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

\# **CNR No. DLHC010234582026**

\+ **CRL.REV.P. 336/2026 & CRL.M.A. 16701/2026**

PANNA LAL .....Petitioner

Through: Mr. Satyarth Sinha, Adv.

versus

STATE NCT OF DELHI & ANR. .....Respondents

Through: Mr. Digam Singh Dagar, APP

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

O R D E R

% 07.10.2026

1. This hearing has been done through hybrid mode.

2. The present criminal revision petition has been filed under Sections 438 read with 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [hereinafter referred to as 'BNSS'], seeking setting aside of the order dated 18.04.2026 passed by the learned ASJ-01 (POCSO), New Delhi District, RACC, New Delhi, in ***SC No. 9495/2016***, titled *State v. Panna Lal*, arising out of ***FIR No. 143/2015***, registered at Police Station Vasant Kunj (North), South District, Delhi, whereby the application filed by the prosecution under Section 216 of the Code of Criminal Procedure, 1973 [hereinafter referred to as 'CrPC'], seeking addition of a charge under Section 10 of the Protection of Children from Sexual Offences Act, 2012 [hereinafter referred to as the 'POCSO Act'], was allowed. The petitioner also assails the consequential order dated 05.05.2026, whereby an additional charge under Section 10 read with

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Sections 9(f) and 9(m) of the POCSO Act was framed against him.

BRIEF FACTS

3. Briefly stated, the petitioner was working as a Government teacher and was the class teacher of the concerned child victim, who was at the relevant time aged about nine years. It was alleged that, while checking the students' uniforms and nails during the school assembly, the petitioner used to hold the hand of the child victim tightly, which made her feel uncomfortable. On the basis of her statement, the aforesaid FIR was registered on 13.02.2015 under Section 12 of the POCSO Act. Upon completion of the investigation, a charge-sheet dated 25.03.2015 was filed against the petitioner under the said provision.

4. *Vide* order dated 21.11.2016, the learned Trial Court framed charges against the petitioner under Section 354 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC'], and Section 12 of the POCSO Act. During the course of the trial, the child victim and her mother were examined and cross-examined.

5. Thereafter, on 27.07.2023, the learned Additional Public Prosecutor [APP] filed an application under Section 216 of the CrPC seeking addition of a charge under Section 10 of the POCSO Act. The learned Trial Court, *vide* the impugned order dated 18.04.2026, allowed the application upon observing, that the allegations involved physical contact and that, since the petitioner was the victim's teacher and the victim was below twelve years of age, the alleged offence would fall within the ambit of Sections 9(f) and 9(m) of the POCSO Act. Consequently, the additional charge under Section 10 read with Sections 9(f) and 9(m) of the POCSO Act was framed *vide* order dated 05.05.2026.

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SUBMISSIONS ON BEHALF OF THE PETITIONER

6. Learned counsel for the petitioner submits that the allegation against the petitioner is confined to his having held the hand of the child victim while checking her nails during the school assembly. It is submitted that the petitioner, being the class teacher of the victim, had been assigned the duty of checking the uniforms and nails of the students and that the child victim in her examination-in-chief as well as cross-examination has merely stated that she did not feel comfortable when the petitioner held her hand tightly.

7. Learned counsel further submits that sexual intent is an essential ingredient of the offence of sexual assault under Section 7 of the POCSO Act and, consequently, of the offence punishable under Section 10 thereof, however, neither the statement of the child victim nor her deposition before the learned Trial Court attributes any act, word, gesture or circumstance to the petitioner from which such intent may be inferred. It is contended that even if the prosecution case is accepted in its entirety, the foundational requirement of sexual intent is not made out.

8. Learned counsel places reliance upon ***MRP v. State (NCT of Delhi), (2025) 1 HCC (Del) 189***, wherein despite allegations that the accused had touched and pressed the lips of the child and had lain down beside her, a Coordinate Bench of this Court held, that the absence of any specific assertion or indication of sexual intent disentitled the prosecution from invoking Section 10 of the POCSO Act. It is submitted that the allegations in the present case stand on a substantially weaker footing.

9. Reliance is also placed upon ***State (NCT of Delhi) v. Baljeet Singh, 2019 SCC OnLine Del 9109*** and ***State vs. Anil @ Kallu @ Thakur, 2019:DHC:5770*** to submit that mere physical contact, in the absence of

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material indicative of sexual intent, is insufficient to constitute an offence under the POCSO Act.

10. It is accordingly submitted that the learned Trial Court erred in directing the addition of a charge under Section 10 read with Sections 9(f) and 9(m) of the POCSO Act merely on the ground that the alleged act involved physical contact. It is therefore prayed, that the impugned order dated 18.04.2026 and the consequential order dated 05.05.2026 be set aside.

ANALYSIS AND CONCLUSION

11. This Court has heard the learned counsel for the petitioner and has perused the material placed on record.

12. At the outset, it is pertinent to note that the scope of consideration at the stage of framing or alteration of a charge is limited. The Court at this stage is required to examine, whether the material placed on record, if taken at its face value, raises a *prima facie* presumption regarding the commission of the alleged offence or not. The Court is not expected to undertake a meticulous examination of the truthfulness, sufficiency or probative value of the material, as that would amount to conducting a mini-trial.

13. In ***Nallapareddy Sridhar Reddy v. State of A.P., (2020) 12 SCC 467***, the Supreme Court held that Section 216 of the CrPC confers wide power upon the Trial Court to alter or add a charge at any time before the pronouncement of the judgment. That such power may be exercised where a *prima facie* examination of the material gives rise to a presumptive opinion regarding the existence of the ingredients of the additional offence. It was further held that the veracity of the statements and the evidentiary value of the material are matters to be determined during the trial and not at the stage of

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addition of charge.

14. In the present case, the material forming part of the charge-sheet, including the statements recorded under Section 161 of the CrPC, contains allegations against the petitioner which cannot be confined merely to the routine checking of the nails of students. The mother of the child victim has stated in her depositions that the child had informed her, that the petitioner used to hold her hand during the checking of nails and uniforms and that such conduct made her feel uncomfortable. She has further stated, that as informed by the victim, petitioner used to touch the backs of female students while appreciating their answers and had similarly touched the back of the child victim, which also made her feel uncomfortable.

15. Significantly, during her cross-examination, the mother of the child victim denied the suggestion that the petitioner was merely performing his assigned duty of checking the nails and uniforms of students. She also denied the suggestion that the petitioner used to pat the back of a child only upon a correct answer and voluntarily questioned why such conduct was directed only towards girl students. The evidentiary value of these assertions, as well as the defence sought to be raised by the petitioner, can be determined only after the entire evidence in the matter has been led, and has been appreciated by the learned Trial Court.

16. The contention that the petitioner was merely discharging his official duty cannot, at this stage, be accepted as a conclusive explanation for the alleged physical contact. Likewise, the absence or presence of sexual intent cannot be conclusively determined by isolating the act of checking nails from the remaining allegations and circumstances appearing on record. Whether the prosecution is ultimately able to establish such intent beyond reasonable

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doubt is a matter for the learned Trial Court to decide during the trial.

17. In ***Attorney General v. Satish, (2022) 5 SCC 545***, the Apex Court held that the expression *sexual intent* under Section 7 of the POCSO Act cannot be confined to any predetermined formula and is essentially a question of fact. It was further held that any act involving physical contact, if accompanied by sexual intent, would fall within the ambit of sexual assault and that the provision cannot be subjected to a narrow or pedantic interpretation which would defeat the very objective of the enactment.

18. When the material is considered cumulatively, including the age of the child victim, the position of the petitioner as her class teacher, the allegation that he held her hand tightly , which according to her, made her feel uncomfortable, and the further allegations concerning the touching of the backs of female students, there exists sufficient material at this stage to raise a *prima facie* presumption regarding the ingredients of the alleged offence.

19. The decisions relied upon by the learned counsel for the petitioner were rendered in their respective factual settings. They do not lay down that, in the absence of an express assertion by the child regarding sexual intent, such intent can never be inferred from the surrounding circumstances. In ***MRP v. State (NCT of Delhi) (supra)***, the Court found no overt or inferred sexual intent on the basis of the material available in that case. ***State (NCT of Delhi) v. Baljeet Singh (supra)*** and ***State vs. Anil @ Kallu @ Thakur (supra)*** concerned the offence punishable under Section 12 of the POCSO Act and arose from materially different factual circumstances. In the present case, the material has to be considered cumulatively, including the testimony of the child victim, the collective complaint made by the girl students, the position of the petitioner as their teacher and the victim's mother's deposition

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regarding the further disclosure made to her by the child. The aforesaid decisions, therefore, do not warrant interference with the additional charge at this stage

20. It is also relevant that the charges under Section 354 of the IPC and Section 12 of the POCSO Act were framed against the petitioner on 21.11.2016 and as has also been noted by the learned Trial Court, the said order was not challenged by the petitioner/accused. During the trial, the child victim, her mother and the then Headmaster of the school have already been examined and cross-examined. The additional charge arises from the same allegations and material already forming part of the record. No specific prejudice has been demonstrated by the petitioner which if found, cannot be adequately addressed in accordance with the safeguards contained in Sections 216 and 217 of the CrPC.

21. Even if the observation of the learned Trial Court that it could not take a view contrary to that of its predecessor is kept aside, the ultimate direction to frame the additional charge is independently supported by the material available on record. At this stage, the Court is not required to determine whether the additional charge would ultimately result in conviction, but only, whether sufficient material exists for the petitioner to face trial for the said offence or not.

22. In view of the foregoing discussion, this Court does not find any illegality, perversity or jurisdictional error in the impugned order dated 18.04.2026 or the consequential order dated 05.05.2026 that would warrant interference by this Court in exercise of its revisional jurisdiction.

23. Accordingly, the present petition is dismissed and thereby, disposed of.

24. The pending application also stands disposed of.

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25. Nothing hereinabove shall be construed as an expression of opinion on the merits of the case and the concerned learned Trial Court shall proceed with the trial uninfluenced by any observation made herein.

26. A copy of this order be sent to the concerned learned Trial Court for necessary information and compliance.

27. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

OCTOBER 7, 2026/*prg*/**PG**

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