

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Appeal No. 32/1996

Suresh son of Gopal, Aged 23 years, R/o Sitarampura, Police Station Baroni, District Tonk. (At present lodged in District Jail, Tonk).

----Appellant

Versus

The State of Rajasthan through Public Prosecutor

----Respondent

For Appellant(s) : Mr. V.P. Vishnoi, Adv.
Mr. Saurabh Yadav, Adv.
For Respondent(s) : Mr. Sudesh Kumar Saini, PP
Mr. Rajendra Singh Shekhawat, PP
For Complainant(s) : Mr. Nitin Jain, Adv. with
Mr. Vaibhav Pareek, Adv.

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU
Judgment

Reserved on **10/09/2025**

Pronounced on **___/10/2025**

1. That the present appeal arises out of the judgment and order dated 06.01.1996 passed by the Session Judge, Tonk, by which the appellant-accused was convicted for offence under Section 376 IPC and was sentenced to Seven Years Rigorous Imprisonment and a fine of Rs. 500/-, and in default of payment of fine to undergo three months Rigorous Imprisonment.

2. The factual matrix of the case is that on 17.03.1995, a complaint was made by Jagdish, Exhibit P-1, at Police Station Bharoni stating that his daughter had gone to Govinda's well to fetch fodder for buffaloes at about 8.00 AM in the morning, and

after one hour she returned home crying, stating that Suresh raped her. When she raised an alarm, Kajodmal, Prahlad and Seetaram came to the spot, and on seeing them, Suresh fled from the scene. Suresh slapped her, and in the struggle her chain also broke and fell somewhere. On this complaint, an F.I.R No. 32/1995 was registered at Police Station Bharoni, District Tonk, under Sections 376 and 325 IPC. In the police proceedings, it was observed that there was swelling on the lips of the prosecutrix and slight bruises on the elbow; further, she complained of pain in both thighs and her back. After investigation, the charge-sheet was filed against the appellant-accused in the Court.

3. Learned Sessions Court framed charges under Section 376 IPC. The prosecution examined 10 witnesses and exhibited 12 documents to prove its case. The statement of the accused under Section 313 Cr.P.C. was recorded, and the accused denied the prosecution case. In defence, two witnesses were examined by the learned trial court. After examining the evidence on record, vide judgment and order dated 06.01.1996, the learned trial court convicted the accused under Section 376 IPC and sentenced him to seven years Rigorous Imprisonment and a fine of Rs. 200/-, and in default of payment of fine to undergo three months Rigorous Imprisonment.

4. That aggrieved against the said judgment, the appellant-accused has preferred the present appeal. The learned counsel for the appellant has contended that there is no evidence against the appellant of any forceful intercourse and that it was a case of

consent. The evidence produced in support of the prosecution case is of interested witnesses, who are relatives of the prosecutrix and her family members. Further, the case of the prosecution is not supported by the medical evidence on record, as the same does not suggest any injury on the body of the prosecutrix, and as there was stubble of mustard crop in the fields at the place of incident, the injuries on the back of the prosecutrix were bound to occur. Discrepancies have been pointed out in the site plan and statements of the witnesses to say that the Trial Court has erred in convicting the accused-appellant.

5. The counsel has relied upon the following judgments of the Hon'ble Supreme Court, in support of his contentions:

(1) Sujan Singh v. State, 1991 RCC, 159 S.B. Cr. Appeal No.425/1982 decided on 28.08.1990.

(2) Kanna @ Kanhiya v. State of Rajasthan, 1991 RCC 19, S.B. Cr. Appeal No.448/1982 decided on 28.08.1990.

(3) Birka Shiva Vs. The State of Telangana, 2025 INSC 863.

6. Per-contra the counsel for the respondent State has stated that there is no error in the judgment of conviction passed by the learned Trial Court and the same has been passed after thoroughly appreciating the evidence on record. It is contended that the evidence of the prosecutrix has remained consistent and merely because the other witnesses are her relatives, their evidence cannot be disbelieved, and the minor discrepancies will not cause any dent in the prosecution story.

7. Heard, the learned Counsel for the parties and pursued the record with their able assistance.

8. The criminal machinery was set in the motion upon the application of the father of the prosecutrix, Jagdish stating that the prosecutrix came to the house crying and stated that when she had gone to the fields at the well of Govinda to fetch the fodder, Suresh raped her and when she raised alarm Kajod, Prahlad and Seetaram came to the place, and upon seeing them he ran away. After the incident, she had reported swelling on the lips and pain in her legs and back. As per the evidence on recorded the prosecutrix is 19 year old married girl. The medical expert has opined her age to be between 17 to 19 years in the Medical Ossification Test Ex.P.-10. In her statement also her age recorded as 19 years, and her mother Prem (PW-2) states her age to be of 18 years.

9. The statements of prosecutrix, PW-9 were recorded, wherein she has deposed that she had gone to get fodder and when she was sitting on the boundary of wall of the Suvadaji's field, accused Suresh came from behind, caught hold of her and dropped her on the ground. She tried to resist and slapped and punched him, but he gagged her mouth with a shawl and pressed both her hands against her throat. The accused thereafter unzipped his trousers and committed forcible sexual intercourse with her against her will. She screamed, but the accused did not let her go. Then Prahlad, Kajod and Sitaram arrived at the spot. In the course of the incident, the bangles worn by the prosecutrix

broke and fell on the ground. Upon returning home, the prosecutrix narrated the entire occurrence to her mother. She was subjected to detailed cross-examination, but her testimony remained consistent and unshaken. She specifically denied the suggestion made by the defence that she was waiting for the accused in the fields and that she consented to the intercourse. She clearly stated that she screamed when the accused caught her and then he forcibly overpowered her. She further asserted that she strongly resisted to free herself, but the accused continued to tightly hold her and had forcible sexual intercourse. She shouted when the accused was wearing his underwear. It has further come in evidence that the fields of Kajod, Prahlad and Sitaram were situated merely about 100 gaz from the field of Suaji. The prosecutrix explained that, although mustard stubble were present in the fields, she did not sustain injuries on her back because it was very short about inch in length. Thus, in cross-examination, the prosecutrix stood firm, and nothing could be elicited to cast doubt on her version. Her testimony is cogent, reliable, and sufficient to establish that the accused committed forcible sexual intercourse with her against her will.

10. The prosecution has produced three witnesses, who are said to have reached the site when the prosecutrix raised alarm, PW-3 Prahlad, PW-4 Seetaram and PW-7 Kajodmal. All the three witnesses support the story of the prosecution and are consistent. PW-3, Prahlad clearly states that all of them reached the spot when they heard the prosecutrix shouting and they found her

sitting in the fields and crying and saw the accused running from the spot. She was in a disheveled state and immediately informed that Suresh had committed alleged crime with her. In cross-examination he admitted that he does not recognized accused, but however he admitted that Sunita had informed him that he was Suresh. Similarly, PW-4 Seetaram also states that they had reached the spot immediately and saw accused Suresh fleeing, he also identified him in the court. He further states that the fields of Suva are visible from their fields, and they reached in 2-5 minutes. PW-7 Kajodmal has also supported the prosecution version and deposed that he, along with others, had reached the place of occurrence. He saw Suresh running away while putting on his pants, and the prosecutrix Sunita immediately informed them that Suresh had forcibly committed sexual intercourse with her. In his cross-examination, PW-7 stated that he, along with Prahlad and Sitaram, was working in the fields situated about 150 steps from the field of Sua. He also mentioned that there is only one bigha of land between Govinda's well and Sua's field, which is the place of incident. The prosecutrix upon returning home immediately narrated the incident to her mother, PW-2 Prem. She denied the defence suggestion that the accused had visited their house for getting his clothes stitched. She also affirmed that she had lodged the written report, Exhibit P-1, for registration of the FIR, along with PW-1 Jagdish, who also corroborated that the report was filed immediately after the occurrence. All the prosecution witnesses were rigorously cross-examined, but no substantial inconsistencies or contradictions emerged that would

impair their credibility or shake the prosecution's case. On the contrary, the statements of the prosecutrix remain consistent and trustworthy, and her testimony inspires full confidence. There is, therefore, no ground to disbelieve her version of the incident.

11. It is relevant to consider that the incident is set to have happened at 8.00 AM in the morning and the F.I.R was registered immediately at 11.00 AM and hence there was no delay in the reporting of the incident and registration of the F.I.R. The site plan of the incident was prepared, which is Ex.P-3 and the witnesses of the plan PW-4 and PW-7 have admitted their signatures on the same and map to be prepared in their presence. PW-1 and PW-9 have also admitted their signatures. As per the map, the incident is said to have taken place in the field of Suvadaji, which adjoining the well of Govinda, wherein the prosecutrix had stated to have gone, therefore the contentions of the defense that there is discrepancies in the place of incident, does not survive. Further from the site plan itself it is clear that from point 'A' at the place of incident, the broken pieces of the bangles have been recovered. The prosecutrix had clearly stated that the bangles were broken at the place of incident, and the same having been recovered, further strengthen the case of the prosecution. The recovered memo of bangles is P-4 and the same bears her signatures. The blouse of the prosecutrix was seized vide Ex.P-5 with two button broken, and the witnesses have admitted their signatures on the recovery memo. The Ex.P-4 and Ex.P-5 further proves the incident and strengthens the case of prosecution.

12. The testimony of the prosecutrix has remained consistent and unshaken during cross-examination. The minor discrepancies, as argued, in her police statements and deposition before the Court are not material enough to cast any doubt on the veracity of her evidence. There is no evidence or suggestion on record indicating any animosity between the prosecutrix or her family and the accused so as to provide a motive for false implication. Therefore, the statement of the prosecutrix are credible and inspires confidence, and there is no ground to disbelieve her testimony.

13. It has been further strenuously contended on behalf of the appellant-accused that in the absence of any injuries on the body of the prosecutrix, including her private parts, no conviction can be sustained, particularly when the medical evidence does not support the allegation of forcible intercourse. Reliance has been placed on the medical examination report (Ex.P.12) as well as the testimony of PW-8 Indra Shandilya to contend that the incident was one of consent and not of forcible sexual intercourse, and therefore the conviction is unsustainable in law.

14. However, this argument, when examined in the light of the evidence on record, including the testimony of the prosecutrix and other corroborative material, does not merit acceptance. It is now a settled principle of law that the mere absence of injuries on the body of the prosecutrix or on her private parts cannot, by itself, be held to be indicative of consent. Nor can it be regarded as fatal to the prosecution case, particularly when the testimony

of the victim is otherwise found to be credible and trustworthy. It is equally well established that the prosecutrix may not always be in a position to offer violent resistance in every case of sexual assault. This is specially relevant here, given that the prosecutrix was 3 to 4 months pregnant at the time of the incident, as duly proved from her own statement and the testimony of PW-8 Dr. Indra Shandilya. Therefore, merely because no external injuries were found, the testimony of the prosecutrix cannot be disbelieved or discarded.

15. The Hon'ble Supreme Court has consistently held that if the evidence of the prosecutrix is trustworthy and inspires confidence, the Court should have no hesitation on basing a conviction solely on her testimony, and such evidence cannot be discarded merely on account of minor contradictions or the absence injury marks. Reliance is placed on the judgment of the Hon'ble Supreme Court in **State of Himachal Pradesh V/s Manga Singh (2019) 16 SC 759**, wherein it was held that :

"(11). The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law; but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix.

(12) It is well settled by a catena of decisions of the Supreme Court that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the "probabilities factor" does not render it unworthy of credence. As a general rule, there is no reason to insist on corroboration except from medical evidence. However, having regard to the circumstances of the

case, medical evidence may not be available. In such cases, solitary testimony of the prosecutrix would be sufficient to base the conviction, if it inspires the confidence of the court.”

16. In **State of Punjab v. Gurmit Singh [(1996) 2 SCC 384]**, the Hon’ble Supreme Court held that courts are duty bound to deal with cases relating to sexual offences with utmost sensitivity and a realistic approach. Minor consideration or insignificant discrepancies in the statement of prosecution should not be a ground for throwing out an otherwise reliable prosecution case. The court observed as under :

“8.The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the Courts should not over-look. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The Court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness and to an extent is even more reliable.

21. 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 the 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 - it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The Courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

17. In **Lok Mal alias Loku vs. State of Uttar Pradesh (2025) 4 SCC 470** the Hon'ble Supreme court underscored that the absence of injuries on the private parts does not necessarily negate the occurrence of sexual assault and cannot be a sole reason to disbelieve otherwise reliable testimony:

"11. Merely because in the medical evidence, there are no major injury marks, this cannot be a reason to discard the otherwise reliable evidence of the prosecutrix. It is not necessary that in each and every case where rape is alleged there has to be an injury to the private parts of the victim and it depends on the facts and circumstances of a particular case. We reiterate that absence of injuries on the private parts of the victim is not always fatal to the case of the prosecution. According to the version of the prosecutrix, the accused overpowered her and pushed her to bed in spite of her resistance and gagged her mouth using a piece of cloth. Thus,

considering this very aspect, it is possible that there were no major injury marks. The appellant made an attempt to raise the defence of false implication, however, he was unable to support his defence by any cogent evidence. Ld. counsel for the appellant further submitted that there is an inordinate delay in lodging complaint and registering FIR. However, considering the evidence on record, we are of the opinion that the said delay in lodging of the complaint and registering FIR has been sufficiently explained and is not fatal to the case of the prosecution."

18. Recently, the Hon'ble Apex Court has comprehensively considered and summarized the entire law relating to conviction based solely on the evidence of the prosecutrix in **Deepak Kumar Sahu vs State of Chhattisgarh (2025 INSC 929)**, where it reaffirmed that if the testimony of the prosecutrix is credible and trustworthy, the Court can base conviction solely on such testimony without requiring corroboration. The Court has held that the mere absence of emphatic medical evidence of physical intercourse or the lack of external injuries cannot, by itself, be a valid ground to doubt or disregard the testimony of the prosecutrix. The Hon'ble Court observed as under:-

"5.5.5. Akin to the facts of the present case, It was stated in

Lok Mal (supra), according to the version of the prosecutrix, that

the accused overpowered her and pushed her to bed in spite of her resistance and gagged her mouth using a piece of cloth. Thus, considering this very aspect, it is possible that there were no major injury marks. The appellant made an attempt to raise the defence of false implication, however, he was unable to support his defence by any cogent evidence.

5.5.6 The credible and reliable evidence of prosecutrix could not be jettisoned for want of corroboration including the corroboration by medical report or evidence. The Court observed in Manga Singh (supra) that "in absence of injury on the private part of the prosecutrix, it cannot be concluded that the incident had not taken place or the sexual intercourse was committed with the consent of the prosecutrix". It was stated that it is well settled that in the cases of rape it is not always necessary that external injury is to be found on the body of the victim."

19. Applying the principle of law laid down by the Hon'ble Apex Court to the facts of the present case, this Court is of the considered opinion that the testimony of the prosecutrix is consistent, reliable and trustworthy, and there is no reason to discredit her version. It is well settled that conviction can be based solely on the testimony of the prosecutrix if it inspires confidence and is found to be credible. However, in the present case, the testimony of the prosecutrix does not stand in isolation, but it is duly corroborated by the depositions of PW-3 Prahlad, PW-4 Sita Ram and PW-7 Kajodmal, who were the first to reach the scene of occurrence, and her mother PW-2. These witnesses have consistently supported the version of the prosecutrix and their testimony has withstood the test of cross-examination. Nothing material has been brought on record by the defence to shake their credibility or to render the prosecution case doubtful. The prosecution case stands further strengthened by the recoveries effected from the place of occurrence. Thus, the testimony of the prosecutrix, duly corroborated by the evidence of the aforesaid prosecution witnesses, clearly establishes that the accused committed forcible sexual intercourse with her against her will and without her consent. Their corroboration of the prosecution story lends additional assurance and further strengthens the case of the prosecution.

20. The argument advanced on behalf of the respondents, that the evidence of these witnesses cannot be relied upon merely because they are close relatives of the prosecutrix, is liable to be

rejected, as it is a settled principle of law that the testimony of a witness cannot be disbelieved solely on the ground of their relationship to the victim. Such witnesses cannot be branded as interested witnesses per se. The evidence of the witnesses is consistent and clear and have withstood the cross examination. The trial court has found their evidence reliable. The appellant-accused has failed to point out any material on record to establish that these witnesses were interested witnesses or that they bore any animosity against the accused so as to falsely implicate him. The Hon'ble Supreme Court has consistently held that the evidence of a related witness cannot be discarded solely on the ground of relationship unless it is demonstrated that such witness had a motive or strong reason to falsely implicate the accused. Reliance may be placed on the judgment of the Hon'ble Supreme Court in the case of **Sudhakar @ Sudharshan v State Represented by the Inspector of Police 2018 INSC 229**

"17. It would be appropriate to have a look at the legal position with regard to the evidence of related and interested witnesses. In **Sarwan Singh v. State of Punjab, (1976 (4) SCC 369)**, para 10, this Court observed thus:

"..... The evidence of an interested witness does not suffer from any infirmity as such, but the Courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the Court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration."

It is settled law that there cannot be any hard and fast rule that the evidence of interested witness cannot be taken into consideration and they cannot be termed as witnesses. But, the only burden that would be cast upon the Courts in those cases is that the Courts have to be cautious while evaluating the evidence to exclude the possibility of false implication. Relationship can never be a factor to affect the credibility of the witness as it is always not possible to get an independent witness."

21. The same settled law was reiterated in the case of **Rajesh Yadav v. State of Uttar Pradesh (2022) 12 SCC 200**, wherein it was held that the testimony of a witness cannot be discarded merely on the ground of being a relative of the victim, and such a witness cannot be treated as inherently biased or interested:-

“Related and Interested Witness:

28.A related witness cannot be termed as an interested witness per se. One has to see the place of occurrence along with other circumstances. A related witness can also be a natural witness. If an offence is committed within the precincts of the deceased, the presence of his family members cannot be ruled out, as they assume the position of natural witnesses. When their evidence is clear, cogent and withstood the rigor of cross examination, it becomes sterling, not requiring further corroboration. A related witness would become an interested witness, only when he is desirous of implicating the accused in rendering a conviction, on purpose.

29.When the court is convinced with the quality of the evidence produced, notwithstanding the classification as quoted above, it becomes the best evidence. Such testimony being natural, adding to the degree of probability, the court has to make reliance upon it in proving a fact. The aforesaid position of law has been well laid down in *Bhaskarrao v. State of Maharashtra*, (2018) 6 SCC 591:

“32. Coming back to the appreciation of the evidence at hand, at the outset, our attention is drawn to the fact that the witnesses were interrelated, and this Court should be cautious in accepting their statements. It would be beneficial to recapitulate the law concerning the appreciation of evidence of related witness. In *Dalip Singh v. State of Punjab*, 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465], Vivian Bose, J. for the Bench observed the law as under: (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. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from

being a foundation is often a sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts.”

“33. In *Masalti v. State of U.P.*, (1964) 8 SCR 133 : AIR 1965 SC 202 : (1965) 1 Cri LJ 226] , a five-Judge Bench of this Court has categorically observed as under: (AIR pp. 209-210, para 14)

“14. ... There is no doubt that when a criminal court has to appreciate evidence given by witnesses who are partisan or interested, it has to be very careful in weighing such evidence. Whether or not there are discrepancies in the evidence; whether or not the evidence strikes the court as genuine; whether or not the story disclosed by the evidence is probable, are all matters which must be taken into account. But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses. Often enough, where factions prevail in villages and murders are committed as a result of enmity between such factions, criminal courts have to deal with evidence of a partisan type. The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice. No hardand-fast rule can be laid down as to how much evidence should be appreciated. Judicial approach has to be cautious in dealing with such evidence; but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct.”

“34. In *Darya Singh v. State of Punjab* [(1964) 3 SCR 397 : AIR 1965 SC 328 : (1965) 1 Cri LJ 350] , this Court held that evidence of an eyewitness who is a near relative of the victim, should be closely scrutinised but no corroboration is necessary for acceptance of his evidence. In *Harbans Kaur v. State of Haryana* [(2005) 9 SCC 195 : 2005 SCC (Cri) 1213 : 2005 Cri LJ 2199] , this Court observed that: (SCC p. 227, para 6)”

“6. There is no proposition in law that relatives are to be treated as untruthful witnesses. On the contrary, reason has to be shown when a plea of partiality is raised to show that the witnesses had reason to shield actual culprit and falsely implicate the accused.”

“35. The last case we need to concern ourselves is *Namdeo v. State of Maharashtra* [(2007) 14 SCC 150 : (2009) 1 SCC (Cri) 773] , wherein this Court after observing previous precedents has summarised the law in the following manner: : (SCC p. 164, para 38)”

“38.....it is clear that a close relative cannot be characterised as an “interested” witness. He is a “natural” witness. His evidence, however, must be scrutinised

carefully. If on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, conviction can be based on the "sole" testimony of such witness. Close relationship of witness with the deceased or victim is no ground to reject his evidence. On the contrary, close relative of the deceased would normally be most reluctant to spare the real culprit and falsely implicate an innocent one."

22. The accused-appellant has attempted to raise a defence based on consent and alleged false implication, seeking to establish that the charges are unfounded. However, he has miserably failed to bring on record any material to substantiate the same. The prosecutrix, in her testimony, has categorically stated that she was subjected to forcible sexual intercourse despite her resistance, and during cross-examination she specifically denied the suggestion of any consensual intercourse or that she had called the accused Suresh to the place of occurrence. The testimony of DW.1-Jagdish and DW.2-Fateh Lal does not help the accused to prove the friendship with prosecutrix. No defence witness has been examined to support the plea that the prosecutrix had allegedly signaled the accused to come to Govinda's well when he was at Bhura's house. In the absence of any cogent or reliable evidence, the defence set up by the accused remains wholly unsubstantiated.

23. Learned counsel for the appellant has placed reliance on the judgments rendered in **Sujan Singh v. State** as well as **Kanna @ Kanhiya v. State of Rajasthan** and **Birka Shiva Vs. The State of Telangana** to contend that, in the absence of injuries on the body of the prosecutrix, a conviction cannot be sustained.

24. In **Sujan Singh** (supra), one of the material prosecution witnesses turned hostile, and there was evidence of prior animosity between the family of the prosecutrix and the accused. The Court, finding the testimony of the prosecutrix unreliable and unsupported by corroborative or substantial evidence, coupled with the absence of medical support, acquitted the accused. Similarly, in **Kanna @ Kanhiya v. State of Rajasthan** (supra), the Court found that the oral evidence adduced by the prosecution did not inspire confidence, as it lacked corroboration from any reliable or substantial material to strengthen the prosecution case. The court in **Birka Shiva v. State of Telangana** (supra), declined to rely on the statement of the prosecutrix, noting that she had resided with the accused peacefully, without any indication of discomfort or any attempt to leave or escape. Moreover, the prosecutrix failed to establish that the sexual intercourse was against her will. Hence, the judgments relied upon by learned counsel for the appellant are clearly distinguishable on facts, and the factual matrix of the present case rests on an entirely different footing. Here, the testimony of the prosecutrix has been found to be consistent and reliable. Hence, these judgments do not help the case of the appellant.

25. In light of the observations made herein above, this Court is of the considered view that the prosecution has been able to prove beyond reasonable doubt that the accused Suresh committed forcible sexual intercourse with the prosecutrix against her will. The learned trial court, after a minute and careful examination of the testimony of the prosecutrix, the statements of

other prosecution witnesses, and the documentary evidence available on record, has rightly held that accused guilty of the offence of rape punishable under Section 376 of the Indian Penal Code. There is no reason to interfere with the judgment of the trial court.

26. Consequently, the appeal is dismissed. The judgment of conviction and sentence dated 06.01.1996 passed by the Sessions Judge, Tonk in Session Case No. 35/95 is confirmed. The appellant-accused, who is on bail is directed to surrender before the Trial Court within four weeks' from the date of this judgment, to undergo the remaining sentence in terms of the judgment of conviction dated 06.01.1996. If he does not surrender, the trial court is directed to proceed in accordance with law.

27. Record be returned to the trial court forthwith.

(BALJINDER SINGH SANDHU),J