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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 123/2020

STATE (NCT OF DELHI)

.....Petitioner

Through: Mr. Mukesh Kumar, APP for State  
with Mr. Satbir, Insp., PS-Jaitpur.

versus

RANVEER SINGH

.....Respondent

Through: In person.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **06.05.2025**

1. The present application under Section 378(3) of the Code of Criminal Procedure, 1973<sup>1</sup> filed by the State, seeks leave to appeal against judgment dated 29<sup>th</sup> November, 2019 passed by the ASJ-06 (POCSO Act), South East, Saket Court, Delhi in Sessions Case No. 1594/2016 emanating from FIR No. 149/2014, P.S. Jaitpur, District South East. By the said order, the ASJ has acquitted the Respondent of the charges under Section 354A of the Indian Penal Code, 1860<sup>2</sup> and Section 8 of the Protection of Children from Sexual Offences Act, 2012.<sup>3</sup>

**Factual Background**

2. Succinctly stated, the case of the Prosecution is as follows:

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<sup>1</sup> "Cr.P.C."

<sup>2</sup> "IPC"

<sup>3</sup> "POCSO Act"



2.1 On 14<sup>th</sup> March, 2014, the Complainant, “NC”, accompanied by her husband “AC”, went to Police Station Jaitpur, and lodged a complaint against the Respondent, alleging that on 11<sup>th</sup> March, 2014, at approximately 8:00 PM, while she, her daughter “L” (the Prosecutrix), and her son “K” were present on the first floor of their residence, the Respondent arrived at their house and rang the doorbell.

2.2 Upon hearing the doorbell, the Complainant sent the Prosecutrix downstairs to open the door. When the Prosecutrix did not return for some time, the Complainant herself went downstairs and found the Prosecutrix in the Respondent’s lap, being forcibly kissed on her lips. Upon being seen by the Complainant, the Respondent fled from the spot.

2.3 Thereafter, the Prosecutrix informed the Complainant that she had indeed been forcibly kissed by the Respondent. The Complainant refrained from disclosing the incident to her husband immediately, fearing a quarrel between him and the Respondent. However, later she narrated the incident to him. In her complaint, she initially declined medical examination of the Prosecutrix. Consequent to this complaint, FIR No. 149/2014 was registered.

2.4 The statement of the Prosecutrix under Section 164 Cr.P.C. was recorded before the Magistrate on 15<sup>th</sup> March, 2014, wherein she reiterated the allegations and implicated the Respondent for having committed sexual assault. The Prosecutrix was approximately 7 years old at the time of the incident and was a ‘child’ within the meaning of the POCSO Act.

2.5 The Respondent was arrested on 15<sup>th</sup> March, 2014, and was medically examined. During the course of investigation, the MLC of the Prosecutrix was conducted on 16<sup>th</sup> March, 2014. The examining doctor documented the Prosecutrix’s mother’s account that an intoxicated man, identified as Ranbir



Singh (the Respondent), had kissed the Prosecutrix.

2.6 Upon conclusion of the investigation, a chargesheet was filed against the Respondent. By order dated 25<sup>th</sup> September, 2014, charges were framed against the Respondent for the offence under Section 8 of the POCSO Act and, in the alternative, under Section 354A IPC. The Respondent pleaded not guilty and claimed trial.

2.7 In support of its case, the Prosecution examined six witnesses, namely: the Complainant/mother of the Prosecutrix (PW-1); the Prosecutrix's father (PW-2); the Prosecutrix herself (PW-3); SI Laxman Prasad, a formal witness (PW-4); Dr. Priyanka, who proved the MLC of the Respondent (PW-5); and WSI Lekha Rani, the Investigating Officer (PW-6).

2.8 After closure of prosecution evidence, statement of the Respondent was recorded under Section 313 Cr.P.C., wherein he denied all allegations and claimed innocence. In his defence, the Respondent examined three witnesses: Ms. Rekha (DW-1), Ms. Nidhi Sharma (DW-2), and himself (DW-3).

2.9 After hearing arguments from both sides, the Trial Court by the impugned judgment dated 29<sup>th</sup> November, 2019, acquitted the Respondent of the charges under Section 8 of the POCSO Act and Section 354A IPC.

2.10 Aggrieved by the acquittal, the State has preferred the present leave to appeal, seeking setting aside of the impugned judgment.

### **Prosecution's Case**

3. Mr. Mukesh Kumar, APP for State, assails the impugned order, urging the following grounds:

3.1 The impugned judgment is founded on presumptions, conjectures, and surmises, rather than a sound evaluation of the evidence on record. As such,



it is unsustainable and liable to be set aside.

3.2 The Trial Court failed to properly appreciate and evaluate the material evidence that emerged during the course of the proceedings, which has resulted in a miscarriage of justice by way of the Respondent's acquittal.

3.3 The Trial Court did not appreciate that the Respondent kissed the lips of the Prosecutrix, a minor girl aged about 7 years, with the intention to have sexual contact with her and that he sexually harassed her by kissing her on her lips. The Respondent is liable for the commission of the offences punishable under Section 8 of POCSO Act and Section 354-A IPC. In this regard, the Prosecutrix (PW-3) cogently deposed as follows:

*"At the time of incident I was studying in 2<sup>nd</sup> class. That uncle used to come to park vehicle. I had gone to open the gate. The said uncle whose name is Ranbir Singh took me in his lap and was kissing me. When I tried to raise alarm he closed my mouth with his hands. In the meantime, my mother came. Hearing her, the said uncle Ranbir ran away."*

Further, the Prosecutrix also correctly identified the Respondent in the Trial Court.

3.4 The Trial Court adopted an unduly sceptical approach while assessing the testimony of the child witness and erred in discarding her version on the ground of minor inconsistencies. It is submitted that in cases involving allegations of sexual assault on children, the evidence of the child witness must be approached with sensitivity, and minor discrepancies ought not to result in its outright rejection, especially where the child has withstood cross-examination and her version has remained consistent on material particulars.

3.5 The version of the Prosecutrix was not only consistent through different stages of the investigation, but also stood corroborated by the testimony of her parents. It is argued that the child witness did not waver in



cross-examination and attributed a specific role to the accused. Her testimony, therefore, merited greater weight.

3.6 The Trial Court failed to appreciate that the delay in lodging the FIR was not material or fatal to the case. PW-1, the Prosecutrix's mother, explained the delay, stating she refrained from disclosing the incident dated 11<sup>th</sup> March, 2014 to her husband out of fear of causing a quarrel between him and the Respondent. However, on 14<sup>th</sup> March, 2014, she fully disclosed the incident to her husband, leading to the filing of the FIR. This account is corroborated by PW-2, the Prosecutrix's father. The delay, thus stood sufficiently explained and was corroborated by the father of the Prosecutrix. Reliance is placed on settled jurisprudence that delay in reporting cases of sexual abuse, particularly involving children, cannot by itself be a ground for disbelieving the Prosecution's version, if the explanation is plausible.

3.7 The Trial Court failed to consider the statutory presumption under Section 29 of the POCSO Act. Once the foundational facts were established, the burden was on the Respondent to rebut the presumption of guilt. It is argued that the defence raised a vague plea of false implication due to an alleged dispute over tenancy, but failed to adduce any cogent evidence in support thereof. The Trial Court therefore erred in accepting such an unsubstantiated plea as sufficient rebuttal.

3.8 The contradictions and discrepancies highlighted by the defence are trivial in nature and do not affect the core of the Prosecution's case. It is well settled that every minor inconsistency cannot be treated as fatal to the case, particularly where the version of the prosecutrix is otherwise credible and consistent.

### **Analysis**



4. The Court has duly considered the aforementioned contentions. The limited issue that arises for determination is whether the present case warrants the grant of leave to appeal against an order of acquittal under Section 378(3) of Cr.P.C. The legal principles governing such a determination are now firmly entrenched in our jurisprudence. The High Court, while considering a leave to appeal, must be satisfied that the findings of the Trial Court suffer from a manifest error, are perverse in nature, or reflect a glaring misappreciation of law or evidence. It is not sufficient that the appellate court may have arrived at a different conclusion on the same facts; the mere possibility of an alternative view cannot be the basis for interference with an acquittal. Rather, the Court must be persuaded that the Trial Court has either ignored material evidence, adopted a patently unreasonable view, or drawn conclusions which no court could have arrived at. These principles have been clearly articulated by the Supreme Court in several cases and have been summarized in ***Prem Kanwar v. State of Rajasthan***,<sup>4</sup> wherein the Court observed as follows:

*“16. The principles which would govern and regulate the hearing of appeal by the High Court against an order of acquittal passed by the trial Court have been set out in innumerable cases of this Court and in Ajit Savant Majagavi v. State of Karnataka (AIR 1997 SC 3255) the following principles have been re-iterated:*

- 1. In an appeal against an order of acquittal, the High Court possesses all the powers and nothing less than the powers it possesses while hearing an appeal against an order of conviction.*
- 2. The High Court has the power to reconsider the whole issue, reappraise the evidence and come to its own conclusion and findings in place of the findings recorded by trial Court, if the said findings are against the weight of the evidence on record, or in other words, perverse.*
- 3. Before reversing the finding of acquittal, the High Court has to consider each ground on which the order of acquittal was based and to record its own reasons for not accepting those grounds not subscribing to the view*

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<sup>4</sup> (2009) 3 SCC 726,.



*expressed by the trial court that the accused is entitled to acquittal.*

*4. In reversing the finding of acquittal, the High Court has to keep in view the fact that the presumption of innocence is still available in favour of the accused and the same stands fortified and strengthened by the order of acquittal passed in his favour by the trial court.*

*5. If the High Court on a fresh scrutiny and re-appraisal of the evidence and other material on record, is of the opinion that there is another view which can be reasonably taken, then the view which favours the accused should be adopted.*

*6. The High Court has also to keep in mind that the trial court had the advantage of looking at the demeanor of witnesses and observing their conduct in the Court especially in the witness box.*

*7. The High Court has also to keep in mind that even at that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonable person would honestly and conscientiously entertain as to the guilt of the accused.*

*In this respect, the decisions of this Court in Balbir Singh Vs. State of Punjab (AIR 1957 SC 216) Ram Kumar Vs. State of Haryana (AIR 1995 SC 280), Bharwad Jakshibhai Nagjibhai Vs. State of Gujarat (AIR 1995 SC 2505), Hari Chand Vs. State of Delhi (AIR 1996 SC 1477), Raghbir Singh Vs. State of Haryana (JT 2000 (5) SC 21), and Hari Ram Vs. State of Rajasthan (JT 2000 (6) SC 254) may be seen.*

*17. In Ashok Kumar Vs. State of Rajasthan (AIR 1990 SC 2134) this Court has held as under: "While caution is the watchword, in appeal against acquittal as the trial Judge has occasion to watch demeanour of witnesses interference should not be made merely because a different conclusion could have been arrived at. Prudence demands restraint on mere probability or possibility but in perversity or misreading interference is imperative otherwise existence of power shall be rendered meaningless. In the present case the order of the trial Court is vitiated as part from deciding the case on irrelevant consideration the most serious error of which he was guilty and which rendered the order infirm which could be set aside by the High Court was that he misread the evidence and indulged in conjectural inferences and surmises."*

5. The same principle was reiterated in **Ashok Kumar v. State of Rajasthan**,<sup>5</sup> where the Supreme Court held that prudence must guide appellate interference. It is not the possibility of another conclusion, but the unreasonableness or illegality of the conclusion reached by the trial court



that justifies appellate scrutiny. Where the trial court has proceeded on conjecture, surmise, or patent misreading of material evidence, the High Court is not merely entitled, but duty-bound, to correct the miscarriage of justice.

6. Bearing in mind the gravity of the allegations against the Respondent and the tender age of the Prosecutrix, approximately 7 or 8 years at the time of the alleged incident, the Court has subjected the impugned judgment to close scrutiny.

7. The Trial Court adhered to the legal principles governing the evaluation of evidence of a child witness, and carried out a thorough examination of the evidence on record. On careful analysis of the Prosecutrix's testimony, the Court found significant inconsistencies in her statements at various stages of the trial and investigation. The relevant findings of the Trial Court in this regard are as follows:

*“17. The testimony of the victim/prosecutrix is to be evaluated in light of the aforesaid judgments. But it is first of all very important to note the chain of events in the present case. Adverting to the facts of the present case it is seen that FIR in the present case was registered on the police complaint of the mother of the prosecutrix dated 14.03.2014 when she had visited the PS Jaitpur along with her husband. She stated that she was residing in the tenanted accommodation since last 7-8 months and that her husband is a property dealer and that the accused herein is the landlord of the said tenanted accommodation who lived in another house but parked his car at ground floor in the tenanted accommodation. Mother of the prosecutrix i.e. PW-1 in her police complaint had also stated that on 11. 03.2014 at around 8 PM, she was on the 1st floor in the house with prosecutrix 'L' aged 7 years and her son 'K' aged 1 1/2 years and the accused came home and rang the door bell hearing which she sent her daughter 'L' downstairs to open the door. 'L' did not return for a while and thus mother of prosecutrix 'L' got down the stairs and saw that accused had lifted 'L' in his lap and was forcibly continuously kissing the lips of her daughter/prosecutrix and that her daughter/prosecutrix was squirming/threshing (chhatpata rahi thi) and that on seeing the mother of the prosecutrix, he fled away leaving her*

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<sup>5</sup> (1991) 1 SCC 166.



22. Further, PW-3 in her statement recorded under section 164 Cr.P.C. had stated that accused had said sorry to her mother and had touched her feet but in her examination in chief she stated that when her mother came, accused had ran away but in the same breath said that when her mother inquired from the accused as to what he was doing, he had gone/left by telling her mother that he was only kissing the prosecutrix.



23. *Thus it is noticed that in her examination in chief, the prosecutrix had taken contradictory stand by saying that accused had run away after her mother came but also said that he had left by telling her mother that he was simply kissing the prosecutrix. Further in her statement recorded under section 164 Cr.P.C., prosecutrix had stated that accused had expressed apology by touching feet but prosecutrix had not made any such statement in her examination in chief nor her mother had stated so in her complaint made to police on 14.03.2014.*

24. *During her cross examination, the prosecutrix, PW-3 had stated that she did not use to go to the house of accused but again said that she seldom went and also that the accused had not committed wrong act with her prior to the date of incident. She had also stated that the house of accused was situated across the road to her house. The said statement of the prosecutrix Is important as the accused would have had the opportunity to sexually harass the prosecutrix when she was visiting house of accused but he never did so.”*

8. The Trial Court, while recounting the chain of events, recorded that in the police complaint lodged by the Prosecutrix’s mother (PW-1), the incident was narrated as having taken place on 11<sup>th</sup> March, 2014, when the Prosecutrix was sent downstairs to answer the door, following which the Complainant allegedly found the Prosecutrix on the Respondent’s lap being kissed on the lips. However, in her Section 164 Cr.P.C. statement recorded before the Magistrate, the Prosecutrix narrated a different sequence; that the Respondent had first asked her mother to wait in the balcony while he would fetch her a chocolate, and only then took the Prosecutrix to the parking area and kissed her on the lips. She also stated that when she attempted to call out to her mother, the Respondent covered her mouth, and that upon her mother’s arrival, he apologised and touched her mother’s feet.

9. Significantly, this detail regarding the conversation between the Respondent and the mother, and the promise of chocolate, was entirely absent in the Prosecutrix’s testimony before the Trial Court. There, she stated only that the Respondent had taken her in his lap and kissed her, and



that he ran away upon her mother's arrival. She made no mention of any interaction between her mother and the Respondent prior to the alleged incident. Even more notably, the allegation of the Respondent apologising and touching her mother's feet, which appeared in the statement under Section 164 Cr.P.C., found no mention in either the testimony of the Prosecutrix during trial.

10. These inconsistencies, while perhaps explainable in isolation due to the age of the witness, collectively formed the basis of the Trial Court's reasoning that the Prosecution's case was riddled with contradictions on material aspects. The Trial Court further noted that the Prosecutrix had expressly stated during cross-examination that the Respondent had never committed any such act prior to the incident in question and that she had only occasionally visited his house. These observations were considered relevant in assessing the spontaneity and plausibility of the allegation, particularly as the alleged assault was said to have occurred in a shared residential setting involving familiar parties. On a cumulative appreciation of the testimony, the Trial Court concluded that the inconsistencies were not trivial, but such as to materially weaken the Prosecution's case and cast doubt on the credibility of the core allegation.

11. In addition to the inconsistencies in the statement of the Prosecutrix, the Trial Court also identified material contradictions in the testimonies of her mother (PW-1) and father (PW-2). In fact, the Court observed that the statement of the Prosecutrix did not align with the version provided by her mother, PW-1. The analysis of PW-1's statement in this regard is as follows:

*"25. Mother of prosecutrix was examined as PW-1 and she had stated that on 11.03.2014, her daughter i.e. prosecutrix 'L' was present on 1 floor and on that day her husband was not present in the house and at 8 PM,*



accused came at their house and rang the door bell. She also deposed that he used to come at that house to park his vehicle. She had sent 'L' to open the door for him. After some time prosecutrix did not come back, then she made a call to her daughter and accused replied that he had sent his daughter after giving her chocolate. PW- 1 has further deposed that accused told her that she should see her daughter/prosecutrix from balcony. She had waited for her daughter there for 10 minutes but nobody went outside the house and accused did not go outside. Thereafter, she came down secretly through stairs then she had seen that accused was kissing over the lips of her daughter. After seeing PW-1, the prosecutrix started crying and accused felt afraid at that time, When she asked her daughter/prosecutrix that why she did not make noise then she stated that accused had put his hand on her mouth that is why she did not cry. PW-1 further deposed that after the Incident, accused had requested to forgive him and also made apology with folded hands. Thereafter, he went from her house.

26. PW-1 is the alleged eyewitness of the incident. However it is noticed that there are contradictions in the statements of the prosecutrix, PW-3 when read against the statements of her mother PW-1.

27. Prosecutrix did not depose anything about the accused telling her mother that he had given a chocolate to the prosecutrix and that her mother should stand in balcony to see the prosecutrix. Further prosecutrix in her statement recorded under section 164 Cr.P.C. had not stated that accused had told his mother that he had given her chocolate but had stated that accused had told her mother that he would go and get a chocolate fetched by and for the prosecutrix and that her mother should stand in the balcony.

28. Prosecutrix had stated in her cross examination that there was a room behind the stairs on the ground floor where vehicle used to be parked. As per the version of prosecutrix she was kissed by the accused in the area of parking but as per the police complaint made by PW-1 as well as in her examination in chief PW-1 has alleged the place of incident to be the stairs of the house.

29. What is equally relevant is the fact that prosecutrix had not stated in her examination in chief that the accused had kissed her on her lips but her mother, PW-1 had stated that accused had kissed the prosecutrix on her lips forcibly in her police complaint and in the court also, PW-1 has deposed that she had seen the accused kissing over the lips of her daughter. Further in the police complaint, PW-1 has not stated that she had come down the stairs secretly when she saw accused kissing over the lips of her daughter but has stated so in the court.

XX ... . XX ... XX

32. The contradiction of mother of prosecutrix PW-1 read against statement of prosecutrix PW-3 becomes clearer by the fact that on one hand PW-1 has stated that accused was kissing PW-3 over her lips but at the same time has deposed that her daughter could not raise an alarm as



*accused had put his hand on her mouth. If accused had put his hand on mouth of prosecutrix, how he had kissed the prosecutrix on her lips since the lips of the prosecutrix were already covered by his hands.*

33. *Further, PW-3, the prosecutrix has deposed that accused had taken her in his lap and was kissing her but PW-1, the alleged eyewitness of the incident, has not deposed about the accused taking her daughter in his lap. Even PW-2 has not stated about accused taking his daughter in his lap (although his statement is hearsay).*

34. *PW-1 in her police complaint Ex. PW-1/A had stated that accused had run away leaving her daughter after seeing her. In her examination in chief she has stated that after the incident, accused had requested her to forgive him and also made apology with folded hands and thereafter he went away from her house. Similar is the deposition of PW-2. During cross-examination, PW-1 was confronted with the police complaint Ex. PW-1/A made by her, where it was not so recorded. Thus PW-1 has made Improvements in her version about the incident.”*

12. PW-1, the mother of the Prosecutrix, deposed that when the Respondent visited their residence, she asked her daughter to open the door. Upon noticing that the Prosecutrix had not returned after some time, PW-1 called out to her. She alleged that the Respondent responded, by stating that he had given the Prosecutrix a chocolate and sent her back home, adding that PW-1 could see her daughter from the balcony. Notably, this entire interaction was absent from the initial complaint filed by PW-1, indicating that it was a material improvement introduced only during her deposition before the Trial Court. Furthermore, the same interaction was described differently by the Prosecutrix in her Section 164 Cr.P.C. statement, where she stated that the Respondent had asked her mother to remain in the balcony while he went to fetch her a chocolate. These inconsistent narratives between the Prosecutrix and PW-1 raise serious doubts about the credibility of their testimonies.

13. Furthermore, similar to the discrepancies in the Prosecutrix’s account, PW-1, in her police complaint, stated that the Respondent fled upon seeing



her. However, in her examination-in-chief, she testified that the Respondent pleaded for forgiveness and apologized with folded hands.

14. The most critical divergence, however, pertains to the nature of the alleged act itself. In her police complaint and examination-in-chief, PW-1 stated that she saw the Respondent forcibly kissing the Prosecutrix on the lips. In contrast, the Prosecutrix, in her courtroom testimony, made no mention of being kissed on the lips. She merely stated that the Respondent took her in his lap and kissed her, without specifying the nature or location of the kiss. Additionally, while the Prosecutrix testified that she was lifted into the Respondent's lap, PW-1 did not corroborate this in her own testimony, nor was it mentioned by PW-2. These contradictions are neither minor nor technical; they strike at the very foundation of the allegations and justify the Trial Court's cautious approach.

15. The Trial Court also took note of conflicting versions regarding the manner and location of the Respondent's arrest, as recounted by key prosecution witnesses. PW-1 deposed that the Respondent was apprehended on 15<sup>th</sup> March, 2014 from his residence at her instance. In contrast, PW-2 stated that the police had contacted the family at the time of arrest and thereafter, PW-1 proceeded to the police station. Yet another version was offered by the Investigating Officer (PW-6), who testified that the Respondent was apprehended when she happened to notice him passing by, and he was then identified on the spot by both PW-1 and the Prosecutrix. These varying accounts, none of which fully align, cast doubt on the procedural clarity of the arrest and suggest a lack of coherence in the investigative record.

16. Further inconsistencies were identified with respect to the timeline



regarding when PW-2, the father of the Prosecutrix, was informed of the alleged incident. PW-1 stated that she deliberately withheld the information from her husband on 11<sup>th</sup> March, 2014, out of fear that it would lead to a confrontation with the Respondent. PW-2 similarly deposed that he became aware of the incident only on 14<sup>th</sup> March, 2014, following which the matter was reported to the police. However, the Prosecutrix gave a materially different version. In her testimony, she stated, *“thereafter, my mother had rang up my mother who came and we all three went to the house of accused where my father had inquired from the accused. On the next day, we went to the police station. I was not taken by the police anywhere else.”*

17. This contradiction assumes particular significance when viewed in the broader context of the delay in lodging the FIR. It is well-settled that in cases involving allegations of sexual assault, delay in approaching law enforcement does not, by itself, cast doubt on the veracity of the complaint, especially where such delay is reasonably explained by reference to the victim’s emotional distress, fear of social stigma, or familial pressures. However, in the present case, the explanation proffered by the Prosecutrix’s mother (PW-1), namely, that she refrained from disclosing the incident to her husband for fear of a confrontation with the Respondent, is directly contradicted by the version offered by the Prosecutrix herself. According to the Prosecutrix, her father (PW-2) was apprised of the incident shortly after it occurred and, in fact, he accompanied them to confront the Respondent at his residence on the same day. This inconsistency strikes at the heart of the explanation advanced by PW-1 and materially diminishes its plausibility. In that view, the Trial Court was justified in holding that the delay in registration of the FIR was not only inadequately explained, but was also



rendered suspect by the contradictory testimony of the principal witnesses. In such circumstances, the delay assumes evidentiary value and contributes to a reasonable doubt as to the sequence of events projected by the Prosecution.

18. Another relevant consideration is the Prosecution's failure to examine material public witnesses, namely, other tenants and neighbours residing in the same premises, despite their apparent availability and proximity to the scene of occurrence. Their non-examination, though not fatal in every case, assumes significance where the Prosecution's narrative is riddled with inconsistencies, as is the case here. Moreover, the record discloses a material dispute regarding whether the premises where the alleged incident occurred were occupied by other tenants at the relevant time. In this regard, the observations of the Trial Court are particularly relevant and are reproduced below:

*"53. There are also contradictions in respect of manner and place of arrest of the accused. PW-1 has deposed that accused was arrested on 15.03.2014 at her instance from his house vide memo Ex. PW-1/C. However PW-2 has stated that when the accused was arrested, the police called them whereupon his wife i.e. PW-1 had gone to the police station. These 2 statements are mutually contradictory. If accused was arrested at the instance of PW-1, then why the police would call PW-1 and PW-2 to the police station. Equally relevant is the deposition of PW-6, IO WSI Lekha Rani in respect of arrest of the accused. She had stated that on 15.03. 2014, she noticed that one person was passing who was pointed by the complainant/mother as well as the victim girl and then she through Ct. Makhanlal apprehended him and thereafter arrested him and his personal search was conducted. Thus IO has deposed that accused was arrested at the Instance of the prosecutrix as well as her mother. She had also stated that accused was arrested on 15.03.2014 in front of the gate and she had stated that the said house belonged to him.*

*54. Besides these contradictions, there are contradictions in respect of the parking of the car at all by the accused at the ground floor of the rented premises. Accused stepped into the witness box as DW-3 and has stated that he did not use to park his car in the rented accommodation and that he used to park his car in his own house. He also deposed that after he was released*



*on bail, the police took his vehicle keys from him and after parking vehicle in house no. 1(the rented accommodation), they took photographs of the vehicle so parked. He denied the suggestion that the photographs are of the day of incident. He also denied the suggestion that he was deposing falsely that after he was released on bail, the police took his vehicle keys from him and after parking vehicle in house no. 1 took photographs. It is not understandable that when the matter was not reported on the day of alleged Incident, how the photograph could have been taken on the day of incident. Further PW-1 in her cross examination stated that the back side of the car of the accused was towards the gate of their building whereas in the photograph the front side of the car is facing towards the gate of the building.”*

19. The Respondent, on the other hand, maintained a consistent narrative that he had been falsely implicated in the present case. In fact, the defence sought to establish a motive behind the alleged false implication of the Respondent. In this regard, the Respondent examined himself as DW-3 and deposed that, in February 2014, officials from P.S. Malviya Nagar had visited his residence twice and informed him that the Prosecutrix’s father (PW-2) was involved in an extortion case along with certain accomplices. At the Respondent’s request, the police officials also provided him with a copy of FIR No. 162/12 (Mark A). Following this, the Respondent approached PW-2 at the rented premises and asked him to vacate the accommodation, since he did not wish to invite any troubles for himself. According to the Respondent, PW-2 threatened him, stating that he was a criminal and would “teach him a lesson.” Thereafter, the Respondent returned to his residence, and on 14<sup>th</sup>/15<sup>th</sup> March 2014, at approximately 1:00 AM, the police arrived at his home and asked him to accompany them to the police station. Upon his arrival, he was informed that a case had been registered against him at the instance of PW-2.

20. Additionally, the Trial Court rightly took note of discrepancies in the depositions of PW-1 and PW-2 regarding the existence of criminal and civil



proceedings involving PW-2. During his cross-examination, PW-2 initially stated that he had no cases pending against him, except one filed by his former spouse. He later contradicted himself by acknowledging a property dispute that had allegedly concluded in 2012. PW-1, on the other hand, admitted that there were ongoing property-related proceedings, but was unable to clarify whether those proceedings had been initiated by or were pending against her husband. These inconsistencies, though seemingly peripheral, assume relevance in the present context, where the defence has consistently asserted a motive for false implication—namely, that the Respondent, as the landlord, had asked the Prosecutrix’s family to vacate the tenanted premises. The lack of candour and clarity in the testimonies of PW-1 and PW-2 thus, casts a shadow on their overall credibility and lends some degree of plausibility to the defence narrative.

21. In light of the discrepancies noted above, both within the statements of the Prosecutrix and between the depositions of the key Prosecution witnesses, the Trial Court found it unsafe to base a conviction solely on such evidence. The Court is inclined to agree with this view. The inconsistencies are not minor, but go to the heart of the allegations and raise doubt about the reliability of the Prosecution’s account. In such circumstances, the possibility of a motivated or exaggerated complaint, especially in light of the strained landlord-tenant relationship between the parties, cannot be ruled out. The evidentiary threshold for interfering with an acquittal, namely, perversity, manifest error, or miscarriage of justice, is not met in the present case.

22. As regards the presumption under Section 29 of the POCSO Act, it is settled law that the same can be rebutted by discrediting the prosecution



witnesses through cross-examination and demonstrating the gaps in the prosecution version or improbability of the incident, or leading defence evidence in order to rebut the presumption by way of preponderance of probability.<sup>6</sup> However, where the foundational facts remain mired in contradiction and the core narrative lacks coherence, the presumption under Section 29 of the POCSO Act stands effectively rebutted. Applying this standard to the case at hand, the testimonies of the three key witnesses do not inspire confidence and fall short of the standard of ‘sterling witnesses’ as envisaged by law.<sup>7</sup> Moreover, the Respondent was able to successfully cast serious doubt on the Prosecution’s case, thereby creating a probable and plausible defence.

23. The presumption under Section 29, thus, stood rebutted in light of: (i) the numerous contradictions in the testimonies of the Prosecutrix and her parents during examination and cross-examination; (ii) the delay in lodging the FIR, based on a premise found to be both unreasonable and contradicted by the Prosecutrix herself; (iii) the failure to examine available independent witnesses, such as neighbours and other residents; and (iv) the cogent counter-narrative presented by the defence. Collectively, these factors demonstrate the Prosecution’s failure to establish the case beyond reasonable doubt.

24. Accordingly, having considered the entire record and the reasons given by the Trial Court, this Court finds no ground to interfere with the judgment of acquittal. The conclusions drawn by the Trial Court are based on a plausible appreciation of the evidence and do not suffer from perversity

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<sup>6</sup> Veerpal v. State, 2024 SCC OnLine Del 2686.

<sup>7</sup> Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21.



or disregard of settled principles. It is well-established that when multiple views are possible based on the evidence on record, the view favourable to the accused, adopted by the Trial Court, should not be disturbed by the Appellate Court. Accordingly, the observations made by the Trial Court in this regard cannot be deemed unsustainable, perverse, or contrary to the record, such that they require further consideration for this Court to grant leave to appeal.

25. In view of the above, the present leave to appeal is dismissed.

**SANJEEV NARULA, J**

**MAY 6, 2025**

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