

File No. : Challan 174/2022

CNR No. : JKJM010021042022

Date of Institution: 21.07.2022

Date of Decision : 29.05.2026

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**In the case of:-**

U.T of J&K through SHO Police Station R.S Pura, Jammu.

Versus

Subash Chopra S/o Krishan Lal Chopra W.No. 2 R.S Pura, Jammu.

(Accused)

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**In the matter of :- Offence Under-Section 376 of IPC arising out of FIR  
No.90/2022 of Police Station R.S Pura, Jammu.**

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**PRESENT:**

Mr. Ajay Dogra APP-for state.

Accused in person.

Mr. Anil Sharma Chief LADC for accused.

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## **J U D G M E N T**

### **Brief Facts**

1. Complainant (PW-1) lodged a written complaint with police station R.S Pura on 14.05.2022 alleging therein that on 14.05.2022 between 12 O'clock in the mid night to 2:AM, accused who happened to be her uncle-barged in her room, physically assaulted her and also committed rape upon her. Complainant described her residential address also in the application. Based on this application/complaint FIR No.90/2022 for offence under section 376 of IPC was registered and investigation started. On the conclusion of the investigation, accused was found involved in commission of offence under section 376 of IPC on 14.05.2022 during night between 1200 hrs-02.00 hrs as alleged by complainant. After investigation was concluded, Challan

was presented before Ld. Judicial Magistrate Ist Class, R.S Pura on 13.07.2022. Ld. jurisdictional Magistrate then committed the Challan to the Court of Worthy Principal District & Sessions Judge, Jammu on the same date .From the Court of Worthy Principal District & Sessions Judge, Jammu, challan was **transferred to** this court on 16.07.2022 and same was received in this court on 27.07.2022.Charges against accused for aforesaid offence were framed on 16.01.2023. Accused pleaded not guilty and claimed to be tried and prosecution as such was directed to lead evidence.

2. In order to bring home charges against accused, prosecution cited 13 witnesses out of which it succeeded in examining 11 of them. The witnesses examined by prosecution are as under:-

1. PW No.1 Prosecutrix (Name purposely withheld)
2. PW No.2 Jyoti Chopra (mother of prosecutrix)
3. PW No.3 Ajay Chopra (**brother of prosecutrix**)
4. PW No.4 Monika Manhas ( NGO worker)
5. PW No.5 Dr. Richa Abrol (NGO Worker)
6. PW NO.7 SPO Sudesh Kumari ( **accompanied victim in court during 164 Cr.P.C statement**)
7. PW No. 8 Dr. Samita Bhat (**Gynaecologist who examined victim**)
8. PW No.9 Surinder Kumar ( **owner of jewellery shop from where CCTV footage was collected**)
9. PW No.10 Poonam Devi ( **witness to video footage**)
- 10.PW No.11 Chand Mohan ( **Executive Magistrate Ist Class R.S Pura**)
- 11.PW No.12, Sub Inspector PSI Devanshu Dutt (**Investigating Officer**)

3. Prosecution evidence was directed to be closed vide order dated 12.11.2025. **Statement** of accused under section 313 of Cr.P.C was recorded on 21.01.2026 and matter was posted for arguments under section 232 of Cr.P.C. Accused did not choose to lead defence

evidence and matter as such was posted for final arguments on 17.02.2026.

4. Since PW-1, the alleged victim happens to be chief witness in the case, reproduction of summary of her sworn version alone would help appreciate prospects of success of prosecution case and I therefore, choose to refrain from replicating the **testimonies** of other witnesses examined by prosecution. Nevertheless, their evidence (evidence of remaining PWs examined by prosecution) would be thoroughly discussed in due course herein after. Firstly, the transcript of PW-1, **the victim** is as under:-

**Statement of prosecutrix/victim was recorded on 11.05.2023.**

On examination in chief by Ld. APP stated that she knows accused; that accused is her Uncle in relation; that on 13.05.2022 after taking dinner she went to her room; that she used to study in the night; that while studying **in** the night of occurrence, she fell asleep; that room where she used to sleep and study had no window but door had **curtains**; that door was not bolted; that after 12 O' clock in the night, accused came to her room and **he removed her trouser and raped her**; that when accused left, **she had no courage to narrate the incident to her parents because her father** was suffering from paralysis; that she called her brother who had gone to Beas and thereafter she called her cousin namely Rajat; that Rajat made her **to** contact with Richa and Monika by providing her their mobile numbers; that thereafter she contacted with Monika and thereafter Richa; Richa used to work with some NGO; that in the morning she went to police station with her mother, Richa and Monika where First information report was lodged; that she

was medically examined at Govt. Hospital Gandhi Nagar, Jammu; that she did not go to her home **because her father was suffering from paralysis and she could not have faced him** and she therefore chose to stay with one staff Centre at New Plot, Jammu; that she stayed there for 10/15 days; that her statement under section 164 of Cr.P.C was recorded in the court; that application lodged with police station is correct and it is exhibited as EXT-PW-3. Witness also identified her signature on **164 Cr.P.C statement** and also admitted its contents.

On cross examination by Id. defence counsel, victim deposed that accused has five brothers and two sisters; all of them are married except Tarvinder Chopra; that house in which she resided is a two story building and is occupied by joint family; that her father **did not receive/get any shop from her grandfather**; that there are three shops in the ground floor out of which only one shop belongs to us; that the shop which is joint property of all concerned is closed for last 20 years; that in the year 2022, she was studying in 6<sup>th</sup> Semester of B.A; that she does not correctly **remember** as to when her parents got married; perhaps they married in the year 1999; that accused resides in ground floor while as we put up in the 1<sup>st</sup> floor along with Deepak Chopra and Tarvinder Chopra with their family members; that it is in- correct that her mother and accused always used to quarrel or pick fight but they rarely spoke to each **other**; that on the day of occurrence, her parents, **Tarvinder and her sister were present at home**; that there are large number of houses in the vicinity of her house;

that **in EXT-PW-3 there is over-writing** with regard to date at two places; that she had gone to her room at 11:30 in the night; that she does not correctly **remember** as to at what time accused entered into her room, however the time of his entry was after 12:30 in the night; that accused was having nothing in his hand; that when she tried to **cry, accused gagged her** ; that she tried her level best to rescue by pushing accused but accused overpowered her; that accused however did not receive any scratch on his face in the scuffle; that she did not **depose** in her 164 Cr.P.C statement that accused gagged her when she asked him as to what **for** he had come in her room; that accused stayed for 30-45 minutes in the room and she did not receive any injury; that during this time accused raped her twice; that rape was committed on her bed; that her clothes were not torn; that she did not try to narrate the incident to any family members; that she did not inform the police on the phone number 100 about the occurrence because she was not in good condition; that she however informed her brother and cousin; that she did not **depose** in her statement under section 164 of Cr.P.C that she did not narrate the incident to her father because he was suffering from paralysis; that investigating officer told her **to** submit such an application which would make him **to arrest accused**; that she **did not disclose details of occurrence to doctor**; that she however told the doctor about the rape on her ; that she did not tell doctor that rape was committed upon her twice; that Richa **helped** her in processing her case; that it is not correct that she has foisted a false case on

accused because he and her mother have bitter relations and because of this reason she was always upset; that her 164 of Cr.P.C statement was recorded after 8/10 days of occurrence.

On examination by court witness deposed that the applications which she submitted to police were drafted by her only; that she did not want to return to her home because she **had** no courage to face her family members; that she also feared reaction of her family about the action that she had taken after the occurrence and with regard to occurrence. Reference of "fear" in the application was in context of her parents and not accused; that her mother came to know about occurrence on 11.0' clock in the morning on next day when she accompanied her to police station; that before she went to police station, the ward **member** of area has visited our house because Isha had lodged complaint with regard to occurrence with police station.

## Arguments

5. According to Ld. APP, the testimony of PW victim is cogent enough to prove charge of rape against accused and **her testimony** is also supported by her mother (PW 2), her brother (PW3) and two independent PWs belonging to an NGO who are PW 4 Monika Manhas and PW 5 Dr. Richa Abrol. It is further submitted by Ld. APP that sworn testimony of I.O ( PW 12) also **substantiates** case of prosecution against accused. Prosecution, accordingly prays that accused be convicted for the offence charged and appropriate sentence be awarded to him.
6. Ld. Chief LADC appearing for accused on the other hand submitted that whole prosecution case is inherently absurd and palpably

improbable, in that – it is highly improbable that accused, who is real Uncle of prosecutrix would have barged into the room of prosecutrix in the mid-night and would have committed rape upon her twice (as alleged by prosecutrix in her testimony) and yet her parents and her two Uncles namely Deepak Chopra and Tarwinder Chopra living in the same household/building could not have noticed **any** out-cry by victim. Ld. Defence counsel also submits that while occurrence is alleged to have taken place in the intervening night of 13/14 of May 2022, FIR in question was registered/lodged belatedly at 4:30 p.m on 14.05.2022 and that too by the intervention of PWs Monika Manhas and Dr. Richa Abrol, the two NGO workers. According to Ld. Defence counsel, this delay in registration of FIR could not be explained by prosecution and therefore same is fatal to prosecution case. Another important argument raised by Ld. Defence counsel is that medical evidence does not support prosecution case at all. Elaborating his argument on this point, Ld. CLADC – further submitted that as per EXT-P8, prosecutrix/victim was examined on the day of registration of FIR itself at 6:05 p.m and yet PW Doctor did not notice any evidence of recent intercourse upon her. According to Ld. Defence counsel, if according to victim she was raped twice by accused and yet medical examination finds no traces of rape upon her moreso when victim was medically examined immediately after registration of FIR on 14.05.2022. According to Ld. Defence counsel, in light of this discrepancy between ocular version of prosecutrix and medical evidence, prosecution case is doomed to fail. Ld. defence counsel further submitted that it is overreach by **two members of an some NGO** pursuant to which FIR in question was registered and these two PWs are Monika Manhas (PW4) and Dr. Richa Abrol (PW5), else – according to Ld. defence counsel, even mother of PW victim who is PW 2 – was categoric in **asserting** that no wrong was done to her daughter. This is so deposed by PW 5 herself in the court. Building on the un-natural conduct of PW victim, an adult girl – defence further submitted that it is totally inconceivable that a victim

who is subjected to an alleged rape by her Uncle in the mid-night and she would not disclose the same to her parents **immediately when** accused allegedly left her room and instead victim would call her brother who was away at Beas ( Punjab) and then upon instruction of her brother she would call an individual **namely Rajat who has not at all been cited as witness** by Investigating Officer. It is further submitted that investigation conducted by I.O is lopsided, faulty and un-professional in as much as he did not seize clothes belonging to victim, bed-sheet from the place of occurrence nor did he **retrieve/obtain** CCTV footage **if any**. According to Ld. Defence counsel, it is absolutely bizarre for Investigating Officer not to have associated family members of prosecutrix who resided in the same building where occurrence allegedly took place. Ld. Defence counsel further submitted that except bald assertion by prosecutrix that her father suffered from paralysis, there is no evidence **worth the** name in that regard. Ld. Counsel ultimately submitted that present is a case where accused has falsely been implicated on account of family dispute over some immovable property by registration of false case which prosecution has badly failed to prove. Dismissal of Challan and acquittal of accused has accordingly been prayed by Ld. CLADC.

7. I have heard Ld. APP for State, Ld. CLADC for accused and have also gone through the evidence led by prosecution - carefully.
8. Admittedly, victim/prosecutrix is real niece of accused. The salient features which emerge from testified version of prosecutrix are that she, her parents and two other Uncles resided in the same household/building where occurrence is alleged to have taken place; that there are other residential houses also in the vicinity of said premises; that immediately after alleged occurrence, she called on phone to her brother ( PW 3) who had gone to Beas ( Punjab) and thereafter she contacted one Rajat ( who interestingly has not been cited as witness in the case) and thereafter Rajat **managed** conversation inter se victim and PW 4 Monika Manhas and PW 5 Dr.

Richa Abrol. **Prosecutrix** also asserted in her sworn testimony that accused raped her twice **by pulling off her trouser etc etc**.

9. Not only prosecution story in wholesome but also the testimony of PW victim, if I may say so - is patently absurd and palpably improbable. I say so because for a 20 year old victim to say that her Uncle entered her room at mid-night, **pulled off her trouser so conveniently**, raped her twice and yet her parents and two uncles residing in the same premises **did not get even a whisper of** any out-cry/alarm - is not only an un-palatable scenario but also defies modest of **modicum of logic**. **Alternatively**, it is highly improbable that a 20 year old niece - when confronted by her real Uncle in the middle of night, would remain completely silent and inert in a brutal sexual assault especially when her parents and two real Uncles also resided in the same building which is situated in a bustling neighborhood. **Needless to say, the natural and instinctive reaction** of a young girl in such situation would be to call out, to cry for help and to **alert her family**, given the immediate danger. Complete **absence of such spontaneous out-cry by PW Victim** only raises serious doubt about the credibility of her account. **And instead**, this circumstance only casts doubt on whether alleged occurrence actually took place as described. Interestingly also, victim (admittedly) did not disclose about occurrence of such gravity to her parents and instead involved two members of NGOs namely PWs Monika Manhas and Dr. Richa Abrol in registration of belated FIR at 4:30 p.m on 14.05.2022. For an accused to stay in the room of a victim for nearly more than half an hour and subjecting a victim to sexual assault twice during this period (as asserted by victim) - is not a non-event which could have, as already **observed** above - escaped attention of parents of prosecutrix and her two Uncles namely Deepak Chopra and Tarvinder Chopra **who were in same building at the time of alleged occurrence**. Un-usually also, in her statement under section 164 of Cr.P.C, prosecutrix did not even whisper that

she was raped twice, **a circumstance which only displays glaring contradiction by way of improvement.**

10. Furthermore, there is a stark departure from normal behavior in the action of PW Victim/Prosecutrix following registration of FIR in question. And that is this. Had victim experienced such a traumatic **incident** as alleged, her natural refuge would have been her parents and family. She however instead of finding re-assurance and support in her family care, **chose to stay** with one stop centre at **New Plot, Jammu** for 10/15 days and joined her family only after her **164 Cr.P.C** statement was recorded. This is highly un-usual. Did PW Victim/Prosecutrix anticipate hostility or backlash or rejection from her family for registration of FIR of such grave magnitude against her real Uncle? Did she fear condemnation for such a devastating accusation against her real Uncle (Accused)? This un-explained avoidance and rejection of **familial** proximity by prosecutrix in the aftermath of registration of FIR as aforesaid – further undermines the veracity of her allegations and thus casting a serious doubt on truthfulness of prosecution case.

#### **NON-CORROBORATION OF VICTIM'S VERSION BY MEDICAL EVIDENCE**

11. While as FIR in question was registered on 14.05.2022 at 4:35 p.m, PW Victim was medically examined on the same day at 6:05 p.m by PW 8, the Doctor. Strikingly, medical evidence ( EXT-P-8) revealed no marks of violence on prosecutrix and no evidence of recent sexual intercourse. Where a victim alleges rape twice in the mid-night and when she is medically examined within 24 hours and yet medical evidence does not reveal any evidence of sexual intercourse on her or any marks of violence on her genitals or for that matter on any part of her body – severely undermines prosecution case in general and veracity of testimony of prosecutrix in particular. Absence of any scratches or any other marks on face of a prosecutrix does not **align**

with her **assertion that accused gagged her mouth** while overpowering her for committing sexual assault.

**APPRECIATION OF EVIDENCE OF PW 2 ( MOTHER OF VICTIM) AND PW 3 (BROTHER OF VICTIM)**

12. According to prosecutrix, after accused left her room in the mid-night, she immediately called PW 3, her brother. Ironically however, according to deposition of PW 3, occurrence is of 8<sup>th</sup> of May, 2020-21. Further according to him, he had gone to Beas (Punjab) to attend Satsang (spiritual gathering) and his Uncle namely Deepak told him on phone that something has happened. He also deposes that on return when he asked his mother ( PW 2) as to where prosecutrix is, his mother replied that she had gone to some NGO and in the meantime **their relatives and acquaintances** started visiting their home and enquired **as to why they got the case registered**. Further, according to this PW, when he asked NGO madam ( PW 5), she replied that now the case is with her and she will do everything and she **also** started making video of their conversation ( conversation of PW 2, victim etc) because she got an impression that **they** will not give pursuit to the case. In cross examination, PW 3 deposes that his parents never reported the matter to police and that in the instant case whole role was played by NGO etc etc.
13. PW 2, the mother of prosecutrix introduces another version by deposing that on 14.05.2022, a ward member came to her residence who told her that Dy.SP has called her pursuant to which she and prosecutrix went to the office of SDPO where Dr. Richa ( PW 5) also arrived who belongs to some NGO and there she came to know that **PW victim was subjected to rape by accused**. Further, according to this witness, **CCTV(s)** are installed at the entrance of her gate and her residential house is in Bazaar and is surrounded by many residential houses. She also deposed that accused resides in the ground floor of the building and in the **first floor, three families reside in separate portions**. On examination by court, she also deposed that when she

asked her daughter ( victim) as to why **she was taking her to police station** and in reply victim **told her** that nothing has happened to her and her daughter (victim) concealed truth till she reached police station.

**14.** The testimonies of these two crucial witnesses only **cast substantially profound** doubt on the very genesis of prosecution case. I say so because according to PW 3, the brother of victim – relatives and acquaintances started **visiting their residence after registration of FIR** expressing regret and also questioning as to why matter was escalated legally instead of being privately settled. It is equally weird that PW 2, the mother of prosecutrix did not know as to why she was being taken to police station and that she came to know about the alleged occurrence only in police station when she heard conversation between PW 5 ( purported member of some NGO) and her daughter ( prosecutrix). And then, who was the ward member whom mother of prosecutrix **refers to** in her testimony – is an unexplained character in the play. These circumstances only raise serious concerns about the truthfulness and spontaneity of prosecution story.

#### **UN-EXPLAINED DELAY IN REGISTRATION OF FIR**

**15.** As already noted in the discussion above that FIR in question was registered at 4:35 p.m i.e in the evening on 14.05.2022 while as occurrence is alleged to have taken place in the mid-night of intervening night of 13/14.05.2022. **Notably**, neither the victim nor her family ever alleged any reluctance on the part of concerned SHO in promptly registering the FIR. Neither delay in registration of FIR is thus explained by prosecution nor the **reason for** involvement of PWs 4 & 5 (purported members of some NGO) could be explained by prosecution. The un-explained delay in registration of FIR as above noted therefore further weakens prosecution case.

## APPRECIATION OF TESTIMONIES OF PWS 4 & 5 WHO CLAIMED TO BE MEMBERS OF NGO

16. According to PW 4, Ms. Monika Bahu, in the Month of May, 2022, **she** received a call on her mobile from prosecutrix which she did not attend and next morning, she found messages in her mobile which were sent by her cousin namely Rajat and Rajat also told her that prosecutrix needs her help. Further, according to this witness, she thereafter went to PW 5 namely Dr. Richa who informed Women Cell. According to this witness, **prosecutrix herself got FIR registered**. In cross-examination, **this PW denied working in any NGO** and deposed that **she is a house-wife** and that police never recorded her statement in police station but her statement was recorded at her residence and she does not remember on which paper she put her signature. She denied having visited the house of prosecutrix or accompanied her parents in police station. On examination by court, witness went to the extent of deposing that she does not know as to why prosecutrix called on her phone.
17. **PW 4**, effectively seems to have shown an inclination to dissociate herself from the prosecution case by vaguely deposing that one Rajat sent some whatsapp messages to her and thereafter she went to PW 5 Dr. Richa. She even declined to be working with any NGO. **The sworn version of this PW in the court only evinces her dramatically re-treating tone and her testimony** therefore does not advance the cause of prosecution case nor does she support the version of PW 5 ( Dr. Richa) **as a whole**.
18. PW 5 ( Dr. Richa) on the other hand deposed that PW Monika sent to her some messages which were voice messages in which prosecutrix was weeping while conversing with PW Monika. PW Monika however does not say so in her testimony. PW 5 ( Dr. Richa) further deposes that she is an NGO worker and she works with “**MUSKAN FOUNDATION**”; that she and PW 4 received phone call to the effect that PW victim and her mother were in police station and that mother

of PW victim has denied entire occurrence; that she ( PW 5) asked police to separate PW victim from her mother; that in the meanwhile she received call from police station in which she was told that they ( police ) **returned from spot and nothing** has happened there; that she was also told that there is Shanti (everything OK) in the resident of PW victim; that she told police to confine PW victim and that they ( police) have not received correct information because she ( PW 5) is hearing for last **two months about PW victim** and that her parents are under the impression that PW victim has some Tantric influence and on the advice of some Tantric, parents of victim use Coal on her body ( **this is new twist that PW 5 has given to prosecution case for the first time**); that she also told police to bring parents of victim to police station; that she had asked **the** police to keep mother of victim who denied about occurrence - in the police station so that she can personally talk to her; that she asked police to separate victim from her mother; **that when she met PW victim, she was nervous and was avoiding to say anything**; that she advised PW victim that if she refuses for legal action today, then she should not accept anything from her in future and she will not intervene in the matter of PW victim; that perhaps police had also recorded conversation of victim on mobile; that victim disclosed to police before her that in the last night, accused committed rape upon her; that victim after lodging written complaint with police - refused to go back to her home; that police had not recorded her statement ( statement of PW 5) but police obtained her signatures on some papers. On cross-examination, witness deposed that she is working with **"MUSKAN FOUNDATION"**; that for last two months she received information that some third person is doing wrong with victim ( **who is that third person is a fact which is shrouded in the Mystery**) ; that it is correct that police did not record her statement under section 161 of Cr.P.C; that it is also correct that there were no bruises on the body of victim and **that mother of victim ( PW 2) was repeatedly asserting that no**

**wrong has been done to her daughter;** that it is correct that whatever information she provided to police was hearsay etc etc.

**19.**The testimony of this PW ( PW 5) clearly shows that even mother of victim asserted before her that no wrong was ever done to PW victim. The tone and tenor of the testimony of this victim vividly demonstrates that she played an un-duly overt role in initiating and pursuing FIR in question and ironically police (Investigating Agency) was also un-duly got influenced by the intervention of this PW. It also appears from the testimony of this witness that neither victim nor her family members, in particular her mother – showed any inclination for registration of FIR and registration of FIR appears to have been precipitated by PW 5 rather than stemming from a spontaneous report by victim or her family. Such intervention by an outside entity raises grave concern about the veracity of prosecution case and potential mis-use of legal process. An external instigation to initiate criminal proceedings against an individual therefore is deeply troubling more particularly when Investigating Agency also chooses to be compliant to such external pressure. On this score also, prosecution case appears to be bogus and wholly fabricated.

### **TAINTED INVESTIGATION**

**20.** PW 12 PSI Deewanshu Dutt is the Investigating Officer in the **case** while as the then Inspector Rajesh Sharma was SHO of Police Station R.S Pura where FIR in question was registered. According to Investigating Officer, age of prosecutrix was 21 years at the time of alleged occurrence and her parents were alive. It is also deposed by Investigating Officer that after medical examination of prosecutrix was conducted, she did not show desire to join her family instead she preferred to stay at One Stop Centre for Women at New Plot, Jammu. It is also admitted by Investigating Officer that statement of prosecutrix under section 164 of Cr.P.C was recorded on 23.05.2022 while as FIR was registered on 14.05.2022 at 4:30 p.m. It is also stated

on oath by Investigating Officer that he went at the place of occurrence on 23.05.2022 and obtained CCTV footage on 24.05.2022 but did not conduct analysis of the same himself. He admits that it is incumbent upon an Investigating Officer to analyze CCTV footage. He could not explain as to why Rajat was not cited as witness. All that he says is that he did not associate with investigation. He admits that he did not obtain Call Detail Record of telephonic conversation between victim and said Rajat nor did he obtain any Screen Shot thereof. He goes to the extent of deposing that he did not mention factum of telephonic conversation between prosecutrix and Rajat in Case Diary. He admitted that as per his investigation, prosecutrix, her parents and accused lived/resided in one building and brother of accused namely Ashok also resided there. He admits that he did not collect any record showing that **father of prosecutrix suffered from paralysis**. According to Investigating Officer, he did not send any CCTV footage to FSL. He admits that as per medical opinion, no evidence of marks of violence on the body of prosecutrix was found nor there was medical evidence of recent intercourse on victim etc etc.

21. Here is an Investigating Officer who visits alleged place of occurrence on 10<sup>th</sup> day after occurrence and also got her statement under section 164 of Cr.P.C recorded after 10 days on 23.05.2022. He does not explain any delay for delayed visit to place of occurrence and belated recording of statement of prosecutrix under section 164 of Cr.P.C. No CCTV footage is on record. Investigating Officer does not offer any explanation that once, as per deposition of PW 5 Dr. Richa – if police told her that nothing has happened at the place of occurrence then where was the occasion for police station concerned to register the FIR in question. As per record, accused was arrested on **15.05.2022** and was admitted to bail on 26.12.2023 after One year Seven months and Eleven days of incarceration **in an occurrence which never took place**. Needless to emphasize, fair investigation is an essential part of fair trial. In the case in hand, Investigating Officer and his immediate

Supervisory Officer ( the then SHO) seem to have bent to **the** will of PW 5, Dr. Richa as discussed above - in initiating the FIR in question and in conducting subsequent investigation. Whole investigation therefore is fabricated, botched and concocted and accused has been framed up in an frivolous case by deliberate manipulation by Investigating Agency in cahoots with inexplicably overt role played by PW 4 Monika and PW 5 Dr. Richa and one Rajat. It is because of tainted and fabricated investigation that accused seems to have faced trauma of being framed up in an occurrence which never took place. Whole investigation therefore is nothing but tainted.

**22.** The evidence of remaining witnesses examined by prosecution is of no utility to its cause. I say so because, PW 9 is owner of a jewellery shop where from CCTV footage was collected. How this CCTV footage if any is relevant in the case - remains un-explained by prosecution. It is to be remembered that occurrence allegedly took place at residence of prosecutrix and not at some jewellery shop.

**23.** Similarly, PW 10 is witness to video footage which was never placed on record and PW 11 is some Executive Magistrate Ist Class who allegedly went to aforesaid jewellery shop.

**24.** For all what is said hereinabove, it is held that prosecution has badly failed to bring home charge against accused. In fact there is nothing on record by way of evidence which could even obliquely suggest that occurrence as alleged ever took place. **Indeed**, accused has been falsely framed up in a frivolous case on account of botched up, fabricated, deliberately manipulated and tainted investigation. Accused is therefore acquitted. Challan is dismissed. He is also discharged from bail and surety bonds. Seized property if any be disposed of in accordance with law after time for appeal is over.

**25.** The tabulated charge summarizing witnesses examined, documents exhibited and material objects produced and exhibited are reproduced herein below in **accordance with** mandate of **judgment of Hon'ble Supreme Court of India in case titled Manojbhai**

Jethabhai Parmar (Rohit) Vs State of Gujarat arising out of Criminal Appeal No.(S).2973 of 2023.

**26. Specimen Chart for Witnesses Examined**

<b><u>Prosecution witness No</u></b>	<b><u>Name of witness</u></b>	<b><u>Description</u></b>
1.Victim	Name withheld	complainant
2. PW NO. 2	Jyoti Chopra	Mother of victim
3. PW NO. 3	Ajay Chopra	Brother of victim
4. PW NO. 4	Monika Manhas	NGO WORKER
5. PW NO. 5	DR. RICHA ABROL	NGO WORKER
6. PW NO. 7	SPO SUDESH KUMARI	ACCOMPANIED VICTIM IN COURT DURING 164 CR.PC. STATEMENT
7. PW NO.8.	Dr. Samita Bhat, Gynecologist	GYNAECOLOGIST WHO EXAMINED VICTIM
8. PW NO. 9	SURINDER KUMAR	OWNER OF JEWELLER SHOP FROM WHERE CCTV FOOTAGE WAS COLLECTED
9.PW NO. 10	POONAM DEVI	WITNESS TO VIDEO FOOTAGE
10.PWNo.11	Chand Mohan Singh,	EXECUTIVE MAGISTRATE 1ST CLASS R.S PURA.
11.PW NO.12	Sub-Inspector PSI Dawanshu Dutt	INVESTIGATING OFFICER

**27. Specimen Chart for Exhibited Documents**

<b><u>Exhibit No.</u></b>	<b><u>Description of the Exhibit</u></b>	<b><u>Proved by/Attested by</u></b>
EXT-PW-3	Written complaint of victim	PW No. 3
EXT-P-8	Prepared Medical report	PW No.8
EXT-P-11	Resealing of pendrive and issued certificate i.e Evidence Act	PW No. 11

	65-B	
EXT-DD	Prepared site plan	PW No. 12

**28. Specimen Chart for Material objects/Muddamals**

<u>Material Object NO.</u>	<u>Description of the Exhibit</u>	<u>Proved by/Attested by</u>
Nil	Nil	Nil

29. Before parting with, it is baffling to note - how tainted investigation and a false complaint based on which FIR was registered, not only trampled freedom of accused but also decimated his reputation. Accused suffered an incarceration for One year Seven months and Eleven days. It is also shocking as to where from investigating officers in the cases like one on hand - draw courage to be law unto themselves. Accused has indeed faced crucible of adversity. System is not that insensitive not to take note of it. Further, 164 Cr.P.C statement is not a divine edict perse so as to place blind reliance on it. What is crucial is the credibility of such statement. Also, such statement is not always un-questionable and is always subject to thorough verification.

30. A fortiori therefore, Inspector General of Police, Jammu is directed to initiate departmental enquiry against Investigating Officer in the case for aforesaid conduct alongside his immediate Supervisory Officer, the then SHO Police Station R.S Pura and conclude the same at the earliest in accordance with law. Copy of this order shall go to Inspector General of Police, Jammu for compliance through prosecution forthwith.

31. Similarly, Senior Superintendent of Police, Jammu is also directed to initiate action under section 182 of RPC against prosecutrix/complainant in the case. Similarly, SSP Jammu shall also conduct enquiry regarding involvement of PWs 4 and 5 in facilitating false and **untrue** registration of FIR against accused as discussed in

the judgment and if enquiry so conducted is affirmative qua said role of these two PWs, then **criminal action** as per law be also initiated against them. Copy of this judgment shall also go to SSP, Jammu for compliance through prosecution immediately.

**32.**Disposed of to be consigned to records after due compilation.

Announced  
29.05.2026

(Amarjeet Singh Langeh)  
Presiding officer  
Fast Track Court,  
Jammu