

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

2026:PHHC:001169



CRA No.S-2528 of 2025(O&M)

Reserved on: 22.12.2025

Pronounced on: 09.01.2026.

Uploaded on:09.01.2026.

Navdeep Cheema

..Appellant

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Raghav Sharma, Advocate and
Ms. Kashish Sahni, Advocate
for the appellant.

Ms. Kanica Sachdeva, DAG Haryana.

SHALINI SINGH NAGPAL, JUDGE

The case was fixed for arguments on application for suspension of sentence. However, with consent of both counsels, the appeal has been taken up for final hearing.

1. The appeal challenges judgment of conviction dated 25.07.2025 and order on quantum of sentence dated 29.07.2025 of learned Additional Sessions Judge, (Fast Track Special Court to try the offences of Rape and under POCSO Act) Kurukshetra in Sessions Case No. 90 of 2023, arising out of FIR No. 746 dated 04.12.2022, under Sections 506, 509 IPC, 10, 12 of POCSO Act, Police Station Sadar Thanesar.

2. Vide impugned judgment, appellant was convicted as under:

Under Section	Punishment	Fine
12 of POCSO Act	Rigorous imprisonment for a period of three years	Rs.8000/-, in default of payment of fine to undergo rigorous imprisonment for six months
354-D IPC	Rigorous imprisonment for a period of three years	Rs.2000/-, in default of payment of fine to undergo rigorous imprisonment for two months.

Both the sentences were ordered to run concurrently.

3. The complaint, which formed basis of the FIR, leading to prosecution of the appellant was lodged by prosecutrix ‘H’ who stated that she was 17 years old. Navdeep Cheema, who was residing in Mohan Nagar, where she attended tuition, had been harassing her for last one year. He nursed bad intention towards her and made obscene gestures. On account of his acts, her studies suffered. She was a student of Class 12th in a private school but due to the activities of the appellant, she could not attend school since August. That day, on 04.12.2022, at around 01:15 p.m. appellant started roaming in street in front of her house and uttered obscene words, making obscene gestures. When her parents objected to the same, he started throwing brickbats at their house and threatened to kill her and her parents. He also threatened to get her kidnapped on the way. They had recorded the incident. Legal action was prayed for. Police investigated the matter. Statement of prosecutrix was recorded under Section 164 Cr.P.C. Appellant was arrested and his disclosure statement was recorded. On completion of investigation challan was submitted for his trial.
4. After supplying copy of the police report to the appellant, he was charge sheeted under Sections 354, 354-D, 506 IPC Sections 8, 12 of

POCSO Act and Section 66-E of Information Technology Act (in short I.T. Act). He pleaded not guilty and claimed trial.

5. Prosecution examined Inspector Mukesh Kumar, who prepared Ex.P1 scaled site plan, as PW1; prosecutrix 'H' as PW2; her father 'A' as PW3; Deepak Kumar, MPHWS as PW4 to prove her date of birth and SI Santosh Investigating Officer as PW5.

6. On conclusion of prosecution evidence, statement of appellant was recorded under Section 313 Cr.P.C. He denied the incriminating evidence as false and claimed innocence. In defence, he examined six witnesses.

7. Learned Trial Court heard the prosecution, learned defence counsel and on the basis of birth certificate Ex.P6, proved by PW4 Deepak Kumar, held that prosecutrix 'H' was a minor being less than 18 of years and a child within the meaning of Section 2(d) of the Act.

8. Relying upon statement of prosecutrix 'H' and her father 'A' it was held that prosecution proved beyond reasonable doubt that appellant sexually harassed the minor, stalked her and committed an offence under Section 12 of POCSO Act and Section 354-D IPC. No conviction under Section 506 IPC and 66-E of I.T. Act was recorded for lack of evidence. Appellant was held guilty under Sections 12 of the POCSO Act and Section 354-D IPC and convicted thereunder.

9. On the strength of the rule 33(8) read with Rule 7 of the POCSO Rules, 357-A Cr.P.C. and observations of the Hon'ble Supreme Court of India in *Nipun Saxena and another Versus Union of India and others*, Writ Petition No. 565 of 2012 decided on 05.09.2018, compensation of Rs.30,000/- was ordered to be paid to the prosecutrix.

10. At the very outset, learned counsel for the appellant submits that out of sentence of three years awarded by learned Trial Court, appellant had undergone total sentence of two years and nine months. He urged that the appellant did not challenge the judgement of conviction and prayed for leniency in the matter of sentence by reducing the sentence to already undergone.

11. Learned State counsel has opposed the prayer of learned counsel for the appellant submitting that the appellant was involved in as many as 11 cases and was also a previous convict, having been convicted in FIR No. 990 dated 16.12.2015, under Sections 323, 324, 325 IPC, 307 IPC, 148, 149 IPC Police Station Ciuty Thanesar, Kurukshetra and FIR No. 184 dated 05.05.2019, under Sections 25/29/54/59 of Arms Act, Police Station Sadar Thanesar, Kurukshetra. Therefore, no leniency in the matter of sentence was warranted.

12. Trial Court record has been perused and on keen appraisal thereof, this Court finds no infirmity in the judgment of conviction. Age of the minor prosecutrix has rightly been determined in view of her birth certificate Ex.P6 issued by Registrar of Births and Deaths, regarding which no dispute was raised either during trial or in appeal. Deposition of prosecutrix 'H' and her father 'A' examined as PW2 and PW3 respectively were consistent on the lines that appellant had been harassing the minor prosecutrix for one year by stopping her on the way when she went out of the house to attend school, tuition or any other work and threatening to make her videos viral if she did not talk to him. Further, on 04.12.2022, at around 01:15 p.m when the prosecutrix was standing in the balcony of her house, appellant make obscene gestures towards her and made her video. When

prosecutrix informed her parents, who came to the balcony, appellant started throwing stones upon them.

13. Findings of learned Trial Court that statements of the prosecutrix and her father were consistent, trustworthy and did not vary on material points is based on correct appreciation. Defence version of false implication on account of the appellant helping DW1 (Aunt of the prosecutrix) with whom family of the prosecutrix had dispute, was correctly discarded being improbable and conviction under Section 12 of the POCSO Act and Section 354-D IPC was correctly recorded. As such, there is no ground to interfere with the judgment of conviction. The conviction under Section 12 of the POCSO Act and under Section 354-D IPC is, therefore, upheld.

14. Section 42 of the POCSO Act, needs to be referred at this juncture and the same reads as under:

‘42. Alternate punishment.-Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 2 [376A, 376AB, 376B, 376C, 376D, 376DA, 376DB], 3 [376E, section 509 of the Indian Penal Code (45 of 1860) or section 67B of the Information Technology Act, 2000 (21 of 2000)], then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree’.

15. A bare perusal of Section 42 of the POCSO Act, makes it clear that when the alleged act or omission constitutes an offence both under the IPC and the POCSO Act, the law which prescribes punishment of greater degree would have to be applied. Conviction of the appellant for the offences under Section 12 of the POCSO Act and Section 354-D IPC was

wholly justified, however, learned Trial Court appears to have ignored

Section 42 of the POCSO Act while awarding punishment both under Section 12 of the POCSO Act and Section 354-D IPC.

16. The sentence under both provisions being identical i.e. three years and fine, proper course to be adopted by learned Additional Sessions Judge, (Fast Track Special Court to try the offences of Rape and under POCSO Act) Kurukshetra, was to have recorded conviction only under Section 12 of POCSO Act. Accordingly, the sentence awarded under Section 354-D IPC is set aside.

17. The sentence of 3 years is the maximum which the Court could have imposed under Section 12 of POCSO Act. Out of the total substantive sentence of three years, the appellant has already undergone more than two years and nine months. He is a youthful offender. The sentence already awarded will have a deterrent effect on him. In the totality of facts and circumstances of the case, even though he is a previous convict, considering the fact that he has undergone more than 90% of the imprisonment, the Court is inclined to reduce the sentence to the period already undergone. Ordered accordingly. The imposition of fine of Rs.8000/- and rigorous imprisonment of six months in default of payment of fine is maintained. The order of sentence dated 29.07.2025 passed by learned Trial Court is modified to the limited extent as above.

18. The appeal stands disposed of.
All the pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

09.01.2026.

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Whether speaking/reasoned : Yes
Whether reportable : No