



2024:CGHC:40912-DB

A F R

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 541 of 2021

- 1 - Sanjeev Kumar Kujur @ Dadu S/o Sukhsen Kujur Aged About 20 Years
- 2 - Surajdas S/o Ramshankar Das Aged About 23 Years
- 3 - Dole @ Mithun Kujur S/o Sukhdev Kujur Aged About 21 Years
- 4 - Krishna Kumar S/o Bhole Singh Aged About 35 Years
- 5 - Gourishankar S/o Shiv Charan Uraon, Aged About 20 Years

All Resident Of Village Rajadih, Police Station Marwahi, District Bilaspur
(Now District Gourela Pendra Marwahi) Chhattisgarh.

... Appellants

Versus

State Of Chhattisgarh Through Police Station Marwahi , District Bilaspur (Now District Gourela Pendra Marwahi Chhattisgarh)

... Respondent

For Appellants	:	Mr. Yogendra Chaturvedi, Advocate.
For Respondent/ State	:	Mr. Shashank Thakur, Deputy Advocate General as well as Mr. S.S.Baghel, Panel Lawyer.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Hon'ble Mr. Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

17/10/2024

1. The appellants have preferred this appeal under Section 374(2) of Cr.P.C questioning the impugned judgment dated 26.03.2021 passed in Sessions Trial No. 31/2019 by the learned Additional Sessions Judge,

Pendra Road, District Bilaspur, by which the learned Additional Sessions Judge has convicted and sentenced the appellants as under:

Conviction under Section		Sentence
366 of the Indian Penal Code (for short, the IPC)	:	Rigorous imprisonment (for short, the R.I.) for 10 years with fine of Rs. 1000/-. In default, 1 month R.I. more to each.
342 of IPC	:	R.I. for 1 year with fine of Rs. 500/-. In default, 1 month R.I. more to each.
376(D) of IPC	:	R.I. for 25 years with fine of Rs. 5000/-. In default, 2 months R.I. more to each.
All the sentences to run concurrently.		

2. Case of the prosecution, in short, is that the appellants/accused are charged under Sections 366/34, 342/34, and 376 (d) of the IPC with the allegation that on 25.08.2019, at around 6-7 p.m. at Ratanga Bazar under Marwahi Police Station, District Bilaspur, they, with the common intention of committing sexual intercourse, forcibly took the victim who is mute and deaf on a motorcycle to Rajadih Gaganitola Pond to coerce her into unlawful intercourse. They are accused of wrongful confinement with the common intention, advancing their plan by tying the victim's hands and feet, and subsequently committing gang rape turn by turns with the victim.
3. As per the prosecution, the complainant (PW-1), who is the aunt of the victim, reported at the Marwahi Police Station that her elder brother lives near her house, and his 22-year-old daughter (the victim), who is mute

and deaf from birth, communicates through gestures which she and her mother understand. On 25.08.2019, the victim went to Ratanga Bazaar in the evening, as usual, to ask for food (begging). Around 11 p.m., she returned home crying and gestured to her and her mother that while she was returning from the market around 6-7 p.m., five boys forced her onto a motorcycle, took her to the steps of the Rajadih Gaganitola Pond, removed her clothes, tied her hands and feet, and committed rape on her one by one. The victim indicated pain in her private parts and showed abrasion and scratches on her face, back, and waist. Her aunt observed, with a flashlight that her private parts were bleeding. Due to the late hour and lack of transportation, they went to Ratga the following morning, where the victim, based on physical descriptions, identified the accused Sanjeev Kumar Kujur, Dole Kujur, and Suraj Lahre by pointing towards their houses, and mentioned that two other boys were also involved. The complainant then filed the report as per the victim's account (Exhibit P/1) at the Police Station with her niece (the victim) and other family members.

4. Based on the complainant's report, a case was registered under Sections 366-A, 376, 323, 506, and 34 of the IPC, as Crime No. 104/2019, and the case was taken up for investigation. A spot map of the crime scene was prepared as per Exhibit P-2. Written consent for the medical examination of the victim was obtained from both the victim and her aunt, as per Exhibits P-6 and P-5, respectively, and an application was submitted to Community Health Centre, Sanatorium Gaurela for the medical examination, resulting in a report being Exhibit P-14. A notice (Exhibit P-25) was issued to witnesses to be present during the case proceedings. Memorandum statement of the accused, Krishna, was recorded as per Exhibit P-7, based on which the motorcycle used in the

incident was seized vide Exhibit P-8. To prepare a detailed site map of the place of incident, a memo (Exhibit P-39) was sent by Marwahi Police Station to the Tehsildar of Marwahi, based on which the Patwari issued a notice to witnesses vide Exhibit P-4 and prepared a spot map (Exhibit P-3) and panchanama (Exhibit P-16).

- 5.** As per the arrest panchanama (Exhibits P-25 to P-29), the accused were arrested and their families were informed of the arrest vide Exhibits P-30 and P-31. Vide Exhibit P-09, the underwear of the accused and, as per Exhibit P-18, the slides from the victim's private parts and her underwear were seized. An application was sent to C.H.C. Sanatorium Gaurela for examination of the seized underwear of the victim, and the report was received vide Exhibit P-15. The seizure procedures were completed vide Exhibits P-20 to P-24. The accused underwent physical examination at C.H.C. Marwahi (Exhibits P-32 to P-36).
- 6.** According to Exhibit P-19, the victim identified the accused persons. The Police Station, Marwahi, sent an application (Exhibit P-37) to the Women Police Station, Bilaspur, to record the victim's statement under Section 161 of the Cr.P.C, and a memo (Exhibit P-38) to the Principal of the school meant for Blind and Deaf students in Tifra, Bilaspur, for assistance. A memo was also sent to R.T.O. Raipur to identify the owner of the seized motorcycle. After the medical examination, sealed slides from the victim and the accused's underwear were sent for chemical analysis to the State Forensic Science Laboratory, Raipur, through the Superintendent of Police, Bilaspur, as per Exhibit P-41. Receipt of this same is Exhibit P-42, and the related report was received as per Exhibit P-43. Permission to collect blood samples for DNA testing of the accused was requested from the Judicial Magistrate First Class, Marwahi,

through an application (Exhibit P-44), and a further request for a DNA analysis report was submitted to the State Forensic Science Laboratory, Raipur, vide Exhibit P-45. The examination report is Exhibit P/47.

7. The statement of witnesses were recorded, and after the completion of the investigation, the police filed a charge sheet against the accused for the offences punishable under Sections 376(g) 323, 506, 120B, and 34 of the IPC in the court of Judicial Magistrate First Class, Marwahi, District Bilaspur, from where it was committed to the Court of Additional Sessions Court for trial on 10.12.2019.
8. The learned trial Judge framed charges against the accused/appellants on 02.01.2020 for the offences punishable under Sections 366/34, 342/34 and 376D of the IPC.
9. In order to bring home the offence, prosecution examined as many as 9 witnesses namely, Kacharniya Bai (PW-1) who is the aunt (*Bua*) of the victim, Fina Das (PW-2) who is the father of the victim, Sunny (PW-3) cousin of the victim, Amit (PW-4) brother of the victim, Mahesh Kumar (PW-5), Amel Singh (PW-6), Dr. Subhadra Paikra (PW-7), Ashish Toppo (PW-8) who is the Patwari, the victim (PW-9), Vishwas Aley (PW-10) who is the Constable, Kamlesh Jagat (PW-11) who is the lady Constable, Ravidas Lahre (PW-12) cousin of the victim, Rahul Sai Paikra (PW-13) who is the Constable, Rajesh Sharma (PW-14), Dr. K.K.Dhruv (PW-15), Pradeep Arya (PW-16) who is the Inspector, Isha Ogre (PW-17) who is the Sub-Inspector, Tulsidas Markam (PW-18) who is the Tehsildar, Setram Gahir (PW-19) who is also one of the Sub-Inspector, Dr. Harshardhan (PW-20) and Smt. Apolina Ekka (PW-21) who is the Senior Scientific Officer. Further, the prosecution had exhibited as many as 47 exhibits in order to prove its case.

- 10.** The statement of the accused under section 313 CrPC was recorded on 13.01.2021. Accused-Sanjeev Kumar Kujur stated that on the date of incident, he had gone to the house of his Jija and has been falsely implicated. Accused Suraj Das stated that he was falsely implicated. Dole @ Mithu stated that while he was going back to his home after buying rice, the police caught him. Accused-Krishna Kumar stated that there was a dispute with relation to one Jamun tree with Kachriniya Bai (PW-1) and as such, he has been falsely implicated. Accused-Gaurishankar also stated that he was going to his house after buying rice and the police caught him and roped in this case. In support of their case, the accused persons examined Phulmati, Santosh, Sarodha Singh Lakda, Akash and Suraj Kumar Baiga as DW-1 to DW-5 and exhibited the police statements of Kacharniya Bai (PW-1), Fina Das (PW-2), Ravidas Lahre (PW-12) and Rajesh Sharma (PW-14) as Exhibits D/1 to D/4.
- 11.** The learned trial Court, after considering the evidence on record, convicted the appellants/accused for the offences under Sections 366, 342 and 376D of the Indian Penal Code and sentenced them as detailed in the opening paragraph of this judgment. Hence, the present appeal by the appellants/convict.
- 12.** The present appeal was filed on 19.05.2021 and the matter was admitted for hearing on 17.09.2021. The matter was listed thereafter on 10.02.2022, 10.03.2022, 25.04.2022 and 11.05.2022. On 22.06.2022, the application filed by the appellants seeking suspension of sentence and grant of bail was rejected by a co-ordinate Division Bench and today, the matter is listed for hearing finally.

13. Mr. Yogendra Chaturvedi, learned counsel for the appellants submits that the impugned judgment of conviction and order of sentence passed by the learned trial Court is bad in law as well as on facts and the same deserves to be set aside. The prosecution has failed to prove its case beyond reasonable doubts. There are material omission and exaggeration in the statement of the witness. The manner in which the statement of the victim was recorded by the learned trial Court does not serve the purpose of Section 119 of the Indian Evidence Act, 1972 which provides for evidence of a witness unable to communicate verbally. The victim is mute, deaf and mentally unsound. The learned trial Court, before proceeding to record her evidence, did not ask any rationale questions so as to ascertain whether she was capable of answering the questions. It is also not clear as to in what manner the victim was asked the questions. The law requires that there must be a record of signs and not the interpretation of signs and further the Court has to exercise due caution and care to ascertain before he is examined that he possess the requisite amount of intelligence and that he understands the nature of an oath. On being satisfied on this, the witness may be administered oath by appropriate means and that too, with the assistance of an interpreter but no such exercise was done at the time of recording of the evidence of a victim, who is deaf and mute. The victim did not say anything with regard to the test identification parade. The conviction is based mainly on the basis of DNA test (Exhibit P/47) which itself is doubtful and not reliable. There has been a delay in lodging the FIR as the alleged incident is said to have taken place on 25.08.2019 at 11 p.m. but the FIR was lodged on the next day i.e. on 26.08.2019 at 12:45 p.m. when the Police Station is at a distance of merely 11 KMs for which there is no explanation. The blood samples for DNA test of the appellants has also not been taken in

a proper manner. Lastly, he submits that the Test Identification Parade in this case is also doubtful, as such, the appellants deserve to be acquitted of the charges. Reliance has been placed by Mr. Chaturvedi on the decisions of co-ordinate Division Bench of this Court in ***Devsingh Hidhako & Others v. State of Chhattisgarh*** {Cr.A. No. 406/2014, decided on 29.11.2018}, ***Kishan Lal @ champa Yadav v. State of Chhattisgarh*** {Cr.A. No. 565/2022, decided on 22.02.2023} and by the Supreme Court in ***State of Rajasthan v. Darshan Singh @ Darshan Lal*** {Cr.A. No. 870/2007, decided on 21.05.2022.}

14. On the other hand, Mr. Shashank Thakur, learned Deputy Advocate General appearing for the State/respondent submits that the appellants have committed a horrendous crime of rape against a deaf and mute girl. The medical evidence clearly supports the case of the prosecution. Injuries have been found on the body of the victim and the Doctor has found that the hymen of the victim was ruptured which clearly goes to show that the victim was subjected to sexual assault. The judgment of conviction and sentence awarded by the learned trial Court is just and proper warranting no interference.
15. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
16. In the case in hand, the victim's aunt (PW-01) lodged the FIR at Marwahi Police Station regarding the incident. She stated that the incident occurred on the 25th day of the month of *Shravan*. It was alleged that the victim, who is mute and deaf from birth, had gone to Ratga Bazaar to beg for food. Around 11 p.m., she came home while the family was asleep. The victim came crying and gestured to her mother and the complainant

that while she was returning, at about 6-7 p.m. five boys forcibly took her on their motorcycle to Rajadih Pond and in the steps of the pond, they disrobed her, tied her hands and legs and thereafter one after another committed rape upon her because of which she had pain in her private part, her face, back, and hips had bruise marks and on checking the private part with a torch, she found that blood was oozing out. The victim indicated that she could identify all the accused. They then called 'Dial 112' and went to Ganganitola, where the victim identified the accused through gestures. During cross-examination, the witness's statement regarding the incident remains unshaken. She denied the defense's suggestion that there was a conflict with the accused due to *lac* farming and also denied any animosity stemming from Suraj's refusal to marry her daughter.

17. Since the victim is mute and deaf, the learned trial Court has recorded her statement with the assistance of Pradeep Sharma, who is an instructor at School meant for Deaf and Mute, Tifra, Bilaspur. The victim (PW-09) has identified the accused through gestures. She indicated through gestures that she was forcibly taken, laid on the ground, and her mouth was tied. She demonstrated this by gesturing with her scarf, indicating that her clothes were removed, and gesturing toward the accused that they had pushed her down. With regard to the gestures, the interpreter clarified that the victim indicated that her clothes were removed and that she was slapped on the cheek. The victim also gestured that she hadn't eaten that day and that the accused gave her 30 rupees. She gestured towards her back and indicated being dragged, with the interpreter clarifying that her back was injured due to being dragged, causing her pain. The victim also gestured about being hit and scratched; the interpreter explained that she indicated a bite on her thigh.

She showed signs of being scratched and gestured below her waist to imply an assault, with the interpreter confirming that she was indicating rape. She also gestured that two people were holding her legs while the others assaulted her. She did not make any clear gestures regarding identification but gestured agreement when asked about being taken to a doctor for treatment. During cross-examination, she confirmed the physical assault and that she hadn't eaten that day, while denying the suggestion that the incident had not occurred. A victim, who is mute and deaf, can only convey her feelings and emotions through gestures. That cannot be written down in specific words and having regard to the peculiar circumstances, the statement of the victim, though recorded with the assistance of Mr. Pradeep Sharma, in itself is complete and needs no further explanation or clarification. Her statement is corroborated by her aunt (PW-01), who testified that the victim's back had abrasion, her hands were injured, and that the victim conveyed through gestures that five people had assaulted her.

- 18.** In the present case, it is not a case where the FIR was lodged against some unknown persons but the accused have been specifically named i.e. Dole Kujur, Sanjeev Kumar and Suraj. The victim had stated that there were two other accused also whose name she was not knowing though she knew that they were the friends of these three accused persons.
- 19.** One of the prosecution witness namely Rajesh Sharma (PW-14) has stated that he knew the accused Krishna but was not knowing other accused persons. On the date of incident, he had seen the accused Krishna alongwith one other person going on a motorcycle alongwith the victim. On the next day, he came to know that the victim was raped by

the accused persons. A motor cycle has been seized by the police from the accused Krishna vide Exhibit P/8 from his house on the basis of his memorandum (Exhibit P/7) wherein he stated that he had taken the deaf and mute girl on his motorcycle and committed rape on the steps of the pond alongwith other co-accused persons.

- 20.** The victim has been medically examined by Dr. Subhadra Paikra (PW-07) the very next day. Her injuries included a abrasion over the back from inter scapular to loin region, abrasion on both breasts, left buttock. The victim's pubic hair was intact, her hymen was ruptured, and her breasts were fully developed. Two vaginal smears were taken and handed over for chemical analysis. This witness opined that the victim had been sexually assaulted, and the injuries were likely 12 to 18 hours old. She prepared a report (Exhibit P-14) following the examination. Although Dr. Paikra acknowledged in cross-examination that these were minor injuries and could have resulted from a fall, her testimony still corroborates the statements of the victim (PW-09) and her aunt (PW-01).
- 21.** From perusal of the statement of the victim's maternal cousin (PW-3), paternal cousin (PW-12) and real brother (PW-4), who all have deposed in a similar fashion that the victim came home late at night in a very pathetic condition, there remains no manner of doubt that the victim was subjected to brutal rape. The father of the victim (PW-2) who was working in the State of Tamilnadu was informed by his nephew that the victim was subjected to rape by five accused and as such, she had come back where he found that the victim was injured and had swelling on her back side.
- 22.** Inspector Pradeep Arya (PW-16) is the Investigating Officer in the case. He had registered the FIR (Exhibit P/1), prepared the spot map, arrested

the accused persons, sent the victim for medical examination and had conducted the entire investigation and procedural formalities.

- 23.** In the present case, the medical evidence is of utmost importance. The undergarments of the victim as well as accused were seized and sent to Regional FSL, Bilaspur, for examination. Article A is the slide prepared from the vaginal smear of the victim, Article B is the undergarment of the victim, Article C, D, E, F, G are the under garments of the accused- Sanjeev Kumar Kujur, Gauri Shankar Uraon, Surajdas, Dole Kujur and Krishna Kumar, respectively. The FSL report states that in the Articles A, C, D, F, G, semen and human sperms were found whereas in the Articles B and E, semen stains and human sperms were not found.
- 24.** The appellants/accused have been medically examined by Dr. Harshwardhan (PW-20), who vide his report (Exhibit P/32 to P/36) has found all the accused to be capable of performing sexual intercourse. Dr. K.K.Dhruw is the Medical Officer who had taken the blood samples of the accused and handed over to the I.O. vide seizure memo Exhibit P/20 to P/24 though he admits that he had not taken any consent from the accused before taking their blood samples as he was not aware that consent is to be taken from the person whose blood samples have to be drawn.
- 25.** In the present case, DNA examination has also been conducted. The blood samples of the accused persons were taken which were marked as 1250, 1251, 1252, 1253, 1254 and 1255 by the FSL, Raipur, DNA Unit. It has been opined by Apolina Ekka (PW-21) that on examination of the samples, the DNA of the accused have been found in the vaginal smear slide of the victim after which there remains no manner of doubt that the appellants/accused are the culprits.

26. The victim has also identified the accused/appellants which is evident from the Test Identification Panchnama (Exhibit P/19) which was conducted by the Tahsildar, Marwahi, wherein the police was not present. Tulsiram Markam (PW-18) is the Tahsildar who had conducted the test identification. He states that the victim identified all the five accused by touching them and during this proceeding, five other people were also included amongst the accused. He specifically stated that there were no police personnel during the said proceedings.
27. If the totality of the circumstances appearing on the record of the case disclose that the victim did not had a strong motive to falsely implicate the person charged, the Court should ordinarily have no hesitation in accepting her evidence. We have, therefore, no doubt in our minds that ordinarily the evidence of the victim who does not lack understanding must be accepted. Though there were constraints in eliciting detailed answers from the victim considering the fact that the victim was deaf and mute from birth, nevertheless she has explained sufficiently and the circumstances surrounding the episode.
28. Section 119 of the Indian Evidence Act, 1872 , reads as under:

“119. Witness unable to communicate verbally. - A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:

Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of an interpreter or a special educator in recording the statement, and such statement shall be video graphed.”

- 29.** On a plain reading of the above Section, it is clear that the Court should take the assistance of an interpreter or a special educator in recording the statement of a witness who is unable to communicate verbally. In the instant case, though it appears that the recording of the evidence of the victim (PW-9) was not videographed, however, the Court had taken assistance of an interpreter.
- 30.** On a minute analysis of the deposition of the victim, which was recorded through the interpreter, it appears that the victim had never gone to any school meant for deaf and mute. She had not been able to understand many of the questions put to her and many of the questions remains unanswered. As per the prosecution, the victim used to go for begging and as such, what more could have been expected from a poor girl who is deaf and mute and further never gone to any school meant for specially abled children where she could have learnt sign language. This Court can very well understand as to how difficult it would have been for the learned trial Court to put questions and to get answers of those questions. However, the victim had been able to at least depose in a pretty clear manner before the learned trial Court that she was subjected to rape by the appellants. The victim cannot be treated at par with a normal person who is fully capable of hearing and speaking.
- 31.** The statement of the victim (PW-9) has been recorded with the assistance of one Mr. Pradeep Sharma who is an Instructor at the School for Blind, Deaf and Mute, Tifra, Bilaspur. The said interpreter was administered that he would interpret in a correct manner. Though the signs were not recorded but the deposition of the victim is clear and unambiguous. Through signs and gestures, she has been able to narrate the entire story and the sequence of events. Though the victim is deaf

and mute but she is not mentally unsound. She has been able to narrate the entire sequence of events and in addition to that, she had been able to identify the appellants in the TIP conducted by the Tahsildar in which there were five other persons also but she did not point towards them.

32. In the case of ***Ganesan v. State***, (2020) 10 SCC 573, the Supreme Court observed and held that that there can be a conviction on the sole testimony of the victim/prosecutrix when the deposition of the prosecutrix is found to be trustworthy, unblemished, credible and her evidence is of sterling quality.
33. In the case of ***State (NCT of Delhi) v. Pankaj Chaudhary***, {(2019) 11 SCC 575}, it was observed and held that as a general rule, if credible, conviction of accused can be based on sole testimony, without corroboration. It was further observed and held that sole testimony of prosecutrix should not be doubted by court merely on basis of assumptions and surmises.
34. In the case of ***Sham Singh v. State of Haryana***, {(2018) 18 SCC 34}, the Supreme Court observed that testimony of the victim 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 the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. It was further observed that seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury.
35. Applying the law laid down by the Supreme Court in the cases (supra) to the facts of the case on hand and as observed hereinabove, we see no

reason to doubt the credibility and/or trustworthiness of the victim. She is found to be reliable and trustworthy. Therefore, without any further corroboration, the conviction of the accused relying upon the sole testimony of the victim can be sustained.

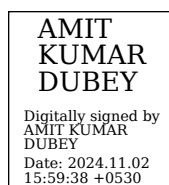
- 36.** Even for the sake of argument, if the statement of the victim is ignored, the medical examination report (Exhibit P/14), wherein the Doctor i.e. Dr. Subhadra Paikra (PW-7) has clearly opined that the victim was subjected to rape as there were injury marks on her back, scratch marks on the breast, hymen was found to be ruptured and also there was pain in the private part. The allegation is that the victim was raped brutally by five appellants on the steps of the pond, which is a rough surface and the injuries sustained by the victim corroborates with her statement made by her to the Magistrate under Section 164 Cr.P.C (Exhibit P/17). The FIR lodged by the aunt (*Bua*) of the victim, the statement of the real brother and cousin of the victim also indicates towards the guilt of the appellants. Further, the appellants have not been able to give any explanation as to how semen stains and human sperms have been found in their undergarments which were seized by the police, as is evident from the FSL report (Exhibit P/43). Further, there is DNA report also available in the form of Exhibit P/47, which confirms that it is the appellants who have committed rape upon the victim. Mere bald statement that the blood samples were not collected in a proper manner would not shake the credibility of the DNA report. Even in the statement under Section 313 Cr.P.C., the appellants have tried to take resort to lame excuses which does not find any force. Even the statement of defence witnesses i.e. D/1 to D/5 also does not help the appellants in any manner. There is no explanation worth accepting that why the victim would rope all the appellants in a false case of rape.

37. So far as reliance placed by the learned counsel for the appellants on the two decisions of the co-ordinate Division Bench of this High Court as well as the decision of the Supreme Court are concerned, they are distinguishable on facts and as such, are of no relevance in this case.
38. The view taken by the learned trial Court that the appellants are the author of the crime is a pure finding of fact based on evidence available on record and we are of the opinion that in the present case, the only view possible was the one taken by the learned trial Court.
39. From the above analysis, we are of the considered opinion that the prosecution has been successful in proving its case beyond reasonable doubt and the learned trial Court has not committed any legal or factual error in arriving at the finding with regard to the guilt of the appellants/convict.
40. Accordingly, the appeal being devoid of merit is liable to be and is hereby **dismissed**.
41. The appellants/convicts are stated to be in jail. They shall serve out the sentence awarded by the trial Court by means of the impugned judgment of conviction and order of sentence dated 26.03.2021.
42. Let a certified copy of this order alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

Sd/-
(Bibhu Datta Guru)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

Amit



HEAD NOTE

Conviction can very well be based on the basis of evidence available in the form of FSL reports and DNA reports.