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

Reserved on: 28.10.2026
Date of Decision: 05.11.2026
Uploaded on: 05.11.2026

\# **CNR No. DLHC010575282023**
\+ **CRL.A. 5/2024**

ANUJ @ AMBUZ @ CHHAVINDER KUMAR .....Appellant
Through: Mr. Satyam Thareja (DHCLSC), Ms. Ashu Jain, Mr. Vishwas Chawla, Advs.

versus

STATE NCT OF DELHI .....Respondent
Through: Mr. Raghuvinder Verma, APP for the State.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present criminal appeal has been filed under Section 374(2) of the Code of Criminial Procedure, 1973, (hereinafter referred to as 'Cr.P.C.'), assailing the judgment dated 10.08.2023 and the order on sentence dated 10.10.2023 passed by the learned Additional Sessions Judge-01 (POCSO), North West, Rohini District Courts, Delhi, in ***FIR No. 114/2018,*** registered at P.S. Mangolpuri under Sections 354, and 506 of the Indian Penal Code, 1860, (hereinafter referred to as *"IPC"),* and under Section 10 of the Protection of Children form Sexual Offences Act, 2012,

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(hereinafter referred to as '*POCSO Act*') whereby the appellant was convicted for offence u/s 10 of the POCSO act and acquitted for offence u/s 506 of the IPC.

THE BRIEF FACTS OF THE CASE, AS EMERGING FROM THE IMPUGNED ORDER, ARE AS FOLLOWS:

2. In brief, the case of the prosecution is that on 14.02.2018 at about 1:45 pm, on the way in a van, near Khatta, Q-Block, Mangol Puri, Delhi, within the jurisdiction of PS Mangol Puri, the accused being the van driver of the child victim 'D' (identity withheld), a minor girl aged about 10 year, committed aggravated sexual assault upon her, by making her to touch/press his penis and thereafter criminally intimidated her to kill her in case she disclosed about the incident to her family members. Pursuant to receiving of DD No. 20A, ASI Satish, PW-5, rushed to the spot, apprehended the accused, and thereafter, ***FIR No. 114/2018***, was registered on 14.02.2018 at P.S. Mangolpuri for offences under Sections 354, and 506 of the IPC and under Section 10 of the POCSO Act.

3. On 27.09.2018, formal charge for the commission of offences under 506 of the IPC and under Section 10 of the POCSO Act, were framed against the accused namely Anuj @Amnbuz @Chhavinder Kumar to which he pleaded not guilty and claimed trial. During admission/denial under Section 294 Cr.P.C. the accused admitted the opinion on his MLC Ex. PX1/1, the recording of proceedings u/s 164 Cr.P.C. recorded by Learned MM Ex. PX1/2.

4. To prove its case against the accused and discharge its burden, the prosecution examined eight witnesses before the learned Trial Court, whose

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testimonies have been discussed in the impugned judgment as under:

> *"**4. PW-1/ victim child "D"** deposed that she is studying in school (name and address of school withheld) and used to go to her school by van driven by accused. Anuj bhaiya at the time of incident. She was in class-V at the time of incident. On 14.02.2018 at about 2.00 p.m. when they were coming back from her school in the van and when the van reached near Kali Mata Mandir, the van driver bhaiya Anuj told her that he will tell her how to change the gears. Then he put his hand on his pant at "shu shu wali jagah" and asked her to press his penis (shu shu) as one presses the gear. Thereafter, he threatened her not to tell it to anyone or else he will kill her. After reaching home, she informed her mother about the incident on which she got angry and called the principal of her school on phone. After some time, accused Anuj bhaiya came to their house and his mother slapped him. Her mother called the police who, came and they all went to police station. Accused was also brought to police station separately by the police. Her statement u/s164 Cr.PC was recorded Ex.PW1/A by Ld. MM. She correctly identified the accused on LCD screen. She told about the place of incident to the police.*
>
> ***5. PW-2** Principal from the school attended by the child produced the admission form Ex. PW2/A, MCD birth certificate Ex. PW2/B, caste certificate Ex. PW2/C and affidavit of father of the child Ex. PW2/D, wherein the date of birth is 13.01.2008. The photocopy of the relevant entry of the admission register as Ex. PW2/E. She proved certificate Ex. PX11/F.*
>
> ***6. PW-3** S mother of the victim deposed that victim child D is her first born child. At the time of incident, victim was studying in school which was far away from her house and hence she was advised by the Principal to hire a cab which will be arranged by*

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the school. She correctly identified the accused in the Court as the cab driver of her daughter. PW3 stated that her daughter was the last child to be dropped by the accused van driver. On 14.02.2018 at about 2.00 p.m., accused dropped her daughter outside the gali. She saw that her daughter was weeping while coming. On inquiry, she told her that today accused misbehaved with her (aaj bhaiya ne mere saath badtamiji ki). She further asked her to explain what misbehaviour (badtamiji) was done by the accused then she told her that when all the children were dropped and accused was bringing her back to home, on the way near Q-Block when they reached near public dustbin(khatta), accused Anuj asked the victim child to teach how to put gear in the gear and he suddenly dragged her towards him and put her hand on his private part. Thereafter, he put his hand on her hand and started pressing it. Her daughter further told her that accused threatened her not to disclose about this to anyone otherwise she will be killed. She immediately called her husband at Noida who advised her to call the Principal and thereafter to the police. Accordingly, she called the Principal and within 10-15 minutes, accused came to her house and started saying that he is innocent and victim was telling a lie. She slapped him, apprehended him and called the police at 100 number. Police came to her house and took the accused along with them. Police asked her to reach the police station with her daughter. She reached there where Principal of the school was also called. In the police station, she gave written complaint Ex.PW3/A. She refused for any medical examination of her victim daughter as it was not required. The school van of her daughter was also taken into possession by the police in her presence vide seizure memo Ex.PW3/B. Accused was arrested vide memo Ex.PW3/C. On 15.02.2018, police

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brought her daughter to the Court where her statement was recorded by Ld. MM. Police took her and her daughter at Avantika where her daughter was counseled.

***7. PW-4** ASI Usha deposed that on 14.02.2018, at about 2.05 p.m. wireless operator arrived at the DO Room and handed over a tehrir to her, on the basis of which she registered FIR Ex.PW4/A with endorsement on the original tehrir Ex.PW4/B and issued a certificate u/s 65B of Indian Evidence Act Ex.PW4/C.*

***8. PW-5** ASI Satish deposed that on 14.02.2018, DD no. 20A dated 14.02.2018 at 2.05 p.m. was marked to him to which he immediately rushed to the spot. On reaching the spot, he found that the victim child "D" and accused, who were taken by the PCR Van to the police station where IO SI Sangeeta was recording the statements of mother of the victim.*

***9. PW-6** HC Naveen Kumar deposed that on 14.02.2018, on receiving DD No. 20A, he accompanied ASI Satish Chandra to the spot where they came to know that accused, being the van driver of the school girl / victim child "D", had misbehaved with her. He reiterated the version of PW6. Duty officer handed over copy of FIR and original Tehrir of the present case to him and he had handed over the same to IO/SI Sangeeta.*

***10. PW-7** HC Jitender deposed that on 14.02.2018, he joined investigation along with IO/ SI Sangeeta. He supported the version of other prosecution witnesses. PW7 stated that on the identification of the complainant, accused was arrested and his personal search was conducted vide memos Ex. PW 3/C and Ex. PW 7/A respectively. The said van bearing registration no. DL-1-CR-1622 was also seized vide seizure memo Ex. PW3/B. Thereafter they came back to the police station.*

***11. PW-8** IO/SI Sangeeta deposed that on*

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14.02.2018 a call vide DD No. 20 A was attended by ASI Satish along with Ct. Naveen. When she was present in the police station, victim along with her mother, Principal of the school Shri Kailash Sharma met her. She made inquiries from the victim in the presence of her mother and got the counseling of the victim done from NGO official. On the basis of written complaint Ex. PW3/A given to her by the mother of the victim child "D" she prepared a tehrir Ex. PW8/A on the basis of which FIR was registered. Thereafter, PW-8 got the child victim 'D' medically examined. Accused was present in the police station in the custody of Ct. Naveen. Accused was arrested on being identified by complainant 'S' vide arrest memo Ex. PW 3/C and his personal search was conducted vide memo Ex. PW 7/A. Thereafter, she along with complainant and accused in custody reached near the house of the complainant and from there Maruti Van bearing registration no. DL-1-CR-1622 in which incident had taken place was seized vide seizure memo Ex. PW 3/B. She got the accused medically examined. Thereafter on 15.02.2018, she got the statement of victim 'D' recorded u/s 164 Cr.P.C and collected the date of birth proof of the victim child "D" from her school. On 13.03.2018, she had prepared the site plan Ex. PW8/B at the instance of complainant 'S'. After cross examination, prosecution evidence was closed."

5. On 20.05.2023, upon the completion of prosecution evidence, statements of accused u/s 313 Cr.P.C, was recorded, during which accused claimed that he is innocent and falsely implicated in the case. It was his defence that he had visited the house of the victim child to clear some monetary dispute on payment of holiday fares but that the mother of the victim had slapped him and called the police to take revenge The accused chose not

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to lead evidence in his defence.

6. The learned Trial Court, vide the impugned judgment dated 10th August, 2023, convicted the appellant and held as under:

> ***"47.*** *In the light of above discussion, the testimony of prosecution witnesses are found to be trustworthy and reliable, and the prosecution has succeeded in proving the guilt of the accused and thus accused is found to have committed offence as described under Section 9(m) of POCSO Act punishable u/s 10 of the POCSO Act. Accordingly accused Anuj @ Ambuz @ Chhavinder stands convicted for the offence u/s 10 POCSO Act and acquitted for the offence u/s 506 IPC."*

7. Consequent upon the judgment of conviction, the learned Trial Court, vide Order on Sentence dated 10th October, 2023, imposed the following sentence upon the present appellant:

> ***"13.*** *Perusal of the affidavit shows that prior to being taken in judicial custody, the convict was working as a driver earning about 8,000/- per month. Considering the fact that the convict is already in JC and the financial condition and capacity of convict, it is clear that he is not in a position to compensate the victim. However, the convict is an able bodied person who was working as a van driver earlier, hence a fine of Rs. 20,000/- (Rupees Twenty Thousand Only) is imposed on convict for the offence punishable under Section 10 POCSO Act and in case of default in payment of fine, he shall undergo further simple imprisonment of three months. In accordance with the affidavit of Ld. Addl. PP for the State, the convict shall pay fine amount of Rs. 9,078/- (Rupees Nine Thousand Seventy Eight only) to State towards the expenses incurred by the prosecution. Out of the remaining amount of fine, Rs. 10,000/- be paid to the victim*

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child as part of the compensation and the remaining be deposited in the Court.

S. No.	Offence	Substantive Sentence	Fine
1	Section 10 POCSO ACT	7 Years (Seven Years) R.I.	Rs. 20000/-

It is reiterated that all the sentences shall run concurrently and the benefit of Section 428 Cr.PC be accorded to the convict."

On Compensation:

"14. The last question remains is with respect to the compensation part. After the judgment, an enquiry was directed to be done by the District Legal Service Authority in view of the recent judgment of Hon'ble High Court of Delhi in the case of Karan v. State of NCT of Delhi Crl.A.No. 352/2020 dated 27.11.2020. The report of the North West District Legal Service Authority was received. The convict and the prosecution also filed their respective affidavits.

……

21. Further considering all the factors as enumerated above, as per Rule 9 of The Protection of Children from Sexual Offences Act, 2020, the law laid down in X v. State of NCT of Delhi (acting through its Secretary) (supra) and the facts and circumstances of the present case, I deem it appropriate to grant the final compensation to the tune of amount of Rs. 3,00,000/- (Rs. Three lakhs Only) to the victim under provision of 33(8) of the POCSO Act read with Rule 9 of POCSO Rules 2020 in the name of victim/ child and the said amount shall be released to the victim/ child as per rules. This amount shall be in addition to the amount if any awarded as interim compensation to the victim child by the DLSA/ through Court."

8. Aggrieved by the aforesaid impugned judgment and order on

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sentence, the appellant has challenged both before this Court.

SUBMISSIONS ON BEHALF OF THE APPELLANT

9. Learned counsel for the appellant submitted that the impugned judgment suffers from serious infirmities and that the learned Trial Court has failed to properly appreciate the evidence on record. It is contended that the prosecution case is riddled with material contradictions and inconsistencies in the statements of the prosecutrix and her mother, both during the course of investigation and at trial, which go to the root of the prosecution's case and cast serious doubt on its veracity.

10. Learned counsel for the appellant further submitted that the prosecutrix had been travelling with the appellant, who was driving the same cab, for the past three years, and no such incident had ever been reported during the said period. Learned counsel submitted that the possibility of false implication cannot be ruled out, particularly in view of the previous quarrel between the appellant and the mother of the prosecutrix over the payment of van fare charges.

11. Learned counsel for the appellant further submitted that the statements of the prosecutrix and her mother are contradictory on material particulars. It is also pointed out that the school principal, in her testimony, categorically stated that the school had not verified the age of the prosecutrix, thereby raising questions regarding the documentary basis of the age determination.

12. Learned counsel for the appellant further submitted the alleged incident took place in broad daylight, at around 2:00 PM, at a public place; however, the investigating agency failed to collect any CCTV footage from

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the adjoining area or examine any independent eyewitness who could have corroborated the presence of the appellant at the alleged place of occurrence. Learned counsel submitted that even the independent witness examined by the prosecution did not support the prosecution's version of the alleged incident and had no knowledge thereof.

13. Learned counsel for the appellant submitted that the prosecution has failed to establish its case beyond reasonable doubt and that the learned Trial Court failed to appreciate the entire evidence in its proper perspective. That the prosecution was required to establish its case through cogent, reliable and trustworthy evidence of sterling quality. It is, therefore, prayed that the impugned judgment of conviction and order on sentence be set aside and the appellant be acquitted of the charges.

SUBMISSIONS ON BEHALF OF THE RESPONDENT-STATE

14. Learned APP for the State opposed the appeal and submitted that there are specific allegations by the victim child against the accused which has been supported by her in her testimony in the court. That the victim used to be the last student remaining to be dropped from the school van and the accused took advantage of this fact and committed the offence with her. Learned APP for the state further submitted that minor contradictions may occur in the testimony of the witnesses due to lapse of time

15. Learned APP for the State further contended that the learned Trial Court has passed a well-reasoned judgment after duly appreciating the oral and documentary evidence led by the prosecution, and there is no perversity or illegality warranting interference by this Court.

16. Learned APP for the state further submitted that the testimony of the

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child victim (PW-1) is cogent, consistent and trustworthy. The victim has categorically narrated the manner in which the appellant, who was driving her school van, took advantage of the fact that she was alone in the vehicle and made her touch his private parts under the pretext of teaching her how to operate the gears of the vehicle.

17. It is further submitted that the testimony of the child victim stands corroborated by the testimony of her mother (PW-3), to whom the victim disclosed the incident immediately upon reaching home.

18. Learned APP for the State also countered the defence raised by the appellant regarding the alleged dispute over van fare charges. It was submitted that the incident in question took place in February, whereas the summer vacations in schools ordinarily commence around May/June. Therefore, it was contended, the appellant's explanation that the mother of the victim had falsely implicated him on account of a dispute relating to the van fare for the summer vacation period is wholly untenable and does not inspire confidence.

19. Learned APP for the state further submitted that the prosecution has established all the foundational facts necessary to attract the statutory presumption under Section 29 of the POCSO Act, and the appellant has failed to rebut the same. The learned Trial Court has, therefore, rightly convicted the appellant for the offence punishable under Section 10 of the POCSO Act. That the sentence imposed by the learned Trial Court is in accordance with law and commensurate with the gravity of the offence, particularly having regard to the tender age of the victim. The impugned judgment of conviction and order on sentence are based on a proper appreciation of the evidence and do not call for any interference by this

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Court. Accordingly, the present appeal deserves to be dismissed.

FINDINGS AND ANALYSIS

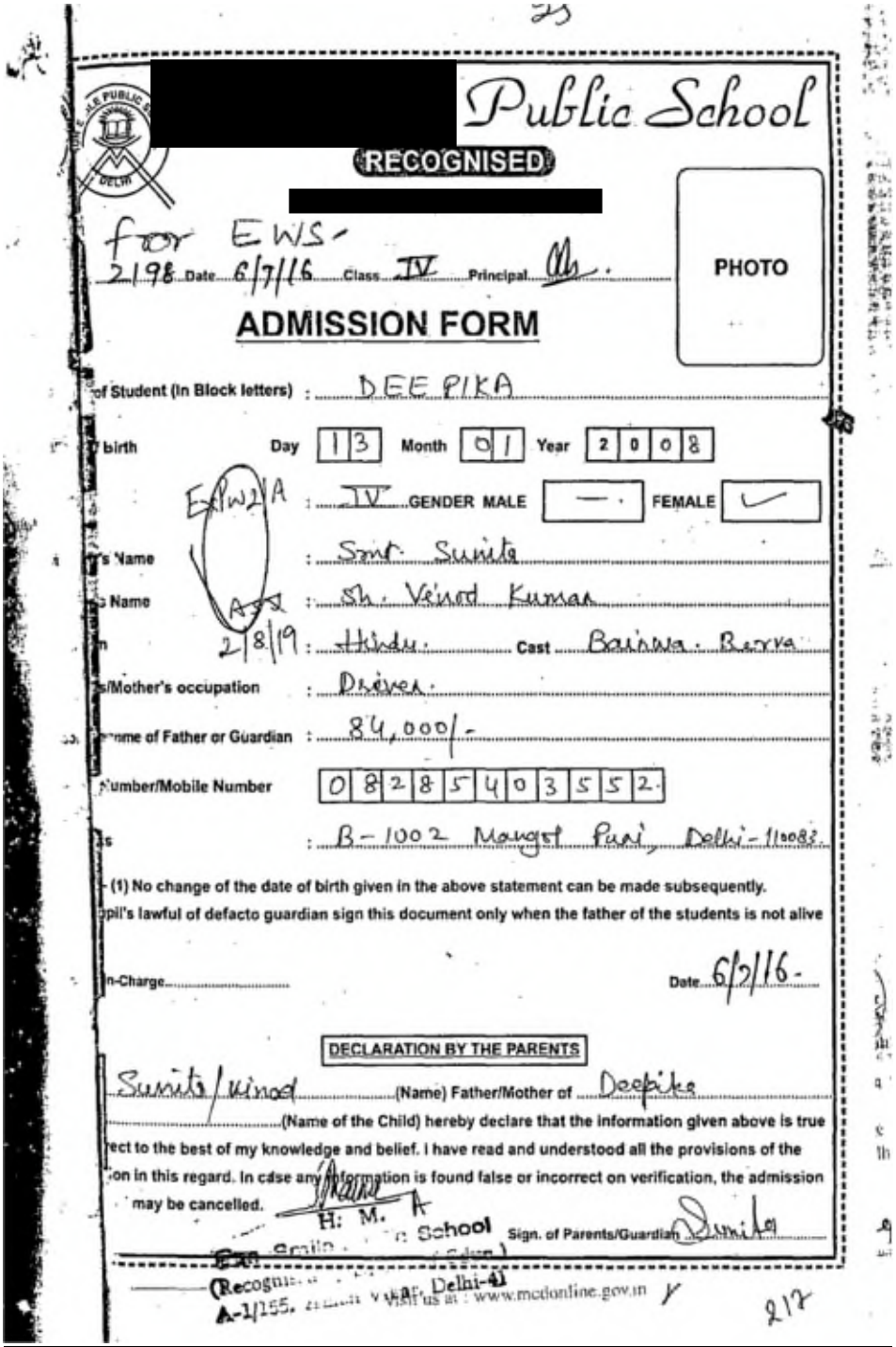
20. This Court has heard learned counsel for both the parties and perused the material on record.

21. The principal contention of learned counsel for the appellant is that the prosecution case suffers from material contradictions and inconsistencies, particularly between the testimonies of the prosecutrix and her mother. It is further contended that the appellant was falsely implicated on account of a dispute over van fare charges and that the prosecution has failed to establish its case through independent evidence or a proper investigation.

Age of the victim:

22. At the outset, it is pertinent to observe that the age of the victim stands duly established through the testimony of PW-2, the school principal, who produced the admission form (Ex. PW-2/A), MCD birth certificate (Ex. PW-2/B) and the relevant entry in the admission register (Ex. PW-2/E), all reflecting her date of birth as 13.01.2008. It will be apposite to refer to the admission form (Ex. PW-2/A) in this regard:

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Public School

RECOGNISED

for EWS-

2198 Date 6/7/16 Class IV Principal

PHOTO

ADMISSION FORM

of Student (In Block letters) : DEEPIKA

birth Day 13 Month 01 Year 2008

EWS/A : IV GENDER MALE — FEMALE ✓

's Name : Smt. Sunita

Name : Sh. Vinod Kumar

2/8/19 : Hindu. Cast Bairwa. Barwa

s/Mother's occupation : Driver.

me of Father or Guardian : 84,000/-

umber/Mobile Number 08285403552.

s : B-1002 Mayget Puri, Delhi-110083.

(1) No change of the date of birth given in the above statement can be made subsequently.

pil's lawful of defacto guardian sign this document only when the father of the students is not alive

n-Charge Date 6/2/16.

DECLARATION BY THE PARENTS

Sunita / Vinod (Name) Father/Mother of Deepika

(Name of the Child) hereby declare that the information given above is true ect to the best of my knowledge and belief. I have read and understood all the provisions of the on in this regard. In case any information is found false or incorrect on verification, the admission may be cancelled.

H. M. A School Sign. of Parents/Guardian

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23. Accordingly, on the date of the incident, i.e., 14.02.2018, the victim was approximately 10 years old. The contention regarding non-verification of her age by the school principal does not, by itself, discredit the

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documentary evidence placed on record.

24. In this regard, the learned Trial Court has also rightly placed reliance upon the decision of the Hon'ble Supreme Court in ***Ashwani Kumar Saxena v. State of Madhya Pradesh, AIR 2013 SC 553***, wherein it was observed that the Court is not expected to conduct a roving enquiry into the correctness of documents maintained in the ordinary course of business for determining the age of a person. Further, there was no reason for the parent of the victim to furnish an incorrect date of birth at such a stage, particularly when the same is recorded in the regular course of school admission.

Testimony of the Victim:

25. It is well settled that in cases involving sexual offences, the testimony of the victim, if found to be cogent, credible and trustworthy, can form the sole basis of conviction without any requirement of independent corroboration. The Hon'ble Supreme Court in ***State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575***, has reiterated that there is no rule of law or practice which mandates that the testimony of a prosecutrix must invariably be corroborated. Similarly, in ***Ganesan v. State, (2020) 10 SCC 573,*** the Hon'ble Supreme Court has emphasised that a conviction can rest upon the testimony of the victim where the same inspires confidence.

26. The principal prosecution witness in the present case is the victim child (PW-1), whose testimony forms the foundation of the prosecution's case. A perusal of her deposition will be apposite at this stage:

Statement u/s 164 Cr. PC	*Examination-in-Chief dated 08.03.2019*	*Cross-examination dated 08.03.2019*
कल Van वाले	*I have been residing at the address mentioned in the list*	*I was going to school in the van of Anuj bhaiya for about*

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भैया Anuj कह रहे थे कि तुझे Gear डालना सिखाता हूँ। दोपहर के 2 बजे थे फिर भैया ने जबरदस्ती मेरा हाथ पकड़कर अपने पैंट पर अपनी सुसू की जगह पर रखा था। भैया कह रहे थे जैसे Gear दबाते हैं वैसे दबा। फिर भैया ने कहा कि अगर घर में किसी को भी बताया तो मेरे को जान से मार देंगे।	of witnesses against my name with my family. My family consists of myself, my parents, grandparents, my younger brother and my tauji with his family. I am studying in Sarvodaya Vidyalaya at C-Block, Mangol Puri and used to go to my school by van driven by Anuj bhaiya at the time of incident. Now, my mother drops me at my school. I was in class-V at the time of incident. On 14.02.2018 at about 2.00 p.m. when we were coming back from my school in the van and when the van reached near Kali Mata Mandir, the van driver bhaiya Anuj said me that he will tell me how to change the gears. Then he put my hand on his pant at "shu shu wali jagah" and asked me to press his shu shu as one presses the gear. Thereafter, he threatened me not to tell it to anyone or else he will kill me. Thereafter, after reaching home, I informed my mother about the	three years before this case. Prior to this incident, Anuj bhaiya never tried to commit any such act with me. It is wrong to suggest that Anuj bhaiya used to treat me like a younger sister. When Anuj bhaiya came to our house after my mother called the principal, he said that he had not done any such act with me. Apart from me, 18-19 more students were also travelling in the said van to the school. None of those students ever told me about any act of misbehaviour with them by the accused. Accused used to pick me at around 7.00 a.m. When accused used to pick me, there was no student in the van. The second stop was the next gali of my house and from there one girl used to board the van. My house is at a distance of 10-15 minutes from the place of incident. No other student near my house used to take the van of the accused. Accused used to pick and drop me at the corner of the gali and my house was at a short distance from there. My school get over

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	incident on which she got angry and called the principal of my school on phone. After some time, Anuj bhaiya came to our house and my mother slapped him. My mother called the police who came and we all went to PS. Accused was also brought to PS separately by the police. *…* *I can identify the accused, if shown to me.* *At this stage, witness has correctly identified the accused on being seen him on LCD screen.* *Police did not take me to the place of incident, however I have told the police about the place of incident.*	*at 1.30 p.m. Students of one more school were also carried by the accused with us. Four students used to sit on the front seat along with the driver seat. My school is upto class-VIII and students upto class-V were ferried by the accused in his van. Students using the van were not sitting at a particular seat and used to change the seat. I generally used to sit in the back seat in the van.* *The van charges were Rs.500/- per month. It is wrong to suggest that my parents were defaulter in paying the van charges and when the accused demanded his dues, he has been falsely implicated in this case. It is wrong to suggest that I am deposing falsely.*

27. The above record shows that the prosecutrix has given a clear and specific account of the incident. She categorically stated that on 14.02.2018, while she was returning from school in the van driven by the appellant, the latter, under the pretext of teaching her how to change gears, placed her hand on his private part and asked her to press the same as one presses the gear. She further deposed that the appellant threatened her with dire consequences in case she disclosed the incident to anyone. Her testimony, therefore, not only describes the specific act committed by the appellant but

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also explains the circumstances in which the incident occurred.

28. A perusal of the cross-examination of PW-1 reveals that despite extensive questioning, nothing material could be elicited to discredit her version or shake the credibility of her testimony. Rather, she remained consistent with respect to the essential particulars of the occurrence, including the date and approximate time of the incident, the identity of the appellant, the pretext under which the act was committed and the nature of the act itself. The suggestions put to her regarding the alleged dispute over van charges and false implication were specifically denied. No material contradiction or inconsistency could be elicited which would go to the root of the prosecution's case.

Corroboration by the Mother of the Victim

29. The testimony of the victim (PW-1) also finds corroboration from her mother (PW-3), who has deposed about the circumstances immediately following the incident and the disclosure made by the victim. In this regard, it would be apposite to refer to the relevant portion of her testimony, which reads as under:

> *"On 14.02.2018 at about 2.00 p.m., accused dropped my daughter outside the gali. I saw that my daughter was coming while weeping. On inquiry, she told me that "aaj bhaiya ne mere saath badtamiji ki". I further made inquiry from her and asked her to explain what badtamiji was done by the accused then she told me that when all the children were dropped and bhaiya was bringing me back to home, on the way near Q-Block when they reached near public dustbin(khatta), accused Anuj asked the victim child to teach how to put gear in the gear and he suddenly dragged her towards him and put her*

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hand on his private part. Thereafter, he put his hand on her hand and started pressing it. My daughter further told me that accused threatened her not to disclose about this to anyone else she will be killed. I immediately called my husband at Noida who advised me to call the Principal and thereafter to the police. Accordingly, I called the Principal and within 10-15 minutes, accused came to my house and started saying that he is innocent and victim was telling a lie. I slapped him and apprehended him and called the police at 100 number. Police came to my house and took the accused along with them. Police asked me to reach the PS with my daughter. I reached there where Principal of the school was also called."

30. A perusal of the aforesaid testimony reveals that PW-3 has materially corroborated the version of the victim, particularly with respect to the latter returning home in a distressed condition and immediately disclosing the incident to her. Her testimony further lends assurance to the prosecution's case regarding the sequence of events that followed the disclosure, including the prompt approach to the school principal and the police.

31. Thus, the testimony of PW-3 provides further assurance to the otherwise consistent and trustworthy testimony of the victim.

Defence of False Implication

32. The principal defence raised by the appellant is that he has been falsely implicated on account of an alleged dispute with the mother of the victim over payment of van fare charges, particularly for the period of summer vacations. However, the said defence does not find support from the evidence on record. PW-3, during her cross-examination, specifically

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denied any such dispute and voluntarily stated that all van drivers charged in the same manner and, therefore, no quarrel had ever taken place between her and the appellant on that account. She also denied having reprimanded the appellant either for demanding additional charges or for arriving late to pick up her daughter. Relevant part of her Cross-examination is produced below:

> *"...I used to ferry charges of Rs.500/- per month to the accused. Earlier my son was also used the services of the said van for one year and I used to give Rs.500/- as ferry charges to the accused for my son also. My son went in the said van only for one year and thereafter he got admitted in KVS at TP Block, Pitampura. It is wrong to suggest that I had a dispute with the accused over payment of ferry charges for the period of summer vacations. Vol. All van driver charges same and hence no quarrel ever took place between me and the accused over this issue..."*

33. Further, PW-1, during her cross-examination, also denied the suggestion that her parents were defaulters in payment of van charges and that the appellant had been falsely implicated when he demanded his dues. The defence, therefore, remained confined to suggestions put to the prosecution witnesses, without any substantive material being brought on record in its support.

Discussion on Section 9 (m) of the POCSO Act punishable u/s 10 of the POCSO Act:

34. The offence under section 9 (m) of the POCSO Act has been defined as:

> *"9. Aggravated sexual assault.—(m) whoever*

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> *commits sexual assault on a child below twelve years; or"*

Further Section 7 of the POCSO Act defines sexual assault as:

> *"7. Sexual assault.—Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault."*

35. The offence punishable under Section 10 of the POCSO Act is attracted when the act of sexual assault, as defined under Section 7, is committed in any of the aggravated circumstances enumerated under Section 9. In the present case, the prosecution has successfully established the ingredients of the offence falling under Section 9(m) read with Section 10 of the POCSO Act. The testimony of PW-1 (victim) establishes that the appellant made her touch his penis under the pretext of teaching her how to operate the gears of the van, thereby satisfying the ingredients of sexual assault under Section 7 of the Act. Further, the age of the victim, as already discussed, stands established to be approximately 10 years on the date of the incident, thereby attracting the aggravated circumstance contemplated under Section 9(m). The testimony of PW-1, which has remained consistent and trustworthy, also finds assurance from the testimony of her mother (PW-3) regarding the immediate disclosure and the circumstances following the incident.

36. On a cumulative consideration of the testimony of PW-1, her statement recorded under Section 164 Cr.P.C., the surrounding

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circumstances and the other evidence led by the prosecution, the statutory presumption under Section 29 of the POCSO Act, this Court finds that the learned Trial Court has correctly appreciated the evidence and arrived at the conclusion that the appellant had committed sexual assault upon the victim. The findings recorded by the learned Trial Court do not suffer from any perversity or material infirmity warranting interference by this Court.

37. This Court also notes that the appellant was entrusted with the responsibility of driving the vehicle used for transporting the prosecutrix. A school van driver is entrusted with the safety and well-being of children, much like a parent entrusts the care of their child to him. The children, in turn, repose their trust in the driver, who is responsible for safely ferrying them from their homes to school and back. Such a heinous act is wholly unbecoming of the trust and responsibility reposed in a person holding such a position. Sexual assault is a grave and reprehensible offence and cannot be countenanced under any circumstances.

CONCLUSION

38. In view of the foregoing discussion, the conviction of the appellant for the offences punishable under Section 10 of the POCSO Act, as recorded by the learned Trial Court, calls for no interference. The sentence imposed upon the appellant, including the direction for payment of compensation to the victim, also does not warrant interference, particularly in view of the nature, gravity of the offences, purpose behind the POCSO Act, and the circumstances of the victim.

39. Therefore, the appeal deserves to be dismissed. The pending application(s), if any, stand disposed of in the above terms

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40. Upon perusal of the record, it is noted that the sentence of the appellant was suspended *vide* order dated 24.04.2026, pursuant to which he was released on bail. In view of the dismissal of the present appeal and the upholding of the judgment of conviction and order on sentence, the appellant is directed to surrender before the concerned Jail Superintendent within a period of four weeks from today to undergo the remaining sentence. The appellant shall be entitled to the benefit of Section 428 CrPC in accordance with law.

41. A copy of this judgment be sent to the learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

42. The judgment be uploaded on the website forthwith.

MADHU JAIN

(JUDGE)

NOVEMBER 5, 2026/rm/gs

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