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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 180/2021**
STATE

.....Petitioner

Through: Mr. Utkarsh, APP for State with SI
Niraj P.S. Nihal Vihar.

versus

SONU

.....Respondent

Through: Mr. Raj Kumar, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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20.08.2025

1. An Application under Section 378(3) Cr.P.C has been filed on behalf of the Petitioner/State for Leave to Appeal against the acquittal of the Respondent for the offences under Section 452/324 IPC and Section 12 of POCSO Act, P.S. Nihal Vihar.
2. The case of the Prosecution is that the Respondent on 30.01.2013 at about 04:45 P.M at House C-Block, Nihal Vihar, was hiding behind the door and caught the Prosecutrix from the back and did "eve-teasing". The Prosecutrix raised an alarm and the Respondent threatened her that if she raised an alarm, he would hit her with knife and then the Respondent hit the Prosecutrix with knife on her leg and ran away. The Complainant was called by her son from her work place and then the Prosecutrix narrated the entire incident. The Complainant took the Prosecutrix to the Doctor for First aid. In the mean while, Police was called at Number 100. The Statement of the



Prosecutrix was recorded and the Respondent was arrested on the next day. The FIR was registered and on completion of the investigation, Chargesheet was filed.

3. The Charges under Section 452/324 IPC and Section 12 POCSO Act were framed on 02.08.2013 to which the Respondent pleaded not guilty. The Prosecution examined ten witnesses including the statement of the Complainant, her brother and her mother. The learned ASJ has acquitted the Respondent vide Judgment dated 06.11.2019.

4. The **acquittal of the Respondent is challenged on the ground** that PW3, Prosecutrix who was only a 9 years old child, had deposed about the incident in her testimony. Minor contradictions in her testimony were bound to happen, which have been exaggerated and not appreciated in the right perspective.

5. The entire incident as narrated by PW3, the Prosecutrix was is duly supported by the testimony of her brother/PW5 and the mother PW1, which have not been considered.

6. It is contended that the testimony of the Prosecutrix has been wrongly held to be inconsistent and unreliable, while looking at the age of the Prosecutrix. It has also not been appreciated Section 29 of the POCSO Act has not been considered which provides that the Court is bound to presume that the accused has committed the offence unless the contrary is proved.

7. Statement of the Accused under Section 313 Cr.P.C has also not been considered. Though the Respondent denied all the allegations, but no cogent evidence has been led by him to substantiate his defence. The acquittal Order is, therefore, liable to be set aside.

8. **Learned counsel for the Respondent** has submitted that the scuffle



had taken place amongst the children including the Prosecutrix, who had caused injury to the nephew of the Respondent. The Respondent had gone to the Police Station with the Complaint. On account of this previous incident of fight, a false Complaint was made by the Prosecutrix falsely implicating the Respondent.

9. Furthermore, the Prosecutrix had deposed that she was hit with a knife, but there is no injury on her person, as per the MLC. Moreover, the different versions have been deposed by the mother and the brother of the Prosecutrix. The Prosecutrix cannot be termed as sterling witness and her sole testimony could not have been relied to convict the Respondent. Learned Trial Court has rightly, acquitted the Respondent highlighting the contradictions as existed in the testimony of the Prosecution witnesses.

10. Submissions heard and record perused.

11. The Prosecutrix in her testimony had by and large supported the case of the Prosecution. It is a first Appeal and the contradictions as pointed out on behalf of the Respondent in her statement and that of her brother and mother, need to be reconsidered. In view of the aforesaid, the Leave to Appeal is allowed and accordingly disposed of.

Crl.A. /2025 (To be numbered by the Registry)

12. Written Submissions be filed by both the parties within four weeks.

13. List for arguments on 29.10.2025.

NEENA BANSAL KRISHNA, J.

AUGUST 20, 2025/va