CASE LAW UPDATES

Name Anonymity and Witness Discrepancies: Supreme Court Restores Conviction in a Child Rape Case and Directs Strict Compliance with Section 228A IPC

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In the ***State of H.P. v. Hukum Chand*** , the Supreme Court overturned a High Court acquittal after finding that **witness discrepancies cannot defeat credible testimony from a child survivor.** Alongside reinstating the conviction, the Apex Court strongly reprimanded lower courts for exposing the survivor's name anonymity in official records.

To prevent further privacy breaches, it ordered all High Courts to strictly enforce Section 228A IPC across both new and pending cases by **directing strict compliance with Section 228 IPC.**

Read on to explore the key legal takeaways on evidentiary standards and survivor protection.

The Legal Questions

The Court dealt with two issues.

- How should courts treat inconsistencies and omissions in witness testimony in a sexual offence case, and when do they justify rejecting the prosecution case?
- What is the effect of the rule on the non-disclosure of a rape victim’s identity, which the Court found was not being followed?

Facts

A minor girl was sexually assaulted by the son of her neighbour. She told her parents and then the police. An FIR was registered, she was medically examined, and her clothes were produced. On the submission of chargesheet the accused was charged under Sections 376 and 201 IPC and SC/ST Act (reported as Section 3(xii)).

The trial court after examining 16 witnesses found the accused guilty under Section 376 IPC and SC/ST Act, but acquitted him under Section 201 as the judgment was based on the testimony of victim corroborated by other witnesses.

Rationale of the High Court

The High Court of Himachal Pradesh stated that the prosecution story was unbelievable given that the victim would have taken nearly two hours to have reached the spot of occurrence which was about 16 km away from her house and observed that the victims and the accused persons clashed with each other on many occasions, even on the day of occurrence.

It also pointed out discrepancies regarding the circumstances and time of reporting of the incident, and those relating to the movements of the complainant before the filing of the FIR.

Conclusion of the Supreme Court

1. **Anonymity of the name:** The Supreme Court **stated that Section 228A of IPC was introduced in the year 1983, after the overruled judgment** of ***Tukaram v. State of Maharashtra*** , with the **aim to protect the victims of sexual offences from social stigma, humiliation etc.** In this particular case, the name of the victim has been mentioned in the judgment. It noted that such non-compliance had been seen before, and relied on ***Nipun Saxena v. Union of India*** **.**

2**. Minor variations:** Human understanding, recollection and telling are not perfect. The Court used the concepts of witness children from ***State of Rajasthan v. Chatra*** ***and*** ***State of H.P. v. Manga Singh*** **.** ***It also referred to*** ***State of U.P. v. M.K. Anthony*** **,** ***Appabhai v. State of Gujarat*** ***and*** ***State of Rajasthan v. Kalki*** **.** Ordinary differences resulting from the inaccuracies of observation or recollection do not testify against the reliability of the eyewitnesses. **Only the critical inconsistencies that affect the main issues of the case and do real harm to the prosecution can create reasonable suspicion.**

3. **Application to the case:** The victim recognized the offender and declared that he raped her, and the cross-examination did not negatively affect these two key facts. The evidence of her relatives supported her. The argument between their families and the distance of the 16 km should be regarded as secondary. The Court declared that to prove the crime within a proper period of time mathematical accuracy is not required, and even if the time of committing the

crime is moved back for an hour, it is possible that it happened anyway.

4.Medical evidence: Medical evidence refers to the views expressed by qualified professionals in the field. This kind of information can be disregarded only if it clashes with evidence that people can see, and this did not happen in this case. In addition, medical evidence proved that sexual assault took place, and the victim insisted that the accused was the offender. The High Court made a mistake by dismissing it and claiming that the timelines were improbable.

Outcomes & Directions

The appeal was granted, the acquittal of the High Court was canceled, and it was established by the Court that the evidence of the victim was sufficient to prove the guilt of the accused.

The Court directed strict compliance across **all pending matters, specifically including those instituted prior to** *Nipun Saxena v. Union of India* (2019), because Section 228A IPC has been in force since 1983

The Court said that although this principle was known for a long time, it was ignored by judges.

Ratio

1. **Sole Testimony & Minor Discrepancies.** A conviction for sexual assault can rest solely on the credible, consistent testimony of a child victim, and minor inconsistencies regarding exact timelines or distances do not invalidate reliable evidence if the core allegation remains unshaken.
2. **Primacy of Ocular Evidence over Improbabilities.** Corroborative medical evidence cannot be discarded merely on speculative timeline improbabilities unless it directly contradicts credible eyewitness testimony.
3. **Mandatory Victim Anonymity.** The bar on disclosing a sexual offence victim's identity under Section 228A IPC is mandatory and must be strictly enforced by all courts in all pending cases, ***even those initiated before the Nipun Saxena judgment.***