aforesaid school, corroborated the testimony of PW-14 and stated that, as per the admission register pertaining to the Middle Class bearing Serial No. 558 dated 20.11.2008, the date of birth of XXX (Name Withheld) is

entered as 24.07.1999. He further deposed that the certificate regarding the date of birth, marked as Exhibit/Mark-A and annexed with the case file, also records the date of birth of the prosecutrix as 24.07.1999. The testimonies of PW-14 and PW-15 are consistent, reliable, and duly supported by the contemporaneous official school records maintained in the ordinary course of business. Nothing material has emerged in their cross-examination to discredit their statements or to cast any doubt upon the authenticity of the record produced by them. Consequently, the prosecution has successfully established and proved the date of birth of the prosecutrix as 24.07.1999. Accordingly, on the date of occurrence, the prosecutrix was admittedly below the age of majority and was approximately 13 years old. She, therefore, squarely fell within the definition of a minor under the relevant provisions of law.

16. The potency test of the accused EXTP-7 has also been proved by the prosecution through the evidence of the PW-7 whereby the accused has been reported to be potent. PW-7 in his statement before the court has stated that on 16-07-2012 at 12.15 PM accused namely Imtiyaz Rather S/o Mohammad Maqbool Rather R/O Budgam Gotipora was brought by SHO P/S Railways Hamray Baramulla in SDH, Pattan for potency test. He medically examined the accused and gave the following opinion. Secondary sexual characteristic are normal. Patient is most properly sexually potent.

17. Before proceeding ahead in the matter this court deems it proper to address the points raised by the accused in his reply during his statement recorded under section 342 Cr.PC as well as the points raised by the Id. defence Counsel during his arguments before this court.

(i) So far as the Specific denial of accused during his statement recorded under section 342 Cr.P.C regarding commission of offence is concerned, same in presence of the specific and categorical statement of the victim carries no weight and further that he has been implicated in the case on the basis of some rivalry with the investigating officer of the case but the same in the facts and

circumstances of the case is only a concocted story. The witnesses produced by the accused in his defence though have stated about the same during their examination in chief but during the cross examination by the Id APP all the defence witnesses have showed their ignorance regarding the occurrence and stated anything in favour of the accused whereby any shadow of doubt could be raised on the narration of the victim.

(ii) So far as the argument of the Id. defence Counsel regarding delay in lodging the FIR is concerned, admittedly the FIR has been lodged on 14th of July 2012 while as the victim has filed his complaint before the Police station pattan on 13th of July 2012. Since report was filed by the victim before the police station Pattan whereafter her medical examination was conducted and the occurrence having been occurred within the jurisdiction of P/S Railway Hamray, as such police pattan was to submit the application along-with the Nalkalmad etc to the police station concerned. Therefore in these circumstances, the delay in lodging the FIR is natural due to completing of some formalities in police station pattan and subsequently submitting the papers along-with the victim to the Police station concerned. The Hon'ble Supreme court in **State of Punjab Vs. Gurmit Singh & Ors.** has held that " the delay in filing the FIR for sexual offences may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof.

Therefore this argument of Id Sr. Counsel for the accused, do not carry any weight keeping the overall circumstances of the present case and the law laid down by Hon'ble courts in such types of cases regarding the delay in lodging of FIR .

(iii) One more argument of the Id. defence Counsel that the medical check of the victim has been conducted in SDH Pattan on 13/07/2012 while as the case has been registered on 14th July 2012 as such the investigation conducted before the registration of the FIR is not in accordance with the law as such accused deserves acquittal. Admittedly in the instant case as per the record on the file, the medical check up of the prosecutrix has been conducted on 13th July

2012 while as the FIR has been registered on 14th July 2012. It is the settled position of law that a medical examination of an alleged rape victim conducted by the police before registration of an FIR is not only legal but considered a medico legal emergency. The Hon'ble supreme court and the legal guidelines emphasizes that prompt medical care and forensic evidence collection take precedence over procedural formalities like filing of first information report(FIR). Therefore this argument of the Id Counsel for the accused is also devoid of any merit.

(iv) Further argument of the Id. defence that there is a change in the basic prosecution case by making improvements exaggerations , embellishments as story projected in the FIR and subsequent story put in the report under section 173 CR.P.C. Admittedly in the complaint victim has stated that 11th the accused has called her on the phone to come to the Railway station Hamray while subsequently in her statement under section 164 Cr.P.C and statement given before the court during trial she has not staged the same but while going through the statement of the prosecutrix it is clear that she has stated that the contents of the application were dictated to her by someone. Therefore in view of this fact that the contents of the application were dictated to her by someone and the statement given by her under section 164 A and during the trial before the court where-in she has stated that accused met her in the railway station and took her to his quarter so that he could arrange ticket for her is not in any way considered to be the improvements on the part of the victim who on the date of occurrence was minor and also woOuld have been in state of trauma due to the occurrence.

(v) It is also argument of the Id defence Counsel that despite the fact that conduct of ossification test was ordered by the PW-6 Dr Rubeena in order to determine the age of the prosecutrix same was not conducted by the Investigating officer. In the instant case the prosecution ahs placed on record the date of birth certificate of the prosecutrix which stand proved before this court through the statements of the concerned witnesses as such the stand of the Id counsel for conducting of an ossification test is under law unnecessary

when the valid school certificate already produced is on the record, as such this argument of Id counsel is also with any substance.

(vi) The further argument of Id. defence Counsel that the DNA test in the instant case was very vital, as the same would have been very much helpful in order to ascertain the involvement of the accused or his non-involvement but same has not been conducted. Admittedly the DNA of the accused has not been conducted in the instant case. The lapse or omission to carry out DNA profiling, by itself, cannot be permitted to decide the fate of trial for the offence of rape. Even if such a flaw or defect has occurred in the investigation in the given case, the court has still a duty to consider whether the material and evidence available on the record before it is enough and cogent to prove the case of the prosecution. If a case rests on circumstantial evidence, the court has to consider whether, despite such a lapse, the various links in the chain of circumstances form a complete chain of circumstances pertaining to the guilt of the accused alone in exclusion of all hypotheses of innocence in his favour. But the Prosecution case here is based on the direct evidence and at every occasion the victim identified the accused, so no prejudice is caused to the accused by non conducting of DNA test. DNA could prove the paternity/legitimacy of the child only which is not the case of prosecution herein. Therefore this argument of the Id defence counsel in the facts and circumstances of the present case does not carry any weight.

18. It is a well-settled principle of criminal jurisprudence, consistently reiterated through a catena of judicial pronouncements, that in cases involving sexual offences, the Court ought not to commence its inquiry with a presumption either of consent on the part of the victim or of false implication against the accused. Mere absence of visible resistance or delayed reporting cannot, by themselves, constitute a valid ground to infer consent. Where the prosecutrix appears before the Court and, on oath, categorically deposes that she was subjected to forcible sexual intercourse against her will and without her consent, such testimony carries significant evidentiary value and cannot be discarded lightly. Unless the defence is able to bring on record

material contradictions, inherent improbabilities, or other compelling circumstances capable of discrediting her testimony, the Court cannot presume that the act was consensual. It is equally settled that the accused is not required to establish his defence beyond reasonable doubt. However, it is open to the accused to probabalise his defence by eliciting material circumstances from the evidence led by the prosecution itself, including contradictions, omissions, inconsistencies, or surrounding circumstances which may render the prosecution version doubtful. In the present case, the accused has failed to place on record any cogent material or circumstance sufficient to probabalise the defence plea of consent or false implication. In this regard, reliance may be placed upon the judgment of the Hon'ble Supreme Court in *Vijay @ Chinee v. State of Madhya Pradesh*, 2010 (3) Crimes (SC) 212, wherein the Apex Court reiterated the principles laid down earlier in *State of Punjab v. Gurmit Singh & Ors.*, AIR 1996 SC 1393, and observed that the testimony of the prosecutrix in a sexual offence case stands on a higher footing and, if found trustworthy and reliable, does not require corroboration as a matter of rule. The Hon'ble Supreme Court observed:-

"This Court held that in cases involving sexual harassment, molestation etc. the court is duty bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for

sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof.

19. It is settled law that the victim of sexual assault is not treated as accomplice and as such, her evidence does not require corroboration from any other evidence including the evidence of a doctor. In the given case the medical evidence do corroborate the testimony of the prosecutrix regarding the rape committed with her. Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards a violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault but it is often destructive of the whole personality of the victim. In the present case in hand the victim was unmarried girl of hardly 14 years of tender age when her modesty was vanished by the accused and as per victim she is still unmarried due to this act of accused. A murderer destroys the physical body of victim but a rapist degrades the very soul of the helpless female. The court, therefore, shoulders a great responsibility while trying an accused in charge of rape and courts are supposed to deal with such cases with utmost sensitivity. If evidence of prosecutrix inspires confidence, it must be relied upon without seeking corroboration of statement in material particulars. This position was highlighted in state of Punjab versus Gurmeet Singh (1996) (2) SCC 384.

"A prosecutrix of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The evidence act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under section

118 and her evidence must receive the same rate as is attached to an injured in cases of physical violence. The same degree of care and caution is attached in the evolution 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 conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of charge leveled by her. In this particular case there is nothing on record suggestive that the prosecutrix have a strong motive to falsely involved the accused in commission of offence, this being the reason this court has no hesitation in accepting the evidence of prosecutrix."

20. Bharwada Bhogin bhai Hirjibhai vs State of Gujarat, AIR 1983 SC 753, can be characterized to be a turning point after the decision in Tukaram vs State of Maharashtra, AIR 1983 SC 185, to lay down the proposition that testimony of the prosecutrix can be relied upon without further corroboration if it inspires confidence and appears to be truthful and natural. The supreme court observed:

"In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule is adding insult to injury. To do so is to justify the charge of male chauvinism in a male dominated society.... Corroboration may be considered essential to establish a sexual offence in the back drop of the social ecology of the western world. It is wholly unnecessary to import the said concept on a turnkey basis and to transplant it on the Indian soil regardless of the altogether different atmosphere, attitudes, mores, responses of the Indian society and its profile."

21. In State vs Chandra prakash Kewal chand Jain, AIR 1990 SC 658, the supreme court remarked that a rape victim is not an accomplice and observed:-

"The standard of proof to be expected by the court in such cases must take into account the fact that such crimes are generally committed on the sly and very rarely direct evidence of a person other than the prosecutrix is available. Courts must also realize that ordinarily a woman, more so a young girl, will not stake her reputation by levelling a false charge concerning her chastity."

22. In Gurmit Singh (supra), the court reiterated:

"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. 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 girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable 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."

23. I am of the considered view that, notwithstanding the existence of certain inconsistencies, adverse circumstances, minor contradictions, or other surrounding odds in the prosecution case, the testimony of the prosecutrix commands full confidence and deserves utmost evidentiary value. Much reliance has to be laid upon the testimony of the prosecutrix, as her deposition constitutes the central and most reliable piece of evidence in determining the truthfulness of the allegations. Further, to me the characterization of her testimony as being "unblemished and sterling" signifies that her version of events remained consistent, coherent, natural, and trustworthy throughout the course of investigation as well as during judicial proceedings, including cross-examination. It implies that her statement did not suffer from any material contradiction, exaggeration, embellishment, or infirmity capable of discrediting her credibility. The Court, therefore, finds that her evidence possesses a high degree of probative value and bears the ring of truth. In law, the testimony of a prosecutrix, if found credible and reliable, stands on par with the testimony of an injured witness and can, by itself, form the basis for conviction without requiring independent corroboration. Thus, in the peculiar facts and circumstances of the case, the Court considers the testimony of the prosecutrix to be wholly dependable, trustworthy, and sufficient to safely rely upon for arriving at a just and proper conclusion. The Hon'ble Supreme Court in Hari Singh Vs. State (NCT) of Delhi & Rai Sandeep @ Deepu Vs. State (NCT) of Delhi 2012 (II) SLJ 261 observed that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality. The Para No. 15 of the judgment supra is reproduced hereunder:-

"15. In our considered opinion, the 'sterling witness' should be of a very high quality and

calibre, whose version 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 such a witness. The witness should be in a position to withstand the cross-examination of any length and strenuous it may be and under no 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 correlation 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 similar such tests to be applied, it can 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."

24. It is the case of the prosecution that the prosecutrix, a minor girl, was enticed by the accused from Hamray Railway Station and thereafter taken to his residential quarter, where she was allegedly wrongfully confined for a period of two days and subjected to forcible sexual intercourse against her will and consent. The cumulative consideration of the entire prosecution evidence, particularly the statement of the prosecutrix and keeping in view the broader probabilities and surrounding circumstances of the case, this court finds that the testimony of the prosecutrix has remained substantially consistent, cogent, natural and trustworthy throughout the trial. Her deposition inspires confidence and clearly establishes the allegations levelled against the accused. The prosecutrix, during the course of her examination as well as cross examination remained firm, unwavering and unshaken on all material particulars relating to the commission of sexual assault by the accused. Her testimony appears to be spontaneous and free from embellishment, exaggeration or tutoring. Nothing substantial could be elicited by the defence during her lengthy cross examination so as to discredit her version or create any reasonable doubt regarding her credibility in narrating two facts before the court. She consistently maintained that the accused had taken her to his quarter and committed sexual assault upon her during the period of wrongful confinement.

The demeanour of the prosecutrix before the court, coupled with the intrinsic worth of her testimony leaves no room for doubt regarding her credibility. Nothing significant has been illicited in her cross examination to suggest that she had any motive to falsely implicate the accused in such a serious offences. The defence has failed to point out any material omission, contradiction or improvement capable of raising any reasonable doubt qua the accused with the commission of the offence. May be there are some minor discrepancies and contradictions in the statements of some witnesses but same will not effect the merits of the prosecution case, as such same needs to be ignored in view of the fact that on material propositions the prosecution witnesses corroborate each other. Reliance in this regard can be held on judgement in case titled Zameer Ahmad Vs. State, reported in 1996 Criminal Law Journal(Delhi) 2354 wherein it has been held as under :

“(14) The second question which arises for adjudication in the instant case is as to whether the contradictions pointed out by learned Counsel for the appellant are so material as to set at naught the entire case of the prosecution? Our reply to the above query is an emphatic no. It would be a hard nut to crack to find out a case which is bereft of embellishment, exaggeration, contradictions and inconsistencies. The said things are natural. Such Contradictions and inconsistencies are bound to creep in with the passage of time. If the witnesses are not tutored they would come out with a natural and spontaneous version on their own. The two persons on being asked to reproduce a particular incident which they witnesses with their own eyes would be unable to do so in like manner. Each one of them will narrate the same in his own words, according

to his own perception and in proportion to his intelligence power of observation. "

25. In the anvil of the above principles when we test the version of PW-1, the prosecutrix we find that the said witness has succeeded to pass any of the tests mentioned above. There is no variation in her version from what was stated in the complaint and what was deposed before the court at the time of trial. There are no material variations as regards the identification of the accused, as well as the manner in which the occurrence took place. The other witnesses on material propositions support the story of the prosecution and the medical evidence authenticate that rape has been committed upon the prosecutrix by the accused and the prosecution has succeeded in establishing a nexus between the accused and the commission of the crime. The medical evidence co-relate the version alleged and thus the prosecutrix succeeded to instil the required confidence of the court in order to hold the accused guilty of the offences committed by him.
26. **In view of the foregoing discussion, appreciation of the oral as well as documentary evidence available on record, and the settled principles of criminal jurisprudence governing the field, this Court is of the considered opinion that the prosecution has successfully established the guilt of the accused beyond all reasonable doubt. The evidence adduced by the prosecution is clear, cogent, reliable, trustworthy and wholly consistent with the prosecution story. The testimonies of the prosecution witnesses specifically the prosecutrix inspire confidence and stand duly corroborated by the documentary evidence placed and proved on record in accordance with law. This Court further finds that the chain of circumstances and evidence brought on record by the prosecution remains complete and unbroken, leaving no room for any hypothesis inconsistent with the guilt of the accused. The prosecution has thus succeeded in proving its case by way of clinching and convincing evidence, and there exists no material contradiction, discrepancy, or infirmity sufficient to discredit the prosecution case. Consequently, this Court holds that no conclusion other than**

the guilt of the accused can reasonably be drawn from the evidence available on record, and the guilt of the accused accordingly stands proved and established in accordance with law.

27. As a necessary corollary to the aforesaid discussion, findings, and conclusions arrived at hereinabove, this Court is of the considered and firm opinion that the prosecution has proved the charges against the accused beyond all shadow of reasonable doubt by leading reliable, cogent, and legally admissible evidence. Accordingly, the accused is liable to be convicted for the commission of offences punishable under Sections 363, 376 and 342 of the Ranbir Penal Code. Consequently, this Court hereby convicts the accused, namely Imtiyaz Ahmad Rather S/o Mohammad Maqbool Rather R/o Gotapora Budgam, presently employed with the Railways at Hamray, in connection with FIR No. 01/2012 registered at Police Station Railway Hamray, for the commission of offences punishable under Sections 363, 376 and 342 RPC. Since the accused is presently on bail and is available before the Court, he is hereby taken into custody forthwith and shall be lodged in judicial custody at Central Jail Srinagar, in accordance with law. The Superintendent of the concerned Jail shall ensure compliance of this order and shall produce the accused before this Court on the next date fixed for hearing. Put up the matter for hearing the accused on the question of quantum of sentence/punishment. List on 03-06-2026.

Announced
01-06-2026

Addl. Sessions Judge,
Srinagar.