



2026:AHC:209268

Reserved on: 09.09.2026

Delivered on: 07.10.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4070 of 2026

Joni

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	: Narendra Kumar, Yogendra Pal Singh
Counsel for Respondent(s)	: G.A.

Court No. - 88

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. The present criminal appeal has been filed against the judgment and order dated 31.03.2026 passed by the learned Additional Sessions Judge/Special Judge (POCSO Act), Court No. 2, Meerut, in Special Case No. 64 of 2017 (State of U.P. Versus Joni) related to Case Crime No. 337 of 2015, under sections 354, 354Kha, 354Gha, 506 I.P.C. and 11/12 POCSO Act, Police Station Lal Kurti, District Meerut.
3. The F.I.R. was registered on 15.09.2015 at 18:30 hours at Police Station Lal Kurti, District Meerut. The time of the alleged offense is 16:00 hours on 15.09.2015. The F.I.R. was registered under Sections 354, 354(A), 354(D), and 506 of the I.P.C. against the appellant/accused (Joni) on the basis of a written complaint submitted by the father of the victim. The written complaint is exhibited as Ext. Ka-4, and the check F.I.R. is exhibited as Ext. Ka-1.
4. As per the contents of the criminal complaint, the complainant, Krishna Kumar, stated that he is posted as a Nayak in the Army at the R.V.C. Centre & College. His daughter is studying in Class-X at Kendriya Vidyalaya, Sikh Line, and she went for tuition until 4:00 o'clock at Topkhana. At the time of her return at 4:00 P.M., a boy named Joni had

been consistently harassing her for the past year. He follows her while she comes and goes and makes vulgar signs. He also threatened that if she informed her family, he would kill her. On this day, the complainant saw him committing all these obscene acts along with his associates and caught him. This boy allured the daughter with the promise of helping her pass the C.B.S.E. Board exams and providing her with the Class-X question papers. The complainant brought him along with his associates to Police Station Lal Kurti, expecting severe action to be initiated against him.

5. On the basis of this criminal complaint and the check F.I.R., legal proceedings were initiated against the appellant/accused. The medical examination of the appellant took place on 16.09.2015 at 2:00 P.M. at P.L. Sharma District Hospital, Meerut, where no marks of fresh visible external injuries were found on his body.

6. The statement of the victim under Section 161 Cr.P.C. was recorded on 22.09.2015, wherein she stated that her age is about 15 years and she is studying in Class-X at Kendriya Vidyalaya, situated at Sikh Line. She stated, *"I returned to my home at 4:00 P.M. after studying at tuition from Topkhana Bazar. On the way, the person named Joni chased me and also made vulgar signs, and when I told him that I would inform my family members, he threatened to kill me. I have told my father about it. On 15.09.2015, this boy met me on the way and was also making vulgar signs; at that time, I told my father. My father and his associates caught him on the spot."*

7. The complainant stated that her daughter went for tuition to Topkhana Bazar at 4:00 P.M., whereas the victim stated in her statement recorded under Section 161 Cr.P.C. that she returned from Topkhana Bazar after tuition at 4:00 P.M. The statement of the victim was recorded on 15.10.2015, approximately one month after the incident, wherein she stated that the named person, Joni, used to stalk her whenever she went for tuition and spoke inappropriate words to her. She stated, *"He has asked for my mobile number. When I told him that I would inform my parents, he threatened to kill me. I am studying in Class-X, and he stated that he would bring the board papers, and he continues to chase me."*

Thereafter, I conveyed this matter to my father. He stated that he would be present over there and I should signal to him. On 15.09.2015, when I was returning, this boy met me on the way, and I told my father, who then caught him."

8. There are consistent improvements and contradictions in the statements recorded under Sections 161 and 164 Cr.P.C.

9. Learned counsel for the appellant has submitted that there was no bodily touch with the victim, nor is there any medical examination of the victim. He further submitted that the appellant has been falsely implicated due to a dispute regarding the payment for milk supplied to the residence of the victim.

10. P.W.-1 (Ajay Kumar), the constable, deposed himself on 30.05.2023. He stated that on 15.09.2015, he was posted as a constable (clerk) at Police Station Lal Kurti. On that day, the complainant, Sri Krishna Kumar, along with Subedar Manoj Shah, Nayak Krishna Kumar, and Constable Saurya Pratap, came to the police station along with the accused Joni and a written complaint. On the basis of that written complaint, Case Crime No. 337 of 2015 under Sections 354, 354-A, 354-D, and 506 I.P.C. was registered. He verified the check F.I.R. as Ext. Ka-1 and the G.D. entry as Ext. Ka-3, stating that the original G.D. had been weeded out and its report verified as Ext. Ka-2.

11. In his cross-examination, he stated that he was posted at Police Station Lal Kurti in the year 2015, though he does not remember the exact duration. At that time, the Station House Officer was Sri Pradeep Kumar Tripathi. He does not remember up to what time Pradeep Kumar Tripathi was posted at the station, nor does he know if Pradeep Kumar Tripathi was transferred due to involvement in corrupt practices. The father of the victim along with three other persons came to the police station with a written complaint; the other three persons were army personnel, one Subedar, one Nayak, and one Constable. He does not remember the exact time the written complaint was submitted. On that day, he was on duty from 8:00 A.M. to 8:00 P.M., and he does not know who was on duty alongside him.

12. Contradicting his previous statement, he stated that he wrote the said complaint after sitting at the police station, and further categorically accepted that the written complaint was written by the father of the victim himself. He does not remember the correct time when it was written, and there are no written orders authorizing this written complaint by anyone. He further stated, *"I do not know whether the said false complaint was registered at the police station under the pressure of the army personnel because the accused had demanded money for his milk."* He noted that the written complaint was written by the complainant at the police station and presented along with a Subedar, a Nayak, and a Constable of the Army. Police Station Lal Kurti, Meerut, is situated within the cantonment area. There are specific allegations that due to the pressure and influence of army personnel, a false, concocted, and fabricated F.I.R. was registered against the appellant/accused.

13. Krishna Kumar, the father of the victim, deposed as P.W.-2. He stated in his examination-in-chief that he is posted as a Nayak at the R.V.C. Centre & College. His daughter was studying in Class-X at K.V.S.L. and returned at approximately 4:00 P.M. after her tuition from Topkhana Bazar (which contradicts his basic complaint and the contents of the check F.I.R.). He further stated that for the last month, a boy had been harassing her at 4:00 P.M., chasing her, showing obscene signs, and threatening her if she reported it. He stated that on 15.09.2015, he saw the appellant along with his associates committing an obscene act with his daughter, whereas in the complaint, he mentioned that his daughter signaled him, and upon her signal, he caught the appellant. He stated that after catching the accused, he took him to the police station along with his associates. He admitted that he wrote the written complaint and submitted it at Police Station Lal Kurti, stating that it was written by himself at the police station (exhibited as Ext. Ka-4). He stated that the date of birth of his daughter is 18.12.2000. The inspector inquired about the incident, and both he and his daughter showed the place of incident to the inspector. Upon seeing the accused in court, he identified him as Joni.

14. In his cross-examination, he stated that at the time of the incident, he was posted as a Nayak, and his trade was Assistant to Nursing Veterinary. The date of incident was 15.09.2015. What was the day that he does not

remember. At the time of the incident, his daughter was studying at Kendriya Vidyalaya, going to school by cycle and to tuition on foot at Topkhana Bazar. He stated the time of the incident was after school hours around 2:00–2:30 P.M., whereas previously in the complaint and all prosecution statements, the time of the incident was shown as 4:00 P.M.

15. He further stated that he resided behind Government Quarter No. 32, behind the veterinary hospital. At the time of the incident, the tuition timing of the victim was 3 to 4 hours (later contradicting himself by saying the tuition period is of one hour, and the victim used to leave her home for tuition at around 2:45 P.M., making an occurrence at 2:00–2:30 P.M. impossible). He stated that his daughter went for tuition alone, and the distance is only 5 to 10 minutes away from his home. He stated, *"I do not know the residence of the accused, nor do I know that at the time of the incident, the brother of the accused provided milk to my house."* He admitted that even after one and a half months of the incident, the accused's brother Vikas continued to provide milk to his house. He stated he was on duty on the day of the incident and wearing P.T. dress, as were all persons in the evening. He arrested the accused Joni near Hospital Wing No. 32, near Gate No. 10. The accused was on a bicycle, and a drum was attached to the cycle.

16. This supports the averment of the appellant that he supplied milk to the house of the complainant and collected leftover food for buffaloes and animals at the school RVC Centre, and at the time of the alleged incident, drums were attached to his cycle. It is highly improbable that a person performing such work with drums attached to his bicycle would perform any kind of molestation, make obscene remarks, or offer false assurances about high school board papers. Furthermore, in his cross-examination, he stated that on the date of the incident, his daughter did not go to the police station, whereas per his own averment, she was present at the time of the incident. He later stated that he and Subedar Manoj Kumar went to the police station on a motorcycle, contradicting his earlier statement that he went along with a Subedar, a Nayak, and a Constable. He specifically stated that the accused did not commit any kind of obscene act with his daughter near Topkhana. He also stated that his daughter went to school along with her brother (who was studying in Class-V at the time).

17. The complainant explicitly admitted in his cross-examination that it is true and correct that the accused never committed any obscene act, stalking, or chasing with his daughter near Topkhana. This is a major contradiction that undermines the prosecution story. Furthermore, there are no independent witnesses supporting the incident, which is variously alleged to have happened at 4:00 P.M. in the evening or 2:00–2:30 P.M. in the afternoon.

18. The statement of the victim was recorded as P.W.-3 on 24.11.2023. She stated that she is aged about 22 years and the incident occurred at around 4:00 P.M. on 15.09.2015 (contradicting her father, P.W.-2, who stated it occurred at 2:00–2:30 P.M.). She stated she was returning from tuition from Topkhana, whereas other parts of the prosecution case note she went to tuition at 4:00 P.M. She stated that when she was at the main gate and 10 paces away, Joni committed an obscene act with her.

19. It is highly improbable that according to the complainant the appellant was on his bicycle, the daughter gave a signal, and her father along with his associate army personnel subsequently caught him and took him to the police station.

20. She further admitted that Joni was doing obscene acts prior to the date of the incident, but specifically stated that on the date of the incident itself, he had not done anything. Hence, no bad acts, obscene acts, stalking, or chasing were committed by the appellant on that date. She stated that her father and his office associates arrested the accused, started beating him, and sent her home (contradicting the medical examination of the appellant, which showed no signs of injury). In her examination-in-chief, she stated that while studying in Class-X, she did not know whether the accused Joni was also studying in Kendriya Vidyalaya. She later contradicted her earlier statements regarding visiting the police station, stating at one point that she went for the registration of the F.I.R. and came to know his name only then, and at another point stating she did not go to the police station at all, but only went later to record her statement. She stated that whenever she went on her cycle, he was on his cycle and used to stalk her, but there was no allegation of any bad act or obscene remarks. She stated her school timings were 7:40 A.M. to 1:40 P.M.,

reaching home at 2:00 P.M., with tuition timing from 3:00 to 4:00 P.M., leaving home 15 minutes prior, all of which severely conflict with the times stated by her father.

21. Ravi Pratap Singh, Principal of Kendriya Vidyalaya, deposed as P.W.-4. He brought the S.R. register and verified the date of birth as 18.12.2000. In his cross-examination, he stated that the date of birth mentioned in the school records was based on her Transfer Certificate (T.C.), and no birth certificate issued by a competent authority was presented.

22. Sub-Inspector Shyam Singh, the Investigating Officer (I.O.), deposed as P.W.-5. He stated that on 15.09.2015, he was posted as a Sub-Inspector at Police Station Lal Kurti and registered the case. He noted the date of birth as 18.12.2000 based on the certificate, inspected the place of incident on the pointing of the complainant and victim, and prepared the site plan (verified as Ext. Ka-11). He recorded the medical report of the accused, secured the statement under Section 164 Cr.P.C., and filed the charge sheet (verified as Ext. Ka-12).

23. He admitted during testimony that no obscene act was mentioned in the investigation to satisfy the ingredients of Section 354 I.P.C. Regarding Section 354-A, he conceded that sexual molestation, body touch, showing pornographic material, or sexual remarks must be present, but nothing was found during his investigation. Regarding Section 354-D (stalking), he admitted that the timing or details of going to tuition were not mentioned in his investigation, nor there were any specific obscene remarks detailed. Regarding Section 506 I.P.C., he stated there was an allegation of intimidation to kill, but denied conducting a false investigation. He admitted that he did not record the statements of any common or independent public witnesses, relying entirely on military personnel because the incident occurred in a military area. He also admitted that he did not conduct a medical examination of the victim because no physical beating took place.

24. The statement of the appellant was recorded under Section 313 Cr.P.C., wherein he denied all allegations of obscene acts, stalking, or chasing. He stated that he and his brother used to supply milk to the house

of the complainant, and his animals grazed near the RVC Centre. The Subedar (complainant) asked for two liters of milk per day, which was provided, and later demanded an extra liter. When some waste material was lying around, the Subedar scolded him, and due to this dispute, a false F.I.R. was registered against him.

25. There has been no corroboration of the prosecution story by the evidence produced. There are inconsistencies and contradictions in the statements of the witnesses, who are none other than the father and the daughter. Furthermore, no independent witnesses to the fact have been produced by the prosecution.

26. The prosecution has failed to prove its case beyond a reasonable doubt. The findings recorded by the trial court are illegal, perverse, and contrary to the evidence available on record.

27. In view of the above, the judgment and order dated 31.03.2026 passed by the learned Additional Sessions Judge/Special Judge (POCSO Act) Court No. 2, Meerut, in Special Case No. 64 of 2017 (State of U.P. Versus Joni) arising out of Case Crime No. 337 of 2015, is hereby set aside.

28. The criminal appeal is allowed.

29. The appellant is on bail and need not surrender. His bail bonds and sureties are hereby cancelled, and his sureties are discharged.

30. A copy of this order along with the trial court record shall be sent to the learned trial court immediately for necessary compliance.

(Abdul Shahid,J.)

October 7, 2026

K.K. Maurya