

**[s 376.4] Two finger Test.—**

The two finger test and its interpretation violate the right of rape survivors to privacy, physical and mental integrity and dignity. Thus, this test, even if the report is affirmative, cannot *ipso facto*, be given rise to presumption of consent. In view of International Covenant on Economic, Social, and Cultural Rights, 1966; United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, rape survivors are entitled to legal recourse that does not re-traumatise them or violate their physical or mental integrity and dignity. They are also entitled to medical procedures conducted in a manner that respects their right to consent. Medical procedures should not be carried out in a manner that constitutes cruel, inhuman, or degrading treatment and health should be of paramount consideration while dealing with gender-based violence. The State is under an obligation to make such services available to survivors of sexual violence. Proper measures should be taken to ensure their safety and there should be no arbitrary or unlawful interference with his privacy.<sup>1214.</sup>

**[s 376.5] Prosecutrix not an accomplice.—**

A prosecutrix complaining of having been a victim of an offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted upon without corroboration in material particulars, for the reason, that she stands on a much higher pedestal than an injured witness.<sup>1215.</sup> A woman, who is the victim of sexual assault, is not an accomplice to the crime but is a victim of another person's lust and, therefore, her evidence need not be tested with the same amount of suspicion as that of an accomplice. The [Indian Evidence Act, 1872](#) nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence.<sup>1216.</sup>

**[s 376.6] Defence that the girl was of easy virtue.—**

Whether the victim of rape was previously accustomed to sexual intercourse or not, cannot be the determinative question. On the contrary, the question still remains as to whether the accused committed rape on the victim on the occasion complained of. Even if the victim had lost her virginity earlier, it can certainly not give a licence to any person to rape her. It is the accused who was on trial and not the victim. So as to whether the victim is of a promiscuous character is totally irrelevant in a case of rape. Even a woman of easy virtue has a right to refuse to submit herself to sexual intercourse to anyone and everyone, because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. A prosecutrix stands on a higher pedestal than an injured witness for the reason that an injured witness gets the injury on the physical form, while the prosecutrix suffers psychologically and emotionally.<sup>1217.</sup> In *Narender Kumar v State (NCT of Delhi)*,<sup>1218.</sup> the Supreme Court dealt with a case where the allegation was that the victim of rape herself was an unchaste woman, and a woman of easy virtue. The Court discussed *Rajoo v State of MP*,<sup>1219.</sup> and held that so far as the prosecutrix is concerned, mere statement of prosecutrix herself is enough to record a conviction, when her evidence is read in its totality and found to be worthy of reliance. The incident in itself causes a great distress and humiliation to the victim though, undoubtedly a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The Court further held that some facts exist proving that victim was habituated to sexual intercourse, cannot be a reason to draw an inference that she was of 'loose moral character'. This cannot be a reason for her to be raped; she also has a right to protect her dignity and refuse to submit to sexual intercourse by anyone. Merely because a woman is of easy virtue, her evidence cannot be discarded on that ground alone rather it is to be cautiously appreciated.<sup>1220.</sup>

[s 376.7] **Past Sexual conduct of Victim.—Legislative changes.—** [s 376.8] **Section 155(4) of Indian Evidence Act, 1872 removed.—**

Under [section 155\(4\) of Indian Evidence Act, 1872](#) the credit of a witness may be impeached when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character. This clause was omitted by Act 4 of 2003, section 3 (w.e.f. 11 December 2002) whereby the defence is prohibited from impeaching prosecutrix's testimony on the basis of her past sexual history.

[s 376.9] **Insertion of new section 53A in Indian Evidence Act, 1872.—**

By the [Criminal Law \(Amendment\) Act 2013](#) a new section (53A) was inserted in the [Indian Evidence Act, 1872](#) in which it is clearly stated that where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent. [Section 53A of Evidence Act; Evidence of character or previous sexual experience not relevant in certain cases.—In a prosecution for an offence u/ss. 354, 354A, 354B, 354C, section 354D, 376, 376A, 376B, 376C, 376D or 376E of the Indian Penal Code \(45 of 1860\) or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.](#)

[s 376.10] **Amendment to section 146 of Indian Evidence Act, 1872.—**

By the [Criminal Law \(Amendment\) Act, 2013](#) the proviso to [section 146 of the Indian Evidence Act, 1872](#) was substituted by a new proviso which prohibits to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.<sup>1221</sup>.:—

[s 376.11] **Suicide by victim.—**

Where in a rape case, the victim committed suicide before the trial and was not available for examination but the other evidence proved the guilt of the accused, it was held that non-availability of the victim was no ground for acquittal. The accused was convicted under sections 375/511 as at least attempt to rape, if not rape, was established from the evidence.<sup>1222</sup>.

[s 376.12] **Absence of injury.—**

It is true that injury is not a *sine qua non* for deciding whether rape has been committed. But it has to be decided on the factual matrix of each case. It was observed in *Pratap Misra v State of Orissa*,<sup>1223</sup> where allegation was of rape by many persons and several times, but no injury was noticed. Presence of injury in this case, certainly is an important factor if the prosecutrix's version is credible, and then no corroboration would be necessary. But if the prosecutrix's version is not credible then there would be need for corroboration.<sup>1224</sup>.

[s 376.13] **Corroboration of testimony.—**

The trend of judicial opinion is that in rape cases corroboration is not a matter of law, but a guide of prudence, as the testimony of the victim is vital unless there are compelling reasons for corroboration.<sup>1225</sup> The Supreme Court has held that a woman who has been raped is not an accomplice. If she was ravished she is the victim of an outrage and if she consented there is no rape. In the case of a girl below the age of consent, her consent will not matter so far as the offence of rape is concerned, but if she consented her evidence will be suspect as that of an accomplice. The true rule of

prudence requires that in every case of this type the advisability of corroboration should be present in the mind of the Judge and that must be indicated in the judgment. But corroboration can be dispensed with by the Judge if in the particular circumstances of the case before him he himself is satisfied that it is safe to do so.<sup>1226</sup> Indeed no rule of thumb can be laid down in this matter for every case must depend a good deal on its own peculiar facts and circumstances. Thus, in *Rafiq's* case<sup>1227</sup>. Krishna Iyer, J, observed:

when no woman of honour will accuse another of rape since she sacrifices thereby what is dearest to her, he cannot cling to a fossil formula and insist on corroborative evidence, even if taken as a whole, the case spoken to by the victim strikes a judicial mind as probable ... When a woman is ravished what is inflicted is not merely physical injury but the deep sense of some deathless shame ... Judicial response to human rights cannot be blunted by legal bigotry.

Similarly, in *Bhoginbhai's* case<sup>1228</sup>. Thakkar, J, observed with some anguish:

In the Indian setting refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule is adding insult to injury ... A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracised by the society ... And when in the face of these factors the crime is brought to light, there is built-in assurance that the charge is genuine rather than fabricated ... Just as a witness who has sustained an injury (which is not shown or believed to be self-inflicted) is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight absence of corroboration notwithstanding.

Refusal by the accused person to subject himself to blood test for the purpose of determining his fatherhood of the child who was born as a result of the alleged rape was considered to be an evidence of corroboration.<sup>1229</sup>

[s 376.14] **Conviction on sole testimony of prosecutrix.—**

A conviction on the sole testimony of the prosecutrix is sustainable where the Court is convicted of the truthfulness of the prosecutrix and there exist no circumstances which cast a shadow of doubt over her veracity.<sup>1230</sup> To insist on corroboration, except in the rarest of rare cases, is to equate one who is a victim of the lust of another, with an accomplice to a crime and thereby insult womanhood.<sup>1231</sup>

[s 376.15] **CASES.— Rape by police constable.—**

The victim was allegedly raped in a hotel room by a police constable. She could not identify him. No test identification parade was held. The Supreme Court said that the identity was established by the fact that the accused was arrested from the hotel. The room was booked by him. He was not able to explain his whereabouts at the time of the offence. The Court further observed that the Courts have to adopt a different approach in such case. The Court should not get swayed by minor contradictions or discrepancies and defective investigation.<sup>1232</sup>

[s 376.16] **Rape and conspiracy for rape.—**

The four accused persons used their affluence and pretensions for friendship and thereby lured innocent schoolgirls and then sexually exploited them and subjected them to rape. Two of them actually committed acts of rape, the third made overtures to one of the victims and the fourth, being a driver, conveyed them to the farmhouse where they were exploited. Their acts were proved by witnesses. Two of them were convicted under section 376. The third and the fourth, though committed no act of rape, were convicted under section 376 read with section 120-B (conspiracy), it being not necessary that all co-conspirators should act in a similar manner. Their life sentence was reduced to 10 years of RI.<sup>1233</sup>

[s 376.17] **CASES.—Charge not proved.—**

Where the evidence of prosecutrix contradicts as to time and offence, and when the medical and FSL reports did not support the prosecution case, Supreme Court held that the acquittal is proper.<sup>1234</sup> Where the age of the victim was doubtful and she stated that without her consent the accused did something to her which he ought not to have done but not disclosing what he actually did, it was held that it could not be inferred that the accused had committed rape on her. It was held that conviction of the accused under section 376 was rightly set aside.<sup>1235</sup>

The prosecutrix was an educated woman and employed. She went in the jeep of the accused at night for a long distance intending to meet her senior officer. She alleged that she was raped by the accused in his house when they halted there. This was wholly unusual conduct. There was no explanation of any compelling reason for meeting the officer at night. There were no stains of semen or blood on her clothes. She asserted virginity but medical evidence showed that she was habituated to sex. The accused was held to be entitled to benefit of doubt.<sup>1236</sup>

Two persons were charged and prosecuted under section 376(2)(g) for gang raping a girl. The victim was desirous of marrying one of them and, therefore, did not report the matter willingly. There were various infirmities in the prosecution evidence. The conviction of the accused for the aforesaid offence was set aside.<sup>1237</sup>

[s 376.18] **Unchaste woman.—**

The Supreme Court has laid down that the unchastity of a woman does not make her "open to any and every person to violate her person as and when he wishes. Merely because she is a woman of easy virtue, her evidence cannot be thrown overboard. At the most the officer called upon to evaluate her evidence would be required to administer caution unto himself before accepting her evidence.<sup>1238</sup> Where in a prosecution for gang rape, the prosecutrix did not make any complaint to anybody for five days giving false explanation for delay, the doctor found no injury on any part of her body and she was found to be a lady of immoral character or of lax morals, it was held that it was unsafe to rely on her evidence.<sup>1239</sup> The Supreme Court has held that the mere fact that the prosecutrix was of loose moral character and was used to sexual intercourse and might have gone to the accused herself, were not grounds to disbelieve her statement. Such facts could demolish the case of abduction. But the prosecutrix, being of 10–11 years of age, was not capable of giving consent for abusing her sexually. The conviction of the accused was restored.<sup>1240</sup>

According to the Supreme Court, it is not a ground for acquittal of the accused that the prosecutrix was not having a good character and was a girl of easy virtues.<sup>1241</sup>

[s 376.19] **The proviso removed by Criminal Law (Amendment) Act, 2013.—**

The proviso to [section 376\(2\) IPC, 1860](#) laid down that the Court may, for adequate and special reasons to be mentioned in the judgment, impose sentence of imprisonment of either description for a term of less than 10 years. This proviso is now removed by [Criminal Law \(Amendment\) Act, 2013](#) in the wake of increasing crimes against women. It is, therefore, no longer possible to plead for any mitigating circumstances for reducing the quantum of punishment.

Where a person took away his niece under the promise of providing her a job, and completely believing his trust, raped her in a beastly manner, the Court said that no further leniency could be shown to him and, therefore, the sentence of seven years' RI and a fine of Rs. 2000 was to be maintained.<sup>1242</sup>

A defenceless married woman was tricked out of her house taking advantage of the drunken state of her husband. She was ravished in a most dastardly manner by three out of six members of the gang. All the three were awarded the maximum penalty of life-term by the Courts below. Only one came up in appeal before the Supreme Court. The Court said that no leniency could be shown to any one of them. The single appellant could not be treated differently from others who were serving their life sentence.<sup>1243.</sup>

[s 376.19.1] **Incest.**—

The accused had lost contact with his daughter when she was very young. They met again when she was 23 and they were both alcoholics. The incest started when the daughter was 24 and continued for three years, during which time she gave birth to their child. It was held that the offence was aggravated by the duration of the relationship, the fact that a child was born and that the incest continued before, during and after the pregnancy. The sentencing judge had given due weight to the accused's depression, alcoholism and contrition. The sentence of 2½ years was considered to be alright. However, there was no justification for the extended licence period it was not possible to conclude that the normal licence period would be inadequate to prevent recommitment, having regard to other ways in which contact with the daughter could be prevented.<sup>1244.</sup>

[s 376.20] **Rape and grievous hurt.**—

The victim girl aged seven years was in the care and custody of the accused and the natural and unnatural sexual acts were committed by him over a period of time. The injuries which were caused by the accused on the day of the incident were either on the skull or the hand or the thumb and therefore could not have been the reason for which death had occurred. In such a situation the liability of the accused for the commission of the offence under [section 302, IPC, 1860](#) would remain in serious doubt. The accused should be held liable for the offence under [section 325, IPC, 1860](#). Thus, the Court while maintaining the conviction and sentences awarded under sections 376 (2) (f) and 377, [IPC, 1860](#) altered the conviction under [section 302, IPC, 1860](#) to one under [section 325, IPC, 1860](#). Accordingly, the death penalty was set aside and punishment of RI for seven years was imposed.<sup>1245.</sup>

[s 376.21] **Jurisdiction.**—

The offence was completed at the place of kidnapping. The girl was carried to some other place where the ultimate purpose of raping her by several persons was accomplished. The Court said that the offences in question were a series of acts so connected together as to form part of the same transaction within the meaning of section 223(d), [Cr PC, 1973](#). All of them could be tried at the place of kidnapping.<sup>1246.</sup>

The offence is not compoundable. It has been held that a compromise cannot be a factor in reduction of quantum of punishment.<sup>1247.</sup>

[s 376.22] **Trial-in-camera.**—

An application for trial-in-camera without disclosing the name of the applicant was allowed and her father was not allowed to seek quashing of the complaint in the interest of family honour.<sup>1248.</sup>

[s 376.23] **Offences comparable to rape and indecent assault.**—

The accused appealed against a sentence of nine years' imprisonment imposed following his guilty plea to causing a nuisance to the public by making threatening, obscene and malicious telephone calls. He had made about 1000 telephone calls over

a two weeks' period to 15 complainants. The calls had been made for his sexual gratification and had involved him ordering his victims to perform sexual acts against themselves, under threat of rape or serious physical injury. He had a record of previous convictions for using the telephone system to send offensive and indecent matter.

It was held that the sentencing judge was entitled to conclude that the offences committed by the accused had been comparable to rape and indecent assault. His previous convictions, together with the pre-sentence report and a psychiatric report, also demonstrated that he presented a continuing and escalating danger to women. Accordingly, the sentence imposed was not excessive.<sup>1249</sup>

#### [s 376.24] **Probation.—**

The refusal to grant probation to the person found guilty of rape has been held to be proper.<sup>1250</sup>?

#### **Assistance to Rape Victims : Supreme Court Guidelines**

In *Delhi Domestic Working Women's Forum v UOI*,<sup>1251</sup> the Supreme Court found that in the cases of rape, the investigating agency as well as the Subordinate Courts sometimes adopt totally an indifferent attitude towards the prosecutrix and therefore, the Supreme Court issued following directions in order to render assistance to the victims of rape:

- (1) The complainants of sexual assault cases should be provided with legal representation. It is important to have someone who is well-acquainted with the criminal justice system. The role of the victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in Court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example, mind counselling or medical assistance. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represents her till the end of the case.
- (2) Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.
- (3) The police should be under a duty to inform the victim of her right to representation before any questions were asked of her and that the police report should state that the victim was so informed.
- (4) A list of advocates willing to act in these cases should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable.
- (5) The advocate shall be appointed by the Court, upon application by the police at the earliest convenient moment, but in order to ensure that victims were questioned without undue delay, advocates would be authorised to act at the police station before leave of the Court was sought or obtained.
- (6) In all rape trials anonymity of the victim must be maintained, as far as necessary.
- (7) It is necessary, having regard to the Directive Principles contained under [Article 38\(1\) of the Constitution of India](#) to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too traumatised to continue in employment.
- (8) Compensation for victims shall be awarded by the Court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result of the rape.

In addition thereto, it is an obligation on the part of the State authorities and particularly, the Director General of Police and Home Ministry of the State to issue proper guidelines and instructions to the other authorities as how to deal with such cases and what kind of treatment is to be given to the prosecutrix, as a victim of sexual assault requires a totally different kind of treatment not only from the society but also



from the State authorities. Certain care has to be taken by the Doctor who medically examines the victim of rape. The victim of rape should generally be examined by a female doctor. Simultaneously, she should be provided the help of some psychiatric. The medical report should be prepared expeditiously and the Doctor should examine the victim of rape thoroughly and give his/her opinion with all possible angle, e.g., opinion regarding the age taking into consideration the number of teeth, secondary sex characters, and radiological test, etc. The Investigating Officer must ensure that the victim of rape should be handled carefully by lady police official/officer, depending upon the availability of such official/officer. The victim should be sent for medical examination at the earliest and her statement should be recorded by the IO in the presence of her family members making the victim comfortable except in incest cases. Investigation should be completed at the earliest to avoid the bail to the accused on technicalities as provided under [section 167 Cr PC, 1973](#) and final report should be submitted under [section 173 Cr PC, 1973](#) at the earliest.

[*Dilip v State of MP*. <sup>1252.</sup>]

<sup>1172.</sup> Subs. by Act 43 of 1983, section 3, for the heading "Of rape" (w.e.f. 25 December 1983).

<sup>1204.</sup> Subs. by the [Criminal Law \(Amendment\) Act, 2013](#) (13 of 2013), section 9 (w.e.f. 3 February 2013). Earlier section 376 was substituted by Act 43 of 1983, section 3 (w.e.f. 25 December 1983). Section 376, before substitution by Act 13 of 2013, stood as under:

[s 376] *Punishment for rape*.—(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever,—

(a) being a police officer commits rape—

- (i) within the limits of the police station to which he is appointed; or
- (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
- (iii) on a woman in his custody or in the custody of a police officer subordinate to him; or

(b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

(c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or

children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

- (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or
- (e) commits rape on a woman knowing her to be pregnant; or
- (f) commits rape on a woman when she is under twelve years of age; or
- (g) commits gang rape,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.  
Explanation 1.—Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.—"Women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of woman or children.

Explanation 3.—"Hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

**1205.** Subs. by Act 22 of 2018, section 4(a), for "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine" (w.r.e.f. 21-4-2018).

**1206.** Clause (i) omitted by Act 22 of 2018, section 4(b) (w.r.e.f. 21-4-2018). Clause (i), before omission, stood as under:

"(i) commits rape on a woman when she is under sixteen years of age; or".

**1207.** Ins. by Act 22 of 2018, section 4(c) (w.r.e.f. 21-4-2018).

**1208.** *Tukaram*, [1978 Cr LJ 1864](#) : [AIR 1979 SC 185](#) [[LNIND 1978 SC 254](#)] .

**1209.** *Bharwada Bhoginbhai Hirjibhai*, [1983 Cr LJ 1096](#) (SC) : [AIR 1983 SC 753](#) [[LNIND 1983 SC 161](#)] : [\(1983\) 3 SCC 753](#) : 1983 SCC (Cr) 728.

**1210.** *Ram Charan v State of MP*, [1993 Cr LJ 1825](#) (MP); *Saifuddin v UOI*, [2002 Cr LJ 3159](#) (J&K) dismissal of army man from service on account of rape which was proved. No interference.

**1211.** *Ram Kala*, [47 Cr LJ 611](#) (All).

**1212.** *SP Kohil*, [1978 Cr LJ 1804](#) : [AIR 1978 SC 1753](#) [[LNIND 1978 SC 235](#)] . Followed in *Panibhusan Behera v State of Orissa*, [\(1995\) 2 Cr LJ 1561](#) (Ori). Where there was no other evidence of either enticement or rape, the mere presence of semen stains on the frock of the alleged victim was held to be not sufficient for conviction; *Mahesh Kumar Bherulal v State of MP*, [\(1995\) 2 Cr LJ 2021](#) (MP). *Y Srinivasa Rao v State of AP*, [\(1995\) 2 Cr LJ 1597](#) (AP), no medical evidence that any forced act was committed on the prosecutrix. *Rahim Beg v State of UP*, [AIR 1973 SC 343](#) : [1972 Cr LJ 1260](#) , held that semen stain on the 'langot' of a young man can exist because of a variety of reasons and would not necessarily connect him with the offence of rape.



1213. *Tameezuddin v State (NCT) of Delhi*, (2009) 15 SCC 566 [LNINDORD 2009 SC 430] . *Raju v State of MP*, AIR 2009 SC 858 [LNIND 2008 SC 2358] , recovery of stained underwear of the accused, could not by itself support the allegation of rape. *Pawan v State of Uttaranchal*, (2009) 15 SCC 259 [LNIND 2009 SC 464] : (2009) 3 All LJ 637 : 2009 Cr LJ 2257 , semen stains found on the underwear of the accused labourers as supported by other circumstances were held sufficient to lead to conviction.

1214. *Lillu @ Rajesh v State of Haryana*, AIR 2013 SC 1784 [LNIND 2013 SC 435] : 2013 (6) Scale 17 [LNIND 2013 SC 435] .

1215. *State of UP v Pappu @ Yunus*, AIR 2005 SC 1248 : 2005 (3) SCC 594 ; *Aman Kumar v State of Haryana*, AIR 2004 SC 1497 [LNIND 2004 SC 184] : 2004 (4) SCC 379 [LNIND 2004 SC 184] .

1216. *Vijay alias Chinee v State of MP*, 2010 (8) SCC 191 [LNIND 2010 SC 659] : 2010 AIR SCW 5510, *State of Maharashtra v Chandraprakash Kewal Chand Jain*, 1990 (1) SCC 550 [LNIND 1990 SC 26] : 1990 Cr LJ 889 .

1217. *State of UP v Munshi*, AIR 2009 SC 370 [LNIND 2008 SC 1717] : 2008 (9) SCC 390 [LNIND 2008 SC 1717] .

1218. *Narender Kumar v State (NCT of Delhi)*, AIR 2012 SC 2281 [LNIND 2012 SC 347] : 2012 (5) Scale 657 [LNIND 2012 SC 347] .

1219. *Rajoo v State of MP*, AIR 2009 SC 858 [LNIND 2008 SC 2358] .

1220. *State of Maharashtra v Madhukar Narayan Gardikar*, AIR 1991 SC 207 [LNIND 1990 SC 610] ; *State of Punjab v Gurmit Singh*, AIR 1996 SC 1393 [LNIND 1996 SC 2903] ; and *State of UP v Pappu @ Yunus*, AIR 2005 SC 1248 .

1221. Section 146 of the Indian Evidence Act, 1872 has been further amended vide the Criminal Law (Amendment) Act, 2018. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" have been substituted

1222. *State of Karnataka v Mahabaleshwar Gourya Naik*, AIR 1992 SC 2043 : 1992 Cr LJ 3786 .

1223. *Pratap Misra v State of Orissa*, 1977 (3) SCC 41 .

1224. *Lalliram v State of MP*, 2008 (10) SCC 69 [LNIND 2008 SC 1833] : 2008 (12) Scale 491 [LNIND 2008 SC 1833] ; *Aman Kumar v State of Haryana*, 2004 (4) SCC 379 [LNIND 2004 SC 184] .

1225. *Gurcharan Singh v State of Haryana*, AIR 1972 SC 2661 [LNIND 1972 SC 433] : 1972 (2) SCC 749 [LNIND 1972 SC 433] ; *Shri Bodhisattwa Gautam v Miss Subhra Chakraborty*, AIR 1996 SC 922 [LNIND 1995 SC 1314] : 1996 (1) SCC 490 [LNIND 1995 SC 1314] .

1226. *Rameshwar*, (1952) SCR 377 [LNIND 1951 SC 76] : AIR 1952 SC 54 [LNIND 1951 SC 76] ; *Sidheswar Ganguly*, AIR 1958 SC 143 [LNIND 1957 SC 108] . *Karnel Singh v State of MP*, AIR 1995 SC 2472 [LNIND 1995 SC 776] : 1995 Cr LJ 4173 , the sole testimony of the prosecutrix corroborated by medical evidence found reliable, conviction of the accused under section 375 upheld; *Dharma v Nirmal Singh Bittu*, AIR 1996 SC 1136 [LNIND 1996 SC 272] : 1996 Cr LJ 1631 , where the accused was found guilty of attempt to rape and committing murder of his victim, the Supreme Court set aside the acquittal of the accused and sentenced him to life imprisonment. *Sri Narayan Saha v State of Tripura*, (2004) 7 SCC 775 [LNIND 2004 SC 906] : AIR 2005 SC 1452 [LNIND 2004 SC 906] , conviction without corroboration permissible.

1227. *Rafiq*, 1980 Cr LJ 1344 : AIR 1981 SC 96 [LNIND 1980 SC 331] . *State of Karnataka v Raju*, (2007) 11 SCC 490 [LNIND 2007 SC 1074] : AIR 2007 SC 3225 [LNIND 2007 SC 1074] : 2007 Cr LJ 4700 , evidence of the victim appearing to be probable. The court exposed the impermissibility of insistence by the accused on corroboration of the testimony. No accused can cling to a fossil formula and insist on corroboration even if the case taken as a whole

strikes to the judicial mind as probable. Judicial response to human rights cannot be allowed to be blunted by legal jugglery. *Shrawan v State of Maharashtra*, (2006) 13 SCC 191, the allegation of rape of the woman and assault on her husband when the latter went to the house of the accused to protest, police antipathy, alleged facts seemed to be true, conviction and sentence upheld.

1228. *Bharwada Bhoginbhai Hirjibhai*, 1983 Cr LJ 1096 : AIR 1983 SC 753 [LNIND 1983 SC 161] : (1983) 3 SCC 217 [LNIND 1983 SC 161]. *Satpal v State of Rajasthan*, 2001 Cr LJ 564 (Raj), corroboration is not required as a rule. The fact of a litigation between the complainant and accused families was not material because a father would not involve his daughter into such a bad role. *Laxman Dass v State of Rajasthan*, 2001 Cr LJ 4501, corroboration not considered necessary, injuries on person though not on private part, conviction. *Gurmit Singh* case was followed in *State of Karnataka v Manjanna*, AIR 2000 SC 2231 [LNIND 2000 SC 812] : 2000 Cr LJ 3471 here also acquittal was set aside, the court saying that the conclusion of the court below regarding reaction of the victim and her mother and delay in lodging the FIR was contrary to evidence. *Visweswaran v State of TN*, 2003 Cr LJ 2548 (SC), rape by accused constable in hotel room, no identification by the victim, but the room was booked by him, he was arrested at the hotel premises and he was not able to explain his whereabouts at about the time of offence. The court said that these circumstances sufficiently made him out.

1229. *Swati Lodha v State of Rajasthan*, 1991 Cr LJ 939 (Raj).

1230. *Ramdas v State of Maharashtra*, (2007) 2 SCC 170 [LNIND 2006 SC 928] : AIR 2007 SC 155 [LNIND 2006 SC 928]. *Narayan v State of Rajasthan*, (2007) 6 SCC 465 [LNIND 2007 SC 456] : 2007 Cr LJ 2733, testimony of the prosecutrix found to be not believable, no conviction on that basis. *State of Punjab v Ramdev Singh*, AIR 2004 SC 1290 [LNIND 2003 SC 1106]; *State of Chhattisgarh v Derha*, (2004) 9 SCC 699 [LNIND 2004 SC 535]; *State of HP v Shree Kant Shekari*, AIR 2004 SC 4404 [LNIND 2004 SC 921]. Medical evidence that the victim showed signs of previous sexual intercourse, the court said it would not have any adverse effect on her testimony. It could not be a ground for acquitting the rapist. *Wahid Khan v State of MP*, (2010) 1 SCC Cr 1208 : (2010) 2 SCC 9 [LNIND 2009 SC 2041] : AIR 2010 SC 1 [LNIND 2009 SC 2041], evidence of prosecutrix stands on equal footing with that of an injured witness and if it inspires confidence, corroboration is not necessary. The court noted the adverse things like social repercussions, backward society, dangers of being ostracized, difficulties of rehabilitation and survival, psychology not to admit adverse unless it was a fact. A 12-year-old girl was the victim in this case, being taken away by the accused in auto-rickshaw.

1231. *State of HP v Sanjay Kumar*, 2016 (4) Crimes 424 (SC) : 2016 (12) Scale 831.

1232. *Visveswaran v State of TN*, AIR 2003 SC 2471 [LNIND 2003 SC 481], imprisonment for a period of seven years and fine of Rs. 10,000 was affirmed.

1233. *Mojjullah v State of Rajasthan*, (2004) 2 SCC 90 [LNIND 2003 SC 1143] : AIR 2004 SC 3186 [LNIND 2003 SC 1143].

1234. *State v Babu Meena*, AIR 2013 SC 2207 [LNIND 2013 SC 114] : (2013) 4 SCC 206 [LNIND 2013 SC 114]; *Rajesh Patil v State of Jharkhand*, 2013 Cr LJ 2062 (SC); delay coupled with non-examination of doctor and IO created reasonable doubt in the prosecution story.

1235. *State of Karnataka v Sureshbabu Puk Raj Porral*, 1994 Cr LJ 1216.

1236. *Sudhansif Sekhar Sahoo v State of Orissa*, AIR 2003 SC 2136 [LNIND 2002 SC 832]. The Supreme Court expressed the opinion that sole testimony is not to be relied upon unless it is safe, reliable and worthy of acceptance. *State of Punjab v Chatinder Pal Singh*, (2008) 17 SCC 90 [LNINDORD 2008 SC 308] : AIR 2009 SC 974 [LNINDORD 2008 SC 308], prosecution witnesses going back upon their statements, two inconsistent dying declaration, when two courts on analysis of evidence found the accused not guilty, no scope for interference.