

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 832 of 2014**

Juber Khan @ Chhotu S/o Aahat Khan, aged about 20 years,
R/o Jutmil, Behind Police Chowki, Jhopdipara, Police Chowki:
Jutmil, Police Station: Kotwali, District: Raigarh, Chhattisgarh

---- Appellant

Versus

State of Chhattisgarh through Station House Officer, Police
Station: Kotwali, Raigarh, District: Raigarh, Chhattisgarh

---- Respondent

For Appellant	:	None.
For State/Respondent	:	Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

06.01.2021

1. This appeal has been preferred against the judgment dated 19.08.2014 passed in Special Case No.10/2013 by the learned Additional Session Judge (FTC), Raigarh (C.G.) wherein, the Appellant has been convicted as mentioned below:

Conviction	Sentence	In Default
U/s 08 of POCSO Act, 2012	RI for 05 years and a fine of Rs.1,000/-.	In default of payment of fine amount additional RI for 06 months.

2. In this case, at the relevant time, the age of the prosecutrix/victim girl was about 2 ½ years and she was studying at Twinkle Star Play School, Raigarh (C.G.). The present Appellant was the driver of Tata Magic Vehicle and the victim girl used to go school in the aforesaid vehicle. On the date of incident i.e. on 25.07.2013, she

went to the school with the Appellant and when she returned to her house on 12:45 P.M. she told to her mother that she had pain in her private part. On being asked by her mother, she disclosed that the present Appellant have inserted his finger in her private part. Thereafter, matter was reported by the mother of the victim girl. Victim girl was medically examined vide Exhibit P-6 A. After completion of investigation, charge sheet was filed by the police. Trial Court framed the charges. To robe the Appellant, the prosecution has examined as many as total 08 witnesses. In the statement recorded under Section 313 of Cr.P.C, Appellant abjured the guilt and pleaded his innocence and false implication in the matter. No defence witness has been examined. After completion of trial, Trial Court convicted the Appellant and sentenced him as mentioned in Para 01 of this judgment. Hence, this appeal.

3. It is reported vide jail report that the Appellant has been released from jail on 06.02.2018 after completion of his entire jail sentence imposed upon him by the concerned Trial Court.
4. Since, no one appears on behalf of the Appellant, therefore, to find out correctness of the judgment, I am going to decide this appeal on its merits.
5. On the contrary, learned State Counsel opposed the prayer and supported the impugned judgment.
6. I have heard learned counsel appearing on behalf of the State and perused the record minutely.
7. In this case, at the relevant time, the victim girl was aged about 2 ½ years, therefore, she was not examined before the Trial Court. According to the case of prosecution, the matter was immediately

reported by the mother of the victim girl namely Mallika Pramanik (PW-02). In her Court statement, she categorically stated that at the time of incident, after returning from the school the victim girl complained the matter to her and she categorically informed her that the Appellant inserted his finger in her private part. From the statements of Nikita Pandey (PW-03) Teacher, it is also established that immediately after the incident, mother of the victim girl have approached the school and narrated the entire incident to the Principal of the school namely Vibha Kumar (PW-04). The victim girl also identified the Appellant. From the statement of Dr. Smt. J Ekka (PW-08), it also reveals that on being examined, it was found that there was swelling and redness on the private part of the victim girl. Though there are some contradictions and omissions occurred in the statements of witnesses but they are not material and there is nothing on record on the basis of which it can be said that there were any enmity between both the parties.

8. On minute examination of above evidence and looking to the entire evidence available on record, in my considered opinion, the learned Trial Court has rightly convicted the Appellant. Consequently, I do not find any merit in this appeal.
9. Accordingly, the Appeal is dismissed.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge