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

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Judgment Reserved on: 20.05.2026

Judgment pronounced on: 25.05.2026

+ **CRL.A. 1021/2017**

STATE (GOVT OF NCT OF DELHI)

.....Appellant

Through: Mr. Utkarsh, APP for the State with
SI Arvind, P.S. Gokalpuri.

versus

SAGAR @ RAVINDER

.....Respondent

Through: Mr. Nikhil Kapoor, Advocate .

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 378 of the Code of Criminal Procedure, 1973 (the Cr.P.C.), the appellant/State in Sessions Case No. 44257/2015 (Old SC. No. 89/2013) on the file of the Additional Sessions Judge (North-East), Karkardooma Courts, Delhi, assails the judgment dated 25.01.2016 as per which the sole accused has been acquitted of



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the offences punishable under Sections 341, 354A, 506 of the Indian Penal Code, 1860 (the IPC) and Sections 8 and 12 of the Protection of Children from Sexual Offences, 2012 (the PoCSO Act).

2. The prosecution case is that for 3 to 4 days before 08.05.2013, the accused had been repeatedly stalking and sexually harassing PW2, a minor girl aged about 13 years, whenever she stepped out of her house to visit her friends, or to attend school. Thereafter, on 08.05.2013 at about 9:30 PM, in front of House No. A-547, Gokalpuri, the accused wrongfully restrained PW2, held her hand with sexual intent, sexually harassed her, and threatened to kill her and commit suicide. Hence, as per the chargesheet/final report, the accused was alleged to have committed offences punishable under Section 8 of the POCSO Act and Sections 354A, 506 and 509 IPC.



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3. On the basis of Ext. PW2/A FIS/FIR of PW2, given on 08.05.2013, crime no. 182/2013, Gokal Puri Police Station, i.e., Ext. PW5/B FIR was registered by PW5, Head Constable (HC). PW8, Sub Inspector (SI), was entrusted with the investigation of the case. PW8 conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging commission of the offences punishable under the aforementioned sections.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, *vide* order dated 27.07.2013, framed a charge under Sections 341, 354A, 506 IPC and Sections 8 and 12 of the PoCSO Act, which was read over and explained to the accused to which he pleaded not guilty.



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5. On behalf of the prosecution, PWs. 1 to 8 were examined and Ext. PW1/DXA, Ext. PW2/A-D, Ext. PW3/DA, Ext. PW4/A-E, Ext. PW5/A-E, Ext. PW7/DA, and Ext. PW8/A-C 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 of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that PW7, the brother of PW2 was found attempting to steal a stereo from the car belonging to one of his family members. Though the matter was patched up, PW7, in order to take revenge, picked up a quarrel with him and thereafter got him falsely implicated in connivance with the police.

7. The accused examined himself as DW1. No documentary evidence was produced on behalf of the accused.



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8. 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.P.C. has caused any prejudice to him.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 25.01.2016, acquitted the accused under Section 235(1) Cr.P.C. of the offences punishable under Sections 341, 354A, 506 IPC and



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Sections 8 and 12 of the PoCSO Act. Aggrieved, the appellant/State has preferred this appeal.

10. The learned Additional Public Prosecutor appearing for the Appellant/ State submitted that the impugned judgment is contrary to the facts and circumstances of the case. The version of PW2 has remained consistent. Her testimony has not been discredited in any way and sufficient to establish the offences punishable under Sections 341, 354A and 506 IPC as well as Sections 8 and 12 of the PoCSO Act. Minor discrepancies in the testimony of the prosecution witnesses do not vitiate the case when the core of the prosecution story stands proved. Therefore, he submitted that the impugned judgment of acquittal be set aside, and the accused be convicted in accordance with the law.



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11. It was submitted by the learned counsel for the respondent/accused that there is no infirmity in the impugned judgment calling for an interference by this Court.

12. Heard both sides and perused the records.

13. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this court.

14. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW2/A, the FIS/FIR of PW2 recorded in hindi roughly translated reads thus:- *“I reside at the above-mentioned address with my family and study in 8th B class at Sarvodaya Kanya Vidyalaya, Gokulpuri, Delhi. I was ill for the last one to one and a half months, because of which I was not going to school. For the last 3-4 days, whenever I go to meet my friends Nisha and Kajal at their house in C-Block, Gokulpuri, this boy,*



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whose name and address is Sagar @ Ravindra (the accused), son of Jitendra, resident of C-243, Gokulpuri, Delhi, has been stalking me. He stops me on the way and says, "I love you and I will marry you," and says, "Become mine, otherwise I will give up my life." Today, on date 08.05.2013, during the night, when I was returning to my house from a shop after taking milk, via my friend Bharti's house, at around 9:30 PM in the night, when I reached the alley of my house, this boy Sagar @ Ravindra (the accused) called me and asked me to stop. I kept walking; He grabbed my hand. My brother Ombir, who was sitting outside my house, saw this. I forcibly freed my hand. When my brother ombir came and caught him, he [the accused] said, "I will stab you in the stomach with a knife and kill you." He also started hurling filthy abuses at me and my brother Ombir. My sister Deepali informed the police... "



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15. PW2, when examined before the trial court, deposed that for about four to five days prior to the incident, the accused had been following her whenever she used to visit the house of her friends at C Block, Gokalpuri. According to her, the accused used to tell her that he was in love with her, that he would marry her, otherwise he would commit suicide. The accused also used to say “I love you” and ask her to give him a kiss during the said period. PW2 further deposed that on 08.05.2013 at about 09:30 PM, when she was returning after buying milk, the accused caught hold of her hand outside her gali. She raised alarm, upon which PW1, her mother and PW7 her brother came. PW7 questioned the accused as to why he had caught hold of her hand, whereupon the accused threatened the former by saying that he would be stabbed. PW2 further deposed that PW3, her elder sister made a call to the police, following which the police arrived at the spot. PW2 further



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deposed that her mother and brother apprehended the accused and kept him in front of their house.

15.1. PW2, in her cross examination, denied the suggestion that PW7, her brother had been apprehended while attempting to steal a stereo from the car belonging to a member of the accused's family. PW2 also denied the suggestion that on 08.05.2013, PW7 had quarrelled with the accused and his family or that she had lodged a false complaint against the accused.

16. PW3, sister of PW2, deposed that though she did not remember the exact date of the incident, it had taken place about three to four months prior to her testifying before the court. According to her, at about 09:30 PM while she was inside her house, she heard some noises and so came outside. She then saw the accused holding the hand of PW2.



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17. PW7, brother of the victim, deposed that on 08.05.2013 at about 08:00/08:15 PM, while he was standing near his house, he heard the cries of PW2 whereupon he immediately rushed towards the adjoining street. Upon reaching there, he saw that the accused had caught hold of the hand of PW2. PW2 thereafter freed her hand by force. When he objected to the conduct of the accused, the latter started abusing him and also threatened to kill him. On hearing the commotion, his mother and PW3, his sister also reached the spot. Thereafter, they apprehended the accused and informed the Police.

18. PW1, mother of PW2 supported the version of the latter.

19. The accused when examined as DW1 deposed that on 08.05.2013, between 08:00 PM to 08:30 PM, some guests had come to his residence in an Alto car which was parked at a distance of about 100 to 150 metres from his house.



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After dinner, while he was taking a walk along with two to three other persons, he saw PW7 removing the stereo from the Alto car with the help of a screwdriver. On seeing this, he along with the others in his company pushed PW7 inside the car and closed the door. A quarrel ensued. In the meantime, somebody informed the police. The police arrived at the spot and took both of them to the police station. DW1 further deposed that that his mobile phone and other articles were seized by the police and so he was unable to inform his family. According to DW1, he was falsely implicated in the present case and his family members came to know about the matter only on the next day when he was being taken to the Court. DW1 deposed that he does not know the victim and that he had never committed any wrongful act against her.

19.1. DW1, in his cross examination, admitted that he had not given any written complaint to any higher police



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authority regarding the false implication or any complaint against PW7 for the attempt to steal the car stereo.

20. The Appellate Court under Section 386(1) Cr.P.C, may in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused may be retried or committed for trial, as the case may be, or find the accused guilty and pass sentence on him according to law. The general principles regarding the powers of the appellate court while dealing with an appeal against acquittal are :- firstly, the appellate court has the power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded. Secondly, the Code puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it, may reach its own conclusion, both on questions of fact and of law. Thirdly, various expressions, such as, “substantial and compelling reasons”, “good and sufficient



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grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail the extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with an acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion. Fourthly, an appellate court, however, must bear in mind that in the case of acquittal, there is a double presumption in favour of the accused, that is, (i) the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law, (ii) the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. Lastly, if two reasonable conclusions are possible on the



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basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court. (See **Babu Sahebogouda Rudragoudar and others v. State of Karnataka (2024) 8 SCC 149, Rajesh Prasad v. State of Bihar (2022) 3 SCC 471, Chandrappa vs. State of Karnataka, (2007) 4 SCC 415**).

20.1. As observed by the Apex court in **Ram Kumar v. State of Haryana, 1995 Supp (1) SCC 248**, the powers of the High Court in an appeal from order of acquittal to reassess the evidence and reach its own conclusions under Sections 378 and 379 Cr.P.C. are as extensive as in any appeal against the order of conviction. But as a rule of prudence, it is desirable that the High Court should give proper weight and consideration to the view of the trial court with regard to the credibility of the witness, the presumption of innocence in favour of the accused, the right of accused to the benefit of any doubt and the slowness



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of appellate court in reversing a finding of fact arrived at by a judge who had the advantage of seeing the witness. If the main grounds on which the trial court has based its order acquitting the accused, are reasonable and plausible, and the same cannot entirely and effectively be dislodged or demolished, the High Court should not disturb the order of acquittal.

21. Keeping the aforesaid facts in mind, I will consider whether there is any infirmity or perversity in the impugned judgment calling for an interference by this court. The trial court has framed Charge for the offences punishable under Sections 341, 354A and 506 IPC and Sections 8 and 12 of the PoCSO Act. Therefore, I will consider whether the materials on record, that is, the testimony of PW2, PW3 and PW7 establish the said offences. Section 354A IPC defines the offence of sexual harassment. The essential ingredients are: (i) the victim must be a woman; (ii) there must be unwelcome and



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explicit sexual conduct; and (iii) such conduct may include physical contact and advances involving sexual intent, a demand or request for sexual favours, showing pornography against her will, or making sexually coloured remarks. The prerequisite of the offence is in the unwelcome nature of the act coupled with sexual intent. The testimony of PW2, PW3 and PW7 does not make out any of the ingredients of Section 354A IPC.

22. Now coming to the offence contemplated under Section 506 IPC which deals with punishment for criminal intimidation. Criminal intimidation, defined in Section 503 of IPC, says that whoever threatens another with any injury to his person, reputation of property, or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that



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person is legally entitled to do, as the means of avoiding the execution of such threat, commits the offense of criminal intimidation. According to PW2, the prosecutrix, PW7, her brother on seeing the accused catching hold of her hand questioned the accused and then the accused threatened her brother that he would be stabbed. But PW7 seems to have a slightly different version. According to PW7, when he objected to the act of the accused catching hold of his sister's hand, the respondent/accused, started abusing him and also threatened to kill him. A mere threat by the respondent/accused would not be sufficient to attract the offence of criminal intimidation as contemplated under Section 503 IPC. The testimony of neither PW2 nor PW7 shows that by the alleged threat of the respondent/accused, any alarm was caused to PW7. Therefore, one of the essential ingredients of the offence of 506 IPC is also not seen made out.



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23. Now coming to Sections 8 and 12 of the PoCSO Act. Section 8 PoCSO deals with punishment for sexual assault, which is defined in Section 7 PoCSO. As per the said section, 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. Section 12 of the PoCSO Act provides punishment for sexual harassment, which is defined in Section 11. The essential ingredients of Section 11 are: (i) the victim must be a child below 18 years of age; (ii) the accused must engage in sexual harassment without physical contact; and (iii) such conduct may include making sexual remarks, gestures, showing pornography, or repeatedly communicating with sexual intent.



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24. None of the ingredients of the offences defined under Section 7 or Section 11 is made out from the testimony of PW2. At best, the offence of wrongful restraint as contemplated under Section 341 IPC can be said to have been committed. But, the view arrived at by the trial court is a plausible view and, in such circumstances, when an acquittal has been recorded by the trial court, the appellate court is not to interfere with the same unless the findings are perverse, manifestly erroneous or based on mis-appreciation of the material evidence on record. If, the view taken by the trial court is a plausible and reasonable view based on the materials on record, same does not warrant interference merely because another view is possible. (See **Chandrappa & Ors vs. State of Karnataka, (2007) 4 SCC 415**). No perversity or manifest error is seen in the impugned judgment.

25. Hence, the appeal *sans* merit, is dismissed



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26. Application(s), if any, pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 25, 2026/mj