



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR**

D.B. Criminal Appeal (DB) No. 41/2023

Manoj S/o Shankar, Aged About 36 Years, R/o Dolvariya Oda,  
Police Station Varda, District Dungarpur (Raj.)  
(At Present Lodged In Central Jail, Udaipur)

-----Appellant

Versus

1. State Of Rajasthan, Through PP
2. Smt. Manisha W/o Manoj Rot, B/c Meena, R/o Dolvariya Oda, Police Station Varda, District Dungarpur (Raj.)

-----Respondents

For Appellant(s) : Mr. Amardeep Lamba, Amicus Curiae  
For Respondent(s) : Mr. Rajesh Bhati, PP

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**  
**HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**  
**Judgment**

**Reportable**

**08/01/2026**

1. The instant appeal has been preferred under Section 374 (2) of Cr.P.C. by the appellant Manoj, S/o Shri Shankar against the judgment dated 14.11.2022 passed by the learned Special Judge, (*Protection of children from sexual offences Act, 2012*) Dungarpur in Sessions Case No. 78/2022 under Section 376(2), 376 AB of the Indian Penal Code And Section 6 of POCSO Act arising out of FIR No.60/2022, whereby the accused-appellant stands convicted for the offences mentioned below:-

Offence under Section	Imprisonment and Fine	In default of Fine
376(2) of IPC	Life Imprisonment & Fine of Rs.50,000/-	Further to undergo Six Months S.I.
376 AB of IPC	Life Imprisonment till death & Fine of Rs.50,000/-	Further to undergo Six Months S.I.
6 of POCSO Act	Life Imprisonment till death & Fine of Rs.50,000/-	Further to undergo Six Months S.I.



2. Brief facts for deciding the present appeal are that complainant "M" (Mother of Victim) submitted a handwritten report (Exhibit P-5) dated 17.08.2022 to the Station House Officer of *Vardha* Police Station. In the report, she stated that on 11.08.2022, at about 10:00 a.m., on account of the *Raksha Bandhan* festival, she left her three daughters, three sons, and her husband Manoj at home and went to *Deval Phala Batka* to tie rakhis to her brothers, where she stayed for two nights. On 13.08.2022, at around 6:00 p.m., when she returned home, her eldest daughter, a student of Class VII, whose date of birth is 04.12.2010, started crying upon seeing her. When she enquired about the reason, her daughter "Ro" in tears disclosed that, on 12.08.2022, at about 10:00 p.m., her father had removed her clothes, lay on top of her, and committed rape upon her. Upon hearing this, the complainant became frightened and slept with her children. The next morning, her husband Manoj left for Dungarpur for work. Thereafter, her daughter "Ro" again informed her, while crying, that her father had raped her on two earlier occasions when the complainant had undergone a surgical operation, and had also threatened and intimidated her, due to which she had not disclosed the incident to anyone. Upon hearing this, the complainant took her daughter "Ro" to her maternal home at *Deval Phala Batka*, left her at her uncle's house, and returned home. On 17.08.2022, her elder brother 'A' brought her daughter 'Ro' to her house at *Dolwariya Oda*. Thereafter, the complainant, along with her daughter 'Ro' and brother 'A' came to



the police station to lodge the present report for necessary legal action.

3. On the basis of the above written complaint, a formal FIR No.60/2022 (Exhibit P.06) was registered at Police Station, Vardha, Dungarpur against the accused for the offences 376AB of the Indian Penal Code and Sections 5(L) (M) (N) / 6 of the Protection of Children from Sexual Offences Act, 2012

4. After completion of investigation, police filed a charge-sheet against the accused-appellant for the offences under section offences 376(2), 376AB of the Indian Penal Code and Sections 5(L) (M) (N)/6 of the Protection of Children from Sexual Offences Act, 2012.

5. Learned Trial Court framed, read over and explained the charges under Sections 376(2), 376AB of the Indian Penal Code and Sections 5(L) (M) (N) / 6 of the Protection of Children from Sexual Offences Act, 2012 the accused-appellant, who denied the charge and sought trial.

6. During the trial, the prosecution examined as many as 15 witnesses. In support of its case, the prosecution also produced documentary evidence, Exhibits P-01 to P-42.

7. The statement of the accused-appellant was recorded under Section 313 Cr.P.C. He denied all incriminating circumstances put to him, stating that the prosecution witnesses had deposed falsely due to marital discord with his wife and that he was innocent. The accused-appellant did not lead any defence evidence, and the defence evidence was accordingly closed.



8. Learned Trial Court, after hearing the arguments advanced on behalf of both sides and upon appreciation of the oral and documentary evidence brought on record, convicted and sentenced the accused-appellant as aforesaid vide judgment dated 14.11.2022.

9. Hence the present appeal.

10. The learned Amicus Curiae, appearing for the appellant-accused, respectfully submit that the prosecution has failed to establish its case beyond reasonable doubt, despite relying on oral, documentary and circumstantial evidence.

11. Learned Amicus Curiae submits that the complainant admittedly had serious matrimonial disputes with her husband (Manoj). It is borne out from the record that the complainant never resided with the appellant and was desirous of obtaining a divorce, which was never consented to by the appellant-accused. Thereafter, with mala fide intention and ulterior motive, the complainant falsely implicated the appellant by fabricating facts and concocting a false story, leading to the registration of the present case.

12. Learned Amicus Curiae further submits that a bare perusal of the Forensic Science Laboratory (FSL) report and the DNA report unequivocally reveals that the results are negative and that the biological samples do not match with the appellant in any manner. Despite this crucial and exculpatory evidence being available on record, the learned court below, while passing the impugned order, has failed to consider and appreciate this vital aspect of the matter.



13. He further submits that the learned court below has completely ignored these material and relevant circumstances while passing the impugned order. The order thus suffers from non-application of mind, is perverse in nature, and is unsustainable in the eyes of law. Consequently, on this ground also, the impugned order passed by the learned court below deserves to be quashed and set aside.

14. Learned Public Prosecutor has opposed the submissions made by the counsel for the appellant and has supported the prosecution case set out before the trial court and he submits that there is no infirmity in the order passed by the learned trial court convicting the appellant under Section 376(2), 376 AB of the Indian Penal Code And Section 6 of POCSO Act vide judgment dated 14.11.2022.

15. We have considered the submissions made before this Court and have carefully examined the relevant record of the case, including the impugned order dated 14.11.2022.

16. A close scrutiny of the record reveals that the prosecution has successfully established its case beyond reasonable doubt. The testimony of PW-1, the victim "Ro", inspires full confidence. Despite her tender age, her evidence is natural, cogent, and consistent, and it bears the stamp of truth. Her competency to depose was duly assessed by the Court, and she answered questions intelligently and without tutoring. There is no material contradiction or embellishment in her statement. Being the victim of the crime herself, and there being no reason for her to falsely implicate her own father, her testimony constitutes the best



possible evidence of the occurrence. PW-1 victim has categorically narrated the incident of sexual assault committed by the accused-appellant Manoj on the night when her mother was not at home, as well as the earlier incident during the period when her mother had undergone surgery. Her account of threats, intimidation, and the circumstances under which the offence was committed clearly explains the delayed disclosure. The emotional state of the victim while deposing before the Court further lends assurance to the genuineness of her statement.

17. The testimony of PW-2, the victim's mother, fully corroborates the version of PW-1. She has consistently stated that upon her return home, the victim disclosed the incident to her, and thereafter she lodged the report. The delay in lodging the FIR stands satisfactorily explained, considering the social stigma, family circumstances, and the gravity of the allegation against the husband. Mere delay, in such circumstances, cannot be a ground to discard the prosecution case.

18. The medical evidence adduced through PW-9, Dr. Leena Dandore, EX P-02 further corroborates the prosecution case. The finding of a torn hymen and the medical opinion that the victim had been subjected to sexual intercourse strongly support the ocular testimony of the PW-1 victim. The medical evidence is consistent with the prosecution version and has not been effectively challenged by the defence.

19. In view of Section 114(a) of the Indian Evidence Act, once the victim has stated in her evidence that she did not consent to the sexual act, the presumption arises that she did not consent. In



the present case, the victim is a minor below 12 years of age, and therefore, the question of consent does not arise at all. The statutory presumption operates fully against the accused, and the accused has utterly failed to rebut the same.

20. The submission made by Amicus Curiae of false implication due to marital discord or an intention to obtain divorce is wholly unsubstantiated and remains a bald suggestion without any supporting evidence. No material has been brought on record to show any prior animosity or motive strong enough for the mother to falsely implicate her husband in such a heinous offence at the cost of her own minor daughter.

21. The legal framework governing the POCSO Act has progressively strengthened to serve as a robust safeguard against offences that imperil the sanctity of childhood. Under Section 29 of the Act, once the prosecution establishes the foundational facts, a statutory presumption of culpability operates against the accused. In the present matter, such presumption remained unchallenged and unrebutted. The testimony of the victim was consistent, cogent, and duly supported by medical evidence, without any trace of exaggeration or fabrication. The delay in reporting the incident stands satisfactorily explained, arising from sustained psychological trauma and continuous intimidation suffered by the victim, thereby lending further credibility to her account.

22. Sexual offences, particularly those perpetrated against children, inflict wounds that endure far beyond the immediacy of the act. The trauma suffered is not confined to physical injury but penetrates deeply into the psychological and emotional core of the







victim, eroding trust, security, and human dignity. Where the offender is the father—the very person entrusted as the child’s natural protector—the offence transcends ordinary criminality and assumes an abhorrent and grotesque character.

23. Crimes of such nature warrant the strongest judicial censure and the imposition of deterrent punishment commensurate with their gravity. Any indulgence or misplaced leniency extended towards such moral depravity would not only undermine the administration of justice but would amount to a grave abdication of the constitutional and statutory obligation to safeguard children from sexual exploitation.

24. Ancient wisdom encapsulates this foundational principle in the verse:

"यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः।;

यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रियाः॥."

— "where women are honoured, divinity flourishes; where they are dishonoured, all acts become fruitless."

25. This verse is not merely reflective of cultural ethos but resonates with the constitutional vision of dignity, equality, and respect for women. The dignity of women and children admits of no compromise, and the legal system cannot countenance repeated violations of that dignity under the pretext of misplaced sympathy or alleged procedural niceties.

26. Recently, the Hon’ble Supreme Court in the case of **Bhanei Prasad @ Raju Vs. State of Himachal Pradesh** reported in







**2025 INSC 934** in somewhat similar circumstances has held as under:-

*"13. When a father who is expected to be a shield, a guardian, a moral compass, becomes the source of the most severe violation of a child's bodily integrity and dignity, the betrayal is not only personal but institutional. The law does not, and cannot, condone such acts under the guise of rehabilitation or reform. Incestuous sexual violence committed by a parent is a distinct category of offence that tears through the foundational fabric of familial trust and must invite the severest condemnation in both language and sentence. The home, which should be a sanctuary, cannot be permitted to become a site of unspeakable trauma, and the courts must send a clear signal that such offences will be met with an equally unsparing judicial response. To entertain a plea for leniency in a case of this nature would not merely be misplaced, it would constitute a betrayal of the Court's own constitutional duty to protect the vulnerable. When a child is forced to suffer at the hands of her own father, the law must speak in a voice that is resolute and uncompromising. There can be no mitigation in sentencing for crimes that subvert the very notion of family as a space of security.*

*14. In such exceptional circumstances, this Court cannot rest content with the imposition of penal consequences alone. The arc of constitutional justice, particularly under Article 142, extends beyond punishment to encompass rehabilitation, reparation, and the affirmation of human dignity. As held in *Nipun Saxena v. Union of India*<sup>1</sup>, this Court accepted and directed the implementation of the "Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2018" framed by the National Legal Services Authority. Under the said Scheme, the maximum compensation prescribed for victims of rape is Rs.7,00,000/- (Rupees Seven Lakhs Only) which is to be enhanced by 50% in cases involving minor victims.*

*15. Having regard to the age of the victim at the time of the offence, the sustained nature of the*





*abuse, and the constitutional obligation to provide meaningful redress, we direct that a sum of Rs.10,50,000/- (Rupees Ten Lakhs and Fifty Thousand only) be paid to the victim as compensation as per the Scheme by the State of Himachal Pradesh in the peculiar facts of the case. Though the victim has now attained the age of majority, we are of the considered view that in order to protect her future interest, some amount if ordered to be kept in a fixed deposit, it would secure her best interest. Hence, we direct that a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) be kept in a fixed deposit in any nationalised bank for a period of 5 years in the name of the victim and she would be entitled to withdraw the quarterly interest. The balance, Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand Only) shall be paid to her by transferring the said amount to her account, the details of which shall be furnished by her to the Member Secretary, Himachal Pradesh State Legal Services Authority. It is needless to state that on maturity of the fixed deposit, the proceeds thereof shall be transferred to her account, and this process shall be monitored by the Himachal Pradesh State Legal Services Authority.*

**16.** *This Court reiterates that justice must not be limited to conviction, it must, where the law so permits, include restitution. In awarding this compensation, we reaffirm the constitutional commitment to protect the rights and dignity of child survivors, and to ensure that the justice delivered is substantive, compassionate, and complete."*

27. After considering the rival submissions and thoroughly evaluating the oral and documentary evidence brought on record, this Court is satisfied that the prosecution has proved beyond reasonable doubt that the accused Manoj committed rape of her minor daughter "Ro". The act committed by the accused is not only grave in nature but also reflects a complete betrayal of the



most sacred and natural relationship between a Father and Daughter.

28. In view of the discussions made above, we find this is a fit case for awarding compensation under the Compensation Scheme for "*Women Victims/ Survivors of Sexual Assault/Other Crimes, 2018*" framed by the National Legal Services Authority. Under the said scheme, the maximum compensation prescribed for victims of rape is Rs.7,00,000/- (Rupees Seven Lakhs Only). We therefore direct the State of Rajasthan to pay a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) to the victim as compensation pursuant to the Scheme of 2018.

29. In view of aforesaid observation, we find no infirmity or perversity in the concurrent findings of learned Special Judge (POCSO) below. Hence, impugned conviction dated 14.11.2022 is upheld.

30. Accordingly, the present Criminal Appeal is dismissed.

**(CHANDRA SHEKHAR SHARMA),J**      **(VINIT KUMAR MATHUR),J**

130-Kartik/Nitin/-