

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS UKHC010108012026  2026:UHC:6411
			<u>UKHC010108012026</u> <u>SPLA/134/2026</u> <u>GA No.72 of 2026</u> State of Uttarakhand --Appellant Versus Shivam Alias Subham Tripathi --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> Mr. Tumul K Nainwal, learned AGA, for the State of Uttarakhand/appellant. 2. The instant government appeal is preferred along with an application for seeking leave to appeal against the judgment and order passed by the learned Additional Session Judge/FTC (POCSO) District Haridwar, in Special Session Trial No.15 of 2023, "State Vs. Shivam @ Subham Tripathi", on the ground that the learned Trial Court awarded an inadequate conviction and sentence of one day simple imprisonment to the respondent/accused for the offences punishable under Sections 354(D) of IPC read with Sections 11 (iv)/12 of the POCSO Act. 3. The appeal is barred by 94 days as per office report. Delay condonation application is moved by giving an explanation that the delay is unintentional and occurred due to bonafide administrative reasons including the time taken in obtaining the records. Without going into the technicality, the delay is condoned. 4. Briefly stated the respondent/accused was implicated in Case Crime No.567 of 2022, for the offences punishable under Sections 354(D) of IPC read with Section 11 (iv)/12 of the POCSO Act. 5. The prosecution case is that a written complaint was received from the father of the victim, PW 2, that his daughter is studying in Class 10th and for the past 15 days, three boys, namely, Lucky, Azim and Shivam @ Subham Tripathi, respondent/accused harassing and teasing her while she is going to school and tuition, and on 16.11.2022, they cross all limits and hit the victim PW 3 with their bike and then complaint to take legal action

		against them. 6. While conducting the investigation, the IO concerned also conducted a spot inspection and prepared a site map and the statement was also recorded under Section 161 of CrPC, and filed the chargesheet on 24.02.2024, and after taking the cognizance, the charges were framed against the respondent/accused, and all the charges were denied by the accused and claim to be tried. 7. Prosecution adduced six prosecution witnesses, including father and mother of the victim and other police officials and after closing the prosecution evidence, the statement of the accused was also recorded under Section 313 of CrPC, wherein, he denied all the charges by stating that he has been falsely implicated. Subsequently, the Trial Court after considering the evidence on record and the statement of the prosecution witnesses, convict the respondent/accused and awarded a punishment of one day in the custody till the rising of the Court with a fine of Rs.1,000/-, and in default of payment of fine, a further imprisonment for one day. 8. Now the instant appeal is preferred by the prosecution on the ground that learned Trial Court awarded inadequate sentence to the accused/respondent, that too under Section 11 (iv)/12 of the POCSO Act, by ignoring the gravity of the offence, which is against evidence on record and also against the provisions of law and the judgment is based on conjecture and surmises and there are sufficient evidence on record to convict the respondent with the maximum sentence, despite this, the Trial Court observed that the prosecution could not prove their case. 9. It is argued by the learned State Counsel that the Trial Court committed manifest illegality while sentencing the accused with the imprisonment of one day till rising of the Court and sentence as awarded is disproportionate to the offence committed by accused/respondent. 10. I have gone through with the judgment and this Court does not find any perversity, illegality or material irregularity in the order of the Trial Court. The appreciation of mitigating and aggravating circumstances falls within the discretion of the Trial Court, though the offence under Sections 354(D) of IPC read with Section 11 (iv)/12 of the POCSO Act, are
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		grave, but the Trial Court has meticulously recorded valid reasons for imposing the sentence of one day imprisonment till the rising of the Court. The judgment further reveals that the respondent/accused is first time offender and having no prior criminal antecedents and is of a young age. The criminal justice must balance and sending the respondent/accused to a regular prison environment alongside hard and criminal would frustrate his career. The appeal preferred by the prosecution for seeking enhancement of the sentence lacks substance on merits. Consequently, the application to seek leave to appeal is dismissed and the impugned judgment of the conviction and sentence passed by the Trial Court is hereby upheld by dismissing the appeal on merit also. 11. No order as to costs. (Rakesh Thapliyal, J.) 21.07.2026 Nitesh/
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