



2026:DHC:4561



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

*Judgment reserved on:18.05.2026*

*Judgment pronounced on:22.05.2026*

+

**CRL.A. 8/2025**

RAMAN SHUKLA

.....Appellant

Through: Mr. Sunil Choudhary, Mr. Praveen Singh and Mr. Rajat Pandey, Advocates.

Versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the State with SI Anjali Sharma, PS Ambedkar Nagar.  
Ms. Astha Kaushik and Ms. Megha Singh, Advocate for respondent no. 2/ prosecutrix (DHCLSC).

**CORAM:**

**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**

1. In this appeal filed under Section 415(2) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (the BNSS), the sole accused in Sessions Case No. 136/2020 on the file of the Additional Sessions Judge (Special Court - PoCSO), South District, Saket Courts Complex, New Delhi, assails the



2026:DHC:4561



judgement dated 15.03.2024 and order on sentence dated 31.05.2024, as per which he has been convicted and sentenced for the offences punishable under Sections 354, 354A, 376AB of the Indian Penal Code, 1860 (the IPC) and Section 5(m) read with 6 and Section 9(m) read with 10 of the Protection of Children from Sexual Offences Act, 2012 (the PoCSO Act).

2. The prosecution case is that on 10.05.2020, the accused, at his residence, namely, House No. 2nd/249, Third Floor, Madangir, New Delhi used criminal force upon PW1, a minor girl aged about 12 years with intent to outrage her modesty and committed aggravated sexual assault. This was followed by digital rape and rape on 14.05.2020 and rape/aggravated penetrative sexual assault on 15.05.2020 at the same premises. As per the chargesheet/ final report, the accused is alleged to have committed the offences punishable under Sections 354, 376, 506 IPC and Sections 4, 6, 8 of the PoCSO Act.



2026:DHC:4561



3. On the basis of Ext. PW1/A FIS/FIR of PW1, given on 19.05.2020, Crime no. 367/2020, Ambedkar Nagar Police Station, i.e., Ext. PX FIR was registered by PW7, Constable. PW9, Woman Sub-Inspector (WSI) conducted investigation into the crime and on completion of the same, filed the chargesheet/final report alleging commission of the offences punishable under the aforementioned Sections. Thereafter, supplementary charge sheet dated 24.10.2020 was submitted by PW9.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, *vide* order dated 25.03.2021, framed a Charge under Sections 354, 354A, 376AB IPC and Section 5(m) read with 6 and Section 9 (m) read with 10 of the PoCSO Act, which



was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 9 were examined and Ext. PW1/A-D, Ext. PW2/A-B, Ext. PW3/A-C, Ext. PW4/A-B, Ext. PW5/A-D, Ext. PW6/A, Ext. PW7/A-C, Ext. PW8/A, Ext. PW9/A-B, Ext. PX, PX1-6, Ext. A-1 (colly) marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that he had not done any act as stated by the prosecution witnesses and that he has been falsely implicated for reasons best known to them.



7. After questioning the accused under Section. 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

8. No oral or documentary evidence was adduced by the accused.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 15.03.2024 held the accused



guilty of the offences punishable under Sections 354, 354A, 376AB IPC and Section 5(m) read with 6 and Section 9 (m) read with 10 PoCSO Act. *Vide* order on sentence dated 31.05.2024, sentenced him to undergo rigorous imprisonment for a period of 20 years and to fine of ₹50,000/-, and in default of payment of fine, to simple imprisonment for a period of 60 days for the offence punishable under Section 6 PoCSO Act, and to rigorous imprisonment for a period of 7 years and to fine of ₹10,000/-, and in default of payment of fine, to simple imprisonment for a period of 15 days for the offence punishable under Section 10 PoCSO Act. The sentences have been directed to run concurrently. Aggrieved, the accused has preferred this appeal.

10. The learned counsel for the appellant/accused submitted that the prosecution has failed to establish that PW1 was below 12 years of age, which is a prerequisite for bringing home the charge under POCSO Act as well as Section 376AB



IPC. It was contended that Ext. PW5/A school affidavit which was relied upon to prove the age of PW1, bears the signature of one “Dolly”, whereas the name of the mother as reflected in the charge sheet and her testimony is “Poornima”. In the absence of any evidence to establish that “Dolly” and “Poornima” refer to the same person, the reliability of the said document is doubtful, thereby weakening the prosecution’s case on the aspect of age.

10.1. The learned counsel for the appellant/accused pointed out certain inconsistencies in the version of PW1 regarding the overt act attributed to the accused. In the Ext.PW1/A FIS, PW1 stated that the accused attempted to molest her ("chhed chhad karne ki koshish ki"). In her statement under Section 164 Cr.P.C., she stated only that he held her hand ("mera hath pakda tha"). In her examination before the Court, however, she alleged that he tried to touch her private parts. Ext.PW2/A MLC records the history provided to the doctor at the earliest opportunity as the



accused having "tried to penetrate", an allegation materially different from what is reflected in Ext.PW1/A FIS, the Section 164 statement, and the oral testimony, all of which allege aggravated sexual assault. It was further contended that the medical history recorded is more reliable as it was recorded by an independent professional before any potential tutoring could occur.

10.2. The learned counsel for the accused also challenges the reliability of Ext. A-1 RFSL report, contending that the prosecution failed to establish a proper chain of custody. A towel allegedly containing blood stains and other garments are stated to have been seized, and that PW3, the mother of PW1 is an attester to the seizure memo. But PW3 never testified that a towel had been seized in her presence. It was further contended that there was an unexplained delay of nine days in lodging the FIR, inasmuch as the alleged incidents are stated to have occurred



between 10.05.2020 to 15.05.2020, whereas Ext.PW1/A FIS/FIR came to be lodged only on the 19.05.2020, thereby casting a doubt on the prosecution version.

11. *Per contra*, the learned Additional Public Prosecutor submitted that the impugned judgment does not suffer from any infirmity warranting interference by this court as the trial court has duly considered each and every ground raised in the present appeal and, upon an overall appreciation of the materials on record, adjudicated the matter on merits. It was further contended by the learned APP that the version of PW1 has remained consistent throughout, from her initial statement to her testimony before the trial court, and the same stands duly corroborated by Ext. 2/A MLC, which records injuries on her private parts. It was submitted that the inconsistencies pointed out by the defence counsel are trivial in nature and do not go to the root of the prosecution case.



12. Heard both sides and perused the materials on record.

13. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

14. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW1/A, the FIS/FIR of PW1, the victim, recorded in Hindi on 19.05.2020 roughly translated reads thus: “...*I live at the above address with my family in a rented house for the past four months. Before this, we used to live in Lal Kuan, Prahladpur, and I used to study there in the 5<sup>th</sup> class at SDMC Primary School. At the aforementioned address, there are two rooms built on the third floor, wherein I and my family live in one room, and a boy named Raman Shukla (the accused) lives in the other room, who used to visit our house. On 10.05.2020, Raman had called me to his room during the afternoon. That day, Raman tried to molest*



*me (chhed chhad karne ki koshish), so I got scared and returned to my room. After this, on 14.05.2020 as well, Raman called me to his room on the pretext of playing a game on the phone, touched my private part, and told me not to tell my mother at home. Out of fear, I did not tell anything to my mother or anyone else. On 15.05.2020 at 07:00 in the morning, I was playing on the roof outside my room. Right then, Raman gestured and called me into his room, bolted the door, and forcefully removed the clothes I was wearing, and then removed his own clothes as well. Thereafter, he put his private part on my urinating part and committed a wrong act. When I tried to make a noise (scream), he shut my mouth with his hand. There was lot of pain in my private part, and blood was also coming out from there. The towel on the bed and my underwear became blood stained. The pyjama that I was wearing, I took it off and put it for wash. But I did not change the underwear and continued wearing it. I was extremely terrified*



*by this incident and so stayed quiet. My mother noticed this and on her asking, I told her everything. I told her that Raman, on 14.05.2020 and 15.05.2020, had called me to his room, forcefully committed a wrong act, and threatened me that if I told anyone about the incident, he would kill me. So today, my mother called the police. Legal action should be taken against Raman.”*

15. Ext. PW1/C, Section 164 statement of PW1, seen recorded on 21.05.2020 in Hindi roughly translated reads :-  
*“...Raman Shukla (the accused), who lives in my neighbourhood, held my hand on 10.05.2020; I got scared and came back to my house. On 14.05.2020, Raman inserted a finger into my private part. On 15.05.2020, when I was playing on the roof outside my room at 7 o’ clock, he bolted the door of his room, forcefully took off my clothes, and taking off his own clothes as well, put his private part on my private part, and committed a wrong act with me. He closed my mouth with his hand. I was bleeding from my*



*private part and so my clothes also get blood stained. Raman threatened me that if I told anyone about this incident, he would kill me. I had told my mother about this on 18.05.2020.....”*

16. PW1, when examined before the trial court, deposed that on 10.05.2020, while she was playing in her house, the accused called her into his room and started doing “*Ched Chad*” with her. To a query as to what she meant by the same, she explained that the accused tried to touch her hand and attempted to touch her private parts (“*peshab waali jagah touch karne ki kosis ki*”). She got scared and so left the room of the accused. On 14.05.2020, while she was washing utensils in the courtyard, the accused approached her and, despite her refusal to comply with his directions to get up and stand, inserted his finger into her vagina, causing her pain and fear. The accused also warned her not to disclose the incident to her mother. PW1 further deposed that on 15.05.2020 at about 07.00 am, the accused again called



her into his room on the pretext of playing games. After bolting the door, he removed her clothes as well as his own and committed penetrative sexual assault upon her (*“uske baad usne apni susu karne waali jagah ko meri susu karne waali jagah me daal diya aur usne galat kaam kiya”*). PW1 further deposed that during the act, she was lying on the bed and when she raised alarm, the accused gagged her mouth. Due to the assault, she started bleeding from her private parts, and the blood stained her underwear as well as a towel lying on the bed. Thereafter, the accused opened the door and she returned to her house. When PW3, her mother asked about her discomfort, she did not immediately disclose the incident and merely complained of pain in her thighs. PW1 further deposed that on 18.05.2020 at 04:00 PM, when her mother noticed blood stains on her clothes and persistently questioned her, she eventually disclosed the entire incident to her mother.



16.1. PW1, in her cross examination, denied the suggestion that both her parents were present at home at all times during the lockdown. She admitted that at the time of the incident, her father was at home, but was sleeping. PW1 further deposed that she used to occasionally visit the room of the accused either at the instance of her mother or when called by the accused. She further deposed that although her parents generally did not visit the room of the accused, the accused used to frequently visit their room, and her father would also sometimes go to the accused's room. PW1 denied the accused having lent ₹35,000/- to her mother. PW1 denied that she was menstruating at the time of the incident and denied the suggestion that the blood found on her clothes and towel was menstrual blood.

17. PW3, mother of PW1, when examined before the trial court, fully supported the prosecution case. PW3 in her cross examination, deposed that PW1, her daughter was born on 19<sup>th</sup>.



But she was unable to recall the month or year of birth. PW3 admitted that her husband was not working at the time of the incident and used to remain at home. PW3 admitted that her daughter had not disclosed the incident to her during the period from 10.05.2020 to 19.05.2020. PW3 denied having taken any loan from the accused and denied the suggestion that a sum of ₹25,000/- had been borrowed from him or that the present case was instituted when the accused demanded repayment of the loan amount. According to PW3, her daughter had disclosed the incident to her in the evening of 18.05.2020. She informed her husband about the incident, and both of them decided to approach the police the next day. PW3 denied the suggestions that the accused had been falsely implicated as he demanded his money back or that her daughter was a major at the time of the incident, or that the case was lodged in connivance with the police.



18. PW2, DM Resident, Department Obstetrics and Gynaecology, AIIMS Hospital, New Delhi, when examined, deposed that on 19.05.2020, she had examined PW1. She had recorded the history as narrated to her by PW1. According to PW2, she had collected samples from PW1, sealed it and handed it over to PW4. During examination, she noticed a small tear measuring approximately 0.5 cm on the posterior surface of the fourchette, along with an abrasion on the inner margin of the left labia minora. In response to a Court question, PW2 deposed that semen may be detected on the undergarments of a child for a variable duration, generally up to 72 hours from the time of the offence, and in rare cases, even up to 100 days.

19. PW5, Teacher, MCD, Prathmik Vidyalaya, New Delhi, when examined, deposed that as per school records, PW1 was admitted in Class I and that her name has been recorded at serial no. 6797 in the Admission and Withdrawal Register. At the time



of admission, the mother of PW1, had furnished an affidavit regarding the date of birth of the latter, which is Ext. PW5/A, as per which the date of birth of PW1 is 19.05.2008. During the course of investigation, the Investigating Officer (IO) visited the school and made inquiries regarding the admission of PW1. The Principal, Ms. Sujata Baudh, verified the record and issued a certificate regarding the admission and date of birth of PW1. As per the official record, the date of birth of PW1 is 19.05.2008. The date of Birth Certificate issued by the Principal is Ext. PW5/B. The attested copy of the Admission Form is Ex. PW5/C, and the attested copy of the Admission and Withdrawal Register is Ex. PW5/D.

19.1. PW5, in her cross examination, denied the suggestion that the date of birth of PW1 had been manipulated. PW5 further deposed that no previous school record of PW1 had been provided at the time of admission of PW1. PW5 denied the suggestion that



children up to the age of 12 years are given admission in Class I. According to PW5, children up to the age of five years are admitted in Class I, and if a child is six years old, admission is granted in Class II as per the prevailing norms. PW5 further admitted that no identity proof had been given by Dolly who gave the affidavit regarding the date of birth at the time of admission and that no birth certificate issued by a municipal authority had been furnished at the time of admission.

20. The trial court has found the accused guilty of the offences punishable under Sections 354, 354A, 376AB, IPC, Section 5(m) r/w Section 6 and Section 9(m) r/w Section 10 POCSO Act. In the light of Section 42 PoCSO Act, no separate sentence is seen passed for the offence punishable under Sections 354, 376AB and 354A IPC. But Section 42 does not include Section 354 IPC. Both Section 5(m) read with Section 6 of the POCSO Act and Section 376AB IPC prescribe punishment for



penetrative sexual assault or rape committed upon a child below 12 years of age. Therefore, in order to bring home the charge under either of the aforesaid sections, the prosecution must first conclusively establish that the age of the victim was below 12 years at the time of the incident before proceeding to examine the remaining ingredients of the offences.

21. In the case on hand, the prosecution has relied upon Ext. PW5/B date of birth certificate, supported by Ext. PW5/A affidavit allegedly furnished by the mother of PW1, along with Ext. PW5/C copy of the admission form and Ext. PW5/D copy of admission and withdrawal register, to establish that PW1 was below 12 years of age at the relevant time. According to PW5, Ext. PW5/B certificate was issued by the Principal of the school to the I.O. A birth certificate issued by the Principal to the I.O. during the course of investigation is nothing but a statement under Section 161 CrPC, although signed. Therefore, it



is hit by Section 162 Cr.P.C. The prosecution has to produce the extract of the birth register or the extract of the school admission register or any other similar document to prove the age of the victim. Therefore, the certificate marked as Ext PW5/B, a certificate prepared by the Principal, signed and handed over to the IO, can be treated only as a statement of the Principal given to the IO under Section 161 of Cr.PC, although signed. Ext PW5/B is hit by Section 162 of Cr.PC and is not admissible in evidence and hence is liable to be discarded (See **Sasi v. State of Kerala 2019 KHC 465: 2019 (3) KLT 561**).[ See also **Kali Ram v. State of H.P., 1973 KHC 634:1973 (2) SCC 808; Kanu AmbuVish v. State of Maharashtra, 1971 KHC 469: 1971 (1) SCC 503; Datar Singh v. State of Punjab, 1975 KHC 789 : (1975) 4 SCC 272 and C. Chenga Reddy v. State of A.P., 1996 KHC 1264 : 1996 (10) SCC 193**].



22. It is true that a copy of the admission and withdrawal register has also been produced. But as is evident from the testimony of PW5, the entries in the admission register was made on the basis of Ext. PW5/A affidavit alleged to have been given by the mother of PW1 at the time of her admission in the school. A perusal of Ext. PW5/A affidavit reveals that the mother's name is recorded as "Dolly", whereas PW3, who was examined as the mother of PW1, was identified as "Poornima", which is also the name reflected in the charge sheet. No explanation whatsoever has been offered by the prosecution to clarify whether "Dolly" and "Poornima (PW1)" are one and the same person. In such circumstances, it can only be held that the evidence regarding the age of PW1 is quite unsatisfactory. Therefore, when the age of the victim is not conclusively proved to be below 12 years, the essential foundational requirement for attracting Section 5(m) read with Section 6 of the PoCSO Act and Section 376AB IPC



remains unestablished, and so, the aggravated forms of the offences under the said provisions cannot be sustained against the accused.

23. Section 376AB IPC as noticed earlier which deals with punishment for rape on a woman under 12 years of age, says that a person who commits rape on a woman under 12 years of age is liable to be punished. An offence of rape as defined under Section 375 IPC will be made out when a man engages in any of the acts mentioned in clauses (a) to (d) of the Section which includes the act of penetrating his penis to any extent into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person. The question is whether the testimony of PW1 and the materials on record make out an offence under Section 375 IPC. According to the learned counsel for the appellant/accused, there are several inconsistencies in the testimony of PW1 and therefore, that is one major reason to disbelieve her testimony.



24. I have already referred to in detail Exhibit PW1/A FIS; Exhibit PW1/C 164 statement, and the testimony of PW1. It is true that there are slight variations in the statements given by PW1. However, her version regarding the act of digital rape and rape on 14.05.2020 and 15.05.2020 remain consistent. No materials have been brought in to show as to why PW1 should falsely implicate the appellant/accused. Nothing was brought out in the cross-examination of PW1 to disbelieve her version.

25. The attention of the Court was also drawn to the history recorded in Exhibit PW2/A MLC. The history recorded is “*Sexual assault - 5 days back*”. In the second page of the MLC, it is also recorded thus:-

*“As per the patient's history, he (the accused) had tried to penetrate his penis into the genitalia of the patient. Patient has been brought by W-Constable Amrawati. Patient had been pulled into the house of Mr Raman by him & tried to assault her sexually using his finger and also penis. She has changed*



*her clothes, but panty has been preserved. As more than 3 days have passed, samples can't be collected as per AIIMS protocol.*

*On examination - No visible marks seen on any of the body parts except on the Private part.*

*On Private part examination - a small tear 0.5cm seen on the fourchette and the panty was seen to be blood stained.*

*On seeing blood on panty:- patient, her mother & W. Constable was informed of the need of EUA (examination under anaesthesia) if they agree; or they may choose to undergo normal examination - to see for her internal tears. Patient's mother wishes to discuss with her husband and take the final decision and needs to take some time to decide. She has been given time & we are waiting for their decision & Consent to proceed with the examination or EUA”.*

26. Referring to the aforesaid history recorded, the argument advanced is that the statement given to the doctor is the statement first in point of time. The same does not tally with the subsequent statements of PW1 and hence, a further ground to disbelieve her.



27. I am unable to agree with the aforesaid argument because the primary duty of a doctor is only to treat the patient. In **Pattipati Venkaiah vs State of Andhra Pradesh, 1985 KHC 700: AIR 1985 SC 1715**, while dealing with the contention that the eyewitnesses had not cared to disclose the names of the assailants to the doctor, it was held that a doctor is not at all concerned as to who committed the offence or whether the person brought to him is a criminal or an ordinary person. His primary concern is to save the life of the person brought to him and inform the police in medico legal cases. In **Bhargavan vs. State of Kerala, 2004 KHC 39 : AIR 2004 SC 1058**, also the Apex Court relying on **Pattipati Venkaiah** (*supra*) reiterated that non-disclosure of names of the assailants to the doctor is really of no consequence as his primary duty is to treat the patient and not to find out by whom the injury was caused. Therefore, the mere fact that there are slight variation(s) in the history narrated by PW1 to



the doctor and her subsequent statements is not of much consequence in the light of the other evidence before the Court including the medical evidence.

28. In the MLC the injury noted is:- “*a small tear 0.5cm seen on the fourchette*”. PW2, the doctor who examined PW1 also deposed that there was a small tear measuring approximately 0.5 cm on the posterior surface of the fourchette along with a small abrasion on the inner margin of the left labia minora. Therefore, the medical evidence also corroborates the allegation of sexual intercourse.

29. The learned counsel for the appellant/accused further contended that the chain of custody regarding the material objects seized has not been properly established. The prosecution case is that a towel had also been seized by the police. However, PW3, the mother of PW1, who is stated to be a witness in the seizure memo has no such case. Even assuming the same to be true, that



has also not affected the prosecution case because PW1 is not responsible for the omission(s) or mistakes, deliberate or otherwise, on the part of the I.O. It is also true that there is slight delay in reporting the matter to the police. But this is explained in the testimony of PW1, who deposed that she had initially not disclosed the assault to her mother. It was only when her mother noticed her to be unusually quiet and seeing her bloodstained undergarment and on persistent questioning by her mother, she had revealed the incident. Moreover, in cases of this nature, it cannot be expected that the victim or her family would immediately rush to the police and give a statement. It might be only after much deliberation or contemplation that the decision to report the matter to the police will be taken in matters of this nature. So, merely because there is some delay in reporting the matter to the police, is also no ground to disbelieve the prosecution case.



30. As noticed earlier, PW1 has categorically deposed that on 14.05.2020, the appellant/accused had inserted his finger into her private part and that on 15.05.2020 had sexual intercourse with her. Her testimony is corroborated by the statements contained in Exhibit PW1/A FIS/FIR and Exhibit PW1/C 164 statement. The testimony of PW1 is supported by Exhibit PW2/A MLC as well as Exhibit A1 (colly) FSL report. The materials on record make out a case under Section 375 IPC.

31. It is true that the trial court had not framed a Charge for an offence under section 375 IPC against the appellant/accused. Here it would be apposite to refer to Section 222 Cr.P.C. Section 222(1) Cr.P.C deals with a case, "when a person is charged with an offence consisting of several particulars". The Section permits the Court to convict the accused "of the minor offence, though he was not charged with it". Sub-section (2) deals with a similar, but slightly different situation. Under Section 222(2) Cr.P.C., when a



person is charged with an offence, and facts are proved, it is reduced to a minor offence; he may be convicted of a minor offence, although he is not charged with it. The meaning of a "minor offence" for the purpose of Section 222 Cr.P.C. was dealt with by the Apex Court in **S.M. Multtani v. State of Karnataka, 2001 (2) SCC 577**, in which it has been held that, although the said expression is not defined in Cr.P.C, it can be discerned from the context that the test of minor offence is not merely that the prescribed punishment is less than the major offence. The two illustrations provided in the Section would bring the above point home well. Only if the two offences are cognate offences, wherein the main ingredients are common, the one punishable among them with a lesser sentence can be regarded as a minor offence, vis- a-vis the other offence.

32. I have already referred to the essential ingredients of Section 375, 376AB IPC and Section 5(m) read with Section 6 of



the POCSO Act and Section 9(m) read with Section 10 of the POCSO Act. It is apparent that the ingredients contemplated under Section 375 IPC and Sections 376AB IPC and Section 5(m) read with Section 6 of the POCSO Act and Section 9(m) read with Section 10 of the POCSO Act are identical/same except the age factor. The punishment contemplated under Sub section (1) of Section 376 IPC is lesser than the sentence contemplated under Section 6 PoCSO Act. Therefore, Section 376(1) IPC can be termed as a minor offence when compared to the offence under Section 6 PoCSO Act as contemplated under Section 222(1) Cr.P.C.

33. In the result, the appeal is partly allowed. The conviction of the appellant/accused for the offences punishable under Sections 354 and 354A IPC is confirmed. The conviction of the appellant/accused for the offences punishable under Section 376AB IPC, Section 5(m) read with Section 6 of the



POCSO Act and Section 9(m) read with section 10 of the POCSO Act is set aside. The appellant/accused is found guilty of the offence contemplated under Section 375 IPC punishable under Section 376(1) IPC. As per Section 376(1) IPC, whoever commits rape, except in cases provided in sub-section (2), is liable to be punished with rigorous imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine. The substantive sentence of imprisonment imposed by the trial court is modified to the minimum sentence of ten years provided under Section 376(1) IPC.

34. The appeal is allowed to the aforesaid extent.

35. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA  
(JUDGE)**

**MAY 22, 2026/p'ma**