

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.274 of 2014**

Arising Out of PS. Case No.-25 Year-2012 Thana- HARPUR District- Munger

Chadpan Manjhi S/O Bhutto Manjhi Resident Of Village Dhauri, P.S. Harpur,
District Munger.

... .. Appellant.

Versus

The State of Bihar

... .. Respondent.

Appearance :

For the Appellant : Mr. Ajit Kumar Singh, Advocate.
For the State : Mr. A.K.Sinha, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
and
HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE A. M. BADAR)**

Date : 22-04-2022

By this appeal, the appellant/convicted accused is challenging the Judgment and Order dated 09.01.2014 and 10.01.2014 respectively passed by the learned Additional Sessions Judge-I, Munger, in Sessions Case No.867 of 2012 between the parties by which he is convicted of the offences punishable under Sections 302, 376 and 201 of the Indian Penal Code. The appellant/convicted accused is sentenced to suffer imprisonment for life for the offence punishable under Section 302 of the Indian Penal Code and in addition, he is directed to pay fine of Rs.5000/-. For the offence punishable under Section 376 of the Indian Penal Code, he is sentenced to suffer



imprisonment for life apart from payment of fine of Rs.5000/-. For the offence punishable under Section 201 of the Indian Penal Code, he is sentenced to suffer imprisonment for three years apart from payment of fine of Rs.1000/-. Substantive sentences are directed to run concurrently. For the sake of convenience, the appellant shall be referred to as “an accused”.

2. Facts in brief leading to the prosecution of the accused can be summarized thus:

(a). Victim of the subject crime in question was 14 years old daughter of the first informant/P.W.4 Subodh, who was residing at village-Khagraon within the jurisdiction of the Police Station-Harpur in District-Munger. On 28.08.2012 at about 08.30 P.M., she had gone for easing behind the Panchayat Bhawan of the village. Soon thereafter, the villagers including her father P.W.4 Subodh heard her shouts. They all rushed behind the Panchayat Bhawan with torches. P.W.4 Subodh as well as the villagers noticed that in the paddy field of Satya Narayan Yadav, which was covered with mud and water, the accused was mounting on naked body of the victim female child and was smothering her by thrusting mud in her mouth and nose. He was seen covering the body of the victim by mud from that field. Dhoti of the accused as well as frock of the victim



female child was seen lying there. Upon noticing the approaching villagers, the accused attempted to run away but he came to be apprehended by the villagers. P.W.4 Subodh removed mud from the body of his minor female child and then he came to know that his female child was done to death. Blood was oozing from the nose and ears of the dead body. Villagers gave intimation to the Police Station-Harpur and that is how, the Investigating Officer P.W.9 Kapildeo Kumar along with his team rushed to the spot of the incident immediately.

(b). P.W.4 Subodh had lodged the report of the incident at the spot of the incident at about 09.45 P.M. of 28.08.2012. Dead body of the victim female child was then brought to the village. Inquest notes were taken and it was dispatched for autopsy to the Sadar Hospital, Munger. Clothes found on the spot of the incident including Dhoti of the accused and frock of the victim came to be seized by P.W.9 Kapildeo Kumar, the Investigating Officer.

(c). The Medical Board comprising of P.W.7 Dr. Sudhir Kumar and P.W.8 Dr. Subhra Verma conducted post-mortem examination on dead body of the victim female child. The Investigating Officer recorded statements of the witnesses and on completion of routine investigation including inspection



of the spot of the occurrence, he filed the charge-sheet against the accused.

(d). Charge for the offences punishable under Sections 302, 376 as well as 201 of the Indian Penal Code came to be framed against the accused. He pleaded not guilty. His defence was that of total denial. As per the defence version, on the day of the incident, the accused had gone to village-Bichchi Chachar for work. First informant/P.W.4 Subodh had been to his house for asking him to work for him. The accused refused. The victim female child was killed by the first informant/P.W.4 Subodh and then Subodh had directed the accused to bury the dead body. As the accused refused, he is falsely implicated in the subject case.

(e). In order to bring home the guilt to the accused, the prosecution has examined in all 10 witnesses. P.W.1 Vinay Yadav, P.W.2, Sambhu Yadav, P.W.3 Tanik Lal Yadav, P.W.4 Subodh, P.W.5 Ghutan Yadav alias Ravi Yadav and P.W.6 Deepak are allegedly eye witnesses to the incident in question. P.W.7 Dr. Sudhir Kumar and P.W.8 Dr. Subhra Verma are the members of the Medical Board, which conducted autopsy on the dead body of the victim. P.W.9, Kapildeo Kumar is the Investigating Officer whereas P.W.10 Ganesh Paswan is the



Chowkidar, who produced the seized articles before the Court.

(f). The defence has examined Pramila Manjhi-mother of the accused as D.W.1.

(g). After hearing the parties, by the impugned Judgment and Order, the learned trial court was pleased to convict the accused and to sentence him as indicated in the opening paragraph of this Judgment.

3. We heard the learned counsel for the appellant/accused. In the submission of the learned counsel for the appellant/accused, medical evidence adduced by the prosecution is not reflecting commission of rape and none of the prosecution witnesses has seen the accused committing rape on the victim female child. In fact, none of the witnesses examined by the prosecution are eye witnesses to the alleged incident. They are related to the deceased and are interested witnesses. It is further argued that even the spot Panchnama was not recorded. The case of murder of the victim was in fact the case of honour killing. The prosecution has not even alleged love affair between the accused and the victim and as such there was no reason with the accused to kill the victim. There were no scratch marks or the nail marks on the dead body. It is further argued that there was a distance between the Panchayat Bhawan



and the field where the incident took place and the prosecution has not explained as to why the victim should go at such a long distance. No lady from the village is examined by the prosecution. To buttress its submission, the learned counsel appearing for the appellant has placed reliance on **K.T. Palanisamy Versus State of Tamil Nadu** reported in **(2008)3 Supreme Court Cases 100** and it is argued that when all prosecution witnesses are related to the deceased, their versions cannot be accepted. Reliance is also placed on **Chandan Kumar Sah Vs. State of Bihar** reported in **2018(1) PLJR 661**, wherein the Division Bench of this Court found the prosecution case suspects when no external injury was found on the victim's body in a case of gang rape. In that case, the appellants/accused were not examined by the Doctor. They were acquitted by giving benefit of doubt.

4. As against this, the learned A.P.P. supported the impugned Judgment and Order of conviction and resultant sentence by contending that the eye witness account given by the witnesses examined by the prosecution is sufficient to uphold the conviction and resultant sentence.

5. We have examined the records and proceedings and we have considered the submissions so advanced by both



the parties.

6. As the accused is convicted of the offences punishable under Sections 302 and 376 of the Indian Penal Code, at the outset, let us have the brief resumed of the medical and other evidence adduced by the prosecution in order to ascertain whether the victim died of homicidal death and whether there is any medical evidence in respect of the charge for the offence punishable under Section 376 of the Indian Penal Code.

7. It is a settled legal position that the medical evidence is a corroborative piece of evidence but where the medical evidence does not support the otherwise clinching and trustworthy ocular evidence of any material witness then, the testimony of such ocular evidence will prevail on the medical opinion and not vice versa. In the case of **Ranjit Hazarika v. State of Assam, (1998) 8 SCC 635**, the opinion of the doctor was that no rape appeared to have committed because of the absence of rupture and hymen and injuries on the private part of the prosecutrix, the Apex Court took a view that the medical opinion cannot throw over board an otherwise cogent and trustworthy evidence of the prosecutrix.

8. The Hon'ble Apex Court in **B.C. Deva v. State of**



Karnataka, (2007) 12 SCC 122, inspite of the fact that no injuries were found on person of the prosecutrix, yet finding her version to be reliable and trustworthy, upheld the conviction of the accused. The Court observed in paragraph-18 of the said Judgment that :

“18. The plea that no marks of injuries were found either on the person of the accused or the person of the prosecutrix, does not lead to any inference that the accused has not committed forcible sexual intercourse on the prosecutrix. Though the report of the gynaecologist pertaining to the medical examination of the prosecutrix does not disclose any evidence of sexual intercourse, yet even in the absence of any corroboration of medical evidence, the oral testimony of the prosecutrix, which is found to be cogent, reliable, convincing and trustworthy has to be accepted.”

9. As the accused is charged with the offence punishable under Section 376 of the Indian Penal Code, let us put on record the ratio of the Judgment in **State of Punjab vs. Gurmeet Singh, reported in 1996 Criminal Law Journal 172**. In that case, the Hon'ble Apex Court took a view that the Courts dealing with the rape cases shoulder a greater responsibility and they must deal with such cases with utmost sincerity. Relevant paragraph of the said Judgment is



reproduced as under:

“....It is an irony that while we are celebrating women’s rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victim of sex crimes. We must remember that a rapist not only violates the victim’s privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault-it is often destructive of the whole personality of the victim. A murderer destroys the physical body of the victim, a rapist degrades the very soul of the helpless female. The Courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, shot of corroboration required in the case of an accomplice.



The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.”

With this, let us advert to the facts of the instant case.

10. As seen from the duly proved Inquest Report (Ext.5/X) that the dead body of the female child was smeared with mud. Its nose, ears and mouth were filled with mud. Blood was seen oozing from the mouth of the dead body. It is in the evidence of P.W.9 Kapildeo Kumar, the Investigating Officer, that dead body of the victim female child was sent for autopsy to the Sadar Hospital, Munger. Medical Board of that hospital of which P.W.7 Dr. Sudhir Kumar and P.W.8 Dr. Subhra Verma were members, had conducted the post-mortem examination on the dead body of the victim female child. The duly proved report of post-mortem examination is at Ext.3. It is in the evidence of P.W.7 Dr. Sudhir Kumar that along with other members of the Medical Board, he conducted post-mortem examination on the dead body of the victim female child on 29.08.2012 and had noticed the following internal as well as external injuries on the dead body:



1. Whole body and clothes were stained with mud. Blood and mud stains oozing from nostrils. Mud present in oral cavity.
2. Abrasion of size 3½” x 2½” over the posterior part of neck present.
3. Bruise of size 1½” x 1” over left breast present. Bruise of size 1” x 1½” on the right breast. Both breasts developed.
4. Pubic hair present. Mud present in vagina. Swab was taken in vagina. After washing of vagina one lacerated wound of size 1” x 1/2” x soft tissue dub intravaginally right side found.
5. One loose hair was recovered from left thigh. On dissection on opening the trachea mud was present in larynx and trachea. On opening abdomen cavity stomach contained semi digested food and mud. Uterus was empty. One loose hair, vaginal swab and crap of nail was sealed and signed and handed over to the police for forensic examination.

11. P.W.7 Dr. Sudhir Kumar has deposed that the victim died due to asphyxia caused by smothering due to mud. Duly proved contemporaneous report of post-mortem examination also corroborates the version of this witness. There is nothing in his cross examination to doubt the version of this Medical Officer. However, in cross-examination, he has stated that he is not having confirmed report of commission of rape on



the victim. He has further stated that the death can be by drowning.

12. Another Medical Officer P.W.8 Dr. Subhra Verma has stated in her evidence that in her opinion commission of rape on the victim is not confirm but such possibility cannot be ruled out. In cross-examination, she has stated that she cannot outright reject the incident of commission of rape on the victim.

13. It is thus clear from the evidence of the prosecution coming from the record of the Autopsy Surgeons that the deceased died because of smothering caused by mud. The stray statement in cross-examination of P.W.7 Dr. Sudhir Kumar that the death can be by drowning is not sufficient to doubt the prosecution case in respect of homicidal death because there is no iota of evidence on record to show that the field in which the dead body was found was having sufficient water to cause death by drowning of 14 years old female. It was a paddy field in which there was some water in the soil and hence considering the evidence on record, it needs to be held that the prosecution has proved the fact that the deceased died homicidal death.

14. Now, let us examine whether the accused had caused death of victim female child after commission of rape on



her. On this point, according to the prosecution case, the father of the victim and the villagers had noticed the accused mounting on the naked body of the victim in the field of Satya Narayan Yadav. No doubt, P.W.1 to P.W.6, who are alleged eye witnesses, are father, cousin and co-villagers of the deceased but it will not be in consonance with settled law to jettison their version only because they are co-villagers or relatives of the deceased. A related witness is not an interested witness as a matter of course. On the contrary, related witnesses can also be most natural witnesses to the incident if the offence is committed in the vicinity of their residence. It is only when the witness has desire of implicating the accused in the subject crime, such related witness becomes an interested witness and then his version is required to be scrutinized with great care and caution. Normally, evidence of such witnesses can be accepted when it is further corroborated by some other evidence adduced by the prosecution. In the matter of **K.T. Palanisami** (supra), all prosecution witnesses, in fact, were related to the deceased and they claimed to have seen the deceased accompanying the accused persons one after the other at different places. It was a case of circumstantial evidence. Such is not a case at hand and, therefore, the Judgment in the matter **K.T. Palanisami** (supra) is



of no assistance to the case of the appellant. With this, let us scrutinize the evidence of alleged eye witnesses examined by the prosecution.

15. P.W.4 Subodh is father of the deceased victim of the subject crime. It is in his evidence that at about 08.30 P.M. of the day of the incident, his minor daughter had gone for easing and soon thereafter, he heard shouts. Along with villagers, he rushed towards the spot of the incident and in the light of the torch, at the field of Satya Narayan Yadav, he noticed the accused in naked condition mounted on the body of his daughter. This witnesses testified that the accused was putting mud on the body of his daughter. He further deposed that the villagers apprehended the accused and he removed the mud from the naked body of his daughter and found her to be dead. He stated that blood was oozing from nose and ears of dead body of his daughter. He identified the accused and has proved the F.I.R. lodged by him. In cross examination, this witness, who seems to be rustic villager, had stated that time of about half an hour was required for searching the spot of the incident and that after searching his daughter, the dead body of his daughter was left in the field. He stated that he had not paid any attention as to who had assaulted the accused.



16. Perusal of evidence of P.W.4 Subodh makes it clear that this first informant-father, had, in fact, witnessed the accused in naked condition putting mud on body of his female child, who at the relevant time was dead. His evidence also shows that the accused was apprehended on the spot of the incident and at that time, accused was naked. No overwhelming importance can be given to his statement that time of half an hour was required to search his daughter, he being a rustic villager, who hardly had any sense of time. Thus, we see no reason to disbelieve the version of this witness so far as the finding of the accused in naked condition mounting on the naked dead body of the victim and burying the dead body by putting mud for covering it.

17. Next witness, whose testimony deserves consideration is P.W.1 Vinay Yadav. His name is figuring in the promptly lodged F.I.R. by P.W.4 Subodh as a person, who has seen the incident. As per version of P.W.1 Vinay Yadav, his house is adjacent to the Panchayat Bhawan and at about 08.30 P.M. of 28.08.2012, when he was at the Panchayat Bhawan, he heard shouts of a girl and, therefore, he along with the villagers including P.W.4 Subodh and P.W.6 Deepak, rushed with the torch and at the field of Satya Narayan Yadav, he saw a naked



man mounting on a naked girl. As per his version, the naked man was burying that girl and was smearing mud on the face and body of that girl. P.W.1 Vinay Yadav has stated that he along with co-villagers apprehended the accused. That girl was found dead and there was bleeding from nose and mouth of the dead body. P.W.1 Vinay Yadav testified that white Dhoti and red frock was lying on the spot of the incident. This witness has also identified the accused as the perpetrator of the crime. In cross-examination, he has stated that ladies of the villages have also come on the spot and mother of the deceased was also called on the spot. So far as actual incident is concerned, version of this witness remained un-shattered. It is, thus, seen that his version to the effect that he had seen the accused in naked condition mounting on the naked deceased and smearing the face of the deceased with mud needs to be accepted.

18. P.W.3 Tanik Lal Yadav, who is also named in the F.I.R. as a villager who rushed to the spot and saw the incident, has also supported the prosecution case. His evidence is consistent with the case of the prosecution. In fact, this witness at the relevant time had gone for easing and had heard the shouts. He then saw the accused burying the victim under the mud. As per his version, the accused was then apprehended by



all of them and at that time, the accused was naked. He deposed that even the victim female child was seen in naked condition. This witness has spoken about the extra judicial confession of the accused to the effect that he committed rape and killed the victim. As per version of P.W.3 Tanik Lal Yadav, Dhoti of the accused and clothes of the deceased, which were lying there, came to be seized by the police. This witness, who is uneducated, has stated that he has signed the statement of P.W.4 Subodh Prasad Yadav. He has also stated in cross-examination that the villagers assaulted the accused but he is unable to tell how many injuries were suffered by the accused. Thus, basic version of the prosecution case is not shaken in the cross-examination of this witness. Even in the cross-examination of P.W.3 Tanik Lal Yadav, there is nothing to doubt his version that accused, who was in naked condition, was seen burying the naked deceased in the mud.

19. P.W.5 Ghutan Yadav alias Ravi Yadav is also an eye witness to the incident, who reached the spot along with the villagers after hearing the shouts. As per his version, he saw the accused raping and killing the victim by putting soil on her body. He has spoken about the villagers apprehending the accused and arrival of the police on the scene of the occurrence



as well as seizure of the clothes from the spot by the police. In cross-examination, this witness has fairly accepted the fact that he has not actually seen the accused committing rape on the victim. He accepted that about 15-20 women from the village also came on the spot. In Indian setup, in order to see that their testimony is not rejected by the court, witnesses try to put embellishment in their version but merely by this conduct of the witnesses, their testimony cannot be branded as untrue. Moreover, in cross-examination, P.W.5 Ghutan Yadav alias Ravi Yadav has candidly accepted the fact that he has not seen the accused raping the victim. Therefore, his version to the effect that accused was trying to bury naked dead body of the victim by putting soil on it needs to be accepted.

20. P.W.6 Deepak is cousin of the deceased and the F.I.R. discloses that he was one amongst other villagers who rushed on the spot of the incident. As per version of P.W.6 Deepak, after the victim had gone for easing behind the Panchayat Bhawan, he heard shouts and rushed to the spot and found the accused covering body of the victim with soil. As per his version, accused as well as the deceased victim were naked. Thereafter, accused was apprehended and victim was found dead. P.W.6 Deepak has also vouched regarding seizure of



Dhoti of the accused and clothes of the victim from the spot by the police. In cross-examination, he stated that accused was kept at the house of Mukhiya.

21. Though P.W.2 Sambhu Yadav has also claimed himself to be an eye witness to the incident, it would be better to keep his evidence out of consideration because in cross-examination, this villager has stated that P.W.4 Subodh and P.W.6 Deepak have told him about the incident.

22. This is all so far as eye witness account of the incident is concerned. All these witnesses have duly identified the accused. All prosecution witnesses examined on this aspect are unanimously stating that they had seen the accused in naked condition mounting on the victim of the crime in question, who was in naked condition. They have congruously stated that the accused was thrusting mud in a nose and mouth as well as other parts of the body of the deceased victim. Despite searching cross-examination of the prosecution witnesses, the defence could not bring anything on record to doubt their version regarding presence of the accused on the scene of the occurrence in naked condition and his act of mounting on the naked dead body of the victim apart from thrusting mud in the nose and mouth of the victim.



23. Cross-examination of the prosecution witnesses shows that few ladies from the village had also reached on the spot of the incident but their non-examination before the court by the prosecution cannot cast a shadow of doubt on the prosecution case particularly when evidence of rest of the witnesses is not suffering from any doubt. Ultimately, the legislature in its wisdom has provided that no particular number of witnesses shall in any case be required for the proof of any fact. Ultimately it is quality and not quantity of evidence which is material. As nothing is shown to doubt the version of eye witnesses to the incident, non-examination of the ladies from the village cannot be a factor, which casts a shadow of doubt on the prosecution case.

24. Evidence of eye witnesses is crystal clear to the effect that the accused was thrusting mud in the mouth and nose of the naked deceased. Medical evidence goes to show that victim died due to asphyxia caused by smothering due to mud. It is thus clear that the accused with an intention of causing death of the victim, had thrust mud in her nose and mouth and caused her death. Thus, the prosecution has proved commission of offence punishable under Section 302 of the Indian Penal Code in causing death of the victim female child, who happens



to be the daughter of P.W.4 Subodh Prasad Yadav.

25. Now, let us examine whether the prosecution is successful in proving the offence punishable under Section 376 of the Indian Penal Code.

26. On behalf of the appellant, it is vehemently argued that no witness examined by the prosecution has witnessed the commission of rape by the accused on the victim. However, the submissions so advanced cannot be accepted because there is no need to prove the fact of rape by a direct evidence. It can be proved even by the circumstantial evidence. The witnesses whose testimony is scrutinized in the foregoing paragraphs have spoken about the fact that the accused as well as the victim was found naked by them at the time of the incident in question. The dead body of the victim had been sent for autopsy and immediately on the next day, the post-mortem examination on the dead body was conducted by the Medical Board which was inclusive of P.W.7 Dr. Sudhir Kumar and P.W.8 Dr. Subhra Verma. Their version which is corroborated by the contemporaneous report of post-mortem examination, shows that there was abrasion of size 3½” x 2½” over the posterior part of the neck apart from bruise of size 1½” x 1” over left breast and that of 1” x 1½” on the right breast of the dead body. Even



the mud was found present in the vagina of the dead body. After washing the mud from the vagina of the dead body, it was found that the vagina of the victim was having one lacerated wound of size 1" x 1/2". This medical evidence coupled with the ocular version of the eye witnesses that both the accused and the victim were found naked and the accused was found mounting on the body of the victim is sufficient to come to the conclusion that the accused had committed rape on the victim before commission of her murder. Thus, even medical evidence is supporting the case of the prosecution on the aspect of commission of rape on the victim. Therefore, medical opinion expressed by P.W.8 Dr. Subhra Verma that there is no confirmed evidence of rape needs to be rejected and we do reject that opinion. Similarly, we see no substance in the contention of the learned counsel for the appellant that there were no scratch marks or nail marks on the dead body and, therefore, no rape was committed on the deceased. In fact, there were bruises on the breast of the victim suggestive of the commission of rape on her.

27. Similarly, we have noted argument of the learned counsel for the appellant for rejection that it was a case of honour killing as there was no love affair between the accused



and the victim. It is outcome of mere surmises and there is no evidence in that regard.

28. Non preparation of spot Panchnama by P.W.9 Kapildeo Kumar, the Investigating Officer, cannot inure to the benefit of the accused because version of this Investigating Officer shows that he had, in fact, inspected the spot of the incident and the field, where the incident took place, was at some distance from the Panchayat Bhawan. P.W.9 Kapildeo Kumar, the Investigating Officer has spoken about the dead body lying on the spot smeared with soil so also the finding of Dhoti near the dead body. Procedural lapses by the Investigating Officer cannot be given any undue weightage when the eye witness account regarding the incident is clear and trustworthy.

29. Now, comes to the contention regarding non-examination of the accused after his arrest by the police. Section 54 of the Code of Criminal Procedure provides that after arrest the accused should be examined by the Medical Officer of the Central Government or the State Government and in case of non-availability of such Officers, by the registered Medical Practitioner. However, non-examination of the accused by the Investigating Officer cannot render the prosecution case suspect because it is a procedural lapse by the Investigating Officer.



Section 53A of the Code of Criminal Procedure is not for the benefit of the defence. On the contrary, it is for securing the interest of the prosecution. It provides that whenever, there are reasonable grounds for giving benefit an examination of the person of the accused may afford evidence as to commission of rape then it becomes lawful for the registered medical Practitioner on the request of the Police Officer to examine a person of such an accused. It is an enabling provision authorizing the Investigating Officer even to collect evidence by medical examination of the person, accused of offence of commission of rape. Matter of **Chandan Kumar Sah** (supra) proceeded on its own fact. However, as a matter of rule, it cannot be said that if the accused is not medically examined after his arrest, he becomes entitled for acquittal from the charge of the commission of rape.

30. Hence, for the reasons recorded in the foregoing paragraphs, we uphold the conviction and resultant sentence imposed on the accused by the learned trial court for the offence punishable under Section 376 of the Indian Penal Code.

31. So far as the offence punishable under Section 201 of the Indian Penal Code is concerned, with the aid of acceptable evidence, the prosecution has proved the fact that the



accused after commission of murder of the victim was seen attempting to bury her dead body by covering it with mud and this act is obviously for an intention of screening himself from legal punishment.

32. In this view of the matter, we see no merits in the appeal and the same is, accordingly, dismissed.

(A. M. Badar, J)

(Sunil Kumar Panwar, J)

P.S./-

AFR/NAFR	AFR
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