



2026:DHC:384



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

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Judgment Reserved on: 13.01.2026

Judgment pronounced on: 17.01.2026

+ CRL.A. 211/2017

BITTU @ RAJESH

.....Appellant

Through: Mr. S.B. Dandapani, Advocate.

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the State.

Ms. Sonakshi Singh, Amicus Curiae for the victim.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374(2) of the Code of Criminal Procedure, 1973, (the Cr.P.C.) the appellant, the sole accused, in S.C. No. 43/15 on the file of the learned Additional Sessions Judge-01, Rohini Courts, New Delhi, challenges the judgement dated 04.01.2017 and the order on sentence dated 09.01.2017 as per which, he has been convicted and sentenced for



2026:DHC:384



the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (the PoCSO Act) and Section 506 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that the appellant/accused intimidated PW2 and committed repeated acts of penetrative sexual assault on her inside their house at Village Ladhpur, Delhi, about 7–8 months prior to 03.02.2015. Due to the assault, PW2 conceived.

3. On the basis of Exhibit PW2/AFIS of PW2, given on 03.02.2015, Crime No. 97/2015, Kanjhawala Police Station, i.e., Ex. PW1/A, FIR was registered by PW1, SHO. PW7 conducted investigation into the crime and on the completion of the same, filed the charge-sheet/final report alleging commission of the offences punishable under Sections 376(2)(f), 377, 506 IPC and Section 4 of the PoCSO Act.



2026:DHC:384



4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under 207 Cr.P.C. After hearing both sides, the trial court as per order dated 18.03.2015, framed a charge under Section 506 IPC and under Section 5(j)(ii), (n) and (p) of the PoCSO Act and alternatively under Sections 376(2)(h)(n) and 377 IPC which was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs.1 to 15 were examined and Exhibits PW1/A-D, PW2/A-C, PW3/A-F, PW4/A, PW5/A-B, PW6/A, PW6/X, PW7/A-M, PW8/A, PW9/A-G, PW12/A and PW15/A were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313 Cr.P.C. The accused denied all the circumstances and maintained his innocence. According to



2026:DHC:384



him, he has been falsely implicated in the case by PW2 at the instance of PW6, her mother.

7. After questioning the accused under Section 313 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. versus State of Kerala, 2009 (3) KHC 89; 2009 SCC OnLine Ker 2888**). In the case on hand, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

8. The accused offered himself as a witness and hence, he was examined as DW1. According to DW1, PW6, his wife, was initially married to his elder brother who passed away. PW6,



2026:DHC:384



wanted to grab his share as well as his brother's share in the property. PW2 was having affairs with several boys in the locality. On 02.02.2015, he came to know that PW2 was pregnant. He scolded and beat her. This was objected to by PW6 and hence, she tutored PW2 who gave a false case against him. On 03.02.2015, he came to know that an allegation of rape has been leveled against him. On 04.02.2015, he was arrested, at which time, his blood had been taken in three vials, though he opposed the same. On 29.04.2014, he came to know that the vials of his blood had been planted as the blood vials of the deceased child by the Investigating Officer (I.O.).

9. On consideration of the oral and documentary evidence and after hearing both sides, the trial court, *vide* the impugned judgment and order on sentence, found the accused guilty of the offences punishable under Section 506 IPC and Section 6 of the PoCSO Act and accordingly sentenced him to undergo rigorous



2026:DHC:384



imprisonment for a period of 10 years under Section 6 of the PoCSO Act and to fine of ₹5,000/-, and in default of payment of fine, to undergo simple imprisonment for three months as well as to undergo rigorous imprisonment for a period of 3 years for the offence punishable under Section 506 of IPC and to fine of ₹1,000/-, and in default of payment of fine, to simple imprisonment for one month. The sentences have been directed to run concurrently. Benefit under Section 428 Cr.P.C has also been granted. Aggrieved, the accused has come up in appeal.

10. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the appellant/accused by the trial court are sustainable or not.

11. The learned counsel for the appellant/ accused fairly conceded that the materials on record does establish the prosecution case. However, on the said ground alone, this Court



2026:DHC:384



cannot dispose of the appeal because once an appeal is admitted, the Court is duty bound to dispose of the same on merits and hence, I proceed to do so.

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 about 7-8 months prior to 03.02.2015 at House No. 928, Village Ladhpur, Delhi. In Ex. PW2/A FIS, PW2 has stated that after the death of her father, her mother (PW6) married the accused, her paternal uncle after which they all started living together. Her mother and brothers used to leave for work in the morning and she was often alone at home. About 7-8 months back in the afternoon at around 1 PM when she was alone at home, the accused came home and after having his food, called her into his room to take the utensils. He then closed the door. With the heater wire, he gave electric shock to her. He



2026:DHC:384



threw her on the bed, after which he forcibly had physical relations with her. The accused threatened her that if she revealed the incident to anybody, he would kill her. Thereafter, whenever she was alone at home, the accused used to threaten her and forcibly have physical relations with her. She did not tell anyone out of fear. Her mother had suspicions and when her mother asked her, she told her everything. Her mother conducted a test at home and then it was found that she was pregnant. Hence, her mother informed the police.

13.1 In Ex. PW2/B, the Section 164 statement of PW2 recorded on 04.02.2015, she reiterates her case in the FIS. PW2, when examined before the trial court stood by her case in the FIS and her 164 statement.

13.2 PW6, the mother of PW2, deposed that after the death of her husband, she married the accused, her younger brother-in-law (dewar) after which he started residing with her. She used to



2026:DHC:384



leave for work early in the morning and return in the evening. Her sons also used to leave home for work for their respective work at which time PW2 would remain in the house. About a few months back, her daughter informed her that the accused had been doing wrong things to her daughter in her absence. When PW6 was asked to specify what she meant by “*galat kaam*”, she replied that the accused had forcibly established physical relations with her daughter. When she came to know of the same, she conducted a pregnancy test on her daughter. The test was positive and showed that her daughter was pregnant, pursuant to which she informed the police. PW6 also deposed that her daughter was taken to the Sanjay Gandhi Memorial (SGM) Hospital, Mangolpuri, Delhi, where the doctor informed her that her daughter was seven and a half months pregnant. Her daughter was admitted in the hospital and she delivered a baby boy. The boy died the next date.

13.3 PW4, Senior Gynae, SGM Hospital, Mangolpuri, Delhi,



2026:DHC:384



who examined PW2 and issued Ex. PW4/A MLC, deposed that PW2 was found 28-30 weeks pregnant and that PW6 had refused consent for PW2's internal gynecological examination.

13.4 PW11, Senior Pediatric, SGM Hospital, Delhi deposed that on 29.04.2015, he had taken the blood sample of the boy child, prepared Ex. PW7/H MLC and had handed it over to PW7, the I.O.

13.5 PW12, Senior Gynae, SGM Hospital, Delhi deposed that on 29.04.2015, PW2 was found to be seven months pregnant. PW2 delivered a baby. She prepared a detailed report which is Ex. PW12/A.

13.6 PW13, Senior Pediatric, SGM Hospital, Delhi deposed that he had prepared Ex. PW7/K death summary report of the baby child.

13.7 PW15, Assistant Director (Biology), FSL, Rohini deposed that he had prepared a detailed biological and DNA examination, i.e. Ex. PW7/M. He also prepared Ex. PW15/A data



2026:DHC:384



allelic chart. He opined that the DNA profiling was sufficient to conclude that the source of Ex. '1' (blood sample of the accused) was the biological father of the source of Ex. '3' (blood sample of the child). In the cross-examination, he deposed that DNA match profile is not 100 % accurate, but it is 99.99999% correct.

14. The testimony of PW1 and PW6 coupled with the medical evidence establishes the prosecution case. The testimony of PW1 and PW6 has not been disconnected in any way and, therefore, I find no reason(s) to disbelieve their version. The accused is admittedly the step father of PW2. Despite the same, the trial court has awarded only the mandatory minimum sentence of 10 years for the offence punishable under Section 6 of the PoCSO Act. The testimony of PW1 also establishes the offence under part I of Section 506 IPC and hence, no interference into the impugned judgment is called for.



15. The trial court has directed that compensation of ₹1,00,000/- (one lakh rupees) be granted to PW2. The Secretary, D.L.S.A, North West District, is directed to ensure that in case compensation has not been disbursed, the same shall be disbursed at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment.

16. In the result, the appeal *sans* merit is dismissed. Application(s), if any pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JANUARY 17, 2026