



2026:CGHC:23801

AFR

Reserved on : 11.05.2026

Delivered on : 15.06.2026

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 305 of 2005

1 - Vijay Kumar S/o Siddheshwar Prasad Verma, R/o Gram Koliha, P.S. Kashdol, Distt. Raipur.

...Appellant(s)

versus

1 - State Of Chhattisgarh Through: P.S. Kashdol, Distt. Raipur (C.G.)

... Respondent(s)

For Appellant : Mr. Manoj Paranjpe, Senior Advocate with
Mr. Mayank Gupta, Advocate

For Respondent/State : Mr. Shailesh Puriya, Panel Lawyer

For Objector : Ms. Pooja Loniya, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

CAV Judgment

1. The appellant by way of this appeal has challenged the judgment of conviction and order of sentence dated 14.03.2005 passed by the First Additional Sessions Judge, Baloda Bazar (CG) in Sessions Trial No. 344/2004 whereby and whereunder, appellant has been convicted and sentenced as under :-

| Conviction u/S. | Sentence RI. | Fine | In default of payment of fine |
|-----------------|--------------|------------|-------------------------------|
| 306 IPC | 7 Years | Rs. 2000/- | 1 year RI |
| 376(1) IPC | 10 Years | Rs. 3000/- | 1 year RI |
| 450 IPC | 7 Years | Rs. 2000/- | 1 year RI |

All the sentences were directed to run concurrently.

2. The case of the prosecution, in brief, is that marg intimation dated 22.08.2004 (Ex. P/4) was recorded by Sakharam (PW-2) alleging that daughter of elder brother of Jai Kumar, Heeramani was found dead by burning herself and daughter-in-law Laxmi Bai alongwith the other residents namely Pratap Verma, Same Bai, Orelia Bai have kept the victim on a khat and also stated that the victim has informed Laxmi Bai that she was burnt at the time of cooking of food. In the intimation it has also been mentioned that the door of the house was closed and other person namely Hareliya Bai who was also present told that at 01:30 PM in the house Vijay Verma entered and he was seen by Jai Kumar and because of fight, the victim has got fire. Thereafter, she was taken to the hospital and in the midway the victim expired.
3. On the basis of marg intimation (Ex. P/2), the police of Police Station Kasdol reached the spot and, after issuing notice prepared the inquest panchnama of the deceased and a Dehati Nalishi report (Ex. P/12) regarding death of the victim was recorded. The body was sent for postmortem, statements of the witnesses were recorded. Burnt clothes and other articles, including matchsticks, were seized from the place of occurrence. A underwear containing semen stains was seized from the

accused, and the accused was also medically examined. On the basis Dehati Nalishi, FIR (Ex. P/11) was registered by the Police Station Kasdol for commission of offence under Sections 450, 376, 306 IPC on 23.08.2004 alleging that the deceased was residing with her brother Jai Kumar and Sister-in-law (Bhabhi) Laxmi Bai in village Koliha. On 22.08.2004, which was Sunday, accused Jai Kumar had gone to the agricultural field along with his wife Laxmi Bai, and at that time the deceased was alone in the house. It is alleged that accused Vijay Kumar entered the house and, after closing the door, committed forcible rape upon the deceased. At that very time, Jai Kumar returned from the field and called out for door open. At that time, accused Vijay Kumar was coming out of the room and proceeding towards another room, whereupon Jai Kumar caught hold of him and assaulted him. Hareliya Bai informed that the accused has assaulted the deceased, therefore, she set herself ablaze.

4. It is also the case of the prosecution that while the deceased was being taken from the house to the hospital for treatment, she succumbed to death on the way. Thereafter, her body was brought back to the village and kept near the main road, and thereafter a report was lodged at the police station regarding the incident. Upon sufficient incriminating material being found against the accused during investigation, he was arrested and, after completion of investigation, the charge-sheet was filed before the Court of the learned Magistrate under Sections 450, 376(1) and 306 of the IPC. Upon filing of the charge-sheet by

Police Station Kasdol, the learned Magistrate, finding that the offences were triable exclusively by the Court of Sessions, committed the case to the Sessions Court which was registered as Sessions Trial No. 344/2004. The accused denied the charges and faced trial.

- 5.** To bring home the charges against appellant, the prosecution examined as many as 16 witnesses namely PW/1 Shiv Kumar Verma, PW/2 Sakharam, PW/3 Laxmi Bai, PW/4 Samme Bai, PW/5 Janak Kumar Lahre, Patwari, PW/6 Dr. Y.K. Sharma, PW/7 Ganeshram Kashyap, PW/8 M.R. Sinha, Assistant Sub-Inspector PW/9 Tamras, PW/10 Harishchand, PW/11 Tijram, PW/12 Lilaram @ Santosh, PW/13 Mahesh Kumar Verma, PW/14 Jai Kumar, PW/15 Subhash Das, Sub Inspector, PW/16 Jeetnarayan Shukla, Head Constable and exhibited documents Ex.P/1 summon under 175 Cr.P.C., Ex.P/2 Naksa Panchnama, Ex.P/3 Najri Naksa, Ex.P/4 Intimation of unnatural death, Ex.P/5 to Ex.P/7 (A) Application for Medical Examination, Ex.P/8-10 Seizure Memo, P/11 FIR, Ex.P/12 Dehati Nalishi, Ex.P13 to Ex.P16 Statement of witnesses, PW/17 Duty certificate and handing over of the deadbody, Ex.P/18 Supurdnama, PW/19 Seizure Memo, Ex.P/20 Arrest Memo, Ex.P/21 List of article for chemical examination, Ex.P/22 Receipt from FSL Raipur, Ex.P/23 application for FSL, Ex.P/24 Memo to Dr. Shesha Saxena.
- 6.** The accused was examined under Section 313 of the Cr.P.C. and examined two witnesses namely DW/1 Ravi and D.W./2 Hemlal Verma and exhibited documents Ex.D/1 to Ex.D/3 Police

statement of the witnesses, Ex.D/4 to Ex.D/6 letters written by the deceased, Ex.D/7 Police statement of the witness. The accused was specifically directed to explain the circumstances regarding availability of sperm as per Ex. P/23 FSL report, he has not given any explanation, but simply denied the said acquisition in question No. 61 to 65.

7. Upon appreciation of the evidence and material on record, the learned trial Court convicted the appellant and sentenced him as aforesaid. Aggrieved thereby, the appellant has preferred the present appeal under Section 374 of the Cr.P.C. The appellant remained in jail from 25.08.2004 to 20.10.2004 for total 56 days during trial and again from 14.03.2005 to till the sentence was suspended and bail was granted by this Court on 17.08.2005.
8. Learned Sr. Advocate for the appellant would submit that the appellant has been falsely implicated in the present case. He would assail the impugned judgment of conviction and order of sentence as being illegal, perverse and contrary to the evidence on record. He would submit that learned trial Court ought to have seen that the important witness Hareliabai was not examined and the appellant has only been convicted merely on the testimony of the interested witnesses. He would further submit that ingredients of Section 107 are not made out as appellant has neither instigated the victim to commit suicide nor has engaged himself in conspiracy, added any act or illegal omission in the commission of suicide. He would further submit that the independent witnesses namely PW-9 Tamras, PW-10 Harish Chand, PW- 11 Tejram and

PW-12 Leelaram have turned hostile which creates doubt over the prosecution case.

9. Learned Sr. Advocate would further submit that the deceased had love affair with the appellant as the deceased wrote love letters to the appellant from Ex.D/4 to Ex.D/6. The learned Senior Counsel to substantiate the submission regarding love affairs he would rely upon the deposition of D.W./1 Ravi and D.W./2 Hemlal Verma. He would further submit that P.W/6 Dr. Y.K. Sharma has deposed that no definite opinion can be given regarding recent sexual assault or injury on the body of the deceased. As such, he would submit that she had committed suicide only because she was seen in compromising position by her own brother. In this circumstances, offence under Section 450 of the IPC is also not made out. He would further submit that for a conviction under Section 306 of the IPC presence of clear mens rea – an intention to abet the act is essential which is missing in the present case. On these grounds, he would pray for allowing the appeal. To substantiate his submission he would refer to the judgment of the Hon'ble Supreme Court in case of **Mahendra Awase vs. State of M.P. {2025 SCC Online SC 107}**, **Arvind Singh vs. State of Bihar {(2001) 6 SCC 407}** and **M. Arjunan vs. State {(2019) 3 SCC 315}**.
10. Per contra, learned counsel for the State vehemently opposing the appeal would submit that the impugned judgment of conviction and order of sentence has been passed after proper appreciation of the oral and documentary evidence available on

record and do not suffer from any illegality or perversity warranting interference by this Court. He would further submit that PW/3 Laxmi has clearly stated that when she managed to enter the house, she saw the deceased in burnt condition and the deceased herself has said to her that she has committed suicide only because the appellant has committed rape on her and soon after that she has died. This witness has remained firm during her examination and nothing has been elicited from her in her cross-examination. Lastly, learned counsel would submit that the accused was afforded an opportunity to explain the incriminating evidence during his examination under Section 313 of the Cr.P.C. wherein he has not placed any material to dislodge the case of the prosecution and would pray for dismissal of the appeal.

- 11.** Learned counsel for the objector while making submission has supported the case of the prosecution and has submitted that the finding recorded by the learned trial Court does not suffer from any illegality warranting interference by this Court and would pray for dismissal of the appeal.
- 12.** I have heard learned counsel for the parties and perused the record of the trial Court with utmost satisfaction.
- 13.** From the submission made by the learned counsel for the parties and perusal of the record, the points emerged for determination by this Court are ;
 - 1) Whether the appellant/accused committed forcible sexual intercourse with the deceased against her will and without her consent and thereby committed an offence punishable under

Section 376(1) of the IPC and whether, the appellant/accused trespassed into the house of the deceased with intent to commit this offence?

2) Whether the prosecution has been able to prove beyond reasonable doubt that the appellant/accused abetted the commission of suicide by the deceased and thereby committed an offence punishable under Section 306 of the IPC?

14. For appreciation of these points, this Court has to go through the evidence as well as the legal position in this regard.
15. The first question which arises for consideration is whether the prosecution has been able to establish that the appellant committed forcible sexual intercourse with the deceased. In this regard, the prosecution has primarily relied upon the testimony of PW/14 Jai Kumar and PW/3 Laxmi Bai. PW/14 Jai Kumar has categorically stated that when he returned to the house and called for the door to be opened, the deceased raised alarm by shouting "Guddu Bhaiya" and after opening the door disclosed to him that the appellant had committed rape upon her and when he caught hold of the accused, then he prayed for pardon and he has further stated that he has assaulted the accused by stick and thereafter, the accused ran away. The witness was cross-examined wherein he denied the suggestion regarding love affair with the accused. He has also admitted that a case of assault upon the witness for assaulting the accused is pending. Thus, the testimony of this witness remained unshaken during the

extensive cross-examination.

- 16.** PW/3 Laxmi Bai has also supported the prosecution case and stated that when she entered the house after the incident, she found the deceased in a burnt condition on the same day of the incident of alleged forceful rape committed by the appellant and upon being asked, the deceased disclosed that the appellant had come to the house and committed rape upon her and since the accused had done wrong act with her therefore, she had set herself ablaze. In the cross-examination she remained firm and stated that when she asked the victim then she informed her that she has poured kerosene oil upon her and also told that since the accused has committed rape upon her therefore, she herself has set ablaze. She has also told that when she was asking about the incident from the victim, then Harishchand (PW/10) and Tijram (PW/11) were standing two-three steps away from her.
- 17.** PW/1 Shivkumar while recording merg has stated that Jai Kumar has narrated him the incident regarding commission of offence of rape by the accused and assault made by him which was exhibited as Ex. D/1. The said witness in his evidence before the trial Court has retaliated the statement made before the Police and he was subjected to extensive cross-examination by the defense and in the cross-examination, he has also stated that he already told to the Police regarding commission of offence of rape by the appellant, but if it has not been recorded in the said statement then it cannot given any explanation to it. In the trial Court he was confronted with the statement recorded before the

Police Station, wherein it has been stated that the appellant has committed illegal act upon victim.

- 18.** PW/6 Dr. Y.K. Sharma has stated that no definite opinion regarding recent sexual assault can be given as the cause of death is due to shock of 85% burn and also stated that private part of the victim also got burnt in fire. The Doctor has stated in paragraph-9 that there was sperm on the front and inner sides of the undergarment as such he has sent the undergarment of the victim for chemical analysis vide Ex.P/7. He has also given opinion that the accused is capable to perform intercourse.
- 19.** PW/7 Ganesh Ram Kashyap, seizure witness of Ex.P/9 by which the gamchha which was containing some white spots, torn white cloth on which some sperm like spots were present, one Salwar (bottom wear) torn on both leg sides and sperm like spot was present on the middle of the Salwar, were seized from the place of occurrence. This witness has supported the seizure of the articles as mentioned in Ex.P/9 and in the cross-examination he has reiterated that he has seen Salwar, a white cloth at the place of occurrence and remaining articles were shown him at the police station which has been mentioned in Ex.P/8 and Ex.P/10.
- 20.** P.W/15 Subhash Das who has investigated the matter has stated in paragraph-11 about the availability of the torn Gamchha, white torn cloth and torn Salwar in which white spot like sperm was found. This witness has been cross-examined but nothing has been brought on record to dilute the evidence.
- 21.** The learned trial Court while recording of conviction has

recorded its finding in paragraph-50 that accused has committed rape upon the victim and the victim has informed this incident to his brother, thereafter, she has committed suicide as such the appellant has committed the offence of not only rape but also abetment to commit suicide and accordingly, it has convicted the accused.

Submission regarding interested/relative witnesses :-

22. The submission made by the learned Senior Counsel that PW/3 and PW/14 who are the brother and sister-in-law of the deceased are interested witnesses being relatives of the deceased, as such, their evidence should be ignored is now being considered by this Court. The submission made by the learned Senior Counsel is liable to be rejected on the count that there is sufficient material on record to corroborate the evidence of these witnesses as the forensic analysis report (Ex.P/23) clearly suggests that on Gamchha, torn white clothes, undergarment of the accused and slide of the victim sperm were found. So far as the Salwar no sperm was found. The seizure witness PW/7 on whose presence the articles were seized at the place of occurrence has supported the possibility of commission of rape upon the victim as her Salwar, undergarnet of the victim and Gamchha were found in torn condition which clearly suggest that on attempt of commission of offence, the victim had objected it and during her course of resistance, the clothes must have torn out. This indicates that the victim was not a consenting party but she was victim of rape. PW/3 has deposed before the trial Court that when

the victim came from the room after opening of the door she told her that she is subjected to commission of rape by the appellant and this version of the PW/3 was not at all diluted by the defence despite extensive cross-examination of this witness, as such the evidence of PW/3 is relevant as per Section 6 of the Evidence Act. The witness's evidence is in continuation of the incident without any interval as such, it cannot be held that a fabrication of the facts have been done by this witness.

23. The Hon'ble Supreme Court in case of **Krishna Kumar Malik vs. State of Haryana {(2011) 7 SCC 130}** has examined the provisions of Section 6 and the contingencies when the evidence of hearsay evidence can be admissible as it is essential to complete the missing link in chain of evidence of solitary witness and held in paragraph 34 to 37 as under :-

34. We shall now deal with Section 6 of the Act, which reads as under:-

"6. Relevancy of facts forming part of same transaction - Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

35. Black's Law Dictionary defines Res Gestae as follows:

(Latin: "things done") The events at issue, or other events contemporaneous with them In evidence law, words and statements about the res gestae are usually admissible under a hearsay exception (such as present sense impression or excited utterance).

36. The said evidence thus becomes relevant and admissible as res gestae under Section 6 of the Act.

37. Section 6 of the Act has an exception to the general rule where-under, hearsay evidence becomes admissible. But as for bringing such hearsay evidence within the ambit of Section 6, what is required to be established is that it must

be almost contemporaneous with the acts and there could not be an interval which would allow fabrication. In other words, the statements said to be admitted as forming part of *res gestae* must have been made contemporaneously with the act or immediately thereafter. Admittedly, she had met her mother Narayani and sister soon after the occurrence, thus, they could have been the best *res gestae* witnesses, still the prosecution did not think it proper to get their statements recorded. This shows the negligent and casual manner in which prosecution had conducted the investigation then the trial. This lacunae has not been explained by the prosecution. The prosecution has not tried to complete this missing link so as to prove it, beyond shadow of doubt, that it was Appellant who had committed the said offences.”

24. Further, the law does not provide that the evidence of the interested / relative witness should be ignored if they support the case of the prosecution when it gets corroboration from other evidences available on record. The Hon'ble Supreme Court in case of **Goverdhan and Another vs. State of Chhattisgarh** **{(2025) 3 SCC 378}** has held in paragraph 98 to 100 as under :-

“98. The appellants had also contended that the PW-10 was an interested witness and her testimony may not be believable. In this regard, it must be noted that PW-10, the mother of the deceased though was related to the victim cannot by any stretch of imagination be said to be an interested witness. As to who is an “interested witness” and the “related witness” has been succinctly explained by this Court in the case of *Mohd. Rojali Ali Vs. The State of Assam*, (2019) 19 SCC 567, wherein it was held that:

“13. As regards the contention that all the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an “interested” witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between “interested” and “related” witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of a litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see *State of Rajasthan v. Kalki* [*State of Rajasthan v. Kalki*,

(1981) 2 SCC 752 : 1981 SCC (Cri) 593] ; Amit v. State of U.P. [Amit v. State of U.P., (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590] ; and Gangabhavani v. Rayapati Venkat Reddy [Gangabhavani v. Rayapati Venkat Reddy, (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182]). Recently, this difference was reiterated in Ganapathiv. State of T.N. [Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , in the following terms, by referring to the three-Judge Bench decision in State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] : (Ganapathi case [Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , SCC p. 555, para 14) “

14. “Related” is not equivalent to “interested”. A witness may be called “interested” only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be “interested”.”

14. In criminal cases, it is often the case that the offence is witnessed by a close relative of the victim, whose presence on the scene of the offence would be natural. The evidence of such a witness cannot automatically be discarded by labelling the witness as interested. Indeed, one of the earliest statements with respect to interested witnesses in criminal cases was made by this Court in Dalip Singh v. State of Punjab [Dalip Singh v. State of Punjab, (1953) 2 SCC 36 : 1954 SCR 145 : AIR 1953 SC 364 : 1953 Cri LJ 1465], wherein this Court observed: (AIR p. 366, para 26)

“26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relative would be the last to screen the real culprit and falsely implicate an innocent person.”

15. In case of a related witness, the Court may not treat his or her testimony as inherently tainted, and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent.

23. We may refer to the observations of this Court in

Jayabalan v. State (UT of Pondicherry) [Jayabalan v. State (UT of Pondicherry), (2010) 1 SCC 199 : (2010) 2 SCC (Cri) 966] : (SCC p. 213, para 23) “23. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested witnesses, the approach of the court, while appreciating the evidence of such witnesses must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the interested witnesses but the court must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim.”

99. As also observed by the High Court, we do not see any reason why the mother of the victim should falsely implicate the appellants without any rhyme or reason more so when apparently there was no previous animosity of the mother Lata Bai with any of the appellants.

100. Lata Bai, PW-10 is certainly not an interested witness even though she was related to the victim and her testimony cannot be impeached on this ground.”

25. Again the Hon'ble Supreme Court in case of **Baban Shankar Daphal and Others vs. State of Maharashtra {2025 SCC Online 137}** has examined the evidentiary value of related witness and has held in paragraph 28 to 30 as under :-

“28. In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinized. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

29. The distinction between "interested" and "related" witnesses has been clarified in Dalip Singh v. State of Punjab,³ where this Court emphasized that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a related

witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. This position has been reiterated by this Court in :-

i. Md. Rojali Ali and Ors v. The State of Assam Ministry of Home Affairs (2019) 19 SCC567.

ii. Ganapathi v. State of T.N.(2018) 5 SCC 549.

iii. Jayabalan v. Union Territory of Pondicherry. (2010) 1 SCC 199.

30. Though the eyewitnesses who have been examined in the present case were closely related to the deceased, namely his wife, daughter and son, their testimonies are consistent with respect to the accused persons being the assailants who inflicted wounds on the deceased. As is revealed from the sequence of events that transpired, one of the family members 1954 SCR 145 was subjected to an assault. It was thus quite natural for the other family members to rush on the spot to intervene. The presence of the family members on the spot and thus being eyewitness has been well established. In such circumstances, merely because the eyewitnesses are family members, their testimonies cannot be discarded solely on that ground.”

- 26.** This submission made by the learned Senior Counsel for the appellant since the interested / related witness has less evidentiary value therefore, the learned trial Court has committed illegality in convicting the appellant is misconceived and deserves to be rejected. Accordingly, it is rejected.
- 27.** The further submission of the learned Senior Counsel for the appellant the the victim had love affair with the appellant and committed suicide only because she was seen in a compromising position by her brother, also deserves to be rejected as the learned trial Court in paragraph 39 and 40 has rightly dispelled the said submission by recording its finding that from the

evidence of PW/14 and PW/3 it is quite vivid that there was no love affair between them and she was not consenting party. Even otherwise, if the victim has love affair with the accused then why the clothes of the victim have been found in a torn condition, it has not been explained by the accused which are sufficient to dislodge the theory of love affair between the deceased and the appellant. The learned trial Court has rightly observed that the letters exhibited by the defence are not sufficient to establish any consensual relationship between the parties. Therefore, the prosecution is able to prove the case against the appellant beyond reasonable doubt that he has committed offence of rape upon the victim. Thus, conviction of the appellant cannot be found faulty for commission of offence under Section 376(I) of the IPC.

- 28.** Further submission of the learned senior counsel for the appellant that the prosecution has not examined Hareliya Bai, therefore, the conviction of the appellant on the basis of relative witness who are interested without outcome of the trial deserves to be set aside by this Court, is being now considered by this Court. The record of the trial Court would show that Hareliya Bai was given up by the prosecution on 06.01.2005 and by other evidence, the prosecution is able to prove the involvement of the appellant beyond reasonable doubt. It is pertinent to mention here that in the present case, the victim because of herself set ablaze has expired and her statement made to the sister-in-law Laxmi Bai (PW/3) is admissible in the evidence as per provisions of Section

6 of the Evidence Act, as held by this Court in foregoing paragraph, as such, non-examination of Hareliya Bai by the prosecution does not weaken the prosecution case, thus, submission made by learned senior counsel for the appellant that due to non-examination of Hareliay Bai, the appellant deserves to be acquitted is misconceived and accordingly it is rejected.

29. So far as conviction of the appellant under Section 306 of the IPC, the act of the appellant had a direct nexus with the commission of suicide by the deceased. It can be deduced that the deceased might have been left with extreme mental trauma and humiliation on account of the forcible act committed by the appellant as in Indian society, if a woman is subjected to rape, she loses her dignity, self-esteem and faces difficulty in facing the society which are sufficient to instigate her to commit suicide, thus, there is sufficient material on record that on account of commission of rape by the appellant, the victim was compelled to commit suicide on the same date of incident of commission of rape upon her as it amounts to instigation as provided under Section 107 of the IPC. Thus, the conviction of the appellant under Section 306 of the IPC does not suffer from perversity or illegality warranting interference by this Court.

30. So far as the offence under Section 450 of the IPC is concerned, the evidence on record clearly establishes that the appellant entered the house of the deceased in absence of guardians and committed the offence of rape on victim after closing the door from inside. Thus, his entry into the house was clearly with

preparation and intention to commit an offence punishable with imprisonment and therefore the ingredients of Section 450 of the IPC are fully established.

31. In view of the aforesaid analysis and re-appreciation of the entire oral and documentary evidence available on record, this Court is of the considered opinion that the prosecution has been able to prove the charges against the appellant beyond reasonable doubt.
32. Accordingly, the criminal appeal being devoid of merit deserves to be and is hereby dismissed. The conviction and sentence imposed upon the appellant by the learned trial Court are hereby affirmed. As per record, the appellant is reported on bail, since the appellant is already on bail, his bail bonds shall stand cancelled and he is directed to surrender before the concerned trial Court for serving out the remaining part of the sentence within two months from today. In case the appellant fails to surrender before the trial Court, then the trial Court shall take necessary steps to secure his custody in accordance with law, and submit its compliance report.

Sd/-
(Narendra Kumar Vyas)
Judge