




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Appeal (DB) No. 207/2023

Masra Ram @ Masru S/o Surta Ram, Aged About 46 Years, R/o Maruwada, Raniwara P.S., Dist. Jalore (Confined In Dist. Jail, Jalore)

----Appellant

Versus

1. State Of Rajasthan, Through PP
2. Suresh Kumar S/o Rupa Ji Tiru, R/o Maruwara, Raniwara P.s., Raniwara, Dist. Jalore
3. Asha D/o Rupa Ji Turi, Victim R/o Maruwara, Raniwara P.s., Raniwara, Dist. Jalore

----Respondents

For Appellant(s) : Mr. Mukesh Kumar Trivedi
Mr. Praveen Ramesh Jain

For Respondent(s) : Mr. Shrawan Singh Rathore, PP

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA

Judgment

BY THE COURT: (PER HON'BLE MR. JUSTICE VINIT KUMAR MATHUR)

1.	Date of conclusion of argument	19.03.2026
2.	Date on which the judgment was reserved	19.03.2026
3.	Whether the full judgment or only operative part is pronounced	Full Judgment
4.	Date of Pronouncement	24.03.2026

1. The Hon'ble Supreme Court in the case of ***Nipun Saxena & Anr. Vs. Union of India & Ors., (2019) 2 SCC 703***, and further reiterated in ***Birbal Kumar Nishad Vs. State of Chhattisgarh (SLP (Crl.) No. 4540/2021, decided on 30.06.2021)***, emphasized the mandatory requirement of protecting the identity of victims of sexual offences, this Court deems it appropriate to



withhold the real name and identity of the victim and her close relatives. Accordingly, for the purpose of maintaining anonymity, the victim has been referred to as the "prosecutrix" and/or "X" and close relatives has also been referred to by a fictitious name in the present judgment as under –

"A"	"Prosecutrix" Brother.
"B"	"Prosecutrix" Nephew.
"C"	"Prosecutrix" Sister
"D"	"Prosecutrix" Brother

2. The present criminal appeal has been preferred under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 374(2) of the Code of Criminal Procedure by the accused-appellant Masra Ram son of Surataji, assailing the legality and validity of the judgment dated 18.08.2023 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Jalore (hereinafter referred to as "the learned trial court") in Sessions Case No.57/2022, whereby the accused-appellant has been convicted and sentenced for the offences under Section 376 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989 as under:–

376 IPC	Life imprisonment for the Remainder of the Natural Life, with a Fine of Rs.10,000/-	In default of payment of fine to further undergo one year additional rigorous imprisonment.
3(2) (V)of SC/ST Act	Imprisonment for life and a fine of Rs.10,000/	In default of payment of fine to further undergo one year additional rigorous imprisonment.

3. As per prosecution case, on 20.05.2022, the complainant "A" (PW-9), who is the brother of the prosecutrix "X", appeared at Police Station Raniwara, District Jalore, and submitted a written





report (Exhibit P-09). In the said report, the complainant stated that he belongs to a Scheduled Caste community and that his younger sister - the "prosecutrix", is a mentally challenged lady. It was alleged that on 19.05.2022 at about 6:00 PM, the "prosecutrix" had gone towards a nearby forest area for the purpose of defecation. The accused-appellant Masru, son of Surataji, resident of Maruwada, Tehsil Raniwara, followed her and forcibly dragged her by holding her hands towards a nearby stream (*Nadi*). When the "prosecutrix" did not return home for a considerable period of time, the complainant's son "B" went towards the said stream in search of her, where he allegedly saw that the *skirt/petticoat* of the "prosecutrix" was raised and the accused-appellant was lying on top of her and committing indecent acts. Upon raising an alarm by complainant's son "B", the accused-appellant allegedly got up and threatened him with dire consequences, stating that if the incident was disclosed to anyone, he would kill him and his father. Thereafter, the complainant's son "B", returned home and narrated the incident to his father i.e. complainant. The "prosecutrix", who was stated to be frightened, also disclosed the occurrence to the complainant.

4. On the basis of the aforesaid written report, a formal FIR No.110/2022 came to be registered at Police Station Raniwara, Jalore for the offences under Section 376 of the Indian Penal Code and under Sections 3(1)(w)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.





5. After completion of investigation, the police filed a charge-sheet under Section 376 of the Indian Penal Code and under Sections 3(1)(w)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the accused-appellant before the learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Jalore.

6. Learned trial court, upon taking cognizance, framed charges against the accused-appellant for the offences under Section 376 IPC and Sections 3(1)(w)(ii) and 3(2)(v) of the SC/ST Act. The charges were read over and explained to the accused-appellant, who denied the same and claimed trial.

7. During the trial, the prosecution examined as many as 22 witnesses. In support of its case, the prosecution also produced documentary evidence, Exhibits P-01 to P-25 along with 04 Articles in support of its case.

8. The statement of the accused-appellant was recorded under Section 313 Cr.P.C., wherein he denied the prosecution allegations in toto and claimed to be innocent, asserting that he had been falsely implicated on the basis of statements of interested and related witnesses. In defence, the accused-appellant produced documentary evidence, Exhibits D-01 to D-10; however, no defence witness was examined.

9. Learned Trial Court, after hearing the arguments advanced on behalf of both sides and upon appreciation of the oral and documentary evidence brought on record, convicted and sentenced the accused-appellant for the offences under Section





376 IPC and Section 3(2)(v) of the SC/ST Act vide judgment dated 18.08.2023.

10. Being aggrieved by the aforesaid judgment of conviction and order of sentence passed by the learned trial court, the accused-appellant has preferred the present appeal before this Court.

11. Learned counsel for the accused-appellant assailing the validity of the impugned judgment vehemently submitted that the judgment dated 18.08.2023 passed by the learned trial court is contrary to the facts and circumstances of the case, contrary to the material available on record and unsustainable in law. He further submitted that the learned trial court has failed to appreciate the evidence in its correct perspective and has erroneously recorded the conviction of the accused-appellant. Therefore, the impugned judgment of conviction and order of sentence deserves to be quashed and set aside.

12. Learned counsel for the accused-appellant submitted that the entire prosecution case rests primarily upon the testimony of the "prosecutrix" (PW-7) and the witness "B" (PW-10), who is the nephew of the "prosecutrix" and son of the complainant. Learned counsel submitted that the prosecution story is inherently improbable and unreliable. He submitted that it is an admitted position emerging from the evidence that the "prosecutrix" and the accused-appellant were acquainted with each other since long and the "prosecutrix" herself admitted that she had been visiting the house of the accused-appellant earlier. He further submitted that it is neither the case of the "prosecutrix" that the accused-appellant had any prior ill-will towards her nor that he had ever





made any improper advances or gestures towards her in the past. Thus, according to learned counsel, the allegation of sudden commission of the alleged offence, in the manner narrated by the prosecution, appears to be highly doubtful.

13. Learned counsel submitted that the prosecution has failed to establish the exact place of occurrence. He further submitted that as per the prosecution story, the alleged occurrence took place in a deep area of a *Nadi* which was about 10-12 feet below the ground level, however, the "prosecutrix" did not disclose any details regarding the terrain, slope, passage or staircase leading to the said place. He also submitted that the "prosecutrix" failed to disclose the specific distance between her house and the place where she had gone to attend the call of nature or the place where the alleged incident occurred. Learned counsel submitted that these omissions create serious doubts regarding the veracity of the prosecution story.

14. Learned counsel submitted that the complainant alleged that "B" (PW-10) informed him about the incident telephonically and thereafter, the complainant along with his brother "D" (PW-12) and sister "C" (PW-11) reached at the spot and questioned the "prosecutrix", who allegedly narrated the incident while in a frightened condition. Learned counsel further submitted that all these witnesses belong to the same family and are highly interested witnesses. He submitted that the site plan (Exhibit P-11) was prepared in the presence of PW-10, PW-12 and the complainant, but significantly, it was not prepared in the presence of the "prosecutrix" herself, who was the most material witness to





identify the exact place of occurrence. He thus submitted that the conviction based solely on the testimony of such related witnesses is unsustainable.

15. Learned counsel submitted that the prosecution case suffers from material contradictions. He submitted that while the "prosecutrix" stated that "B" (PW-10) chased two boys belonging to the Meghwal community, who were present near the spot, "B" (PW-10) in his deposition stated that he had gone out to attend the call of nature and saw two boys standing nearby who fled away upon seeing him. According to learned counsel, this contradiction goes to the root of the prosecution case and creates doubt about the presence of the witnesses at the place of occurrence. He further submitted that there is no medical or physical evidence supporting the allegation of forcible sexual assault. Learned counsel pointed out that neither the "prosecutrix" stated that her clothes were torn during the alleged incident nor were any external or internal injuries found on her body. He submitted that none of the witnesses deposed about finding soil-stained clothes, marks of struggle or any other signs indicative of sexual assault at the place of occurrence.

16. Learned counsel further submitted that the prosecution relied upon the testimony of PW-4 Mahendra and PW-5 Shera Ram, however both these witnesses were declared hostile. He submitted that despite the fact that the said witnesses did not support the prosecution case, the learned trial court erroneously relied upon selective portions of their testimony by drawing presumptions under Section 114 of the Indian Evidence Act, 1872 in order to fill





the lacunae in the prosecution case. According to the learned counsel, such an approach is legally impermissible.

17. Learned counsel further submitted that the recovery and forensic examination of the articles have not been proved in accordance with law. Learned counsel submitted that the alleged articles, namely the *petticoat* of the "prosecutrix" and the *dhoti/advita* of the accused-appellant, were sent to the Forensic Science Laboratory after an unexplained inordinate delay. As per the Road Certificate (Exhibit D-6) and *Roznamcha Report* (Exhibit D-7), the articles were dispatched on 06.06.2022 but were deposited in the FSL only on 09.06.2022. According to the learned counsel, the prosecution failed to establish that the seized articles remained properly sealed and intact during this period.

18. Learned counsel further submitted that the prosecution has also failed to explain the delay in lodging the FIR. It is urged that although the incident allegedly occurred on 19.05.2022, the report was lodged only on 20.05.2022 without furnishing any satisfactory explanation. It is also pointed out that the prosecution witnesses admitted that no soil marks, signs of struggle or evidence of sexual intercourse were found at the alleged place of occurrence.

19. Learned counsel further submitted that the medical as well as forensic evidence does not support the prosecution story that the FSL and DNA reports did not reveal the presence of semen or any indication of recent sexual intercourse on the vaginal swab, vaginal smear slide or *petticoat* of the "prosecutrix", nor was any such evidence detected on the clothing of the accused-appellant. According to learned counsel, in absence of corroborative medical





or forensic evidence, the conviction solely on the basis of interested testimony cannot be sustained.

20. Learned counsel also questioned the reliance placed by the prosecution on the disability certificate and medical documents showing that the "prosecutrix" was suffering from mild intellectual disability. He submitted that the said documents were collected during investigation after registration of the FIR and were not produced by the family members of the "prosecutrix" prior to the alleged incident. He further submitted that the said documents were not issued on the basis of any properly constituted medical board nor was it established that the "prosecutrix" had been suffering from such disability since birth.

21. Learned counsel further submitted that even the testimony of the police witness PW-3 Pawani Devi indicates that the "prosecutrix" was able to give her statement coherently under Section 161 Cr.P.C. and she did not appear to be mentally unsound. According to the learned counsel, the reliance placed by the learned trial court on the said disability certificate is thus misplaced. He also submitted that the prosecutrix herself admitted during her testimony that she had earlier visited the house of the accused-appellant and had obtained food grains from his house. According to learned counsel, this admission clearly indicates that both parties were acquainted with each other and the prosecution has failed to establish any motive or prior conduct on the part of the accused-appellant which would suggest commission of the alleged offence.





22. Learned counsel thus submitted that the prosecution case is riddled with contradictions, omissions and inconsistencies and the essential ingredients of the offences under Section 376 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have not been proved beyond reasonable doubt.

23. He therefore, submitted that the learned trial court has committed grave error in relying upon the testimony of interested witnesses belonging to the same family while ignoring the material contradictions and absence of corroborative evidence. Consequently, it is prayed that the impugned judgment of conviction and order of sentence be set aside and the accused-appellant be acquitted of the charges.

24. Per contra, learned Public Prosecutor has vehemently opposed the submissions advanced on behalf of the accused-appellant and has supported the findings recorded by the learned trial court. He submits that the impugned judgment dated 18.08.2023 does not suffer from any infirmity or illegality and that the conviction of the accused-appellant for the offences under Section 376 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been rightly recorded on the basis of reliable and cogent evidence available on record.

25. We have bestowed our anxious consideration to the submissions advanced by learned counsel for the parties and have carefully re-appreciated the entire oral as well as documentary



evidence available on record including the impugned judgment dated 18.08.2023.

26. Upon consideration of the evidence on record, it emerges that the complainant "A" (PW-09), brother of the "prosecutrix", in his written report (Exhibit P-09), categorically stated that the "prosecutrix" suffers from a mental illness. In consequence thereof, the "prosecutrix" was subjected to a psychiatric evaluation to ascertain her mental condition. The medical evidence reveals that upon such examination, the "prosecutrix" was diagnosed with "Mild Intellectual Disability" to the extent of 41%, and a Disability Certificate (Exhibit P-06) was accordingly issued.

27. In this regard, the testimony of PW-08, Dr. Mohammad Wasim, Medical Officer in the Department of Psychiatry at MDM Hospital, Jodhpur, assumes significance. He deposed that he conducted the mental examination of the "prosecutrix" and prepared the reports marked as Exhibits P-07 and P-08. According to him, Intellectual Disability is a congenital condition affecting cognitive abilities, whereby a patient may retain memory of certain events while forgetting others and may be capable of limited independent decision-making but remains dependent for more complex reasoning. He further opined that the "prosecutrix" was suffering from 41% intellectual disability. He also stated that the "prosecutrix" had been brought to him by a police constable along with her brother on 07.07.2022, and that the examination could be completed within a span of one to two hours. During cross-examination, he admitted that apart from Exhibit P-06, no prior certificate of mental disability was produced before him and





that the record of an earlier examination conducted on 09.06.2022 during a medical camp was not available on the case file. He also acknowledged that the retention of recent memory by the "prosecutrix" would depend upon her specific mental condition.

28. PW-17, Dr. Gajendra Singh Deval, who was serving as the Chief Medical and Health Officer (CMHO), Jalore, on 25.06.2022, deposed that he issued the Disability Certificate (Exhibit P-06), which reflected that the "prosecutrix" was suffering from 41% intellectual disability. He clarified that the certificate had been generated on the basis of the assessment conducted by PW-08, Dr. Mohammad Wasim, and was transmitted to his official portal, whereupon he verified the same and affixed his digital signature for its issuance. During cross-examination, he admitted that he had not personally examined the "prosecutrix".

29. From the conjoint reading of the testimonies of PW-08 and PW-17, it is evident that the Disability Certificate (Exhibit P-06) was issued on the basis of the psychiatric evaluation conducted by PW-08. Although the record of the earlier examination dated 09.06.2022 is not available, no material has been elicited in cross-examination to suggest that the said certificate or the medical reports (Exhibits P-07 and P-08) were fabricated or falsely prepared to implicate the accused-appellant. Further, the Investigating Officer, PW-19 Shankar Lal, stated that no medical record or certificate pertaining to the mental condition of the "prosecutrix" prior to the incident could be traced, and therefore, she was subjected to a fresh examination. However, the family members of the "prosecutrix"., including PW-09 "A" and PW-11





"C", consistently deposed that the "prosecutrix". has been suffering from mental illness since birth. Their testimonies on this aspect have remained unshaken in cross-examination.

30. It is also pertinent to note that the "prosecutrix", during the course of investigation as well as in her deposition before the Court, made inconsistent statements regarding the timing of the incident. In her statement recorded under Section 161 Cr.P.C. (Exhibit P-02), she indicated the relevant time of occurrence, whereas in her statement recorded under Section 164 Cr.P.C. (Exhibit D-02), recorded on 23.05.2022, she stated that the incident had taken place about one month earlier. Such inconsistency, in the considered opinion of this Court, is attributable to her impaired mental condition, as explained by PW-08, rather than being a ground to discredit her testimony.

31. In light of the medical as well as oral evidence available on record, this Court is satisfied that the "prosecutrix" was suffering from "Mild Intellectual Disability" to the extent of 41%, which is a congenital condition affecting her cognitive faculties.

32. The prosecution has examined, inter alia, the "prosecutrix" (PW-07) as the star witness, along with PW-10 "B", the nephew of the "prosecutrix", who has been cited as an eyewitness to the occurrence. The testimonies of PW-09 "A" (complainant and brother of the "prosecutrix"), PW-11 "C", and PW-12 "D" (siblings of the "prosecutrix") provide corroborative evidence, though they are not eyewitnesses and have deposed on the basis of disclosures made to them by the "prosecutrix". It is also noted that PW-04 Mahendra and PW-05 Sheraram, who were alleged to be present





near the place of occurrence, did not support the prosecution case.

33. The "prosecutrix" (PW-07), in her examination-in-chief, has clearly narrated the incident and stated that on the day of occurrence, in the evening hours, when she had gone towards the fields to relieve herself, the accused-appellant Masra Ram @ Masru followed her, overpowered her, and committed sexual assault upon her. She further deposed that when she attempted to raise an alarm, the accused-appellant gagged her mouth with her Ghagra/ *petticoat* and pressed her chest. She has also stated that her nephew "B" reached the spot during the occurrence and intervened, whereupon the accused-appellant fled after extending threats. The "prosecutrix" correctly identified the accused-appellant in Court. Nothing material has been elicited in her cross-examination to discredit her version regarding the core incident.

34. PW-10 "B", the nephew of the "prosecutrix", has corroborated the testimony of PW-07 in material particulars. He deposed that on the relevant day, when he went towards the forest area, he noticed two persons looking towards the *Nadi* (stream). Upon approaching the spot, he saw the accused-appellant committing an indecent act with the "prosecutrix". He intervened, made the accused-appellant stand up, and rescued the "prosecutrix". The accused-appellant allegedly threatened him with dire consequences and fled from the spot. He further stated that he immediately informed his father PW-09 "A", who thereafter reached the place of occurrence, followed by other family members. His testimony has remained substantially unshaken in





cross-examination, and no material contradiction has been brought on record so as to doubt his presence at the scene.

35. PW-09 "A", PW-11 "C", and PW-12 "D" have consistently deposed that upon receiving information from PW-10 "B", they rushed to the place of occurrence, where the "prosecutrix" disclosed that the accused-appellant had committed rape upon her. Their testimonies are natural and consistent, and no material contradiction has emerged in their cross-examination. Their evidence lends corroboration to the version of the "prosecutrix" and the immediate disclosure made by her after the incident.

36. The contention of the learned counsel of accused-appellant that the testimony of these witnesses cannot be relied upon as they are related to the "prosecutrix" is devoid of merit. It is well settled that the evidence of related witnesses cannot be discarded solely on the ground of relationship if it is otherwise found to be cogent and credible. In the present case, the testimony of PW-10 "B" as an eyewitness inspires confidence, and the statements of other family members are consistent with the prosecution case.

37. As regards the hostile witnesses PW-04 Mahendra and PW-05 Sheraram, their failure to support the prosecution does not demolish the prosecution case. Their earlier statements do not indicate that they had witnessed the actual act of rape. Their presence near the place of occurrence, however, stands established to the extent that they were seen in the vicinity, which also finds mention in the testimony of PW-10 "B". Their turning hostile may reasonably be attributed to local influences, and their





evidence does not create any dent in the otherwise reliable prosecution case.

38. The medical witnesses (PW-20, PW-21, and PW-22) have indeed stated that no external or internal injuries were noticed. However, the "prosecutrix" herself has not alleged that she sustained any injuries during the occurrence. The absence of injuries, in the facts and circumstances of the case, does not negate the occurrence of rape. It is settled law that absence of injuries is not conclusive to disbelieve the testimony of the "prosecutrix", particularly when her evidence is otherwise trustworthy and credible as has been held by Hon'ble Supreme Court in the case of State of **Uttar Pradesh Vs. Pappu @ Yunus** reported in **AIR 2005 SC 1248** and **State of Uttar Pradesh Vs. Babunath** reported in **Cr.L.R. (SC) 521**.

39. Similarly, that no semen was detected on the vaginal swabs or the clothes of the "prosecutrix" is of no avail to the accused-appellant. It is well established that non-detection of semen does not necessarily falsify the prosecution case, if the testimony of the "prosecutrix" inspires confidence as has been held by Hon'ble Supreme Court in the case of **Phool Singh Vs. M.P. High Court** (Criminal Appeal No.1520/2021). Regarding alleged discrepancies in the sealing and dispatch of the seized articles to the FSL has also been considered. The evidence of the link witnesses, particularly PW-15 and PW-16, along with the FSL receipt (Exhibit P-05), establishes that the articles were ultimately received in a sealed condition. No material has been brought on record to





suggest tampering with the exhibits. Moreover, the FSL report does not materially affect the core prosecution case.

40. The plea of false implication on account of alleged enmity with one Harji Dewasi is not supported by any cogent evidence.

On the contrary, the suggestion of attempts at compromise indicates that the incident had, in fact, occurred. Further contention regarding an alleged prior accusation against another person does not, in any manner, discredit the present case, particularly in absence of any substantive evidence.

41. The delay of approximately 21 hours in lodging the FIR has been satisfactorily explained. The incident occurred in the evening hours, and the complainant has stated that due to the late hour and threats extended by the accused, the report could not be lodged immediately. Considering the rural setting and the circumstances of the case, such delay is neither unnatural nor fatal to the prosecution case.

42. The "prosecutrix" has consistently stated that the act was committed against her will. Further, in view of the evidence on record establishing that the "prosecutrix" was suffering from intellectual disability, the question of valid consent does not arise. Even otherwise, no material has been brought on record by the accused-appellant to probabilize that the act was consensual. It is a settled principle of law that the testimony of a "prosecutrix", if found to be reliable and trustworthy, can form the sole basis of conviction without requiring corroboration. Minor discrepancies or inconsistencies, which do not go to the root of the matter, are to be ignored. In the present case, the evidence of the "prosecutrix"





is cogent, consistent, and inspires confidence, and is further corroborated by the testimony of PW-10 "B" and other witnesses.

43. Upon an overall appreciation of the evidence available on record, it is evident that the "prosecutrix" and her family, as well as the accused-appellant, are residents of the same village, namely *Maruwada*. The material on record further indicates that the "prosecutrix", owing to her mental condition, occasionally solicited food from villagers and had, on at least one occasion, visited the house of the accused-appellant for this purpose. It is also established from her statement recorded under Section 161 Cr.P.C. (Exhibit P-02) that she was acquainted with the accused-appellant and his family members.

44. The complainant "A" (PW-09), in his written report (Exhibit P-09), has specifically named the accused-appellant, Masraram @ Masru that he followed the "prosecutrix", forcibly dragged her towards a nadi (water body), and committed rape upon her. The testimonies of PW-07 ("prosecutrix"), PW-09 ("A"), PW-10 ("B"), PW-11 ("C"), and PW-12 ("D") consistently establish that the accused-appellant, being a co-villager, was well-acquainted with the "prosecutrix", and her family members. No material contradiction has emerged in their cross-examination to discredit this aspect. Furthermore, in his statement recorded under Section 313 Cr.P.C., the accused-appellant has not taken any specific plea denying such acquaintance with the "prosecutrix", or her family.

45. In these circumstances, the provisions of Section 8(c) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, become applicable. The said provision raises a





presumption that where the accused was acquainted with the victim or her family, it shall be presumed that the accused was aware of the caste identity of the victim, unless the contrary is proved. In the present case, no evidence has been adduced by the accused-appellant to rebut this statutory presumption.

46. In this context, reliance may be placed upon the judgment of the Hon'ble Supreme Court in **Patnam Jamal Vali v. State of Andhra Pradesh** (Criminal Appeal No. 452 of 2021, decided on 27.04.2021), wherein it has been held that after the amendment of Section 3(2)(v) of the SC/ST Act in the year 2016, it is sufficient to establish that the accused committed an offence punishable with ten years or more under the Indian Penal Code, knowing that the victim belongs to a Scheduled Caste or Scheduled Tribe. The threshold of proving that the offence was committed "on the ground of" caste has thus been lowered, and knowledge of the caste identity is sufficient, which may also be presumed under Section 8(c) in appropriate cases.

47. Applying the aforesaid legal position to the facts of the present case, it stands established that the accused-appellant was acquainted with the "prosecutrix", and her family, and therefore, a presumption arises that he had knowledge of her caste identity. It is held that at the time of commission of the offence, the accused was fully aware that the "prosecutrix", belonged to a Scheduled Caste.

48. Accordingly, this Court is of the considered opinion that the prosecution has successfully proved beyond reasonable doubt that the accused committed rape upon the "prosecutrix", with the





knowledge that she belonged to a Scheduled Caste, thereby attracting the provisions of Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

49. In view of the foregoing discussion, the prosecution has successfully established the guilt of the accused-appellant Masraram @ Masru, for the offence punishable under Section 376 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, beyond reasonable doubt. The learned trial court therefore rightly convicted and sentenced the accused-appellant for the aforesaid offences.

50. On the question of quantum of sentence, we have also heard learned counsel for accused-appellant and have carefully considered the facts and circumstances of the case as well as the entire material available on record. We are of the considered view that the learned trial court has rightly passed the sentence against the accused-appellant and therefore no interference in the same is warranted.

51. In view of aforesaid observations, we find no infirmity or perversity in the findings of learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Jalore below. Hence, impugned judgment of conviction and sentence dated 18.08.2023 is upheld.

52. Accordingly, the present Criminal Appeal is hereby dismissed.

53. Office is directed to send the record forthwith.

(CHANDRA SHEKHAR SHARMA),J

Kartik Dave/C.P. Goyal/-

(VINIT KUMAR MATHUR),J