



2026:DHC:106



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

% Reserved on : 08.12.2025
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+ **CRL.A. 394/2023**

BAJRANG PAL

.....Appellant

Through: Mr. Shannu Baghel, Mr. Ganpat Ram,
Mr. Aakash, Mr. Saksham Kumar,
Ms. Disha Gupta, and Mr. Shubham,
Advocates.

versus

THE STATE (NCT OF DELHI)

.....Respondents

Through: Ms. Shubhi Gupta, APP for State with
SI Ramesh Kumar
Mr. B. Venkatraman, Advocate
(Amicus Curiae) for Complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal has been preferred by the appellant seeking setting aside of the judgment of conviction dated 31.05.2022 and the order on sentence dated 10.06.2022, whereby the appellant was convicted for the offence punishable under Section 10 POCSO and sentenced to undergo RI for a period of 5 years along with payment of fine of Rs.5,000/-, in default whereof he would undergo SI for 1 year. The fine amount was directed to be released to the prosecutrix as compensation, under Section 357 Cr.P.C. The



benefit under Section 428 Cr.P.C. was extended to the appellant.

2. Briefly put, the case of the prosecution is that on 05.01.2014 at about 7:00 p.m., while the complainant 'B' was present in her room, the appellant, who was residing as a tenant in the same building, called the complainant's 6-year-old daughter, 'BK', to his room on the pretext of giving her snacks. After some time, when her daughter did not return despite being called, the complainant went outside to search for her. While passing by the room of the appellant, she heard her daughter screaming, upon which she entered the room and found her lying on the knee of the appellant, who was touching her thigh and asking her not to scream as he would do (the act) slowly. The complainant freed her daughter from the appellant's clutches and when she objected to the conduct of the appellant, he abused her. The complainant made a call to the police at 100 number. On receipt of information vide DD No. 32A, SI *Annu* reached the place of occurrence along with other police officials and recorded the complainant's statement. The subject FIR was consequently registered, the appellant was arrested, and the child victim's statement under Section 164 Cr.P.C. was recorded. Upon completion of investigation, the chargesheet was filed. The Trial Court framed a charge under Section 10 POCSO against the appellant, to which he pleaded not guilty and claimed trial.

3. The prosecution examined a total of 7 witnesses in support of its case. The most material witnesses are the child victim herself (PW-3) and her mother, i.e., the complainant (PW-4). PW-2 is an official from the child victim's school who proved a copy of the school's Admission and



Withdrawal Register, as well as a certificate issued by the Principal of the said school, to establish the child victim's age. The I.O. of the case, SI *Annu* (PW-6), deposed as to having recorded the complainant's statement (Ex. PW-4/A), preparing the *rukka* (Ex. PW-6/A) as well as the site plan (Ex. PW-6/B), and arresting the appellant as well as conducting his personal search. The remaining witnesses are police officials whose testimonies are largely formal in nature: HC *Ram Bhagat* (PW-1) recorded the information received from PCR vide DD No. 22-A and got the subject FIR registered after receipt of the *rukka* from the I.O. and making his endorsement thereupon. Ct. *Krishan* (PW-5) and ASI *Phool Kumar* (PW-7) reached the spot of the incident along with the I.O. and their testimonies are along similar lines as that of the I.O.

4. Learned counsel for the appellant, while assailing the judgment of conviction, has contended that there are inconsistencies in the versions of events stated by the child victim and her mother, i.e. the complainant. While the child victim has stated that the incident occurred around 6:00-6:30 PM, the mother of the child victim has stated that the incident occurred after 7:00 PM; and while the child victim had stated in her statement under Section 164 Cr.P.C. that she called out to her mother, the version stated by the child victim as well as her mother in their Court deposition reflects that the mother saw the child victim in the appellant's room. Learned counsel has further submitted that while the age of the child victim has been stated to be 6 years, the school record indicates that the child victim was 8-years-old at the time of the incident. He also contends that neither the landlord of the



building, nor any of the other tenants, were examined by the prosecution, which further weakens its case.

5. *Per contra*, learned APP for State and the learned *Amicus Curiae* appointed to represent the victim have opposed the said contentions, stating that the prosecutrix as well as her mother have cogently and consistently stated about how the child victim was lured inside the appellant's room and then inappropriately touched by him. Learned *Amicus* has contended that the clear and cogent testimony of the child victim, duly corroborated by her mother (PW-4) who found the victim on the appellant's knees in his room, is sufficient to uphold the appellant's conviction, and that no ground to interfere with the impugned judgment has been made out.

6. The child victim was examined as PW-3. Before her examination, the Trial Court put preliminary questions to her and satisfied itself as to her competency to give rational answers. She stated her date of birth as 13.08.2006 and that she was 13 years old at the time of her examination. She deposed that when she was 6-years-old, the appellant, who resided in the adjoining room, asked her to sit on the pretext of offering her a snack (*namkeen*), and then touched her private parts. She clarified that by "private part", she meant from the neck down to her leg, including her urinary part. When her mother saw, the appellant fought with her mother and even hit her. Her mother called the police, who arrested the appellant, and recorded their statements. She identified her statement under Section 164 Cr.P.C. as Ex. PW-3/A and correctly identified the appellant in Court.

In cross-examination by the learned APP for the State, she stated that



the appellant had also taken her on his lap and kissed her, but that she had forgotten about these facts that day, i.e., at the time of her examination.

During cross-examination by the learned counsel for the accused, she stated that there was a common tap for all tenants, from where the child victim's family as well as the appellant used to take water. She stated that the appellant's family members did not reside with him. She admitted the suggestion that her father used to drink occasionally but denied that he had taken liquor one day prior to the incident and had a quarrel with the appellant. She stated that the incident had occurred in between 6:00 to 6:30 PM. She denied the suggestion that she had falsely implicated the appellant at the instance of her parents.

7. The prosecutrix's mother, i.e., the complainant, was examined as PW-4. She stated that she has 3 children, and that the child victim is her second-born child. The incident in question transpired in the year 2013 in the "Hindi month of *Aswin*", about 10 days after she had come back from the hospital after delivering her 3rd child. She stated that she had been calling her daughter, i.e., the child victim, but she had not come back. The witness came outside their room to attend to nature's call, which is when she spotted the child victim inside the appellant's room, wearing her underwear. She deposed that the appellant became hopeless ("*hadbada gaya*") upon seeing her, and when she inquired as to what was going on, the appellant started abusing her. On her opposition, the appellant got physically confrontational with her and started using filthy language. Thereafter, she called her husband and the police. The police came to the spot, took the appellant



away, and recorded her statement. She proved her statement as Ex. PW-4/A and correctly identified the appellant in Court.

In cross-examination by the learned APP for the State, she admitted it to be correct that the incident took place on 05.01.2014 after 7:00 PM. She further admitted it to be correct that she had stated to the police that the child victim was lying on the knee of the appellant and that the appellant was asking her to not scream and that he would do (the act) slowly.

During cross-examination by the defence, she stated that she was illiterate. She denied the suggestion that she had a quarrel with the appellant's family over the issue of taking water from their common tap.

8. The appellant's statement under Section 313 Cr.P.C. was recorded, wherein he took the defence that he had been falsely implicated on account of frequent petty quarrels between his family and the complainant's, as they were residing in the same building. He stated that a few days before the alleged incident, there had been a quarrel between the two families over the issue of taking water from the common tap, and that he had been falsely implicated in the present case as a result of the same. He examined two witnesses in his defence. He examined his wife, *Smt. Man Bhavati*, as DW-1. She reiterated her husband's version regarding a quarrel over the issue of taking water from the common tap, stating that she and the complainant, i.e., the child victim's mother, had an altercation the day before the incident. One of the other tenants from the concerned building, *Sh. Amod Kumar Singh*, was examined as DW-2, and he asserted the same narrative.

9. I have heard the learned counsels for the parties and carefully



examined the record.

10. It is apposite to note at the outset that while a discrepancy in the age of the child victim as stated by the prosecution and as reflected in the victim's school records has been pointed out by the learned counsel for the appellant, no arguments disputing the fact that the victim comes under the ambit of "child" within its meaning as under Section 2(d) POCSO have been raised. Notwithstanding, the age of the child victim stands established by the documents duly proved by PW-2, an official from the victim's school. PW-2 proved a copy of the school's Admission and Withdrawal Register (Ex. PW-2/A) and a certificate issued by the principal of the concerned school (Ex. PW-2/B). The said documents reflect the victim's date of birth to be 13.08.2005. While the victim has stated her date of birth as 13.08.2006 in her deposition, the said discrepancy is not material at present as the victim was either which way a "child" within the meaning of Section 2(d) POCSO, as well as under 12 years of age, at the time of the incident.

11. Learned counsel for the appellant has contended that in the present case, the child victim and her mother have narrated different versions of events. The first variation pointed out by him is that while the child victim deposed that the events had transpired between 6:00-6:30 PM, the mother of the child victim stated that the events unfolded after 7:00 PM. Another inconsistency pointed out by the learned counsel is that while the child victim had stated in her statement under Section 164 Cr.P.C. that she called out to her mother, the version stated by the child victim as well as her mother in their testimonies reflects that the mother saw the child victim in



the appellant's room.

12. Considering the above contention, it is apposite to note that the child victim was of a tender age at the time of the incident, and that the child victim as well as her mother were both examined after 5 ½ years of the incident in question. This Court is of the view that a minor contradiction in recalling the exact timing of the incident is natural, especially given the traumatic nature of the incident in question and the considerable passage of time. The other inconsistency pointed out by the learned counsel also does not go to the root of the matter in any way and the existence of such variations is all but natural, especially when witnesses are examined years after the incident in question.

13. It is plainly evident on a perusal of the detailed statement of the child victim under Section 164 Cr.P.C. and her Court deposition that the material facts of the version put forth by her have remained unchanged. The child victim has given a clear, cogent, and consistent account of the incident in question. The same stands corroborated on all material particulars by her mother, who caught the appellant red-handed. The foundational facts in the present case clearly stand established.

14. The appellant, in his statement recorded under Section 313 Cr.P.C., has put forth a vague defence that a quarrel had taken place a few days prior to the alleged incident between his family and the complainant's. The appellant's wife/DW-1 as well as the purported tenant/DW-2, on the other hand, have put forth more specific defences. DW-1 and DW-2 have both stated that the complainant, i.e., the child victim's mother, had a quarrel with



the appellant's wife a day before the date of the incident. While DW-1 has stated that the police came and took her husband despite her requests that nothing as alleged had happened, DW-2 has stated that the appellant was sitting with him when the police came and arrested him. Neither of the two defence witnesses have specifically deposed about each other's presence at the spot, at the time of the appellant's arrest. It is worth noting that no documentary proof of DW-2 ever having resided in the concerned building has been brought on record and that DW-2 admitted the same during his cross-examination by the learned APP for the State. It is also worth mentioning that the child victim stated in her cross-examination that the family of the appellant did not reside with him. Furthermore, the suggestion put to the victim during her cross-examination was of a quarrel transpiring one day before the date of the incident between the appellant and her father, not between the appellant's wife and the child victim's mother. The defence put forth appears to be moonshine.

15. The law on the appreciation of the testimony of a child victim is well settled. The testimony of the victim of a sexual assault does not require any corroboration. The only precaution which the Court requires to bear in mind while assessing the testimony of a child victim is that it must be reliable, that the demeanour of the witness must be like that of any other competent witness, and that there is no likelihood of the victim being tutored. Recently, in State of Madhya Pradesh vs. Balveer Singh¹, the Supreme Court laid down various principles for assessing and appreciating the testimony of a

¹ 2025 SCC OnLine SC 390



child victim. In the present case, as stated before, the child victim has put forth a trustworthy and consistent version, and the same stands duly corroborated by the testimony of her mother, i.e., the complainant.

16. It is trite law that once the foundational facts of the prosecution case are proved, Section 29 POCSO raises a statutory presumption against the accused². The foundational facts in the present case certainly stand proved in view of the discussion above, and the appellant has failed to rebut the following presumption under Section 29 POCSO.

17. Considering all of the above, this Court is of the considered view that the well-reasoned impugned judgment and order on sentence passed by the Trial Court do not warrant interference. The same are accordingly upheld and the present appeal is dismissed.

18. The personal bond furnished by the appellant stands cancelled and his surety is discharged.

19. Before parting, this Court places on record its appreciation for Mr. B. Venkatraman, Advocate, the learned *Amicus Curiae* appointed to represent the victim, for the valuable assistance rendered by him.

20. A copy of this judgment be communicated to the Trial Court as well as the concerned Jail Superintendent.

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 07, 2026

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² Sambhubhai Raisangbhai Padhiyar Vs. State of Gujarat, (2025) 2 SCC 399