



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRA-D No.1125-DB of 2015 (O&M)

Gunjan Kumar Singh

.....Appellant.

Versus

State of Haryana

.....Respondent.

**Reserved on: 11.11.2025
Pronounced on: 08.12.2025
Uploaded on: 10.12.2025**

*Whether full judgment is pronounced
or operative part thereof: Full Judgment*

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Argued by:- Mr. R.S. Pandher, Advocate, (*Amicus Curiae*)
for the appellant.

Mr. Dhruv Dayal, Addl. A.G, Haryana
for the respondent-State.

MEENAKSHI I. MEHTA, J.

By way of instant criminal appeal, the appellant has assailed the judgment dated 30.05.2015 and order on sentence dated 02.06.2015 passed by learned Additional Sessions Judge, Faridabad (for short 'the trial Court'), whereby he has, though, been acquitted of the charge as framed against him under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST Act') but has been held guilty for committing the offences punishable under Section



376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘the POCSO Act’) in the criminal case arising out of FIR No.275 dated 12.07.2014 registered at Police Station Sarai Khawaja, Faridabad under Section 376 IPC, Section 4 of the POCSO Act and Section 3 of the SC/ST Act and has been awarded the sentences as under:-

<i>Offence</i>	<i>Sentence</i>
<i>U/S 376 IPC</i>	<i>To undergo imprisonment for life and pay a fine of Rs.50,000/- and in case of default in payment of fine, to undergo rigorous imprisonment for 03 years.</i>
<i>U/S 4 of the POCSO Act</i>	<i>To undergo imprisonment for life and pay a fine of Rs.50,000/- and in case of default in payment of fine, to undergo rigorous imprisonment for 03 years.</i>

Both the substantive sentences have been ordered to run concurrently.

2. Shorn and short of unnecessary details, the facts leading to filing of the present appeal, are that on 11.07.2014, an intimation was received at Police Station Sarai Khawaja from Child Help Line, Faridabad that a girl (i.e the prosecutrix and here-in-after to be referred as ‘P’), aged about 14-15 years and not mentally sound, was pregnant. On receipt of this information, ASI Kuldeep Singh, along-with ASI Satish Kumar, reached at the house of ‘P’. Anita Devi and Suman Devi, Members of Child Help Line, Faridabad, were already present there and they told the above-named police officials that since it had got late on that day, therefore, medical examination of ‘P’ would be got conducted from B.K. Hospital, Faridabad on the next day. On 12.07.2014, L/ASI Sheela and some other police



officials and the afore-said members of Child Help Line reached at the house of 'P' and they all, accompanied by 'P' and her parents, reached at the above-mentioned hospital. After medicolegally examining 'P', the doctor gave opinion qua her ('P's) pregnancy. Statement of the father of 'P' was recorded. A '*Ruqa*' was forwarded to the Police Station where a formal FIR was registered. Thereafter, statement of 'P' was recorded by the Magistrate, as envisaged under Section 164 Cr.P.C. Her foetus was aborted at Safdarjung Hospital, Delhi and the same, along-with placenta, was taken into possession for DNA analysis/matching. The appellant was arrested. He got the place of occurrence demarcated in pursuance of his disclosure statement. Further necessary investigation was, then, carried out and on completion thereof, Challan/Final Police Report under Section 173 Cr.P.C was prepared against the appellant and was presented in the Court.

3. After hearing learned Public Prosecutor for the State and learned defence counsel and perusing the Challan/Final Police Report as also the documents annexed therewith, learned trial Court framed the Charges against the appellant under Section 376 IPC, Section 4 of the POCSO Act and Section 3 of the SC/ST Act. He (appellant) pleaded not guilty to the charges and claimed trial.

4. In order to bring home the guilt of appellant, the prosecution examined as many as seventeen (17) witnesses namely Anoj Kumar as PW1, Suman Devi as PW2, Buddhi Ram as PW3, Constable Kuldeep as PW4, Dr. Himanshu as PW5, Dr. Amardeep Singh as PW6, EASI Kuldeep Singh as PW7, Dr. Narender Kaur as PW8, Dr. Sumit Rana as PW9, 'P' as



PW10, Hema as PW11, Dr. Ravi Shankar Gaur as PW12, DSP Suresh Kumar as PW13, Shree Chand as PW14, Lady SI Sheela Devi as PW15, HC Mahesh Kumar as PW16 and ASI Kuldeep Singh as PW17. Thereafter, learned Public Prosecutor for the State tendered DNA Report as Exhibit PX/1 in the prosecution evidence and closed the same. Then, the appellant was examined under Section 313 Cr.P.C to explain the incriminating material/ circumstances appearing against him in the prosecution evidence as led on record, wherein besides pleading innocence, he stated that he had falsely been implicated by the complainant and his family members in this case, to extract money from him. He tendered a CD marked as 'A' and closed the evidence in his defence. After hearing learned counsel for both the parties and appraising the record, learned trial Court acquitted the appellant of the charge under Section 3 of the SC/ST Act but held him guilty for the commission of offences punishable under Section 376 IPC and Section 4 of the POCSO Act and awarded sentences to him, as already detailed in the opening para of this judgment.

5. We have heard learned counsel for the appellant (i.e *Amicus-Curiae* appointed vide order dated 20.08.2025 to represent him) as well as learned counsel for the respondent-State in the instant appeal and have also gone through the record carefully.

6. Learned *Amicus-Curiae* has contended that prosecution has not led any cogent evidence on the record to prove that 'P' was below the age of 18 years at the time of alleged commission of the offence and was, therefore, a 'Child' as defined under the POCSO Act and hence, the



provisions of the Act (*ibid*) were not attracted in this case. Secondly, he has contended that 'P' was stated to be mentally retarded and her statements under Section 164 Cr.P.C and as PW10 in the Court as well, were recorded with the help of PW11 Hema but she (PW11) was not an expert for this purpose and therefore, both the afore-referred statements cannot be read in the prosecution evidence and cannot be relied upon at all. Lastly, he has contended that appellant has falsely been involved in the present case by the father and other family members of 'P' to extract money from him (appellant) and he has urged that in view of the above-discussed facts and circumstances, it is quite explicit that prosecution has not been able to substantiate its allegations against the appellant and hence, this appeal deserves to be allowed and appellant is entitled to his acquittal.

7. Per contra, learned State counsel has argued that prosecution has led sufficient evidence on record to prove that at the time of commission of the offence, 'P' was a child, as envisaged under the POCSO Act and PW11 Hema was an expert in understanding the signs and gestures of impaired persons. Moreover, testimonies of 'P' as PW10 and her father, i.e PW3, are consistent and trustworthy and as per the FSL report Exhibit PX/1, the DNA profile of appellant matched with the tissue material/placenta of 'P'. Thus, prosecution has successfully proved its case against the appellant and hence, this appeal be dismissed.

8. As regards the contention qua age of 'P', the same does not hold water because PW12 Dr. Ravi Shankar Gaur, Orthopaedic Surgeon, who had conducted ossification test of 'P', has categorically mentioned in



his Report Exhibit PJ that approximate bone age of 'P', after ossification test, was between 16-17 years with margin of error of six (06) months on either side and it is pertinent to mention here that in case, the said error is taken into consideration, then the upper limited age of 'P', at the most, can be calculated to be 17½ years. Further, as per the report of Dental Surgeon (annexed at Page No.145 in the paper-book) also, dental age of 'P' was between 15 to 17 years. The appellant has not produced any convincing evidence/material on the file to rebut or falsify the afore-discussed reports of medical experts. In these circumstances, it is held that 'P' had not completed the age of 18 years at the relevant time and was, therefore, a 'Child' as defined under Section 2(1)(d) of the POCSO Act and hence, the provisions of the POCSO Act are applicable to the instant case.

9. So far as the contention regarding PW11 Hema not being an expert for understanding the signs and gestures of 'P' and the evidentiary value of statements of 'P' as recorded by the Magistrate under Section 164 Cr.P.C and by the trial Court with the assistance of this witness (PW11) is concerned, it is again worth-while to point out here that she (PW11) was a Special Teacher, Hearing and Impairment, in Government Boys Senior Secondary School, Faridabad and while recording the testimony of 'P' as PW10, learned trial Court has categorically mentioned that since she ('P') was having a low IQ and was mentally retarded to some extent, therefore, above-named PW11 had been called to help the Court as she was an expert and understood the signs and gestures and unclear language of 'P'. The afore-described facts and circumstances speak volumes of the competence



of PW11 to understand the signs and gestures and to communicate with 'P' and hence, the above-raised contention cannot be given any weightage.

10. It is relevant to note at this stage that PW3, father of 'P', has specifically stated that his daughter, the victim, is deaf and dumb and aged about 14-15 years and through signals and gestures, she informed him that appellant had committed rape upon her. His younger daughter had seen the appellant coming out of room of the house. PW10, i.e 'P', duly identified the appellant as the perpetrator of the offence. Observations of learned trial Court clearly indicate that PW10 has clearly narrated the commission of offence by the appellant through gestures. It is further to be noted that this version is completely cemented by FSL Report Exhibit PX/1 which proves that DNA profile of the tissue material/placenta, taken in custody upon abortion of 'P', matched with DNA profile of the appellant. This factum, in itself, is sufficient to prove the guilt of the appellant.

11. Last contention regarding the appellant having falsely been implicated in the present case for extracting money, is also devoid of any force because except his bald counter-allegation, as levelled during the recording of his statement under Section 313 Cr.P.C, the appellant has not been able to place/adduce any cogent material on the file to establish his afore-discussed plea. Rather, the testimonies of 'P' as PW10 and her father as PW3, coupled with the depositions of remaining prosecution witnesses and the above-detailed contents of FSL report, Exhibit PX/1, qua matching of DNA profile of tissue material/placenta of 'P' with that of the appellant, do suffice to prove the guilt of the appellant beyond reasonable doubt.



12. No other argument has been advanced/addressed.
13. As a sequel to the fore-going discussion, it follows that the impugned judgment dated 30.05.2015 and order on sentence dated 02.06.2015, passed by learned trial Court, do not suffer from any infirmity, illegality or perversity or irregularity so as to warrant any interference by this Court. Resultantly, this appeal, being *sans* any merit, is dismissed.
14. Pending applications, if any, stand disposed of accordingly.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

December 08, 2025

Yag Dutt

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No