

**Sunil Kumar Vs. State of H.P.**

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**Court :** Himachal Pradesh

**Decided On :** Dec-24-2004

**Reported in :** 2005CriLJ2512

**Judge :** M.R. Verma, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 376 and 511; ;Code of Criminal Procedure (CrPC) - Sections 161 and 313

**Appeal No. :** Criminal Appeal No. 410 of 2004

**Appellant :** Sunil Kumar

**Respondent :** State of H.P.

**Advocate for Def. :** H.K.S. Thakur, Dy.A.G.

**Advocate for Pet/Ap. :** Om Parkash, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

**M.R. Verma, J.**

1. This appeal is directed against the judgment dated (sic) 9-2004 rendered by the learned Presiding Officer (Additional Sessions Judge), East Track Court, Kangra at Dharamshala, whereby the appellant-accused (hereinafter referred to as the

accused) has been convicted under Sections 376/511 of the Indian Penal Code and sentenced to rigorous imprisonment for three-and-a-half years and fine Rs. 3,000/-and in default of payment of fine, to undergo imprisonment for six months.

2. The case of the prosecution against the accused is that in the first half of the year 2000 he was posted as a teacher in Government Primary School, Takhnahar. PW-3, then aged about 12 years, was a student of IV Class in the said school. In the month of May, 2000, it was noticed by Durgi Devi (PW-11) mother of PW-3 that PW-3 was reluctant to go to school, therefore, on 12-5-2000 she enquired from PW-3 as to why she was reluctant to go to school whereas earlier she had been going to school happily. On such query, PW-3 divulged that about 15 to 20 days before the accused took her in a room in the school, opened her Salwar and after sitting on the chair, opened the chain of his pant and then made her to sit on his legs and started doing wrong act with her. When she felt pain, she cried whereupon she was slapped by the accused. PW-3 further revealed that the accused had been similarly dealing with certain other minor girls such as PW-10 and PW-12. When Paras Ram (PW-17), father of PW-3, came to know about it, he went to the houses of the girls who were dealt with by the accused in the manner as narrated by PW-3 and in-formed their parents. On inquiries made from those girls, it was found that the accused had been indulging in such acts with the girls as and when other teacher of the school was absent from the school due to leave etc. The matter was, therefore, reported by PW-17 to the police on the basis of which FIR Ext. PW-17/A was registered at Police Station Shahpur and investigation in the matter followed. During the investigation five victims of the accused (PW-3, PW-4, PW-10, PW-11 and PW-12) were got medically examined and the MLCs. about their medical examination are Exts. PW-1/A, PW-1/B, PW-1 /C, PW-1 /D and one unexhibited MLC dated 23-5-2000. As per the aforesaid MLCs., the victims were referred for examination by the Gynaecologist whose opinion on each MLC is at Exts. PW-16/A, PW-16/ B, PW-16/C, PW-16/D and PW-16/E. The accused on arrest was also got medically examined and MLC about his medical examination is Ext. PW-2/E and as per medical opinion, he was found potent. Opinions about the skeleton ages of the victims were also obtained which are Exts. PW-15/C, PW-15/D, PW-15/E, PW-15/F and PW-15/G. Site plan of the place of occurrence, as prepared by the Investigating Officer, is Ext. PW-21/A.

Statements of the material witnesses were also recorded by the police under Section 161 of the Code of Criminal Procedure. On the basis of the material so collected, a charge-sheet was submitted against the accused who came to be tried initially by the learned Additional Sessions Judge (II), Dharamshala and later by the learned Additional Sessions Judge (Presiding Officer, Fast Track Court) on a charge under Section 376 of the Indian Penal Code.

3. To prove the charge against the accused, prosecution examined as many as 21 witnesses. Statement of the accused under Section 313 of the Code of Criminal Procedure was recorded. He led defence evidence and examined two witnesses. On consideration of the material on record, the learned trial Court held the accused guilty of the commission of an offence punishable under Section 511 read with Section 376 of the Indian Penal Code and accordingly convicted and sentenced him as aforesaid. Hence, this appeal by the accused.

4. I have heard the learned counsel for the accused and the learned Deputy Advocate General for the respondent-State and have also gone through the records.

5. The charge-sheet against the accused was submitted by the police under Sections 376/511 read with Section 376 of the Indian Penal Code and he was tried on a charge under Section 376 of the Indian Penal Code. The trial Court held him guilty of the offence of attempt to commit rape and these findings have not been called in question by the 2005 Cri. L. J./158 VII State in any manner.

6. The learned counsel for the accused, while assailing the impugned conviction/sentence, contended that the case against the accused had been engineered by PW-17 by investigating the parents of (victims) and tutoring the child witnesses because of personal enmity and there is no cogent, reliable and trustworthy evidence to prove the charge against the accused.

7. On the other hand, the learned Deputy Advocate General contended that the charge against the accused is fully proved in view of the evidence of the victims whose statements are not only confidence inspiring but also corroborated by the statements of their parents and a teacher. Therefore, the findings of the trial Court

cannot be faulted with and the appeal deserved to be dismissed.

8. It may be pointed out that the medical evidence led by the prosecution in the case admittedly does not lend any corroboration to the statements of the victims, therefore, the fate of the case hinges entirely on the oral evidence consisting of the statements of the victims, i.e. PW-3, PW-4, PW-10, PW-11 and PW-12 sought to be corroborated by the evidence of one eye-witness namely Om Prakash (PW-18) and those witnesses to whom the victims are stated to have disclosed the occurrence, i.e. Birdu Devi (PW-6) mother of PW-4, Chanchala Devi (PW-7) mother of PW-10, Taripta Devi (PW-8) mother of PW-12, Raghubir Singh, teacher (PW-9), Kailasho Devi (PW-13) mother of PW-11, Durgi Devi (PW-14) mother of PW-3 and Paras Ram (PW-17) father of PW-3.

9. The most material witnesses in the case are PW-3, PW-4, PW-10, PW-11 and PW-12 who were at the relevant time of tender age. A child of tender age, though not by reason of youth as a matter of law, absolutely disqualified as a witness yet the evidence of such evidence may not be readily acceptable if there are reasons to believe that the child witness has been tutored. If the child witness had been found to have proper understanding about the sanctity of the oath and was examined on oath and the circumstances rule out the possibility of such witness having been tutored and the testimony otherwise is confidence inspiring, his testimony has to be given due weight. All the abovesaid witnesses at the time of giving evidence were more than 12 years of age and the trial Court after being satisfied of their understanding the sanctity of oath, examined them on oath.

10. The other aspect of the matter is that all these child witnesses stand on the (same) footing as a prosecutrix in a rape case. Therefore, their testimony has to be treated at par with that of a prosecutrix in a rape case subject to aforesaid limitations.

11. It is in view of the above broad principles that the evidence of the child witnesses call for scrutiny.

12. PW-3 has stated that she was studying in 4th standard in the concerned school in 2000. On 12th day of a month name whereof she could not recollect,

when another teacher of the school was not present, the accused called her to a room and asked her to open the string of her Salwar. On her refusal, the accused threatened that he would beat her. Out of fear she opened the string of her Salwar and the accused opened the jip of his pant and placed his private part on her private part and when she felt pain she begged for being let off. After sometime the accused let her off and threatened not to disclose the occurrence to anyone otherwise he would kill her and struck her name from the school. The school Water Carrier at that time had gone to fetch water. After 8/9 days she narrated the occurrence to her mother and had not stated about the occurrence earlier because of the threat given by the accused to struck off her name. In her cross-examination she has stated that she was called by the accused on 12-5-2000, that she did not divulge the occurrence to her girl classmates, that on inquiry by Headmaster and Pradhan, she had denied the occurrence. She has, however, denied that the statement was made by her as taught by her mother.

13. As per the case of the prosecution, the act and conduct of the accused came to light when on 12-5-2000 PW-3 was reluctant to go to school, though, otherwise she used to go to school happily. Her mother (PW-14) enquired reasons for her reluctance to go to school and she narrated the occurrence to her mother and it was thereafter when her father (PW-17), having learnt about the incident from his wife, that he reported to the police that the accused had been indulging in such acts in the absence of the other teacher with PW-3 and other girls during the period from February to May, 2000. There is unchallenged and unrebutted evidence of the other teacher of the school (PW-9) that from 7th of April till 7th of May, 2000 he remained on census duty. The question, therefore, arises as to whether the statement of PW-3, should be altogether rejected and disbelieved for the aforesaid admissions made by her in her cross-examination. I am of the view that her statement as a whole cannot be rejected or disbelieved in view of the aforesaid admissions. In her examination-in-chief she had not given the exact date of the occurrence and has simply stated that it was 12th day of some month of the year 2000. It is in her cross-examination that she has given the date of occurrence as 12-5-2000 whereas, as stated hereinabove, on 12-5-2000 she had narrated the occurrence to her mother. It may be stated that the aforesaid statement was made by PW-3 after two years of the occurrence, therefore, her giving the date of oc

currence as 12-5-2000, after expiry of about 2 years of the occurrence can be attributed to lapse of memory and will have no material bearing on her credibility.

14. At the relevant time she was a child of about 11 years of age and as per her version, was under threat from the accused not to divulge the occurrence to anybody other wise she would be done to death and her name would be struck off from the school. Therefore, her not disclosing the occurrence to her classmates or to the Headmaster or Pradhan also does not discredit her testimony about the occurrence having taken place. Her admission that she had made the statement to the police at the instance of her mother, also does not make much difference because of her age at the relevant time and it can be safely assumed that keeping in view her age, she might be reluctant to state anything before the police and must have been asked by her mother to state the facts to the police. It is moreso because of her denial to the suggestion that whatever she stated to the police, was taught by her mother. Therefore, if her statement is corroborated by other evidence on record, she cannot be disbelieved.

15. PW-4 has stated that in the year 2000 she was a student of 4th class in Primary School Takhnabar and the accused was one of the teachers posted there and one Indu Ram was the water carrier. In the month of February, 2000 the accused called her to a separate room, sat on the chair and asked her to open the string of her Salwar. When she refused to do so, the accused threatened her to be killed, thereupon she opened the Salwar and the accused opened the chain of his pant and placed his penis on her vagina. When PW-4 felt pain, she asked the accused as to what he was doing and she be let off. The accused threatened her that in case she revealed the occurrence to anyone, her name would be struck off from the school. She, however, narrated the occurrence to her mother after 10 or 15 days. She has been cross-examined at length and there is nothing material in her cross-examination on the strength of which her version may be doubted. On the contrary, she has denied the suggestion that she had been guided by anybody to depose in the manner as she had deposed and also denied further suggestion that she had made the statement at the instance of Paras Ram (PW-17) in order to falsely implicate the accused in the case. It may be noticed here that she is not shown to be so related to Paras Ram so as to make her to make a false

statement. Thus, the version of this witness remains unshaken in the cross-examination.

16. PW-10 has stated that in the year 2000 she was student of 4th class in the aforesaid school and the accused was one of the teachers there and Indu was the water carrier. When the other teacher used to be absent from the school, the accused would call them in the other room one by one. When she was so called, the accused asked her to open the string of her Salwar and on her refusal she was threatened by the accused and because of the fear when she opened the string of her Salwar. the accused opened the jip of his pant and did 'BESHARM GAL' with her. On cross-examination by the Public Prosecutor, she admitted that the accused had opened the string of her Salwar and sat on the chair. However, she denied that she was made to sit on the legs of the accused or he placed his penis on her vagina or that she asked the teacher as to what he was doing. She has, however, admitted that she was told by the accused that she would be beaten by him if she narrated the occurrence to anyone, however, she narrated the incident to her mother. She has further admitted that on the date of incident the other teacher and the water carrier were not present in the school.

17. On cross-examination for the accused, she has stated that the incident took place in March, 2000. She has denied the suggestion that Paras Ram (PW-17) had visited her house 5-6 times and insisted upon her to institute a false case against the accused. Thus there is nothing in her cross-examination which may materially affect her credibility.

18. PW-11 stated that in the year 2000 she was a student of 4th class in the aforesaid school. Raghubir (PW-9) and the accused were two teachers there and one Indu was the water carrier. On 12-5-2000 the accused took her to a small room, opened the string of her Salwar and jip of his pant and inserted his private part in her private part. She felt pain and begged the accused to let her off. After sometime he let her off and told her not to reveal the incident to anybody and in the event of her disclosing the occurrence, he would beat her and struck off her name from the school. On the date of occurrence, the other teacher and the water carrier were not present in the school and she narrated these facts when the

police arrested the accused and before that she had not disclosed the incident because of the fear that her name would be struck off from the school. In her cross-examination, she has stated that before 12-5-2000 she was not taken to the room by the accused and that she had narrated the incident to her mother on the same day. She has further stated that the police had come to the school where after interrogation, her statement was recorded. She has further admitted that she did not sustain injury on her private part nor any bleeding took place nor she raised alarm nor wept. She has further admitted that she was made aware about what she had already stated and what she was to state in the Court and she had stated accordingly. She has, however, denied the suggestion that she had made a false statement against the accused or that she has deposed falsely at the instance of Paras Ram. To clarify the confusion in her statement, she was questioned by the Court whether whatever she had stated had actually happened or somebody had tutored her. She answered that whatever she had stated was true and she had stated what had happened. In the cross-examination she denied that the accused was on leave on 12-5-2000.

19. It may be pointed out here that it is a fact established on record that on 12-5-2000 the accused was on leave. The date of occurrence has been given by the witness for the first time in the Court when examined after about 2 years of the occurrence, therefore, it appears that she had given incorrect date of the occurrence because of lapse of time and solely for that reason her statement cannot be said to be unreliable.

20. PW-12 has stated that on 12-5-2000 she went to the accused to show her notebook and the accused pressed the skin of her stomach with nails, i.e. he pinched her and forced her to open the string of her Salwar and opened the jip of his pant. In the meanwhile, Indu had come and the accused set her free. She disclosed the occurrence to her mother after the arrest of the accused and before his arrest she had not disclosed because of the threat given by the accused that he would struck off her name from the school. She has further stated that on the date of occurrence the other teacher was not present in the school. In the cross-examination, she re-affirmed the date of incident as 12-5-2000 but was confronted with her statement under Section 161 of the Code of Criminal Procedure wherein

she had not given the date of the occurrence. Therefore, her giving the above date of occurrence after about 2 years of the occurrence has no material bearing on her evidence. Otherwise there is nothing material in her cross-examination which may render her statement unreliable.

21. As seen hereinabove, all the victim girls have supported the version that the accused called them to a room, made them to remove their Salwars then after removing the jip of his pant, attempted to commit rape on them. As already stated hereinabove, all these witnesses stand on the same footing as a prosecutrix in a rape case. The trial Court, after having satisfied itself that these witnesses were capable of making statements on oath. Therefore, in view of the settled position that in a case, as in hand, the Court has to examine the broader possibilities than disbelieving the prosecution case on minor contradictions not going to the root of the case, there is no reason not to accept the evidence of these witnesses. It is moreso when their statements are corroborated on material particulars by other witnesses.

22. PW 6 mother of PW-4 has stated that PW-4 was student of 4th class in the aforesaid school and she narrated the incident to her after the registration of the case and that she stated about Master Sunil or Sushil. No doubt she was permitted to be cross-examined by the Public Prosecutor because it appears that she did not make full disclosure of the facts stated to her by PW-4 and on her cross-examination by the Public Prosecutor she has stated that PW-4 opened the string of the Salwar under fear and the accused opened jip of his pant and tried to commit rape and when PW-4 felt pain The accused let her off. Though other details of the occurrence with her daughter has been denied by her but such a denial can be for want of her daughter's giving her full details of the occurrence or failure of the witness to ask full details of the occurrence or she had forgotten about the details because of lapse of time as she was examined after about two years of the occurrence.

23. PW-7 mother of PW-10 has stated that her daughter was a student of 4th class at the relevant time in the aforesaid school and she narrated the incident to her about four or five days prior to the arrival of the police. She has further stated that

PW-10 had told her that when the other teacher was absent from the school, the accused called her in the room, opened the string of her Salwar and committed 'GALAT KAM' and that her daughter might not have narrated the incident on the date of occurrence because of the fear of the accused and that the water carrier was also not present on the day of incident. In the cross-examination she has stated the date of occurrence as 12-5-2000 which apparently does not seem to be correct in view of admitted facts of the case. However, this lapse can be because of lapse of memory.

24. PW-7 has made two material admissions in her cross-examination, i.e. (i) that when enquiries were made from her daughter by the Pardhan. Headmaster and the Police, her daughter stated that nothing had happened to her, and (ii) that the case has been lodged at the instance and pressure of Paras Ram. Insofar as the admission that the case has been lodged at the instance and pressure of Paras Ram is concerned, it has no material bearing because the case, i.e. FIR has been lodged by Paras Ram himself and not by PW-7. So far as the denial of the occurrence by PW-10 is concerned, that is attributable to the age of PW-10 at the relevant time. This conclusion is strengthened by the fact that when the other teacher of the school, namely, Raghbir Singh (PW-9) made enquiries from the victim girls and the teacher about the incidents, all of them denied the occurrence but when PW-9 inquired from the victim girls at a solitary place, they informed him that they were teased by the accused. Further version of PW-9 is that they did not give the details of the alleged teasing because of shame. Thus, the reluctance of PW-10 to divulge the truth before the aforesaid persons at the first instance, can be attributable to her being ashamed of narrating the occurrence or may be due to threat given to her by the accused.

25. PW-8 mother of PW-12 has stated that when her daughter was a student of 4th class in the aforesaid school in the year 2000, she was adamant not to go to school and on enquiries made from her, she stated that the teacher had teased her a day before. PW-8 then went to the school along with her daughter and enquired from the accused about the incident but he refused the allegations. However, other girls also narrated about the activities of the accused. It is further in her evidence that the other teacher and the Peon were absent on the date of

incident. However, she denied the details of the incident. In the cross-examination by the accused, she has stated that the Headmaster of the School when enquired from her daughter, she said that nothing had happened with her and the accused had not teased her. This admission may be for the reason stated hereinabove as all the girls were reluctant to divulge the occurrence because of shame as stated by PW-9.

26. PW-9 has stated that he was on census duty from 11th April to 7th May, 2000 and in his absence the accused was present in the school. On 8th of May, 2000 some ladies came to him and informed him that in his absence the accused committed some offence with the girls. He summoned the accused and the girls and on enquiries the girls informed him that nothing had happened to them and the accused also refuted the charges. Thereafter he took the girls, namely, Archana, Pushpa, Durjila and another girl, to a solitary place and made enquiries from them. They informed him that the offence had been committed by the accused with them. When he enquired about the full details of the offence, they informed him that the accused teased them. However, because of feeling ashamed, they did not divulge further details of the incidents. It is also in his evidence that he enquired from other students and the water carrier but they did not support the version of the victim girls. Evidently, the acts committed by the accused were of the nature which could not have been committed in the presence of others except the victims. Therefore, if other students were not aware of it, the benefit thereof cannot be given to the accused. In so far as the water carrier is concerned, he used to come to the school in the morning and evening and is stated not to be present at the time of the incidents by all the victim girls, therefore, his ignorance about the incidents is also of no benefit to the accused. Be it stated here that this witness (PW-9) is a colleague of the accused not shown to be inimical towards him, therefore, there is no reason to assume that he would make a false statement to the effect that when he enquired from the victim girls at a secluded place they informed him that the accused had teased them but did not divulge the details because they were feeling ashamed.

27. PW-13 mother of PW-11, has stated that her daughter was studying in 4th class in the year 2000 and she informed her that the accused teased her. She has

further stated that she was told by her daughter that her Salwar was put off by opening the string thereof and the accused then did some unlawful act with her and that she was so informed by her daughter 6 or 7 days before the arrival of the police. She informed her husband. She has further stated that she was also informed by her daughter that at the relevant time other teacher and the water carrier were not present in the school. In her cross-examination she also stated the date of occurrence as 12-5-2000. However, this date appears to have been given by all the witnesses which they have given in the cross-examination incorrectly because of lapse of time. She has admitted having not reported the matter to the police but once the investigation in the matter had started and the police had approached her daughter for making a statement, it was hardly necessary for her to have lodged a separate report to the police.

28. PW-14 mother of PW-3 has stated that her daughter was studying in 4th standard in the aforesaid school in the year 2000 when she informed her that the accused called her in the room and teased her, i.e. 'CHHER-CHHAR KARTA HAT. As per conception of the witness, 'CHHER-KHANI' means 'GANDI BAT BOLTA HAI'. She has also not given further details of the occurrence and has denied that her daughter was made nude by the accused and attempted rape upon her. She has, however, admitted that at the time of incident the accused was alone in the school. She has also stated that the date of occurrence was 12-5-2000. This admission may be because of lapse of time and cannot be attached much importance. She has denied any quarrel between the accused and her husband on 10-4-2000 or that she was making a statement at the instance of her husband.

29. PW-17 father of PW-3 has stated that he was informed by his wife that PW-3 was not going to school and when she enquired about the reasons therefor, the daughter divulged that the teacher used to call her in a separate room and opened the string of her Salwar and after opening the jip of his trousers, tried to commit rape on her. He has further stated that he came to know about it on 12-5-2000. He has further stated that he was informed that the accused had been behaving in the same manner with some other girls also. He has proved FIR Ext. PW-17/A as having been lodged by him on 19-5-2000. The only lacuna in his statement is that he has stated that the occurrence is of the period when his daughter was studying

in second class and was 7 years of age. This witness has also been examined after two years of the occurrence, therefore, these particulars may have been stated by him because of the effect of the time that had elapsed in between. He has also denied any quarrel with the accused in the Jagrata.

30. PW-18 was a classmate of the victim girls. He has denied the occurrence to be within his knowledge. As stated hereinabove, the acts imputed to the accused were not capable of being committed openly and viewed by others. Therefore, the statement of this witness is not of any help either to the prosecution or to the accused.

31. The aforesaid witnesses, except PW-18, have also by and large supported the version given by the victim girls and being mothers/ father of the victims, perhaps avoided making full disclosure presumably keeping in view the future of their daughters.

32. The defence of the accused is that the occurrence is stated to be of 12-5-2000 when he was on leave and was not present in the school. This version of the accused appears to be correct even in view of the admission made by PW-17 and statement of Inspector Kushal Kumar (PW-21) that on investigation no occurrence was found to have taken place on 12-5-2000. However, as already stated hereinabove, it is merely on suggestion in the cross-examination or their keenness to pinpoint the date of occurrence which appears to have led some of the PWs to state that the date of occurrence was 12-5-2000 whereas because of the time that had lapsed between the occurrence and making statements by them, it does not seem to be possible that exact date could have been remembered orally. Thus, the absence of the accused from the school on 12-5-2000 by itself is not sufficient to belie the prosecution version that the accused committed the alleged acts on different dates and time during the absence of PW-9 from the school from 11-4-2000 to 7-5-2000.

33. The other defence taken by the accused is that on the date of Jagrata he had a quarrel with PW-17 and reported the occurrence in writing to the Pardhan of the Gram Panchayat, i.e. Sher Singh (DW-2). However, this seems to be a false defence apparently for the reason that the case of the accused, as suggested to

the witnesses, had throughout been that he had made a written complaint about his beating on the night of Jagrata. However, DW-2 while admitting the making of the complaint to him that PW-17 had quarrel with the accused, has denied that such a complaint was in writing. The defence version, thus, is belied partly by the concerned defence witness. It can, therefore, not be accepted that PW-17 registered the case against the accused with a view to falsely implicate him in the commission of the offence. Therefore, the contention raised for the accused in this regard cannot be accepted.

34. It was also contended by the learned counsel for the accused that there had been inordinate delay in lodging the FIR and recording the statements of the material witnesses under Section 161 of the Code of Criminal Procedure. The informant in the case is PW-17. He learnt about the incident qua his daughter (PW-3) on 12-5-2000. He has stated that he tried to patch up the matter and approached the Headmaster of the School but at that time the accused was on leave, therefore, he lodged the report. Thus the reason for not reporting the matter immediately by PW-17, who is admittedly a Gaddi, is the dominant desire not to propagate about the incident which had taken place with his daughter. Thus, the delay in reporting the matter to the police stands . explained.

35. The statements of victim girls . Kanchana, Pushpa Devi and Durjila Devi had been recorded on the next day of the lodging of the FIR and it cannot be said that there had been delay in recording their statements under Section 161 of the Code of Criminal Procedure. The statements of Archana Devi and Durga Devi, no doubt, had been recorded after more than a month. However, from the statement of PW-12 Archana Devi it is evident that she disclosed the incident to her mother only after the accused had been arrested by the police and so is stated by Durga Devi (PW-11). Therefore, they narrated the occurrence to their mothers only after the investigation in the case had started and the accused had been arrested. Therefore, their statements could have been recorded only after they had divulged the occurrence. Hence the delay pointed out in recording their statements has no adverse bearing on the prosecution case.

36. The above discussion leads to the conclusion that the prosecution had proved the charge against the accused and he has been rightly and legally convicted and sentenced by the trial Court. Therefore, the impugned conviction and sentence do not call for any interference.

37. As a result, this appeal merits dismissal and is accordingly dismissed.

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