



2026:UHC:1737

Judgment Reserved on: 26.02.2026
Judgment Pronounced on: 16.03.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No. 592 of 2025

Mahesh Singh Appellant

Vs.

State of Uttarakhand Respondent

Presence: Ms. Prabha Naithani, learned Counsel for the Appellant.
Mr. Chitrarth Kandpal, learned Brief Holder for the State.
Mr. Gaurav Pawar, learned counsel for the private Respondent.

Hon'ble Ashish Naithani, J.

This Criminal Appeal has been preferred by the appellant Mahesh Singh challenging the judgment and order dated 19.09.2025 passed by the Court of Special Sessions Judge (POCSO Act)/Sessions Judge, Champawat in Special Session Trial No.12 of 2024 (State v. Mahesh Singh), arising out of FIR No.01/2024, under Section 354 IPC and Section 7/8 of Protection of Children from Sexual Offence Act, Police Station Reetha Sahib, District Champawat.

2. By the impugned judgment, the appellant was convicted for offences punishable under Section 354 IPC and Sections 7/8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and was awarded four years' simple imprisonment with fine of ₹25,000/- under each head, with default sentence as recorded in the trial court judgment.

3. The State's case, in brief, is that a written report was submitted by the father of the victim at Police Station Reetha Sahib, District



Champawat stating that on 01.02.2024 at about 3:00 PM, his daughter (victim), aged about 17 years, was going from his house to another house for some work.

4. It was alleged in the report that the accused/appellant, a resident of the same village, obtained the victim's phone number through the complainant's younger son and thereafter called the victim, stating that he required her at a place on the pretext of getting some form signed. It was further alleged that the accused intercepted the victim on the way, attempted to entice her by offering ₹500/-, asked her to accompany him towards bushes, and upon refusal, caught hold of her hand and allegedly committed acts amounting to molestation.

5. It was further stated that the victim returned home crying and narrated the incident to her grandmother and, later, to her family members. It was also stated that when the complainant went to the accused's house, the accused was not found there.

6. On the basis of the said written report dated 02.02.2024, FIR No. 01/2024 was registered at the concerned police station and investigation commenced. After investigation, the police submitted the charge-sheet and the matter proceeded before the Special Court.

7. Charges were framed against the appellant for offences punishable under Section 354 IPC and Sections 7/8 POCSO Act. During trial, the prosecution examined eight witnesses and proved the



documents exhibited in accordance with the trial court record; the statement of the accused was recorded under Section 313 Cr.P.C.; and the defence examined one witness.

8. Upon conclusion of trial, the Special Court convicted and sentenced the appellant by judgment/order dated 19.09.2025, which is the subject matter of the present appeal.

9. In the appellate proceedings, the High Court admitted the appeal and, vide order dated 09.10.2025, suspended the execution of sentence during pendency of the appeal and granted bail to the appellant.

10. Heard learned counsel for the parties and perused the records.

11. Learned counsel for the appellant submitted that the impugned judgment and order of conviction are contrary to the evidence on record and settled principles of criminal law. It is contended that the entire case of the State rests upon the testimony of the victim and that her deposition before the trial Court does not support the essential ingredients of the offences alleged. Counsel pointed out that in her substantive evidence before the Court, the victim stated that the appellant abused her and threw a ₹500 note in the bushes and thereafter ran away. It is argued that she did not clearly depose that the appellant caught hold of her hand with intent to outrage her modesty or committed sexual assault within the meaning of Section 7 of the POCSO Act. Therefore, according to learned counsel, the foundational



ingredients of Section 354 IPC and Sections 7/8 of the POCSO Act have not been proved through reliable substantive evidence.

12. Learned counsel further submitted that the learned trial Court erred in placing reliance upon the statement of the victim recorded under Section 164 CrPC. It is argued that such statement is not substantive evidence and can be used only for the purposes of corroboration or contradiction. When the victim's deposition before the Court does not fully support the allegations contained in the earlier statement, conviction cannot be sustained solely on the basis of such prior statement in the absence of independent and convincing corroboration.

13. It is also contended that there is no eye-witness to the alleged occurrence and that the recovery of ₹500/- from the bushes does not establish the commission of sexual assault or use of criminal force. Learned counsel emphasized that the burden lies upon the State to prove its case beyond reasonable doubt and that any reasonable doubt must ensure to the benefit of the accused. On these grounds, it is prayed that the appeal be allowed and the appellant be acquitted.

14. Per contra, learned counsel appearing for the State supported the impugned judgment and submitted that the learned trial Court has correctly appreciated the evidence on record. It is contended that the testimony of the victim, read as a whole, establishes that the appellant intercepted her and engaged in conduct amounting to molestation.



15. Learned counsel submits that minor inconsistencies or variations in expression cannot dilute the core of the prosecution case, particularly in cases involving offences against a child. It is further argued that the statement of the victim recorded under Section 164 Cr.P.C. clearly supports the prosecution version and lends assurance to her testimony. The recovery of ₹500/- from the spot, according to the State, corroborates the occurrence and strengthens the prosecution case.

16. Learned counsel for the State submits that the law does not require independent corroboration in every case of sexual offence and that conviction can be based on the sole testimony of the victim if it inspires confidence. It is contended that the learned trial Court, having had the advantage of observing the demeanour of the witnesses, found the evidence credible and recorded a reasoned conviction. Accordingly, it is urged that the appeal be dismissed and the conviction and sentence be affirmed.

17. Upon a careful and independent re-appreciation of the entire evidence available on record, this Court has examined whether the findings of guilt recorded by the learned Special Sessions Judge are sustainable in law. The case of the State originates from the written report lodged on 02.02.2024 alleging that on 01.02.2024 at about 3:00 PM, the victim, aged about 17 years, was intercepted on the way by the appellant, who allegedly caught hold of her hand, attempted to take her towards bushes on the pretext of getting a form signed, and offered ₹500/-. On the basis of this report, FIR No. 01 of 2024 was registered and, after investigation, charge-sheet was filed for offences under



Section 354 IPC and Sections 7/8 of the POCSO Act. The learned trial Court, upon conclusion of trial, convicted the appellant.

18. The conviction rests substantially upon the testimony of the victim. It is true that the evidence of the victim, if reliable and trustworthy, can form the sole basis of conviction even without corroboration. However, the testimony must be clear, consistent and of such quality that it inspires full confidence of the Court. In the present case, a perusal of the deposition of the victim before the trial Court reveals that she stated that the appellant abused her, threw a ₹500 note in the bushes and ran away.

19. The emphasis in her substantive evidence is on verbal abuse and the act of throwing currency. The essential allegation forming the gravamen of the charge, namely use of criminal force with intent to outrage modesty and commission of sexual assault within the meaning of Sections 7/8 of the POCSO Act, does not emerge from her deposition before the Court with the same clarity and force as alleged in the FIR.

20. The State has not examined any eye-witness to the alleged occurrence. Admittedly, the incident is said to have taken place in a village setting during daytime. Yet, no independent witness has been produced to corroborate the allegation of physical assault or molestation. The recovery of the ₹500 note from the bushes, even if accepted, does not by itself establish that the appellant used criminal force or committed sexual assault. The recovery, at best, corroborates



the fact that currency was found at the spot; it does not conclusively prove the manner in which the alleged incident occurred.

21. It further appears that reliance has been placed on the statement of the victim recorded under Section 164 Cr.P.C. Such a statement is not substantive evidence and can be used only for the purpose of corroboration or contradiction. The substantive evidence is the testimony given before the Court. Where there is a material departure between the version in the earlier statement and the version in Court, the Court must evaluate whether the evidence as a whole is sufficient to sustain conviction.

22. In the present case, the victim's testimony in Court does not fully and unequivocally support the prosecution version in respect of the essential ingredients of the offences charged. In the absence of strong corroboration, it would be unsafe to base conviction solely on the earlier statement.

23. The State was also required to establish, beyond reasonable doubt, each ingredient of the offences under Section 354 IPC and Sections 7/8 of the POCSO Act. The evidence on record does not convincingly demonstrate the use of criminal force with the requisite intent, nor does it satisfactorily establish an act constituting "sexual assault" as defined under Section 7 of the POCSO Act. In criminal jurisprudence, the burden never shifts from the State, and any reasonable doubt arising from inconsistencies, omissions or lack of corroboration must operate in favour of the accused.



24. The learned trial Court appears to have placed considerable weight on the earlier statement under Section 164 Cr.P.C and other surrounding circumstances but has not sufficiently addressed the impact of the victim's deposition before the Court and the absence of independent corroboration. Where the testimony in Court does not fully support the allegations forming the basis of conviction, and the case rests primarily on such testimony, the Court must extend the benefit of doubt.

ORDER

25. In the totality of the circumstances, this Court is of the considered view that the State has not been able to prove the guilt of the appellant beyond reasonable doubt. The evidence on record does not attain the degree of certainty required to uphold conviction for offences under Section 354 IPC and Sections 7/8 of the POCSO Act. Consequently, the findings recorded by the learned trial Court are unsustainable.

26. The appeal is accordingly **allowed**.

27. The impugned judgment and order of conviction and sentence are set aside, and the appellant is acquitted of all the charges.

(Ashish Naithani J.)
16.03.2026

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