



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment Reserved on: 19.01.2026**
Judgment pronounced on: 22.01.2026

+ CRL.A. 583/2024 & CRL.M.(BAIL) 1129/2024
MANNUAppellant
Through: Md. Aslam, Mr. Saroj K. and
Mr. Chirayu Sharma, Advocates.

versus
THE STATE (GOVT. OF NCT) OF DELHIRespondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Shubhanshu, P.S. Kalyanpuri.
Mr. Himanshu Anand Gupta
(DSLSA), Ms. Mansi Yadav,
Mr. Sidharth Barua, Ms. Navneet
Kaur, Mr. Shekhar Anand Gupta and
Ms. Shivani Rampal, 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 Code of Criminal Procedure, 1973 (the Cr.P.C.), the appellant, the sole accused, in SC No. 499 of 2017 on the file of the Special Court under the Protection of Children from Sexual Offences Act, 2012, (the PoCSO Act) East district, Delhi, assails the judgment dated 08.02.2023 and order on sentence dated 27.03.2023 as per which he has been convicted and sentenced for



the offences punishable under Section 6 of the PoCSO Act and Section 376(2)(f) of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that about 8 months prior to the registration of the crime, the accused committed penetrative sexual assault on PW1, a minor girl aged about 14 years multiple times at Jhuggi No.1070, 18 Block, Kalyan Puri, Delhi, thereby impregnating her. He also threatened her with dire consequences in case she did not accede to his demands. Hence, as per the final report/ chargesheet, the accused is alleged to have committed the offences punishable under Sections 363, 376, 506 IPC and Section 6 of the PoCSO Act.

3. On the basis of Ext. PW1/A, FIS of PW1 given on 30.06.2017, crime no. 219/2017, Kalyanpuri Police station, that is, Ext. PW11/B was registered by PW11 Head Constable (HC). PW12 Sub Inspector, conducted the investigation into the crime and on completion of the same, filed the charge-sheet/final report



alleging commission of 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 207 Cr.PC. After hearing both sides, the trial court as per order dated 23.10.2017, framed a charge under Section 376(2), 506 of IPC and Section 6 of the PoCSO Act, 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 Exts. PW1/A-B, PW2/X, PW3/A-B, PW5/A, PW6/A, PW7/A-B, PW9A-B, PW10/A-E, PW11/A-E, PW12/A-F, A/1-2, PW13/A-B, PW14/A were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313 CrPC regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and



maintained his innocence. He submitted that he had been falsely implicated since he scolded PW1 as she was maintaining friendship with a boy who used to visit her in his absence.

7. After questioning the accused under Section. 313 CrPC, compliance of Section 232 CrPC was mandatory. In the case on hand, no hearing as contemplated under Section 232 CrPC 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 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. No oral or documentary evidence was adduced by the accused.

8. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 08.02.2023 held the accused guilty of



the offences punishable under Section 376(2)(f) IPC and Section 6 of the PoCSO Act and hence sentenced him to undergo rigorous imprisonment for a period of 10 years for the offence punishable under Section 6 of the PoCSO Act and to a fine of ₹ 20,000/-, and in default of payment of fine, to undergo rigorous imprisonment for six months. Aggrieved, the accused has preferred this present appeal.

9. It was submitted by learned counsel for the appellant/accused that there exists a grave infirmity in the prosecution case inasmuch as, as per the testimony of PW13, on 02.08.2017 three sealed parcels bearing the seal of “LBS HOSP KP” were received at the office of FSL Rohini vide FSL No. 2017/13 5754, whereas on 23.02.2018 two sealed parcels bearing the seals of “LBS HOSP KR” and “CMO DHAS DELHI” were received at the office of FSL Rohini under the same FSL number. It was contended that this discrepancy clearly indicates planting or



tampering of samples and, consequently, PW13/A FSL report cannot be entirely relied upon to come to a conclusion.

10. *Per contra*, the learned Additional Public Prosecutor submitted that though PW1, the victim, had turned hostile, it was categorically admitted by her that her blood samples were taken, which fact stood duly corroborated by the testimony of PW15, the medical officer who had drawn the blood sample. It was further submitted that PW13/A FSL report, was duly proved by PW13. Reliance was placed on the dictum in **Mahipal v. State (NCT of Delhi), 2020 SCC OnLine Del 2721**, to canvass the point that conviction can be sustained solely on the basis of the DNA report even if witnesses turn hostile. It was thus contended that there is no infirmity in the decision of the trial court warranting interference by this Court.

11. Heard both sides.

12. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. The incident is alleged to



have taken place about 8 months before 30.06.2017, when the crime was registered. Exhibit PW1/A FIS of PW1, the victim was recorded on 30.06.2017. In the FIS, PW1 has stated thus:- "... A man named Mannu (the accused) has been living in a live-in relationship with my mother for the last 6 years. Mannu and my mother also have a daughter, Mahi, aged 2 years. About 8 months ago, at around 10:00 PM, Mannu forcibly did 'wrong things' (*galat kaam*) with me against my will. At that time, my mother was not at home. When I told him I would complain to my mother, Mannu threatened to kill me, saying I must do as he says. He held a knife to my neck, and so I was scared/frightened. Mannu forcibly did 'wrong acts' (*galat kaam*) with me several times in my mother's absence, due to which I became pregnant. When I told Mannu about this, he forcibly took me away from home and started living in Jai Bharti Camp, East Vinod Nagar. There, too, Mannu did 'wrong acts' (*galat kaam*) on me. Today, Mannu left me at my mother's hut and fled. My mother then informed the police.....".



13. PW1/B, the statement given by PW1 under Section 164 CrPC, is seen recorded on 01.07.2017. In the said statement PW1 has stated thus:- “While my mother was at my grandfather’s house for 10-15 days, Mannu assaulted me daily. Whenever I tried to tell my mother, he would terrify me by showing a knife or a blade. He threatened to kill my brother and said he would strangle my mother while she slept. Once, I had fever and Mannu gave me medicine that caused my whole body to swell. My mother found out and fought with him. On 06.05.2017, while my mother was out for getting medicine for the children, he kidnapped me and took me to a room in Vinod Nagar. We stayed there for about 2 months. Later, my mother found us. When I said I wanted to go with her, Mannu threatened to disfigure my face with a blade. He even repeated this threat inside the police station, saying he would disfigure both mine and my mother’s face. He then took me to his brother’s house in Block 21 and later to Trilokpuri. He refused to let me see my mother. This past Tuesday, I managed to run away and reach my



mother. He followed me there and tried to force me to leave with him again. He told my mother also to accompany him. When he returned that night and continued threatening us, we called the police.....”.

14. However, when PW1 was examined before the trial court she turned hostile and deposed that the accused had not done any wrong acts on her.

15. PW2, the mother of PW1 also turned hostile to the prosecution case. However, PW2 admitted that she had accompanied PW1 for medical examination at LBS Hospital, where she was informed that her daughter was pregnant and that her daughter gave birth to a male child in July 2017.

16. PW15, Casualty Medical Officer, LBS Hospital deposed that on 29.07.2017 at 12.45 PM, PW1 aged about 14 years was brought to hospital by the police for her medical examination and for taking blood sample. He had drawn the blood sample of the victim. The



sample was sealed with the seal of the hospital and he had handed it over the same to the IO Ex. PW12/E is the report prepared by him.

17. PW13, Assistant Director (Biology), FSL Rohini, who conducted the DNA research and prepared the Report marked as Ext. PW13/A deposed that on 02.08.2017, he had received 3 sealed parcels with the seal of 'LBSHOSP KP' in the office of FSL Rohini vide FSL No. FSL NO.2017/13-5754. On 23.02.2018, he received two sealed parcels with the seal of 'LBSHOSP KR and 'CMO DHAS DELHI' in the office of FSL Rohini vide FSL No. FSL NO. 2017/13-5754 (FM). He conducted DNA examination upon which DNA profiling (SIR analysis) were performed. The sample was found sufficient to conclude that the source of Ex.4 (blood sample of accused) and Ex.5 (blood sample of victim) are the biological father and mother of the source of Ex.2 (blood sample of baby boy). The report has been marked as Ex.PW13/A.

18. The fact that PW1 was a minor at the time of the incident is not disputed. The fact that she delivered a child is also not disputed.



Though PW1 has turned hostile to the prosecution case, she admitted that her blood sample as well as the blood sample of the child born to her had been collected. PW5 and PW15 have substantiated the fact that the blood samples of the victim and her child had been taken and handed over to the investigating officer. The accused has also admitted that his blood samples had been taken during the course of the investigation. PW12 deposed that he had entrusted the blood sample of PW14, who, in turn, sent the samples to the FSL through PW9 *vide* Ex. PW9/A. PW9 handed over the blood sample to the FSL *vide* acknowledgment marked as Ex. PW9/B. PW13 conducted the DNA examination on the samples and concluded in the report marked as Ex. PW13/A that the blood sample on examination showed that PW1 and the accused were the biological parents of the child born to PW1. PW1 when examined, admitted that she was pregnant when the police produced her in the hospital for examination. This fact is admitted by PW2 also. As noticed earlier, the testimony of PW1 that the accused was in a live



in relationship with PW2/ her mother has not been disputed. Therefore, the accused had access to PW1. Though PW1 and PW2 are hostile to the prosecution case, it is clear from the scientific evidence that the accused was responsible for the pregnancy of PW1. The testimony of PW13 to the effect that the examination of the blood samples showed the accused to be the father of the child born to PW1 has not been discredited in any way. In fact, there is practically no cross-examination of PW13. In such circumstances, I find no reason(s) to reject or discard the testimony of PW13 or the findings in this regard. In such circumstances, the finding of guilt of the accused by the trial court for the offences punishable under Section 376(2)(f) and 506 IPC and Section 6 of the PoCSO Act suffers from no infirmity calling for an interference by this Court.

19. In the result, the appeal *sans* merit is dismissed.

20. Applications, if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JANUARY 22, 2026/kd