



2026:AHC:221692

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4246 of 2017

Padam Singh @ Padmi

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Nazia Ilyas, Sarwar Ali Siddique
Counsel for Respondent(s)	:	G.A.

AFR

Judgment Reserved on 25.09.2026

Judgment Delivered on 26.10.2026

Court No. - 88

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellant and Mr. Jhamman Ram, learned A.G.A.-I for the State.

2. This criminal appeal has been filed against the judgment and order dated 20.02.2016 passed by the learned Fast Track Court No. 2/Additional Sessions Judge, Ghaziabad, in Sessions Trial No. 987 of 2014 (State v. Padam Singh alias Padmi), whereby the appellant has been convicted for the offence under Section 363 IPC and sentenced to five years' rigorous imprisonment, along with a fine of Rs. 5, 000/-, and, in default of payment of fine, to undergo six months' additional imprisonment. The appellant has further been convicted for the offence under Section 366 IPC and sentenced to seven years' rigorous imprisonment, along with a fine of Rs. 10, 000/-, and, in default of payment of fine, to undergo one year's additional imprisonment. Lastly, the appellant has been convicted for the offence under Section 376 IPC and sentenced to ten years' rigorous imprisonment, along with a fine of Rs. 20, 000/-, and, in default of payment of fine, to undergo two years' additional imprisonment. All the sentences have been directed to run concurrently.

3. The prosecution case originates from the written complaint dated 08.04.2014 (Ex. Ka-1), submitted by the informant/complainant, Ballu alias Balbir, and scribed by Kabool Singh. The complainant submitted the

written complaint at Police Station Muradnagar, District Ghaziabad. On the basis of the said complaint, a check FIR (Ex. Ka-4) was registered against the named accused, Padam Singh alias Padmi, under Sections 363 and 366 IPC.

4. It was stated in the complaint that the complainant's niece, aged about 16 years, was residing with him and pursuing her studies. On the night of 30/31.03.2014, the complainant had gone to attend a Jagran at the house of Rishi. When he returned home at about 4: 00 a.m., he found that his niece was missing. Upon making inquiries, he came to know that during the night, Padam Singh had enticed his niece away from the house with an ill intention. When the complainant went to search for her at the house of the accused, he found his brother, Raghuraj, his sister, Ramchandri, his brother-in-law, Om Prakash, and his niece, Shivani, present there. However, despite being fully aware of the facts, they did not disclose any information to him.

5. After completion of the investigation, a charge sheet was filed against Padam Singh alias Padmi under Sections 363, 366 and 376 IPC.

6. The statement of the victim was recorded under Section 164 Cr.P.C. on 17.04.2014, wherein she specifically stated that she was 16 years of age. She further stated that the accused, Padam Singh, had misled her by telling her that he was having marital discord with his wife. He asked her to accompany him and assured her that he would marry her. Having been induced by these assurances, she accompanied him to Faridabad at about 3: 00 a.m. on 31.03.2014. At Faridabad, Padam Singh rented a house, where they began residing together. The accused represented her as his wife and lived with her accordingly. He had sexual intercourse with her and committed rape upon her every day. Whenever she refused to engage in sexual intercourse, he told her that she was his wife and she now belonged to him. The accused thus repeatedly induced her to submit to sexual intercourse by falsely representing that she was his wife.

7. In support of its case, the prosecution examined Smt. Sumitra as P.W.1, Ballu alias Balbir as P.W.2, the victim, as P.W.3, Sub-Inspector Praveen Kumar Sharma as P.W.4, and Dr. Prachi Pal as P.W.5.

8. Smt. Sumitra, P.W.1, stated in her examination-in-chief that the incident had taken place on the night of 31.03.2014. She, along with her family members, had gone to attend a Jagran at Rishi's house, in which she had participated. Her granddaughter was alone at home when the accused, Padam Singh, enticed her and abducted her. At the time of the incident, her granddaughter, the victim, was a minor. The accused, Padam Singh, had already been pursuing her. The Investigating Officer had visited the place of occurrence and prepared the site plan at the instance of the informant. He had recorded her statement and also made inquiries from her. She stated that the incident was true and that she was deposing truthfully. They had searched for the victim at various places. Out of concern for their honour, they had continued searching for her discreetly. They had gone wherever they received information regarding her whereabouts. When the victim could not be found, her son, Ballu, lodged a report regarding her abduction at Police Station Muradnagar. She identified the accused, who was present in Court, as the same person who had taken away her granddaughter.

9. In her cross-examination, P.W.-1 stated that victim had been found seven days after leaving her house. Padam had taken the victim away. She came to know about this because the victim had earlier gone away with Padam Singh for two to three months. She had not given any statement to the police. Padam had abducted the victim and taken her away; she had not accompanied him voluntarily. When the victim had earlier been taken away by Padam, a search had been conducted for her. Ramesh and Padam's sister had also been asked to search for the victim. The victim had been brought back by persons from Sihani, and Padam had also accompanied them. During the search for the victim, she had not visited any police station. When they had returned home from the Jagran, the doors of the house had been found open. She had not shown the police the room in which the victim used to sleep.

10. She has further stated that when the victim could not be found despite the search, her husband had gone to Padam's house, where Padam's brother had been found. The victim had been found 17-18 days after leaving the house. They had brought the victim home from the police station. The police had visited their house. Om Prakash was Padam's

brother-in-law, and Ramesh was also Padam's brother-in-law. Om Prakash was a resident of Village Sihani. She could not say whether Om Prakash had brought the victim back. The victim had been found at the police station. When the victim had left the house, she had not been present there. However, she had visited the police station. Om Prakash did not visit their house.

11. Her elder son, along with his children, had not accompanied her to the Jagran, as they had been at his in-laws' house. Padam had taken the victim away on two occasions. At that time, the victim had been studying in Class XI and had been attending school. The victim had not gone to school before the Jagran. Ramesh's children had also attended the Jagran. She did not know whether Padam had been present at the Jagran.

12. The victim had one sister named Khushi, who had been living with her. The victim had been residing with her parents at Raispur and had frequently stayed with them. The victim had not gone to Raispur at the time of the incident, although she sometimes visited their house. Khushi also used to visit Raispur. Kabul had already been married when she had solemnised the marriage of her daughter Kavita with him.

13. She had counselled the victim, but the victim had left despite being advised not to do so. She stated that a person could sometimes understand what was in another person's mind, but if something had become firmly embedded in that person's mind, there was little that could be done about it.

14. She denied the suggestion that there had been any dispute with Ramesh's wife, Sudesh. She also denied the suggestion that the victim had left of her own free will. She further denied the suggestion that they had arranged the victim's marriage within Padam's family and, upon Padam's refusal, had falsely implicated him in the case. She denied the suggestion that Kabul Singh had an improper intention towards the victim. She stated that the victim had already been married to Balbir. She also denied the suggestions that her son, Ballu, had an improper intention towards the victim and that she was giving false testimony.

15. It is held by the Hon'ble Supreme Court in **Balku Oram Vs. State of**

Odisha; 2026 LiveLaw (SC) 802 and relied on judgment in **Ram Das and others Vs. State of Maharashtra; (2007) 2 SCC 170**, if there is delay in lodging of the FIR under Section 154 Cr.P.C., when not fatal. Mere delay in lodging the FIR is not fatal to the prosecution, if reasonably and satisfactorily explained in light of the surrounding facts and circumstances.

16. It is held by the Supreme Court in **Ravi Kumar Singh Malhotra Vs. State of Madhya Pradesh; 2026 Live Law (SC) 844; 2026 INSC 899**, where there is delay in lodging of FIR and delay is inordinate and unexplained delay of five days in lodging the FIR, even after the surviving witness was rescued and had allegedly disclosed the identity of the accused to the I.O, while bodies were already recovered, casts serious doubts on the prosecution case, such unjustified delay in setting the criminal law into motion undermines the credibility of the investigation and opens the door to embellishments.

17. The statement of Ballu alias Balbir was recorded as P.W.2 on 29.07.2015. In his examination-in-chief, he stated that the victim was his niece. She was 16 years of age at the time of the incident and was a minor. She was residing and studying in his village, Morta. On 30.03.2014, his entire family had gone to attend a *Jagran* at a neighbouring house. When he returned home at about 4: 00 a.m., he did not find the victim there. They searched for her and made inquiries, whereupon they came to know that the accused, Padam Singh, who was present in Court, was a married man and the father of three children, and had enticed his niece away. They made extensive efforts to trace her and also made inquiries from the relatives of the accused, namely, Om Prakash and Shivani, but they did not disclose anything. Thereafter, he got the written complaint drafted by Kabool Singh, signed it, and submitted it at the police station. He identified the said complaint, which was marked as Exhibit Ka-1.

18. After the registration of the case, the police took necessary action and recovered his niece, the victim after 15 days. The police recorded his statement as well as the statement of the victim. Her statement under Section 164 Cr.P.C.. was also recorded by the court. On 17.04.2014, she

was handed over to his family. Even before the incident in question, the accused had been keeping an evil eye on his niece. Approximately two months before the present incident, the accused, Padam Singh, had also abducted his niece/victim. However, due to social pressure and on account of family considerations, they had not lodged any report against Padam Singh on that occasion. The incident dated 30.03.2014 involving the accused, Padam Singh, was the second such incident. Accordingly, he got the written complaint, which is available on the record as Exhibit Ka-1, prepared and lodged the case at the police station.

19. In his cross-examination, P.W.2 stated that his father had died on 09.03.2015. On the night of 30/31.03.2014, he had gone to attend a *Jagran* at Ambedkar Park along with his family members. His niece and sister, Reena, had returned home earlier, but he did not know the exact time of their return. His father, who was unable to walk due to a problem with his legs, had remained at home. His niece had been living with him since childhood for her education. He was unmarried, and his sister, Reena, was employed in the Delhi Police. His niece's younger sister, Khushi, also lived with him, whereas her two brothers, Vikas and Vishal, lived elsewhere. He stated that his niece had passed Class XII at the time of the incident, while Khushi was studying in Class VI. However, he did not know whether his niece had attended school shortly before the incident and stated that she generally did not attend school.

20. P.W-2 has further stated that he and his family members returned home at about 4: 00 a.m. He did not know in which room his niece and Reena had slept. His father had been sleeping in the verandah. His house had three rooms on the upper floor and a verandah on the ground floor. There were two gates providing access to the road, one of which was open when he returned home. The boundary wall adjoining the main gate was approximately 8–9 feet high. He had not informed the police about the room in which his niece slept. In the morning, he came to know that his niece was missing. He searched for her among his relatives and suspected Padam Singh because he had allegedly taken his niece away on an earlier occasion, approximately two or three months before the present incident. No report had been lodged regarding the earlier incident due to family considerations, and his niece had subsequently returned home.

21. He stated that the FIR was lodged on 08.04.2014, approximately eight days after his niece went missing. The written complaint had been prepared by Kabul Singh. He initially stated that it was written at the police station but subsequently stated that it was written outside the police station. He had given his statement to the police at his house. He further stated that Padam Singh was related to him through his extended family. He had informed Ramesh, the son of his paternal uncle, about his niece's disappearance. He had no visiting relations with Padam Singh but maintained relations with Ramesh and his family. He stated that the police had recovered his niece and informed the family accordingly. He first saw her at Muradnagar Police Station, where Padam Singh was also present in police custody. His niece was not handed over to the family on the same day but was entrusted to their custody two or three days later pursuant to the court's order. He further stated that on the earlier occasion when his niece had gone away with Padam Singh, the family had not known that Padam Singh was married and had three or four children. He had advised his niece against marrying Padam Singh, explaining that he was the father of four children and was related to her as her maternal uncle. At the time of his deposition, his niece was 17 years old. He was uneducated and could not state her date of birth. He also did not know the exact bus stand from which the police had recovered her. The police had obtained the telephone numbers of his niece's maternal grandmother, maternal aunt, and mother from their house.

22. The victim (P.W.3), in her examination-in-chief recorded on 19.08.2015, stated that at the time of the incident, she was studying in Class XI and was 16 years of age. She was residing with her maternal uncle, Bablu alias Balbir. The accused, Padam Singh, used to cast an evil eye on her and was looking for an opportunity to abduct her.

23. She further stated that the accused, Padam Singh, was distantly related to her as a maternal uncle and, therefore, she was well acquainted with him. He used to lure her into a romantic relationship by giving her false assurances of marriage and was looking for an opportunity to abduct her by enticing and misleading her. She stated that on the night of 30/31.03.2014, all the family members had gone to attend a Devi Jagran in the neighbourhood. Only her ailing maternal grandfather, her maternal

aunt, and she were present at home. Her maternal aunt had gone to sleep in her room. During the night, the accused, Padam Singh, came to their house and attempted to abduct her under the pretext of marriage. When she resisted, he gagged her, made her sit on his motorcycle, and took her to Faridabad, where he confined her in a room. He did not allow her to meet anyone and committed rape upon her every day. He also used to tell her that she was his wife.

24. She further stated that the accused, Padam Singh, kept her with him for approximately 12–13 days. Thereafter, he brought her to the Duhai bus stand to ascertain whether the police had registered any report against them. At that time, the police arrived and took both the accused and the victim into their custody. The police subsequently got her medically examined at MMG Hospital. She stated that her statement recorded under Section 164 Cr.P.C. was read over to her, and she affirmed its contents to be correct word for word.

25. She also stated that her High School Certificate for the year 2013 was available on the record, wherein her date of birth was mentioned as 03.03.1998. She affirmed that the said date of birth was correct and that her photograph was affixed to the certificate, which was marked as Exhibit Ka-2.

26. She identified the supurdginama dated 17.04.2014, bearing the signatures of her parents, Kabool Singh and Kavita, as well as her own signature. The said supurdginama was marked as Exhibit Ka-3.

27. She categorically stated that it was the accused, Padam Singh, who had abducted her and committed rape upon her.

28. The victim (P.W.3), in her cross-examination, stated that she was pursuing her studies and was studying for a B.Tech. degree. She had completed Class XII as a private candidate. Her date of birth was 03.03.1998. She stated that the incident had taken place on the night of 30/31 March, although she was uncertain about the year and stated that it might have been 2013. At the time of the incident, she was studying at Guru Nanak Girls Inter College. After passing Class X, she had taken admission in Class XI in 2013 but had not appeared in the Class XI

examinations, having voluntarily discontinued her studies. She stated that she was 16 years and 27 days old at the time of the incident. She had last attended school in September preceding the incident and had not attended school on the date of the incident.

29. She further stated that at the time of the incident, her parents were not residing with her and she was staying at the house of her maternal grandparents. She had no knowledge of directions and was unable to indicate the directions with reference to the geographical position of her house. There were two exit doors in the house, one opening towards the verandah and the other towards their vacant plot. She stated that she had not gone to attend the Jagran organised at the house of Rishi in the neighbourhood on the date of the incident. Her maternal grandmother, younger maternal aunt, and maternal uncle, Bablu, had gone to attend the Jagran, whereas she, her maternal grandfather, Ram Karan, and her maternal aunt, Reena, had remained at home. The house consisted of three rooms on the ground floor and three rooms on the first floor, with a staircase connecting the floors. At the time of the incident, she had been sleeping in the verandah on the ground floor, her maternal grandfather had been sleeping near her, and her maternal aunt had been sleeping in a separate room. She did not possess a mobile phone, nor had she possessed one at the time of the incident.

30. She stated that the accused, Padam Singh, was distantly related to her as a maternal uncle, although she did not remember when she had first met him. She had gone out with him through the main gate and not through the door of a room. Padam Singh had knocked on the gate, and she alone had awakened to open it. No other member of the household had awakened. She had accompanied him on a motorcycle, and no other person had been present with him when she opened the gate. She did not remember the exact time at which she had left home with him.

31. She further stated that she had accompanied Padam Singh on an earlier occasion and had stayed with him for one or two days, but not for a week. On that occasion, she had gone with him from her school and not from her home. She had accompanied him during the daytime and had returned during the daytime. At her insistence, he had dropped her outside

her village. She had not informed her school friends or any other person about that incident. They had encountered members of the public during the journey, but she had not disclosed anything to anyone. They had not gone to a restaurant to eat. She stated that Padam Singh had taken her to a hotel on that occasion, but she did not remember the name of the city in which the hotel was situated. She had not known at that time that Padam Singh was married and had children; she had come to know about his marital status later. She further stated that she had never visited Village Dera Machhar, although Padam Singh was a resident of Village Machhar Dairy.

32. With regard to the incident in question, she stated that after taking admission in Class XI, she had paid the school fees for a few months, while some fees remained unpaid. She did not remember the year in which she had passed Class VIII. She had not informed anyone before leaving home with Padam Singh, nor had she telephoned her family after the incident. She denied the suggestion that she had telephoned Padam Singh at about 12: 00 midnight on the date of the incident using the telephone kept at her house. She also denied the suggestions that she had seen him by peeping from the roof of her house or that when she had peeped over the wall, he had caught hold of her hand and pulled her towards him.

33. She stated that immediately after she had opened the gate on the night of the incident, Padam Singh had gagged her by pressing his hand over her mouth. Consequently, she had been unable to inform anyone at home. He had asked her to accompany him, but when she refused, he threatened to kill her family members. She had not initially accompanied him to attend the Jagran. She further stated that it had been nighttime when they left home and that daylight had appeared by the time they reached Faridabad. Padam Singh had told her that the city was Faridabad, and she had seen a signboard bearing that name. They had travelled on a motorcycle, and only the two of them had been on it. During the journey, they had encountered several people and vehicles, but she had not noticed whether they had passed any police outpost or police station. She had not attempted to ascertain where Padam Singh was taking her.

34. She further stated that Padam Singh had taken a room on rent in Faridabad, where they had stayed for approximately 11–12 days. They had not stayed in a hotel. The room was situated on the ground floor, and she did not know whether there were other rooms in the building. Padam Singh generally remained in the room during the daytime and did not go anywhere. There was no toilet or bathroom inside the room, and they had to go outside to use those facilities. When she went outside, Padam Singh remained standing at the gate, and when he went outside, she remained inside the room. She had not attempted to escape when he went to use the toilet or bathroom because he used to bolt the door from outside. He used to bring food from outside, and they had never gone together to a hotel to eat. She stated that she had not raised an alarm during the 11–12 days because Padam Singh had kept her under fear and had threatened and intimidated her. She admitted that she had not disclosed this fact to the learned Magistrate.

35. She stated that she had given a statement to the police and had informed them that Padam Singh was her distant relative. She had also told the police about his promise to marry her but had not mentioned anything about going out for excursions. She further stated that she had been forcibly taken away from her home by Padam Singh. She denied the suggestion that Padam Singh had not had sexual intercourse with her. She stated that while staying in Faridabad, she had worn bichhiyas (toe rings), bangles, and sindoor in the parting of her hair. When the police apprehended them, she had removed the toe rings and bangles of her own accord, without anyone instructing her to do so. She had handed them over to her family members and not to the police. The police had been present when she handed over those articles to her family members. She did not know whether the room in Faridabad belonged to Padam Singh or to one of his relatives, although she had been told that it had been taken on rent.

36. She further stated that her statement had been recorded by the police and that she had also given a statement before the learned Magistrate. She admitted that she had given the statement to the police in the manner in which it had been put to her. On the day of their apprehension, she had remained at the police station and had been produced before the learned

Magistrate after two or three days. After her apprehension, she and her family members had remained at the police station during the daytime, and her family members used to return home in the evening. She had never returned to school after the incident. She also stated that Padam Singh had not telephoned her on the day she had left home.

37. She categorically denied the suggestions that she had no objection to living with Padam Singh as his wife or that she was making the statement under pressure from her family members.

38. It is an undisputed fact that the victim was a minor at the time of the alleged incident, being approximately 16 years of age, as established by her school certificate. It is also an admitted fact that the accused-appellant took the victim to Faridabad, where he kept her for approximately 12–13 days, and that she was subsequently recovered on 13.04.2014.

39. The accused-appellant was a major, married man and the father of three children. He was also a distant maternal relative of the victim. In view of the victim's minority, the question of consent does not arise, as her consent, even if alleged, would not constitute a valid defence in law. The circumstances further indicate that the accused-appellant was in a position of dominance vis-a-vis the victim, which cannot be overlooked while appreciating the evidence on record. His conduct, particularly in taking the minor victim away from her place of residence and keeping her in confinement for 12–13 days, assumes significance in determining his culpability.

40. The Hon'ble Supreme Court, in **Mohd. Imran Khan v. State (Govt. of NCT of Delhi), (2011) 10 SCC 192**, held in paragraph 22 that it is settled law that a woman who is the victim of sexual assault is not an accomplice to the crime but a victim of another person's lust. The victim stands on a higher pedestal than an injured witness because she suffers emotional injury.

41. It has been held in **State of Maharashtra v. Chandraprakash Kewal Chand Jain, AIR 1990 SC 658**, and reiterated in **State of U.P. v. Pappu @ Yunus and Another, (2005) 3 SCC 594**, and **Vijay alias Chinev v. State of M.P., (2010) 8 SCC 191**, that courts must remain

conscious of their responsibility and be sensitive while dealing with cases involving sexual molestation.

42. Rape is not merely a physical assault; rather, it often affects the entire personality of the victim. The perpetrator degrades the very soul of a helpless woman. Therefore, the testimony of the prosecutrix must be appreciated in the context of the entire case. In such cases, the non-examination of other witnesses may not constitute a serious infirmity in the prosecution case, particularly where those witnesses had not seen the commission of the offence.

43. The Hon'ble Supreme Court, in **State of Punjab v. Gurmit Singh, (1996) 2 SCC 384**, held that while evaluating evidence, courts must remain conscious of the fact that in a case of rape, no self-respecting woman would ordinarily come forward to make a humiliating statement against her honour, such as one involving the commission of rape upon her.

44. Similarly, in **Wahid Khan v. State of M.P., (2010) 2 SCC 9**, the Hon'ble Supreme Court observed that a girl or woman in Indian society would not ordinarily make such allegations against a person without cause, being fully aware of the social repercussions. If the allegation is found to be false, she may face social stigma and ostracism. Therefore, unless an offence has actually been committed, a woman would generally be reluctant even to disclose an incident that may adversely affect her reputation and social standing.

45. It is held by the Hon'ble Supreme Court in **Javed Masood v. State of Rajasthan, (2010) 3 SCC 538**, wherein it was held that where a prosecution witness makes a statement and is not declared hostile, the statement is to be evaluated in accordance with the settled principles governing the appreciation of evidence.

46. Sub-Inspector Praveen Kumar Sharma was examined as P.W.-4. He stated that he had conducted the investigation, inspected the place of occurrence, and prepared the site plan, which was proved as Exhibit Ka-6. On 13.04.2014, he took the accused, Padam Singh, and the victim into custody at the Duhai bus stand, recorded their statements in the case

diary, and got the victim medically examined at a government hospital. He further stated that the victim underwent an X-ray examination on 15.04.2014 for age determination, and her age certificate was obtained on 16.04.2014. On 17.04.2014, her statement was recorded under Section 164 Cr.P.C., and she was handed over to her family members under a supurdginama, proved as Exhibit Ka-3. On 04.06.2014, he received the pathology report and supplementary medical report and recorded them in the case diary.

47. During the investigation, he obtained the victim's school certificate from N.K.S. Memorial Convent Junior High School, which recorded her date of birth as 03.03.1998, establishing that she was approximately 16 years old at the time of the incident. After completing the investigation, he submitted Charge-Sheet No. 152 of 2014 against Padam Singh alias Padmi under Sections 363, 366, and 376 IPC. The charge-sheet was proved as Exhibit Ka-7. He affirmed that the investigation had been conducted fairly and truthfully.

48. The submission advanced by learned counsel for the appellant that the Investigating Officer had not conducted a proper investigation has been considered in the light of the evidence available on record. It is a settled principle of law that any illegality, irregularity, or deficiency in the investigation does not, by itself, render the prosecution case unreliable. The evidence adduced during the trial must be independently scrutinised to ascertain whether the charges against the accused have been established beyond reasonable doubt. The Hon'ble Supreme Court, in **State of Karnataka v. K. Yarappa Reddy, (1999) 8 SCC 715**, held that even if an investigation is illegal or suspicious, the remaining evidence must be scrutinised independently of its effect on the investigation.

49. Otherwise, the criminal trial would descend to a level where the Investigating Officer would dominate the proceedings. The Court must retain predominance and pre-eminence in criminal trials, and the administration of criminal justice should not be made a casualty of the wrongs committed by investigating officers.

50. In other words, if the Court is convinced that the testimony of a witness to the occurrence is truthful, it may act upon that testimony

notwithstanding the suspicious role of the Investigating Officer.

51. Similarly, in **Jamuna Chaudhari & Ors vs State Of Bihar** , AIR 1974 SC 1822, as followed in **State of Bihar v. P.P. Sharma**, 1992 SCC (Cri.) 192, and **Babubhai v. State of Gujarat**, (2010) 12 SCC 254, the Hon'ble Supreme Court held that the duty of an Investigating Officer is not merely to bolster the prosecution case with evidence sufficient to secure a conviction, but to bring out the real and unvarnished truth.

52. Dr. Prachi Pal was examined as P.W.5. She has stated that on 13.04.2014, at about 2: 00 p.m., the victim was brought before her at the hospital by the Women Police Station, Muradnagar, for medical examination. She conducted the following examination:

External Examination: The victim was found to be mentally sound, conscious, and in a normal state. Her height was recorded as 148 cm and her weight as 45 kg. She had black hair, and her pubic hair was black and short. Her breasts were developed. She was wearing changed clothes at the time of the medical examination. No external injuries were found on any part of her body.

Internal Examination: No injury marks were found on the internal genital organs. The hymen was found to be old and ruptured. Two slides, vaginal and cervical, were prepared and sent for pathological examination.

53. The medical examination of the victim was conducted in the presence of and with the consent of her mother. The victim's thumb impression was obtained on the medical examination report, which was available on the record. The witness proved the said report by identifying it as being in her handwriting and bearing her signature. The medical examination report was accordingly marked as Exhibit Ka-8.

54. The supplementary medical report of the victim, containing the findings of the pathological examination, was also available on the record. No male spermatozoa were detected in the samples examined. The doctor opined that no definite opinion could be expressed regarding forcible sexual intercourse. She proved the supplementary medical report by identifying her signatures thereon, and the same was marked as Exhibit

Ka-9. The pathological report was separately marked as Exhibit Ka-10.

55. The victim was referred to the Chief Medical Officer for determination of her age, and the age certificate obtained in that regard was available on the record.

56. Despite being afforded an opportunity to cross-examine the witness, the accused did not put any questions to her in cross-examination. Consequently, her testimony remained unchallenged on the points stated by her in her examination-in-chief. However, the evidentiary value of her testimony is to be assessed in accordance with the settled principles of law and in the context of the other evidence available on record.

57. The statement of the accused-appellant was recorded under Section 313 Cr.P.C., wherein he denied the prosecution allegations and claimed that he was innocent and had been falsely implicated in the present case. The medical examination report, pathological report, supplementary medical report, and age certificate of the victim issued by the Chief Medical Officer were put to him for his explanation. However, he denied the genuineness of the said documents by stating that they were false.

58. Learned counsel for the appellant has submitted that the appellant has been falsely implicated in the present case and that the prosecution has failed to establish the charges against him beyond reasonable doubt. It is contended that there is no independent witness to corroborate the allegations made by the victim and her family members. The prosecution case is based primarily upon the testimony of the victim and her relatives, who are interested witnesses.

59. Learned counsel for the appellant has further submitted that the victim was allegedly recovered after about 12–13 days, during which period she was residing with the appellant at Faridabad. It is argued that the prosecution has failed to produce any independent evidence to establish the circumstances in which the victim was allegedly taken away or confined by the appellant. The appellant is stated to have been falsely implicated on account of the alleged previous incident, regarding which no report had been lodged with the police.

60. It is further contended that the medical evidence does not support the prosecution's allegation of forcible sexual intercourse. The doctor did not find any external or internal injury on the person of the victim, and no male spermatozoa were detected in the samples sent for pathological examination. The medical expert was unable to give any definite opinion regarding forcible sexual intercourse. Therefore, according to learned counsel for the appellant, the medical evidence does not corroborate the allegation of rape.

61. Learned counsel for the appellant has also submitted that the prosecution has failed to establish the allegations against the appellant by reliable and cogent evidence. It is argued that the statement of the victim requires careful scrutiny in view of the circumstances of the case and the absence of medical corroboration. The appellant has been falsely implicated, and the findings recorded by the learned trial court are contrary to the evidence available on record.

62. It is, therefore, submitted that the impugned judgment and order passed by the learned trial court suffer from illegality and infirmity and are liable to be set aside. Accordingly, learned counsel for the appellant prays that the appeal be allowed and the appellant be acquitted of the charges levelled against him.

63. Learned A.G.A. for the State has submitted that the prosecution has successfully established the guilt of the appellant beyond reasonable doubt on the basis of cogent, consistent and reliable evidence adduced during the trial. It is contended that the testimony of the victim (P.W.3) is clear, categorical and trustworthy, and there is no material contradiction in her statement so as to discredit the prosecution case. The victim has consistently stated that the appellant enticed her away on the pretext of marriage, took her to Faridabad, confined her in a rented room and repeatedly committed rape upon her.

64. Learned A.G.A. has further submitted that the testimony of the victim is duly supported by the statements of P.W.1 Smt. Sumitra and P.W.2 Ballu alias Balbir, who have corroborated the circumstances surrounding her disappearance and the appellant's conduct. The victim was recovered by the police on 13.04.2014 at Duhai bus stand, and the investigating

officer has duly proved the investigation, the site plan, the medical examination and the filing of the charge-sheet against the appellant. The prosecution evidence, when considered as a whole, establishes the appellant's involvement in the commission of the offence.

65. It is further contended that the age of the victim was established through her High School Certificate, which records her date of birth as 03.03.1998. Accordingly, she was a minor at the time of the incident. Learned A.G.A. submits that the appellant cannot derive any benefit from the absence of external injuries or the non-detection of spermatozoa in the pathological examination, as such circumstances, by themselves, do not discredit the credible testimony of the victim or conclusively rule out the commission of rape.

66. Learned A.G.A. has also submitted that the victim's statement under Section 164 Cr.P.C.. is consistent with her testimony before the trial court regarding the manner in which the appellant took her away and subjected her to sexual intercourse. The defence has failed to elicit any material during cross-examination that would render her testimony unreliable. The findings recorded by the learned trial court are based on proper appreciation of the oral and documentary evidence available on record and do not suffer from any illegality or perversity warranting interference by this Court. It is, therefore, submitted that the appeal lacks merit and is liable to be dismissed, and the judgment and order passed by the learned trial court deserve to be affirmed.

67. The radiological certificate regarding the age of the victim, issued by the Chief Medical Officer, District Ghaziabad, on 16.04.2014, records her age as 18 years. However, the said certificate was not exhibited during the trial, and the appellant/accused also denied it in his statement under Section 313 Cr.P.C.. in response to Question No. 10. On the other hand, the High School certificate of the victim records her date of birth as 03.03.1998, which was verified by the victim herself and by the Investigating Officer during the course of investigation. The finding of the learned trial court regarding the minority of the victim is, therefore, supported by the documentary evidence available on record.

68. The testimony of the victim (P.W.-3) has been carefully scrutinised in

the light of the submissions advanced by learned counsel for the appellant and learned A.G.A. In *State of Maharashtra v. Chandraprakash Kewalchand Jain*, AIR 1990 SC 658, *State of U.P. v. Pappu @ Yunus and Another*, (2005) 3 SCC 594, *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384, *Vijay alias Chinee v. State of M.P.*, (2010) 8 SCC 191, *Wahid Khan v. State of Madhya Pradesh*, (2010) 2 SCC 9, and *Mohd. Imran Khan v. State (Govt. of NCT of Delhi)*, (2011) 10 SCC 192, the Hon'ble Supreme Court has reiterated that the testimony of a prosecutrix must be assessed with due care and sensitivity and that if her evidence is found to be reliable and trustworthy, her sole testimony can form the basis of conviction without independent corroboration.

69. Applying the aforesaid principles to the facts of the present case, this Court finds that the victim has given a clear and consistent account of the manner in which the appellant took her away from her house, took her to Faridabad, and kept her in a separate room for approximately 12–13 days, during which he repeatedly subjected her to sexual intercourse. Her testimony is supported by the surrounding circumstances and the evidence of the other witnesses regarding her disappearance and subsequent recovery. The appellant was a married man having three children and was distantly related to the victim as her maternal uncle. These circumstances have also been taken into consideration while assessing the prosecution case.

70. The absence of external injuries on the victim and the medical opinion expressing no definite conclusion regarding forcible sexual intercourse do not, by themselves, discredit her otherwise reliable testimony. In *State of U.P. v. Pappu @ Yunus and Another*, (2005) 3 SCC 594, and *Vijay alias Chinee v. State of M.P.* (2010) 8 SCC 191, the Hon'ble Supreme Court recognised that the absence of injuries is not, by itself, sufficient to reject the prosecution case where the testimony of the prosecutrix inspires confidence. Furthermore, since the victim was below 18 years of age at the time of the occurrence, her consent does not constitute a defence to the charge of rape under the law applicable to the incident.

71. The delay in lodging the first information report and the discrepancies pointed out by the defence regarding the period of the victim's absence

have also been considered. In **Ram Das v. State of Maharashtra, (2007) 2 SCC 170**, the Hon'ble Supreme Court emphasised the importance of examining the circumstances surrounding a delay in lodging the FIR. The effect of delay must be assessed in the context of the facts of each case, rather than by applying an inflexible rule. In the present case, the explanation offered by the prosecution, considered alongside the testimony of the witnesses and the overall evidence, does not create a sufficient ground to discard the prosecution case.

72. So far as the investigation is concerned, the principles laid down in **State of Karnataka v. K. Yarappa Reddy, (1999) 8 SCC 715**, **Jamuna Chaudhary v. State of Bihar, AIR 1974 SC 1822**, and **Babubhai v. State of Gujarat, , (2010) 12 SCC 254**, require the Court to examine the prosecution evidence independently and to assess any alleged defect in investigation in the context of the entire case. A defect or omission in investigation does not automatically entitle the accused to acquittal where the substantive evidence otherwise establishes the prosecution case. The submissions advanced on behalf of the learned A.G.A., including the reliance placed upon **Javed Masood v. State of Rajasthan, (2010) 3 SCC 538**, have been considered; however, the evidence in the present case does not disclose any material infirmity warranting a different conclusion.

73. Upon an overall appreciation of the oral and documentary evidence, this Court finds that the learned trial court has properly evaluated the prosecution evidence and recorded its findings on the basis of the material available on record. The testimony of the victim inspires confidence, and the defence has failed to demonstrate any material contradiction, illegality, perversity or misappreciation of evidence warranting interference by this Court in its appellate jurisdiction. Consequently, the conviction and sentence awarded by the learned trial court do not call for interference. The appeal, being devoid of merit, is liable to be dismissed and is **dismissed** accordingly.

74. As the appellant, Padam Singh @ Padmi is on bail, he is directed to surrender before the learned trial court within fifteen days from today. His bail bonds will be cancelled, and the sureties will be discharged as soon as

he surrenders before the learned trial court.

75. Learned trial court shall complete the necessary formalities. The appellant shall undergo the remaining sentence awarded by the learned trial court, and the period of incarceration already undergone by him, if any, shall be adjusted against the sentence in accordance with law.

76. In case the appellant fails to surrender within the stipulated period, learned trial court shall be at liberty to take all necessary steps to secure his presence and ensure compliance of this order.

77. A copy of this judgment shall be transmitted forthwith through e-mail to the learned District and Sessions Judge, Ghaziabad, for information and necessary compliance. The office shall also transmit a copy of this judgment, along with the trial court record, to the learned trial court immediately for necessary compliance.

(Abdul Shahid,J.)

October 26, 2026

M. Tarik