IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 16 OF 2022

The State of Goa,

Through CID CB, North Goa, Goa. ... Appellant

V e r s u s

Tarunjit Tejpal, s/o Inderjit Tejpal,

r/o 12 Link Road, Jangpura Extension,

New Delhi – 14. ... Respondent

Mr. Tushar Mehta, Solicitor General of India *(through VC) and Mr. Devidas J. Pangam, Advocate General with Mr. S.G. Bhobe, and Ms. Cyndiana Silva, Public Prosecutors, Mr. Pravin Faldessai and Mr. Nikhil Vaze, Additional Public Prosecutor, Ms. Maria Simone Correia, Mr. Shubham Priolkar, Mr. Neehal Vernekar, Mr. Eshan Jacques and Mr. Ajay Borkar, Additional Government Advocates for the Appellant.*

Mr. Aabad Ponda, Senior Advocate *with Mr. Subash Jadhav, Mr. Raunaq Rao and Ms. Tabitha Souto, Advocates for the Respondent.*

CORAM : DR. NEELA GOKHALE &
AMIT S. JAMSANDEKAR, JJ.

RESERVED ON : 30th JULY 2026
PRONOUNCED ON : 6th AUGUST 2026

JUDGMENT *(Per Dr Neela Gokhale, J.)*

2026:BHC-GOA:1562-

I N D E X

I. FACTS AND BACKGROUND.....3

II. CONTENTIONS OF THE PARTIES.....13

A. Submissions on behalf of the Appellant.....13

B. Submissions on behalf of the Respondent.....20

III. ANALYSIS.....30

A. Scope of interference of the appellate court in an appeal against acquittal.....31

B. The charge against the Respondent and provisions of law.34

C. Probative value of the victim's evidence.....36

D. On CCTV footage.....49

E. Omission to collect electronic evidence, material to the defence case.....52

F. On apologies.....55

G. In connection with allegations of extortion by PW-1.....60

H. On the victim's behaviour in the lead-up to and aftermath of the incidents and trauma.....63

I. Regarding the 'Perfect victim' construct.....66

J. Exercising control and dominance over the victim.....68

K. On the defence evidence.....70

IV. FINDING OF THE TRIAL COURT 72

V. CONCLUSION.....76

VI. THE SENTENCE 77

2026:BHC-GOA:1562-

1. This Appeal assails the Judgment and Order dated 21st May, 2021, passed by the Additional Sessions Judge at Mapusa in Sessions Case (Ors.) No. 10/ 2014, acquitting the Respondent herein (Original Accused) of offences punishable under Sections 376(2)(f), 376(2)(k), 354, 354A, 354B, 341 and 342 of the Indian Penal Code, 1860 ('**IPC**').

2. By a reasoned Order dated 23rd April 2022, this Court opined that a *prima facie* case is made out and that arguable issues are raised by the Appellant-State of Goa, thereby necessitating deeper scrutiny and re-appreciation/reconsideration of the evidence to ascertain the correctness and legality of the Judgment and Order impugned herein. Hence, this Court allowed the Leave to Appeal Application and admitted the Appeal.

I. FACTS AND BACKGROUND

3. Factual Overview & Allegations:

3.1. The Respondent was the Editor-in-Chief and owner of '*Tehelka'* magazine. The victim was employed by the Respondent at *Tehelka*, initially as an intern, then as a trainee journalist, and later as a correspondent and a senior correspondent. At the relevant time, she held the designation of Principal Correspondent and worked in *Tehelka*'s Mumbai office.

3.2. *Tehelka* started a festival called 'THiNK Fest' in 2011 and continued to organise it annually in Goa. The victim was stated to be part of all three editions, in various capacities, as an employee of *Tehelka*.

3.3. At THiNK Fest – 2013, the victim was responsible for attending to and chaperoning the festival's Chief Guest, Mr Robert De Niro, a Hollywood actor. The festival was held from 07th November 2013 to 11th November 2013 at Grand Hyatt in Bambolim, Goa.

The Incidents/Allegations

3.4. **November 7, 2013 (approx. 10:20 p.m.)**: The victim's allegations against the Respondent are that, on 7th November 2013, at around 10.20 p.m., the Respondent and the victim accompanied Mr De Niro to his room on the 2nd Floor of Block No. 7 of the hotel. After dropping Mr De Niro at his room, as the Respondent and the victim were leaving the lobby, the Respondent instructed her to accompany him back to Mr De Niro's room to wake him up. The victim complied with his instruction, as he was her boss. Inside the lift, the Respondent sexually assaulted her, ignoring her pleas to stop. He manipulated the lift control panel to keep the doors closed. Later

2026:BHC-GOA:1562-

that night (approx. 1:30 a.m.), he sent her a text message on her phone reading "the finger tips".

3.5. **November 8, 2013:** Under the pretext of retrieving an item for Mr De Niro, the Respondent again ordered the victim to accompany him in the elevator, during which he committed a second sexual assault.

Investigative & Procedural Timeline

3.6. On 21st November 2013, news of the Respondent's alleged sexual assault on a female journalist of *Tehelka* was published across various social media sites and electronic media channels. The victim had also sent an e-mail dated 18th November 2013 (**Exhibit 733(1)**) to Ms Suparna Chaudhury, alias Shoma Chaudhury, Managing Editor of *Tehelka* (**PW-45**), narrating the entire incident.

3.7. Shamina Shafiq (**PW-38**), a member of the National Commission for Women ('**NCW**'), on its behalf, took *suo motu* cognizance of the media reports regarding the alleged sexual assault charge made by the victim against the Respondent and addressed a letter dated 22nd November 2013 (**Exhibit 547**) to the Director General of Police, Goa, requesting the registration of an FIR in the matter.

2026:BHC-GOA:1562-

3.8. On the basis of the news regarding the sexual assault allegation made by the victim against the Respondent, Ms Sunita Sawant, PI, CID-Crime Branch, Dona Paula (**PW-70**), the Investigating Officer ('**IO**'), lodged a complaint, pursuant to which FIR No. 27/2013 dated 22nd November 2013 was registered against the Respondent at the CID CB Police Station, North Goa (**Exhibit C-3**), for offences punishable under Sections 354A, 376, and 376(2)(k) of the IPC.

3.9. Based on the investigation recorded in the FIR, the IO addressed a letter dated 02nd December 2013 to the Judicial Magistrate First Class, Panaji, Goa ('**JMFC**'), seeking the addition of offences punishable under Sections 341, 342, 376(2)(f) and 376-C of the IPC against the Respondent. Another letter dated 27th January 2014 was also addressed to the JMFC, Panaji, Goa, seeking the addition of an offence punishable under Section 354 of the IPC.

3.10. The offences punishable under Sections 376, 376(2)(f), 376(2)(k) and 354A of the IPC are exclusively triable by the Sessions Court. Accordingly, the Chief Judicial Magistrate, Panaji, Goa, by Committal Order dated 21st February 2014 (Exhibit C-1), committed the case to the Sessions Court for trial.

Charges Framed Against the Respondent

2026:BHC-GOA:1562-

3.11. By an Order dated 07th September 2017, the Additional Sessions Judge, Mapusa, Goa, framed charges against the Respondent (**Exhibit 231-C**) for offences punishable under Sections 354, 354A, 354B, 376(2)(f), 376(2)(k), 341 and 342 of the IPC. After the charges were framed, the Respondent pleaded not guilty and sought to be tried.

3.12. During the trial, the Prosecution examined 71 witnesses, while the defence examined 4. The witnesses are as follows:

Prosecution Witnesses

PW-1: Victim

PW-2: Chetan Shivdas Patil, Nodal Officer, Bharati Airtel

PW-3: Francis Pereira, Nodal Officer, Vodafone Cellular

PW-4: Ganesh Ramrao Pawar, Nodal Officer, Bharati Airtel

PW-5: Ashok Naik, Panch of Spot Panchnama

PW-6: Siddharth Borkar, Panch, Panchnama of e-mails

PW-7: Kanhoba Naik, Panch, Arrest Panchnama and Panchnama of Respondent's mobile

PW-8: Kiran Shirodkar, Panch – Attachment of Respondent's clothes

2026:BHC-GOA:1562-

PW-9: Gangaram Narvekar, Panch, conversations between the victim and Suparna Chaudhury (PW-45)

PW-10: Sarita Khaneja, CEO of Cyber Space Networking Systems

PW-11: Ishan Tankha, Journalist at *Tehelka* and victim's friend

PW-12: Shougat Dasgupta, Journalist at *Tehelka* and victim's friend

PW-13: Raghu Amay Karnad, Journalist at *Tehelka*

PW-14: M. Krishna, Assistant Director, CFSL, Hyderabad

PW-15: Harsimran Gill alias Bicky, victim's friend

PW-16: Priyan Shivpalan, Safety and Security Manager at Grand Hyatt

PW-17: Shyamsundar Borkar, Taxi Driver

PW-18: Vasudev Bhat, Businessman – iTechnologix

PW-19: Ashok Madaikar, Draughtsman

PW-20: Sanjay Thakur, Panch, Seizure Panchnama of the CPU

PW-21: Sunil Desai, IT Manager and Panch of the CCTV Panchnama conducted at Grand Hyatt

PW-22: Harish Iyer, Panellist at THiNK Fest

2026:BHC-GOA:1562-

PW-23: Renu Kumar, Panch of Attachment of victim's clothes

PW-24: Khawaja Ayub Zickriya, General Manager of International Centre, Goa

PW-25: Swapnil Chendwankar, Project Engineer for Siemens Limited

PW-26: Mrs Martha Fernandes, Receptionist in Hotel Paradiso Casa

PW-27: Shiva Naik, Taxi Business

PW-28: Mahendra Bhandari, Police photographer, CID Crime Branch

PW-29: Brendan D'Souza, PSI attached to CID Crime Branch, Dona Paula

PW-30: Sudiksha Naik, PI attached to CID Crime Branch, Dona Paula

PW-31: Praveen Gawas, PI attached to CID Crime Branch, Dona Paula

PW-32: Virendra Veluskar, PI attached to CID Crime Branch, Dona Paula

PW-33: Laxi Amonkar, PSI attached to CID Crime Branch, Dona Paula

PW-34: Damodar Tari, Audio-Video Telecommunication technician at Grand Hyatt

PW-35: Marcelo Leslie Remedios, Operations Manager of Freedom Holidays Pvt. Ltd.

2026:BHC-GOA:1562-

PW-36: Neena Tejpal Sharma, Respondent's sister and Partner in Anant Media Pvt. Ltd.

PW-37: Udayaditya Pathak, Regional Manager (Commerce) at Siemens Ltd.

PW-38: Shamina Shafiq, Member of the National Commission for Women

PW-39: Manguesh Tyagi, PI attached to Pandav Nagar Police Station, Gaziabad, Uttar Pradesh

PW-40: Shradha Garg, Businesswoman, Gaziabad, Uttar Pradesh

PW-41: Saty Narayan Sharma, Employee of Exclusive Vacation Pvt. Ltd.

PW-42: Brij Kishor Sharma, Accounts Manager of Agni India Pvt. Ltd. (Anant Media Pvt. Ltd.)

PW-43: Prawal Srivastava, Consultant, IT, Anant Media Pvt. Ltd.

PW-44: Ameen Abdul Jabbar, Lift Technician

PW-45: Suparna Chaudhury alias Shoma Chaudhury, Journalist and Managing Editor of *Tehelka*

PW-46: Amol Athanikar, Panch of Photograph Panchnama

PW-47: Walter Pereira, Assistant Director of Food and Beverages, Grand Hyatt

PW-48: Vivek Shenvi, Assistant Security Manager, Grand Hyatt

2026:BHC-GOA:1562-

PW-49: Pushparaj Gaude, Assistant Security Manager, Grand Hyatt

PW-50: Satish Mahale, Security Team Leader, Grand Hyatt

PW-51: Lavu Gawas, Security Team Leader, Grand Hyatt

PW-52: Dilip Ghadi Gaonkar, Security Team Leader, Grand Hyatt

PW-53: S. Vijayalaxmi, victim's mother

PW-54: Shripad Shankar Amonkar, Network Engineer for Goan Hotel and Clubs Pvt. Ltd.

PW-55: Mario Rebello, Panch of attachment of Hard disks

PW-56: G. Vishnu, Freelance Journalist

PW-57: Shawn D'Sa, Security Team Leader, Grand Hyatt

PW-58: Vismay Sawant, Security Team Leader, Grand Hyatt

PW-59: Persis Sidhwa, Member of Majlis, an NGO

PW-60: Rajesh Job, PI attached to CID Crime Branch, Dona Paula

PW-61: Sreenivasan Jain alias Vasu, Journalist in NDTV

PW-62: Ajachi Chakrabarti, Journalist and victim's colleague

2026:BHC-GOA:1562-

PW-63: Rajiv Malekar, Employee in We Internet

PW-64: Pooja Khedkar, Employee in We Internet

PW-65: Aman Sethi, victim's Partner/ Husband

PW-66: Noel Noronha, Director of Engineering, Grand Hyatt

PW-67: Yuvraj Torawane, Deputy Manager, Mitsubishi ETA India Pvt. Ltd.

PW-68: Vishwesh Karpe, PI attached to Cyber Crime Police Station, Ribandar

PW-69: Vikram Vijay Pimplapure, Employee of Mitsubishi ETA India Pvt. Ltd.

PW-70: Sunita Sawant, Investigating Officer

PW-71: Vijaykumar Salgaonkar, ASI attached to Crime Branch, Ribandar

Defence Witnesses

DW-1: Malika Singh, victim's friend

DW-2: Vijay Pandey, Photo Journalist in *Tehelka*

DW-3: Rohit Chawla, Photo Journalist

DW-4: Nikhil Agarwal

3.13. The Respondent's statement under Section 313 of the Code of Criminal Procedure, 1973 ('**CrPC**') was recorded. The Respondent's defence is one of false implication. The Additional Sessions Judge at Mapusa, by its Judgment and Order dated 21st

2026:BHC-GOA:1562-

May 2021, acquitted the Respondent of all the offences charged against him. Aggrieved by the acquittal, the State of Goa has preferred the present Appeal. By order dated 23rd April 2022, the application seeking Leave to Appeal was allowed, and the Appeal was admitted. The records and proceedings were called for and received.

4. Mr Tushar Mehta, learned Solicitor General of India, appeared for the Appellant and Mr Aabad Ponda, learned Senior Counsel, represented the Respondent.

II. CONTENTIONS OF THE PARTIES

A. Submissions on behalf of the Appellant:

5. Mr Mehta, learned Solicitor General of India, made the following submissions:

5.1. Mr Mehta emphasised that this is not a case of rape, simpliciter. The Respondent was the victim's employer, mentor, her father's friend, and the father of her close friend. He held a position of dominance, control, trust, and authority over her. Due to this abuse of authority, the charges against the Respondent fall under the specific aggravated categories of the IPC, namely Sections 376(2)(f) and (k).

2026:BHC-GOA:1562-

5.2. Mr Mehta argued that under Section 114A of the Indian Evidence Act ('**IEA**'), when a victim states in her testimony that she did not consent in a prosecution under Section 376(2)(f) or (k), the Court must presume lack of consent. He contended that the victim's statement alone was legally sufficient for conviction and that the Trial Court failed to appreciate or apply this statutory presumption.

5.3. Mr Mehta argued that the Trial Court erroneously dismissed an extensive network of witnesses who corroborated the victim's account immediately after the incidents. Mr Mehta took the Court through the victim's (**PW-1**) deposition, in which she narrated her ordeal on 07th November 2013 and 08th November 2013, in detail. He also took us through the depositions of Ishan Tankha, the victim's friend (**PW-11**), and Shougat Dasgupta, another friend of the victim (**PW-12**), who corroborated the victim's story. Another friend, G. Vishnu (**PW-56**), and Raghu Karnad (**PW-13**), also corroborated the victim's version as narrated to them. Mr Mehta further relied upon the depositions of the victim's partner, whom she later married, Aman Sethi (**PW-65**); Harsimran Gill, her friend (**PW-15**); Harish Iyer (**PW-22**); her mother (**PW-53**); and Sreenivasan Jain (**PW-61**).

2026:BHC-GOA:1562-

5.4. Mr Mehta contended that despite PW-11, PW-12 and PW-56 fully corroborating the victim's version, the Trial Court erroneously rejected their testimony as false. The testimony of Aman Sethi (**PW-65**), the victim's partner, was unfairly dismissed by the court on the blanket assumption that he was an "interested witness."

5.5. Mr Mehta said that the trial court's logic was flawed because it refused to believe the victim on the "absurd" ground that it was implausible for her to confide in three male colleagues rather than her female room-mate.

5.6. Mr Mehta also took us through the victim's cross-examination. She was subjected to an excessive and invasive cross-examination. Mr Mehta highlighted that the victim was subjected to a brutal cross-examination spanning nearly 700 pages across 18 separate hearing dates. The prosecution argued that the highly invasive questioning and aggressive attacks on her character made it seem as though *"the victim and not the Respondent [was] on trial."* The Trial Court not only failed to disallow these inappropriate and irrelevant questions but also subsequently used the resulting material to unfairly discredit the victim.

2026:BHC-GOA:1562-

5.7. Mr Mehta contended that the Trial Court failed to appreciate that the victim had addressed a clear, written e-mail complaint to Suparna Chaudhury, Managing Editor (**PW-45**), detailing both instances of sexual assault, wrongful restraint, and confinement. Despite this clear, contemporaneous documentary evidence of the ordeal, the Trial Court still failed to invoke the mandatory legal presumption of lack of consent under Section 114A of the IEA.

5.8. According to Mr Mehta, the Respondent admitted, in two apology letters dated 19th November 2013 (**Exhibit 733 (2) and 733 (3)**), to an unwanted and forcible sexual encounter. By e-mail dated 18th November 2013, the victim had clearly conveyed the details of the sexual assault to Ms Suparna (**PW-45**). She had clearly communicated that she required a written apology from the Respondent and an acknowledgement of the same to be circulated within the organisation. Pursuant to this e-mail, the Respondent e-mailed a formal apology letter to the victim, expressing his unconditional regret for the shameful lapse of judgment that led him to attempt a sexual liaison with the victim despite her reluctance. He also sent an informal e-mail admitting the encounter and apologising for it. Mr Mehta contended that this apology itself amounts to an admission of guilt. Had the victim been lying about the incidents, the Respondent would

2026:BHC-GOA:1562-

have absolutely denied the accusation and not issued any apology. The Respondent's defence that the said apology e-mails were sent under pressure is unbelievable in the circumstances.

5.9. Mr Mehta further contends that the victim herself had no intention to prosecute the Respondent. This is evident from the fact that her only demand was that the organisation constitute an Internal Complaints Committee ('**ICC**') under the Visakha Guidelines laid down by the Supreme Court of India to inquire into the Respondent's conduct. Even though no such committee was constituted by PW-45, who was Managing Editor of *Tehelka*, the victim herself did not register any FIR. Ultimately, the complaint was registered by the IO (**PW-70**) on the basis of news appearing on various social media sites, press media, and the letter received by the Police from a member of the NCW. Mr Mehta says this demonstrates no ill-will or motivation on the part of the victim to prosecute the Respondent. However, once the FIR was registered and the law enforcement machinery was set in motion, the victim fully co-operated and stood her ground throughout the trial. This clearly shows the veracity of the victim's accusation.

5.10. Mr Mehta further submitted that, admittedly, the Respondent was in a dominant position vis-à-vis the victim. The

2026:BHC-GOA:1562-

Trial Court ignored the victim's deposition that the Respondent was her mentor and employer; her father's friend; and the father of her close friend. The victim also stated that the Respondent was a powerful and well-connected person, in a position to ruin her career. Hence, Mr Mehta submits that the offences against the Respondent clearly fall within the category of aggravated offences under the IPC.

5.11. Having read the depositions of PW-1, i.e., the victim, and of the witnesses who have corroborated PW-1's testimony, Mr Mehta drew our attention to the Trial Court's findings, which are directly contrary to the evidence on record and *per se* perverse.

5.12. Mr Mehta tendered before us the report dated 23rd January 2013 of the committee under the chairmanship of Justice J. S. Verma (Retired) on amendments to the criminal law, drawing our attention to the object and jurisprudence behind introducing Section 114A to the IEA and the category of aggravated offences under Sections 375 and 376 of the IPC.

5.13. Mr Mehta, in conclusion, submitted that the instant case is a classic example of power dynamics at play. Whenever women speak the truth to power, power lashes out at them. This power differential enables power to vilify the victim. The present case also reveals the tendency to exercise superior power, whether in

terms of wealth, social standing, or hierarchy in the workplace, to deprive a woman of her bodily autonomy.

5.14. Mr Mehta relied on the following decisions:

1) ***State of Himachal Pradesh v. Hukum Chand alias Monu***[1]
2) ***State of Uttar Pradesh v. Chhotey Lal***[2]
3) ***State of Punjab v. Ramdev Singh***[3]
4) ***State of H.P. v. Shree Kant Shekari***[4]
5) ***State of Maharashtra v. Chandraprakash Kewalchand Jain***[5]
6) ***Rai Sandeep alias Deepu v. State (NCT of Delhi)***[6]
7) ***State of Punjab v. Gurmit Singh & Ors.***[7]
8) ***Vishnu alias Undrya v. State of Maharashtra***[8]
9) ***Rajinder alias Raju v. State of Himachal Pradesh***[9]
10) ***Puran Chand v. State of Himachal Pradesh***[10]
11) ***Bodhisattwa Gautam v. Subhra Chakraborty (Ms)***[11]
12) ***Visveswaran v. State Rep. By S.D.M.***[12]

1 2026 SCC OnLine SC 462
2 (2011) 2 SCC 550
3 (2004) 1 SCC 421
4 (2004) 8 SCC 153
5 (1990) 1 SCC 550
6 (2012) 8 SCC 21
7 (1996) 2 SCC 384
8 (2006) 1 SCC 283
9 (2009) 16 SCC 69
10 (2014) 5 SCC 689
11 (1996) 1 SCC 490
12 (2003) 6 SCC 73

2026:BHC-GOA:1562-

13) ***State of Jharkhand v. Shailendra Kumar Rai alias Pandav Rai***[13]
14) ***Rosy & Anr. v. State of Kerala & Ors.***[14]
15) ***Achhar Singh v. State of Himachal Pradesh***[15]
16) ***Mahendran v. State of Tamil Nadu***[16]
17) ***Gangadhar Behera & Ors. v. State of Orissa***[17]
18) ***Goverdhan & Anr. v. State of Chhatisgarh***[18]
19) ***Vijay Pal v. State (Government of NCT of Delhi)***[19]
20) ***Jitender Kumar v. State of Haryana***[20]
21) ***Pappu Tiwari v. State of Jharkhand***[21]

B. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

6. Mr Aabad Ponda, learned Senior Counsel, made the following submissions:

6.1. At the outset, Mr Ponda emphasised the scope of an appellate court's jurisdiction when entertaining an appeal against acquittal. He submitted that an acquittal reinforces the presumption of innocence in favour of the accused. Consequently, an appellate court may interfere with an order of acquittal only if it finds manifest perversity in fact and law. He

13 (2022) 14 SCC 299
14 (2000) 2 SCC 230
15 (2021) 5 SCC 543
16 (2019) 5 SCC 67
17 (2002) 8 SCC 381
18 (2025) 3 SCC 378
19 (2015) 4 SCC 749
20 (2012) 6 SCC 204
21 (2022) 17 SCC 664

2026:BHC-GOA:1562-

relied on the following decisions of the Supreme Court to support his argument:

1) ***Chandrappa & Ors. v. State of Karnataka***[22]
2) ***State of Uttar Pradesh v. Banne @ Baijnath & Ors.***[23]
3) ***Ballu alias Balram alias Balmukund & Anr. v. State of Madhya Pradesh***[24]
4) ***Mulak Raj & Ors. v. State of Haryana***[25]
5) ***Aruvelu & Anr. v. State represented by the Public Prosecutor & Anr.***[26]

6.2. Mr Ponda submitted that the sole testimony of the victim (**PW-1**) must be evaluated against the depositions of 72 prosecution witnesses. The prosecution's case rests entirely on PW-1's assertion that the alleged incident occurred inside the lift of a starred hotel. However, she was unable to explain how the Respondent kept the lift doors closed. In an e-mail dated 16th November 2013, PW-1 reinforced her statement that the Respondent was simply pressing buttons on the lift's panel to keep the lift in circuit, preventing it from stopping anywhere. PW-1's statement is impossible, as Priyan Shivpalan (**PW-16**), Sunil Desai, IT Manager and Panch of CCTV (**PW-21**), Sudiksha Naik, PI attached to CID, Crime Branch (**PW-30**), and Amin Jabbar, Lift Technician (**PW-44**) deposed that the lift doors

22 (2007) 4 SCC 415
23 (2009) 4 SCC 271
24 (2024) 12 SCC 202
25 (1996) 7 SCC 308
26 (2009) 10 SCC 206

2026:BHC-GOA:1562-

cannot be kept shut. Thus, PW-1's statement that the Respondent sexually assaulted her in the lift by keeping its doors closed is doubtful and unbelievable.

6.3. The defence's case is that the victim and the Respondent entered the lift, mistakenly exited on the first floor, walked to the end of the first floor corridor, returned to the lift, ascended to the second floor, and immediately took the stairs to the ground floor. This sequence of events spanned over two minutes, leaving no opportunity for the alleged sexual assault. Mr Ponda says that the IO failed to collect the CCTV footage of the first floor corridor, thereby suppressing vital evidence that would have established the defence's case. He argued that the IO deliberately bungled the collection of evidence, specifically, the first floor footage of 07th and 08th November 2013, on which the alleged incident took place. He relied on the following decisions of the Supreme Court:

1) ***State of Uttar Pradesh v. A.K. Gaba Etc.***[27]
2) ***Tomaso Bruno & Anr. v. State of Uttar Pradesh***[28]

6.4. Mr Ponda presented a twofold argument for our consideration. He submitted that the prosecution case is highly suspect on account of the unexplained delay in registering the FIR. Admittedly, after the incident, the victim confided in her three friends, namely PW-11, PW-12 and PW-56. She drafted a

27 2026 SCC OnLine SC 967
28 (2015) 7 SCC 178

2026:BHC-GOA:1562-

narrative of the alleged incident and e-mailed it to her friends and PW-45 on 18th November 2013. Before circulating this note, PW-1 deleted portions of her original note, demonstrating a deliberate effort to alter her account.

She requested a written apology from the Respondent and demanded that *Tehelka* constitute an Anti-Sexual Harassment Cell as per the Visakha Guidelines to investigate the matter immediately. Her friends, PW-11, PW-12 and PW-56, were CC'd on the e-mail. PW-45 replied to the victim the same afternoon and also CC'd PW-11, PW-12 and PW-56. Secondly, by copying her friends on her correspondence with PW-45, PW-1 engaged in active deliberation with potential witnesses regarding her version of events. Relying on the Supreme Court's decision in ***Ganesh Bhavan Patel and Anr. v. State of Maharashtra***[29]**,** Mr Ponda submitted that the delay in registering the FIR on 22nd November 2013 was used to buy time, shape the narrative and align witness statements.

6.5. Mr Ponda submitted that to sustain a conviction on the uncorroborated testimony of a victim, the evidence must be of sterling quality – unblemished, natural and trustworthy. Mr Ponda contended that PW-1's testimony is riddled with

29 (1978) 4 SCC 371

2026:BHC-GOA:1562-

contradictions, inconsistencies, and other improbabilities, as demonstrated by the following:

(a) **Absence of Intent to Prosecute:** PW-1 did not originally intend to initiate criminal proceedings. Her only aim was to extort money from the Respondent. The IO (**PW-70**) registered the offence on the basis of media reports. Mr Ponda accused a particular political party of being interested in prosecuting the Respondent and stated that the FIR was registered only on the basis of a blog written by the late Mr Arun Jaitley, a senior politician.

(b) **Pre-planned Deliberations:** In her e-mail to PW-11, PW-12, and PW-56 dated 15th November 2013 (**Exhibit 701**), PW-1 stated that based on legal advice regarding media scrutiny, she had decided not to file a complaint, and asked whether her friends would stand by her. Mr Ponda contended that this proves pre-planned alignment of witness statements.

(c) **Shift in Allegations:** In her e-mail dated 16th November 2013 (**Exhibit 704(1)**), PW-1 named Nikhil Agarwal (**DW-4**) as the first person she informed post-incident. However, his name was omitted from subsequent e-mails without explanation. Furthermore, PW-1 initially characterised the incident as an "attempted rape", yet the Respondent was charged with rape.

2026:BHC-GOA:1562-

(d) **Discrepancies and Inconsistencies:** During deposition, PW-1 was unable to specify key details of the assault, including whether the Respondent pressed a single button or multiple buttons on the lift's panel; whether the lift was moving or stationary; who exited the lift first, or whether she was physically pulled inside. Furthermore, PW-1's claim that she could not report the incident to PW-45 immediately, due to lack of opportunity, was contradicted by PW-45, who testified to meeting PW-1 multiple times during the THiNK Fest.

(e) **Text Message Allegation:** PW-11 and PW-12 stated in their depositions that they did not see the message containing the word 'finger tips' sent by the Respondent to PW-1, but they repeated what she told them immediately after receiving it.

(f) **Relationship with Defence Witnesses:** While PW-1 downplayed her relationship with Malika Singh (**DW-1**) and Kartikeya, describing them as mere acquaintances, WhatsApp chats from the 'Woof, Wag and Wiggle' group established a close personal relationship.

6.6. Mr Ponda pointed out that PW-1's claim that she refrained from reporting the matter to protect her job at *Tehelka* is false. The text messages in **Exhibit 394** show that prior to the

2026:BHC-GOA:1562-

incident, PW-1 had received a book grant on rape and was actively applying for employment with a competitor, 'Scroll.in'.

6.7. PW-1's claim that she stayed back in Goa to process her 'trauma' is contradicted by other evidence. Her extended stay was pre-planned. Martha Fernandes (**PW-26**) confirms that PW-1 visited her two friends at Hotel Casa Paradiso, and other messages between PW-1 and Harsimran Gill (**PW-15**) show her co-ordinating her stay with her 'Russian Daddy'.

6.8. Vijay Pandey (**DW-2**), the photographer, produced photographs marked as **Exhibits 793, 794 (1) and (2),** depicting PW-1 holding a wine glass. DW-2 further testified that PW-1 appeared calm and composed when he met her on 10th November 2013.

6.9. Prawal Srivastava (**PW-43**) testified that on the day after the incident, PW-1 requested the Respondent to pose for a photograph with Robert De Niro. Mr Ponda submitted that this behaviour is inconsistent with the conduct of a victim of sexual assault towards her perpetrator.

6.10. Mr Ponda also attempted to tarnish the morality and character of PW-1. He submitted that the chat logs from the group 'Woof, Wag and Wiggle' (as produced by DW-1) reveal

2026:BHC-GOA:1562-

PW-1's light-hearted interactions about events involving Robert De Niro, further undermining her claim of distress.

6.11. Text messages between PW-1 and PW-15 reveal her intent to 'unleash a reign of sexual terror on unsuspecting thinkers'. Mr Ponda argued that this statement reflects a pre-meditated intent to fabricate allegations against the *Tehelka* executives for financial gain. This also explains why she initially eschewed a police complaint in favour of internal demands of an apology and following the procedure of constituting an ICC to enquire into her complaint of sexual harassment in terms of the Supreme Court guidelines in the Visakha case.

6.12. In this context, Mr Ponda referred to certain chats of PW-1 with her friends, post the incidents, wherein there is a discussion regarding demanding a severance package from *Tehelka*.

6.13. On the requirement of sterling quality evidence of the victim to inspire confidence in the court, Mr Ponda refers to the following decisions of the Supreme Court.

1) ***Vimal Suresh Kamble v. Chaluverapinake Apal S.P. & Anr.*** [30]
2) ***Sadashiv Ramrao Hadbe v. State of Maharashtra & Anr.***[31]

30 (2003) 3 SCC 175
31 (2006) 10 SCC 92

3) ***Ganesan v. State Represented by its Inspector of Police***[32]
4) ***Tameezuddin alias Tammu v. State (NCT of Delhi)***[33]
5) ***Ramdas & Ors. v. State of Maharashtra***[34]
6) ***Rai Sandeep alias Deepu v. State (NCT of Delhi)*** *(supra at pg. 19)*

Mr Ponda thus attempted to demolish the testimony of the victim by attacking her credibility, veracity, and truthfulness.

6.14. Regarding the apology e-mails from the Respondent, Mr Ponda argued that they are not voluntary confessions. He stated that the formal e-mail was drafted by PW-45, whom he was pressured by, along with his sister Neena (**PW-36**), to send it, with the promise that it would resolve the issue. Referring to PW-1's e-mail dated 19th November 2013 (**Exhibit 733(4)**), which listed four settlement demands, Mr Ponda claims that the apology was obtained through inducement and coercion. To exclude these e-mails as extra-judicial confessions, he cited relevant Supreme Court decisions.

1) ***Pakala Narayan Swami v. King Emperor***[35]
2) ***Palvinder Kaur v. State of Punjab***[36]
3) ***Raja alias Ayyapan v. State of Tamil Nadu***[37]

32 (2020) 10 SCC 573
33 (2009) 15 SCC 566
34 (2007) 2 SCC 170
35 1939 SCC OnLine PC 1
36 (1952) 2 SCC 177
37 (2020) 5 SCC 118

2026:BHC-GOA:1562-

4) ***Seeni Nainar Mohammed v. State Represented by Deputy Superintendent of Police*** [38]

5) ***Veera Ibrahim v. The State of Maharashtra***[39]

6.15. In conclusion, Mr Ponda submitted that PW-1's evidence is not of sterling quality. Her credibility is seriously and adversely affected by her post-incident conduct. The 'trauma processing' story is unbelievable on account of her behaviour post THiNK Fest. Apart from the victim's testimony, there is no corroborative evidence that points to the guilt of the Respondent. He submitted that howsoever gruesome and revolting an offence may be, an accused can be convicted only on legal evidence and not on surmises and conjectures. Hence, the intervention of this Court is not justifiable. Mr Ponda thus prays that the Appeal be rejected and the Acquittal order be confirmed.

7. Mr Mehta, in his rejoinder, submitted that the victim was consistent in her deposition, and her evidence is of sterling quality. Mr Mehta relied on the decision in ***Gangadhar Behera*** (supra at pg. 20) and ***Achhar Singh*** (supra at pg. 20), to say that even if some portion of the evidence is deficient, in case the residue is sufficient to prove the guilt of the accused, his conviction can be maintained. In reference to Mr Ponda's argument that the CCTV footage of the first floor which could have proved the defence case, was not collected from the hotel,

38 (2017) 13 SCC 685

39 (1976) 2 SCC 302

2026:BHC-GOA:1562-

Mr Mehta argued that the defence case appears to be that neither the Respondent nor the victim were present at the spot of incident which is inside of the lift. Clearly, the Respondent has taken a plea of alibi. The allegation of absence of CCTV footage of the first floor is not a positive defence. An alibi requires the Respondent to lead positive evidence to prove that he and the victim ventured out of the lift, which is not led. Mr Mehta relied on the case of ***Pappu Tiwari*** (supra at pg. 20), ***Vijay Pal*** (supra at pg. 20) and ***Jitender Kumar*** (supra at pg. 20). Mr Mehta reiterated his prayer of setting aside the impugned Judgment and Order.

III. ANALYSIS

8. Before addressing the rival arguments, it's important to note that the impugned Judgment and Order primarily centred on PW-1's moral character, her behaviour before and after the incidents, her open interactions with friends, and her overall personality. A detailed review of PW-1's cross-examination shows that the defence counsel repeatedly focused on her personally, as if she were on trial rather than the Respondent. Her private life was extensively examined, revealing her past relationships, social media posts prior to the incidents, and her public responses to trauma. Nearly half of the 1000-page cross-examination consisted of repetitive questions about specific details, such as her position during various acts with the Respondent, including when he kissed her, lifted her dress, and engaged in sexual acts. The

2026:BHC-GOA:1562-

incident took place in 2013, and evidence was recorded from 2018 to 2021. Five years later, PW-1 was persistently asked to recount details of the rape, not to clarify facts or test her credibility, but to find inconsistencies and distort her account.

9. What struck us most was the Court's noticeable silence during PW-1's cross-examination by the defence. We find it surprising that the Court allowed the defence to use this time to harass and humiliate her. It appears the Court overlooked that the victim, having already faced trauma, might feel too ashamed, nervous, or confused to respond clearly when questioned repeatedly in an unfamiliar environment. Her silence or a confused remark could be wrongly interpreted as contradictions in her testimony. Having recorded this, we would now like to reiterate the principles laid down by the Hon'ble Supreme Court governing the scope of interference by the High Court in an appeal filed by the State challenging the acquittal of the accused.

A. Scope of interference of the appellate court in an appeal against acquittal: -

10. The Hon'ble Supreme Court in ***Rajesh Prasad v. State of Bihar***[40] has encapsulated the legal position governing the field and held as under:

> *"29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate*

40 (2022) 3 SCC 471

court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa case[10], SCC p.432, para 42)

> *42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge*:
>
> *(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*
>
> *(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*
>
> *(3) Various expressions, such as "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc., are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.*
>
> *(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption of in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*
>
> *(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."*

2026:BHC-GOA:1562-

11. Similar reiteration of law can be found in ***H.D. Sundara v. State of Karnataka***[41], ***Ballu alias Balram alias Balmukund*** (supra at pg. 21), and ***Constable 907 Surendra Singh & Anr. vs. State of Uttarakhand***[42]. Perusal of the judgments, as passed by the Hon'ble Supreme Court, demonstrates that scope of interference in the case of acquittal is very limited and the same would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record. It has further been held that the prosecution, in order to prove its case, must establish the guilt of the accused from the oral as well as documentary evidence placed on record. It is a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. The facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has also been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. There must be a chain of evidence so complete as not to leave

41 (2023) 9 SCC 581

42 (2025) 5 SCC 433

2026:BHC-GOA:1562-

any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused.

B. The charge against the Respondent and provisions of law: -

12. The Respondent was charged with offences punishable under Sections 376(2)(f), 376(2)(k), 354A, 354B, 341 and 342 of the IPC. Section 376 provides for punishment for rape. Section 375 defines rape as under:

> ***"375. Rape.*** *—A man is said to commit "rape" if he—*
>
> *(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or*
>
> *(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or*
>
> *(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of the body of such woman or makes her to do so with him or any other person; or*
>
> *(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions: —*
>
> *First. —Against her will.*
>
> *Secondly. —Without her consent.*
>
> *Thirdly. —With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.*
>
> *Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is given because she believes*

that he is another man to whom she is or believes herself to be lawfully married

Fifthly. —With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. —With or without her consent, when she is under eighteen years of age.

Seventhly. —When she is unable to communicate consent.

Explanation 1. —For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. —Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1. —A medical procedure or intervention shall not constitute rape.

Exception 2. —Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

13. Section 376(2)(f) provides for punishment for rape by a person being a relative, guardian, or teacher of or a person in a position of trust or authority towards the woman, while Section 376 (2)(k) relates to rape by a person being in a position of control or dominance over a woman. Section 354 provides for punishment for assault or use of criminal force to woman with an intent to outrage her modesty, Section 354A provides for punishment for sexual harassment, Section 354B provides for punishment for assault or use of criminal force to woman

2026:BHC-GOA:1562-

with an intent to disrobe her, and Sections 341 and 342 relate to punishment for wrongful restraint and wrongful confinement, respectively.

14. Admittedly, the Respondent was the Editor-in-Chief and owner of *Tehelka,* where PW-1 was an employee and, at the relevant period, the principal correspondent. Undoubtedly, the Respondent was in a position of control and dominance over PW-1. We have discussed this aspect at a later stage in the judgment.

C. Probative value of the victim's evidence: -

15. PW-1 testified that during THiNK Fest 2013, she was assigned to chaperone Mr Robert De Niro, the chief guest. She described the incident on November 7, 2013, when she and the Respondent took Mr De Niro to his room on the 2nd Floor of Block 7 at Hotel Grand Hyatt. They then descended to the ground floor in the lift. A few minutes later, around 10:20 p.m., the Respondent suggested waking Mr De Niro. Although confused, the victim agreed. As they entered the lift, the Respondent began to kiss her, forcing his tongue into her mouth. Despite her protests, he continued, ensuring the lift doors stayed closed. He then knelt, pulled down her underwear, and assaulted her. PW-1 pleaded for him to stop, but he ignored her. He lifted her dress, put his face between her thighs, and inserted his tongue. She pushed him away, and he stood and inserted his fingers into her. When the lift

2026:BHC-GOA:1562-

opened on the 2nd Floor, she quickly pulled up her underwear, fixed her dress, and they left via the stairs. PW-1 reminded him that she was her daughter's friend and employee, but the Respondent shockingly said this was "the easiest way to keep her job."

16. The second incident happened the very next day, on 08th November 2013. The Respondent told PW-1 that they needed to retrieve something from Mr. De Niro's room. PW-1 was scared and hesitant. She offered to go alone, but since the Respondent was her boss and had asked her to accompany him, she felt obliged to follow him into the lift. PW-1 testified that once the lift doors closed, he started to kiss her again. She pushed him and asked him to stop. He paused, smiled, and patted her cheeks. When she turned away to face the closed lift doors, he reached out, lifted her dress, and said, 'You are unbelievable'. When the lift stopped, they exited but went back in. When the lift reached the ground floor and the doors opened, he grabbed her buttock. These are the two incidents of sexual assault as recounted by PW-1.

17. Insofar as the first incident is concerned, after exiting Block 7, she went to the International Centre, Dona Paula, Goa, where the *Tehelka* staff were staying. PW-1's actions thereafter are as under:

i) She went to the room where PW-11, PW-12 and PW-62 were staying. She also called another colleague, PW-56, to join

2026:BHC-GOA:1562-

them. PW-1 and PW-11 had studied together in school. All of them were working at *Tehelka*.

ii) She confided in them about the incident on 07th November 2013. They were shocked and offered to resign. She also called her partner, PW-65, who was then in Ethiopia, and shared her trauma.

iii) She received a text message from the Respondent on her Blackberry phone at 1:30 a.m. that read 'the finger tips'. She conveyed this to her friends as well.

18. She also recounted the second incident to PW-11. Despite this, she continued her duties during the event and remained composed. She met the Respondent's daughter and told her about the Respondent's actions. PW-1 added that Tiya, the Respondent's daughter, interrupted to say she had seen the Respondent do the same to someone when she was 13 years old, so it didn't surprise her. When the Respondent learned from his daughter that PW-1 had complained, he became angry and rebuked her. PW-1 also disclosed the Respondent's sexual assault to PW-13, PW-15, and PW-61, and shared her trauma with friends, her mother (**PW-53**), and her stepmother. She sought legal advice from senior lawyers Rebecca John and Indira Jaising. PW-1 testified that the Respondent sent her multiple texts, attempting to dismiss the incidents as 'drunken banter'. He reproached her for not understanding parent-

2026:BHC-GOA:1562-

child dynamics and tried to shame her for informing his daughter. PW-1 continued with the event, and after it ended, checked out of the International Centre, Goa. She explained she couldn't go home to Mumbai because her mother had guests over and she felt uncomfortable confiding in her mother in front of others. She then spent a few days in Goa with friends before returning to Mumbai on 15th November 2013.

19. PW-1 deposed that she wrote a summary of the incidents, as she thought it important in case she decided to complain. On 16th November 2013, the Respondent texted her, asking whether she had cleared up the situation with his daughter, Tiya. PW-1 reiterated her accusation against the Respondent, but he called her a liar and warned her not to contact him again. PW-1 maintained her accusation and told him point blank that he had done the most horrible things to her. On 18th November 2013, PW-1 stated that she had sent a complaint to PW-45 via e-mail (**Exhibit 733(1)**). She also CC'd the e-mail to PW-11, PW-12 and PW-56. There was a flurry of e-mails between PW-1 and PW-45. PW-1 deposed that she had sought an apology from the Respondent and an inquiry under the Visakha guidelines. Ultimately, the Respondent e-mailed two apology letters dated 19th November 2013; one formal apology and one personal apology addressed only to PW-1.

2026:BHC-GOA:1562-

20. The defence lawyers extensively cross-examined PW-1, confronting her with many past messages, e-mails, photos, and chats. They questioned her about her intimate relationships and past conduct to undermine her dignity and credibility. The cross-examiners tried to discredit her trauma testimony by presenting alleged inconsistencies about the assault details, such as her body position, the lift's status, and the Respondent's actions. Despite nearly 1000 pages of invasive questions designed to shake her, PW-1 remained consistent and steadfast, with no contradictions in her account.

21. PW-11 corroborated PW-1's testimony that she came to their room around 12:30 a.m. on the night of 07th-08th November 2013, crying and recounting the incident, which PW-11, PW-12, and PW-62 heard. PW-11 described the event as PW-1 narrated, including her mention that the Respondent repeatedly asked about her underwear's colour. They discussed options, including lodging a complaint with senior management or resigning, but she was afraid to go to the police due to the Respondent's political connections and fear of losing her job. She also mentioned receiving an SMS from the Respondent with the words ‘finger tips’.

22. PW-11 also deposed that PW-1 informed him about the second incident. He narrated the incident exactly as PW-1 had narrated it to him earlier, and his account is in consonance with PW-1’s testimony.



He further deposed to having shared this information with PW-12 and PW-56. He also deposed to having received a CC from PW-1 of an e-mail sent by PW-1 to PW-45 on 18th November 2013. He corroborated PW-1's testimony and said that PW-45 had also assured PW-1 of action. He further stated that he received an e-mail dated 19th November 2013 from PW-45, with an apology from the Respondent attached. PW-11 has produced the e-mails and identified his signature. The Section 65-B certificate of the IEA was produced later, and the e-mails were admitted in evidence.

23. PW-12 also corroborated PW-1's testimony. He confirmed her role at the THiNK Fest. He deposed that at 12:30 a.m. on the intervening night of the 07th and 08th November, PW-1 came to their room in distress. He corroborated her narration regarding the sexual assault by the Respondent. He also affirmed that she informed them about receiving a text message with the words 'finger tips'. He further deposed that PW-11 informed him about the second incident. PW-1 had gone to their room at 02:30 a.m. and narrated the second incident as well. They discussed how they should proceed. He further deposed that he was CC'd on PW-1's e-mail to PW-45 regarding her complaint of sexual assault, the request for an apology, and the committee as per Visakha guidelines. He further deposed that PW-45 told him and others that there was no need for an inquiry, as the Respondent was not contesting PW-1's account. Later, he also received an e-mail addressed

2026:BHC-GOA:1562-

to the whole office, including an acknowledgment by the Respondent of the incident and his decision to recuse himself as editor of *Tehelka* for 6 months. He also placed on record the e-mail communications CC'd to him. These were later exhibited on production of a Section 65B of the IEA certificate. PW-12 was cross-examined carefully. There were suggestions regarding PW-1's conduct and her relationship with others. He was also shown CCTV footage of the event, post the incidents, to suggest that her composure was normal and that she was enjoying the event. There is no contradiction in PW-12's cross-examination regarding the narration of the sexual assault.

24. PW-13 also corroborated PW-1's testimony. He had known PW-1 since 2009. He deposed that he exchanged text messages with PW-1 on 08th November 2013, in which she requested him not to leave without meeting her. She called him on his phone, requesting him to return to the hotel. She was crying and distressed. He deposed that PW-1 shared with him the trauma of the two sexual assaults. She also told him that she had informed Tiya in that regard.

During cross-examination, he admitted that PW-1 contacted him on 11th November 2013, inviting him for a drink and to stay with her. They had dinner that night and left Vagator the next day. He was questioned about his relationship with PW-1 and PW-1's relationship with her other friend, PW-15. Certain suggestions were put to him regarding PW-1's liaison with a Russian national. Attempts were made

2026:BHC-GOA:1562-

to portray PW-1 as a woman of easy virtue by suggesting that, while intoxicated, PW-1 engaged in flirtatious, sexual, drunken banter with him. However, the corroborative testimony of PW-15 remained unshaken.

25. PW-53, the victim's mother, testified about the incident as narrated to her by her daughter from Goa on 09th November 2013 itself. She corroborated that PW-1 had confided in her the details of the sexual assault and her conversation with Tiya. She also corroborated that PW-1 had told her about the Respondent sending her messages. PW-53 confirmed that PW-1 had kept her informed about her whereabouts after the event. She reiterated that PW-1 had told her about the apology letter and the announcements made by PW-45 to the *Tehelka* staff regarding the Respondent stepping down from his position as Editor-in-Chief for 6 months. PW-53 also testified that Tiya had come to her house and inquired about her daughter's whereabouts. Tiya wanted to know who their lawyer was and sought information about PW-1. PW-53 also deposed to having registered an FIR against Tiya (**Exhibit PW-53/672**).

She was cross-examined extensively. Suggestions were made to her regarding her daughter's loose morals, her relationship with a Russian person named Danny, her relationship with Nikhil Agarwal (**DW-4**), and her own relationship with her ex-husband, etc. She was also asked about her daughter seeking advice from Advocate Rebecca

2026:BHC-GOA:1562-

John. Nothing was elicited from her cross-examination. Her testimony corroborating PW-1's story remained unshaken.

26. PW-56, G. Vishnu, the victim's colleague, also corroborated the testimony of PW-1, PW-11, PW-12 and PW-13. He testified to being present in the room when PW-1 narrated the sexual assault in the lift. He also testified that PW-11 informed him about the second assault on PW-1 by the Respondent. He also corroborated the e-mail communication from PW-45 regarding the apologies and identified the e-mails.

He was cross-examined regarding the character and conduct of PW-1. In response to the suggestion that PW-1 was not indispensable and could have left after the first sexual assault, he answered in the affirmative. However, this admission does not in any way contradict PW-1's testimony regarding the sexual assault. Hence, this witness's testimony can be safely said to corroborate that of PW-1.

27. PW-65, Aman Sethi, the victim's partner and present husband, also corroborated PW-1's narration. He deposed that in the early morning of 08th November 2013, while he was in Ethiopia, PW-1 called him and narrated the details of the sexual assault on her. He also deposed that he received an e-mail from PW-11 assuring him that PW-11 would support PW-1. He further deposed that PW-1 called him in tears while sharing details of the second assault on 08th November

2026:BHC-GOA:1562-

2013. He also affirmed that he was aware of her whereabouts after the event. He took leave to return to Mumbai, stay with PW-1, and provide her with emotional and moral support.

During the cross-examination, it was admitted that this witness and PW-1 were married. Attempts were made to discredit PW-1 and tarnish her character by enquiring about relationships she had prior to their marriage. Questions were asked about PW-1's relationship with a Russian person named Danny. He was asked whether he consumed drugs, whether his relationship with PW-1 was sexually monogamous, and whether PW-1 stayed with Danny at Ashvem, etc. He was also shown various text messages between him and PW-1 prior to their marriage, containing private, intimate messages. CCTV footage of PW-1 at the event was shown to him for his opinion as to whether she looked normal. Despite attempts to portray the victim as an immoral woman, PW-65's testimony regarding the sexual assault details narrated by PW-1 remained consistent. It appears to us that the questions put to this witness regarding PW-1's character were intended to embarrass and humiliate PW-1, as by this time PW-1 and this witness were married. It appears to us that the questions in the cross-examination not only were aimed at discrediting PW-1's version of the sexual assault but also intended to portray her as an unchaste woman in the eyes of her husband. This, in our view, was intended to create a chilling effect and demoralise PW-1 and this witness.

2026:BHC-GOA:1562-

28. Mr Ponda attempted to discredit PW-1's account of the Respondent stopping the lift. He pointed to PW-16's deposition, that of the Safety and Security Manager of Grand Hyatt. During cross-examination, PW-16 explained the lift mechanisms in Block 7. He stated that the lift doors automatically open on reaching a particular floor without pressing any button inside, and that they open to the fullest. Mr Ponda emphasised this statement to argue that it is not possible to keep the lift doors closed. However, he failed to read the witness's further statement that after the doors are fully opened, they remain open for 4 seconds ***'until a command is given to close the doors by pressing the close button'***.

We compared PW-1's deposition with PW-16's statements. She stated that the lift doors remained shut while he was sexually assaulting her. As discussed herein-above, she has precisely narrated the assault. After 5-7 years of the incident, much was made of inconsistencies in her deposition regarding whether the lift was stationary or moving during the sexual assault. She repeatedly stated that she thought it was in motion, but because she was resisting the sexual assault, she could not recall whether the Respondent had his hand on one button or multiple buttons on the lift panel. PW-16's testimony attempted to discredit her account that the lift doors cannot be kept shut. The defence's attempt is rendered ineffective, since PW-16 admitted in his cross-examination that the lift doors remain open only for 4 seconds until a command is

2026:BHC-GOA:1562-

given to close them by pressing the close button. The story of PW-1 is thus completely believable. Considering the steadfast consistency and corroboration of PW-1's testimony, supported by the testimony of PW-11, PW-12, PW-13, PW-53, PW-56 and PW-65, we believe it possible that the Respondent, while sexually assaulting the victim, kept the lift doors closed.

29. PW-44, a lift technician, was examined to explain how the lift works. He stated in his deposition that if the lift is not used for 3-4 minutes, it goes into sleeping mode to save energy. He further stated that to use the lift in sleeping mode, the call button outside the lift must be pressed. This testimony confirms that the lift can remain in sleeping mode unless someone presses the call button outside.

In cross-examination, he maintained that it takes only 2-3 seconds to open and close the lift doors. He reiterated that, in normal course, the lift doors remain open for only 4 seconds, but if the close button is pressed, the doors close faster than the normal time. In cross-examination, he admitted to a hypothesis put to him that between the ground and first floor the lift doors will open approximately 7 times and between the ground and second floor they will open 5 times in 120 seconds. Mr Ponda has made much hue and cry over this statement to demolish PW-1's testimony that the Respondent kept the lift doors closed. However, he failed to consider that it was very much possible for the Respondent to keep his finger on the close button to ensure that

2026:BHC-GOA:1562-

the lift remained open on any given floor only for 4 seconds. Considering the testimony of PW-1, PW-11, PW-12, PW-13, PW- 53, PW-56 and PW-65, it is evident that the Respondent maneuvered the lift to ensure the doors were shut during the sexual assault.

30. It is now a settled principle of law that a conviction can be founded on the sole testimony of the victim, unless there are compelling reasons to seek corroboration. It is equally settled that corroboration, as a condition for judicial reliance on the victim's testimony, is not a requirement of law but a matter of prudence in the given circumstances (Refer ***Gurmit Singh*** *(supra at pg. 19)****; State of Himachal Pradesh v. Asha Ram***[43]***; Rajinder alias Raju*** *(supra at pg. 19).* We bear in mind that a case of sexual assault must be proved beyond reasonable doubt, as in any other case, and there is no presumption that the victim will always tell the entire truth. However, the standard of proof expected in such cases must take into account that such crimes are generally committed on the sly, and that direct evidence from a person other than the victim is very rarely available. It must be realised that a woman subjected to sexual violence is often slow and hesitant to disclose her plight. In the present case, the victim has stood firm in her testimony despite invasive cross-examination. As many as 7 witnesses have corroborated her narration. We have no hesitation in believing her testimony.

43 (2005) 13 SCC 766

2026:BHC-GOA:1562-

D. On CCTV footage: -

31. Apart from the aforesaid witnesses corroborating PW-1's testimony, there is direct corroboration of the narration in the form of CCTV footage. The IO (**PW-70**) has deposed regarding the CCTV footage collected from the hard disk, which contains the backup of CCTV footage of Guest House 3 and 7 (**Exhibit P-3**). At this juncture, it is important to record that repeated requests were made by the defence for providing electronic evidence from the *muddemal* of the Court. It is pertinent to note that during the trial itself, and by order dated 16th January 2015, passed by the Supreme Court in SLP (Crl.) No. 66 of 2015, the prosecution was directed to provide all relevant documents, including unedited CCTV footage, to the Respondent within 3 weeks from the date of the order. The trial was to be adjourned till such time the required documents and CCTV footage were not given to the Respondent. This Order was followed by an Order dated 12th October 2015, passed by the Supreme Court. The mobile phone was directed to be cloned by the FSL and given to the defence. The evidence that was not attached by the IO was not required to be furnished. The defence claimed not to have the electronic evidence with them, as counsels representing the Respondent in the Trial Court had passed away. This Court, through its IT Department, made copies of the electronic evidence as required by the defence and furnished the same to the Respondent.

2026:BHC-GOA:1562-

32. The CCTV footage was shown in court. Upon detailed review for the relevant date and time, it was observed that PW-1, the Respondent, was seen with Mr. De Niro in the lift in Block 7, ascending to the second floor. Later, both PW-1 and the Respondent are seen descending to the ground floor in the lift and leaving the lobby. A few minutes later, the Respondent is seen pulling PW-1's hand and entering the lift, which is not covered by the hotel's CCTV. They appear to enter on the ground floor and exit after a few minutes on the second floor. The Respondent is seen on the landing, with PW-1 following. She adjusts her dress and the waistline of her underwear. Both then take the stairs to the ground floor. PW-1 is seen tying her hair as she exits the lobby on the ground floor.

33. Admittedly, the sexual assault is alleged to have occurred inside the lift. There is no CCTV camera inside the lift. The presence of PW-1 and the Respondent at the spot of the incident is established. They both entered the lift on the ground floor and, after a few minutes, exited on the second floor. They descended by the stairs. The act took place within the four walls of the lift. In the case of ***Trimukh Maroti Kirkan v. State of Maharashtra***[44]**,** the Supreme Court held that if an offence takes place inside the privacy of a house, where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely

44 (2006) 10 SCC 681

difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence is insisted upon by the Courts. A Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. Both are public duties. The law does not enjoin a duty on the prosecution to lead evidence of such character that is almost impossible to lead, or at any rate extremely difficult to lead. The duty on the prosecution is to lead such evidence as it can lead, having regard to the facts and circumstances of the case. In rape cases, there is usually no eyewitness. In the present case, the victim's statement is reliable and consistent. Her story is also corroborated by witnesses. The evidence in the form of CCTV footage is significant to the extent that it places the victim and the Respondent at the spot of the incident on the date and time testified by her.

34. In the case of ***Chandraprakash Kewalchand Jain*** (supra at pg. 19), the Supreme Court held that insisting on corroboration, except in the rarest of rare cases, equates a woman who is a victim of lust by another with an accomplice to a crime and thereby insults womanhood. It would be adding insult to injury to tell a woman that her story of woe will not be believed unless it is corroborated in material particulars, as in the case of an accomplice to a crime.

2026:BHC-GOA:1562-

E. Omission to collect electronic evidence, material to the defence case: -

35. Mr Ponda argued that the IO failed to seize the CCTV footage from the first floor of Block 7. He referred to the Respondent's Section 313 statement, which recorded that PW-1 and the Respondent mistakenly exited the lift on the first floor, walked the entire corridor to what they believed was Mr De Niro's suite, realised they were in the wrong place, and walked back to the lift to go to the second floor. He submitted that, because the IO had not seized the first-floor CCTV footage, the defence was hindered in proving its case.

The law is very clear in this regard. The defence appears to be in the nature of a plea of alibi. The plea of alibi is admissible under Section 11 of the IEA. It is settled law that the burden lies on the accused to prove the case of alibi. In ***Pappu Tiwari*** *(*supra at pg. 20*),* the Supreme Court, relying upon its earlier decision in the case of ***Jitender Kumar*** (supra at pg. 20), held that the burden of establishing the plea of alibi lay upon the person claiming to have an alibi. The plea of alibi, in fact, is required to be proved with certainty so as to completely exclude the possibility of the presence of the accused at the place of occurrence. In ***Vijay Pal*** (supra at pg. 20*)***,*** the Supreme Court held that when a plea of alibi is taken by an accused, the burden is upon him to establish the same by positive evidence after the onus as

regards presence on the spot is established by the prosecution. Mr Ponda argued that immediately on learning about PW-1's allegations of sexual assault in the lift, the Respondent, a resident of Delhi, issued a press release calling upon the police to seize all electronic evidence from the hotel. Emphasizing this press release, Mr Ponda submitted that despite the Respondent's public demands, the CCTV footage of the first floor was not seized. Placing reliance on the decision of the Supreme Court in the matter of ***A.K.Gaba*** *(*supra at pg. 22*)* and ***Tomaso Bruno*** *(*supra at pg. 22), Mr Ponda argued that being in possession of the best evidence, the prosecution ought to have produced the same. In the Gaba case, the prosecution was relying on a tape-recorded conversation of a demand for a bribe made by the accused in that case. In the facts of the present case, the prosecution case is consistent from the beginning that the Respondent and PW-1 entered the lift on the ground floor and exited on the second floor after a few minutes. The sexual assault happened during this period. They descended by the staircase. The IO therefore seized the CCTV footage of the ground and second floor, in consonance with the victim's statement.

We have examined the record in detail. There is nothing on record to indicate any efforts made by the Respondent to seek any orders from the trial Court or this Court regarding the first-floor CCTV footage. In fact, the defence had sought copies of electronic and other

2026:BHC-GOA:1562-

evidence in possession of the prosecution from the Supreme Court. The prosecution made available all electronic and other evidence to the defence, including cloning of PW-1's mobile phone. In any case, even if the Respondent's story that they mistakenly exited the lift on the first floor and went again to the second floor to give some message to Mr De Niro is presumed to be true, there is no explanation as to why, upon exiting the lift on the second floor, they straightaway descended by the staircase without even attempting to go to Mr De Niro's suite. Moreover, the Respondent has not laid a proper foundation in respect of this defence. A stray suggestion was made to PW-1 that she tried to distract the Respondent by fiddling provocatively with her dress; however, she remained unyielding in her testimony and clearly denied the suggestion. Nothing was elicited from her cross-examination.

36. The testimony of all the above witnesses clearly demonstrates that PW-1 has withstood rigorous and invasive cross-examination. She has faced a strenuous and lengthy cross-examination and has left no room for doubt as to the factum of the occurrence as well as its sequence. Her version has a direct correlation with the supporting material and consistently matches the version of every other witness. In our view, PW-1's version qualifies the test of high quality and calibre, and thus we can safely hold that the testimony of PW-1 is sterling. We thus have no hesitation in accepting her testimony on the core spectrum of the offence, even without any corroboration. There is no

2026:BHC-GOA:1562-

compelling reason that necessitates looking for corroboration of her statement. Her testimony thus inspires confidence and is found to be reliable.

F. On apologies

37. PW-1 deposed that on 18th November 2013, she sent a complaint via e-mail to PW-45 (**Exhibit 733(1)**). The e-mail had an attachment titled 'testimony'. She narrated the incidents to PW-45 and required *Tehelka* to constitute an Anti-Sexual Harassment Cell as per the Visakha Guidelines to investigate her complaint. She also required a written apology from the Respondent and an acknowledgement to be circulated through the organisations. The attachment to the e-mail narrated graphic details of the sexual assault. Mr Ponda argued that in this attachment, PW-1 has referred to the assault as an 'attempt' to rape. Hence, he argued that there was no charge of rape at the inception. We have examined all the communications between the stakeholders, including PW-1, PW-45, PW-11, PW-12, PW-56, and the Respondent. Following the complaint, the Respondent sent an e-mail dated 19th November 2013 at 12.53 p.m. (**Exhibit 733(2)**). PW-45 is copied on the same. The Respondent has unequivocally and unconditionally apologised for the shameful lapse of judgment that led him to attempt a sexual liaison with the victim on two occasions, i.e. on 7th and 8th November 2013, despite her clear reluctance. He also acknowledged having said that being her Boss makes it simpler.

2026:BHC-GOA:1562-

Exhibit 733(3) is a personal e-mail sent by the Respondent to PW-1 alone. This e-mail is dated 19th November 2013 at 12.50 p.m., i.e. only three minutes prior to the previous e-mail. In this e-mail, addressing the victim personally, he apologised for the immense distress caused to her by his lapse of judgment. He acknowledged that the encounter took place but that he had no idea that the same was non-consensual until his daughter conveyed PW-1's feelings to him. The Respondent also wrote that he had been totally irresponsible and foolish to have anything furtive to do with his daughter's intimate friend. The Respondent also admitted that he read PW-1's feelings all wrong and did not dispute the incident. Lastly, the Respondent asked for her forgiveness and offered to apologise to her mother and partner as well. Prior to this e-mail, PW-1 had also addressed an e-mail to PW-45 copying PW-11, PW-12 and PW-56 on 19th November 2013 at 10.43 a.m. (**Exhibit 733(4)**). In this e-mail, PW-1 has reiterated her complaint to PW-45 and has sought the Respondent's apology. She clearly stated that this was not a personal issue but a gross violation between the Editor-in-Chief and his employee. She made it clear that *Tehelka* as an institution must acknowledge the Respondent's violation of trust. She also required an acknowledgment of the Respondent having violated her and that his behaviour constituted sexual harassment and sexual molestation. She once again sought an inquiry by constituting an Anti-Sexual Harassment Cell in *Tehelka*. Following the personal apology e-

2026:BHC-GOA:1562-

mail, PW-1 via her e-mail dated 20th November 2013, at 10.22 a.m. (**Exhibit 733(5)**) in strong words reproached the Respondent's attempt to undermine the sexual assault incident. She contradicted his statement that, having said the words 'this makes it easier to keep your job', he immediately retracted the same. She also reminded him that he had unfairly lashed out at her verbally for sharing the sexual assault incidents with his daughter. Finally, PW-1 called out the Respondent's desire to apologise to her partner as a demonstration of his own patriarchal notion that men own and possess female bodies, and that since the Respondent violated what he recognised as his 'property' in some way he found himself accountable to Aman (**PW-65**). Thereafter, PW-45, by her e-mail dated 20th November 2013, sent at 4.27 p.m. (**Exhibit 733(7)**) to the entire *Tehelka* staff, forwarded the Respondent's e-mail to her admitting and apologising for his misconduct to PW-1. She also conveyed that the Respondent was stepping down as Editor-in-Chief for six months, in consonance with the collective values of *Tehelka*. There are other e-mails as well.

38. Mr Ponda downplayed the apology e-mails, claiming they were a response to demands in PW-1's e-mail. He also alleged that PW-45 and PW-36, the Respondent's sister Neena, pressured him to issue the apologies, promising it would resolve the matter. Mr Ponda refers to these e-mails as extrajudicial confessions, asserting they were made under duress. After reviewing the e-mails' sequence and content, we

find no evidence beyond Mr Ponda's claim to suggest that the apologies were coerced. PW-1 remained firm despite suggestions that she had pressured the Respondent through PW-45 into apologising. The e-mails clearly admit that the Respondent acknowledged the sexual assault on PW-1, albeit calling it a "sexual liaison". His explanation that these encounters were nonsensual and taken lightly is unconvincing. His primary defence is outright denial, which he affirmed repeatedly despite being asked whether he claimed consent. As Editor-in-Chief of *Tehelka*, the Respondent was a powerful figure. He claims he never met PW-1 before she joined *Tehelka* and considers her just one of many staff members handling minor tasks. Yet he issued two e-mails admitting guilt and offering apologies, which is inconsistent with his denial. The personal apology depicts PW-1 negatively, describing her as flirtatious and sexually provocative, and he describes their interactions as secretive. If he truly sent the e-mail solely under pressure, why did he also send a formal apology to her, with a copy to PW-45, and then step down as Editor-in-Chief for six months? Moreover, PW-45 circulated the apology widely among *Tehelka* staff. If the Respondents' claim of complete denial is true, it isn't believable that he would be pressured by his sister and PW-45 to issue such apologies for something he claims never happened. No person of reasonable prudence would apologise falsely for such an incident, especially

2026:BHC-GOA:1562-

someone like him. Therefore, Mr Ponda's argument is entirely unconvincing.

39. Interestingly, PW-45, although a prosecution witness and *Tehelka*'s Managing Editor, admitted in her testimony that when she confronted the Respondent about PW-1's complaint, he told her that PW-1 was lying and that the incident was consensual. Even in her 164 statement (**Exhibit 652**) before the Magistrate, PW-45 stated that the Respondent had told her that the encounter was consensual and that he had transgressed by having a sexual encounter with a junior colleague. This shows that even PW-45 believed PW-1 and was certain that the Respondent had transgressed. PW-45 further stated that the Respondent told her that he had misread the situation but was ready to apologise. Later, in cross-examination, PW-45 attempted to alter her deposition and said that she wanted to protect the dignity of *Tehelka*. In the face of PW-45's testimony, Mr Ponda's argument that the Respondent apologised under pressure falls flat. It is pertinent to note that Mr Ponda's argument that the e-mails cannot be used as disclosures under Section 27 of the IEA is not relevant, as neither side had treated the e-mails as such.

40. Thus, the Respondent's story that the incidents never took place cannot be believed. He admits to an encounter. The term 'encounter' itself reflects the incidents. Moreover, the e-mail was sent from the

2026:BHC-GOA:1562-

Respondent's personal mobile device, ruling out tampering. All the material on record thus establishes that the incidents took place; there was a sexual encounter between the Respondent and PW-1; PW-1 has alleged that it was a sexual assault without her consent. The proviso to Explanation 2 of Section 375 of the IPC, makes it clear that a woman who does not physically resist to the act of penetration, shall not by the reason only of that fact, be regarded as consenting to sexual activity. Section 114A of the IEA also provides that when there is a question as to whether the sexual intercourse where the offence punishable under Section 376(2)(f) and (k), was with the consent of the woman alleged to have been raped and such woman states in her evidence before the Court that she did not consent, the Court shall presume that she did not consent. In any case, the defence case is not that of consent. The defence case is of absolute denial. Thus, we have no hesitation in accepting the testimony of PW-1 as one that inspires confidence in the Court.

G. In connection with allegations of extortion by PW-1

41. This point is closely connected to the aforesaid e-mails. The e-mail dated 19th November 2013 sent by PW.1 to PW-45 requiring four actions on the part of the Respondent/*Tehelka* is being interpreted as extortion. To buttress the extortion claim, Mr Ponda has referred to PW-1's statements in her cross-examination to argue that she did not want to go to the Police as she wanted to extort money from the

2026:BHC-GOA:1562-

Tehelka group. He pointed to text messages exchanged between PW-1 and her friends and her stepmother. Mr. Ponda indicated that from 18th November 2013 onwards, her complaint was pursued as a negotiation with *Tehelka* as she demanded a severance package. PW-1 was confronted with text messages exchanged with her friends where she has discussed a severance package from *Tehelka*. Her stepmother also advised her not to accept an apology in a hurry, under pressure, but to get the maximum out of them, meaning *Tehelka*. PW-1 admitted that one of the text messages was between her and her friend/lawyer, Ms Rebecca John, who had advised her to ask for three months' pay as a severance package. PW-1 also sought legal opinion from her lawyer friend Ria about how much settlement she deserves. Some friends advised her to ask for a maximum settlement.

We have examined all the text messages shown to us by the defence. Mr Ponda selectively read these messages out of context. However, when we read the entire trail of text messages, as reproduced during her cross-examination, it is quite clear that the conversations between PW-1 and her friends took place in the course of her friends sympathizing with her for having suffered sexual assault at the hands of the Respondent. They were aware that she was compelled to resign. The financial condition of PW-1 was not very sound. In this context, her friends, stepmother, and lawyer advised her to claim a severance package from *Tehelka*. We see no knavery in PW-1's claim of a

2026:BHC-GOA:1562-

severance package. The text messages only demonstrate her friends' care and concern for her. The messages indicate their attempt to encourage her to fight for her rightful claim. In reply to the suggestions put to the witness that she only wanted to extort money from *Tehelka* management, PW-1 remained firm in her deposition, and the defence was unable to elicit any contradictions in her testimony.

Admittedly, PW-1 lost her job and source of income due to the Respondent's misconduct and sexual harassment. She had every right to demand a severance package and compensation. This cannot be construed as an intent to extort merely because she indicated her unwillingness to prosecute the Respondent. In fact, as Mr Mehta has taken pains to point out, the victim had no motive to malign or defame the Respondent. Her only intention, as seen from the material on record, was to ensure that *Tehelka* establishes an ICC as per the Visakha Guidelines and inquire into the Respondent's behaviour. We are of the view that she is well within her rights to claim compensation and a severance package from *Tehelka,* and the same cannot be construed as an intent to extort.

Mr Ponda also relied on the text messages exchanged by the victim with her friend Harsimran Gill (**PW-15**). He particularly pointed to the message trail dated 4th November 2013 between them. There is a comment from PW-1 that reads, 'the reign of sexual terror is about to be unleashed on unsuspecting thinkers.' Mr Ponda has selectively taken

this sentence out of context to suggest that the victim intended to implicate *Tehelka* management, i.e., the organizers of the THiNK Fest, in cases relating to sexual assault. However, a reading of the entire message trail demonstrates a light-hearted chat between PW-1 and PW-15. Admittedly, the chats contain sexual innuendos. However, these chats must be understood in context. It appears that the victim and PW-15 were planning to enjoy the event. PW-1 refers to 'bringing home fresh meat every day', which, in context, refers to exploring intimate relations with new people. This appears to be light-hearted banter between PW-1 and PW-15. She appears to be looking forward to creating space for herself in her chosen profession by making a good impression on important people during the fest. It is in this context that the sentence, 'reign of sexual terror', is quoted. The banter clearly cannot be interpreted to mean that the victim intended to falsely implicate the Respondent or others in sexual harassment cases. In fact, the victim had no reason to foresee the Respondent's deplorable conduct and hence she could not have pre-planned with PW-15 to implicate him in a false criminal case. Despite invasive cross-examination, PW-1 did not falter and remained steadfast in her deposition. Thus, Mr Ponda's description of the victim as an extortionist completely fails.

H. On the victim's behaviour in the lead-up to and aftermath of the incidents and trauma.

42. Mr Ponda attempted to portray the victim as a woman of loose morals and character. As mentioned above, during the cross-examination, the victim was shamed, and her personal life, including her text messages, e-mails, and photographs from the past few years, was laid bare in public view. She was confronted with text messages exchanged between her and her intimate friends to humiliate and lower her dignity in the Court. Admittedly, the victim appears to be a free-spirited woman with little inhibition while interacting with her close friends. She also appears to have had several relationships in the past. Her way of life was magnified to declare her a promiscuous woman and a libertine.

43. It is well settled law that even if a victim is accused of immoral character, it does not give the accused any right to rape her. In ***State of Maharashtra and Anr. v. Madhukar Narayan Mardikar***[45], the Supreme Court held that even a woman of so-called easy virtue is entitled to privacy, and no person can violate her. She is equally entitled to protection of law. Her evidence cannot be thrown overboard merely because she is alleged to be a woman of easy virtue. Even in cases where there may be some material showing that a victim was habitually engaged in sexual intercourse, no inference can be drawn that a woman alleged to be of loose moral character can be raped by a person for that reason. Every woman has a right to refuse to submit

45 (1991) 1 SCC 57

2026:BHC-GOA:1562-

herself to sexual intercourse with anyone. The credibility and trustworthiness of a victim's version are the decisive factors in adjudging the culpability of the accused, not her disposition. In view of the settled legal position, the text messages exchanged by PW-1 with her friends cannot be relied upon to depict the victim as a woman of loose moral character, open to sexual assault.

44. Mr Ponda said there is ample material to demolish the victim's story of 'trauma'. He drew our attention to various photographs taken at the THiNK Fest, post the incidents. The photograph at **Exhibit 792** purportedly shows the victim with a glass of wine at the party. Another photograph at **Exhibit 389** shows the victim posing with Mr De Nero and the Respondent, post the incident. During her cross-examination, she was confronted with photographs showing her at the beach with a man alleged to be a Russian National called Danny. Although she denied having any sexual liaison with Danny, several text messages were shown to her to allege that she stayed with him on 10th November 2013 at Ashvem. She was also confronted with her phone location at Morjim post THiNK Fest. From the various chats with her friends, Mr Ponda wants us to note that, from the conduct and behaviour of PW-1 post the incident, she was not under any trauma. Her story is that she stayed back in Goa after the THiNK Fest to process her trauma and decide upon the future course of action. During this period, Mr Ponda pointed to material on record indicating that she spent a night at Hotel

2026:BHC-GOA:1562-

Casa Paradiso at Panaji with her friend Aastha and Harsimran (**PW-15**). PW-26, the receptionist of the hotel, stated that she did not see the victim spending the night in the hotel. PW-15 was also grilled with questions regarding the victim's whereabouts post THiNK Fest. There is material on record to show that the victim returned to Mumbai with PW-15 on 15-16th November 2013 from Goa. Her photographs with another male on a beach are shown to us with the argument that the victim does not appear to be under any trauma. Mr Ponda thus contended that even the post-incident conduct of the victim does not remotely suggest that she suffered trauma on account of the sexual assault by the Respondent. We are unable to accept Mr Ponda's argument that the past relationships of the victim and her conduct and actions post the incident demonstrate that she was not under any trauma, in turn, ruling out her allegations of sexual assault by the Respondent.

I. Regarding the 'Perfect Victim' construct:

45. The Trial Court proceeded on a notion that a victim of sexual assault must behave in a stereotypical manner. The PW-1 was to be a perfect victim and only then could the Courts believe her story of woe. The 'perfect victim' concept, more formally known as an 'ideal victim', describes an unspoken cultural archetype where a person is fully believed, sympathised with and granted legitimacy only if they exhibit absolute vulnerability, complete innocence and total passivity. When a

survivor does not fit in this mould – such as delaying a report, knowing the attacker or being under the influence of alcohol- their trauma is normally devalued. Expecting a survivor to be constantly miserable, meek or visibly broken, the Trial Court has ignored the reality of human coping mechanisms. However, these concepts of a perfect victim are a myth. Credibility must be evaluated on facts, not on whether a survivor fits a narrow cultural mould.

46. The victim in the present case is a young, educated journalist. She is accomplished in her chosen profession and financially independent. Neither the Court nor the Respondent can decide how she should react or process her trauma. We believe in her plight as a victim who has suffered sexual assault by her superior, whom she has known for many years as her father's friend, her employer, her mentor, and her friend's father. She has suffered the uncertainty of losing her job on account of the Respondent's misconduct. Questions were raised about her reasons for delaying a complaint and about her exploring other job opportunities. Questions were asked of her friends, who were examined as witnesses as to whether she was indispensable at THiNK Fest. Her story was challenged on the ground that she continued her duties at THiNK Fest and, in fact, may even have danced in the club and had a glass of wine. Merely because the victim continued to remain at the THiNK Fest venue post the incident does not take away her sexual assault trauma. Many persons deal with trauma in different ways. To

2026:BHC-GOA:1562-

doubt her credibility on the basis of her refusing to abandon THiNK Fest and lose an opportunity to chaperone the Hollywood star Mr De Niro would be a great injustice to the victim, in the face of other material corroborating her story. She need not have abandoned her job, suffered ignominy, or faced isolation on account of the Respondent's wrongdoings. We are thus unable to align with Mr Ponda's arguments that the victim's prior and post-incident conduct demolishes her story of being sexually assaulted.

J. Exercising control and dominance over the victim: -

47. Admittedly, the Respondent was the victim's employer, mentor, her father's friend and the father of her close friend. He held a position of dominance, control, trust and authority over her. For this abuse of authority, he was charged under the specific aggravated categories of Sections 376 (2)(f) and (k) of the IPC.

48. PW-1 deposed that the sexual assault completely broke her. She understood that her friendship with Tiya, Shoma and the *Tehelka* organisation itself was destroyed because of the Respondent's actions. Her job was on the line. She was aware that all her hard work at *Tehelka* would be wasted if she decided to prosecute the Respondent. She also deposed that she could not afford to lose her job and was scared that the Respondent would use his position as her boss to summon her anywhere he wanted. She shared her ordeal with close

2026:BHC-GOA:1562-

friends and wanted to convey that she wanted to make a complaint, but she knew that, because of his incredible wealth, connections and power, he could destroy her and her career if she were to complain. This is also borne out by the fact that the Respondent was furious with her for sharing the incidents with Tiya. She reiterated in her testimony that she was aware of the incredible power the Respondent would use against her, the character assassination and slander that would follow, and it turned out to be correct, as it became virtually impossible for her to find work again because the Respondent and his family humiliated her and lied about her consistently in professional and social circles. She also reiterated that during her stay in Goa, post the event, she thought through her options, spoke with friends, but decided not to prosecute the Respondent, as she was acutely aware that the Respondent would destroy her life and career. Eventually, she decided to complain to the organisation, as she felt unable to face herself, as she, as a journalist, urged other women to call out sexual assault.

An attempt was made to discredit her testimony; however, PW-1 remained firm in her story, and nothing was elicited in her cross-examination.

49. PW-15 also corroborated her testimony and stated that after the incidents, she was in shock and trying to come to terms with them. She was afraid of losing her job. Even during his cross-examination, he maintained that PW-1 was worried that if she left the event, the

2026:BHC-GOA:1562-

Respondent would use it as an excuse to terminate her services. Hence, she continued to perform her duties and pretended as if everything was alright. PW-53, the victim's mother, also corroborated that the victim was scared of the Respondent, as he was very powerful and politically connected. PW-56 also deposed that the victim told him and other friends that she was reluctant to go to the police because she knew that the Respondent was very influential and a powerful man, and that she would lose her job and suffer consequences. He too remained firm in his testimony and could not be contradicted during his cross-examination. This shows that the Respondent, in his position as an employer, had control and dominance over her. The charge of 376(2)(f) and (k) was correctly framed against him.

K. On the defence evidence: -

50. The defence examined four witnesses. DW-1 claimed to have known the victim for a year. This witness stated that Tiya had contacted her in 2018 and asked for her phone to take printouts of text messages of PW-1. She produced some WhatsApp chats of a group called 'Woof, Wag and Wiggle'. The conversation in the group was sexually loaded. She stated that PW-1 texted her that in the early morning of 09th November 2013, PW-1 claimed to have been intimate with Mr De Niro. Similarly, DW-4, Nikhil Agarwal, claiming to have been intimate with PW-1 in 2012, also testified that the victim told him that she flirted with' TT ', meaning the Respondent. This witness has tried to lower the

2026:BHC-GOA:1562-

reputation of the victim by narrating some instances of her behaviour. He also stated that he met her while she was exiting Block 7. He also testified that the victim appeared to be normal post the alleged incident.

51. It is pertinent to note that the evidence of DW-1 and DW-4 was never suggested to PW-1 during her cross-examination. Suggestions were only made to the extent of her relationship with DW-1 and DW-4. She was asked whether she had heard of the phrase 'Woof, Wag and Wiggle'. However, she was never confronted with the chats produced by DW-1. She never had the opportunity to comment on their testimony. Both claimed to have known her for only one year. DW-4 claimed to have been in an unsuccessful relationship with her and is therefore an interested witness. In any case, the chats with DW-1, however sexually loaded, do not aid in demolishing the victim's case against the Respondent.

52. The Respondent, in his Section 313 CrPC statement, has completely denied the assault. He has claimed that he did not know the victim before she was employed at *Tehelka*. In answer to Question 29, the Respondent said that they mistakenly exited the lift on the first floor and walked all the way to what they thought was Mr De Niro's suite, and, realising the error, went up to the second floor in the lift. However, the Respondent failed to explain why, intending to go to Mr

De Niro's suite, they did not go there and instead returned directly to the ground floor via the staircase. In answer to Question 40, the Respondent has admitted to having sent the message '*finger tips*'. However, he failed to provide any context.

53. The testimony of the victim, in our view, is quite natural, inspires confidence and merits acceptance. Insofar as the present case is concerned, the circumstances referred to and pointed out by Mr Ponda are neither sufficient nor do they justify discarding the evidence of the victim. There is nothing on record that creates any doubt/ disbelief or a suspicion about the evidence of the victim.

IV. FINDING OF THE TRIAL COURT

54. We have carefully perused the impugned Judgment and Order passed by the Trial Court, acquitting the Respondent. The Trial Court's findings are directly contrary to the evidence on record and thus per se perverse. The Trial Court's evaluation of the victim's testimony and evidence exhibits multiple fatal flaws, largely stemming from preconceived notions and reliance on irrelevant or inadmissible material. Furthermore, the Court misconstrued the disclosures made to her colleagues (PW-11, PW-12, PW-56) and mother (PW-53) as suspect or failing to corroborate rape, completely ignoring that she confided in close friends and family without intending them to be formal disclosure statements. The Trial Court similarly misread her

2026:BHC-GOA:1562-

inability to open a seven-year-old e-mail account on court hardware after surrendering her phone to the police as a sign of untrustworthiness, and drew unfounded negative inferences regarding her lack of visible physical injuries, her physical response, or her failure to lower her chin to avoid being forcibly kissed or to scratch her attacker. In doing so, the Court relied on stereotypical assumptions about how an "ideal" victim should physically resist or emotionally react, going so far as to hold her smiling demeanour during subsequent work events against her.

55. The Trial Court has also erred in observing that there was no whisper of admission of sexual assault or any of its attributes in the apology e-mails. The apology e-mails, in fact, clearly relate to an ‘encounter’, ‘sexual liaison’ and ‘furtive acts’, in respect of which the Respondent issued two apologies- one formal and the other personal. Without any substantive material, the Trial Court has believed the apologies to be given under pressure. Additionally, the Trial Court misapplied legal principles and misread key evidence to favour the defence. It wrongly disregarded the clear admissions of guilt in the Respondent’s apology e-mails, misclassifying them as unprompted disclosure statements under Section 27 of the IEA or assuming they were sent under pressure, while relying on hearsay testimony (**PW-36**) and improperly weighing defence witnesses (**DW-1, DW-4**) over consistent prosecution witnesses.

2026:BHC-GOA:1562-

56. Factually, it erred by stating her oral testimony lacked CCTV support. Most glaringly, the Court permitted an invasive, humiliating cross-examination into the victim's past sexual history, moral views, and personal WhatsApp messages, directly violating statutory embargoes under the IEA that prohibit questioning a victim's character or past relationships. The Trial Court appears to be influenced by extraneous, inadmissible material and testimony, including graphic details of the victim's past sexual history, which are prohibited by law, and used them to censure her character and discredit her evidence.

57. Rather than evaluating the sterling case presented by the prosecution with the requisite judicial sobriety, the Trial Court resorted to hyper-technicalities, ignored binding Supreme Court guidelines on assessing sexual assault evidence, and unjustifiably granted the benefit of the doubt to the Respondent where none reasonably existed.

58. The Court incorrectly drew adverse inferences from the victim consulting an NGO and legal counsel, treating it as potential fabrication, and treated minor discrepancies in her deposition—recorded five years after the incident—as material contradictions, rather than applying established Supreme Court precedents, such as ***Gurmit Singh*** (supra at pg. 19), which state that minor omissions do not invalidate an otherwise reliable prosecution case. The Trial Court failed to appreciate that the victim, a young professional woman, was

2026:BHC-GOA:1562-

pitted against the might of the Respondent and his organisation. She was entitled to seek legal advice before charting the course of action. Seeking professional help is termed by the Trial Court as a possibility of doctoring of events or adding of incidents. This finding of the Trial Court is flawed.

59. The Trial Court has also erred in discrediting the victim's testimony on the ground that she evaded answering whether she lifted her legs at any point; failing to clarify in this regard in the attachment to the e-mail dated 16th November 2013 sent to PW-11 and in her statement recorded under Section 161 of the CrPC, thus treating this as an improvement in her evidence and a material contradiction. The Trial Court also considered her testimony as unreliable as the victim did not claim that the Respondent touched her shoulders or any other part of her body, while stating in her chief-examination that he touched her mouth while kissing, legs and vagina while disrobing and inserting his tongue and fingers. The Trial Court also discarded the victim's testimony of the Respondent kissing her forcibly and putting his tongue in her vagina as she did not record this in her summary of recollection. The Trial Court construed this as an improvement in the statement, making it unreliable.

60. Considering the aforesaid discussion, we find that the victim has made truthful statements, and the prosecution has established the case

2026:BHC-GOA:1562-

against the Respondent beyond every reasonable doubt. The Trial Court fell in error in acquitting the Respondent of the charges levelled against him. The appreciation of evidence by the Trial Court is not only unreasonable but perverse. The conclusions arrived at by the Trial Court are untenable and, in the established facts and circumstances of the case, the view expressed by it is not a possible view.

V. CONCLUSION

61. We, accordingly, set aside the Judgment and Order of the Trial Court and convict the Respondent for offences punishable under Section 376(2)(f) and (k), 354, 354A, 354B 341 and 342 of the Indian Penal Code, 1860.

AMIT S. JAMSANDEKAR, J. **DR. NEELA GOKHALE, J.**

JUDGMENT CONTINUED

VI. THE SENTENCE

62. We have heard both the learned counsels appearing for the respective parties on the aspect of sentencing today itself and have pronounced the sentence at 2.30 p.m.

63. Mr. Ponda, learned Senior Advocate representing the Respondent, submitted that there are no criminal cases pending against the Respondent. This is the Respondent's first offence. He further submitted that the incident in the present case is of 2013 and the Appeal is pending since 2022. During this period, the Respondent is on bail and has not breached any conditions of bail. He is a senior citizen and his conduct in society is good. The Respondent's passport is with the authorities, therefore, he has not traveled abroad. Considering all these factors, Mr. Ponda prayed that minimum sentence be awarded to the Respondent.

64. Mr. Ponda further submitted that the Respondent intends to assail the present Judgment and Order before the Supreme Court and in view thereof the Respondent be given a period of 8 weeks from today to surrender.

65. We also heard the Respondent in person on sentence. He submitted that he is a political victim in this case and he has presented

2026:BHC-GOA:1562-

all the facts. He has two daughters and a wife. He is a senior citizen. Therefore, he submitted that a lenient approach be taken against him.

66. Mr. Mehta, learned Solicitor General of India, on behalf of the State, submitted that the Court should factor in that the Respondent was a parent figure to the victim. The Respondent knew the victim's father. The victim was the same age as the Respondent's daughter. Further, the Court should also consider the fact that the Respondent repeated the offence the very next day and thus had no remorse. He submitted that when a woman says 'No', it means 'No'; that should have been understood by the Respondent, he being of the age of the victim's father.

67. We considered the arguments of both the learned Counsels and the Respondent in person. Sexual harassment at work causes significant and enduring harm to women's career paths, punishing them for factors outside their control. Additionally, a widespread culture of victim blaming and institutional resistance isolates survivors, prompting them to switch jobs or accept demotions. An insensitive and unresponsive work environment often instills fear in women about venturing out of their homes to pursue meaningful opportunities, thereby preventing them from fully utilizing their talents and skills.

2026:BHC-GOA:1562-

The victim in the present matter also suffered similar consequences. She was compelled to resign. She also suffered profound embarrassment during trial.

68. We acknowledge the above. However, the incident took place 13 years ago; the Respondent is a Senior Citizen with a family of his wife and two daughters; there is no report of any misconduct by the Respondent or an allegation of having committed any offence post the acquittal order. Both parties must have by now moved on with their lives. In these circumstances, we pass the following Order :

i. For the offence punishable under Section 376(2)(f) of the IPC, the Respondent is sentenced to undergo rigorous imprisonment for a period of ten years and pay a fine of Rs.5,00,000/- in default of which to suffer simple imprisonment of three months;

ii. For the offence punishable under Section 376(2)(k) of the IPC, the Respondent is sentenced to undergo rigorous imprisonment for a period of ten years and pay a fine of Rs.5,00,000/- in default of which to suffer simple imprisonment of three months;

iii. For the offence punishable under Section 354 of the IPC, the Respondent is sentenced to undergo rigorous imprisonment

2026:BHC-GOA:1562-

for a period of one year and pay a fine of Rs.10,000/- in default of which to suffer simple imprisonment of one month;

iv. For the offence punishable under Section 354A of the IPC, the Respondent is sentenced to undergo rigorous imprisonment for a period of one year.

v. For the offence punishable under Section 354B of the IPC, the Respondent is sentenced to undergo rigorous imprisonment for a period of three years and pay a fine of Rs. 10,000/- in default of which to suffer simple imprisonment of three months;

vi. For the offence punishable under Section 341 of the IPC the Respondent is sentenced to pay a fine of Rs.500/- in default of which to suffer simple imprisonment of seven days;

vii. For the offence punishable under Section 342 of the IPC, the Respondent is sentenced to pay a fine of Rs.500/- in default of which to suffer simple imprisonment of seven days;

viii. All the above sentences shall run concurrently;

ix. That the period already undergone by the Respondent in custody during the trial shall stand set off.

x. Considering the discussion herein above relating to consequences of having suffered sexual assault, the entire

2026:BHC-GOA:1562-

amount of fine deposited by the Respondent shall be given to the victim. The Police Inspector of the CID, CB, North Goa shall file a compliance report regarding deposit of fine by the Respondent within a period of three months from today;

xi. Muddemal properties to be disposed of after expiry of the appeal period, if any, as per the directions of the Sessions Judge, Mapusa, Goa. Accordingly, the same be returned to the Trial Court.

xii. Considering the request of the Respondent, he is granted four weeks' time to surrender;

xiii. The Respondent has furnished bail bond, which shall continue till he surrenders or he is arrested.

xiv. Appeal allowed.

AMIT S. JAMSANDEKAR, J. **DR. NEELA GOKHALE, J.**

Signed by: ANDREZA PEREIRA
Designation: Senior Private Secretary
to the Hon'ble Judge
Date: 06/08/2026 15:08:59