Attested copy of judgment supplied to convict free of cost.

IN THE COURT OF VIKRANT KUMAR, ADDITIONAL SESSIONS JUDGE,

Fast Track Special Court,
(to primarily try offences of rape and under POCSO Act)
SAS Nagar (UID No.PB00213)

CNR No.PBSA01008508-2018.
CIS No. SC/208/2018.
Date of Institution :- 17.11.2018.
Date of decision : 28.03.2022

State

Versus

1. Pastor Bajinder Singh S/o Jagdish Mahal R/o Flat No. 2266, Sector 48-C, Star Enclave, Chandigarh.
2. Akbar Bhatti S/o Sakir Ahmad R/ o Village Ratgal, near Sant Dharmanshala, Sector-7, Kurukshetra and R/o Flat No. 2266, Sector 48-C, Star Enclave, Chandigarh, currently R/o House No. 5569, Sector 38, Chandigarh.
3. Rajesh Chaudhary S/ o Om Parkash, R/o House No. 171, M[illegible], Dhakoli.
4. Jatinder Kumar S/ o Manohar Lal R/ o Village Udhanwa, District Nawashehar.
5. Sitar Ali, aged about 62 years S/ o Sardar Ali R/ o Village Allahpur, District SAS Nagar.
6. Sandeep @ Pehalwan S/o Rajpal Singh R/o Village Pundri, District Karnal, Haryana, now R/o House No. 5569, Sector 38, Chandigarh.
7. Sucha Singh son of Sh. Aram Singh, Resident of Village Fatehullahpur, Kharar and at House No. 246, Backside Sub Tehsil, Ward No.7, Kurali (since deceased).

.....Accused

FIR No.128 dated 20.04.2018.
Under Sections : 376, 420, 354, 294, 323, 506, 147, 149 IPC r/w 67 of IT Act.
Police Station: Zirakpur.

(Disclosure of the name and identification of the prosecutrix is withheld in compliance with statutory provisions of Section 228 A IPC & Section 33(7) of POCSO Act, and she has been referred to as prosecutrix/pro. [illegible])

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

Present; Sh. Dilpreet Singh, Special Public Prosecutor for the State assisted by Sh. Anil Sagar and Sh. Sumit Sawhney, Advocates for the complainant/prosecutrix.
Accused Pastor Bajinder Singh on bail represented by Sh.H.S.Dhanoa & Sh. Matvinder Singh, Advocates.
Accused Rajesh Chaudhary on bail represented by Sh. Kunal Siag, Advocate.
Accused Sitar Ali, Jatinder Kumar, Akbar Bhatti and Sandeep Pehalwan on bail represented by Sh. B.S.Ahluwalia, Advocate.
Proceedings qua accused Sucha Singh abated vide order dated 15.10.2022.

JUDGMENT

The aforementioned accused persons have been forwarded by Station House Officer of Police Station Zirakpur to face trial under Section 376, 420, 354, 294, 323, 506, 147, 149 IPC and 67 of IT Act.

2. The brief facts of the present case are that on 20.04.2018, ASI Ajit Singh alongwith some other Police Officials was present at VIP Road, Zirakpur, for the purpose of patrolling and checking of anti social elements. Then, complainant (name withheld in order to protect her identity and henceforth, she is being referred to as the prosecutrix) alongwith Pushpa Salaria came there and submitted her typed statement, wherein, she has submitted that she used to work in a private sector but, now, she is unemployed. About two years ago, she came in contact with Pastor Bajinder Singh at Sethi Dhaba because as a Christian, Bajinder Singh used to hold a meeting in his palace near Chhat village. She also joined the meeting. Bajinder Singh got information about her and she also started obeying it as a pastor. Then on 07.09.2017 around 6-7 pm Bajinder Singh called her to Sethi Dhaba, Zirakpur and asked her to bring her passport. She reached there with her passport, where pastor Bajinder Singh was sitting on the rear seat of

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

his Fortuner car bearing No.CH-01-BG-9292 and its driver Sandeep Pahlwan was sitting on the driver's seat. Bajinder Singh Pastor made her sit with him in his car and took her to his house at Tower No. 19, 3rd Floor, Housing Board Flat, Sector-63, Chandigarh. He told her that he has to go to UK after a few days and she will take her with him and on this pretext, he had made physical relations with her, for which she had no consent. After that, Bajinder Singh took her to his flat No.63 at Sethi Dhaba several times and had forced sexual relations with her without her consent and he gave her something in tea to make her unconscious and committed rape upon her and also made a video. Then, Bajinder Singh pastor told her that it costs lakhs of rupees to go abroad and asked her to collect money from her contact people in the name of sending abroad, then they both will go abroad, but she didn't agree, then he threatened her that he will disseminate her obscene video. Thereafter, she introduced Jatinderpal Singh resident of Kharar to Bajinder Singh Pastor to send him abroad, who had two or three meetings in front of her and then on Christmas day on 25.12.2017 at Sethi Dhaba Zirakpur, he gave three lakh rupees to Pastor Bajinder Singh in her presence. Jatinderpal Singh also took 2-2 lacs rupees from his knowns and handed over the same to Pastor Bajinder Singh in her presence. Then she asked Pastor Bajinder Singh to delete the video and in this grudge, Bajinder Pastor after meeting at Chhat Apna Palace made his men Jatinder Pastor, Akbar Pastor, Satar Ali, Sucha Singh, Rajesh Chaudhary, Sandeep Pehlwan to beat her. They also abused her in filthy language and insulted her by touching her private part of the body. They all threatened her that if she says anything outside to anyone, they will kill her. She did not disclosed anything to anyone as she was

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

scared. In the last three months, she has tried many times to return people's money and talk about video deletion, but pastor Bajinder Singh does not come forward. Bajinder Singh threatened her and calling her. He had also sending her threatening messages and to disseminate her video. She prayed that action be taken against the accused.

3. On the basis of aforesaid statement of the prosecutrix, ASI Ajit Singh made endorsement of police proceedings and sent the ruqa to Police Station, on the basis of which, FIR under Sections 376, 420, 354, 294, 323, 506, 147, 149 IPC and 67 of I.T. Act was registered against the accused persons. Site plan was prepared. On 21.04.2018, medical examination of prosecutrix was also got conducted. Samples containing swabs of prosecutrix were sent through LC Gurjeet Kaur to Forensic Science Laboratory, Mohali for analysis. Then on 02.05.2018, LOC of the accused Pastor Bajinder Singh was issued. On 18.07.2018, a call was received from Delhi Police Station that the accused Pastor Bajinder Singh was arrested from the airport while he was leaving the country and thereafter, Pastor Bajinder Singh was arrested. Medical examination of accused was also conducted. Thereafter, on 23.07.2018, ASI Ajit Singh produced the prosecutrix before the Court of learned Illaqa Magistrate, Zirakpur for recording statement of prosecutrix under Section 164 Cr.P.C. On 06.12.2018, accused Jatinder Kumar, Akbar Pastor, Rajesh Chaudhary, Sucha Singh were arrested. Accused Sitar Ali and Sandeep @ Pehlwan were arrested on 28.12.2018. Statements of witnesses were recorded.

During the course of investigation, on 10.12.2018, supplementary statement of the prosecutrix was recorded, wherein, she has

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

submitted that she do domestic work. She came in contact of accused Bajinder Pastor a year ago because there was a fight in her house, so someone told her that there is a Church in Sector 23, Chandigarh and for peace of mind, she should go there. When she started going, after 2-3 months Bajinder Pastor sent a volunteer and wrote her name and mobile number so that she could have a special appointment with Bajinder Pastor. Bajinder Pastor's volunteers then told her about different ways of making appointments on the phone. In this way, she used to go to the appointment with Bajinder Pastor but till then Bajinder did not do anything wrong with her.

In May-June 2017, Bajinder Pastor called her at Sector 63 Housing Board Float No. 2060-C, 3rd Floor for an appointment and said on the phone that it was very important work, then Bajinder Singh Pastor sent his driver Sandeep Pehalwan in his vehicle No. 9292, which looked like a Fortuner type. She went to meet Bajinder Pastor as usual. On reaching there, he offered her tea as usual. Bajinder Pastor sent his Bouncer Lovepreet Singh etc. outside. He also kept her phone outside. Now this Lovepreet Singh threatens her on the phone. She fainted after drinking tea, but she was in her old house i.e. House No. 1063, Silver Heights. She was not able to wake up till the next day. There may be some drug was given to her or hypnotized. She did not remember any memory of the previous day. Sometimes it seemed that nothing wrong had happened but she had faith in Bajinder Singh Pastor and she explained to herself that she thought the same and she was sick. She kept going to Church every Sunday. Later, Bajinder Pastor called her again to his flat in Sector 63 Chandigarh. Then she was

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

offered tea in the same way and when she felt like it, she used to go to her house in Silver City and she stopped going to church.

On 27.08.2017, she got a call from the church that she should come to the church but she refused to come there because she started suspecting that something wrong was happening to her. Then, Bajinder Singh Pastor calls her on WhatsApp and threatens her. He says that he has some photos and videos of her. If she don't come to him, he will disseminate them. But she didn't know about this till then. On 27.08.2017, after the Church time ended, accused Bajinder Singh kept calling her and threatening her. She reached her palace in Kishanpura on her Activa which is on a deserted road. Bajinder Singh Pastor's car No.9292 Fortuner was parked there alongwith a red Innova car. Bajinder Pastor's nephew Akbar took her Activa to the Church and Bajinder Singh and Jatinder took her in the said car 9292. The rest of the people were in the Innova alongwith her, namely Sucha Singh, Sattar Ali, Akbar Bhatti, Rajes Chaudhary and their car was being driven by Sandeep Pehalwan. When the car was on the Ambala-Zikarpur highway, then accused stopped the car in the middle of the road and they snatched her phone because she used to record on the phone. All these people in the car started threatening her and said that she will have to come to church and they started touching her private parts in the car itself and threatened and Bajinder Singh told her that he will tell her. When she stopped him, he hit her and threatened that she cannot harm him. He can buy the world with money. Then he turned the car around and took her back to his place and dropped her off. She kept asking Bajinder Singh Pastor that which videos and photos of her do he has but he did not show her anything.

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

She got scared and returned back to home on his active. After that, Bajinder Pastor kept calling her but she did not answer the phone.

On 07.09.2017, Bajinder Singh Pastor called her again but she did not answer. Then she picked up the phone and asked what do he want, then accused Bajinder Singh abused her and said that if she does not come to meet him then he will send his video to her family. He has to go to London and he will make her video viral there. She got scared and got ready to meet him. Bajinder Pastor refused to meet her because people had filed a complaint against Bajinder there on 24.07.2017 that since Bajinder Pastor does the work of teaching theology, the public keeps coming and going. Bajinder Pastor picked her up from Sethi Dhaba on 06.07.2017 at 06.07 PM and wrestler Sandeep was driving and Bajinder Pastor was sitting behind him. He put the car on Ambala side and Bajinder Pastor started hitting her in the car and said that her attitude has changed. Then he showed her an original video of them. The room that was seen in the video, she knew it because it was the room next to his office. Sandeep Pehalwan stopped the car at a deserted place on the highway and stood outside. Bajinder Pastor started beating her. She stopped a lot but he forcibly had sexual interepurse with her in the car. He then threatened her that if she did not do as he said, he would send her video to her relatives and disseminate it. Then he started collecting money from the people who came to the church as he said. This money was given in exchange for sending people out, during this time he kept raping her continuously. This process continued till December 2017. Apart from raping her, he used to torture her.

On 31.12.2017, she requested with folded hands that [illegible] side

(Vikrant Kumar)
Additional Sessions Judge.
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

be given to her because she could not suffer any more wrongdoings. After January 2018, she stopped going to church. But Bajinder Pastor kept harassing her on the phone. His bouncers also kept harassing her. One day, in January-February 2018, Bajinder Pastor's nephew Akbar and a few people reached her house in Silver City Heights and came home and asked her to come to church. Defeated, she shifted to Kharar. She asked senior people of the church whom she knew for help but no one believed her. Then, she took the help of an NGO and told her whole story. The NGO did not help her. Then she took the help of Advocate Pushpa Salaria, with whom she went and wrote her statement, on the basis of which, an FIR was lodged. After that, Bajinder Pastor has been threatening her on WhatsApp and sent a message that she is a fool and cannot harm him. She has come to palace, where the police have prepared a site plan at her instance.

4. After presentation of Challan, its copies were supplied to the accused persons as envisaged under Section 207 Cr.P.C. On finding prima facie for the offences under Sections 376, 420, 354, 294, 323, 506, 147 & 149 of IPC and Section 67 of IT Act, Ms. Sonali Singh, then then learned Judicial Magistrate Ist Class, Dera Bassi has committed the present case vide orders dated 05.11.2018.

5. After hearing learned Additional Public Prosecutor and learned defence counsel, initially charge sheet was framed against accused pastor Bajinder Singh only on 17.11.2018, however, after presentation of supplementary Challan, the charge-sheet was amended on 06.08.2019. After receipt of the report from the Cyber Cell, supplementary Challan was presented against all the accused.

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

6. Thereafter, formal correction in the father's name of accused Jatinder Kumar, the charge-sheet was served upon the accused persons under Sections 376 (2) (n), 420, 354, 294, 323, 506, 147, 149 IPC and 67 of I.T. Act on 04.10.2023, to which, the accused pleaded not guilty and claimed trial. It is pertinent to mention here that during the pendency of the trial, the accused Sucha Singh has died and proceedings qua him abated vide order dated 15.10.2022.

7. In order to prove its case, prosecution examined PW-1 prosecutrix, PW-2 Dr. Dilbagh Singh Medical officer, PW-3 Dr. Alakhjot Kaur Medical Officer, PW-4 LC Gurjeet Kaur, PW-5 MHC Roop Lal, PW-6 SI Ajit Singh Investigating officer, PW-7 Munish Babbar, PW-8 LC Jaspreet Kaur, PW-9 HC Gurpreet Singh, PW-10 HC Ravinder Singh, PW-11 C Roshan Singh, PW-12 Urmil Saunda, PW-13 Joginder Singh, investigating officer, PW-14 HC Jaskaran Singh, PW-15 Jatinderpal Singh, PW-16 ASI Ramesh Lal and PW-17 Dr. Vijay Bhagat, Medical Officer and remaining prosecution evidence was closed by order.

8. After closure of the prosecution evidence, incriminating circumstances appearing in evidence against the accused persons were put to them in their statements recorded under Section 313 Cr.P.C., wherein, the accused denied the prosecution allegations and pleaded their innocence and false implication in the case. They raised a plea that they have been falsely implicated in this case. They have not committed any offence as alleged. The allegations against them are false and they opted to lead the evidence in their defence. However, in defence, the accused have not examined any witness and they have closed the same.

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

9. I have heard learned Special Public Prosecutor for the State assisted by learned counsel for complainant/prosecutrix as well as learned defence counsel and have gone through record carefully.

10. Learned Special Public Prosecutor for the State has submitted that from the testimony of prosecution witnesses, case of the prosecution has been fully proved. He has submitted that from the testimony of prosecutrix and other witnesses, it has been proved on record that accused Pastor Baljinder Singh has committed rape upon the prosecutrix. He also submitted that injuries on the person of prosecutrix has been proved on record. He has also submitted that the prosecutrix while appearing into the witness box has categorically deposed that the accused has committed rape upon her. He called her at his flat at Sector 63, Chandigarh and she was given intoxicated tea and committed rape upon her. After that, he was committing rape upon her on the pretext that he will disseminate her obscene photographs and videos. He has further submitted that only on the grounds that earlier FIRs were lodged by the prosecutrix, no benefit can be given to the accused. He has also submitted that other FIR has been registered against the accused regarding molestation. The learned Special Public Prosecutor for the State has also submitted that the accused Pastor Baljinder Singh has been threatening the prosecutrix that he will eliminate her whole family. He has also submitted that circumstances as brought by the prosecution clearly points out the guilt of the accused. On these assertions, he has prayed for holding the accused guilty and for awarding the severe punishment to him.

11. Refuting aforesaid contentions, learned defence counsel representing the accused Pastor Bajinder Singh, on the other hand, has

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

submitted that the accused has been falsely implicated in the present case as no alleged occurrence took place. There is no evidence on record against the accused. He has further submitted that the prosecutrix has alleged that on 07.09.2017, she was taken from the Sethi Dhaba to his residence at Tower No.19, 3rd Floor, Housing Board Flats, Sector 63, Chandigarh and has committed rape upon her and after that he has committed rape upon her multiple times. Her obscene photographs were prepared. She has also alleged that the accused asked rupees from her on the pretext that he will disseminate her photographs and she collected the money from Jatinderpal Singh and Rs. 4 Lacs were paid to accused Pastor Bajinder Singh on 25.12.2017. In her examination-in-chief, she has denied the occurrence dated 07.09.2017. She was declared hostile. PW12 Urmil Saunda has stated that the accused Pastor Bajinder Singh has vacated the flat on 24.07.2017 and as such, the question of committing the rape upon the prosecutrix on 07.09.2017 does not arise.

He has further contended that as per the prosecutrix, rape was committed upon her on 07.09.2017. Three photographs Ex. D14 to Ex. D16 were put to the prosecutrix, in which, she seems to be enjoying the function held at Jalandhar and from the same, it is clear that she was not under any threat. In her statement under Section 164 Cr.P.C which is Ex. P12, she has levelled the allegations of rape on 07.09.2017, however, there is no proof that she ever paid Rs. 4 Lacs to accused Pastor Bajinder Singh. PW15 Jatinder Pal Singh has been declared hostile.

The learned defence counsel representing the aforesaid accused has further argued that the allegations of making obscene videos by the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

accused, is nullified by the Cyber Cell Report. All the data was extracted from the phone of the accused but nothing incriminating was found. He has further submitted that the prosecutrix has alleged that on 27.08.2017, she went to Apna Palace, Zirakpur to attend a prayer meeting and there, the accused Pastor Bajinder Singh took her in his car and touched her inappropriately. He has further submitted that on 27.08.2017, Section 145 of Cr.P.C was imposed in tricity as Baba Gurmit Ram Rahim was held guilty by the Court and quantum of sentence was passed on 28.08.2017. Therefore, it was not possible to hold a meeting of 1000-1500 persons. There was no such meeting as Section 144 Cr.P.C was ordered, not to gather more than 5 persons. He has further submitted that there is delay of more than 08 months in registration of the FIR from the date of incident and the same has not been explained by the prosecution and thus, the same is fatal to the case of the prosecution. He has further submitted that the prosecutrix has alleged that she was under threat, however, in photographs Ex. D17 to Ex. D19, she has been shown by holding a weapon and in photographs Ex. D6 to Ex. D16, she has been shown to enjoy the function of accused Pastor Bajinder Singh.

He has also submitted that the present FIR has been lodged just to extract money from the accused. He has submitted that FIR No. 106, under Section 354 IPC was lodged by her and the same was quashed by her after making the compromise. She has also lodged another FIR under Section 376 IPC. He has also submitted that there are material contradictions in the testimony of the prosecutrix. In her statement before the police, she speaks about all the occurrence of providing tea after 07.09.2017 but in her examination before the Court, she has stated that in the month of June-July.

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

In her statement before the police, she stated the story of passport but before the Court, she did not utter even a single word about the story of her passport and she did not speak about any physical relations. In her statement to the police, she has stated about the fact of contacting Jatinder Pal Singh after she met Bajinder Singh on 07.09.2017, when for the first time, she was told about UK trip. She speaks of her beatings after 25.12.2007, giving of mony by Jatinder Pal Singh to Bajinder Singh, therefore, according to her, the incident is after 25.12.2017 when she asked about the deleting of obscene videos and when she asked about return of money of Jatinder Pal Singh. She says giving of beatings to her on 25.12.2017 by Jatinder Pastor, Akbar, Rajesh Chaudhary and Sandeep Pehalwan. She does not speak of beatings by Bajinder Singh nor speaks of rape in car. However, before the Court, she speaks of giving beatings on 27.08.2017 and she has introduced two vehicles. The rape allegations in the car was of 27.08.2017. This fact is neither in her statement to the police nor in the FIR. Here, she stated giving of beatings before the money given by Jatinder Pal Singh.

The learned defence counsel for the accused has also pointed out the contradictions in the examination in chief and cross-examination of the prosecutrix. In her examination, she has stated that in the month of June-July, Pastor Bajinder Singh had called her at Flat No. 2060. She went there by booking a cab. She went to the office of Pastor who offered her a cup of tea. After consuming tea, she became unconscious. When she gained her consciousness, she was at her home. She does not know as to how she reached home. Then the complainant stated that after few days she was called to meeting. Again Pastor Bajinder offered her a cup of

(Vikrant Kumar)
Additional Sessions Judge
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

consuming the same, she became unconscious. When she regained consciousness, she was at her home and did not know how she reached home. However, in her cross-examination, she has stated that she had not got recorded such statement to the police. In her examination-in-chief, she has stated that on 27.08.2017, Pastor Bajinder Singh used to call her in Flat No. 2060, Sector 63, Chandigarh by threatening her that he would disseminate her obscene video. She has stated that she used to go there for one month. She used to go there after every 3-4 days and he used to commit rape upon her. However, in her cross-examination, she has stated that she had not got recorded such statement to the police. In her further cross-examination, the witness has stated that she had not stated in her statement dated 20.04.2018, 23.04.2018 and 23.07.2018 that on 27.08.2017, Pastor Bajinder Singh used to call her in his flat by threatening her that he would disseminate her obscene video. She has stated that she had not stated to police that she used to go there for month and after 3-4 days, he used to commit rape upon her. In her examination-in-chief, she speaks of the event dated 07.09.2017 and she has stated that on that day, accused Bajinder Singh had called her at the aforesaid flat but she refused to go there. Later on, he told her not to come there as some neighbourer had made a complaint against him. Then, he sent his driver Sandeep Pehalwan in his car at Sethi Dhaba, Zirakpur and he took her in that car. On the way, Pastor Bajinder singh was standing outside one restaurant. He sat in the car and took her towards Ambala Highway. However, she was confronted with her statement dated 20.04.2018 Ex. P1/1 and mark DA to Mark DC but the said facts were not found recorded there. She has further stated in her cross-examination that she had not stated to the

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

police that on the day of Christmas i.e. 25.12.2017, she arranged Rs. 4 Lacs from Jatinder Pal Singh on the pretext of sending him abroad and gave the same to Pastor Baljinder Singh. Even she has stated that she had not got recorded with the police her statement as to the fact that on 01.12.2017, there was function of Church at Kalagram and she asked Bajinder Singh to hand over her videos as she does not want to do anything wrong with the public. She also stated having not recorded the statement to the police that she was operated upon on 06.01.2018 for kidney stone and had stopped going to the Church. She has also stated having not made statement to the police regarding the facts of receiving the call from Akbar to come to Church and he threatened on Whatsapp when she stated to him that she would make a complaint against him. In her cross-examination, she has denied having made statement to the police regarding the fact that she discussed the matter with Priyanka and also informed senior members of Church and nobody trusted her. She also denied having recorded her statement with police to the effect of telling of NGO run by Sarbjit, brother of Priyanka and her meeting to Sarabjit and told him what happened with her. She further denied having got recorded the statement to police regarding the fact of advise given to her by Sarabjit Singh to meet Pushpa Salaria, Advocate and he told her that accused is rich man and can manage all things in Police Station.

He has also pointed out the contradictions made in her statement under Section 164 Cr.P.C and before the Court. In her statement under Section 164 Cr.P.C, she has stated that in the month of May-June 2017, the accused had called her at Sector 63 Housing Board [illegible]

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
[illegible]

at 3rd Floor and the accused sent his Fortuner type vehicle bearing No. 9292. She went there as usual to meet the accused. She stated that accused told telephonically that there is some important work. He sent his driver Sandeep Pehalwan. However, in her testimony before the Court, she has stated that in the month of June-July, Pastor Baljinder Singh had called her at Flat No. 2060. She went there by booking a cab. She went to the office of Pastor who offered her a cup of tea after consuming tea, she became unconscious. When she gained her consciousness, she was at her home. She does not know as to how she reached home. Then, the complainant stated that after few days she was called for meeting. Again Pastor Bajinder offered her a cup of tea and after consuming the same, she became unconscious when she regained consciousness she was at her home and did not know how she reached home. She has also stated in her statement under Section 164 Cr.P.C, she has stated that after the church time was over on 27.08.2017, the accused Bajinder Singh had been calling her and threatened her on mobile. At last, she reached Apna Palace Kishangarh on Activa. There is one isolated road in between Apna Palace and Dhaba and the Fortuner of accused bearing No. 9292 was parked and one Innova of red colour was also there. The nephew of Bajinder namely Akbar took her Activa to Church. Bajinder Singh and Jatinder took her forcibly in Fortuner type car bearing No. 9292. Other persons like Sucha Singh, Sitar Ali were in red Innova. In Fortuner No. 9292, Bajinder Singh, Rajesh Chaudhary and Jatinder were present. Sandeep Pehalwan was driving the same. When the said vehicle was on Ambala Zirakpur road, they stopped the same midway. Earlier, she had been put her mobile on recording but in car, she could not do so for the reason that the

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

accused had snatched her mobile. They started threatening in car that she had to come to church. The accused started touching inappropriately her private parts and said that she will otherwise mend and he would tell her. When she opposed, the accused had beaten her and threatened that she would not do any harm to him as he purchase the persons with money. Then they turned their vehicle and had left her outside church near Apna Palace. She asked about the video but he did not tell. She came back home with fear on her Activa. Whereas, in her statement before the Court, she stated to have gone to Apna Palace where meeting was going on but again said that the meeting was over. She further stated that on 27.08.2017, accused Akbar parked her Activa inside and took her forcibly in Fortuner Car. The car was driven by Sandeep Pehalwan and Bajinder Singh and Rajesh Chaudhary were sitting on the rear seat. She was sitting in between them. Other accused persons were sitting in red Innova Car. They took her to Ambala Highway and stopped the car and gave her beatings after stopping the car. Pastor Bajinder stated to her that he has obscene video and photographs with him. She stated that she asked him to show but he refused to do so. She has further stated that then Bajinder Singh committed rape upon her in the car. In her statement under Section 164 Cr.P.C, she has stated that as per directions of accused Pastor Bajinder Singh, she had been collecting money from people visiting the church. This money was taken from people on the pretext of sending them abroad. During such period, he had been committing the rape upon her. This continued till December 2017. He had been torturing her also apart from rape on the pretext as to why she was not collecting money from public. However, in her testimony before the Court, she has stated that

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

she arranged Rs. 4 Lacs from Jatinder Pal Singh on the day of Christmas i.e. on 25.12.2017 on the pretext of sending him abroad and gave it to Prophet Bajinder. She further stated to have been operated upon for kidney stone on 06.01.2018 and thereafter, she stopped going to Church. Then, she told that Akbar requested her on phone to come to Church and when she refused, he threatened her on mobile. Thus, there are material contradiction in the testimony of the prosecutrix and therefore, no reliance can be placed upon her testimony.

He has further submitted that in the report Ex. PW3/3, from the vaginal swabs of the prosecutrix, spermatozoa was found in 2018. This means that she was sexually involved during that period. Lastly, it has been prayed that the case of the prosecution is doubtful and thus, benefit of the same be given to the accused person and he is liable to be acquitted of the charges framed against him.

12. Similarly, learned defence counsel Sh. Kunal Siag, Advocate representing the accused Rajesh Chaudhary has argued that he has been falsely implicated in the present case and there is no evidence against the said accused person. He has also submitted that from the entire oral as well as documentary evidence, the prosecution has failed to prove the guilt of the aforesaid accused person. The said accused person is follower of the Christian sect like the prosecutrix. There is no enmity interse with the prosecutrix. No role even has been attributed to the said accused. He has further submitted that from the contradictory stand of the prosecutrix, it is clear that she has intentionally involved the aforesaid accused person mere for a wish to extort money as has been done in earlier cases got registered

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

against different persons at different places, where the accused were acquitted on her resiling of statements or on the basis of compromise. Lastly, he has prayed that as there is no evidence against the aforesaid accused person and he has been falsely implicated in the present case and therefore, he is liable to be acquitted.

13. Sh. B.S.Ahluwalia, Advocate representing the accused Sitar Ali, Jatinder Kumar, Akbar Bhatti and Sandeep Pehalwan has adopted the aforesaid contentions advanced by Sh. Kunal Siag, Advocate representing the accused Rajesh Chaudhary.

14. After giving thoughtful consideration to the rival submissions made by both the parties and minutely apprising of the entire ocular as well as documentary evidence, placed on the record, the following points require determination in the present case:-

1. Whether in between 07.09.2017 and 25.12.2017, at various places, the accused Pastor Bajinder Singh committed repeated rape upon the prosecutrix without her consent or not?
2. Whether during the aforesaid period, the accused Pastor Bajinder Singh dishonestly and fraudulently induced Jatinder Pal Singh and his two known persons to deliver Rs. 7 Lacs for meeting the expenses to going abroad or not?
3. Whether during the aforementioned period, the accused Pastor Bajinder Singh published and transmitted the video containing lascivious material relating to the prosecutrix, which was likely to deprive and corrupt the minds of viewers or not?
4. Whether on 25.12.2017, in the area of Zirakpur, all the accused formed an unlawful assembly for the purpose of

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

beatings to the complainant or not?

5. Whether on 25.12.2017, in the area of Zirakpur Sethi Dhaba, the accused Pastor Bajinder singh in prosecution of the aforesaid unlawful assembly outraged the modesty of said prosecutrix or not?

6. Whether on 25.12.2017, in the area of Zirakpur Sethi Dhaba, the accused Pastor Bajinder Singh in prosecution of the aforesaid unlawful assembly caused injuries to prosecutrix or not?

7. Whether on 25.12.2017, in the area of Zirakpur Sethi Dhabha, all the accused in prosecution of the aforesaid unlawful assembly intimidated the prosecutrix by threatening her to kill her and later on messaged her also or not?

15. In order to prove its case, the prosecution has examined PW-1 Prosecutrix who has deposed that in the second week of January 2017, she came in contact with Pastor Bajinder Singh at Bal Bhawan, Sector-23, Chandigarh. Pastor Bajinder Singh had taken her mobile number through his voluntaries. She used to attend the personal meeting of Pastor Bajinder Singh at Bal Bhawan Sector-23 and at Tower no.19, Flat No. 2060, Third Floor, Sector 63, Chandigarh. She further deposed that in the month of June-July, Pastor Bajinder Singh called her at above said Flat No. 2060 and she went there by booking a cab. Lovepreet Singh bouncer of Pastor Bajinder Singh asked her to handover her mobile to him. She went to the office and Pastor Bajinder Singh offered her a tea. After consuming tea, she became unconscious and when she gained her consciousness, she was at her house. She does not know how she reached her house.

She also deposed that after few days, again she was called to attend meeting and again Pastor Bajinder Singh offered her a tea. After

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenogra
ASJ, M

consuming the same, she became unconscious. When she gained her consciousness, she was at her house. She does not know how she reached her house. Having suspicion upon Pastor Bajinder Singh, she stopped attending his meetings. On 27.08.2017, Pastor Bajinder Singh called her, but, she did not pick his phone. In the evening, when she picked up his call, he started abusing her and asking her as to why she is not attending the meetings. Then, she went to Apna Palace. Accused Akbar parked her Activa in side and forcibly took her in a car make Fortuner. The said car was driven by Pehlwan Sandeep and Pastor Bajinder Singh and Rajesh Chaudhary were sitting on the rear seat. She was sitting in between them. Other co-accused persons were sitting in the red colour Innova car. They took her to Ambala highway and stopped the car. They gave her beatings. Pastor Bajinder Singh started threatening her that he has her obscene video and photographs with him. She asked him to show her video and photographs. But he refused to show the same. Later on, Pastor Bajinder Singh committed rape upon her in a car. She further deposed that after 27.08.2017, Pastor Bajinder Singh used to call her in his flat having No. 2060-C, at Sector-63 Chandigarh by threatening her that he will disseminate her obscene video. She used to go there for one month. She used to go there after every 3-4 days. He used to commit rape upon her. This process continues for about one month. On 07.09.2017, Pastor Bajinder Singh again called her at above said flat, but she refused to go there. He called her number of times, but she did not pick up his call. Later on, he told her not to come there as some neighbours of the flat made a complaint against him. Later on, he sent his driver Sandeep Pehlwan in his car make Fortuner at Sethi Dhaba, Zirakpur. He [illegible] her in

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

that car. On the way, Pastor Bajinder Singh was standing outside one restaurant. He also sat in the said car and they took her towards Ambala highway. Sandeep Pehlwan was driving the car and Pastor Bajinder Singh was sitting on the back seat and he gave her severe beatings. He also showed her obscene videos. After seeing the said videos, she came to know that Pastor Bajinder Singh has committed rape upon her. At that time also, he committed rape upon her in the car by sending his driver Sandeep Pehlwan outside. He threatened her that she has to do as per his wishes. Thereafter, she started doing everything as per his wishes. On the asking of Pastor Bajinder Singh, she collected the money from people on the pretext of sending them abroad. She handed over that money to Pastor Bajinder Singh. It was continued upto 31.12.2017 and on the day of Christmas i.e. 25.12.2017, she arranged Rs. 4 Lacs from Jatinderpal Singh on the pretext of sending him abroad and gave the same to Pastor Bajinder Singh. She further deposed that on 31.12.2017, there was function of church at Kalagram. She asked Pastor Bajinder Singh to handover her videos and photographs, as she does not want to do anything wrong with the public.

On 06.01.2018, she was operated for her stone in kidney and she stopped going to church. Later on, she received a call from nephew of Pastor Bajinder Singh namely Akbar Khan, who requested her to come to Church. She replied him that she will make complaint against them as they all the doing wrong with her. They threatened her on whatsapp. Thereafter, she discussed the matter with her friend Priyanka. She also informed the senior members of the church, but they have not trusted her. Her friend Priyanka advised her that his brother namely Sarabjit Singh is running a

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

NGO by the name of Janhit Samaj Sewa and he will help her. She went there and narrated the whole incident and he advised her to meet with Pushpa Salaria, Advocate, Human Rights Activists, as accused is a rich man and can manage all the things in the police station with the corrupt means and no action will be taken on her complaint. Then, she met Pushpa Salaria, Advocate, Human Rights Activists, who took her to SSP, Mohali, where she moved complaint on 20.04.2018, which was marked to PS Zirakpur, District SAS Nagar, Mohali. Her statement Ex. P1/1 was recorded by the police at police station Zirakpur.

On 24.04.2018, she was taken to Civil Hospital, Dhakoli, where her medical examination was done by the doctors. She was also taken to the Court complex, where her statement u/s 164 Cr.P.C Ex.P1/2 was recorded by the Learned Magistrate. She also went with the police on 23.07.2018 and police prepared rough site plan at her instance and recorded her statement. She handed over one photograph Mark P1/3 and whatsapp chat Mark P1/4. She also handed over facebook photographs prints Mark P1/5, Mark P1/6, Mark P1/7, Mark P1/8, Mark P1/9, Mark P1/10 and Mark P1/11. The accused persons has lodged false case against her and against the person who helped her at Police Station Majri. Under the pressure and influence of accused persons, police has registered a false case under section 379-B IPC against her and against Sarabjit Singh. The accused has also registered another case against Sarabjit Singh under IT Act. Pastor Bajinder Singh is threatening her in public that the girl, who has implicated him in a false case will make him release from this case. He is also threatening her through public that where ever, she was found, she will be killed [illegible]

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

approached her in-laws family and threatened her through them that he will kill her and her children. Her supplementary statements were recorded by the police. She identifies all the accused in the Court.

16. PW-2 Dr. Dilbagh Singh, has deposed that on 20.07.2018, he was posted at CHC Dhakoli. On that day, Bajinder Singh produced before him by the IO ASI Ajit Singh along with the application Ex. P2/1 for his medical examination. He conducted his detailed medical examination and prepared his report Ex. P2/2 and opined that there is nothing to suggest that he is unable to perform sexual intercourse.

17. PW-3 Dr. Alakhjot Kaur has deposed that on 21.04.2018, she was present on her duty and prosecutrix was brought to her by LC Gurjit Kaur along with the application for her medical examination. As per rules, she conducted her medical examination at about 13:40 hours. She alleged history of sexual assault that "She works at easily Job placement office Kharar as an owner. Patient got married in 2006 and has two children. DLMP 15.04.2017. prosecutrix gives history of sexual assault by the accused since September 2017 at his residence and the prosecutrix residence. History of last sexual assault is 29.12.2017. According to the prosecutrix she was given some sedative in tea when the assault happened for the first time. She came to know about the assault when she was shown a video pertaining to the same later. After that she was blackmailed by the accused of making the video viral in case, she did not meet him because of which she got afraid and subsequent sexual assault happened". Hymen was absent. She has taken the relevant swabs for chemical examiner analysis and DNA analysis and prepared the two parcels for the same. She also prepared

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

two envelope one for the chemical examiner and second for the FSL and sealed the above said parcel and envelope with the seals of the hospital and handed over the same to LC Gurjit Kaur. She prepared the MLR and computerized copy of the same is Ex. P3/1. She has brought the original record in the court. She has seen her ultrasound report Ex. P3/2, which is normal in nature. Later on, on 08.10.2018, report of Chemical examiner Ex. P3/3 was received by the police and it was produced before her along with the application Ex. P3/4 for her final opinion on the same. As per the said report, spermatozoa was detected in vaginal swabs. Possibility of sexual intercourse cannot be ruled out. She made her report Ex. P3/5. Application of police for the medical examination of the prosecutrix is Mark P3/6.

18. PW-4 LC Gurjeet Kaur, has deposed that on 21.04.2018, she was posted at PS Zirakpur and on that day, she joined the investigation with the IO. They went to prosecutrix/complainant at Civil Hospital Dhakoli where her medical examination was done by the doctors. After her medical examination, doctor handed over her two parcels sealed with the seals of the hospital, two envelope containing relevant papers. She handed over the same to the IO along with the MLRs. IO took the same into police possession vide recovery memo Ex. P4/1. She signed the same as a witness. IO recorded her statement. Then, on 23.04.2018, she also took the prosecutrix to the Civil Hospital phase-6 Mohali for her medical examination. It was done by the doctors there. On 07.05.2018, MHC deputed her to deposit the above-said parcels at the office of FSL vide road no. 130 dated 07.05.2018 and as per instructions, she went there, but some objections were raised there. On return to the police station, she redeposited the same with the MHC. The

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

time during which above-said samples remained with her, no one tampered with the same.

19. PW-5 HC Roop Chand tendered into evidence his duly sworn affidavit Ex.PW5/1 by stating that he handed over the sealed sample parcel to L/C Jaspreet Kaur for depositing the same in the chemical examiner, Kharar, who has deposited the same on 01.05.2018. He further deposed that he handed over the sealed sample parcel to ASI Ajit Singh for depositing the same in the office of FSL, Mohali, who has deposited the same in the office of FSL, Mohali on 23.05.2018.

20. PW-6 SI Ajit Singh has deposed that on 20.04.2018, he was posted at PS Zirakpur and on that day he along with police party were present on Metro Road, Zirakpur. prosecutrix/complainant of the present case came to them along with Madam Pushpa Salaria. She produced her written statement and both prosecutrix and Pushpa Salaria signed the same in his presence. He made his endorsement Ex. P6/1 and send the same to the police station on the basis of which this FIR Ex. P6/2 was registered by Inspector Pawan Kumar. He also made his endorsement Ex. P6/3 on the said ruqa. He recorded the statement of witnesses. On 21.04.2018, prosecutrix again joined the investigation with him. He produced her before SMO, Civil Hospital Dhakoli and he moved application for her medical examination. He deputed LC Gurjit Kaur for the same. It was done by the doctors there. After her medical examination, doctor handed over two sealed parcels containing relevant swabs and two envelopes duly sealed with the seals of the hospital containing relevant papers, to him. He took the same into police possession vide memo Ex. P4/1. He handed over the same to the MHC who made

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

relevant entry in the record and kept the same in the malkhana. On 02.05.2018 look out notice of against the accused Pastor Bajinder was issued. He further deposed that on 18.07.2018 they received a phone call from the police station Airport New Delhi and accused was apprehended by them on the basis of LOC. He along with police party went there. He arrested the accused vide arrest memo Ex. P6/4 and conducted his search vide memo Ex. P6/5.

On next day, he produced the accused before the SHO, Inspector Pawan Kumar, who started investigation of the present case. The then SHO Pawan Kumar took two mobile phone one of which was of Samsung company and other was of black colour make JAIN and one watch make JACOB and company. IO sealed the same in a parcel and took the same into police possession vide memo Ex. P6/6. IO recorded his statement. He further deposed that on 20.07.2018, he again started investigation of the present case. He took the accused before the SMO, Civil Hospital Dhakoli and moved application Ex. P2/1 for his medical examination. It was done by the doctors there. He also recovered a Endeavor Car bearing registration no. CH-01-BG-9292 and took the same into police possession vide recovery memo Ex. P6/7.

On 23.07.2018, he moved application Ex. P6/8 for recording statement of the prosecutrix/complainant u/s 164 CrPC, which was recorded by the Learned Magistrate. Thereafter, he visited the spot with the prosecutrix/complainant and prepared rough site plan Ex. P6/9. He recorded the statement of witnesses during his investigation. He identifies the accused present in the court.

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

21. PW-7 Munish Babbar, Data Entry Operator, has deposed that he has brought the summoned record of RC No.CH-01-BG-9292 registered in the name of Choudhary and Company, Shop No. 711, Motor Market, Manimajra, Chandigarh for Ford Endeavour. He has proved the screen report Ex.P7/1.

22. PW-8 LC Jaspreet Kaur has deposed that on 31.04.2018, she was posted at P.S. Zirakpur and on that day, MHC Roop Lal handed over her one parcel containing relevant swabs and envelope containing relevant papers vide road no. 115 dated 31.04.2018. She wen to the office of Chemical Examiner, Kharar, but some objections were raised by the official of Chemical Examiner. She redeposited the same with the MHC. She further deposed that on 01.05.2018, MHC again handed over her the above mentioned parcels and envelope vide road no.118 dated 01.05.2018. She deposited the same with Chemical Examiner, Kharar and got the receipt, which she handed over to MHC on her return to police station. The time during which the case property remained with her, no one tampered the same.

23. PW-9 HC Gurpreet Singh has deposed that on 28.02.2019, he was posted at PS Zirakpur and on that day, he joined the investigation with the IO Inspector Joginder Singh. I.O. arrested the accused Sitar Ali vide memo Ex. P9/1 and conducted his search vide memo Ex. P9/2. I.O. also arrested the accused Sandeep @ Pehlwan vide memo Ex. P9/3 and conducted his search vide memo Ex. P9/4. He witnessed the above-mentioned memos. IO recorded his statement. He identifies accused Sitar Ali in the court.

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

24. PW-10 HC Ravinder Singh has deposed that on 18.07.2018, he was posted at PS Zirakpur. On that day, he joined the investigation with the IO ASI Ajit Singh. They went to the International Airport, New Delhi from where IO arrested the accused Bajinder Singh vide memo Ex. P6/4 and conducted his search vide memo Ex. P6/5. IO also recovered two mobile phones make Samsung and Zen and one watch make Jacob and Company. He witnessed the above-mentioned memos. IO recorded his statement. He identifies accused Bajinder Singh in the court.

25. PW-11 C Roshan Singh has deposed that on 14.02.2019, MHC Roop Lal handed over his one parcel containing one phone make Samsung Company and one watch make Jacob and company and one another mobile make Zen duly sealed with the seals having impression PK vide road no. 61 dated 14.02.2019 and instructed him to deposit the same at the office of Cyber Lab, Mohali. He went there, but some objections were raised by the officials of Cyber Lab, Mohali. So, he redeposited the same with the MHC. Then, on 15.02.2019, MHC again handed over him the above said parcel. He went to the office of Cyber Lab, Mohali and deposited the same there. He got the receipt, which he handed over to the MHC on his return to the police station. His statement was recorded by the IO. The time during which, the case property remained with him, no one tampered the same.

26. PW-12 Urmil Saunda has deposed that she owned a house no. 3219, Sector-51, Chandigarh. She rented out the said house to Pastor Bajinder Singh in the month of May, 2017. He along with his wife Ankita were residing there. They were running prayer classes and wife of Pastor namely Ankita was giving music classes there. Some members of the

(Vikram Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
AS1, Mohali

locality raised objections due to loud noise of the music. Due to this reason, they got vacated their house from Pastor Bajinder Singh in the month of July, 2017. Thereafter, he rented out the said house to Anil Kumar on 03.09.2019 and handed over the possession to him. She has seen the affidavit dated 07.08.2018 and copy of the same is Mark P12/1. He further deposed that inadvertently date of vacation of house was mentioned as 24.07.2018 and re-rent out date was mentioned as 01.09.2018. However, same was vacated on 24.07.2017 and re-rented out on 01.09.2017.

27. PW-13 Joginder Singh has deposed that in the year of 2018, he was posted as Sub-Inspector at PS Zirakpur and investigation of the present case was marked to him. On 08.10.2018, he moved application Ex.P3/4 along with the report of Chemical Examiner Ex.P3/3 before the SMO Civil hospital Dera Bassi for the final opinion of Dr. Akaaljot Kaur. She made her opinion vide endorsement Ex. P3/5. On 06.12.2018, he arrested the accused Pastor Akbar Bhatti vide memo Ex. P13/1 and conducted his search vide memo Ex. P13/2. He also arrested the accused Rajesh Chaudhary vide memo Ex. P13/3 and conducted his search vide memo Ex. P13/4. He also arrested the accused Sucha Singh vide memo Ex. P13/5 and conducted his search vide memo Ex. P13/6. He also arrested the accused Pastor Jatinder Kumar vide memo Ex. P13/7 and conducted his search vide memo Ex. P13/8. He further deposed that on 10.12.2018, he joined the prosecutrix into investigation of the present case. He along with prosecutrix went to Apna Palace, Zirakpur, where he prepared rough site plan Ex. P13/9 at the instance of the prosecutrix and he recorded her statement. On 28.02.2019, he arrested the accused Sitar Ali vide memo Ex.P9/1 and conducted his search vide

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

memo Ex. P9/2. He also arrested the accused Sandeep @ Pehlwan vide memo Ex. P9/3 and conducted his search vide memo Ex. P9/4. He recorded the statements of witnesses during his investigation. He identifies all the accused in the court. He has also proved the case property i.e. car MO1 in the court. He has also proved one mobile phone MO-2 and one watch MO-3 in the court. He has proved the report of Punjab State Cyber Crime in Judicial File, which is Ex.PX.

28. PW14 HC Jaskaran Singh has deposed that on 06.12.2018, he was posted at PS Zirakpur. He joined the investigation with the IO SI Joginder Singh. IO arrested the accused Pastor Akbar Bhatti vide memo Ex. P13/1 and conducted his personal search vide memo Ex. P13/2. IO also arrested the accused Rajesh Chaudhary vide memo Ex. P13/3 and conducted his search vide memo Ex. P13/4. IO also arrested the accused Sucha Singh vide memo Ex. P13/5 and conducted his search vide memo Ex. P13/6. IO also arrested the accused Pastor Jatinder Kumar vide memo Ex. P13/7 and conducted his search vide memo Ex. P13/8. He witnessed all the above said memos. IO recorded his statement. He identifies the above said accused person in the court.

29. PW15 Jatinder Pal Singh has deposed that he knows nothing about the case, nor he has recorded any statement to the police. He does not identify the accused persons present in the Court being seen them first time in the Court. The witness was declared hostile by the Ld. APP for the State.

30. PW16 ASI Ramesh Lal has deposed that investigation of the present case was marked to him. He received the report of FSL Ex.P16/1 running in two pages alongwith one Pen-drive MO1. He analyze the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

attached pen-drive send by the FSL. The Pen-drive has not contained any material evidence pertaining to the allegations of the complainant and supplementary Challan was prepared by SHO Onkar Singh, whose signatures he identifies. The Pendrive MO1 is opened and played with the computer system in the Court.

31. PW-17 Dr. Vijay Bhagat, Medical Officer has deposed that on 23.04.2018, he conducted the ultrasound of prosecutrix. It was normal study and no unusual activity was seen. He identify his signatures at Point-A and ultrasonography report is Ex.P3/2 and the ultrasound is Ex.PW17/1.

POINTS NO.1 TO 7.

32. These points are being taken up together for the purpose of discussion and decision to avoid unnecessary repetition of facts and evidence. Moreover, these points are interlinked being related to occurrence in question.

33. Perusal of the judicial file reveals that in the present case, the accused persons have been charged with offences punishable under Sections 376 (2) (n), 420, 354, 294, 323, 506, 147, 149 IPC and 67 of IT Act with the allegations that in between 07.09.2017 and 25.12.2017, at various places, the accused Pastor Bajinder Singh has committed repeated rape upon the prosecutrix, without her consent & dishonestly and fraudulently induced Jatinder Pal Singh and two other persons to deliver Rs. 7 Lacs for meeting the expenses to go abroad. There are further allegations against him that the accused Pastor Bajinder Singh published and transmitted the video containing lascivious material relating to the prosecutrix. Further, there are also allegations that on 25.12.2017, in the area of Zirakpur, all the accused

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

formed unlawful assembly for the purpose of beating the prosecutrix and on that day, the accused Pastor Bajinder Singh outraged the modesty of prosecutrix and caused injuries to her. Also, on that day, all the accused in prosecution of the aforesaid lawful assembly, intimidated the prosecutrix to kill her and later on, messaged her.

34. The first contention advanced by the learned defence counsel for the learned defence counsel for the accused Pastor Bajinder Singh is that there is delay of more than 08 months in registration of the FIR from the date of incident and the same has not been explained by the prosecution and thus, the same is fatal to the case of the prosecution.

35. This Court has considered this contention of the learned defence counsel and found no substance in the same. In the present case, the occurrence in question is between 07.09.2017 and 25.12.2017, whereas the FIR has been lodged on 30.04.2018. This Court is of the view that in such type of cases, it is not easy for the prosecutrix to report the matter to the police immediately. This Court is also of the view that in such like offence, it is not easy for family members to disclose the matter to the police or to the relatives as dignity and honour of the family is involved.

36. The learned defence counsel for the accused has relied upon the case law cited in Parkash Chand Versus State of Himachal Pradesh, 2019 (2) R.C.R (Criminal) 40, wherein, it has been held that delay of 07 months in lodging FIR. In cases where sole testimony of prosecutrix is available, it is very dangerous to convict accused, specially when prosecutrix could venture to wait for seven months for filing FIR for rape. The ratio of

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED

this case law is not disputed, however, the facts of the same are not applicable to the facts of the present case.

37. The Hon'ble Supreme Court of India, in its judgment State of Punjab Versus Gurmit Singh and others, 1996(1) RCR(Criminal) 523 has held that the Courts while evaluating evidence must remain alive to the fact that in case of rape (sexual assault), no self respecting woman would come forward in a Court just to make a humiliating statement against her honour such as is involved in the commission of rape on her.

38. This Court is further fortified with judgment of Hon'ble Supreme Court in Satyapal Versus State of Haryana, 2009(2) RCR (Criminal) 778, wherein it has been held in para No.20 as under :-

> "20. This Court can take judicial notice of the fact that ordinarily the family of the prosecutrix would not intend to get a stigma attached to the prosecutrix. Delay in lodging the First Information Report in a case of this nature is a normal phenomenon. Both the Courts below apart from relying on a part of the testimony of the prosecutrix found the evidence of PW-5 to be absolutely reliable. The medical evidence itself being a part of the evidence is required to be appreciated in the context of ocular evidence and other circumstances surrounding thereto."

39. In view of ratio of above said judgments, the delay has no effect on the case of prosecution and the same is not fatal to the case of the prosecution. Accused Pastor Bajinder Singh was threatening the prosecutrix that he will disseminate her obscene videos and photographs. As per the prosecutrix, accused blackmailed her on this pretext. Moreover, accused was having dominance over the prosecutrix as he is a Christian Preacher and used to hold meetings with his followers. Prosecutrix has stated that she

ATTESTED

Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

came into the contact with Ms. Pushpa Salaria, Advocate and after that she got the courage and lodged the FIR. Therefore, the aforesaid contention advanced by the learned defence counsel is not tenable.

40. The next contention advanced by the learned defence counsel for the aforesaid accused is that the accused has been falsely implicated in the present case as no alleged occurrence took place. There is no evidence on record against the accused. He has further submitted that the prosecutrix has alleged that on 07.09.2017, she was taken from the Sethi Dhaba to his residence at Tower No.19, 3rd Floor, Housing Board Flats, Sector 63, Chandigarh and has committed rape upon her and after that, he has committed rape upon her multiple times. Her obscene photographs were prepared. She has also alleged that the accused asked rupees from her on the pretext that he will disseminate her photographs and she collected the money from Jatinderpal Singh and Rs. 4 Lacs were paid to accused Pastor Bajinder Singh on 25.12.2017. In her examination-in-chief, she has denied the occurrence dated 07.09.2017. She was declared hostile. PW12 Urmil Saunda has stated that the accused Pastor Bajinder Singh has vacated the flat on 24.07.2017 and as such, the question of committing the rape upon the prosecutrix on 07.09.2017 does not arise.

41. This Court has considered the aforementioned contention of the learned defence counsel and found no force in the same. As per the case of the prosecution, the accused Pastor Bajinder Singh used to hold meeting with his followers and was having dominance over the people. This Court is of the view that as the prosecution has alleged that the accused had ho

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED

obscene videos and photographs and therefore, due to that reason, she was under the pressure of the said accused and she has lodged the FIR. If the said accused has been falsely implicated in the present case, then during the course of investigation, he could have move the application to the Senior Police Officials. This Court is of the view that in such type of offences, no person will level false allegations of rape. In Indian society, a women would not make such allegation against a person as she is fully aware of the repercussions flowing therefrom. If she is found to be false, she would be looked at by the society with contempt throughout her life. The said accused has failed to prove any motive on the part of the police or the prosecutrix for his false implication. Accused has stated that the prosecutrix was intending to extort money from him but he has not moved any complaint qua this to any authority. Moreover, in this case, the prosecutrix while stepping into the witness box as PW1 has categorically deposed that the accused Pastor Bajinder Singh was extorting money from her on the pretext that he will send other persons abroad. From the testimony of the prosecutrix and photographs, it has been proved on record that she was in contact with the accused Pastor Bajinder Singh. It is not his case that he never met her.

42. In his statement under Section 313 Cr.P.C, the accused Pastor Bajinder Singh has taken a plea that he is innocent. He has been falsely implicated in the present case. He has not committed any offence. The allegations against him are false. From the testimony of the prosecutrix and photographs, it has been proved on record that the prosecutrix was in contact with the accused Pastor Bajinder Singh and he has committed rape upon her.

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

43. Further, in this case, Medical Examination Report of the prosecutrix has been proved on record as Ex. P3/1. At this stage, it will be relevant to reproduce the history/brief description of the incident (as narrated by the prosecutrix/acquaintance).

> **History/brief description of the incident (as narrated by the prosecutrix/acquaintance).**
>
> Prosecutrix d/o Sh. Gurmeet Singh aged 31 years brought by Police Constable Gurjeet Kaur 1753 SAS Nagar at 1.30 PM on 21.4.18 at CHC Dhakoli with alleged history of sexual assault. She works at easily job placement office, Kharar as an owner. Patient got married in 2006 and has 2 children 10 years Mch and 7 and half Mch. DLMP 15.4.17. prosecutrix gives history of off and on sexual assault by the accused since September 2017, 7.9.17 at his residence in Sector 63, 19 no. tower 3rd floor, Mohali and at prosecutrix residence. History of last sexual assault is 29.12.17. According to prosecutrix she was given some sedative in tea when the assault happened for the first time. She came to know about the assault when she was given a video pertaining to the same later. After that, she was blackmailed by the accused of making the video viral in case she did not meet him because of which she got afraid and subsequent sexual assault happened.

44. Similarly, the prosecution has examined PW3 Dr. Alakhjot Kaur, who has conducted the medical examination of the prosecutrix. While appearing into the witness box as such, she has categorically deposed that on 21.04.2018, she has conducted the medical examination of the prosecutrix who was having the history of sexual assault. She has taken the relevant swabs for chemical examiner analysis and DNA analysis. She has proved the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

copy of the copy of MLR as Ex. P3/1 and report of Chemical Examiner as Ex. P3/3. She has testified that as per the said report, spermatozoa was detected in the vaginal swabs and possibility of sexual intercourse cannot be ruled out. Thus, from the aforesaid detailed discussion, the prosecution has proved the guilt of the accused Pastor Bajinder Singh for the offence of rape and there is no force in the aforementioned contention advanced by the learned defence counsel for the said accused.

45. The next contention advanced by the learned defence counsel is that the prosecutrix is habitual in lodging false complaints in order to extort money. FIR No. 106 dated 01.05.2017, under Section 354 IPC, Police Station Sector 17, Chandigarh was lodged by her and the same was quashed by her after making the compromise, by approaching the Hon'ble High Court by filing CRM-M-586-2018, decided on 27.09.2018. She has also lodged another FIR No. 173/2015, under Section 376, 420 IPC, Police Station Rehmbal, District Udhampur. This contention has been opposed by the learned Special Public Prosecutor for the State by submitting that another FIR has also been lodged against the accused Pastor Bajinder Singh. This Court has considered the aforesaid contention advanced by the learned defence counsel for the said accused and found no substance in the same. If any occurrence takes place with any person, then he has right to lodge an FIR against the guilty person and as such, registration of other FIRs have no affect on the present case. It is settled principle of law that each case is to be decided on the basis of facts. Only on the ground that the prosecutrix has lodged other FIRs, it cannot be said that the present case is false one. As

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

already observed above, the prosecutrix while appearing before the Court has categorically deposed about the commission of offence of rape by the accused Pastor Bajinder Singh. Even otherwise, from the photographs proved on record by the prosecution, it has been proved on record that the prosecutrix was in contact with the accused Pastor Bajinder Singh.

46. The next contention advanced by the learned defence counsel for the accused Pastor Bajinder Singh is that there are material contradictions in the testimony of the prosecutrix. In her statement before the police, she has stated that accused Pastor Bajinder Singh called her on 07.09.2017 and took her to Tower No.19, 3rd Floor, Housing Board Flat, whereas in her examination-in-chief, she stated that she went there by booking a cab and after taking the tea, she became unconscious. In police statement, she speaks regarding passport, whereas in her statement in the Court, she did not speak about passport.

47. In her statement to the police, she has stated about the fact of contacting Jatinder Pal Singh after she met Bajinder Singh on 07.09.2017, when for the first time, she was told about UK trip. She speaks of her beatings after 25.12.2007, giving of money by Jatinder Pal Singh to Bajinder Singh, therefore, according to her, the incident is after 25.12.2017 when she asked about the deleting of obscene videos and when she asked about return of money of Jatinder Pal Singh. She says giving of beatings to her on 25.12.2017 by Jatinder Pastor, Akbar, Rajesh Chaudhary and Sandeep Pehalwan. She does not speak of beatings by Bajinder Singh nor speaks of rape in car. However, before the Court, she speaks of giving beatings on

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

27.08.2017 and she has introduced two vehicles. The rape allegations in the car was of 27.08.2017. This fact is neither in her statement to the police nor in the FIR. Here, she stated giving of beatings before the money given by Jatinder Pal Singh.

48. He has also pointed out the contradictions in the examination in chief and cross-examination of the prosecutrix. In her examination, she has stated that in the month of June-July, Pastor Bajinder Singh had called her at Flat No. 2060. She went there by booking a cab. She went to the office of Pastor who offered her a cup of tea. After consuming tea, she became unconscious. When she gained her consciousness, she was at her home. She does not know as to how she reached home. Then the complainant stated that after few days she was called to meeting. Again Pastor Bajinder offered her a cup of tea and after consuming the same, she became unconscious. When she regained consciousness, she was at her home and did not know how she reached home. However, in her cross-examination, she has stated that she had not got recorded such statement to the police. In her examination-in-chief, she has stated that on 27.08.2017, Pastor Bajinder Singh used to call her in Flat No. 2060, Sector 63, Chandigarh by threatening her that he would disseminate her obscene video. She has stated that she used to go there for one month. She used to go there after every 3-4 days and he used to commit rape upon her. However, in her cross-examination, she has stated that she had not got recorded such statement to the police. In her further cross-examination, the witness has stated that she had not stated in her statement dated 20.04.2018, 23.04.2018 and 23.07.2018

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

that on 27.08.2017, Pastor Bajinder Singh used to call her in his flat by threatening her that he would disseminate her obscene video. She has stated that she had not stated to police that she used to do there for month and after 3-4 days, he used to commit rape upon her. In her examination-in-chief, she speaks of the event dated 07.09.2017 and she has stated that on that day, accused Bajinder Singh had called her at the aforesaid flat but she refused to go there. Later on, he told her not to come there as some neighbourer had made a complaint against him. Then, he sent his driver Sandeep Pehalwan in his car at Sethi Dhaba, Zirakpur and he took her in that car. On the way, Pastor Bajinder singh was standing outside one restaurant. He sat in the car and took her towards Ambala Highway. However, she was confronted with her statement dated 20.04.2018 Ex. P1/1 and mark DA to Mark DC but the said facts were not found recorded there. She has further stated in her cross-examination that she had not stated to the police that on the day of Christmas i.e. 25.12.2017, she arranged Rs. 4 Lacs from Jatinder Pal Singh on the pretext of sending him abroad and gave the same to Pastor Baljinder Singh. Even she has stated that she had not got recorded with the police her statement as to the fact that on 01.12.2017, there was function of Church at Kalagram and she asked Bajinder Singh to hand over her videos as she does not want to do anything wrong with the public. She also stated having not recorded the statement to the police that she was operated upon on 06.01.2018 for kidney stone and had stopped going to the Church. She has also stated having not made statement to the police regarding the facts of receiving the call from Akbar to come to Church and he threatened on Whatsapp when she stated to him that she would make a complaint against

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

him. In her cross-examination, she has denied having made statement to the police regarding the fact that she discussed the matter with Priyanka and also informed senior members of Church and nobody trusted her. She also denied having recorded her statement with police to the effect of telling of NGO run by Sarbjit, brother of Priyanka and her meeting to Sarabjit and told him what happened with her. She further denied having got recorded the statement to police regarding the fact of advise given to her by Sarabjit Singh to meet Pushpa Salaria, Advocate and he told her that accused is rich man and can manage all things in Police Station.

49. He has also pointed out the contradictions made in her statement under Section 164 Cr.P.C and before the Court. In her statement under Section 164 Cr.P.C, she has stated that in the month of May-June 2017, the accused had called her at Sector 63 Housing Board Flat No.2060 at 3rd Floor and the accused sent his Fortuner type vehicle bearing No. 9292. She went there as usual to meet the accused. She stated that accused told telephonically that there is some important work. He sent his driver Sandeep Pehalwan. However, in her testimony before the Court, she has stated that in the month of June-July, Pastor Baljinder Singh had called her at Flat No. 2060. She went there by booking a cab. She went to the office of Pastor who offered her a cup of tea after consuming tea, she became unconscious. When she gained her consciousness, she was at her home. She does not know as to how she reached home. Then, the complainant stated that after few days she was called for meeting. Again Pastor Bajinder offered her a cup of tea and after consuming the same, she became unconscious when she regained consciousness she was at her home and did not know how she reached

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

home. She has also stated in her statement under Section 164 Cr.P.C. she has stated that after the church time was over on 27.08.2017, the accused Bajinder Singh had been calling her and threatened her on mobile. At last, she reached Apna Palace Kishangarh on Activa. There is one isolated road in between Apna Palace and Dhaba and the Fortuner of accused bearing No. 9292 was parked and one Innova of red colour was also there. The nephew of Bajinder namely Akbar took her Activa to Church. Bajinder Singh and Jatinder took her forcibly in Fortuner type car bearing No. 9292. Other persons like Sucha Singh, Sitar Ali were in red Innova. In Fortuner No. 9292, Bajinder Singh, Rajesh Chaudhary and Jatinder were present. Sandeep Pehalwan was driving the same. When the said vehicle was on Ambala Zirakpur road, they stopped the same midway. Earlier, she had been put her mobile on recording but in car, she could not do so for the reason that the accused had snatched her mobile. They started threatening in car that she had to come to church. The accused started touching inappropriately her private parts and said that she will otherwise mend and he would tell her. When she opposed, the accused had beaten her and threatened that she would not do any harm to him as he purchase the persons with money. Then they turned their vehicle and had left her outside church near Apna Palace. She asked about the video but he did not tell. She came back home with fear on her Activa. Whereas, in her statement before the Court, she stated to have gone to Apna Palace where meeting was going on but again said that the meeting was over. She further stated that on 27.08.2017, accused Akbar parked her Activa inside and took her forcibly in Fortuner Car. The car was driven by Sandeep Pehalwan and Bajinder Singh and Rajesh Chaudhary.

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

were sitting on the rear seat. She was sitting in between them. Other accused persons were sitting in red Innova Car. They took her to Ambala Highway and stopped the car and gave her beatings after stopping the car. Pastor Bajinder stated to her that he has obscene video and photographs with him. She stated that she asked him to show but he refused to do so. She has further stated that then Bajinder Singh committed rape upon her in the car. In her statement under Section 164 Cr.P.C, she has stated that as per directions of accused Pastor Bajinder Singh, she had been collecting money from people visiting the church. This money was taken from people on the pretext of sending them abroad. During such period, he had been committing the rape upon her. This continued till December 2017. He had been torturing her also apart from rape on the pretext as to why she was not collecting money from public. However, in her testimony before the Court, she has stated that she arranged Rs. 4 Lacs from Jatinder Pal Singh on the day of Christmas i.e. on 25.12.2017 on the pretext of sending him abroad and gave it to Prophet Bajinder. She further stated to have been operated upon for kidney stone on 06.01.2018 and thereafter, she stopped going to Church. Then, she told that Akbar requested her on phone to come to Church and when she refused, he threatened her on mobile. He has also pointed out some other minor contradictions. Thus, there are material contradiction in the testimony of the prosecutrix and therefore, no reliance can be placed upon her testimony.

50. This Court has considered the aforesaid contention advanced by the learned defence counsel for the accused and found that there is no force in it. No doubt, there are some minor contradictions in her testimony but it

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

is a settled principle of law that while appreciating the evidence of a witness, minor discrepancies on trivial matters which do not affect the core of the case of the prosecution, must not prompt the Court to reject the evidence in its entirety. Moreover, only on the basis of minor contradictions in the testimony of the prosecutrix, the case of the prosecution cannot be thrown out. Moreover, this Court is of the view that minor contradictions are bound to occur and the same has no affect on the case of the prosecution. This Court is fortified with the case law laid down by the Hon'ble Supreme Court in **Rohtash Kumar Versus** State of Haryana 2013(3) RCR(Criminal) 355, wherein it has been held as under: -

> "It is a settled legal proposition that while appreciating the evidence of a witness, minor discrepancies on trivial matters which do not affect the core of the case of the prosecution, must not prompt the Court to reject the evidence in its entirety. Therefore, unless irrelevant details which do not in any way corrode the credibility of a witness should be ignored. The court has to examine whether evidence read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief. Thus, the court is not supposed to give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter, and shake the basic version of the prosecution witness. Thus, the court must read the evidence of a

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

> witness as a whole, and consider the case in light of the entirety of the circumstances, ignoring the minor discrepancies with respect to trivial matters, which do not affect the core of the case of the prosecution. The said discrepancies as mentioned above, should not be taken into consideration, as they cannot form grounds for rejecting the evidence on record as a whole."

This Court is further fortified with the case law held by the Hon'ble Supreme Court of India in case titled as **Mukesh and another Versus State for NCT of Delhi and others, Criminal Appeal Nos. 607 of 2017 (arising out of SLP (Criminal) Nos. 3119-3120 of 2014), decided on 05.05.2017**. The relevant para No.96 of the same is being reproduced as under:-

> 96. As we find, the trial court has come to the conclusion that the incident has been aptly described by PW-1, the injured. The injuries on his person do show that he was present in the bus at the time of the incident. His presence is further confirmed by the DNA analysis. Suffice it to say for the present, the contradictions in the statement, Ex.PW-1/A, are not material enough to destroy the substratum of the prosecution case. From the studied analysis of the evidence of PW-1, it is the only inevitable conclusion because the appreciation is founded on yardstick of consideration of totality of evidence and its intrinsic value on proper assessment.

51. The learned defence counsel for the accused has relied upon the case law cited in **Rai Sandeep @ Deepu Versus State of NCT of Delhi, (2012) 79 ACrC 292**, wherein, it has been held by the Hon'ble Supreme Court of India that appreciation of evidence, sterling witness should be of a very high quality and caliber whose version should be unassailable. Court considering version of such witness should be in a position to accept it for its

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

face value without any hesitation. To test quality of such a witness status of witness would be immaterial. What would be relevant is truthfulness of statement made by such a witness. It should be natural and consistent with case of the prosecution qua accused. There should not be any prevarication in version of such witness.

52. He has also relied upon the case law in Santosh Prasad alias Santosh Kumar Versus State of Bihar, (2020) 3 Supreme Court Cases 443, wherein, it has been held that *alleged rape of married lady after house trespass. Conviction of accused solely relying upon deposition of prosecutrix. Sustainability, material contradictions present in deposition of prosecutrix. Further, neither any independent witness nor even medical evidence supporting prosecution case and FSL report also not supporting prosecution case. Variation in prosecution's version about giving complain. Prosecutrix failing to pass tests of "sterling witness". Delay in lodging FIR, also present. Presence of enmity/dispute between both parties with respect to land, evident from records. In absence of any other supporting evidence, accused entitled to benefit of doubt.*

53. He has further relied upon the case law held by the Hon'ble Supreme Court of India in State (GNCT of Delhi) Versus Vipin @ Lalla, Criminal Appeal No. 94 of 2025 (arising out of SLP (Crl.) No. 11687 of 2019). The relevant Paras No. 10 to 12 of the same are being reproduced as under:-

> 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

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

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 found 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.

54. The ratio of the aforesaid case laws is not disputed but the same is not applicable to the facts of the present case. Thus, in view of the aforesaid ratio of case law and detailed discussion, there is no force in the aforementioned contention advanced by the learned defence counsel for the accused. Even otherwise, the learned defence counsel for the accused has failed to point out any major discrepancy in her testimony. Moreover, the aforesaid minor contradictions pointed out by the learned defence counsel for the accused has no affect on the case of the prosecution. The contradictions pointed out by the learned defence counsel do not affect the core of the case of the prosecution. The evidence of the prosecution cannot be rejected only on these minor contradictions. While appreciating the whole testimony, this Court is of the view that testimony of the prosecutrix is

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

trustworthy and reliable. This Court is of the view that omissions, contradictions and discrepancies do not shake the basic version of the prosecutrix. Taking into consideration that the accused Pastor Baljinder Singh was having dominance over the prosecutrix and state of mind of the rape victim, contradictions are bound to occur. Moreover, the aforesaid minor contradictions cannot go to the root of the case.

55. The next contention advanced by the learned defence counsel for the accused is that as per version of the prosecutrix, rape was committed upon her on 07.09.2017. Three photographs Ex. D14 to Ex. D16 were put to the prosecutrix, in which, she seems to be enjoying the function held at Jalandhar and from the same, it is clear that she was not under any threat. This Court has considered the aforesaid contention advanced by the learned defence counsel for the accused and found no substance in the same. Perusal of the judicial file reveals that while appearing into the witness box as PW1, she has categorically deposed about the threats given to her by the accused Pastor Bajinder Singh and thus, from the same, it is crystal clear that the accused has threatened her. The prosecutrix has alleged that the accused was having her obscene videos and photographs, which he made when she was unconscious. Accused used to threatened her to attend meetings, if on the asking of the accused Bajinder Singh, she was seen enjoying the functions, it cannot be said that no offence has been committed. Moreover, it is not the case of the accused person that there were consensual relations between them. Accused has denied the allegations levelled by the prosecutrix. As per criminal jurisprudence, it is for the prosecution to prove the guilt of the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

accused beyond reasonable doubt. There is also presumption of innocence in favour of the accused person. This Court is of the view that in the present case, the prosecution has been able to prove its case beyond reasonable doubt against the accused Pastor Bajinder Singh. Only on the basis of photographs, it cannot be said that no occurrence took place.

56. The next contention advanced by the learned defence counsel representing the aforesaid accused is that the allegations of making obscene videos by the accused, is nullified by the Cyber Cell Report. All the data was extracted from the phone of the accused but nothing incriminating was found. This Court has considered the aforesaid contention advanced by the learned defence counsel for the accused and found no substance in the same. Perusal of the judicial file reveals that while appearing into the witness box as PW1, she has categorically deposed about making of her obscene videos. She has categorically deposed that the accused shown her the aforesaid obscene videos and shown to her and on the basis of the same, he has threatened her to disseminate the same. Only on the ground that the aforesaid obscene videos were not recovered from the mobile of the accused, it cannot be said that the aforesaid accused has not committed any such offence. It is quite possible that as the mobile phone was in possession of the accused person and as such, he had deleted the photographs and videos from the same. Thus, there is no force in the aforementioned contention advanced by the learned defence counsel for the accused.

57. The contention of the learned defence counsel for the accused Pastor Bajinder Singh is that in the report Ex. PW3/3, from the vaginal

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

swabs of the prosecutrix, spermatozoa was found in the year 2018. This means that she was sexually involved during that period. This Court has considered the aforesaid contention advanced by the learned defence counsel for the said accused and found no force in the same. Record of the case shows that in the present case, on 21.04.2018, medical examination of the prosecutrix was got conducted from the concerned hospital. She has stated that in between 07.09.2017 and 25.12.2017, the accused Pastor Bajinder Singh has committed rape upon her. It has been proved on record that the prosecutrix is a married lady and therefore, only on the ground that spermatozoa was found in the year 2018 and she was having physical relations with some other person, no benefit can be given to the accused. This Court is of the view that from the same, the said accused cannot absolve his criminal liability. No doubt, the prosecutrix has stated that she has been living separately from her husband but the prosecutrix is a major lady and as such, any major lady can make physical relations with the person of her choice. Thus, this Court is of the view that only on the ground that spermatozoa was found in the year 2018, no benefit of the same can be given to the said accused.

58. The contention of the learned defence counsel for the accused is that PW12 Urmil Saunda has stated that the accused Pastor Bajinder Singh has vacated the flat on 24.07.2017 and as such, the question of committing the rape upon the prosecutrix on 07.09.2017 does not arise. This Court has considered the aforementioned contention advanced by the learned defence counsel for the accused and found no substance in the same. Record of the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

case shows that in this case, as per the case of the prosecution, on 07.09.2017, the accused Pastor Bajinder Singh took the prosecutrix to his house at Tower No. 19, 3rd Floor, Housing Board Flat, Sector-63, Chandigarh, where, he has committed rape upon her. Record of the also shows that PW-12 Urmil Saunda while stepping into the witness box has deposed that he owned a house no. 3219, Sector-51, Chandigarh. She rented out the said house to Pastor Bajinder Singh in the month of May, 2017. He alongwith his wife Ankita were residing there. They were running prayer classes and wife of Pastor namely Ankita was giving music classes there. Some members of the locality raised objections due to loud noise of the music. Due to this reason, they got vacated their house from Pastor Bajinder Singh in the month of July, 2017. Thereafter, she rented out the said house to Anil Kumar on 03.09.2019 and handed over the possession to him. After seeing the affidavit dated 07.08.2018, she has proved the copy of the same as Mark P12/1. She further deposed that inadvertently date of vacation of house was mentioned as 24.07.2018 and re-rent out date was mentioned as 01.09.2018. However, same was vacated on 24.07.2017 and re-rented out on 01.09.2017. In this case, the FIR was lodged on the basis of the statement of the prosecutrix, in which, she has categorically stated that on 07.09.2017, the accused Pastor Bajinder Singh took her to the aforesaid flat, where he has committed rape upon her. In her statement under Section 164 Cr.P.C, she has stated that she was called in the month of May-June 2017 in the housing board flat of Sector 63, Chandigarh. Supplementary statement of the prosecutrix was also recorded, wherein, also, she has made the allegations of rape against the accused Pastor Baljinder Singh. As per the testimony of

(Vikram Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

PW12 Urmil Saunda, the flat in question was vacated from the accused Pastor Bajinder Singh in the month of July 2017. This Court is of the view that in her first statement to the police, the prosecutrix has stated the date of occurrence as 07.09.2017. This Court can think over the trauma of the rape victim under what circumstances, she could be undergoing. This Court is of the view that as in her supplementary statement recorded before the police, she has stated that the accused has taken her to the flat in question in the month of May-June 2017 and this fact corroborates the version of prosecutrix. It has been proved on record that accused Bajinder Singh was residing in the aforesaid flat. No doubt, before 07.09.2017, the flat in question was got vacated by the landlady but the prosecutrix in her statement under Section 164 Cr.P.C and supplementary statement dated 10.12.2018 has clarified the same. Thus, vacation of flat in the month of July, has no affect on the merits of the case.

59. The contention of the learned defence counsel for the accused is that the prosecutrix has alleged that on 27.08.2017, she went to Apna Palace, Zirakpur to attend a prayer meeting and there, the accused Pastor Bajinder Singh took her in his car and touched her inappropriately. He has further submitted that on 27.08.2017, Section 145 of Cr.P.C was imposed in effect as Baba Gurmit Ram Rahim was held guilty by the Court and quantum of sentence was passed on 28.08.2017. Therefore, it was not possible to hold a meeting of 1000-1500 persons. There was no such meeting as Sec. 144 Cr.P.C was ordered, not to gather more than 5 persons. This Court has considered the aforesaid contention advanced by the learned defence counsel

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

for the accused and found no substance in the same as no cogent evidence regarding imposition of curfew on the aforesaid date, has been proved on record by the accused.

60. Moreover, in the considered opinion of this Court, unless an offence has really been committed, no boy or girl would say that any such incident has taken place which is likely to reflect on his/her chastity and he/she would also be conscious of the danger of being ostracized by the society, because it would indeed be difficult for him/her to survive in Indian society, which is not as advance as the western countries are. This opinion is also fortified with judgment of Hon'ble Supreme Court Wahid Khan Versus State of Madhya Pradesh, 2010(1) RCR(Criminal) 151 and relevant extract of this judgment is also reproduced as under :-

> "It is also a matter of common law that in Indian society any girl or woman would not make such allegation against a person as she is fully aware of the repercussions flowing therefrom. If she is found to be false, she would be looked at by the society with contempt throughout her life. For an unmarried girl, it will be difficult to find a suitable groom. Therefore, unless an offence has really been committed, a girl or a woman would be extremely reluctant even to admit that any such incident ha taken place which is likely to reflect on her chastity. She would also be conscious of the danger of being ostracized by the society. It would indeed be difficult for her to survive in Indian society, which is of course, not as forward-looking as the western countries are."

Further, Hon'ble Supreme Court of India in judgment Mohammad Imran Khan Vs. State (Government of NCT of Delhi), 2012(1) RCR (Criminal) 75 has held that a woman, who is prosecutrix of sexual assault, is not an accomplice to the crime but is a prosecutrix of

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

another person's lust. The prosecutrix stands at a higher pedestal than an injured witness as she suffers from emotional injury. Therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. It has further been held that Indian Evidence Act, 1872 nowhere states that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 of Evidence Act and her evidence must receive the same weight as is attached to an injured in cases of physical violence. Same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. If Court keeps this in mind and feels satisfied that it can act on the evidence of prosecutrix, there is no rule of Law or practice incorporated in Evidence Act similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason, the Court is hesitant to place implicit reliance on the testimony of prosecutrix,it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. If totality of circumstances appearing on the record of case disclose that prosecutrix does not have a strong motive to falsely involve the person charged, the Court should ordinary had no hesitation in accepting her evidence. Relevant extract of this judgment is also reproduced hereafter:-

> "15. It is a trite law that a woman, who is the prosecutrix of sexual assault, is not an accomplice to the crime but is a prosecutrix of another person's lust. The prosecutrix stands at a higher pedestal than an injured witness as she suffers from emotional injury. Therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The Indian Evidence Act, 1872 (hereinafter called 'Eviden

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

Act'), nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 of Evidence Act and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence. The court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations. Rape is not merely a physical assault, rather it often distracts the whole personality of the prosecutrix. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence. (Vide: State of Maharashtra v. Chandraprakash Kewalchand Jain, 1990(1) R.C.R.(Criminal) 411 ; State of U.P. v. Pappu @Yunus & Anr. 2005(1) R.C.R.(Criminal) 568 : 2004(3) Apex Criminal 702 ; and Vijay @ Chinee v. State of M.P., 2010(3) R.C.R.(Criminal) 794 : 2010(4) Recent Apex Judgments (RAJ) 330 : (2010) 8 SCC 191).

Thus, the law that emerges on the issue is to the effect that statement of prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

accused on the sole testimony of the prosecutrix."

61. Seven clauses have been specified in Section 375 IPC in respect of consent which are enumerated below :-

> "First – Against her will.
>
> Secondly. - Without her consent.
>
> Thirdly. - With her consent when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.
>
> Fourthly. - With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
>
> Fifthly.- With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
>
> Sixthly.- With or without her consent, when she is under eighteen years of age.
>
> Seventhly.- When she is unable to communicate consent.

62. Part I of Section 90 of IPC stands as follows :-

> "A consent is not such a consent as it intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception".

63. In the present case, it has been proved on record that the accused Pastor Bajinder Singh has committed rape upon the prosecutrix against her will and without her consent. Rape is a most morally and physically reprehensible crime in a society and assault on the body, mind

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

and privacy of the prosecutrix. A rapist degrade and defile the sole of a helpless female. By no means, a rape prosecutrix can be called an accomplice. Rape leaves permanent scars on the life of the prosecutrix.

64. In this case, the accused Pastor Bajinder Singh has been charge sheeted for the offence under Section 354 IPC. At this stage, it will be relevant to reproduce the provision of Section 354 IPC, which is as under:-

> 354. Assault or criminal force to woman with intent to outrage her modesty. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

65. In the present case, the prosecutrix while appearing into the witness, she has deposed that in the month of June-July 2017, accused called her to his flat at Chandigarh, where she after taking tea became unconscious. She has stated that on 27.08.2017, the accused gave beating to her and committed rape upon her. After 27.08.2017, he also committed rape upon her. On 07.09.2017, he committed rape upon her in the car. This Court has held that the accused has committed rape upon the prosecutrix and the prosecutrix has not deposed that the accused has molested her. In her statement Ex. P1/1, she has levelled the allegations regarding molestation by the co-accused. This Court is of the view that as the accused Pastor Bajinder Singh has been held guilty for the offence under Section 376 (2) (n) IPC, he is not required to held guilty for the offence under Section 354 IPC.

66. Perusal of the judicial file reveals that the accused Pastor Bajinder Singh has also been charge sheeted for the offence under Section

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

323 IPC as there are allegations against him that he has caused injuries to the prosecutrix. The prosecutrix while appearing into the witness box has categorically deposed that the accused gave beatings to her. She has deposed that on 07.09.2017, Pastor Bajinder Singh again called her at above said flat, but she refused to go there. He called her number of times, but she did not pick up his call. Later on, he told her not to come there as some neighborers of the flat made a complaint against him. Later on, he sent his driver Sandeep Pehlwan in his car make Fortuner at Sethi Dhaba, Zirakpur. He took her in that car. On the way, Pastor Bajinder Singh was standing outside one restaurant. He also sat in the said car and they took her towards Ambala highway. Sandeep Pehlwan was driving the car and Pastor Bajinder Singh was sitting on the back seat and he gave her severe beatings. He also showed her obscene videos. After seeing the said videos, she came to know that Pastor Bajinder Singh has committed rape upon her. At that time also, he committed rape upon her in the car by sending his driver Sandeep Pehlwan outside. He threatened her that she has to do as per his wishes. Thereafter, she started doing everything as per his wishes. On the asking of Pastor Bajinder Singh, she collected the money from people on the pretext of sending them abroad. She handed over that money to Pastor Bajinder Singh. It was continued upto 31.12.2017 and on the day of Christmas i.e. 25.12.2017, she arranged Rs. 4 Lacs from Jatinderpal Singh on the pretext of sending him abroad and gave the same to Pastor Bajinder Singh. This Court is of the view that from the testimony of the prosecutrix, it has been proved on record that the accused has caused simple hurts to the prosecutrix. The prosecutrix was subject to cross-examination but nothing favourable to the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

accused person have come out from her cross-examination. To prove the offence under Section 323 IPC, oral testimony of the prosecutrix is sufficient and as such, the prosecution has been able to prove the offence under Section 323 IPC against the aforesaid accused person.

67. Further, the accused Pastor Bajinder Singh has also been charge sheeted for the offence under Section 506 IPC with the allegations that he has committed criminal intimidation by threatening her. It will be relevant to mention the Section 506 IPC which is being reproduced as under:-

> **506. Punishment for criminal intimidation**
>
> Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;
>
> If threat be to cause death or grievous hurt, etc- and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 152[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or With fine, or with both.

68. In the present case, from the testimony of the prosecutrix, it has come on record that the accused Pastor Bajinder Singh has made criminal intimidation as he has threatened her. She has deposed that on 27.08.2017, the accused gave threats to her. The oral testimony of the prosecutrix is sufficient to prove the said section. She was subject to cross-examination but nothing favourable to the accused has come out from her cross-examination. Moreover, the said accused person has failed to prove on record any motive

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

or enmity for his false implication. Thus, the guilt of the said accused for commission of offence under Section 506 IPC is proved and as such, he is liable to be convicted for the said offence.

69. The accused Pastor Bajinder Singh has also been charge sheeted for the offence under Section 420 IPC as there are allegations against him that he has dishonestly and fraudulently induced Jatinderpal Singh and his two known persons, to deliver Rs.7 Lacs for meeting the expenses for going abroad. In this case, the aforesaid Jatinder Pal Singh has appeared into the witness box as PW15 and while appearing as such, he has not supported the version of the prosecution as he has deposed that he knows nothing about the case, nor he has recorded any statement to the police. He does not identify the accused persons present in the Court being seen them first time in the Court. Thereafter, he was declared hostile at the instance of the learned Special Public Prosecutor for the State and he was subject to cross-examination by the learned Special Public Prosecutor for the State, however, nothing favourable to the prosecution has come out from his cross-examination. Moreover, there is nothing on record to prove the aforesaid allegations against the accused Pastor Bajinder Singh and as such, the prosecution has failed to prove on record his guilt for commission of offence under Section 420 IPC.

70. The accused Pastor Baljinder Singh has also been charge sheeted for the offence under Section 67 of the Information Technology Act, 2022 as it is the case of the prosecution that the said accused has published and transmitted the video containing lascivious material relating to the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

prosecutrix, which was likely to deprave and corrupt minds of the viewers.

71. Section 67 of the IT Act is the principal provision that criminalize the publication or transmission of "obscene material" in any electronic form and constitutes an offence. Section 67A of the IT Act, is a more aggravated offence, prescribing enhanced punishment than the preceding provision. It does so by further amplifying the scope of 'obscene material' by stipulating that any obscene material that contains or depicts any sexually explicit act or conduct, when published or transmitted shall be punishable under the said provision.

72. Record of the case shows that the prosecutrix has alleged that the accused has made her obscene video with his mobile phone. Perusal of the judicial record shows that the mobile phone of the accused was taken into police possession and the same was sent to the Punjab State Cyber Crime Cell, SAS Nagar and report of the same has been proved as Ex. PX. At this stage, it will be relevant to reproduce the result of examination of the aforesaid laboratory, which is as under:-

> **RESULT OF EXAMINATION.**
>
> The exhibit after proper process have been opened in the Mobile Forensics Lab. The data available in the Exhibits under question has been forensically extracted through Mobile Forensic Investigation tool by the Cyber Team.
>
> Ex-1: The data from Mobile phone make Samsung galaxy S6 edge (Model:-SM-G9251) has been extracted through physical extraction with Mobile Forensic tool (UFED Cellebrite). Soft copy of extracted data (size of data 56.8) is being provided in PFD format. (Page 1 to 662338).
>
> Ex-1 (A): The data from the SIM card of JIO has been extracted with Mobile Forensic Tool (UFED Cellebrite). Soft copy of extracted data (Size of data 192 KB) is being provided in PDF format. (Page 1 to 2).

ATTESTED
Stenogra
ASJ, Moha

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

Ex-2: The data from Mobile phone make ZEN (Model:- Atom103) could not be due to non-compatibility issue with the Mobile Forensic Tool.
Ex-2 (A): The data from the SIM card of Lycamobile has been extracted with Mobile Forensic Tool (UFED Cellebrite). Soft copy of extracted data (Size of data 404 KB) is being provided in PDF format. (Page 1 to 3).
Ex-3: This is an Analog watch and has no digital storage capability/connectivity port.

73. Moreover, the prosecution has not proved on record any obscene video, from which, it could be ascertained that the accused was having any obscene video of the prosecutrix. This fact falsify the story put forth by the prosecutrix that the accused has made her obscene video with his phone. Therefore, the prosecution has also failed to prove the guilt of the accused for commission of aforesaid offence under Section 67 of the IT Act.

74. The learned defence counsel for the accused Pastor Bajinder Singh has relied upon the case law cited in **Manak Chand @ Mani Versus The State of Haryana, 2023 AIR (Supreme Court) 5600, Parmod Kumar Rastogi Versus Government of NCT of Delhi and others, 2019 Cri.L.R. (SC) 1, Hem Raj s/o Moti Ram Versus State of Haryana, 2014 (2) SCC 395, Abbas Ahmad Choudhary Versus State of Assam, 2010 (2) R.C.R. (Criminal) 120 and Ram Kishan Singh Versus Harmit Kaur and another 1972 AIR (Supreme Court) 408**. The ratio of these case laws is not disputed but the same are not applicable to the facts of the present case.

75. Perusal of the judicial file reveals that in this case, the accused Akbar Bhatti, Rajesh Chaudhary, Jatinder Kumar, Sitar Ali and Sandeep Pehalwan have been charge sheeted for commission of offences under

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

Sections 148, 354, 323 and 506 read with Section 149 IPC.

76. As rightly pointed out by the learned defence counsel for the aforesaid accused persons that in this case, the prosecutrix has alleged that on 07.09.2017, the accused Pastor Bajinder Singh has telephonically called her at Sethi Dhaba, Zirakpur at 06/07.00 PM and told her to bring her passport. She accordingly went to Sethi Dhaba with passport. Accused Pastor Bajinder Singh was sitting in his fortuner car bearing registration No. CH01BG9292 at back seat, whereas the Driver was accused Sandeep Pehalwan. The accused Bajinder Singh made her sit in his car alongwith him and took her to his residence at Tower No.19, 3rd Floor, Housing Board Flat, Sector 63, Chandigarh and he told her that after few days he is to go to UK and he would take her also alongwith him. On the pretext of taking her abroad, accused Bajinder Singh has made physical relations with her. From the same, it is clear that the role of accused Sandeep Pehalwan was only as a Driver of the aforesaid Fortuner.

77. Further, the prosecutrix has alleged of taking her by the accused Pastor Bajinder Singh many times to flat and making physical relations against her consent after 07.09.2017. However, there is no role attributed to any of the accused persons. Similarly, regarding providing of intoxicated tea to her and making her unconscious and preparation of obscene videos, the prosecutrix has not stated any role of the aforesaid accused persons.

78. Also, the prosecutrix has alleged that accused Bajinder Singh has told her one day that for going abroad, lacs of rupees are spent and she should contact the known persons and collect the money for sending abroad and then, both would go abroad. When she refused to collect money, then

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

the accused Pastor Baljinder Singh has threatened her to disseminate her obscene video and asked her that she would do all that what he would say, otherwise he would disseminate the video and entire world will see. From the same also, it is clear that the prosecutrix has not told anything about the aforesaid accused persons.

79. The prosecutrix has also alleged that she got contacted her known person Jatinder Pal Singh of Kharar with accused Pastor Bajinder Singh and after 2-3 meetings with him, the said Jatinder Pal Singh paid Rs. 3 Lacs to accused Pastor Bajinder Singh on 25.12.2017 on eve of Christmas at Sethi Dhaba and then Jatinder Pal Singh collected Rs. 2 Lacs each from his two known persons and handed over the amount to Bajinder Singh but nobody was sent abroad. Here also, she has not stated the role of any of the aforesaid accused.

80. She has stated that she knew that accused Pastor Bajinder Singh had defrauded. She has asked Pastor Bajinder Singh that the obscene video be deleted and asked to return the amount of Jatinder Pal Singh and others as they were demanding money from her. Thus, no allegations has been levelled against the aforesaid accused persons.

81. Regarding beating to her by different pastors and persons, she has stated that out of the revenge, accused Pastor Bajinder Singh got her beaten from Jatinder Pastor, Akbar Pastor, Satar Ali, Sucha Singh, Rajesh Choudhary, Sandeep Pehalwan after the meeting held at Apna Palace and they abused her, touched her private parts and insulted her. They also threatened that she would be killed if she had disclosed the occurrence to anybody outside and out of fear, she did not disclose the same to anyone

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

However, no specific date and time has been stated by her as to when and which time, the aforesaid crime was committed by them. She has not deposed about their guilt while appearing into the witness box.

82. From the facts & circumstances of the case & from the entire oral as well as documentary evidence produced and proved on record by the prosecution, the prosecution has not been able to prove their guilt for commission of aforesaid offences. The prosecution has failed to prove that they have formed an unlawful assembly for the purpose of giving beatings to the prosecutrix & in prosecution of the aforesaid unlawful assembly, outraged the modesty of prosecutrix and caused injuries to her and criminally intimidated the prosecutrix. The maxim 'falsus in uno, falsus in omnibus' is not applicable in India as held by Hon'ble Supreme Court in Ranjit Singh Versus State of Madhya Pradesh, 2011(4) SCC (Criminal) 336. In Balaka Singh and Others Versus The State of Punjab, AIR 1975 (SC) 1962, Hon'ble Supreme Court has held as under :-

> "The court must make an attempt to separate grain from the chaff, the truth, from the falsehood yet this could only be possible when the truth is separable from the falsehood. Where the grain cannot be separated from the chaff because the grain and the chaff are so inextricably mixed up that in the process of separation the Court would have to reconstruct an absolutely new case for the prosecution by divorcing the essential details presented by the prosecution completely from the context and the background against which they are made, then this principle will not apply".

ATTESTED
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

83. The testimony of the prosecutrix against the accused Pastor Bajinder Singh is trustworthy and credible. Only on the ground that her testimony has not been believed against the co-accused, testimony against accused Pastor Baljinder Singh cannot be thrown out. There is no evidence against Akbar Bhatti, Rajesh Chaudhary, Jatinder Kumar, Sitar Ali and Sandeep Pehalwan. In this regard, learned defence counsel for the said accused persons has rightly argued and therefore, there is force in the contentions advanced by the learned defence counsel for the accused Akbar Bhatti, Rajesh Chaudhary, Jatinder Kumar, Sitar Ali and Sandeep Pehalwan and therefore, they are acquitted for the charges framed against them.

84. Keeping in view of the aforesaid detailed discussion, ratio of the case laws, facts and circumstances and entire oral as well as documentary evidence on record, the prosecution has been able to prove the guilt of the accused Pastor Bajinder Singh for the offences under Sections 376 (2) (n), 323 and 506 IPC. However, the prosecution has failed to prove on record his guilt for the offences under Sections 420, 148, 354 IPC and 67 of Information Technology Act and as such, he is acquitted for the same. Accordingly, the accused Pastor Bajinder Singh stands held guilty and convicted for the offences under Sections 376 (2) (n), 323 and 506 IPC. He be taken into custody. Let, the convict Pastor Bajinder Singh be heard on the quantum of sentence on 01.04.2025.

PRONOUNCED IN OPEN COURT.
ON:- 28.03.2025.

(VIKRANT KUMAR)
ADDITIONAL SESSIONS JUDGE,
FAST TRACK SPECIAL COURT,
SAS NAGAR
(UID No.PB00213).

SHIV PARTAP,
JUDGMENT WRITER (SENIOR GRADE).

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

IN THE COURT OF VIKRANT KUMAR,
ADDITIONAL SESSIONS JUDGE,
Fast Track Special Court,
(to primarily try offences of rape and under POCSO Act)
SAS Nagar (UID No.PB00213)

CNR No.PBSA01008508-2018.
CIS No. SC/208/2018.
Date of Institution :- 17.11.2018.
Date of sentence : 01.04.2025.

State

Versus

Pastor Bajinder Singh S/o Jagdish Mahal R/o Flat No. 2260, Sector 48-C, Star Enclave, Chandigarh.

.....Convict.

FIR No.128 dated 20.04.2018.
Under Sections : 376, 420, 354, 294, 323, 506, 147, 149 IPC r/w 67 of IT Act,
Police Station: Zirakpur.

Present; Sh. Dilpreet Singh, Special Public Prosecutor for the State assisted by Sh. Anil Sagar, Sh. Sumit Sawhney and Sh. Mohit Verma, Advocates for the complainant/prosecutrix.
Convict Pastor Bajinder Singh in custody represented by Sh.H.S.Dhanoa & Sh. Sant Pal Singh Sidhu, Advocates.

QUANTUM OF SENTENCE:-

The aforesaid convict has been produced in the Court by the concerned Jail Authorities. Plea of the convict has been recored, wherein, he has stated that he has three children, out of which, one is son and two are daughters. His wife is suffering from spine problem. Due to rod put in his leg, he remains uncomfortable. He is sole bread winner in his family and a lenient view may kindly be taken on him.

Learned counsel for the convict has submitted that Court has to see the sentence from a reformative angel. He has submitted that first time,

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

he has been convicted. He is Preacher of Christian religion and has many followers. Convict is serving the humanity with honesty and dedication and doing several social services and religious work. He used to hold large prayer meetings. He has submitted that he has minor children and old ailing parents. Wife is suffering from spine problem.

He has referred the judgment of Hon'ble Supreme Court of India in case titled as **Mohd. Giasuddin Versus State of A.P., 1977 AIR (Supreme Court) 1926**. The relevant paras no. 3 to 8 are being reproduced as under:-

> 3. Now we enter the areas of punitive treatment of criminals, assuming that the guilt has been brought home. Certain elemental factors are significant strands of criminological thought. Since the whole territory of punishment in its modern setting is virtually virgin so far as our country is concerned we may as well go into the subject in some incisive depth for the guidance of the subordinate judiciary. The subject of study takes us to our cultural heritage that there is divinity in every man which has been translated into the constitutional essence of the dignity and worth of the human person. We take the liberty of making an Indian approach and then strike a cosmic note.
>
> 4. Progressive criminologists across the world will agree that the Gandhian diagnosis of offenders as patients and his conception of prisons as hospitals mental and moral - is the key to the pathology of delinquency and the therapeutic role of 'punishment. The whole man is a healthy man and every man is born good. Criminality is a curable deviance. The morality of the law may vary, but is real. The basic goodness of all human beings is a spiritual axiom a fall-out of the advaita of cosmic creation and the spring of correctional thought in criminology.
>
> 5. If every saint has a past, every sinner has a future, and it is the role of law to remind both of this. The Indian legal

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

genius of old has made a healthy contribution to the word treasury of criminology. The drawback of our criminal process is that often they are built on the bricks of impressionist opinions and dated values. Ignoring empirical studies and deeper researches.

6. India, like every other country, has its own crime complex and dilemma of punishment. Solutions to tangled social issues do not come like the crack of dawn but are the product of research and study, oriented on the founding faiths of society and driving towards that transformation which is the goal of free India. Man is subject to more stresses and strains in this age than ever before, and a new class of crimes arising from restlessness of the spirit and frustration of ambitions has erupted. White-collar crime, with which we are concerned here, belongs to this disease of man's inside.

7. If the psychic perspective and the spiritual insight we have tried to project is valid, the police billy and the prison drill cannot 'minister to a mind diseased', nor tone down the tension, release the repression, unbend the perversion each of which shows up as debased deviance, violent vice and behavioral turpitude. It is a truism, often forgotten in the hidden vendetta in human bosoms, that barbarity breeds barbarity, and injury recoils as injury, so that if healing the mentally or morally maimed or malformed man (found guilty) is the goal, awakening the inner being, more than torturing through exterior compulsions, holds out better curative hopes.

8. An aside, A holistic view of sentencing and a finer perception of the effect of imprisonment give short shrift to draconian severity as self-defeating the fillips meditational relaxation, psychic medication and like exercises as apt to be more rewarding. Therefore, the emphasis has to be as much on man as on the system, on the inner imbalance as on the outer tensions. Perhaps the time has come for Indian criminologists to rely more on Patanjali sutra as a scientific curative for crimogenic factors than on the blind jail term set out in the Penal Code and that may be why Western

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

researchers are now seeking India Yogic ways of normalising the individual and the group.

He has also referred to the judgment of Hon'ble Punjab & Haryana High Court in **Mukesh Kumar Versus The State of Haryana and another, Law Finder Doc ID# 2521035**. Para No. 8 of the same is being reproduced as under:-

> 8. In Deo Narain Mandal v. State State of UP (2004) 7 SCC 257, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench in Ravada Sasikala v. State of AP AIR 2017 SC 1166, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

This Court has considered the request made by the convict and

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

the contentions of the learned counsel for the convict. This Court is of the view that the convict was having dominance over the prosecutrix and by misusing his position as Christian Preacher, he has committed such a heinous offence.

The determination and awarding of adequate sentence commensurate with the gravity of the offence is judicial obligation. Sexual violence apart from being a dehumanizing act is an unlawful intrusion on the right of privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity. A rapist not only causes physical injuries but more indelibly leaves a scar on the most cherished possession of a girl i.e. her dignity, honour, reputation and not the least her chastity. In these circumstances, every perpetrator of rape should be punished expeditiously, severally and strictly.

In **State of Madhya Pradesh vs Babu Lal, AIR 2008 SC 583**, Hon'ble Supreme Court has held as follows keeping in mind the interest of victim of the crime in particular and the impact on society in general:-

> "25. In justice-delivery system, sentencing is indeed a difficult and complex question. Every court must be conscious and mindful proportion between an offence committed and penalty imposed as also its impact on society in general and the victim of the crime in particular."

Further, in the case **B. G. Goswami Vs Delhi Administration (1974) 3 SCC, 85**, it has been held that social impact of the crime, particularly where it relates to an offence against woman cannot be lost sight and perse requires exemplary treatment. Liberal attitude of imposing meagre sentence or too sympathetic view can be counter productive in the

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

long run and against social interest which needs to be cared for protected and strength by string of deterrence in-build in the sentencing system.

It has been held in the case law reported as **Ramher Vs State (Government of NCT) of New Delhi 2015 (3) RCR (Criminal) 422** by Hon'ble Delhi High Court that in ancient times an individual's acts were driven by self righteousness based on morals and values he imbibed. Treading on the path of precedents these morals and values took the form of laws. Sadly over the years, these very morals started deteriorating and need arose for more and more stringent laws in order to maintain law and order and to govern the human behaviour. Shockingly, in recent years the crime growth of rape cases has increased to an alarming proportion giving an impression that there is no deterrence, despite rape laws have been made stringent through the Recent Amendment Act, 2013. Every act of rape and sexual assault on a woman deserves severe condemnation and award of requisite punishment in accordance with law but even out of such cases, the most barbaric act and unsavory is rape of a minor child which leads one trembling.

Convict prays for mercy and leniency on the ground that he is the sole bread winner of his family. However, this Court is of the view that the convict has committed the offence has committed a serious offence and he has convicted for the offence under Sections 376 (2) (n), 323 and 506 IPC. Keeping in view the gravity of the offence, for which, the convict has been convicted by this Court, he does not deserve leniency. There are no mitigating circumstances in the present case. Thus, the convict is sentenced as under :-

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

ATTESTED
Stenographer
ASJ, Mohali

Under Section	Sentence
376 (2) (n) IPC	To undergo rigorous imprisonment for life, which shall mean imprisonment for the remainder of natural life and to pay fine of **Rs.1,00,000/-** and in default of payment of fine to further undergo rigorous imprisonment for a period of **six months**.
323 IPC.	To undergo rigorous imprisonment for a period of **one year**.
506 IPC.	To undergo rigorous imprisonment for a period of **one year**.

All the sentences shall run concurrently. The period of detention already undergone by convict in police custody, judicial custody and during trial, shall be set off & adjusted towards substantive sentence. Case property, if any, be dealt with as per law after the period of appeal or revision.

Invoking the provisions of Section 357-A Cr.P.C.-Victim compensation scheme, this Court is of the considered opinion that since prosecutrix has suffered loss as a result of crime, a recommendation is made to the District Legal Services Authority, who shall decide quantum of compensation to be awarded under victim compensation scheme and award adequate compensation as per the procedure laid down in Section 357-A Cr.P.C. Copy of this judgment be sent to District Legal Services Authority, SAS Nagar for compliance. Copy of the judgment be supplied to the convict free of costs. File be consigned to the concerned Judicial Record Room.

PRONOUNCED IN OPEN COURT.
ON:- 01.04.2025.

(VIKRANT KUMAR)
ADDITIONAL SESSIONS JUDGE
FAST TRACK SPECIAL COURT
SAS NAGAR
(UID No.PB00213).

SHIV PARTAP,
JUDGMENT WRITER (SENIOR GRADE).

Certified to be true copy
Stenographer
ASJ, Mohali

(Vikrant Kumar)
Additional Sessions Judge,
(Fast Track Special Court), SAS Nagar

No. & Date of Application 57/01.04.2025
Name of Applicant Pastor Bajinder Singh
Urgent Fee Nil
No. of Pages 74
Date of Preparation 01/04/2025
Date of Delivery 01/04/25