

[2022 LiveLaw \(SC\) 989](#)

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**SANJAY KISHAN KAUL; J., ABHAY S. OKA; J.**  
CRIMINAL APPEAL NO. 497/2022; NOVEMBER 17, 2022  
**SOMAI versus STATE OF M.P. (NOW CHATTISGARH)**

**Statement of Prosecutrix – Indian Penal Code, 1860 (Act 45 of 1860) – Sections 376 and 450 – Failure of Police to Send Seized Clothes to Forensic Laboratory – Once the court believes the version of a survivor of sexual assault, that is sufficient to establish an offence punishable under Section 376, IPC – Failure of the police to send seized articles to the forensic science laboratory would not affect the outcome in such a case – Held, there was no merit in the appeal by the appellant-accused – Appeal dismissed.**

*For Appellant(s) Mr. Abhishek Pandey, Adv. Mr. Mahesh Pandey, Adv. Mr. Siddharth Pandey, Adv. Ms. Shweta Mulchandani, Adv. Mr. Satish Pandey, AOR*

*For Respondent(s) Ms. Prachi Mishra, Ld. AAG Mr. Dipesh Singhal, Adv. Mr. Gautam Narayan, AOR*

**ORDER**

The appellant has taken an exception to the two concurrent judgments of Sessions Court as well as High Court by which he has been convicted for the offences punishable under Sections 376 and 450 of Indian Penal Code, (for short, 'IPC').

The learned counsel appearing for the appellant has taken us through the impugned judgments as well as the depositions of the prosecutrix and her husband. His main contention is that it was a consensual act as can be seen from the evidence on record. Secondly, he contends that there are significant contradictions and omissions in the deposition of the prosecutrix. Thirdly, he contends that the clothes and undergarments of the prosecutrix as well as the accused which were seized by the police were not sent for analysis to FSL.

We have heard learned counsel for the respondent.

After having perused the deposition of the prosecutrix and after considering the omissions and contradiction sought to be brought on record, we find that the evidence of prosecutrix is consistent with the statements made in the First Information Report. Moreover, the contradictions sought to be brought on record in the evidence of the prosecutrix are of insignificant nature which do not affect the substratum of the case of the prosecution.

Perusal of the line of cross examination of the prosecutrix adopted by the appellant-accused shows that the case was of denial. Not even a suggestion has been given to the prosecutrix that there was a consent by the prosecutrix. The evidence on record also shows that the prosecutrix suffered two injuries below the nostril. The pieces of broken bangles were found at the place of the incident.

We are of the view that there is absolutely nothing to discredit the version of the prosecutrix. The Trial Court has gone into the issue of contradictions and omissions in the evidence of the prosecutrix and has believed her testimony for the reasons recorded. Even the High Court has believed the testimony of the prosecutrix. After having carefully perused the evidence of the prosecutrix, we find no reason to take a different view.

Once the Court believes the version of prosecutrix, that is sufficient to establish the offence punishable under Section 376 of IPC. The failure of the police to send the seized articles to the FSL ceases to have any significance in such a case.

We, therefore, concur with the view taken by the Courts below that the guilt of the appellant was proved beyond a reasonable doubt. There is no merit in the appeal and the same is, accordingly, dismissed.