

**(2024) 10 SHI CK 0015**

**High Court Of Himachal Pradesh**

**Case No:** Criminal Appeal No. 361 of 2020, 169 of 2019

Ranjeet Singh

APPELLANT

Vs

State Of H.P.

RESPONDENT

**Date of Decision:** Oct. 1, 2024

**Acts Referred:**

- Code of Criminal Procedure, 1973 - Section 313, 386(b)(iii)
- Indian Penal Code, 1860 - Section 34, 376, 506
- Evidence Act, 1872 - Section 35

**Hon'ble Judges:** Rakesh Kainthla, J

**Bench:** Single Bench

**Advocate:** Hoshiar Kaushal, Ambika Kotwal, Lokender Kutlehria

**Final Decision:** Allowed

**Judgement**

Rakesh Kainthla, Judge

1. The present appeals are directed against the judgment and order dated 25.04.2019, passed by learned Sessions Judge, Kinnaur, Sessions Division at Rampur Bushehr (learned Trial Court) vide which the appellants (accused before learned Trial Court) were convicted of the commission of offences punishable under Sections 376 and 506 of IPC and they were sentenced to undergo rigorous imprisonment for seven years and pay a fine of ₹10,000/- each and in default of payment of fine to further undergo simple imprisonment for one year for the commission of an offence punishable under Section 376 of IPC. They were also sentenced to undergo seven years of rigorous imprisonment and to pay a fine of ₹10,000/- and in default of payment of the fine to further undergo simple imprisonment for one year for the commission of an offence punishable under Section 506 of IPC. It was ordered that both the substantive sentences of imprisonment would run concurrently. (Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present appeals are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 376 and 506 read with Section 34 of IPC. It was asserted that the victim (name being withheld to protect her identity) was aged 14 years and had passed 5th class. The accused-Shanta Kumar took her to the field on 07.06.2011 and raped her. He also threatened to kill her in case the incident was revealed to anyone. Ranjeet Singh had also taken her to his orchard some days before this incident and raped her. He had also threatened the informant and promised to marry her. The informant narrated the incident to her aunt, who revealed the incident to the victim's parents. The matter was reported to the police through an application (Ext. PW12/A). An entry in the daily diary (Ext. PW11/A) was registered in the police post. The complaint and entry in the daily diary were sent to the Police Station Bhawanagar, where FIR (Ext. PW17/A) was registered. Ashok Kumar (PW19) conducted the investigation. He went to the spot and prepared the site plan (Ext. PW19/A). He recorded the statements of the victim, her aunt and her mother. He arrested the accused-Ranjeet Singh on the same day and Shanta Kumar on 10.06.2011. Ranjeet Singh made a disclosure statement on 11.06.2011 that he could get the pyjama recovered which was worn by him on the date of the incident. The statement (Ext. PW3/A) was reduced into writing. The accused got his pyjama (Ext. P2) recovered from a room. The pyjama was put in a cloth parcel (Ext. P1). The parcel was sealed with three seal impressions of seal 'T'. Seal Impression (Ext. PW19/B) was taken on a separate piece of cloth and the seal was handed over to Sanjay Kumar after the use. The pyjama was seized vide memo (Ext. PW3/B). A site plan of the place of recovery (Ext. PW19/C) was prepared. The photographs of the site (Ext. PA1 to PA14) and CD (Ext. PA15) were taken in possession.

3. Tejinder Singh (PW17) conducted further investigation. Shanta Kumar made a disclosure statement that he could get his trousers recovered, which were concealed by him in his house. Shanta Kumar led the police party to his house and got recovered trousers from his room. The trouser was put in a parcel and the parcel was sealed with three impressions of seal 'A'. The seal impression (Ext. PW17/B) was taken on a separate piece of cloth. The site plan (Ext. PW17/C) was prepared. The trousers were seized vide memo (Ext. PW4/B). The copies of the family register of the victim (Ext. PW5/A and Ext. PW5/B) and her Birth Certificate (Ext. PW6/A) were taken in possession which show that the victim was born on 23.09.1996 and was minor on the date of the incident. The victim was medically examined by Dr. Anjana Verma (PW18) who found that the possibility of sexual intercourse with her could not be ruled out. She issued the MLC (Ext. PW18/A) and preserved the clothes and the samples of the victim. The victim was referred to Deen Dayal Upadhyay Hospital, Shimla. Dr. Nishi Sood (PW15) examined the victim and found that she was carrying a pregnancy of 12 weeks and 5 days. Dr. Vikas Sharma (PW9) conducted the medical examination of Ranjeet Singh and found that there was nothing to suggest that Ranjeet Singh was incapable of performing a

sexual act. He also found injury on the penis of the accused, which was three to seven days old. The samples were taken and MLC (Ext. PW9/A) was issued. Dr Devender Sharma (PW10) medically examined Shanta Kumar and found that there was nothing to suggest that Shanta Kumar was incapable of performing sexual intercourse. Shanta Kumar had also sustained injuries on his penis, which was three to seven days old. He issued the MLC (Ext. PW10/B). The case property was deposited with HC-Yogeshwar Singh (PW13), who deposited it in Malkhana and sent it to FSL Junga through Ashok Kumar (PW14) for analysis. Ashok Kumar deposited all the articles in a safe condition at FSL Junga and handed over the receipt to MHC-Yogeshwar on his return. The result of analysis (Ext. 'PX') was issued in which it was shown that semen was detected on the salwar of the victim and pants of accused Shanta Kumar. The samples of pubic hair of the victim and accused were identified as human pubic hair, which were different from each other. The samples were also subjected to DNA analysis and reports (Exts. PY and PZ) were issued showing that the DNA profile obtained from the salwar of the victim matched completely with the blood sample of Shanta Kumar. The DNA profile obtained from the blood sample of Ranjeet Singh matched the DNA profile obtained from the pyjama of Ranjeet Singh. The statements of witnesses were recorded as per their version and after the completion of the investigation, the challan was filed and presented before the Court of learned Chief Judicial Magistrate, Kinnaur, who committed it for trial to the learned Sessions Judge (learned Trial Court).

4. The learned Trial Court charged the accused with the commission of offences punishable under Sections 376 and 506 of IPC. The accused pleaded not guilty and claimed to be tried.

5. The prosecution examined 21 witnesses to prove its case. PW1 is the aunt of the victim. PW2 was told about the incident by the victim. PW3 is the father of the victim. Constable Ishwar Singh (PW4) is the witness to the disclosure statement made by Shanta Lal and the consequent recovery. Shiv Chand Negi (PW5) produced the Pariwar Register and the date of Birth Certificate of the victim. Kailashwati (PW6) proved the school certificate showing the age of the victim. PW7 is the victim. Bhingal Singh (PW8) is the witness to the disclosure statement made by Ranjeet Singh. Dr. Vikas Sharma (PW9) conducted the medical examination of Ranjeet. Dr. Devinder Sharma (PW10) conducted the medical examination of Shanta Kumar. Constable Rajinder Kumar (PW11) made an entry in the daily diary. ASI-Pawan Kumar (PW12) was posted as in charge of the Police Post where the entry in the daily diary was recorded and he applied for medical examination of the victim. HC-Yogeshwar Singh (PW13) was working as MHC. HHC-Ajay Kumar (PW14) carried the case property to FSL Junga. Dr Nishi Sood (PW15) conducted the medical examination of the victim at DDU Hospital Shimla. ASI Mohar Singh (PW16) obtained copies of the Pariwar Register and the birth register of the victim. Tejinder Kumar (PW17) conducted the investigation. Dr Anjana Verma (PW18) initially examined the victim. Ashok Kumar (PW19) conducted the further investigation. Dr. Deepak Negi

(PW20) took the blood sample of the victim for DNA analysis. Dr Chander Mohan Negi (PW21) obtained the blood sample of Ranjeet Singh for DNA profiling.

6. The accused in their statements recorded under Section 313 of Cr.P.C. denied the prosecution case in its entirety. Accused Ranjeet Singh stated that the pyjamas belonged to him. He stated that the witnesses deposed against him due to enmity. Accused Shanta Kumar stated that his signatures were obtained after beating him. He admitted that the trousers belonged to him. He stated that the witnesses had deposed against him on account of the previous enmity. No defence was sought to be adduced by the accused.

7. The learned Trial Court held that the testimony of the victim was duly corroborated by the medical evidence and the report of DNA. The other witnesses also supported her version. The medical evidence proved that the victim was subjected to sexual intercourse. The victim was mentally challenged and she was incapable of understanding her welfare. She was proved to be minor as per her birth certificate. The DNA profiling of the fetus would have provided an additional link in the prosecution case and the fact that such profiling was not conducted is insufficient to doubt the prosecution's case; hence, the accused were convicted and sentenced as aforesaid.

8. Being aggrieved from the judgment and order passed by the learned Trial Court, the accused have filed the present appeals.

9. I have heard Mr Hoshiar Kaushal learned counsel for the appellant/accused Ranjeet Singh and Ms Ambika Kotwal, learned Legal Aid Counsel, for the appellant/accused Shanta Kumar and Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

10. Mr Hoshiar Kaushal, learned counsel for the appellant/accused Ranjeet Singh submitted that the learned Trial Court had not properly appreciated the evidence led before it. The age of the victim was not proved by any satisfactory evidence. The Pariwar Register and the School record could not be held to be relevant and admissible to determine the victim's age. DNA profiling would not help the prosecution because the victim never stated that she was wearing the clothes at the time of the incident. She had also not identified the clothes in the Court. The defence version was duly probabilized and the learned Trial Court failed to consider it; hence, it was prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

11. Ms. Ambika Kotwal, learned Legal Aid Counsel for the appellant/accused-Shanta Kumar adopted these submissions and further submitted that the integrity of the case property was not established. Learned Trial Court erred in recording the finding that the victim was mentally challenged without any medical evidence. The testimony of the victim was not reliable. She was found to be carrying the pregnancy but she did not name any person as the father of the child. The defence version that

the victim had a physical relation with some other person and had falsely implicated the accused cannot be ruled out. There was a discrepancy regarding the age of the victim and the learned Trial Court erred in holding that the victim was minor at the time of the incident. She prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

12. Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State submitted that the learned Trial Court had discussed the submissions made by the learned counsel for the appellants/accused. The testimony of the victim was satisfactory and it was duly corroborated by the medical evidence, as well as, the report of the DNA analysis. The relatives of the victim also supported her version. The fact that the victim had not disclosed the pregnancy cannot be held against her as she was found to be mentally challenged by the learned Trial Court; hence, he prayed that the present appeals be dismissed.

13. I have given considerable thought to the submission made at the Bar and have gone through the records carefully.

14. The victim (PW7) stated that she did not remember the date, month or year but she was in her home. The accused came to her house and raped her. First Ranjeet Singh raped her then she corrected to say that Shanta Kumar had raped her first. Shanta Kumar told her that she should not narrate this fact to her parents otherwise he would kill her. Shanta Kumar had raped her in a field. Ranjeet Kumar had also raped her in a field. He told her not to tell this incident to her parents otherwise, he would kill her. She narrated this fact to her paternal aunt. Thereafter, the matter was reported to the police. She was medically examined. The police came to the spot and she disclosed the place of offence to the police.

15. She stated in her cross-examination that she did not know her exact age. Her paternal aunt and mother had asked her to name Ranjeet in the Court. Many houses were adjoining to her house. She could not tell who was present in the adjoining house when the accused came to her house on that day. She did not know the meaning of the rape and she was told by her mother and paternal aunt to say that she was raped. She had stated in the complaint made to the police that she was raped in the morning in the field belonging to accused-Ranjeet. She did not go to the field voluntarily but was forcibly taken to the field. The neighbours had not seen the accused taking her to the field. She did not cry when she was being taken by the accused. Her mother was not in the house and had gone to take care of the cattle. There was no house adjoining the field. Her mother and paternal aunt had told her to name Shanta Kumar in the Court because there was a quarrel between her parents and Shanta Kumar. She could not say where the quarrel had taken place. She failed in Class 5th and could not tell what was her age when she went to school. Shanta Kumar had not done any wrongful act with her nor any other person had done it with her. A house was being constructed near the field where she was taken but she did not know the name of the person whose house was being constructed.

She was not bearing the child in her womb at the time of her examination and the doctor had not disclosed this fact to her. The doctor had prescribed some medicines. She had told her paternal aunt about the incident. She denied that she was seeing some shepherd and she had named the accused to save herself. She had not changed her clothes when she went to the police station. The clothes were in her house then volunteered to say that she was not aware of where the clothes were kept.

16. The statement of this witness shows that she has not given a consistent version. She stated in the Court that she was raped by the accused together in her house whereas she had mentioned to the police that Shanta Kumar took her to the field on 07.06.2011 and Ranjeet had taken her earlier to his orchard where he had raped her. Thus, the statement in the Court that Ranjeet and Shanta Kumar came to her house and raped her is not in accordance with the prosecution version.

17. She further stated in her cross-examination that she was told by her mother and her paternal aunt to name the accused, Ranjeet Singh and Shanta Kumar, as the persons who had raped her. It was submitted that this part of her testimony shows that she is a tutored witness. This submission cannot be accepted. It was laid down by the Hon'ble Supreme Court in **Harendra Rai v. State of Bihar, 2023 SCC OnLine SC 1023** that the testimony of a witness cannot be discarded because she stated in her cross-examination that she was asked to name the accused. It was observed:

“99. The High Court, in its impugned judgment, concluded that CW-1 Lalmuni Devi is not a hearsay witness, as held by the Trial Court, but is a tutored witness in view of her last two lines in cross-examination. Any other prosecution witness of fact does not corroborate the testimony of CW-1. Instead, their testimonies are against CW-1 as no other Prosecution Witness has stated about her presence. The main reason assigned by the High Court for such a conclusion is that she stated at the end of her cross-examination that “her son (another alive son) had asked her to take the name of accused before the Court”,

100. The above conclusion drawn by the High Court is un-acceptable and suffers from a serious error of law and also an error of fact. The High Court has completely failed to take up the merit of the case in its right perspective and failed to take note of the sensitivity attached to the case.”

18. She stated that she had mentioned the incident to her paternal aunt and thereafter, she was taken to the Police Station. Therefore, the fact that her paternal aunt and her mother had told her to name the accused in the Court will not mean that she was tutored but can also mean that they were repeating what was said by the victim to the police.

19. The victim was found to be a competent witness by the learned Trial Court, which means that she was able to understand the questions and answer them rationally. Therefore, it is difficult to believe that being a major she would be under

the influence of any person and would make a statement after being tutored; however, this fact has to be considered while appreciating the other evidence and the corroboration has to be sought to her testimony to ensure that she was not naming an innocent person at the instance of her paternal aunt and her mother.

20. She was medically examined by Dr. Anjana Verma (PW18), who stated that she found the victim to be mentally challenged. She found the victim's pubic hair to be matted. She obtained the vaginal swab, a sample of public hair and took the pregnancy test which was found to be positive. She preserved the clothes. The clothes were shown to her and she identified the clothes as the ones which were taken in possession by her. She stated in her cross-examination that the history of sexual assault was given by the victim's mother.

21. The statement of the Medical Officer shows that she had taken the clothes, which were duly identified by her. Therefore, the submission that there is no proper identification of the clothes cannot be accepted.

22. The clothes were sent to the Forensic Science Laboratory and as per the report (Ext. 'PX'), semen was found on the salwar of the victim and the pants of the accused-Shanta Kumar. The same was subjected to DNA analysis and as per the report (Ext. PY), the DNA obtained from the salwar of the victim matched completely with the DNA obtained from the pants of Shanta Kumar. Similarly, the DNA obtained from the pants of Shanta Kumar matched the blood sample of the victim. Male DNA fraction was also found in the vaginal slide but did not show any amplification. Similarly, the shirt and sweater of the victim and the pubic hair of the accused yielded partial and mixed DNA profiles from which nothing specific could be inferred.

23. This report clearly shows that the victim was subjected to sexual intercourse. The result of the analysis shows that the human semen was found on the salwar of the victim, which matched the blood sample of the accused-Shanta Kumar. Thus, the report shows that the DNA of accused Shanta Kumar was present on his pants and the salwar of the victim. The report also shows the presence of male DNA fraction in the vaginal slide, shirt and sweater. The male DNA fraction could not have been present in the vaginal slide without the sexual intercourse and the statement of the victim that she was subjected to sexual intercourse is duly corroborated by the report of the DNA analysis. It was laid down by the Hon'ble Supreme Court in **Manoj v. State of M.P., (2023) 2 SCC 353: 2022 SCC OnLine SC 677** that the report of DNA analysis can be used to corroborate the version of the witness. It was observed at page 431:

151. During the hearing, an article published by the Central Forensic Science Laboratory, Kolkata [ DNA Profiling in Justice Delivery System, Central Forensic Science Laboratory, Directorate of Forensic Science, Kolkata (2007).] was relied upon. The relevant extracts of the article are reproduced below:

"Deoxyribonucleic acid (DNA) is genetic material present in the nuclei of cells of living organisms. The average human body is composed of about 100 trillion cells. DNA is present in the nucleus of a cell as a double helix, supercoiled to form chromosomes along with intercalated proteins. Twenty-three pairs of chromosomes are present in each nucleated cell and an individual inherits 23 chromosomes from the mother and 23 from the father transmitted through the ova and sperm respectively. At the time of each cell division, chromosomes replicate and one set goes to each daughter cell. All information about internal organisation, physical characteristics, and physiological functions of the body is encoded in DNA molecules in a language (sequence) of alphabets of four nucleotides or bases: Adenine (A), Guanine (G), Thymine (T) and Cytosine (C) along with the sugar-phosphate backbone. A human haploid cell contains 3 billion bases approx. All cells of the body have the same DNA but it varies from individual to individual in the sequence of nucleotides. Mitochondrial DNA (mtDNA) found in a large number of copies in the mitochondria is circular, double-stranded, 16,569 base pairs in length and shows maternal inheritance. It is particularly useful in the study of people related through the maternal line. Also being in a larger number of copies than nuclear DNA, it can be used in the analysis of degraded samples. Similarly, the Y chromosome shows paternal inheritance and is employed to trace the male lineage and resolve DNA from males in sexual assault mixtures.

Only 0.1 % of DNA (about 3 million bases) differs from one person to another. Forensic DNA Scientists analyse only a few variable regions to generate a DNA profile of an individual to compare with biological clue materials or control samples.

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### **DNA Profiling Methodology**

A DNA profile is generated from the body fluids, stains, and other biological specimens recovered from evidence and the results are compared with the results obtained from reference samples. Thus, a link among victim(s) and/or suspect(s) with one another or with the crime scene can be established. DNA profiling is a complex process of analyses of some highly variable regions of DNA. The variable areas of DNA are termed genetic markers. The current genetic markers of choice for forensic purposes are Short Tandem Repeats (STRs). Analysis of a set of 15 STRs employing an Automated DNA Sequencer gives a DNA profile unique to an individual (except for monozygotic twins). Similarly, STRs present on the Y chromosome (Y-STR) can also be used in sexual assault cases or determining paternal lineage. In cases of sexual assaults, Y-STRs are helpful in the detection of male profile even in the presence of high level of female portion or in case of azoo11permic or vasectomized" male. In cases in which DNA had undergone environmental stress and biochemical degradation, min lists can be used for over routine STR because of shorter amplicon size.

DNA profiling is a complicated process and each sequential step involved in generating a profile can vary depending on the facilities available in the laboratory. The analysis principles, however, remain similar, which include:

1. isolation, purification & quantitation of DNA
2. amplification of selected genetic markers
3. visualising the fragments and genotyping
4. statistical analysis & interpretation.

In mtDNA analysis, variations in Hypervariable Region I & II (HVR I & II) are detected by sequencing and comparing results with control samples:

### Statistical Analysis

Atypical DNA case involves a comparison of evidence samples, such as semen from a rape, and known or reference samples, such as a blood sample from a suspect. Generally, there are three possible outcomes of profile comparison:

- (1) Match: If the DNA profiles obtained from the two samples are indistinguishable, they are said to have matched.
- (2) Exclusion: If the comparison of profiles shows differences, it can only be explained by the two samples originating from different sources.
- (3) Inconclusive: The data does not support a conclusion of the three possible outcomes, only the "match" between samples needs to be supported by statistical calculation. Statistics attempt to provide meaning to the match. The match statistics are usually provided as an estimate of the Random Match Probability (RMP) or in other words, the frequency of the particular DNA profile in a population.

In the case of paternity/maternity testing, exclusion at more than two loci is considered an exclusion. An allowance of 1 or 2 loci possible mutations should be taken into consideration while reporting a match. Paternity or Maternity indices and likelihood ratios are calculated further to support the match.

### Collection and Preservation of Evidence

If DNA evidence is not properly documented, collected, packaged, and preserved, it will not meet the legal and scientific requirements for admissibility in a court of law. Because extremely small samples of DNA can be used as evidence, greater attention to contamination issues is necessary while locating, collecting, and preserving. DNA evidence can be contaminated when DNA from another source gets mixed with DNA relevant to the case. This can happen when someone sneezes or coughs over the evidence or touches his/her mouth, nose, or other part of the face and then touches an area that may contain the DNA to be tested. The exhibits having biological specimen, which can establish a link among victim(s), suspect(s), scene of the crime

for solving the case should be identified, preserved, packed and sent for DNA profiling."

152. In an earlier judgment, **R v. Dohoney & Adams [R v. Dohoney & Adams, (1997) 1 CrI App Rep 369 (CA)]** the UK Court of Appeal laid down the following guidelines concerning the procedure for introducing DNA evidence in trials : (1) the scientist should adduce the evidence of the DNA comparisons together with his calculations of the random occurrence ratio; (2) whenever such evidence is to be adduced, the Crown (prosecution) should serve upon the defence details as to how the calculations have been carried out, which are sufficient for the defence to scrutinise the basis of the calculations; (3) the Forensic Science Service should make available to a defence expert if requested, the databases upon which the calculations have been based.

153. The Law Commission of India in its Report [ 185th Report, on Review of the Indian Evidence Act, 2003.], observed as follows:

"DNA evidence involves a comparison between genetic material thought to come from the person whose identity is in issue and a sample of genetic material from a known person. If the samples do not "match", then this will prove a lack of identity between the known person and the person from whom the unknown sample originated. If the samples match, that does not mean the identity is conclusively proved. Rather, an expert will be able to derive from a database of DNA samples, an approximate number reflecting how often a similar DNA "profile" or "fingerprint" is found. It may be, for example, that the relevant profile is found in 1 person in every 1,00,000: This is described as the "random occurrence ratio" (Phipson 1999, 15th Edn., Para 14.32).

Thus, DNA may be more useful for purposes of investigation but not for raising any presumption of identity in a court of law."

(emphasis in original)

154. In **Dharam Deo Yadav v. State of U.P. [Dharam Deo Yadav v. State of U.P., (2014) 5 SCC 509 : (2014) 2 SCC (Cri) 626]** this Court discussed the reliability of DNA evidence in a criminal trial, and held as follows : (SCC pp. 528-29, para 36)

"36. The DNA stands for deoxyribonucleic acid, which is the biological blueprint of every life. DNA is made up of a double-stranded structure consisting of a deoxyribose sugar and phosphate backbone, cross-linked with two types of nucleic acids referred to as adenine and guanine, purines and thymine and cytosine pyrimidines. ... DNA usually can be obtained from any biological material such as blood, semen, saliva, hair, skin, bones, etc. The question as to whether DNA tests are virtually infallible may be moot, but the fact remains that such tests has come to stay and is being used extensively in the investigation of crimes and the court often accepts the views of the experts, especially when cases rest on circumstantial

evidence. More than half a century ago, samples of human DNA began to be used in the criminal justice system. Of course, debate lingers over the safeguards that should be required in testing samples and in presenting the evidence in court. DNA profile, however, is consistently held to be valid and reliable, but of course, it depends on the quality control and quality assurance procedures in the laboratory."

155. The US Supreme Court in **District Attorney's Office for the Third Judicial District v. Osborne** [**District Attorney's Office for the Third Judicial District v. Osborne, 2009 SCC OnLine US SC 73: 557 US 52 (2009)**] dealt with a post-conviction claim to access evidence, at the behest of the convict, who wished to prove his innocence, through new DNA techniques. It was observed, in the context of the facts, that: (SCC OnLine US SC)

"Modern DNA testing can provide powerful new evidence unlike anything known before. Since its first use in criminal investigations in the mid-1980s, there have been several major advances in DNA technology, culminating in STR technology. It is now often possible to determine whether a biological tissue matches a suspect with near certainty. While of course, many criminal trials proceed without any forensic and scientific testing at all, there is no technology comparable to DNA testing for matching tissues when such evidence is at issue. ... DNA testing has exonerated wrongly convicted people, and has confirmed the convictions of many others."

156. Several decisions of this Court — **Pantangi Balarama Venkata Ganesh v. State of A.P.** [**Pantangi Balarama Venkata Ganesh v. State of A.P., (2009) 14 SCC 607 : (2010) 2 SCC (Cri) 190**] , **Santosh Kumar Singh v. State** [**Santosh Kumar Singh v. State, (2010) 9 SCC 747 : (2010) 3 SCC (Cri) 1469**] , **State of T.N. v. John David** [**State of T.N. v. John David, (2011) 5 SCC 509 : (2011) 2 SCC (Cri) 647**] , **Krishan Kumar Malik v. State of Haryana** [**Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130 : (2011) 3 SCC (Cri) 61**] , **Surendra Koli v. State of U.P.** [**Surendra Koli v. State of U.P., (2011) 4 SCC 80 : (2011) 2 SCC (Cri) 92**] , **Sandeep v. State of U.P.** [**Sandeep v. State of U.P., (2012) 6 SCC 107 : (2012) 3 SCC (Cri) 18**] , **Rajkumar v. State of M.P.** [**Rajkumar v. State of M.P., (2014) 5 SCC 353 : (2014) 2 SCC (Cri) 570**] and **Mukesh v. State (NCT of Delhi)** [**Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1 : (2017) 2 SCC (Cri) 673**] have dealt with the increasing importance of DNA evidence. This Court has also emphasised the need to ensure quality control, about the samples, as well as the technique for testing in **Anil v. State of Maharashtra** [**Anil v. State of Maharashtra, (2014) 4 SCC 69: (2014) 2 SCC (Cri) 266**] : (**Anil case** [**Anil v. State of Maharashtra, (2014) 4 SCC 69 : (2014) 2 SCC (Cri) 266**], SCC p. 81, para 18)

"18. Deoxyribonucleic acid, or DNA, is a molecule that encodes the genetic information in all living organisms. DNA genotype can be obtained from any biological material such as bone, blood, semen, saliva, hair, skin, etc. Now, for several years, DNA profiles has also shown a tremendous impact on forensic investigation. Generally, when the DNA profile of a sample found at the scene of a

crime matches with DNA profile of the suspect, it can generally be concluded that both samples have the same biological origin. A DNA profile is valid and reliable, but the variance in a particular result depends on the quality control and quality procedure in the laboratory."

157. This Court, in one of its recent decisions, **Pattu Rajan v. State of T.N.** [**Pattu Rajan v. State of T.N., (2019) 4 SCC 771: (2019) 2 SCC (Cri) 354**], considered the value and weight to be attached to a DNA report: (SCC p. 791, para 52)

"52. Like all other opinion evidence, the probative value accorded to DNA evidence also varies from case to case, depending on facts and circumstances and the weight accorded to other evidence on record, whether contrary or corroborative. This is all the more important to remember, given that even though the accuracy of DNA evidence may be increasing with the advancement of science and technology with every passing day, thereby making it more and more reliable, we have not yet reached a juncture where it may be said to be infallible. Thus, it cannot be said that the absence of DNA evidence would lead to an adverse inference against a party, especially in the presence of other cogent and reliable evidence on record in favour of such party."

158. This Court, therefore, has relied on DNA reports, in the past, where the guilt of an accused was sought to be established. Notably, the reliance was to corroborate. This Court highlighted the need to ensure quality in the testing and eliminate the possibility of contamination of evidence; it also held that being an opinion, the probative value of such evidence has to vary from case to case."

24. The paternal aunt of the victim stated that she reached her house on 07.06.2011 at about 4:15 pm. The victim was sitting in the courtyard and she appeared to be terrified. She asked the victim about the matter. The victim replied that Shanta Kumar took her from her house to a field and raped her. He also threatened her. She took the victim to the house of Shanta Kumar. He was there. She confronted Shanta Kumar and he replied that not only he but Ranjeet had also raped her before him. She informed the victim's mother about these facts. She stated in her cross-examination that the victim was not terrified before the incident. She did not call any elder of the family as none was there. The mother and sister of Shanta Kumar were present in the house. When she visited his house, no neighbour of Shanta Kumar came to the house. She denied that the victim had named some shepherd. The victim can communicate and respond correctly and she knows the accused by name. The victim had pointed out the place where she was raped. The victim did not reveal how she was taken to the field by Shanta Kumar. The victim had not disclosed anything to her before 07.06.2011. There is a school and office of the Forest Department below her house and the house of Ram Kedar is located on the upper side at some distance. The field was open. She had not seen the accused talking to the victim.

25. Her statement also corroborates the testimony of the victim. She stated that the victim told her about the rape committed by Shanta Kumar, which is duly corroborated by the fact that she had reported the matter to the victim's mother and thereafter to the police. Nothing was suggested in the cross-examination of this witness that she had any enmity with Shanta Kumar to depose falsely against him

26. The victim's mother (PW1) stated that she had gone to her field. The victim was in her house. The victim's brother informed her (PW1) that Shanta Kumar had raped the victim. She went to the house and asked the victim. The victim revealed that Shanta Kumar had taken her to the field and raped her. She also told that Ranjeet had raped her before that. She said that the accused had threatened to kill her in case the incident was revealed to any person. She stated in her cross-examination that the victim was admitted to the school when she was six years old. The victim studied up to the 5th standard and failed. Her date of birth was reported as per the Panchayat record and she could not tell the victim's date of birth. She did not notice anything abnormal in the victim. The victim had identified the house of Shanta Kumar and the field where she was raped. The place was located adjacent to the path and could be seen by any person. The victim was pregnant and she could not tell how the victim became pregnant. The victim did not leave the home during her presence.

27. Nothing was suggested to this witness to show that she was making an incorrect statement. She had specifically stated that she enquired from the victim and the victim revealed that she was raped by Ranjeet Singh and Shanta Kumar. This fact corroborates the statement of the victim and her paternal aunt regarding the rape by Shanta Kumar.

28. The father of the victim (PW3) stated that he received a call on 07.06.2013 at 4:45 that the victim was raped by Shanta Kumar and Ranjeet Singh. He went to the house and asked his wife, who told him that the victim was raped by the accused. They came to the police post-Kafnu and reported the matter to the police.

29. The statement of this witness will not help the prosecution because the victim never stated anything to him. He was told about the incident by his wife, the mother of the victim. Since the victim's mother had not seen the incident; therefore, his statement regarding what was told to him by his wife the rape would be hearsay and inadmissible in evidence.

30. The evidence on record consistently shows that Shanta Kumar had raped the victim. His name was mentioned in the entry in the daily dairy which was the first version. The victim, her aunt and her mother named him in the Court. The presence of the DNA profile of Shanta Kumar in the clothes of the victim lends assurance to their testimonies. The accused has not given any explanation for the presence of his DNA profile in the clothes of the victim. Hence, the version of the victim has to be accepted as correct that Shanta Kumar had raped her.

31. The evidence against Ranjeet Kumar is not consistent. The victim had stated to the police that Shanta Kumar had raped her on the date of the incident and Ranjeet had raped her before the incident. This version was changed in the Court and it was stated that both of them had raped her on the date of the incident. The DNA profile of the accused-Ranjeet Singh did not match the DNA profile obtained from the clothes and the samples of the victim. The paternal aunt of the victim stated that the victim had named Shanta Kumar and Shanta Kumar revealed after he was confronted that Ranjeet had also raped the victim. It shows that the victim had not named Ranjeet initially to her paternal aunt. Thus, in these circumstances, the case of the prosecution against Ranjeet has not been proved beyond reasonable doubt. The discrepancy in the statement of the victim and the absence of corroboration will entitle Ranjeet to a benefit of the doubt which is extended to him.

32. It was submitted that the victim stated that she was not pregnant whereas Dr. Nishi Sood (PW15) stated that based on clinical examination and the report of ultrasound, the victim was carrying the pregnancy of 12 weeks and 5 days. Since it is not the case of the prosecution that the accused Shanta Kumar had raped her 12 weeks before the date of the incident, the victim had physical relations with some person resulting in the pregnancy. This will not make much difference. Even if the victim had physical relations with any person, that would not give any license to the accused to rape her. Hence, not much advantage can be derived from the pregnancy of the victim.

33. The learned Trial Court had rightly held that the investigating agency was supposed to preserve the DNA profile of the foetus to match it with the DNA profile of the accused. However, the mere lapse of the Investigating Officer to do so will not be fatal to the prosecution case and no advantage can be derived from the same. It was held in **Karnel Singh vs. State 1995 (5) SCC 518** that the prosecution case cannot be doubted due to the defective investigation because Investigating Officer is not under the control of the complainant and the complainant cannot be penalized for the negligence of the Investigating Officer. It was held:

“4. We have very carefully scrutinized the evidence having regard to the fact that (PW 6) the Investigation Officer had not taken the care expected of him. He did not record the statements of the two witnesses nor did he refer to the attachment of the 'Chaddi' in his oral evidence. That was a very vital piece of evidence to which little or no attention was paid. If the seizure of that article was properly proved, the article with semen stains would have lent strong corroboration to the evidence of the prosecutrix. There is no doubt that the investigation was casual and defective. But despite these deficiencies both the Courts below have recorded a conviction. The question is: are they right?

5. Notwithstanding our unhappiness regarding the nature of the investigation, we have to consider whether the evidence on record, even on strict scrutiny, establishes the guilt. In cases of defective investigation, the Court has to be circumspect in

evaluating the evidence but it would not be right to acquitting an accused person solely on account of the defect; to do so would be tantamount to playing into the hands of the Investigating Officer if the investigation is designedly defective. Any Investigating Officer, in fairness to the prosecutrix as well as the accused, would have recorded the statements of the two witnesses and would have drawn up a proper seizure memo in regard to the 'Chaddi'. That is the reason why we have said that the investigation was slipshod and defective.

6. We must admit that the defective investigation gave us some anxious moments and we were at first blush inclined to think that the accused was prejudiced. But on closer scrutiny, we have reason to think that the loopholes in the investigation were left to help the accused at the cost of the poor prosecutrix, a labourer. To acquit solely on that ground would be adding insult to injury."

34. This position was reiterated in **Sudha Ranukanya Vs. State of A.P. 2017 (13) SCC 81** wherein it was held that the Court has to see the prosecution case without taking into consideration the defective investigation or lapses committed by the Investigating Officer. This position was reiterated in Sachin Kumar Singhraha vs. State of Madhya Pradesh 2019 (8) SCC 371, as under:

At this juncture, we would like to recall that it is well-settled that criminal justice should not become a casualty because of the minor mistakes committed by the Investigating Officer. We may hasten to add here itself that if the Investigation Officer suppresses the real incident by creating certain records to make a new case altogether, the Court would definitely strongly come against such action of the Investigation Officer. There cannot be any dispute that the benefit of the doubt arising out of major flaws in the investigation would create suspicion in the mind of the Court and consequently, such inefficient investigation would accrue to the benefit of the accused. As observed by this Court in the case of State of H.P. v. Lekh Raj, (2000) (1) SCC 247, a criminal trial cannot be equated with a mock scene from a stunt film. Such trial is conducted to ascertain the guilt or innocence of the accused arraigned and in arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hypertechnical approach has to be replaced by a rational, realistic and genuine approach to administering justice in a criminal trial.

35. Thus, the prosecution case cannot be doubted due to the defective investigation.

36. It was submitted that the victim had concealed the pregnancy from the Court during her examination which shows that she is an unreliable witness. This submission will not help the accused because the principle of falsus in uno, falsus in omnibus does not apply to India and the testimonies of the witnesses cannot be discarded simply because part of it is found to be false. It was laid down by the

Hon'ble Supreme Court in **Mahendran v. State of T.N., (2019) 5 SCC 67: (2019) 2 SCC (Cri) 436: 2019 SCC OnLine SC 251** that the principle of falsus in uno, falsus in omnibus does not apply in India. It was observed:

"38. It is argued that the prosecution has put on trial twenty-four accused, but the presence of A-11 and A-16 to A-24 was doubted by the learned trial court and they were acquitted on the benefit of the doubt. Five accused, A-10, A-12, A-13, A-14 and A-15 have been granted the benefit of the doubt in appeal as well. The argument that the entire case set up is based on falsehood and thus is not reliable for conviction of the appellants, is not tenable. It is well settled that the maxim "falsus in uno, falsus in omnibus" has no application in India only for the reason that some part of the statement of the witness has not been accepted by the trial court or by the High Court. Such is the view taken by this Court in the Gangadhar Behera case **[Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381: 2003 SCC (Cri) 32]**, wherein the Court held as under: (SCC pp. 392-93, para 15)

"15. To the same effect is the decision in **State of Punjab v. Jagir Singh [State of Punjab v. Jagir Singh, (1974) 3 SCC 277: 1973 SCC (Cri) 886]** and **Lehna v. State of Haryana [Lehna v. State of Haryana, (2002) 3 SCC 76: 2002 SCC (Cri) 526]**. Stress was laid by the appellant-accused on the non-acceptance of evidence tendered by some witnesses to contend about the desirability to throw out the entire prosecution case. In essence, prayer is to apply the principle of "falsus in uno, falsus in omnibus" (false in one thing, false in everything). This plea is clearly untenable. Even if a major portion of the evidence is found to be deficient, in case residue is sufficient to prove the guilt of an accused, notwithstanding the acquittal of a number of other co-accused persons, his conviction can be maintained. It is the duty of the court to separate the grain from the chaff. Where chaff can be separated from the grain, it would be open to the court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove the guilt of other accused persons. The falsity of a particular material witness or material particular would not ruin it from beginning to end. The maxim "falsus in uno, falsus in omnibus" has no application in India and the witnesses cannot be branded as liars. The maxim "falsus in uno, falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. The doctrine merely involves the question of the weight of evidence which a court may apply in a given set of circumstances, but it is not what may be called "a mandatory rule of evidence". (See **Nisar Ali v. State of U.P. [Nisar Ali v. State of U.P., AIR 1957 SC 366: 1957 Cri LJ 550]**) Merely because some of the accused persons have been acquitted, though the evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a court to differentiate the accused who had been acquitted from those who were convicted. (See **Gurcharan Singh v. State of Punjab [Gurcharan Singh v.**

**State of Punjab, AIR 1956 SC 460: 1956 Cri LJ 827**] .) The doctrine is a dangerous one specially in India for if a whole body of the testimony were to be rejected because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead stop. Witnesses just cannot help in giving embroidery to a story, however, true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. (See **Sohrab v. State of M.P. [Sohrab v. State of M.P., (1972) 3 SCC 751: 1972 SCC (Cri) 819] and Ugar Ahir v. State of Bihar [Ugar Ahir v. State of Bihar, AIR 1965 SC 277: (1965) 1 Cri LJ 256]** .) An attempt has to be made to, as noted above, in terms of felicitous metaphor, separate the grain from the chaff, truth from falsehood. Where it is not feasible to separate the truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto. (See **Zwinglee Ariel v. State of M.P. [Zwinglee Ariel v. State of M.P., (1952) 2 SCC 560: AIR 1954 SC 15: 1954 Cri LJ 230] and Balaka Singh v. State of Punjab [Balaka Singh v. State of Punjab, (1975) 4 SCC 511: 1975 SCC (Cri) 601]** .) **As observed by this Court in State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752: 1981 SCC (Cri) 593]** normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorised. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. These aspects were highlighted recently in **Krishna Mochi v. State of Bihar [Krishna Mochi v. State of Bihar, (2002) 6 SCC 81: 2002 SCC (Cri) 1220]**. Accusations have been clearly established against the appellant accused in the case at hand. The courts below have categorically indicated the distinguishing features in evidence so far as the acquitted and the convicted accused are concerned."

(emphasis in original)

**39. Therefore, the entire testimony of the witnesses cannot be discarded only because, in certain aspects, part of the statement has not been believed."**

37. This position was reiterated in **Ranvir Singh v. State of M.P., 2023 SCC OnLine SC 94** wherein it was observed:

48. The principle that when a witness deposes falsehood, the evidence in its entirety has to be eschewed may not have strict application to the criminal jurisprudence in our country. The principle governing sifting the chaff from the grain has to be applied. However, when the evidence is inseparable and such an attempt would either be impossible or would make the evidence unacceptable, the natural consequence would be one of avoidance. The said principle has not assumed the status of law but continues only as a rule of caution. One has to see the nature of the discrepancy in a given case. When the discrepancies are very material shaking the very credibility of the witness leading to a conclusion in the mind of the court that it is neither possible to separate it nor to rely upon, it is for the said court to either accept or reject.

49. The said principle of law has been dealt with by this court in **Anand Ramachandra Chougule v. Sidarai Laxman Chougala, (2019) 8 SCC 50**, which states thus:

"9. We have considered the respective submissions and perused the materials on record. The relationship between parties and the existence of a land dispute regarding which a civil suit was also pending are undisputed facts. The fact that a verbal duel followed by a scuffle took place between the parties culminating in injuries is a concurrent finding of fact by two courts. The fact that the accused also lodged an FIR with regard to the same occurrence stands established by the evidence of PWs 19 and 22, the investigating officers, who have admitted that the respondent-accused had also lodged BRPS Cr. No. 79/02 — marked Ext. D-10, which was not investigated by them. Similarly, PW 11, the police constable, deposed that two of the accused were admitted in the District Hospital, Belgaum and that he was posted on watch duty. The occurrence is of 7-6-2002 and respondent-Accused 1 and 2 were discharged on 11-6-2002. Their injury report has not been brought on record by the prosecution and no explanation has been furnished in that regard.

10. The burden lies on the prosecution to prove the allegations beyond all reasonable doubt. In contradistinction to the same, the accused has only to create a doubt about the prosecution case and the probability of its defence. An accused is not required to establish or prove his defence beyond all reasonable doubt, unlike the prosecution. If the accused takes a defence, which is not improbable and appears likely, there is material in support of such defence, the accused is not required to prove anything further. The benefit of doubt must follow unless the prosecution is able to prove its case beyond all reasonable doubt."

38. In the present case, circumstances on record corroborate the testimony of the victim; therefore, even if the victim is taken to be an unreliable witness, her testimony corroborated by other circumstances on record can be used for the

conviction of the accused.

39. The prosecution examined Kailashwati (PW6) who issued the school certificate (Ext. PW6/A) showing that the date of birth of the victim was 23.09.1996. She stated in her cross-examination that the victim was admitted to the school on 21.03.2002. The birth record was demanded from Panchayat but it was not in the record brought by her. The victim studied up to 5th and she left the school thereafter.

40. The testimony of this witness shows that the certificate (Ext. PW6/A) was issued by her based on the school record. The school record is maintained by a public official in the discharge of his official duty and is admissible under Section 35 of the Indian Evidence Act. It was laid down by the Hon'ble Supreme Court in **State of Madhya Pradesh Versus Anup Singh (2015) 7 SCC 773** that the age reflected in the public record has to be accepted as correct while determining the age of the victim. It was observed:

13. In the present case, the central question is whether the prosecutrix was below 16 years of age at the time of the incident. The prosecution in support of their case adduced two certificates, which were the birth certificate and the middle school certificate. The date of birth of the prosecutrix has been shown as 29.08.1987 in the Birth Certificate (Ext. P/5), while the date of birth is shown as 27. 08.1987 in the Middle School Examination Certificate. There is a difference of just two days in the dates mentioned in the abovementioned Exhibits. The Trial Court has rightly observed that the birth certificate Ext. P/5 clearly shows that the registration regarding the birth was made on 30.10.1987 and keeping in view the fact that registration was made within 2 months of the birth, it could not be guessed that the prosecutrix was shown as under-aged in view of the possibility of the incident in question. We are of the view that the discrepancy of two days in the two documents adduced by the prosecution is immaterial and the High Court was wrong in presuming that the documents could not be relied upon in determining the age of the prosecutrix. (emphasis supplied)

41. Shiv Chand Negi (PW5) proved the family register (Ext. PW5/A) and Birth Certificate (Ext. PW5/B) in which the age of the victim has been shown as 23.09.1996. He stated in his cross-examination that the birth and death register is maintained in the Panchayat but the birth of the victim was not recorded in that register. The entry of the family of the victim was made as per the order of the SDM. If the birth is not entered within one year it can be entered only as per the orders of the First-Class Magistrate. A copy of the order was not available on record. There was a correction in the name of the victim in the Pariwar Register of 2011. He volunteered to say that her name was wrongly recorded by him and it was corrected with reference to the previous entries.

42. The statement of this witness does not show that the register brought by him was unreliable. He explained that he had corrected the entry because of some error,

which is a plausible explanation. The entry in the family register is made by a public official in the discharge of his official duties and has to be accepted as correct.

43. Therefore, the learned Trial Court had rightly held that the age of the victim has to be taken as 23.09.1996 and she was minor on the date of the incident. Hence, she was incapable of giving consent and sexual intercourse with her would constitute rape.

44. Thus, the prosecution has succeeded in proving its case beyond reasonable doubt against accused-Shanta Kumar for the commission of an offence punishable under Section 376 of IPC. He had threatened the victim not to reveal the incident to any person and she was frightened and did not reveal the incident to anyone. She revealed the incident upon repeated asking by her paternal aunt. This shows that the accused had intended to cause alarm to the victim and alarm was in fact caused by the threat; therefore, the prosecution has also succeeded in establishing its case for the commission of an offence punishable under Section 506 of IPC.

45. Learned Trial Court had sentenced the accused Shanta Kumar to undergo rigorous imprisonment for a period of seven years and to pay a fine of ₹10,000/- for the commission of an offence punishable under Section 376 of IPC and in default of payment of the fine to further undergo simple imprisonment for one year. Learned Trial Court had also sentenced the accused to undergo rigorous imprisonment for seven years and to pay a fine of ₹10,000/- and in default of the payment of fine to further undergo simple imprisonment for one year for the commission of an offence punishable under Section 506 of IPC. The offence punishable under Section 376 in case of minor was punishable with minimum imprisonment of 10 years in case of a victim aged less than 16 years and the learned Trial Court had imposed inadequate sentence. However, no appeal has been filed for enhancement of sentence by the prosecution. Therefore, in view of Section 386 (b)(iii) of Cr.P.C., the Court has no jurisdiction to enhance the compensation and no interference is required with the sentence for the commission of an offence punishable under Section 376 of IPC imposed by the learned Trial Court.

46. The learned Trial Court had also imposed a sentence of seven years for the commission of an offence punishable under Section 506 of IPC. The offence under Section 506 of IPC, when a threat is to cause death or grievous hurt can be punished with imprisonment for 7 years. No reason was assigned to impose the maximum sentence. Hence, keeping in view the circumstances, in which the offence was committed, the sentence of seven years is ordered to be reduced to three years.

47. In view of the above, the appeal filed by accused-Ranjeet Singh is allowed and he is acquitted of the commission of offences punishable under Sections 376 of IPC and 506 of IPC. So far as the appeal filed by accused-Shanta Kumar is concerned, the same is partly allowed and the sentence imposed by the learned Trial Court for the commission of an offence punishable under Section 506 of IPC is reduced to three

years from seven years. Subject to this modification, the rest of the judgment is upheld.

48. Accused-Ranjeet Singh is directed to furnish his personal bond within four weeks in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the appellant on receipt of notice(s) thereof, shall appear before the Hon'ble Supreme Court.

49. Records of the learned Court below be sent back forthwith. Pending applications, if any, also stand disposed of.