



2026:CGHC:21095-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1814 of 2018

Vishwanath Soni S/o Ram Dayal Prasad Soni Aged About 55 Years R/o Mayapur, Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Station- Ambikapur, District- Surguja, Chhattisgarh

... Respondent

For Appellant : Mr.Shakti Raj Sinha, Advocate

For Respondent : Mr. Ashish Shukla, Additional Advocate
General

Hon'ble Shri Justice Ramesh Sinha, Chief Justice and

Hon'ble Shri Justice Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, CJ

6/5/2026

1. This criminal appeal arises out of the judgment of conviction and order of sentence dated 24.11.2018 passed by the Additional Sessions Judge (F.T.C.), Surguja (Ambikapur) in Special Sessions Case (POCSO) No.05/2016, whereby the appellant has been convicted for offence under Sections 377 of the Indian Penal

Code (hereinafter called as "IPC") and Sections 5(l)/6, 5(m)/6 & 5(n)/6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter called as "POCSO Act") and sentenced to undergo RI for ten years and fine of Rs.500/-, in default of payment of fine to further undergo SI for one month under Section 377 of the IPC, imprisonment for life and fine of Rs.500/-, in default of payment of fine to further undergo SI for one month under Section 5(l)/6 of the POCSO Act, imprisonment for life and fine of Rs.500/-, in default of payment of fine to further undergo SI for one month under Section 5(m)/6 of the POCSO Act and imprisonment for life and fine of Rs.500/-, in default of payment of fine to further undergo SI for one month under Section 5(n)/6 of the POCSO Act.

2. The prosecution story, in brief, is that on 13.01.2014, almost two years before the information date 17.12.2015, the victim (PW-9) was taken to his house in Khairbar by her stepfather/accused at about 11.00 A.M. by promising her to do some work for him. After taking her inside the house, he opened his pant and forcibly put his urine into her mouth and made her suck it. After tying her mouth with a cloth, he removed her underwear and started putting his urine into her urinary tract, which caused excessive bleeding and pain. Thereafter, the accused, by threatening the victim, took her to a secluded place and raped her. Then, after a few days, on 09.12.2015, Manish Kushwaha (PW-6) of Child Line came to the school of the victim (PW-9) and told the victim and other children

that if anyone troubles them or does anything wrong to them, then tell him, they help everyone, then the victim (PW-9) told her friend Kalika Nagesia (PW-8) about the incident and gave it in writing to Nishi Madam. Thereafter, on 15.12.2015 at around 8.00 P.M., the accused / appellant took the victim to his house in Mayapur and was doing wrong things with her. At the same time, her brother Krishna Soni (PW-3) saw this and told Smt.Lalita Soni (PW-2) about the incident. Then the victim (PW-9) also told her mother Smt.Lalita Soni (PW-2) about the incident. When the mother of the victim (PW-9), Smt.Lalita Soni (PW-2) questioned the accused, he started threatening to kill her, due to which they did not report the matter. But Manish Kushwaha (PW-6) of Child Line had come to the school of the victim (PW-9) along with other people, to whom the victim (PW-9) told about the incident and went to Ambikapur police station along with her mother Smt.Lalita Soni (PW-2) and reported the matter.

3. On 17.12.2015, when the victim lodged a report against the accused / appellant at Ambikapur Police Station, Assistant Sub-Inspector Smt.Pushpa Tirkey (PW-10) registered First Information Report (Ex.P-16) and recorded the statement of the victim as per her instructions. Thereafter, she sent a written complaint (Ex.P-19) to the Sub-Divisional Magistrate, Ambikapur, seeking permission for medical examination of the victim. She also sent a written complaint (Ex.P-1A) to the lady doctor, District Hospital for medical examination. On the production of lady constable Silbina

Kujur No.303, the sealed slide prepared by the doctor after examining the victim in the presence of witnesses was seized as per seizure memo (Ex.P-20).

4. SDOP Pupalesh Kumar (PW-12) during the investigation on 18.12.2015 on the instructions of the victim and witnesses prepared the spot map as Exs.P-3 and Ex.P-4 respectively. The statements of witnesses Smt. Lalita Soni (PW-2), Krishna Soni (PW-3), Manish Kushwaha (PW-6), Kalika Nagesia (PW-8), Smt. Mamta Pandey (PW-7), Jawarani, Rakhi Tiwari, Abha Chandraves Singh, Aasma Dwivedi, Nishi Singh and Meena Sahu were recorded as per their statement. On 18.12.2015, memo Ex.P-21A was sent to the Medical Officer, District Hospital, Ambikapur for medical examination of the accused. For getting the medical examination of the victim (PW-9) done, consent of her and her mother was obtained vide Ex.P-2. The accused was produced before the witnesses in the arrest sheet Ex.P-22. According to Ex.P-22, he was arrested and information about the arrest was given to his family as per Ex.P-22A. On 21.12.2015, on sending memo Ex.P-11 to the Headmistress, Police Line School, Ambikapur regarding production of dakhil kharij register, on the production of Headmistress Smt. Mamta Pandey (PW-7), the attested copy of dakhil kharij register was seized in front of witnesses as per Ex.P-13C vide seizure memo Ex.P-12. For preparing the site plan of the incident, memo Ex.P-9 was sent to the Tehsildar, Ambikapur. For recording the statement of the victim

(PW-9) under Section 164 Cr.P.C., memo Ex.P-24 was sent to the Judicial Magistrate First Class, Ambikapur.

5. On 04.01.2016, SDOP Pupalesh Kumar (PW-12) on the production of Headmistress Smt. Mamta Pandey (PW-7) seized a page of a register Ex.P-14 in front of witnesses as per seizure memo Ex.P-23. On the production of the same by Manish Kushwaha (PW-6) in front of witnesses, documents and work details related to the awareness program of Child Line 1098 in the school Article-A, document regarding grant of permission for open forum program Article-A-2, details of proceedings of the program conducted by Child Line on 09.12.2015 Article-A-3 and documents related to the program conducted by Child Line on 17.12.2015 Article-A-4 and Article A-5 were seized as per seizure memo Ex.P- 10. On 13.01.2016, memo Ex.P-25 was sent to the District Hospital, Ambikapur through the Superintendent of Police, Surguja regarding the medical treatment of the victim. For getting the seized property chemically tested, draft Ex.P-26 was sent to Regional Forensic Science Laboratory, Ambikapur through Superintendent of Police, Surguja and receipt Ex.P-26 was obtained. The FSL report is Ex.P. 27. Thereafter, after completing the investigation in the case, a charge sheet was presented before the Central Filing Section, District and Sessions Court, Ambikapur, from where the Additional Sessions Judge (F.T.C.), Surguja (Ambikapur) received the case on transfer for trial.

6. The charges were framed against the accused / appellant by the learned Special Judge under Sections 376(2)(n), 377, 376(2)(f), 376(2)(i), 323, 506B of the IPC and Sections 5(l) read with Section 6, 5(m) read with Section 6 and 5(n) read with Section 6 of the POCSO Act, and were read and explained to him, he denied the charges and claimed trial.
7. In order to establish the charge against the appellant, the prosecution examined as many as 12 witnesses and exhibited 27 documents. The statement of the appellant under Section 313 of CrPC was also recorded in which he denied the material appearing against him. In his defence, the accused pleaded innocence and that he had been falsely implicated. In his defence, the defence witness, Smt.Chandraprabha Ambasht (DW-1), was examined.
8. After appreciation of evidence available on record, learned trial Court has convicted and sentenced the appellant as mentioned in para 1 of the judgment. Hence, this appeal.
9. Learned counsel for the appellant submits that the impugned judgment passed by learned Trial Court is wholly contrary to the facts, law, and circumstances of the present case and, therefore, is liable to be set aside. The findings recorded by the Trial Court are not only erroneous but also suffer from serious infirmities, as the same have been arrived at without proper appreciation of the evidence available on record. It is further submitted that learned

trial Court has failed to appreciate that the prosecution has utterly failed to prove the guilt of the appellant beyond all reasonable doubt. It is a settled principle of criminal jurisprudence that the burden lies heavily upon the prosecution to establish its case with cogent and reliable evidence. In the present case, the evidence led by the prosecution falls far short of this standard.

10. Learned counsel submits that there was hardly any reliable and trustworthy evidence on record to warrant the conviction of the appellant under the relevant provisions of the IPC. Learned Trial Court, however, proceeded to convict the appellant without there being sufficient legal evidence, thereby rendering the conviction unsustainable in law. It is also contended that the prosecution has failed to establish the guilt of the appellant in a consistent and convincing manner. The case of the prosecution suffers from inherent contradictions, inconsistencies, and improbabilities, which have not been properly appreciated by learned trial Court.

11. Learned counsel further submits that the statement of the victim suffers from material contradictions and infirmities, which go to the root of the matter. Such inconsistencies materially affect the credibility of the witness, and in absence of corroboration, the same ought not to have been relied upon for recording conviction. It is also submitted that the victim being a child witness, her testimony required careful scrutiny and cautious evaluation. Learned Trial Court failed to adopt the settled principles governing

appreciation of evidence of a child witness. In such circumstances, where the testimony is not wholly reliable and is riddled with inconsistencies, the appellant was entitled to the benefit of doubt, which has been wrongly denied. Learned counsel further submits that there is nothing on record except mere suspicion to connect the appellant with the alleged offence. The medical evidence, including the testimony of the prosecution witness doctor, does not conclusively support the prosecution case and rather creates doubt regarding the allegations. The medical report does not establish the occurrence of the alleged act in the manner stated by the prosecution, thereby weakening its case.

- 12.** It is also contended that an important prosecution witness has not supported the case of the prosecution, which further creates doubt regarding the veracity of the allegations. On the other hand, the defence has led evidence and produced documents which probabalize the innocence of the appellant and cast serious doubt on the prosecution story. These aspects have not been properly considered by learned Trial Court. Learned counsel submits that the entire case of the prosecution rests upon weak and unreliable testimonial evidence, which is insufficient to sustain a conviction. The possibility of false implication cannot be ruled out in the facts and circumstances of the case, and therefore, the appellant is entitled to acquittal. Learned counsel further submits that the testimony of the victim does not inspire confidence and cannot be

said to be of “sterling quality” so as to form the sole basis of conviction. It is a settled principle of law that while conviction can be based on the sole testimony of the victim, the same must be of unimpeachable character, wholly reliable, and free from material contradictions. In the present case, the statement of the victim suffers from significant inconsistencies, improvements, and infirmities, which go to the root of the prosecution story. The version put forth is neither consistent nor corroborated by the surrounding circumstances and medical evidence. Therefore, in absence of a credible and trustworthy testimony of sterling quality, it would be unsafe to sustain the conviction of the appellant solely on such doubtful evidence, and the appellant is entitled to benefit of doubt. In view of the aforesaid submissions, it is prayed that this Court may be pleased to allow the appeal, set aside the impugned judgment of conviction and order of sentence, and acquit the appellant of all charges.

13. On the other hand, learned Additional Advocate General appearing for the respondent/State opposes the submissions made by learned counsel for the appellant and submits that the trial Court has rightly convicted and sentenced the appellant, in which no interference is called for by this Court.

14. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

15. The first question for consideration before this Court would be, whether the Trial Court is rightly held that on the date of incident, the victim was minor?
16. When a person is charged for offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredients to prove such charge and the gravity of the offence gets changed when the child is below 18 years, 12 years and more than 18 years. Section 2(d) of the POCSO Act defines the "child" which means any person below the age of eighteen years.
17. In the present case, the prosecution has seized dakhil-kharaj register of the victim (Ex.P-13C), on which her date of birth is mentioned as 4.7.2006 and since defence has not challenged the documentary and oral evidence presented by the prosecution regarding the victim's date of birth being 4.7.2006, it is established that at the time of the incident, the victim is a minor girl below 18 years of age.
18. The next question for consideration before us is whether the appellant has committed rape on minor victim ?
19. Rape has been defined in Section 375 of the IPC as follows :
- "375. Rape.--** A man is said to commit "rape" if he--
- (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or

makes her to do so with him or any other person;
or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With her consent when, at the time of giving such consent, by reason of unsoundness

of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. With or without her consent, when she is under eighteen years of age.

Seventhly. When she is unable to communicate consent.

Explanation 1. For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1. A medical procedure or intervention shall not constitute rape.

Exception 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

20. The victim has been examined as PW-9. In para 1 of her deposition, the victim has stated that the incident occurred one year and six months ago. At that time, she was first studying at

Khairbar School and then studying in Class 4 at Police Line Ambikapur. After her father's death, she lived with her mother and brother at her grandmother's house in village Nagoi. After a few months, her mother, Lalita Soni, married the accused. After that, they lived happily with the accused for 15 days. After this, accused Vishwanath Soni started wrongdoing with her a little further from the school located near Chandni Chowk. Wrongdoing means the accused used to make her suck his panties after removing it and used to kiss every part of her body and if she did not do it then he used to beat her. When she used to say that she will tell the above to her mother then the accused used to say that he will either leave her mother or kill her. After that they used to do the same thing everyday. In another house of the accused which is built in Khairbar, the accused used to make her lie on top of him and after removing her and his panties he used to put her in the toilet place, this used to happen everyday and he used to beat her and did not let her go out of the house so that she do not tell anyone and he used to make her sweep, mop and wash utensils everyday. Even when he used to send her to school, he used to not let her meet anyone and had also instructed the madams to not meet anyone. After the holidays, he had told them not to let her go out, they will take her when they come.

21. In para 3 of her deposition, the victim has stated that when she return from school, he would make him change her dress and beat her severely. If she did not know how to read English, he

would beat her with a bamboo stick. When her mother and brother rented a separate room, the accused would visit her there too. Even there, when her mother went to work, he would make her suck his penis. She told her mother about this at night, and she said she would tell him when he returned. After that, her mother remained silent when he arrived. For for two or three days, she told her, but she did nothing. After that, the accused called them from their rented house and kept her, her mother, and her brother in the house he had built in Khairbar. He would not let them go out there, and he would do the same thing there. Then, from Khairbar, they returned to the accused's house in Chandni Chowk, Mayapur. From there, she would go to Police Line School for studies. Even there, the accused would make her remove her underwear and suck it.

- 22.** In para 4 of her deposition, the victim stated that she used to go to school for a long time. After that, Manish from Child Line came to the school and said, "Do not be afraid to tell him if any of the children are facing any problems. If anyone under 18 is out working, or if anyone in the family is doing something inappropriate with someone, tell him." He also told him to call 1098 and they would come pick her up. After two or three days of school, Manish Kushwaha Sir came to the middle school and left immediately, so she could not tell him anything. When he came to the Police Line School for a high school program, he was accompanied by a sister named Kusum. Gayatri Didi, who works

as a cook at the school, took her to that sister about the incident. After that, she told her about the incident.

23. In para 12 of cross-examination, the victim has deposed that when she lived in Mayapur house, she was a fourth-grade student at the Police Lines School. Her school hours were from 7:30 A.M. to 3:00 P.M. This was in 2015. After fourth-grade, she spent half her schooling at her home in the Police Lines and then the rest of her studies at the Girls' home. She has been living there since December, 2015. It might have been 16th or 17th. The accused lastly doing wrong things with her on 15th December and at his home and she told her mother. On that date, the accused removed his underwear and suck it and he did not do anything else that day. In para 15 of her cross-examination, the victim has denied that she did not listen to her mother and brother and got a false report written in the police station under the influence of the Child Line people.

24. The victim (PW-9) in her 164 CrPC statement (Ex.P-7) has stated that father Vishwanath Soni used to take her to his other house on the pretext of work and would make her suck his penis and do it in and out. On asking the victim the meaning of in and out, the victim said that he would put his penis in and out from the place where she used to urinate. Her father used to do this in the new house as well and at the place where she live. Her father has been doing this with her for the last two years. Whenever her father saw her,

he would keep kissing her. Her father used to say that it would be more fun when she grow up. Her father used to say that if she tell anyone then he will kill her. In para 4 of her statement, she stated that her father used to insert his urinator and pass it through, she used to feel a lot of pain and when she tried to shout, he used to tie her mouth with a cloth and asked her whether she felt good or not. When she used to say that it did not feel good, he used to beat her with a stick. He used to tell her that he would not leave her until milk type discharge occurs. He used to tell her to grow up a bit. Whenever she bled, he would wipe it with a wet cloth and throw it away. He used to hold her breasts the whole day. When the victim was asked the meaning of milk, the victim placed her hand on her chest and pointed.

25. Manish Kushwaha (PW-6) has stated in para 1 of his deposition that while he was posted at Child Line, whenever she received information through Child Line phone or other means about an orphan, victim, or missing child, he would present them before the Child Welfare Committee. In 2015, he conducted an awareness program at the same school where the victim studied, the Primary School Police Line. Subsequently, on 17.12.2015, he was conducting an open-air program next to the victim's school. During that program, the school cook informed him that the victim wanted to meet him. That day, he was accompanied by Balrampur Child Line staff member Jawarani, whom he had sent to speak to the victim. When Jawarani returned after meeting the victim, she

told him that the victim had told her that she was being raped by her stepfather for the last one year and she did not want to go home. In para 4 of her cross-examination, he admitted that he did not provide any written information to Meera Shukla regarding the above incident. The witness voluntarily stated that he was informed verbally. He does not know how many people work at my organization. The witness voluntarily stated that he is aware of the number of people working at Child Line. He further admitted that on 9.12.2015, their organization organized a program at the Government Primary School, Police Lines. He also admitted that the victim also studied at the school on that date. He admitted that the victim did not tell him anything about the incident, nor did she meet him. He does not know whether the victim was present on that date. On 9.12.2015, he informed the children at Police Lines School that if any nomadic child, orphan, or child who is a victim of exploitation is in trouble, they can inform their organization's toll-free number or directly. He also admitted that after the completion of the programme on 9.12.2015, their organisation had written the programme's agenda and it also contained details of the number of children present and the topics they were told about.

26. In the Indian society refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to

admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the sine qua non for conviction in a rape case. The observations of Vivian Bose, J. in **Rameshwar v. The State of Rajasthan (AIR 1952 SC 54)** were:

“The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge...”.

27. A victim of a sex-offence cannot be put on par with an accomplice.

She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must

attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the victim. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short 'Evidence Act') similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the Court is hesitant to place implicit reliance on the testimony of the victim it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the victim must necessarily depend on the facts and circumstances of each case. But if a victim is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discloses that the victim does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

28. The Supreme Court in the matter of **Ranjit Hazarika v. State of Assam, AIR 1998 SC 635** has held that the evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. It must not

be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice.

29. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have correlation with each and everyone of other supporting material such as the recoveries made, the weapons

used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

30. The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand, (2022) 5 SCC 419** has held as under:-

"17. Keeping in mind the aforesaid objects and to achieve what has been provided under Article 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be dealt with in a stringent manner and no leniency should

be shown to a person who has committed the offence under the POCSO Act. By awarding a suitable punishment commensurate with the act of sexual assault, sexual harassment, a message must be conveyed to the society at large that, if anybody commits any offence under the POCSO Act of sexual assault, sexual harassment or use of children for pornographic purposes they shall be punished suitably and no leniency shall be shown to them. Cases of sexual assault or sexual harassment on the children are instances of perverse lust for sex where even innocent children are not spared in pursuit of such debased sexual pleasure.

18. Children are precious human resources of our country; they are the country's future. The hope of tomorrow rests on them. But unfortunately, in our country, a girl child is in a very vulnerable position. There are different modes of her exploitation, including sexual assault and/or sexual abuse. In our view, exploitation of children in such a manner is a crime against humanity and the society. Therefore, the children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas.

19. As observed and held by this Court in **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745**, children need special care and protection and, in such cases, responsibility on the shoulders of the Courts is more onerous so as to provide proper legal protection to these children. In **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, it is observed by this Court that a minor who is subjected to sexual abuse needs to be

protected even more than a major victim because a major victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crimes against minor victims are not even reported as very often, the perpetrator of the crime is a member of the family of the victim or a close friend. Therefore, the child needs extra protection. Therefore, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a court of law.”

- 31.** On a careful and holistic appreciation of the entire evidence on record, this Court finds no merit in the present criminal appeal. The testimony of the victim (PW-9), when read in conjunction with her statement under Section 164 CrPC, reveals a consistent, cogent, and natural account of the incidents. Her deposition clearly establishes a continuous course of sexual abuse perpetrated by the accused, marked by threats, coercion, and physical violence. Despite a lengthy and searching cross-examination, no material contradiction or infirmity has been elicited which would shake the core of her version.
- 32.** The victim’s statements remain substantially consistent from the earliest point of disclosure to her deposition before the Court. The minor variations, if any, are trivial and do not affect the substratum of the prosecution case. Her conduct in initially withholding disclosure due to fear and subsequently revealing the abuse upon

gaining confidence through the intervention of Child Line personnel is both natural and in consonance with the behavioral pattern of child victims of sexual offences.

- 33.** The evidence of Manish Kushwaha (PW-6) further lends assurance to the prosecution case by establishing the circumstances under which the victim first disclosed the abuse. There is nothing on record to suggest any motive on the part of the victim to falsely implicate the accused, who was in a position of trust and authority as her stepfather.
- 34.** In light of the settled legal principles, the testimony of a victim of sexual assault, particularly a child, stands on a higher pedestal and does not require corroboration as a matter of law, provided it inspires confidence. In the present case, the victim's evidence qualifies the test of a "sterling witness". It is trustworthy, consistent, and withstands rigorous scrutiny. The surrounding circumstances and supporting evidence lend sufficient assurance to her version.
- 35.** Considering the totality of the facts and circumstances, this Court is satisfied that the prosecution has proved the guilt of the accused / appellant beyond reasonable doubt. The findings recorded by the Trial Court are well-reasoned and based on proper appreciation of evidence, warranting no interference.
- 36.** In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all

reasonable doubts against the appellant. The conviction and sentence as awarded by the Special Judge to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.

37. The appellant is on bail. His bail bonds are cancelled and sureties discharged. He shall surrender within four weeks from today before the concerned trial Court for serving remaining sentence as awarded by the Trial Court, failing which he shall be taken into custody by the Trial Court and sent to jail.

38. Registry is directed to send a certified copy of this judgment along with the original record of the case to the trial court concerned forthwith for necessary information and compliance and also send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court, if so advised, with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

HEAD-NOTE

The testimony of the minor victim, if found cogent, consistent, and trustworthy, is sufficient to form the basis of conviction without the need for independent corroboration. Where the evidence withstands cross-examination and inspires confidence, it must be accorded full evidentiary value.