



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO. 36 OF 2023

Nalin @ Narendra S/o Bhagwan
Nitnaware, Aged 54 years, Occupation:
Labour, R/o Lawa, PS. Wadi, Nagpur.

...Appellant

// VERSUS //

1. The State of Maharashtra,
through the Police Station Officer of
Police Station Wadi, Nagpur
2. XYZ Victim of the Crime No. 5/2019
Registered with PS Wadi, Nagpur (in
Special Case No. 50/2019)

... Respondents

Ms Nishant P. Singhania, appointed Advocate for the appellant.
Ms Sonia Thakur, APP for the respondent no.1/State.
Ms Mayuri Kulkarni, appointed Advocate for the respondent no.2.

CORAM: NIVEDITA P. MEHTA, J.

**Reserved on : 29th September, 2025.
Pronounced on : 10th October, 2025**

JUDGMENT :

The present appeal challenges the judgment and order of conviction dated 29th April 2022, passed by the learned Special Judge (POCSO) and District and Session Judge-11, Nagpur in Special Case No. 50 of 2019, whereby the appellant (original accused No. 1) was convicted for offenses punishable under Sections 376(2)(k), 376(2)(n), 376(3), 323

and 324 of the Indian Penal Code, 1860 (hereinafter referred to as IPC), and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as POCSO Act). The trial court by invoking section 42 of the POCSO act held that the punishment as under section 376(3) of IPC is greater in degree and therefore the learned trial court had sentenced the appellant/accused as under:

For offense punishable under Section 376(3) of the IPC, the appellant was sentenced to undergo rigorous imprisonment for twenty years and to pay a fine of Rs 10,000/-, and in default of payment of fine, he was to suffer simple imprisonment for one year. For the offense punishable under Section 323 of the IPC, the appellant was sentenced to undergo simple imprisonment for three months and to pay a fine of Rs 500/-, and in default of payment of fine, to undergo simple imprisonment for fifteen days. Finally, for the offense punishable under Section 324 of the IPC, the appellant was sentenced to suffer simple imprisonment for six months and to pay a fine of Rs 1,000/-, and in default of payment of fine, to undergo simple imprisonment for one month.

Offense	Sentence
u/s 376(3) of the IPC	Rigorous imprisonment for 20 years and a fine of Rs. 10,000/-, in default of payment of fine, simple imprisonment for 1 year

u/s 323 of the IPC	Simple imprisonment for 3 months and a fine of Rs. 500/-, in default of payment of fine, simple imprisonment for 15 days
u/s 324 of the IPC	Simple imprisonment for 6 months and a fine of Rs. 1,000/-, in default of payment of fine, simple imprisonment for 1 month

3. The prosecution's case, in brief, is that the appellant is the biological father of the victim, a minor girl aged about 14 years at the relevant time. The mother of the victim had left the matrimonial home when the victim was around 4 years old. The appellant resided along with his daughter (the victim) and her younger brother. It is alleged that the appellant sexually exploited the victim repeatedly since the time she was in the 8th standard, by forcibly establishing sexual relations with her under threats and physical assault. He allegedly compelled the victim to sleep naked, and he himself slept in the same condition. When the victim resisted, she was beaten by the appellant. The victim has stated that one night, the appellant came home under the influence of alcohol and forcibly had sexual intercourse with her and threatened her not to reveal the incident to anybody. This sexual exploitation allegedly continued until the victim was in 9th standard. On one occasion, the victim requested the appellant

to send her to her aunt's house as she was unable to bear the pain. The appellant denied this request. When she persisted, the appellant assaulted her, causing the neighbours to intervene and rescue her. During the summer of 2018, the victim's aunt, Salma, came to live with them, during which time no sexual assault occurred. A quarrel broke between the victim and her aunt Salma over cooking. The victim told another aunt, one Vimal Nitnaware, regarding what she had suffered. Later, her aunt, Vimal Nitnaware, took the victim to her house, where she stayed for one or two months. In the meantime, Salma left the victim's house and returned to her own. The appellant compelled the victim to return home from her aunt's place and the victim reluctantly complied, returning after the festival of Deepavali. Upon returning to her father's house, the victim once again faced sexual assault. The last incident of sexual assault is alleged to have occurred on 31st December 2018.

4. On 02.01.2019, the victim was unwell and was taken to the hospital by the appellant. Upon returning home, when the victim refused to take medication, the appellant verbally abused and assaulted her with a leather belt. The neighbors who witnessed this assault called the police, who arrived and took the victim for medical treatment. The next day, the

victim's statement was recorded, and a First Information Report (FIR) bearing No. 5 of 2019 was registered at Wadi Police Station, invoking Sections 376(2)(i), 376(2)(j), 376(2)(n), 324, 323, 506 of the IPC and Sections 4, 8, and 12 of the POCSO Act. The FIR is placed on record at Exhibit 73.

5. During the course of the investigation, the then Investigating Officer, PSI Deshmukh, referred the victim for medical examination on 03.01.2019 and the appellant was arrested on the same day. PSI Deshmukh then visited the scene of the crime on 04.01.2019 and prepared a spot panchnama (Exhibit 66) in the presence of two panchas. Further investigation was handed over to PSI Bhagyashree Puri (PW-9). The samples collected by the medical officers were seized which included vulval swab, vaginal swab, pubic hair sample, nail sample and blood sample of the victim, vide Exhibit 101 and penile swab, urethral swab, pubic hair sample, nail sample and blood sample of the accused, vide Exhibit 102. These seized samples were referred for further examination. Witnesses were examined and their statements were recorded. The Investigating Officer, PSI Bhagyashree Puri received medical reports and requisitioned expert opinions. After completion of the investigation, a

chargesheet was submitted against the appellant before the learned Special Court.

6. The learned Special Judge framed charges against the appellant under Sections 376(2)(k), 376(2)(n), 323, 324, and 506 of the IPC, and Sections 4, 6, 8, and 12 of the POCSO Act, placed on record vide Exhibit 49. An additional charge was framed against the accused, as placed on record at Exhibit 116, under Section 376(3) of the IPC. The appellant pleaded not guilty to these charges and claimed to be tried.

7. During the trial, the prosecution examined nine witnesses, namely: Dr. Nemchand Dayaram Bansod (PW-1) vide Exhibit 57; Savita Jaybhushan Nitaware (PW-2), victim's aunt, vide Exhibit 65; Amrapal Nalin Nitaware (PW-3), victim's brother, vide Exhibit 68; Victim ABC (PW-4), the victim herself, vide Exhibit 69; Dr. Madhuri Jaideo Patil (PW-5), undertook victim's medical examination, vide Exhibit 79; Vilas Shivaji Thange (PW-6), assistant chemical analyser with Regional Forensic Science Laboratory, vide Exhibit 86; Nandu Ramaji Chaware (PW-7), headmaster at victim's school, vide Exhibit 96; Rekha Anandrao Kodape (PW-8), panch witness during seizure of sample, vide Exhibit

100; and Bhagyashree Nagnath Puri (PW-9), investigating officer, vide Exhibit 105.

8. Upon closure of the prosecution's evidence, the accused was examined under Section 313-1(b) of the Code of Criminal Procedure, wherein he denied all the incriminating evidence against him. The defence of the appellant was one of false implication, contending that the victim had a romantic relationship with a person named Sagar, an autorickshaw driver, to which the appellant had objected. According to the appellant, the victim falsely implicated him due to this disagreement. The appellant did not examine any witnesses in his defence.

9. The learned Special Judge, upon appraisal of the evidence on record, found that the prosecution had successfully established the case against the appellant. The testimony of the victim was held to be trustworthy and was corroborated by medical evidence. It was observed that although PW-2 (aunt) and PW-3 (brother) did not support the prosecution on the specific point of penetrative sexual assault, both witnesses confirmed that the appellant used to assault the victim. Their testimonies regarding physical assault remained unchallenged during

cross-examination. The Court held that the victim's evidence, in conjunction with medical findings and supporting circumstances, clearly made out offences under Sections 376(2)(k), 376(2)(n), 323, 324 and Section 376(3) of the IPC, as well as Sections 4 and 6 of the POCSO Act. The Court, however, found no sufficient evidence to establish the offence under Section 11 of the POCSO Act, as no specific act as defined under Section 7 of the Act was proved. Regarding accused Nos. 2 to 6, it was observed that no witnesses examined on behalf of the prosecution attributed knowledge of the sexual assault to them, and hence they were acquitted of the offence under Section 21 of the POCSO Act.

10. Relying on the presumption of commission of offence under Section 29 of the POCSO Act, Section 42 of the POCSO Act which provides for where an offence is punishable under POCSO Act and relevant provisions of the IPC, the accused shall be awarded punishment which is greater in degree; and considering the minor age of the victim under Section 2(d), the learned Special Judge convicted the appellant accordingly.

Aggrieved by the said conviction and sentence, the appellant has preferred the present appeal.

11. I have heard learned counsel Shri Nishant Singhania for the appellant, Ms Sonia Thakur, Additional Public Prosecutor for the respondent/State and Ms Mayuri Kulkarni, learned counsel for the respondent no.2/victim appointed through legal aid. With the assistance of learned respective counsels, I have perused the material on record.

12. Shri Nishant Singhania, learned counsel appearing on behalf of the appellant, advanced the following submissions in support of the appeal:

- i. It is submitted that the learned Special Judge erred in placing undue reliance on the sole testimony of the victim without the requisite corroboration, especially when such testimony is inconsistent and contradicted by the medical evidence on record.
- ii. Learned counsel contends that the inordinate delay in lodging the First Information Report (FIR) has not been adequately considered by the Trial Court. According to him, the delay casts a serious doubt on the veracity of the prosecution's case and ought to have been viewed with greater circumspection.

iii. It is further submitted that the prosecution failed to examine independent witnesses, particularly neighbours who were allegedly present during incidents of assault or were in proximity during the alleged period of sexual exploitation spanning over two years. The non-examination of such material witnesses, who were not related to the victim, creates a significant lacuna in the prosecution's case.

iv. Learned counsel points out that although the prosecution produced the Headmaster of the school where the victim was studying, the original admission register was not produced, and only an extract was brought on record. Thus, the victim's date of birth was not duly proved in accordance with the law, and as such, the presumption under the POCSO Act with respect to the minority cannot be sustained.

v. Referring to the medical examination report, it is contended that the injuries observed were not fresh and, more importantly, no injuries were found on the private parts of the victim, which renders the allegation of repeated penetrative sexual assault doubtful.

vi. It is also submitted that several key witnesses, including neighbours and relatives of the victim, turned hostile and did not support the prosecution's version. Further, the maternal aunt, who was allegedly

present at the time of the incident, dated 02.01.2019 and who could have been a crucial witness, was not examined by the prosecution, thereby affecting the credibility of the case.

vii. In support of his submissions, learned counsel for the appellant has placed reliance on the decision of this Hon'ble Court in Sandeep Janaji Konde v. State of Maharashtra, reported in 2016 ALL MR (Cri.) 1433, to contend that in the absence of reliable corroborative evidence, conviction solely based on the testimony of the victim, particularly where inconsistencies and contradictions exist, cannot be sustained.

13. Per contra, the learned Additional Public Prosecutor appearing for the State, has supported the findings recorded by the learned Special Judge and submitted that the prosecution has proved the case against the appellant beyond a reasonable doubt. The following submissions were made:

i. It is contended that the sole testimony of the prosecutrix is trustworthy, reliable, and sufficient to base a conviction, especially in cases of sexual offences. The learned Special Judge has rightly appreciated the evidence and has not committed any error in arriving at a finding of guilt against the appellant.

ii. It is further submitted that the medical evidence, particularly the testimony of Dr Madhuri Patil (PW-5), has corroborated the version of the victim, lending credibility to the allegations of repeated sexual assault.

iii. Learned APP submits that the acts of sexual assault occurred within the confines of the home, where the accused, being the father of the minor victim, misused his position of trust and subjected the victim to continued sexual exploitation. The trauma and fear instilled by the accused, who also assaulted and threatened the victim, prevented her from disclosing the abuse earlier.

iv. With respect to the delay in lodging the FIR and the non-examination of independent witnesses, it is submitted that these factors are not material in the present case. The delay is sufficiently explained, as the victim was under continuous threat and mental trauma. Despite her attempts to seek help from relatives, she could not muster the courage to report the abuse earlier.

v. It is thus argued that minor procedural lapses or omissions in the investigation do not go to the root of the matter or shake the credibility of the prosecution's case. The testimony of the prosecutrix, when read in

totality with medical and circumstantial evidence, is sufficient to sustain the conviction.

14. The learned counsel appearing on behalf of Respondent No. 2 (the victim) has adopted the arguments advanced by the learned Additional Public Prosecutor and further submitted that the prosecution has established all necessary ingredients of the offence, and the impugned judgment does not warrant any interference by this Court.

15. Having considered the submissions made, it is pertinent to note the nature of the relationship between the parties and their circumstances in life. It is not in dispute that the accused was residing with the victim and her brother. It is further an admitted fact that the wife of the accused had already left the matrimonial home. The relationship between the accused and the victim, being that of father and daughter, is neither denied nor disputed.

16. The prosecution has examined several witnesses in support of its case. The relevant testimonies are summarised and assessed below:

17. Dr. Nemchand Dayaram Bansod (PW1) deposed, vide exh. 57, that he treated the victim on 02.01.2019. He stated that he has been

running a clinic at Wadi for the past 25 years. On 02.01.2019, the victim and her father visited his clinic. He administered painkillers and anti-cold medicine, but specifically deposed that he did not examine the victim physically. He further denied giving any other medication to the victim. The cross-examination was declined by both accused. PW1's testimony is neutral and limited to medical consultation. It neither supports nor contradicts the prosecution's core allegation of sexual assault.

18. Savita Jaybhushan Nitnaware (PW2) is maternal aunt of the victim. PW2 deposed, vide Exhibit 65, that the victim resided with Accused No. 1, her father, in a neighbouring house. On 02.01.2019 at around 9:00 p.m., she heard the victim crying and saw the accused beating her. She immediately informed the police, who then arrived and took both the accused and the victim to the police station. She identified the spot panchnama (Exhibit 66) and affirmed her signature on it. She stated that the police seized the victim's clothes, a bed, a bedsheet, and a leather belt from the scene. In cross-examination, she affirmed having seen the accused hitting the victim with the leather belt. She denied knowledge of any sexual acts committed by the accused. It was revealed that the spot panchnama (Exhibit 66) was prepared the following day. While her testimony supports the occurrence of physical abuse, her denial

of witnessing sexual assault casts some doubt on the reliability of her direct knowledge of the offence.

18. Amrapal Nalin Nitnaware (PW3), brother of the victim, stated vide Exhibit 68, that on the date of the incident, the victim was unwell and refused to take medicine, which led to the accused beating her with a belt and fists. PW3 attempted to intervene. The police later arrived and took them to the station. He categorically stated that their father did not engage in any "bad act" with his sister. In cross-examination, he admitted the accused was an occasional drinker. He denied having seen any act of sexual abuse. PW3 corroborates the occurrence of physical abuse but denies the allegation of sexual assault. His testimony is relevant and partially helpful to the prosecution.

19. The deposition of the victim is recorded at Exhibit 69. The date of birth of the victim, ABC (PW-4) is 10.04.2004. The victim initially broke down in the witness box and expressed reluctance to implicate her father, stating she did not want him punished. However, in cross-examination at a later date, she disclosed that the incident of 02.01.2019 involved physical abuse and that such acts had occurred earlier as well in conjunction with rampant sexual abuse. She admitted

that her father had threatened her and told her to maintain silence. The testimony of the victim is crucial. Though initially hesitant, the victim's detailed disclosure under cross-examination provides a consistent account of repeated sexual abuse, supported by behavioural indicators of trauma and fear.

20. Dr. Madhuri Jaideo Patil (PW-5), deposed vide Exhibit 79, that while she was working as a lecturer with Indira Gandhi Medical College in Nagpur, she received a requisition (placed on record at Exhibit 80) from Wadi Police Station, on 03.01.2019, for medical examination of the victim ABC. The victim was brought by L.P.C. Rani for medical examination. The doctor, with victim's consent, took the victim's medical history and conducted her medical examination. On examination, contusions were found on victim's thighs. On left thigh, the size of contusion was 4 * 5 cm and on the right thigh, it was 3 * 3 cm. Upon victim's internal examination, the doctor found her hymen was torn and that it was an old heal. Therefore, in the learned doctor's opinion, sexual intercourse might have occurred with the victim. The doctor then collected victim's samples, which included her blood samples, vaginal swab, pubic hair, nail clippings and vulval swab, which were then handed

over to Wadi Police Station. The learned doctor finally prepared an examination report which is placed on record vide Exhibit 81.

21. Vilas Shivaji Thange (PW-6), an assistant chemical analyzer with Regional Forensic Science Laboratory, stated in his deposition vide Exhibit 86, that in his opinion, the DNA profile obtained from blood detected on Exhibit 10, Quilt in Bn/159/19, is of female origin and matched with the DNA profile obtained from exhibit 1. He then proceeded to prepare blood stain of Diksha Nalin Nitnaware in Bn/160/19. The DNA profiles obtained from semen stains 1, 2 and 3 detected on Exhibit 10, Quilt in Bn/159/19 is identical and from the same source of male origin and matched with exhibit 1. He then prepared blood stain of Nalin B. Nitnaware in Bn/161/19. Finally, he prepared a report of his examination which is placed on record at Exhibit 87. In cross-examination, he stated that he did not personally collect the samples, and there was no acknowledgment from the Biology division. The DNA evidence materially corroborates the presence of the accused's semen on the bedding from the scene, supporting the victim's version of events.

22. Nandu Rainaji Chaware (PW-7), headmaster of the victim's school, stated in his deposition vide Exhibit 96, that she was admitted to first standard. He had produced a copy of the Leaving Certificate and admission register of the school, namely Pitale Shastra Primary School, Laxminagar, Nagpur. The name of the victim is at serial No.4600 in the admission register. The original register was produced before the court. The copy exhibited was as per the original. The contents of the admission register were proved and the copy of the admission register bears his signature. The admission register and school leaving certificate, identify the victim's name and date of birth as per official records. In cross-examination, he admitted that the names of the parents were not recorded and that the victim was admitted through an orphanage. The testimony of the PW5 clearly establishes the age of the victim, thereby confirming she was a child as defined under the POCSO Act on the date of the offence.

23. Rekha Anandrao Kodape (PW-8) was a panch witness. She attested, vide Exhibit 100, to the seizure of samples from the victim and the accused on 04.01.2019 and 05.01.2019, respectively, and also the seizure of the hospital register on 08.01.2019. She identified seizure panchnamas placed on record at Exhibits 101, 102 and 103 and affirmed

their truth. The witness confirmed procedural compliance regarding the collection and seizure of evidence.

24. Bhagyashri Nagnath Puri (PW-9) deposed, vide Exhibit 105, that in the year 2019, she was working at Wadi Police Station. The initial investigation of this case was conducted by PSI Deshmukh. On 08.01.2019, the investigation was handed over to her. She stated that on the same day, she collected a copy of the appointment register from Dr Varsha Malve and duly seized the said copies. She identified the seizure panchnama shown to her in Court as the same and affirmed its correctness. The said panchnama is exhibited as Exhibit 103. She further deposed that she recorded the statements of various witnesses during the course of the investigation. She corresponded with the relevant authority to obtain a leaving certificate for the victim's brother, and identified the letter shown to her in Court as the same. It was exhibited as Exhibit 106. She stated that she made a correspondence for recording the statement of the victim under Section 164 of the Code of Criminal Procedure. She referred the victim for medical examination and recorded the statement of Dr Bansod. Subsequently, she again recorded the statement of the victim.

PW9 further stated that she corresponded with the Nagpur Municipal Corporation for procuring the victim's birth certificate, and upon receipt, placed it on record. She also recorded the statements of witnesses, including one Savita Nitnaware, who stated before her that Nalin Nitnaware had assaulted the victim with a leather belt. The relevant portion of her statement is marked as Portion A. In cross-examination, P.W.9 admitted that she had not prepared any false or fabricated report in connection with the present investigation.

25. The trustworthiness of the testimony of the victim must be appreciated in the context of the aforesaid circumstances. The victim deposed before the Court that, for a period of two years, while she was studying in the 8th and 9th Standards, and before the lodging of the report, the accused had been sexually exploiting her. She stated that the accused used to disrobe her and use obscene and offensive language. Whenever she resisted, the accused would threaten and assault her. Although she informed her aunt and cousin about the acts of sexual abuse committed by the accused, no action was taken to intervene. Ultimately, on the date of the incident, i.e., 02.01.2019, her statement was recorded by the police, and a report regarding the sexual assault was lodged.

26. The pivotal issue for determination in this appeal is whether the prosecution has successfully established the guilt of the appellant, who is the biological father of the victim, for committing aggravated penetrative sexual assault on his minor daughter, punishable under the IPC and the POCSO Act.

27. The testimony of the victim (prosecutrix), upon careful perusal, remains unshaken and has withstood the test of cross-examination. It is now a well-settled principle of criminal jurisprudence that in cases involving sexual offences, the sole testimony of the prosecutrix, if found to be trustworthy and reliable, is sufficient to base a conviction, even in the absence of corroborative evidence. The trial court has accepted the evidence of the victim as reliable and consistent, and this Court finds no compelling reason to take a different view. In paragraph 8 of *State of Punjab v. Gurmit Singh* (1996 (2) SCC 384), the Hon'ble Apex Court has held as under:

“8.The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence

of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable..."

28. The prosecutrix (PW-4), a minor at the relevant time, has deposed in clear and unequivocal terms that the appellant had been sexually exploiting her over a period of nearly two years. She described the pattern of abuse, the threats issued by the accused, his acts of physical violence when she resisted, and the eventual reporting of the incident following a violent episode on 02.01.2019. Her testimony is consistent, natural, and reflective of the trauma suffered by a child subjected to repeated abuse within the confines of her own home.

29. The defence, during cross-examination, was unable to extract any material contradictions or omissions that would undermine the substantive truth of her version. The mere suggestion of a love affair with an auto driver as the motive for false implication is unsupported by any evidence and is plainly a bald denial aimed at deflecting the gravity of the charges. It is relevant to note that during cross-examination, nothing material could be elicited to discredit or contradict the victim's testimony regarding the acts of sexual exploitation by the accused.

30. The medical evidence further corroborates the victim's version. Dr Madhuri Patil (PW-5), who examined the victim on 03.01.2019 at Indira Gandhi Medical College, Nagpur, deposed that the victim narrated a history of repeated sexual intercourse during the night, and that the accused used to physically assault her upon resistance. On external examination, injuries were found on the victim's thigh. Further, on internal (vaginal) examination, it was observed that the hymen was torn.

31 It is trite law that the absence of external or recent injuries, especially in cases of prolonged and repeated abuse where the victim has submitted due to helplessness or coercion, does not negate sexual assault.

The victim in this case was a minor, living in the sole custody of the accused, and had no realistic means of escape or resistance.

32. Furthermore, forensic evidence has lent substantial corroboration. Vilas Thange (P.W.6), the Assistant Chemical Analyst, deposed that DNA extracted from semen stains found on the quilt in the victim's house matched the DNA profile of the accused. Similarly, blood stains on the quilt matched the victim's DNA. This crucial link between the scene of offence and the biological evidence of both the victim and the accused reinforces the victim's version.

33. There has been no dent in this evidence during cross-examination. The chain of custody, the manner of collection and analysis of samples, and the presentation of the DNA findings were all established through proper legal procedure. This Court finds no infirmity or procedural lapse that would warrant rejection of this evidence.

34. First and foremost, it is essential to note that the victim was 14 years of age at the time of lodging the First Information Report (FIR). In support of the age of the victim, the prosecution examined the Headmaster of Pitale Shastra Primary School, Laxminagar, Nagpur, and produced the extract of the school register. The victim, in her deposition,

specifically stated her date of birth, and nothing contrary to this was elicited during cross-examination. Her claim that she was 14 years old at the time of lodging the report went unchallenged. The accused, being the biological father of the victim, is presumed to have knowledge of her age and could have raised a challenge if the same were incorrect. In the absence of any such challenge, the documentary and oral evidence on record lead to a legitimate inference that the victim was a minor below 18 years of age at the time of lodging the FIR, and much younger at the time when the acts of sexual exploitation commenced.

35. The age of the victim at the time of the incident is critical, given that offences under Sections 376(3) of IPC and Sections 4 and 6 of the POCSO Act depend on whether the prosecutrix was below 18 years of age. To this extent, as aforementioned, the prosecution has examined the Headmaster of Pitale Shastra Primary School, who produced a certified extract of the school register reflecting the victim's date of birth. This entry was made at the time of her admission and was relied upon by the trial court.

36. The defence has contended that there was an inordinate delay in lodging the FIR, and that independent witnesses, such as neighbours or

maternal relatives, were not examined. However, this Court is of the view that the delay has been sufficiently explained by the victim, who stated that she was living under constant fear, coercion and physical assault by the accused.

37. It is now settled law that delay in reporting sexual offences, particularly where the perpetrator is a family member, does not weaken the prosecution's case if there is a credible explanation, as held in paragraph 29 of *State of Himachal Pradesh v. Sanjay Kumar*, (2017) 2 SCC 51. The conduct of the victim in the present case is consistent with the behaviour of a child subjected to trauma and betrayal of trust by her parent. The paragraph 29 reads as under:

“29. Likewise, delay of three days in lodging the FIR by PW 1, after eliciting the information from her daughter PW 2, is inconsequential in the facts of this case. It is not to be forgotten that the person accused by the prosecutrix was none else than her uncle. It is not easy to lodge a complaint of this nature exposing the prosecutrix to the risk of social stigma which unfortunately still prevails in our society. A decision to lodge FIR becomes more difficult and hard when accused happens to be a family member. In fact, incestuous abuse is still regarded as a taboo to be discussed in public. This reticence hurts the victims or other family members who struggle to report. After all, in such a situation, not only the honour of the family is at stake, it may antagonise other relations as well, as in the first blush, such other members of family would not take charge of this nature very kindly. We also find that the so-called dispute between the parties was so trivial in nature that it would not have prompted PW 1 to lodge a false complaint, putting her minor daughter of impressionable age to risks of serious kinds, as pointed out above.”

38. As regards non-examination of certain relatives or neighbours, it is evident from the record that no one directly witnessed the offence. The prosecution is not bound to multiply witnesses. The evidence of the victim, supported by medical and forensic material, is sufficient to sustain the conviction.

39. Learned counsel for the appellant contended that the medical evidence of Dr Madhuri Patil (P.W.5) remained unchallenged during trial, and further argued that the absence of fresh external injuries casts doubt on the credibility of the victim's version. I am not persuaded by this submission. Indeed, the victim has categorically stated that the last incident of sexual assault occurred on 31st December 2018, and she was medically examined on 3rd January 2019. The absence of visible injuries may, at most, indicate a lack of violent resistance on the part of the victim.

40. In the peculiar facts of this case, the victim, who was subjected to repeated sexual exploitation over a long period in her own home, appears to have resigned herself to her fate. She was helpless and completely at the mercy of her father. Therefore, the absence of external injuries does not undermine the credibility of her allegations. The medical examination conducted by Dr Patil (P.W.5) supports the victim's

version, indicating signs of repeated sexual intercourse. The defence attempted to challenge the victim's credibility by pointing out discrepancies between her deposition and previous statements. However, such minor inconsistencies do not discredit the overall consistency and reliability of her account.

41. The central question that arises for consideration is whether the victim was subjected to penetrative sexual assault by her father. The evidence of the victim, supported by medical and forensic evidence, establishes the case of the prosecution beyond a reasonable doubt. The victim was of a tender age and entirely dependent on the accused. In such circumstances, the delay in lodging the report stands satisfactorily explained. Her initial silence can be attributed to fear, helplessness, and lack of support.

42. During cross-examination, the defence attempted to question the credibility of the victim. An attempt was made to suggest that the victim was in a romantic relationship with an auto-driver named Sagar and that the complaint was lodged due to the accused's objection to the said relationship. However, this defence is not substantiated by any evidence. The accused, in his statement under Section 313 of the Code of

Criminal Procedure, did not take any specific plea apart from this bald assertion. No witness was examined by the defence in support of this claim. The plea remains a vague, unsubstantiated assertion, incapable of raising any reasonable doubt about the prosecution's case.

43. The learned Special Judge had the opportunity to observe the demeanour and conduct of the victim while deposing before the Court. Upon a careful evaluation of her testimony, the learned Judge found her to be truthful and reliable. I find no reason to interfere with that assessment. The victim's testimony, considering the hostile and oppressive environment in which she lived, inspires confidence. It is difficult to accept that a young girl would level such serious allegations against her own father unless the incidents were true, especially when she was residing with the accused and her younger brother at the relevant time.

44. Learned counsel for the appellant further submitted that the Chemical Analysis Report does not indicate the presence of semen on the clothes of the accused. However, this submission does not advance the defence case. The DNA evidence is conclusive and supports the prosecution's case. It is also relevant to note that the clothes were not seized immediately after the last incident, which may account for the

absence of biological evidence. The overarching consideration remains the consistent, cogent, and credible testimony of the victim, which is duly corroborated by medical and forensic evidence.

45. The learned Special Judge imposed the maximum punishment under the relevant provisions, 20 years of rigorous imprisonment for the offence under Section 376(3) IPC along with appropriate punishment for the lesser offences under Sections 323 and 324 IPC. All sentences were ordered to run concurrently.

46. In this court's considered view, the sentence is not excessive or disproportionate. The crime involved gross abuse of paternal trust, systematic exploitation, and devastating emotional and physical harm to a minor girl. The imposition of the maximum statutory sentence is justified in the facts and circumstances of this case.

47. The evidence of the victim, supported by consistent medical and forensic testimony, proves the guilt of the appellant beyond a reasonable doubt. The delay in reporting and absence of certain witness testimonies do not create any dent in the prosecution's case. The defence version is false, unsubstantiated, and unworthy of credence.

48. Upon careful consideration of the record, this Court finds no illegality, perversity, or material irregularity in the findings recorded by the learned Special Judge, nor in the sentence imposed. The Hon'ble Apex Court in *Bhanei Prasad @Raju Vs. State of Himachal Pradesh reported in 2025 Live Law (SC) 781*, wherein it was held that crimes of sexual abuse, especially against children and by a parent, constitute an unspeakable betrayal of trust and assume a "demonic character" deserving the "severest condemnation and deterrent punishment". Paragraph 13 of the aforesaid judgment is reproduced herewith:

"13. When a father who is expected to be a shield, a guardian, a moral compass, becomes the source of the most sever violation of child's bodily integrity and dignity, the betrayal is not only personal but institutional. The law does not, and cannot, condone such acts under the guise of rehabilitation or reform. Incestuous sexual violence committed by a parent is a distinct category of offence that tears through the foundational fabric of familial trust and must invite the severest condemnation in both language and sentence. The home, which should be a sanctuary, should be a sanctuary, cannot be permitted to become a site of unspeakable trauma, and the courts must send a clear signal that such offences will be an equally unsparing judicial response. To entertain a plea for leniency in a case of this nature would not merely be misplaced, it would constitute a betrayal of the Court's own constitutional duty to protect the vulnerable. When a child is forced to suffer at the hands of her own father, the law must speak in a voice that is resolute and uncompromising. There can be no mitigation in sentencing for crimes that subvert the very notion of family as a space of security.

49. In view of the above discussion, this Court is of the considered opinion that the testimony of the victim is wholly trustworthy

and reliable. The learned Special Judge was justified in placing reliance upon her testimony for the purpose of recording a conviction and imposing sentence. The conviction recorded by the Trial Court does not suffer from any legal or factual infirmity warranting interference by this Court.

50. The learned Special Judge, having considered the nature and gravity of the offences, was persuaded to impose the maximum punishment prescribed under Sections 376(2)(k), 376(2)(n), and 376(3) of the Indian Penal Code (IPC). The accused has been sentenced to undergo rigorous imprisonment for a period of 20 years and to pay a fine of ₹10,000/-, and in default of payment of the fine, to further undergo simple imprisonment for one year.

Further, the accused was convicted for the offence punishable under Section 323 IPC and sentenced to undergo simple imprisonment for three months and to pay a fine of ₹500/-, in default whereof to undergo simple imprisonment for fifteen days.

The accused was also convicted under Section 324 IPC and sentenced to undergo simple imprisonment for six months and to pay a

fine of ₹1,000/-, in default whereof to undergo simple imprisonment for one month.

All substantive sentences have been directed to run concurrently.

Additionally, the Trial Court directed payment of compensation of ₹5,000/- to the victim under the relevant provisions.

51. The nature of the offences, especially in light of the relationship between the accused and the victim, aggravates the seriousness of the crime. The circumstances surrounding the commission of the offences justify the imposition of the maximum punishment. The ends of justice require that such a sexual predator be dealt with sternly and visited with appropriate penal consequences. This Court, therefore, finds no reason to interfere either with the conviction or the quantum of sentence awarded by the learned Special Judge. Resultantly, I pass the following order.

ORDER

- i. The Criminal Appeal stands dismissed.
- ii. Fees of the learned appointed Advocate Shri Nishant P. Singhania for the appellant and Advocate Ms Mayuri Kulkarni for the respondent

no.2/Victim be quantified as per the Rules and be paid to both of them within four weeks from today.

[NIVEDITA P. MEHTA, J.]