

CRA-D-1795-DB-2014 (O&M)

2025:PHHC:176457-DB



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

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Babu Lal

.....Appellant

Versus

State of Haryana

..... Respondent

Reserved on : October 14, 2025

Pronounced on : December 19, 2025

Whether full judgment is pronounced

Or

Operative part thereof : FULL

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

Present: Mr. Kirat Singh Sidhu, Amicus Curiae for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

LISA GILL, J.

1. Present appeal has been filed by appellant for setting aside judgment dated 15.05.2014 passed by learned Additional Sessions Judge, Gurgaon, whereby he has been convicted for the offences punishable under Sections 363, 366, 376(2)(m) of Indian Penal Code (for short – ‘IPC’) and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short – ‘POCSO Act’) and order dated 16.05.2014, whereby he has been sentenced as under:-

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Offence (U/S)	Sentence
363 IPC	Rigorous imprisonment for five years, besides, pay a fine of Rs.5,000/-. In default thereof, undergo further rigorous imprisonment for one month.
366 IPC	Rigorous imprisonment for seven years, besides, pay a fine of Rs.5,000/-. In default thereof, undergo further rigorous imprisonment for five months.
376(2)(m)	Rigorous imprisonment for life, which shall mean imprisonment for remainder of his natural life, besides, pay a fine of Rs.50,000/-.

2. Brief facts as per prosecution version are that FIR No. 251 (Ex.PC) was registered on 22.11.2013 on the statement of complainant PW2 - mother of victim. Complainant stated that she alongwith her family i.e. her husband and two children were residing in a Jhuggi near Wazirabad Mandi, Sector 57, Gurugram. They were engaged in labour work. On 22.11.2013, she and her husband were busy in raising their Jhuggi; her son and daughter were playing nearby when a man (appellant) came near their children and said that he would give them a toy doll. He even sat with her children whereas she and her husband were busy in work. Their daughter aged 5/6 years was enticed by said person. After some time, their son aged about 4 years came to them at their Jhuggi and informed that his sister had been taken away towards bushes by the person, who was sitting with them. Complainant alongwith her husband and his two brothers of husband (elder and younger brother) went in search of their daughter, who had been taken away at about 12.05 p.m. (noon). When complainant reached near a tin shed situated on the back of the park of school at Sector 57, Gurugram, she heard her daughter weeping. It is stated that it was 1.00 p.m. at that point. Complainant found her daughter weeping in the tin shed, lying in a pool of blood. All other persons accompanying her rushed there. Accused, it is

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stated, had physically abused her daughter and had also committed rape upon her. Number of other persons gathered there, appellant was nabbed and was also beaten by some people. Appellant, on inquiry disclosed his name to be Babu Lal son of Ram Gopal. Private vehicle was arranged and complainant's daughter taken to Government Hospital, Gurugram by her husband. Action was sought to be taken against appellant for having assaulted and committed rape upon complainant's daughter.

3. FIR (Ex.PC) was registered under Sections 323, 363, 366A, 376 of IPC and Section 4 of POCSO Act at Sector 55-56, Gurugram. Investigation was carried out by Inspector Pardeep Singh (PW12). Scaled site plan (Ex.PG) and rough site plan of place of occurrence was prepared. Photographs (Ex.P6 to P14) of the place of occurrence were clicked by PW12 Inspector Pardeep Singh from his government digital camera. FSL team also reached the spot. One ladies shawl, a bed sheet with blood stains were recovered which were converted in separate sealed parcels and taken in possession vide memo Ex.PD. Appellant was arrested on the same day i.e. 22.11.2013 and was taken to Government Hospital, Gurugram for medical examination. Victim was also medico legally examined. Doctor after conducting medical examination of appellant, handed over a shirt and underwear of the accused, parcel of hair and a glass slide, parcel containing DNA swab of accused, one vial containing blood alongwith envelope containing seal impression of AKS.

4. PW12, Inspector Pardeep Singh, submitted an application (Ex.PH/1) for medical examination of prosecutrix upon which doctor at Government Hospital, Gurugram made an endorsement that victim had been referred to Safdarjung Hospital, Delhi. Parcel containing frock, pyjama and

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chunni alongwith vaginal swabs etc. of victim were taken in custody vide recovery memo Ex.PF. Discharge summary (Ex.PJ) from Artemis Hospital, Gurgaon in respect to the victim was obtained. Statement of prosecutrix under Section 164 Cr.P.C. was recorded by Judicial Magistrate at Artemis Hospital, Gurgaon. Upon receipt of opinion of Doctor (Ex. PW) on 13.12.2013 to the effect that injuries on body of prosecutrix pertaining to head and private parts are dangerous to life, offence punishable under Section 307 IPC was added.

5. Upon completion of investigation, final report/challan under Section 173 Cr.P.C. was submitted. Matter was committed to Court of Sessions vide order dated 17.01.2014. Appellant was charged for offences punishable under Sections 363, 366, 376(2)(m) of IPC and Section 6 of POCSO Act on 12.02.2014. Appellant pleaded not guilty and claimed trial. As many as thirteen (13) witnesses were examined by prosecution to buttress its case.

6. Statement of appellant was recorded under Section 313 Cr.P.C. with entire incriminating evidence being put to him which he denied, claimed innocence and false implication. Appellant stated that he was falsely implicated in the matter by parents of victim and that he was working as a Guard with Bajra Company situated at Sector 57, Gurugaon. He stated that after his duty hours he usually went to the park for taking bath at tubewell. On the day of incident when he was sleeping in the park after taking bath, one old local person who usually came to park with his buffalo, asked him to leave the victim on road. Victim was already injured and he only went to leave the victim on the road when said fellow and family members of victim caught him, beat him up and handed him over to police. No evidence was, however, led in defence.

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7. Learned trial Court on considering the facts and circumstances of the case concluded that prosecution had successfully proved its case against appellant. He was, thus, convicted for offences punishable under Sections 363, 366, 376(2)(m) of IPC and Section 6 of POCSO Act and sentenced as has been detailed in para 1 of this decision. Aggrieved therefrom, present appeal has been filed.

8. Learned counsel for appellant vehemently argued that evidence on record is woefully insufficient to sustain conviction of appellant for commission of offences as above. Testimony of victim, who is merely a child of six years, it was submitted, cannot be the sole criteria for convicting the appellant. Child by virtue of her age was prone to tutoring. Learned counsel for appellant submitted that PW12, Inspector Pardeep Singh, stated that on receipt of information regarding commission of offence on 22.11.2013, he had called lady SI Poonam Hooda, a lady Advocate and legal aid counsel, who had reached the spot but all these persons have not been arrayed as prosecution witnesses except lady SI Poonam Hooda (PW8). Furthermore, brick bats with which injuries were allegedly caused on the head and face of victim were never recovered. It is, thus, prayed that this appeal be allowed and impugned judgment of conviction and order of sentence dated 15.05.2014 and 16.05.2014 be set aside, thereby acquitting appellant of all charges against him.

9. Learned counsel for State refuted the arguments as raised on behalf of appellant and argued that prosecution had duly proved its case beyond reasonable doubt. Ocular version is duly supported by medical evidence on record, therefore, present appeal be dismissed.

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10. We heard learned counsel for parties at length and have carefully perused the record.

11. It is the specific case of complainant that her daughter aged about six years was playing alongwith her brother (complainant's son) on the fateful day i.e. 22.11.2013, while she alongwith her husband were busy in preparing their Jhuggi. One man (appellant) approached their children and offered to give them toys. He also sat with them for a while whereas she and her husband were busy in their work. Her daughter was enticed away by appellant and it was so informed to them by their son aged about four years. She alongwith her husband and brothers in-law went in search of victim, who was found weeping in the tin shed in the park situated behind school of Sector 57, Gurugram. It was found that victim was bleeding profusely and had suffered injuries. Number of people gathered there. Appellant was admittedly apprehended at the spot and handed over to the police. Victim was taken to General Hospital, Gurugram and as per testimony of PW10 Dr. Senhlata, following injuries were found on the person of victim:-

“1. On Forehead: Boggy 5x5 cm. Swelling on left side of forehead, Bluish discoloration present.

2. Left Eye:- Black eye with subconjuntival hemorrhage on both upper & lower eyelid.

3. Nasal Bone:- Depressed and bleeding through Nose is present.

4. Both Upper and lower lips are swollen and congested.

5. Right lower 2nd incisor tooth is missing, Raw area is present at the root.

6. Upper left 1st and 2nd incisors gums are bleeding

On Local examination under General Anesthesia

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There was lacerated tear in vagina of about 3-4 cm. in length, involving Rectum around 4 cm. from the Anus with slight fresh bleeding.”

12. PW10, Dr. Snehlata, stated that child was referred to higher centre i.e. Safdarjung Hospital, New Delhi alongwith an intern Doctor and lady Constable for further management as the surgeon had suggested for repair of rectal injury by plastic surgeon. It was opined that possibility of sexual intercourse cannot be ruled out. Vaginal swabs had been taken. It was further opined that injuries were sufficient to cause death. In her cross examination, PW10 stated that head injury on the victim was not possible by way of fall on hard surface. Said head injury and injury on the private parts were grievous and dangerous to life.

13. PW11, Dr. Asha Sharma, Department of Obstetrics and Gynecology, Artemis Hospital, Gurgaon proved that victim was brought to Artemis Hospital on 25.11.2013 for her treatment pertaining to sexual and physical assault. Complete perineal tear was repaired at Safdarjung hospital and was then brought to Artemis Hospital by her parents for further treatment. It is further stated that patient was treated under supervision of Dr. Veena Bhatt. PW11, was working as her team member. Dr. Veena Bhatt was undergoing treatment for breast cancer and she was, thus, unable to appear as a witness. PW11, Dr. Asha Sharma, proved the discharge summary Ex.PJ; radiology report Ex.PK.

14. As per FSL report Ex.PL, human semen was detected on pyjama and frock of victim. Human blood was found on shirt, multi-coloured kapri, one

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white *parna* recovered from appellant as well as printed bed sheet and one brown shawl recovered from the spot. As per DNA report Ex.PM/2, it was concluded that,

“The Autosomal and Y STR analysis indicates that DNA profile of semen stains on source of item no IA (Frock) and source of item No IB (Pyjama) matches with the DNA profile of Babulal (source of item No-2) and conclusively proves that they are of same biological origin.”

15. Statement of victim under Section 164 Cr.P.C. was recorded by Judicial Magistrate First Class, Gurugram on 30.11.2013, after recording of his satisfaction that victim is fit for making a statement and is free from pressure and influence etc. Victim stated that a man had come to her when she was playing with her younger brother offering to give her a doll. When she refused, said person took her away forcibly and committed “wrong acts” with her. She further stated that in case person came in front of her, she would be able to identify him. Victim had deposed as PW1. Learned trial Court has recorded its satisfaction that child witness was competent one. She has repeated the version in a consistent manner and has given graphic description of the crime as committed by appellant. It is duly noted that victim had pointed towards her lower portion while deposing that wrong act had been committed with her and that she had bled and had suffered injuries. She further stated that her statement had been recorded before Magistrate.

16. It is a settled position that sole testimony of victim itself can be sufficient for convicting the accused. Once it is found that testimony is of sterling quality, in such a situation, corroboration thereof is also not required. In the present case, learned counsel for appellant was unable to point out any

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ground whatsoever which casts the slightest of shadow on the testimony of victim who has been found to be competent witness. There is no merit in the argument raised by learned counsel appellant that as victim was a child witness, her testimony should be ignored. Perusal of file reveals that learned Magistrate as well as learned trial Court upon interacting with child had found her to be a competent witness. It is further to be noted that PW2 mother of victim, PW7 uncle of victim and brother of her father have all in one voice given a consistent version throughout. Nothing in favour of appellant could be elicited from their cross examination.

17. Moreover, medical and scientific evidence in the shape of FSL and DNA report cement the prosecution case and duly corroborate the ocular version. Argument raised by learned counsel for appellant that appellant was falsely implicated due to enmity with parents of victim is completely devoid of any merit. It is undeniable that there is no evidence on record to indicate any enmity of appellant with parents of victim. Suggestion in this regard has been specifically denied by witnesses in question. Similarly argument that father and uncle of victim, who are stated to have accompanied mother and PW7 (other uncle) of victim were not examined, therefore causing a fatal blow to prosecution version is devoid of any merit, hence rejected. Father and uncle of victim, who were duly present, were given up as unnecessary by public prosecutor. There is nothing to indicate that they would not have deposed in line with depositions of the victim, her mother and her uncle. Similarly, argument that none of independent witnesses, many of whom statedly gathered at the spot were examined, thus, causing dent of prosecution version is equally devoid of merit. In the given factual matrix where evidence on record is clear and cogent,

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non-examination of said witnesses does not have a fatal blow to prosecution version. It is always the quality and not quantity of evidence which is material and relevant.

18. At this stage, it is to be noted that appellant himself has admitted that he was nabbed at the spot while he was proceeding to leave the injured child at the road. Such a defence does not in any manner explain the presence of his semen on frock and pyjama of the victim. It is reiterated that as per DNA report Ex.PM/2, DNA profile of semen stains on frock and pyjama of victim matched with DNA profile of appellant.

19. In the given facts and circumstances, prosecution has indeed successfully proved its case against appellant for commission of offences in question beyond reasonable doubt.

20. In the given factual matrix where appellant has committed deplorable offence qua the child of tender age, we find no ground for reduction of sentence imposed upon him as was urged by learned counsel for appellant while stating that such prayer should be allowed as incident in question is of the year 2013 i.e. before amendment of Section 6 of POCSO Act.

21. Learned counsel for appellant was unable to point out any ground whatsoever which calls for any interference by this Court.

22. No other argument was addressed.

23. Keeping in view the facts and circumstances as above, we do not find any ground whatsoever to interfere in impugned judgment of conviction dated 15.05.2014 and order of sentence dated 16.05.2014 passed by learned

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Additional Sessions Judge, Gurgaon, which are accordingly upheld.

- 24. Present appeal is accordingly, dismissed being devoid of any merit.
- 25. Pending applications, if any, also stand disposed of accordingly.

(LISA GILL)
JUDGE

December 19, 2025
Rts

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: Yes
Uploaded on : 22.12.2025