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

% ***Date of decision: 18th December, 2025***

+ CRL.A. 277/2021 & CRL.M.A. 4698/2020

STATE

.....Appellant

Through: Mr. Yudhvir Singh Chauhan, APP
with SI Deepika, PS Vikas Puri

versus

SANJAY MANDAL

.....Respondent

Through: Mr. Sintu Kumar and Mr. Manish
Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T

1. The present appeal has been filed by the State assailing the judgment dated 04.12.2019, whereby the accused i.e. respondent herein has been acquitted of the charges framed against him.
2. The accused person, namely, Sanjay Mandal, was charged with offences punishable under Section 506 Indian Penal Code, 1860 (IPC) and Section 6 of the Protection of Children from Sexual Offences, 2012 (POCSO Act).
3. The case of the prosecution is, as emanating from the record, that on 27.02.2014, in the evening hours, the prosecutrix, a minor girl aged about 13 years, was playing with other children in the *gali* near her residence at Budella Village, Vikaspuri, Delhi. The accused, who was her neighbor, first asked her to bring milk from a nearby shop and gave her money for said purpose. After purchasing the milk and handing it over to accused, children resumed playing the game of *hide and seek*.



4. While the other children were hiding, accused, forcibly, pulled the prosecutrix into his room and bolted the door from inside. The accused allegedly took out a knife and threatened her with dire consequences, if she raised any alarm. Accused removed leggings of the prosecutrix, made her lie down on a gunny bag, then, undressed himself and committed penetrative sexual assault upon her. Thereafter, when accused and prosecutrix were dressing up, one boy Suraj (PW-2) saw them from a window. He called the brother of the prosecutrix, who got the door opened. In the meantime, the elder sister of the prosecutrix and other children reached the spot and apprehended the accused.
5. The mother of prosecutrix, who was working as a domestic help in a *kothi*, was informed and the police was called. On receipt of information, the police also reached the spot and recorded statement of the prosecutrix in the presence of her mother.
6. The accused was arrested from the spot.
7. On the basis of her such statement, subject FIR was registered. During investigation, prosecutrix was taken for medical examination. Crime scene was got inspected and various exhibits were seized and sent to the FSL for forensic examination.
8. Statement of prosecutrix under Section 164 Cr.P.C. was also got recorded before the learned Magistrate, in which she also referred to the previous acts of the accused.
9. Upon culmination of investigation, charge-sheet was filed against the accused for offences punishable under Sections 376 and 506 IPC and Sections 4/6 of the POCSO Act.



10. Accused was charged under Section 506 IPC and Section 6 of the POCSO Act. He pleaded not guilty and claimed trial.

11. In order to prove its case, prosecution examined three witnesses, including the prosecutrix (PW-1). They all were material witnesses, but did not support the case of prosecution.

12. The admission and denial of documents, under Section 294 Cr.P.C., was also conducted wherein the accused admitted various prosecution documents.

13. Accused, in his statement under Section 313 Cr.P.C., denied the prosecution story and claimed that he had been falsely implicated. However, he did not lead any evidence in defence.

14. Learned Trial Court, primarily, in view of the hostile testimony of all the material witnesses including that of prosecutrix, has acquitted the accused of all charges.

15. Such order is under challenge before us.

16. Learned APP for State, in all fairness, admits that though a serious jolt has been given to the case of prosecution by the prosecutrix and two other material witnesses, but despite such hostile testimony, learned Trial Court should have given due consideration to the scientific evidence which indicates the complicity of the accused.

17. Before appreciating the aforesaid contention, let us take note of the deposition of prosecutrix and two other material witnesses.

18. PW-1, in her deposition before the learned Trial Court, resiled from several crucial aspects of the prosecution case. In her examination-in-chief, she stated that on the date of the incident she was playing with other children in the *gali* and that the accused, who was her neighbour, had asked her to fetch



milk from the shop. She further stated that after handing over the milk, the children started playing in the house of the accused and “*one mentally retarded boy*” bolted the door from outside. She, categorically, deposed that the door was, thereafter, opened by Pintu and PW-2 Suraj, the police was intimated and her mother also reached the spot.

19. Clearly, in her examination-in-chief, though she identified the accused, who was her neighbour and who had asked her to fetch milk from one shop, but she also, in no uncertain terms, deposed that one other boy, who was “*mentally retarded*”, had bolted the door and, she did not attribute any wrongful act on the part of the accused. She, nowhere, claimed that she had been sexually assaulted by anyone, much less by the accused. She was, therefore, cross-examined by the prosecution with the permission of the Court. In such cross-examination also, she denied the complicity and involvement of accused despite the fact that she was confronted with her previous statements made during investigation. In her cross-examination, though, she claimed that she had informed the doctor about the incident but in her cross-examination conducted by the defence, she deposed that she, herself, had not said anything to the doctor and it was the accompanying police officer who had revealed the story to the doctor. Evidently, her deposition does not take us anywhere.

20. As per prosecution case, PW-2 reached the spot at the time of occurrence itself and is claimed to be an eyewitness. However, he has also not supported the prosecution case as in his examination-in-chief, he stated that on the relevant date, he was sitting on the roof along with another boy and, upon hearing a ruckus, he came downstairs. He stated that he saw elder sister of the victim shouting. His deposition would clearly indicate that he



neither saw victim at the spot nor had seen any illegal activity, being committed by accused. Since he was also resiling from his previous statement, prosecution sought permission to put leading questions to him. Fact remains that despite his grilling by the prosecution, he did not utter anything incriminating the accused.

21. On a similar note, PW-3 has also pleaded his ignorance about the incident in question. So much so, according to him, he had never made any statement and the purported statement had been recorded at the instance and on the basis of pressure exerted by mother of prosecutrix. Despite the fact that he was cross-examined by the prosecution, he did not whisper anything against the accused.

22. A conjoint reading of the testimony of PW-1, PW-2 and PW-3 would reveal that the three prime witnesses have failed to support the case of the prosecution. PW-1 categorically denied having any “*galat kaam*” being committed with her, while PW-2 and PW-3 denied witnessing any such incident.

23. In view of the foregoing, the main pillar of the prosecution’s case stands demolished as the ocular evidence, upon which the prosecution case, substantially relies, suffers from material deviation.

24. Insofar as the medical evidence is concerned, the contents of the MLC of the prosecutrix and the occurrence of the incident as recorded therein were categorically denied by the prosecutrix herself, thus, the MLC fails to corroborate the prosecution’s case. Furthermore, the perusal of such MLC of the prosecutrix does not reveal any external or internal injuries suggestive of any sexual assault.



25. Coming to the FSL report, as per the case of prosecution, several exhibits were picked up from the spot where alleged sexual assault took place and, thereafter, at the instance of accused, one used condom was recovered by the police from his own room. Such seizure has been proved as Ex. PA-07 and the alleged recovery was effected in the presence of prosecutrix. Fact, however, remains that prosecutrix has not uttered even a single word in this regard. Her testimony is completely silent about seizure of any exhibit or for that matter any used condom from the house of accused. Moreover, no DNA of accused was detected on the exhibits recovered from the spot and merely because one used condom was recovered by the police from the house of accused would not, by itself, prove the incident in question.

26. FSL result does not show presence of semen of accused on any of the material exhibits including the vaginal swab and, therefore, FSL result does not serve the requisite purpose.

27. In view of the above, thus, apparently, the outcome was a *fait accompli* on the basis of hostile testimony of the material witnesses including prosecutrix and the aforesaid MLC (Ex. PA-10) and FSL result (Ex. PA-01) are also of no substance.

28. We, therefore, do not find any reason to interfere with the impugned order. Appeal stands dismissed.

(VIVEK CHAUDHARY)
JUDGE

(MANOJ JAIN)
JUDGE

DECEMBER 18, 2025/dr/sa/kp