

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 94 OF 2025

(Arising out of SLP (CrI.)NO. 11687 of 2019)

STATE (GNCT OF DELHI)

APPELLANT(S)

VERSUS

VIPIN @ LALLA

RESPONDENT(S)

O R D E R

Leave granted.

2. Heard Ms. Sonia Mathur, learned senior counsel appearing for the appellant and Mr. Shivank Pratap Singh, learned Amicus Curiae appearing for the respondent.

3. The appellant has challenged the order of the High Court dated 28th February, 2019 which has confirmed the order of the Trial Court by which the respondent has been acquitted for the offence punishable under sections 363/366/376/342/506 of the Indian Penal Code, 1860 and under Section 4 of the POCSO Act.

4. The brief facts of the case are that the FIR was lodged on 18th September, 2014 on the statement of the prosecutrix (PW-4) stating therein that she is just over 16 years old and on 16th September, 2014 in the afternoon when she was coming from the school the accused caught hold of her hand and put knife on her back. Thereafter, the accused took her to a grocery shop nearby and established physical relations with her.

5. Minutes before lodging the FIR on 18.09.2014, a call was made by the father of the prosecutrix at the Police Station where he had alleged that while her daughter was coming from the school she was beaten up by three boys (none of them were accused in the present case) but there was no allegation of any rape. But ultimately when the FIR was lodged it was not for the offences for which the initial information was given but was entirely for different offences.

6. On Statement of PW-4(Victim), the FIR was lodged under sections 363/376/342/506 IPC and under section 4 of the POCSO Act. After completion of the investigation, charge-sheet was filed under sections 363/376/342/506 of the IPC and under section 4 of the POCSO Act and charges were framed against the respondent under sections 363/366/376/342/506 of the IPC to which he pleaded not guilty and claimed trial. The prosecution had examined 11 witnesses including the prosecutrix (PW-4), her Mother (PW-10) and the Doctor (PW-6) who had examined her for rape. The defence has examined one witness i.e. shop keeper of the shop where the alleged rape was committed.

7 The Trial Court observed that there was a delay in the FIR which has not been reasonably explained inasmuch as the offence was committed on 16.09.2014 and the FIR was lodged on 18.09.2014 that is after a gap of two days and vide order dated 28.03.2018 came to the conclusion that the prosecution has failed to prove its case, beyond all reasonable doubt and acquitted the accused of all charges framed against him.

8. Being aggrieved by the order dated 28.03.2018 passed by the Trial Court, State filed the petition before the High Court of Delhi. The High Court vide its impugned judgment dated 28.02.2019 dismissed the petition and upheld the judgment of the Trial Court. Now the State is before this Court.

9 We have gone through the order of the Trial Court as well as the High Court. The only worthwhile evidence which has been produced before the Court by the prosecution is the deposition of the prosecutrix herself. Although the age of the prosecutrix is 16 years and four months which has not been seriously disputed (accused was about 20 years of age at the time of the incident). Nevertheless the fact remains that the medical examination which was conducted on 18.09.2014 revealed that no injuries were detected on the body of the prosecutrix. Though it was stated in the medical report that her hymen was torn. Definitely the prosecutrix in her examination-in-chief as well as in cross-examination has stuck to the fact that she was raped by the accused but the fact remains that she has contradicted her statement at more than one place. Moreover she has said in her statement under Section 164 CrPC she had hit the accused on her head by *Danda* whereas in her examination-in-chief she stated that she hit the accused on his foot. When the accused had surrendered on 10.10.2014 none of these injuries were noticed on the body of the accused.

10. Although it is absolutely true that in the case of rape, conviction can be made on the sole testimony of the prosecutrix as her evidence is in the nature of an injured witness which is given a very high value by the Courts. But nevertheless when a person can be convicted on the testimony of a single witness the Courts are

bound to be very careful in examining such a witness and thus the testimony of such a witness must inspire confidence of the Court. The testimony of the prosecutrix in the present case thus has failed to inspire absolute confidence of the Trial Court, the High Court and this Court as well.

11. It is not believable that when the prosecutrix was caught by the accused who is known to the prosecutrix, she went with him quite a distance in the Bazaar and then to a shop, she never raised any alarm. The only reason she gave is that there was a knife with accused and he had threatened her that if she raises an alarm her brother and father would be killed.

12. In any case as we have already stated above that the testimony of the prosecutrix does not inspire confidence, under these circumstances, we are not inclined to interfere with the well considered order of the Trial Court and the High Court.

13. The appeal is dismissed. Pending application(s), if any, shall stand disposed of.

.....J.
[SUDHANSHU DHULIA]

.....J.
[PRASHANT KUMAR MISHRA]

NEW DELHI;

JANUARY 07, 2025

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.)No. 11687 of 2019

(Arising out of impugned final judgment and order dated 28.02.2019 in CRL.L.P. No. 445/2018 passed by the High Court of Delhi at New Delhi)

STATE (GNCT OF DELHI)

Appellant(s)

VERSUS

VIPIN @ LALLA

Respondent(s)

(MR. SHIVANK PRATAP SINGH, ADVOCATE (A.C) FOR SOLE RESPONDENT.
IA No. 189968/2019 - EXEMPTION FROM FILING O.T.)

Date : 07-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s) Mrs. Sonia Mahtur, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Mrs. Noor Rampal, Adv.
Mrs. Rajeshwari Shankar, Adv.
Mr. Alankar Gupta, Adv.
Mr. B K Satija, Adv.

For Respondent(s) Mr. Shivank Pratap Singh (A.C.)

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is dismissed in terms of signed order.
3. Pending application(s) shall stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)