



2026:DHC:1551



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

%

Judgment Reserved on: 18.02.2026

Judgment pronounced on: 23.02.2026

+ CRL.A. 1168/2019 & CRL.M.(BAIL) 1501/2025

RAJESH

.....Appellant

Through: Ms. Aishwarya Rao and Ms. Mansi
Rao, Advocates

versus

STATE

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Sangeeta Malik.
Mr. Himanshu Anand Gupta,
Advocate for DSLSA with Ms. Mansi
Yadav, Mr. Sidharth Barua, Mr.
Shekhar Anand Gupta, Mr. M. Desai,
Ms. Navneet Kaur and Ms. Shivani
Rampal, Advocates
Ms. Gayatri Nandwani, Ms. Mudita
Sharda and Mr. Adrian Abbi,
Advocates.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374(2) read with Section 383 of the Criminal Procedure Code, 1973 (the Cr.P.C.), the sole accused in Sessions Case No.787/2017 on the file of the



2026:DHC:1551



Additional Sessions Judge (POCSO), Dwarka Courts, New Delhi, assails the judgement dated 20.07.2019 and order on sentence dated 23.07.2019, as per which he has been convicted and sentenced for the offence punishable under Section 6 read with 5 (l) & (n) of the Protection of Children from Sexual Offences Act, 2012, (the PoCSO Act).

2. The prosecution case is that during the period from April 2016 till the intervening night of 25.06.2017-26.06.2017 at D-32, Sewak Park, Dwarka Mor, Delhi, the accused repeatedly committed penetrative sexual assault on PW1, his daughter.

3. Based on Exhibit PW1/A FIS of PW1, dated 26.06.2017, Crime No.423/2017, Bindapur Police Station, that is Ext. PW11/A, FIR was registered by PW11, Head Constable (HC). PW18, Sub-Inspector conducted investigation into the crime and on completion of the same, filed the charge-sheet/ final report alleging commission of offences punishable under 376 and 506 of the Indian Penal Code, 1806 (the IPC) and under Section 6 of the



PoCSO Act.

4. When the appellant/accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under 207 Cr.PC. After hearing both sides, the trial court as per order dated 02.02.2018, framed a charge under Section 6 read with Section 5 (l) & (n) PoCSO Act and, in the alternative, under Section 376 (2) (f) & (n) IPC, which was read over and explained to the appellant/accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs.1 to 18 were examined and Exts. PW1/A-C, PW2/A-D, PW4/A, PW5/A, PW8/A, PW9/A-F, PW11/A-B, PW12/A, PW13/A, PW15/A, PW16/A, PW17/A-D, PW18/A-E were 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 led by the prosecution. He denied all those circumstances and



2026:DHC:1551



maintained his innocence. He submitted that he had been falsely implicated because he objected to the frequent visits abroad, of his wife and also the love affair of PW1 with one Vijay.

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.PC has caused any prejudice to him.

8. On behalf of the defence, DW1 was examined.

9. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 20.07.2019 held the appellant/accused



2026:DHC:1551



guilty of the offence punishable under Section 6 read with 5 (l) & (n) of the PoCSO. Consequently, the trial court *vide* order on sentence dated 23.07.2019 sentenced the appellant/accused to undergo rigorous imprisonment for a period of 15 years for the offence punishable under Section 6 read with 5 (l) & (n) of the PoCSO and to fine of ₹ 50,000/-, and in default of payment of fine, to undergo simple imprisonment for 06 months. Aggrieved, the appellant/accused has preferred this appeal.

10. Learned counsel for the appellant/accused submitted that the conduct of PW8 was unnatural and out of line as she being the mother of PW1 when informed of the alleged assault in October, 2016, never took any action. PW1 and her siblings claimed to have been aware that a complaint could have been made by contacting the police on number 100, but they did not do so. It was also submitted that though the fact has not been brought on record during the cross-examination, truth is that the present matter is borne out of a property dispute between PW8 and the



2026:DHC:1551



accused/appellant.

10.1. It was further submitted that the first sample collected for FSL examination, was ridden with fungus and therefore, a second sample was collected, however, the necessary procedural links have not been duly followed or established for the second sample. She further submitted that the FSL report is based on certain findings mentioned in tabular columns but in the instant case, the tabular columns are not mentioned in the FSL report. The similarity of DNA found between the accused/appellant and PW1 is bound to happen as it is of a father and his daughter. There was no examination of the expert. Therefore the said report is not backed by cogent reasoning which renders the FSL report inadmissible. Reference was made to the dictum in **Rahul v. State (NCT of Delhi), (2023) 1 SCC 83** in support of the argument.

10.2. Lastly, she submitted that at the relevant point in time, the offence was punishable with minimum 10 years which may extend to life. However, the trial court has grossly erred in



sentencing the appellant/accused to rigorous imprisonment for a period of 15 years. It was submitted that if the court is not inclined in allowing the appeal, leniency may be shown in the quantum of sentence.

11. *Per contra*, it was submitted by the learned Additional Public Prosecutor that the testimony of PW1 is consistent, throughout the course of trial. He submitted that during the cross-examination of PW1 there was no suggestion or even a whisper by the defence, about the alleged love-affair with one Vijay. It was only during the cross-examination of PW3, sister of PW1, that Vijay was introduced for the first time. The FSL report admissible under Section 293 Cr.P.C. was never challenged when it was marked and admitted in evidence. Therefore, the same cannot be challenged in appeal. There is no infirmity in the impugned judgment, calling for an interference.

12. Heard both sides and perused the records.

13. I shall first briefly refer to the evidence on record relied



on by the prosecution in support of the case. The incident in this case is alleged to have taken place between April 2016 and 26.06.2017 at D-32, Sewak Park, Dwarka Mor, Delhi, the residence of the accused, the father of PW1. Exhibit PW1/A FIS of PW1, the victim, was recorded on 26.06.2017. In the FIS, PW1 has stated thus:-My father's name is Rajesh, son of Gurucharan Das, he does not work and stays at home all day. My mother, Rita, works as a cook in Dubai and has been living there for about a year. She came to visit us in October 2016 and went back to Dubai in April 2017. During that time, my father, me and my siblings lived in the house. From April 2016, when my brother and sister used to go to sleep at night, my father would wake me up, take me to the adjacent room, and establish physical relations with me against my will. He used to threaten me by saying that if I told anyone about it, he would kill me. My father used to forcibly establish physical relations with me every seven to ten days. Out of fear, I did not tell anyone. When my mother came home in October 2016, I told her about the



2026:DHC:1551



actions of my father. My father then apologized to my mother, and we did not file any complaint. My mother told me that if he repeated the abuse in future, I should file a complaint with the police. As soon as my mother went back to Dubai on 16.04.2017, my father started threatening me again and forcibly establishing physical relations. He would frequently rape me. On the night of 25.06.2017, at about 1:00 AM, when I and my siblings were sleeping, my father came and woke me up, took me to the room next door, and forcibly raped me. In the morning at about 9:00 I told my sister and brother. My brother then informed Reshu Didi (PW7) about the incident over the phone. She called us to Rajouri Garden, and the three of us siblings went to Reshu Didi at Rajouri Garden. There, Reshu Didi called on 100 number and helped us lodge the complaint.

14. In Exhibit PW1/C, the 164 statement, recorded on 27.06.2017, PW1 reiterates her case in the FIS. The 164 statement of PW1 reads thus:-My father does wrong/inappropriate things



2026:DHC:1551



with me. My mother works in Dubai. She went to Dubai on 29.04.2016. Just 2-3 days after that, my father took me to another room while my brother and sister were sleeping. My father lay on top of me. He showed me dirty pictures on the phone. He asked me not to tell anyone. My father took off my *salwar* and touched me on my chest and my private parts. He put his private part into my private part. Then he sent me to the other room. After a few days, he kept calling me like that and continued doing such things. Mummy came home in October 2016. Then I told Mummy everything. While mummy was there, my father didn't do anything. Mummy said, "Forgive him this time; if he does it next time, then file a police complaint." Out of fear, I kept obeying my father. My mummy went to Dubai in April 2017. Until then, nothing happened, but as soon as mummy left, my father started all this again. The last time this happened was on 25.06.17. My younger sister had also seen this once, so my father used to threaten her, saying, "Don't speak too much," and he used to scold



2026:DHC:1551



and beat her too. On the afternoon of 25.06.2017, my brother was not at home and my sister was sleeping. My father called me and closed the door and repeated the same wrong thing. He called me again that night and did the same wrong thing. At that time, my brother and sister were sleeping. Something "white" came out of his private part. My father told me to wash the same and go to sleep. He said not to tell this to anyone. On 26.06.2017, I told my brother and sister and then spoke to Reshu Didi on the phone. The police number was blocked on our phone. Then I called the police from my father's number. We couldn't get through to the police from there either. My father saw that a call had been made to number 100. He asked who made the call, and we said we didn't know. Then my father began to make us pray over the phone. We locked father inside and went to Reshu Didi. He used to ask to me to swear by god that I won't tell anyone. Whenever I would start to tell someone, he would hover around me and stare at me.

15. PW1, when examined before the trial court, stood by her



2026:DHC:1551



case in the FIS and in her 164 statement. She deposed that her mother worked in Dubai from April 2016. During this time, the accused would wait until her siblings were asleep to take her to an adjoining room, undress her, and commit rape. When her mother returned in October 2016, she disclosed the abuse. The accused apologized after being confronted and was warned that any recurrence would be reported to the police. However, after her mother returned to Dubai in April 2017, the accused resumed the sexual assault. On 25.06.2017, she was raped again at night and on the next morning she told her brother and sister about the same. Thereafter, she went to Reshu Didi at Rajouri who helped in lodging the complaint.

16. PW3, sister of PW1, when examined before the trial court deposed that in the year 2016, her mother had gone to Dubai for work. She along with her father, sister and brother used to reside at their home. In absence of her mother, her father used to establish physical relations with her sister. On one occasion, she had



2026:DHC:1551



objected to her father's act but he had threatened her and told her not to disclose about his acts to anyone. In October 2016, her mother came back to Delhi. Her sister had revealed the abuse to their mother. Her mother had confronted her father about his wrong acts. Her father had shown remorse and sought apology from her mother. In April 2017, her mother again went to Dubai. After her departure, her father again started doing the above act with her sister. One day, when she objected to the acts of her father, he beat her. On the intervening night of 25.06.2017-26.06.2017, her father again established physical relations with her sister. On 26.06.2017, her sister told about the said act to her in the morning. Thereafter, she discussed the above facts with her brother. Later on, she along with her siblings met didi. (PW7). Didi used to meet them in the Church. Thereafter they went to the police station Bindapur and gave the complaint.

17. PW6, brother of PW1 deposed that latter had told him and PW2 that their father had forcibly established physical relations



2026:DHC:1551



with her. He stated that they used to meet one didi 'R'(PW7) at Church. The incident was informed to Didi 'R' (PW7) on phone. Thereafter, they had met her at Rajouri Garden and thereafter, they went to the police and gave the complaint.

18. PW7, when examined deposed that she knew the victim and her siblings through prayer meetings at Jesus Calls, Dwarka Mor, New Delhi. On 26.06.2017, the victim's brother called her in a nervous state, disclosing that their father had established sexual relations with the victim and used to beat their youngest sister. At her instruction, the siblings came to Rajouri Garden Metro Station, where the victim revealed the full details of the abuse. She contacted the police and reported the matter to the police.

19. PW8, mother of PW1 and wife of the accused, when examined before the trial court deposed that with the help of her friend 'O', she travelled to Singapore for work in April 2016. On her return in October 2016, her daughter (PW1) revealed that the accused had forcibly established physical relations with the



2026:DHC:1551



former. She confronted the accused, who denied the allegations but offered to apologize if any wrong had been perceived. Driven by continued financial distress, she again moved to Dubai for work, where she later received calls from her children informing that the accused had again raped PW1. She advised them to report the matter, and with the help of 'R', a police complaint was filed.

20. Ext.PW4/A MLC of PW1 reveals that there were no external injuries, but the hymen is stated to be-"old torn". No suggestion was ever put to PW1 during her cross-examination that any alternate reasoning could be found for the hymen being torn.

21. The relevant portion of Ext. PW18/E FSL report reads thus:-

Conclusion :- *DNA profiling (STR analysis) performed on the source of exhibits 'ldl', 'ld2', 'lel ' & 'le2' (Microslides I Swabs of victim), 'lfl ', 'lf2', 'lgl ' & 'lg2' (Microslides I Swabs of victim) and 'lhl ' & 'lh4' (Paijama and Underwear of victim) vide FSL NO 2017 /B-5840 and '1' (Blood sample*



of accused) vide FSL NO2018/B-1021 is sufficient to conclude that DNA Profile generated from the source of exhibit, \. 'l' (Blood sample of accused) vide FSL NO 2018/B-1021 is similar with DNA profile generated from source of exhibits 'ldl', ' ld2', 'lel' & 'le2' (Microslides I Swabs of victim), ' lfl ' , ' lf2', 'lgl' & 'lg2'(Microslides / Swabs of victim) and ' lhl ' & ' lh4'(Paijami and Underwear of victim).

22. Ext. PW18/E FSL report was marked through PW18, the Investigating Officer (IO). When the report was marked and admitted in evidence, the same is not seen objected. There was no request from the accused to examine the expert who prepared Ext. PW18/E. PW18 is also not seem cross-examined on this aspect. Now even assuming for argument sake that the FSL report cannot be accepted, there is still the testimony of PW1, the victim.

23. The testimony of PW1, PW3, PW6, PW7 and PW8 has not been discredited in any way and, therefore, I find no



2026:DHC:1551



reason(s) to disbelieve their version. The accused is admittedly the father of PW1. A father, by every social, moral, and legal expectation, is meant to be the protector, safe harbour, and guardian of his daughter, someone in whom she places her most unconditional and innocent trust. But the accused exploited precisely that sacred trust. Even by ordinary standards of criminal law, rape is widely regarded as a crime of greater moral gravity than murder, for while murder extinguishes a person's life, rape destroys something equally irreplaceable; the dignity, autonomy, and inner sense of self of a woman who has done nothing to deserve such violation. This truth becomes all the more profound and disturbing when the person committing this grave offence is the victim's own father. (See *State of H.P. vs. Asha Ram*, (2005) 13 SCC 766).

24. PW1 in her FIS, 164 statement as well as in her testimony has clearly deposed about the sexual abuse by the



2026:DHC:1551



accused. Merely because PW8, her mother did not file a complaint at the first instance does not mean that the sexual assault did not take place, especially when the specific testimony of PW1 regarding rape by the accused has not been discredited in any manner. PW1 stood with the cross examination. Her case is substantiated by the testimony of PW3, and PW6, whose testimony has also not been discredited in any way. It needs to be borne in mind that the accused is none other than the father of PW1. There is no reason(s) as to why PW1 should falsely implicate her own father in a case of this nature. I find no infirmity in the impugned judgment regarding the guilt of the accused.

25. The only question that remains for consideration of this court is on the quantum of sentence awarded by the trial court. The trial court has awarded a sentence of 15 years for the offence punishable under Section 6 read with 5 (l) & (n) of the PoCSO. The sexual abuse in this case took place



2026:DHC:1551



during the period from April 2016 till 25.06.2017. Section 6 of the PoCSO Act as it then stood reads thus:-

“6. Punishment for aggravated penetrative sexual assault

Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten year but which may extend to imprisonment for life and shall also be liable to fine”

26. In the light of the dictum in ***Ravinder Singh v. The State Govt. of NCT of Delhi, (2024) 2 SCC 323*** the trial court could not have imposed a sentence of 15 years, though the High Court and the Apex Court are empowered to do so. Hence the sentence imposed by the trial court is modified thus: as the appellant/accused is the father of the PW1, the minimum sentence of 10 years would not suffice for the crime committed against his own young daughter. Hence the sentence is modified to a period of 14 years rigorous imprisonment.

27. In the result the appeal is partly allowed. The conviction of the accused for the offence punishable under Section 6 of the



PoCSO Act is confirmed. However, the substantive sentence of imprisonment imposed by the trial court is modified to 14 years. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

FEBRUARY 23, 2026/KR