

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A(J) NO.42 OF 2025**

Shri Nripendra Ghosh@ Moni,
S/o. Late Dijendra Ghosh,
Of North Ganganagar, Ward No.01,
P.S.- Dharmanagar, District- North Tripura.

.....Appellant

VERSUS

The State of Tripura.

.....Respondents

For Appellant(s) : Ms. Ayesha Saha Hirwat, Advocate.

For Respondent(s) : Mr. R. Datta, P.P.

Date of hearing and delivery
of judgment and order : 25.02.2026

Whether fit for reporting : NO

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT & ORDER (ORAL)

Dr. T. Amarnath Goud, J

1. This present appeal has been filed against the judgment and order of conviction and sentence dated 24.04.2024, passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar, in case no. Special (POCSO) 07 of 2022, convicting the appellant for commission of offence punishable under Section 376AB and 323 of IPC and also under Section 4 of POCSO Act, to suffer rigorous imprisonment for 20(twenty years) along with a fine of Rs. 20,000/- (twenty thousand) under Section 376AB of IPC and in default of payment to suffer imprisonment for a further period of 6(six) months. To suffer rigorous imprisonment for 3 months along with fine of Rs.500/- (five hundred) under section 323 of the IPC and in default of payment of fine to suffer imprisonment for a further period of

15(fifteen) days. To suffer rigorous imprisonment for 20(twenty) years along with fine of Rs. 20,000/-(twenty thousand) under section 4 of the POCSO Act and in default of payment of fine to suffer imprisonment for a further period of 6 months and the sentences shall run concurrently.

2. The brief fact of this case is that on 08-02-2022 at about 2000 hours the informant Mira Rani Nath was busy in cooking in the house of her brother-in-law Sanjib Nath at North Ganganagar under Dharmanagar PS. During that time her daughter aged 10 years was playing with her younger sister in the courtyard of the house. The informant after sometime noticed that the victim is not present in the courtyard. The informant started calling the victim and the victim came to the courtyard after sometime and stated that accused-Nripendra Ghosh who is from the neighbourhood called her in the house of Dilip Nath on the pretext of giving kurkure and also to klick some selfie pictures and she went along with the accused in the house of Dilip Nath and there the accused took her inside the bathroom and forcibly open her panty and pushed his finger inside her vagina and as a result she sustained bleeding injuries in her vagina.

3. The informant lodged an ejahar on 09-02-2022 in the early morning with Dharmanagar woman PS regarding the incident and based on it Dharmanagar woman PS case No.04 of 2022 was registered under section 323 & 376AB of the IPC and under section 4 of the POCSO Act and SI Rita Debnath was endorsed to do the investigation.

4. The I.O. on completion of investigation submitted charge-sheet against the accused under section 323 and 376AB of the IPC and under section 4 of the POCSO Act.

5. The charge-sheet was filed before this Court and cognizance of offence was taken and during the proceeding the accused was summoned and prosecution papers were supplied to him.

6. Thereafter both sides were heard and on finding *prima facie* evidence under section 323/376 AB of IPC and Section 4 of the POCSO Act, a formal charge was framed against the accused under the said provision and the same

was read over and explained to him to which he pleaded not guilty and claimed to be tried.

7. The prosecution to bring home the aforesaid charges adduced as many as 13(thirteen) witnesses. After closure of the prosecution evidence the accused was examined under Section 313 of Cr.P.C wherein he stated that the prosecution case is false and submitted to adduce himself along with Sri Pradyut Sarma and Sri Amarjit Singha as witnesses from his side. Accordingly, the accused adduced himself along with the aforesaid two witnesses from his side.

8. After closure of the evidence and after hearing arguments of both sides, learned Special Judge (POCSO), North Tripura, Dharmanagar passed the impugned judgment of conviction and sentence dated 24.04.2024 sentencing the convict appellant as mentioned above.

9. Being aggrieved by and dissatisfied with the impugned Judgment and Order of conviction and sentence dated 24.04.2024, the convict appellant preferred this instant appeal seeking to set aside/quash the impugned Judgment and order of conviction and sentence dated 24.04.2024.

10. Heard Ms. Ayesha Saha Hirawat appearing for the appellant as well as Mr. R. Datta, learned P.P., appearing for the respondent.

11. Ms. Hirawat, learned counsel, submits that there is no direct evidence or eyewitness to the incident. All the prosecution witnesses are hearsay in nature, and the appellant has been convicted based on mere presumption. All the prosecution witnesses who deposed against the appellant are interested witnesses, as they are relatives of the minor victim. The prosecution case is heavily dependent on the sole testimony of the victim, but the medical evidence does not support the case of the prosecution. There is only a minor external abrasion, and based on the same, the appellant cannot be convicted for penetrative sexual assault. The contradictory statements given by the minor victim establish that the child was tutored due to the ongoing land dispute between the parties. The existence of the land dispute has also been stated in the evidence of D.W.-1, i.e., the accused himself. Learned counsel further submitted that, to prove the age of the child, the school certificate has not

been exhibited; only the birth certificate has been exhibited, which cannot be treated as conclusive proof of the age of the victim.

Further, learned counsel submitted that the testimony of a child witness requires careful scrutiny and corroboration, and failure to comply with statutory requirements for medical examination undermines the prosecution case. Learned counsel also submits that the presumption of guilt under Section 29 of the POCSO Act is not absolute and requires the prosecution to establish foundational facts before the burden shifts to the accused to rebut the presumption.

12. To support her point on the non-examination of the independent witness, learned counsel appearing for the appellant relied upon *Paras-8 and 9* of the Hon'ble Apex Court Judgment reported in *(2005) 10 SCC 614* titled as *Hem Raj and Ors., Vs. State of Haryana* dated *29th March, 2005*. The same is produced here-in-under:-

"8. Two days after the incident i.e. on 5.4.1996, the investigation was entrusted to PW10-Inspector, CIA at the instance of Superintendent of Police, Jind. PW10 stated in cross examination that he inspected the place of occurrence and examined the persons staying near the place of occurrence and recorded the statements of such persons. The names of those five persons were given. Then he added that 'from their statements, it was revealed that Hemraj, Chunnilal and Omprakash were innocent'. He further stated that the investigation done by him was verified by DSP. Ultimately he filed the final report showing only Kala as the sole accused. However, as already noticed, all the four accused mentioned in the FIR were committed to Sessions and the Sessions Judge framed charge against all of them under Section 302. PW10 did not choose to give all the relevant details of his investigation. However, the version of this Investigating Officer itself casts a cloud on the reliability of the prosecution case as unfolded by PWs 4 and 5 that four accused were involved. The fact that no independent witness - though available, was examined and not even an explanation was sought to be given for not examining such witness is a serious infirmity in the prosecution case having regard to the indisputable facts of this case. Amongst the independent witnesses, Kapur Singh was one, who was very much in the know of things from the beginning. Kapur Singh is alleged to have been in the company of PW5 at a sweet stall and both of them after hearing the cries joined PW4 at Channi Chowk. He was one of those who kept the deceased on a cot and took the deceased to hospital. He was there in the hospital by the time the first I.O.-PW9 went to the hospital. The evidence of the first I.O. reveals that the place of occurrence was pointed out to him by Kapur Singh. His statement was also recorded, though not immediately but later. The I.O. admitted that Kapur Singh was the eye-witness to the occurrence. In the FIR, he is referred to as the eye-witness along with PW5. Kapur Singh was present in the Court on 6.10.1997. The Addl. Public Prosecutor 'gave up' the examination of this witness stating that it was unnecessary. The trial court commented that he was won over by the accused and therefore he was not examined. There is no factual basis for this comment. The approach of the High Court is different.

The High Court commented that his examination would only amount to 'proliferation' of direct evidence. But, we are unable to endorse this view of the High Court. To put a seal of approval on the prosecution's omission to examine a material witness who is unrelated to the deceased and who is supposed to know every detail of the incident on the ground of 'proliferation' of direct evidence is not a correct approach. The corroboration of the testimony of the related witnesses-PWs 4 & 5 by a known independent eye-witness could have strengthened the prosecution case, especially when the incident took place in a public place.

9. Non-examination of independent witness by itself may not give rise to adverse inference against the prosecution. However, when the evidence of the alleged eye-witnesses raise serious doubts on the point of their presence at the time of actual occurrence, the unexplained omission to examine the independent witness-Kapur Singh, would assume significance. This Court pointed out in [Takhaji Hiraji Vs. Thakore Kubersing Chamansing & Others](#).

"[I]f already overwhelming evidence is available and examination of other witnesses would only be a repetition or duplication of the evidence already adduced, non-examination of such other witnesses may not be material. In such a case, the court ought to scrutinize the worth of the evidence adduced. The Court of facts must ask itself whether in the facts and circumstances of the case, it was necessary to examine such other witness, and if so, whether such witness was available to be examined and yet was being withheld from the Court. If the answer be positive then only a question of drawing an adverse inference may arise. If the witnesses already examined are reliable and the testimony coming from their mouth is unimpeachable the Court can safely act upon it, uninfluenced by the factum of non-examination of other witnesses. In the present case we find that there are at least 5 witnesses whose presence at the place of the incident and whose having seen the incident cannot be doubted at all. It is not even suggested by the defence that they were not present at the place of the incident and did not participate therein."

13. To support her argument on the point that conviction cannot be given based on the sole testimony when the Medical evidence is not supported, learned counsel appearing for the appellant relied upon *Paras-20, 30 and 32* of the Hon'ble Apex Court Judgment reported in *(2012) 7 SCC 171* titled as *Narender Kumar Vs. State(NCT of Delhi)* dated **25th May, 2012**. The same is produced here-in-under:-

"29. However, even in a case of rape, the onus is always on the prosecution to prove, affirmatively each ingredient of the offence it seeks to establish and such onus never shifts. It is no part of the duty of the defence to explain as to how and why in a rape case the victim and other witness have falsely implicated the accused. Prosecution case has to stand on its own legs and cannot take support from the weakness of the case of defence. However great the suspicion against the accused and however strong the moral belief and conviction of the court, unless the offence of the accused is established beyond reasonable doubt on the basis of legal evidence and material on the record, he cannot be convicted for an offence. There is an initial presumption of innocence of the accused and the prosecution has to bring home the offence

against the accused by reliable evidence. The accused is entitled to the benefit of every reasonable doubt. (Vide: [Tukaram & Anr. v. The State of Maharashtra](#), and [Uday v. State of Karnataka](#)).

30. Prosecution has to prove its case beyond reasonable doubt and cannot take support from the weakness of the case of defence. There must be proper legal evidence and material on record to record the conviction of the accused. Conviction can be based on sole testimony of the prosecutrix provided it lends assurance of her testimony. However, in case the court has reason not to accept the version of prosecutrix on its face value, it may look for corroboration. In case the evidence is read in its totality and the story projected by the prosecutrix is found to be improbable, the prosecutrix case becomes liable to be rejected.

32. The instant case is required to be decided in the light of the aforesaid settled legal propositions. We have appreciated the evidence on record and reached the conclusions mentioned hereinabove. Even by any stretch of imagination it cannot be held that the prosecutrix was not knowing the appellant prior to the incident. The given facts and circumstances, make it crystal clear that if the evidence of the prosecutrix is read and considered in totality of the circumstances alongwith the other evidence on record, in which the offence is alleged to have been committed, we are of the view that her deposition does not inspire confidence. The prosecution has not disclosed the true genesis of the crime. In such a fact-situation, the appellant becomes entitled to the benefit of doubt.”

14. To prove her point that when there are two contradictory opinion, benefit of the doubt goes to the accused, the learned counsel appearing for the appellant relied upon **Para-25** of the Hon’ble Supreme Court Judgment reported in (1973) 2 SCC 808 titled as **Kali Ram Vs. State of Himachal Pradesh** dated 24th September, 1973. The same is reproduced here-in-under:-

“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the 73 5 court entertains reasonable doubt regarding the, guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable : it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of [State of Punjab v.](#)

Jagir Singh a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge, the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is *ex facie* trustworthy, on grounds which are fanciful or in the nature of conjectures.”

15. To support her argument on the point of production of Birth certificate, learned counsel relied upon **Para-15** of the Hon'ble Supreme Court reported in (2024) 17 SCC 684 titled as ***P. Yuvaprakash Vs. State Represented by Inspector of Police***. The same is produced here-in-under:-

“15. It is evident from conjoint reading of the above provisions that wherever the dispute with respect to the age of a person arises in the context of her or him being a victim under the POCSO Act, the courts have to take recourse to the steps indicated in Section 94 of the JJ Act. The three documents in order of which the Juvenile Justice Act requires consideration is that the concerned court has to determine the age by considering the following documents:

“(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board”.

16. To support his point that testimony of the child witnesses requires careful scrutiny and corroboration and that failure to comply with statutory requirements for medical examination undermines the prosecution case, learned counsel relied upon **Para-18** of the Hon'ble High Court of Bombay reported in 2023 ***Supreme(Bom)2158*** titled as ***Vishal Vs. State of Maharashtra*** dated 11.04.2023. The same is produced here-in-under:-

“18. The Hon'ble Supreme Court of India in the case of State of Karnataka Vs. Shantappa Madivalappa Galapuji and others, (2009) 12 SCC 731. has held thus:

"14. The position in law relating to the evidence of child witness has been dealt with by this Court in Nivrutti Pandurang Kokate v. State of Maharashtra and Golla Yelugu Govindu v. State of A.P. 15.. "6.. The Evidence Act, 1872 (in short "the Evidence Act") does not prescribe any particular age as a determinative factor to treat a witness to be a competent one. On the contrary, Sec. 118 of the Evidence Act envisages that all persons shall be competent to testify, unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers to these questions, because of tender years, extreme old age, disease whether of mind, or any other cause of the same kind. A child of tender age can be allowed to testify if he has intellectual capacity to understand questions and give rational answers thereto. This position was concisely stated by Brewer, J. in Wheeler v. United States. The evidence of a child witness is not required to be rejected per se, but the court as a rule of prudence considers such evidence with close scrutiny and only on being convinced about the quality thereof and reliability can record conviction, based thereon. (See Suryanarayana v. State of Karnataka)

7. In Dattu Ramrao Sakhare v. State of Maharashtra it was held as follows: (SCC p. 343, para 5):

"5.. A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child witness can be considered under Sec. 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored." The decision on the question whether the child witness has sufficient intelligence primarily rests with the trial Judge who notices his manners, his apparent possession or lack of intelligence, and the said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the trial court may, however, be disturbed by the higher court if from what is preserved in the records, it is clear that his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make-believe. Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaken and moulded, but it is also an accepted norm that if after careful scrutiny of their evidence the court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness."

The above position was highlighted in Ratansingh Dalsukhbhai Nayak v. State of Gujrat at SCC pp. 67-68, paras 6-7."

17. Learned counsel appearing for appellant on the point that presumption of guilt under Section 29 of the POCSO Act is not absolute and requires the prosecution to establish foundational facts before the burden shifts to the accused to rebut the presumption, cited **Paras-46 and 49** of the Judgment of the

Hon'ble High Court of Bombay reported in **2023 Supreme(Bom)2206** titled as **Shailendra Vs. State of Maharashtra** dated **10.07.2023**. The same is produced here-in-under:-

“46. In the light of the above well settled legal position, insofar as the presumption under Sec. 29 of the POCSO Act is concerned, it becomes clear that though the provision states that the court shall presume that accused has committed offence for which he is charged under the POCSO Act, unless contrary is proved, presumption would operate only upon prosecution first proving foundational facts against accused beyond reasonable doubt. Unless prosecution is able to prove foundational facts, in the context of allegation made against the accused, the presumption under Sec. 29 of the POCSO Act would not operate against accused. Even, if prosecution establishes such facts, accused can rebut the presumption by discrediting prosecution witnesses through cross examination showing that story of prosecution is improbable.

Thus, accused is required to rebut the presumption on the touchstone of preponderance of probability.

49. In the aforesaid background, if the evidence adduced is appreciated, it reveals that the description of the alleged forcible sexual intercourse appears to be doubtful for the reasons mentioned above. The complete absence of medical evidence to support the case of the prosecution, in the light that the victim girl was subjected for sexual assault on multiple occasions, doubt creates by the evidence as regards the manner in which the incident was said to have occurred, which demonstrates that on preponderance of probability the accused has been able to rebut the presumption under Sec. 29 of the POCSO Act.”

Stating thus, learned counsel appearing for the appellant urged this Court to allow this appeal and quash and set aside the impugned Judgment and Order of conviction.

18. On the other hand, Mr. R. Datta, learned P.P. appearing for the State-respondents, submits that the victim, in her deposition, stated that the convict-appellant inserted his fingers into her private part and that she sustained injuries. The same is corroborated by P.W.-11, the medical officer who examined her. Learned P.P. further stated that though the victim, in her cross-examination, stated that she had been tutored by her mother, at the same time, being a 10-year-old girl, she in her simplicity may have made such a statement, which cannot be relied upon to discard her entire evidence. The medical evidence establishes that there was injury to the private part of the victim, and the testimony of the victim also corroborates the said medical findings.

On the point of the alleged land dispute as stated by the defence witnesses, learned P.P. submits that there is no specific material in support of this allegation. There are no details on record, nor is there any civil or criminal proceeding regarding such land dispute placed on record. Learned P.P. further submitted that in a POCSO case, the sole testimony of the victim is sufficient to prosecute the accused, and in the present case, the testimony of the victim, corroborated by the medical record, is sufficient to prosecute the appellant herein.

19. To support his argument, learned P.P., relied upon **Para-5.5** of the Judgment of the Hon'ble Supreme Court reported in **2025 SCC Online SC 1610** titled as **Deepak Kumar Sahu Vs. State of Chhattisgarh** dated **5th August, 2025**. The same is produced here-in-under:-

“5.5. In cases of offences committed under Section 376, IPC, when the story of the victim girl as told in the evidence is found credit-worthy, the apparent insufficiency of medical evidence pitted against acceptable testimony of the victim, the latter would prevail. In State of Punjab v. Gurmit Singh [(1996) 2 SCC 384] it was observed:

In the absence of injury on the private part of the prosecutrix, it cannot be concluded that the incident had not taken place or the sexual intercourse was committed with the consent of the prosecutrix. The prosecutrix being a small child of about nine years of age, there could be no question of her giving consent to sexual intercourse. The absence of injuries on the private part of the prosecutrix can be of no consequence in the facts and circumstances of the present case.”

20. Before delving into the conclusion, let us examine some important witnesses and evidences.

21. PW-1, the mother of the victim, deposed that on 08.02.2022 she attended a marriage ceremony at North Ganganagar along with her 10-year-old daughter. While the children were playing in the courtyard, the victim was absent briefly and soon returned from a nearby house and immediately disclosed that the accused, had taken her there on a false pretext and committed sexually abusive acts upon her, resulting in injury. PW-1 stated that she lodged the FIR the same night. She also stated that the accused was previously known to her.

In cross-examination, PW-1 denied the defence suggestion of false implication due to land dispute and remained firm regarding the occurrence, though she admitted that certain details were not mentioned in the ejahar or in her earlier statement to police.

22. PW-2, the minor victim, deposed that while attending a marriage ceremony at her relative's house, the convict-appellant herein, approached her in the courtyard and, on a false pretext, forcibly took her to a nearby house and confined her in a lavatory, where he committed sexual acts upon her, causing injury. She stated that upon hearing her mother calling, the accused fled and she immediately went to her mother and disclosed the incident. She further deposed that she was taken to hospital for medical examination and later gave her statement before a Magistrate under Section 164 Cr.P.C., which she proved in court. She identified the accused in the dock and stated that he was previously known to her.

In cross-examination, she denied the defence suggestions that the accused had not taken or assaulted her and that no such incident occurred, though she admitted the suggestion that her mother had tutored her deposition.

23. PW-3, the cousin of the victim, deposed that while attending a marriage ceremony at their relative's house, she and the victim were playing in the courtyard. After she briefly left to drink water, she returned and did not find the victim, whereupon she went to a nearby house and saw the accused, Nripendra Ghosh, with the victim inside the lavatory in a suspicious situation. On hearing the victim's mother calling, she returned to the main house, and shortly thereafter the victim also came and spoke to her mother. She further proved her statement recorded before the Magistrate under Section 164 Cr.P.C. and identified the accused in Court.

In cross-examination, she denied the defence suggestions that she had not witnessed the accused with the victim or that she was deposing falsely, and maintained her version of events.

24. P.W.-11, the Medical Officer of District Hospital, Dharmanagar, deposed that she examined the minor victim on 09.02.2022 in connection with the present case. On examination, she noted swelling on the scalp, an abrasion on the left leg, and injuries on the genital area, including a fresh tear of the hymen with mild abrasion. She opined that the physical findings were consistent with the history of assault narrated and prepared the medical report, which she proved in court. She also stated that blood samples were collected and handed over to the Investigating Officer under seizure.

In cross-examination, she stated that certain minor injuries could occur due to other causes, but denied the suggestion that her findings did not support the history given by the victim.

25. DW-1, the accused Nripendra Ghosh, deposed that the informant is his neighbour and that there has been a long-standing land dispute between their families, due to which relations were strained and the informant was attempting to evict him. He stated that he was arrested by police without prior knowledge of the allegations and claimed that on the relevant evening he was at home, unwell and bedridden with fever.

In cross-examination, he reiterated the existence of the land dispute and denied the suggestion that he was physically fit or involved in the alleged occurrence.

26. In the medical examination report of the victim it is opined that *‘physical and sexual assault from physical findings corroborate with testimony’*.

27. This Court has given anxious consideration to the submissions advanced by Ms. A.S. Hirawat, learned Legal Aid Counsel appearing for the convict-appellant, and the arguments raised on her behalf have been duly appreciated to the satisfaction of this Court. However, upon re-appraisal of the entire evidence on record, this Court finds that the testimony of the minor victim is cogent, natural and consistent on material particulars regarding the manner in which the accused lured her and subjected her to sexual assault. Her version stands substantially corroborated by the evidence of PW-3, who placed the accused with the victim at the relevant place and time, as well as by the medical evidence of PW-11. The medical officer found genital injuries including vulval abrasion and a fresh hymenal tear, and opined that the findings were consistent with the history of sexual assault narrated by the victim. Though certain minor discrepancies and suggestions of tutoring were raised in cross-examination, the same do not go to the root of the prosecution case and are insufficient to discard the otherwise reliable testimony of the child victim, particularly when supported by medical findings. This Court therefore finds no perversity, illegality, or infirmity in the appreciation of evidence by the learned Trial Court. Further, the Judgments as cited by the appellant-counsel

is not relevant to the fact of the case. Accordingly, no interference is warranted with the impugned judgment of conviction and order of sentence dated 24.04.2024. The conviction and sentence are affirmed and the appeal stands dismissed.

28. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

S. DATTA PURKAYASTHA, J

DR. T. AMARNATH GOUD, J

Suhanjit

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SUHANJIT SINGHA

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