***The testimony of the victim was neither trustworthy nor unblemished in view of the Under Section 164 Cr.P.C. statement and her deposition in Court: High court of Sikkim***

The testimony of the victim was neither trustworthy nor unblemished in view of the contradictions which appear in her Section 164 Cr.P.C. statement and her deposition in Court. The Evidence and P.W.12 do not support the evidence of P.W.1 thereby indicating that her testimony is a concocted story , and the same issue was held in the judgement passed by a division bench judge ***Hon'ble MRS. JUSTICE MEENAKSHI MADAN RAI***, ***THE HON’BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE*** . In the matter ***Sanjib Rai and others versus State of Sikkim [Crl.A. No.13 of 2020 ]*** dealt with an issue mention above.

Both Appellants No.1 and 2 (for short, A1 and A2) herein were convicted vide impugned Judgment dated 22-10-2020 in Sessions Trial (POCSO) Case No.05 of 2019, under Section 376 of the Indian Penal Code, 1860 (for short “IPC”) and sentenced to undergo imprisonment for 10 (ten) years, each, with fine of Rs.500/- (Rupees five hundred) only, each, and default clauses of imprisonment, vide impugned Order on Sentence dated 23-10- 2020, for sexually assaulting the victim.

Learned Counsel for the Appellants put forth the arguments before this Court that it was the victim who had voluntarily gone to the place of residence of A1 and A2 and also voluntarily spent nights therein. The testimony of the victim was neither trustworthy nor unblemished in view of the contradictions which appear in her Section 164 Cr.P.C. statement and her deposition in Court. The Evidence of P.W.5 and P.W.12 do not support the evidence of P.W.1 thereby indicating that her testimony is a concocted story.

The court perused the facts and arguments presented in the case On the anvil of all the discussions that have emanated above, it thus falls to conclude that no proof whatsoever was furnished by the Prosecution to establish that offence of rape was committed by A1 and A2 on the victim, P.W.1. The acts are evidently consensual.