



\$~5

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CRL.A. 125/2022

RAJ BAHADUR

.....Appellant

Through: Mr. Dhruva Bhagat, Advocate with
appellant through V.C. from jail

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with
Inspector Joscpha K. And Inspector Manju Jha
Mr. Kumar Shailabh, Advocate for victim

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

04.11.2025

%

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 10.12.2020 and order on sentence dated 23.10.2021 passed by the learned ASJ (FTSC) (POCSO), South-East District, Saket Courts, New Delhi in Sessions Case No. 1627/2016 arising out of FIR No. 378/2015 registered under Sections 376/354/323 IPC and Sections 6/10 POCSO at P.S. Sarita Vihar.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 14 years along with fine of Rs.20,000/-, in default whereof he would undergo SI for 3 months, for the offence punishable under Section 6 POCSO. The appellant was also extended the benefit under Section 428 Cr.P.C.

2. This case arises from a complaint lodged by the victim against her father, the appellant herein, alleging that he had been sexually assaulting her



for about 5 years. The matter came to light on 08.05.2015, when the victim confided in her classmates about the ordeal she had been facing. Upon learning of it, her classmates informed the school teacher, who in turn apprised the principal. The principal called the victim to her office, where she narrated the incident, following which the matter was promptly reported to the police. The child victim disclosed in her complaint that the appellant used to molest her in the night when the rest of the family members were asleep and that on the previous night itself, he had removed her clothes, pressed her breasts, and beaten her when she resisted his advances.

3. During the course of trial, the prosecution examined 17 witnesses in support of its case. The child victim was examined as PW-1 after the Trial Court recorded its satisfaction as to her competency as a witness. She deposed that her father used to touch her inappropriately and insert his finger into her private parts, and also used to ask her to touch his private parts. He gave her beatings, threatening her not to disclose the same to anyone. She had told the same to her mother, but upon her mother confronting her father, he flatly denied it, and her mother believed him. She had also told her brother about it, which led to a quarrel between the child victim's brother and their mother, after which the child victim was hopeful that such acts would not be repeated, but to no avail. On 07.05.2015, the appellant again put his hands inside her clothes, touched her breasts, and pressed her thighs. The next morning, in school, she started weeping. On being asked by her classmates why she was weeping, she narrated the acts of her father to them, who in turn told their teacher, who informed the principal. The principal called the child victim to her office and, after some conversation, they informed the police. She gave a written complaint (Ex.



PW-1/A), whereafter the appellant was apprehended by the police, and the child victim was taken to the hospital for her medical examination. Her statement under Section 164 Cr.P.C. was then recorded.

In her cross-examination, she stated that she was studying in 5th class when her father started sexually assaulting her. She denied the suggestion that she had falsely implicated her father at the instance of her boyfriend, as he did not approve of their desire to get married to each other.

4. PW-2, PW-4, and PW-5, the teachers and the principal of the child victim's school, supported the prosecution case by corroborating the chain of events as disclosed by the child victim, including her disclosure to her friends, who informed the teacher, who in turn apprised the principal, the subsequent reporting to the police, and the material particulars of what the child victim had told them about her father's actions, consistent with her own deposition before the Court. The mother of the child victim (PW-3) turned hostile and did not support the prosecution case. The age of the victim was established through documents from her school as well as her birth certificate issued by the concerned Sub-Registrar, and she was conclusively proven to be a "child" within the meaning of Section 2 of the POCSO Act. The history recorded in the MLC of the child victim conforms to the version of events stated by her at every stage. The FSL report remained inconclusive. Given the nature of the allegations, there is nothing to suggest that the appellant either inserted his penis into the vagina of the victim or ejaculated at the time of the sexual assault. Therefore, there was no possibility of him being connected through the FSL report.

5. The Trial Court, upon a careful appraisal of the material on record, found the victim's testimony to be clear, consistent, and credible. Her



deposition in Court remained in substantial conformity with her statement recorded under Section 164 Cr.P.C. The Court also observed that the disclosure made by the victim to her classmates and teachers was natural, and the sequence of reporting, from the classmates to the teachers, then to the principal, and finally to the police, formed a coherent and corroborated chain of events. The testimonies of the teachers and the principal, who were amongst the first recipients of the victim's disclosure, were found to be mutually consistent and supportive of the prosecution case. The birth certificate and school records duly proved the victim's age, establishing that she was a minor at the time of the occurrence. The defence plea of false implication by the victim's mother was rightly rejected as a bald assertion unsupported by any credible evidence. The Court rightly held that in cases of this nature, independent eyewitnesses are rarely available and that the testimony of the child victim, if found credible, can be the sole basis for conviction. Based on the material produced, and keeping in mind the child victim's consistent testimony attributing commission of the offence to the appellant, as well as the corroborative depositions of her teachers and the principal who were the first recipients of her disclosure, this Court concurs with the findings of the Trial Court and finds that no grounds to interfere with the impugned judgment are made out. Consequently, the conviction of the appellant is upheld qua the offence punishable under Section 6 POCSO.

6. The appellant has been produced through VC by Assistant Superintendent *Om Prakash* from Central Jail No. 04, Tihar, Delhi. The appellant submits that he is remorseful and that being fully aware of the consequences, he does not wish to press the present appeal on merits. He accepts his guilt and prays that he be released on the period already



undergone by him in custody. Learned counsel for the appellant, in support of the said prayer, places reliance on Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**.

7. Learned APP for the State, on instructions, submits that the appellant has no prior involvements. The same stands confirmed from the latest nominal roll on record.

8. The appellant is about 50 years of age. Prior to his incarceration, he used to ply trade as a *mistry* and was responsible for maintaining his aged mother, wife, and two sons, one of whom is physically handicapped. He has been in custody since 05.05.2015, and his nominal roll reflects that his conduct in jail has been satisfactory. The appellant has no prior criminal involvements and belongs to the poor strata of society.

9. The latest nominal roll on record reflects that the appellant has already undergone about 11 ½ years of imprisonment.

10. While it is well settled that in a given case, the sole testimony of a child victim of sexual assault, if found credible and trustworthy, is sufficient to sustain a conviction, in the peculiar facts and circumstances of the present case, where the prosecution rests primarily on the oral testimony of the child victim, uncorroborated by any medical or forensic evidence, and where the mother of the victim has turned hostile, this Court is of the considered view that the ends of justice would be met if, while upholding the conviction of the appellant under Section 6 of the POCSO Act, the substantive sentence imposed upon him is modified to the period already undergone by him.

The sentence of fine of Rs.20,000/- imposed upon the appellant, however is maintained. In default of payment of fine, the appellant shall undergo the sentence in default, i.e., 3 months SI, as directed by the Trial



Court.

11. The present appeal is partly allowed in the above terms.
12. A copy of this order be communicated to the concerned Jail Superintendent for information and necessary compliance.
13. A copy of this order be communicated to the Trial Court.

MANOJ KUMAR OHRI, J

NOVEMBER 4, 2025/nb