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		Exh.	46

FORM -A

IN THE COURT OF SPECIAL JUDGE (POCSO) & ADDITIONAL SESSIONS JUDGE, JAMNAGAR [Date of the Judgment : 01/06/2026] SPECIAL POCSO CASE No.19 OF 2024 Jamjodhpur Police Station I-CR No.11202026240212 of 2024	
Complainant	The State of Gujarat
Represented by	Ld. APP Ms.B.V.Vadi for the State
Accused	Bijalbhai Arjanbhai Karotara Aged : 42 Years, Occupation : Labour R/o. Mahiki Sim Area, Near Khodiyar Mata Temple, Taluka Jamjodhpur, District Jamnagar.
Represented by	Ld. Adv. Mr.R.V.Raval for the accused (Legal Aid Defence Counsel)

FORM -B

Date of offence	01.01.2021 to 27.03.2024
Date of FIR	27.03.2024
Date of Charge-sheet	10.05.2024
Date of Framing of charges	27.03.2025
Date of commencement of evidence	26.05.2025
Date on which judgment is reserved	14.05.2026

Date of the Judgment	01.06.2026
Date of the Sentencing Order, if any	Not applicable

ACCUSED DETAILS

Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence imposed	Period of detention Undergone during Trial for purpose of Section 428 Cr.PC
Bijalbhai Arjanbhai Karotara	28.03.2024		U/s.354-A(1)(i), 376(2)(j)(k)(l), 323, 498(A) and Section 506 of the Indian Penal Code and Section 4, 6, 8 and 12 of the POCSO Act.	Acquitted	--	

FORM – C

(A) Prosecution Oral Evidence:-			
Rank	Name of the Witness	Nature of Evidence	Exh.
PW-1	Minor Victim	Victim	09
PW-2	Mother of Victim	Complainant	10
PW-3	Dr.Darshana Madhukarbhai Uturkar	Medical Officer	14
PW-4	Dr.Parita Hiteshbhai Minipara	Medical Officer	21
PW-5	Pareshbhai Rameshchandra Jani	Panch witness	26
PW-6	Dr.Jay Shaileshbhai Badiyani	Medical Officer	30

PW-7	Dr.Benny Kardoj	Doctor	32
PW-8	Yuvrajsinh Jagdishsinh Vaghela	I.O.	35
PW-9	Vijaysinh Parbatsinh Parmar	P.I.	42
(B) List of Documentary Evidence of Prosecution:-			
Sr. No.	Exh. No.	Description	
1.	11	Complaint/FIR	
2.	15	Certificate	
3.	16	Yadi by P.I. Jamjodhpur for medical examination of victim	
4.	17	Yadi by P.I. Jamjodhpur for medical examination of victim	
5.	18	Yadi to get medical certificate of victim	
6.	19	OPD Case papers of victim	
7.	20	Sonography report	
8.	22	Yadi for medical examination of accused	
9.	23	Medical certificate of accused	
10.	24	Certificate of victim (Female)	
11.	25	Sample collection form of accused	
12.	27	Spot Panchnama	
13.	28	Arrest panchnama and state of body of accused	
14.	31	Case papers of victim	
15.	33	Yadi to get medical certificate of victim	
16.	34	Certificate	
17.	36	Yadi to Krishna Hospital to know the birth date of victim	
18.	37 & 38	Yadi to appoint government panch	

19.	39	Yadi for medical examination of victim
20.	40	Yadi to make entry in the station diary
21.	41	Yadi to record statement under Section 164 of Cr.P.C. of victim
22.	43	Yadi to registered complaint
23.	44	Yadi for investigation for the offence of other district

(C) Defence Witness:-

Rank	Name of the Witness	Nature of Evidence	Exh.
--	NIL		--

J U D G M E N T

1. The accused is facing charge of Sections 354-A(1)(i), 376(2)(j) (k)(l), 323, 498(A) and Section 506 of the Indian Penal Code and Section 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act ("POCSO Act" for short) and the charge was framed against the accused vide Exh.07.
2. The case of prosecution in nutshell is that during the marriage life, the accused time and again used to taunt and beat the complainant and was harassing her mentally and physically and during the time between 01.01.2021 to 27.03.2024, the accused had molested his minor daughter by putting a finger in private part of victim daughter and threatened the complainant. Hence, an FIR came to be registered against the accused.
3. After registration of an FIR, investigation was commenced. The Investigating officer firstly visited the place of offence and then accused was arrested. The Investigating Officer had

recorded statements of witnesses, drawn various panchnamas. Upon finding sufficient evidence, the charge-sheet was filed before the Special Court, Jamnagar, which has been registered as POCSO Case No.19/2024.

4. The copies of final report were supplied to accused and the Ld. APP and Ld. Advocate for accused were heard on point of charge and upon finding *prima facie* case against the accused, the charge vide Exh.07 was framed against him for the offences punishable under section 354-A(1)(i), 376(2)(j)(k)(l), 323, 498(A) and Section 506 of the Indian Penal Code and Section 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act. The charge was read over and explained to accused, to which, he pleaded not guilty and claimed to be tried vide his statement Exh.08 as envisaged under section 228 of Criminal Procedure Code.
5. In order to prove the case against the accused, prosecution examined as many as 09 witnesses and produced various documentary evidences and thereafter closed its evidence vide closing pursis Exh.45. Thereafter, with a view to grant all opportunities, the statement of accused was recorded under section 313 of Criminal Procedure Code, wherein the entire incriminating evidence was put before him, but he denied the same and stated that false complaint has been filed against him and he has not committed any offence and he is innocent.
6. Ld. A.P.P. Ms.B.V.Vadi for the State has vehemently submitted that the prosecution has proved its case beyond all reasonable doubts. It is submitted that the prosecution has

successfully proved that the victim was minor at the time of incident. It is submitted that perusing the evidence of complainant, it appears that on the day of deposition which has been recorded on 09.06.2025, she stated that victim was 05 years 05 months old and the said incident had occurred in between 01.01.2021 to 27.03.2024 and hence, the victim was minor at the time of incident. It is submitted that the evidence of victim is corroborated by the evidence of complainant i.e. mother. It is submitted that various doctors have been examined by prosecution, who all have supported the case of prosecution. It is lastly submitted that the prosecution has successfully proved its case beyond all reasonable doubts and hence, prayed to convict the accused.

7. The learned advocate Mr.R.V.Raval (LADC) appeared for the accused and submitted that the prosecution has utterly failed to prove its case beyond all reasonable doubts. It is stated that there is no cogent evidence for ascertaining the age of victim. It is further stated that the evidence of victim is full of contradictions. It is submitted that the evidence of victim is required to be evaluated carefully as the same is very shaky. It is further stated that the incident had been occurred prior to 7 months of 21.03.2024 and the complaint has been lodged on 27.03.2024 and no explanation has been given by the complainant for lodging the delay FIR. It is submitted that the doctors have examined victim at belated stage and hence the same cannot be looked into as evidence. Based on above submissions, it is prayed to acquit the accused.

8. Upon hearing arguments and considering the facts and circumstances of the case, following issues arise before me.

ISSUES

- (1) Whether the prosecution proves that on the date of incident, victim girl was minor ?
- (2) Whether prosecution proves that during the marriage life, the accused time and again used to taunt and beat the complainant and was harassing her mentally and physically and during the time between 01.01.2021 to 27.03.2024, the accused had molested his minor daughter by putting a finger in private part of victim daughter and threatened the complainant and thereby committed offences punishable under Sections 354-A(1)(i), 376(2)(j) (k)(l), 323, 498(A) and Section 506 of the Indian Penal Code and Section 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act ?
- (3) What order ?

9. **My answer to the aforesaid issues are as under:**

- (1) In Affirmative.
- (2) In Negative.
- (3) As per final order.

REASONS

Issue No.1 :-

10. As per sections (2)(d) of POCSO Act, the prosecution is required to firstly prove that the victim was below 18 years when the offence was committed. Before discussing the

evidence on record with regard to age of victim, following provisions and pronouncements are required to be considered.

Juvenile Justice Care and Protection of Children Act, 2015.

S.94 Presumption and determination of age.

(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining-

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

The Hon'ble Apex Court in case of Jarnail Singh vs State of Haryana, (2013) 7 SCC 263, held that :-

“Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a

victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.”

11. Keeping in mind the above referred provision and judgment of Hon'ble Apex Court, if the evidence of the case is seen then in this case, the prosecution has failed to produce any documentary evidence with regard to birth proof of victim. But the **complainant** who is examined as **PW-2 vide Exh.10 – mother of victim** has stated that the present age of victim daughter is 05 years, 05 months. She did not state the birth date of victim but stated that she had produced birth certificate of

victim at the time of complaint, however, no such certificate has been brought on record by prosecution.

The **victim who is examined as PW-1 vide Exh.09** who has stated her birth date as 05th date and 05th month but did not state the year. However, perusing the complaint, the complainant has narrated the birth date of victim as 29.01.2019.

Dr.Darshana Madhukarbhai Uturkar, who is examined **as PW-3 vide Exh.14** had examined the victim. She deposed that the victim was 05 years, 2 months old which is stated in certificate vide Exh.15. In medical papers produced vide Exh.19, the age of victim is mentioned as 04 years as on 12.04.2024.

Dr.Parita Hiteshbhai Minipara, who is examined **as PW-4 vide Exh.21** has also stated the age of victim as 04 and half years. Based on above evidence, it appears that though prosecution has failed to produce any documentary evidence with regard to age of victim, it appears from the medical certificates and complaint, that the victim was 4 to 5 years old at the time of filing of complaint. Moreover, the defence has not disputed that the victim was not minor at the time of incident. Therefore, I hold that the victim was minor at the time of incident and hence, I answer issue No.1 in **Affirmative**.

ISSUE NO. 2

12. As per settled principle of law, the prosecution has to prove its case beyond all reasonable doubts, whereas, the accused has to

raise probable defence. However, in the POCSO Act vide sections 29 & 30, mandatory presumption is required to be drawn against the accused. But such presumption would be drawn only when the prosecution successfully proves its basic case against the accused. Considering above principle of law, the evidence of prosecution is discussed as below.

13. In this case, it would firstly be relevant to refer the deposition of **complainant, who is mother of victim examined as PW-2 vide Exh.10**. As per her evidence, she married to accused and out of her wedlock, she was having two children, out of whom one is expired and the other is victim who is 05 years 05 months old. She stated that her husband i.e. accused was not keeping her well and hence she went to her matrimonial home and after the birth of victim daughter, he had forcefully taken her at his home and used to harass her. She stated that when victim was able to understand everything at the age of three and half years, she had spoken about the incident. Firstly, the complainant did not believe but when she herself saw that the accused was putting finger in private part of victim in night hours, she came to know about the incident. Thereafter, the accused was beating the victim and hence, complainant had left for her maternal home with her daughter. As per her evidence, she had firstly given a complaint before Kamlabaug Police Station, Porbandar which was registered as '0' number and thereafter, the same was forwarded to Jamjodhpur Police Station, Jamnagar. The complaint has been produced vide Exh.11.

Looking to the above evidence of complainant, she has not stated any particular time about when the incident had taken place. Looking to the evidence of complainant, prima-facie, it appears that there was matrimonial dispute between accused and complainant and therefore, she had gone to reside at her matrimonial home from where, the accused had brought the complainant and victim to stay with him. The allegations made against the accused do not inspire confidence and it leads this Court to believe that the incident has been concocted by complainant only due to the matrimonial dispute between the accused and complainant. Further as per the complaint Exh.11, the incident is stated to be from 01.01.2021 to 31.07.2023 and it is very difficult to believe that for almost 2 and half years incident had continued and complainant had not disclosed it to anyone, though, she used to reside at her matrimonial home. Moreover, the complaint is given after period of 07 months from the date of incident and such delay has not been explained by her. Based on above discussion, I come to a conclusion that the evidence of complainant is not trustworthy and cogent.

14. At this juncture, it would be relevant to refer deposition of **victim daughter examined as PW-1 vide Exh.9** wherein her evidence is recorded in question answer form and upon asking that what her father does, to which she stated that fingering and beating, upon asking how your father harasses you, to which she stated that he strangulates her, beats on back and fingering at urinal.

Looking to the evidence of victim, the same was recorded on 26.05.2025 when she was 6 years old. As per the case of prosecution, the incident had occurred when she was three and half years old, therefore, it is very difficult to believe that at such a tender age of 6 years, the victim remembers the incident which had taken place prior to 3 years. Moreover, the victim used to stay with her mother and therefore, there are unlikelihood that she was tutored by the complainant.

15. At this stage, it would be relevant to refer the evidence of **Dr.Darshana Madhukarbhai Uturkar**, who is examined as **PW-3 vide Exh.14** who had examined the victim on 12.04.2024 at G.G.Hospital, Jamnagar. As per her evidence, there were no injury marks on body of victim and the hymen was intact. The ultra sonography report of victim was normal. She produced medical certificate vide Exh.15 and OPD case papers vide Exh.19. Perusing the OPD Case papers Exh.19, the history was given by the complainant that victim's father used to physically assault victim prior to 10 months. However, the medical certificate and examination of victim do not support such contention.
16. Prosecution has examined **Dr.Parita Hiteshbhai Minipara as PW-4 vide Exh.21**, who had firstly examined the accused on 29.03.2024 and based on the examination, she opined that the accused was not impotent and she produced the medical certificate of medical examination of accused vide Exh.23.

The said doctor had also examined the victim who was 4 and half years old and she did not find any injury marks

on body of victim but the redness and swelling was found on vulva during local examination and the hymen was intact. Based on the examination, she opined that the possibility of sexual intercourse cannot be ruled out.

It would be relevant to note that as per the case of prosecution, the incident had occurred between 01.01.2021 to 27.03.2024. However, neither the complainant nor the victim has given any date or time of the incident but the victim had been examined on 30.03.2024. As per the complaint, the incident had occurred when the victim was three and half years old and the victim was examined by doctor almost after one year. Therefore, it cannot be said that the redness and swelling found at vulva was due to the incident.

17. At this juncture, it would be relevant to refer the deposition of **Dr. Jay Shaileshbhai Badiyani**, who has been examined as **PW-6 vide Exh.30**. As per his evidence, he was working as Medical Officer at General Hospital, Porbandar and he had examined the victim on 03.02.2023, 21.06.2023, 05.07.2023, 08.08.2023 and on 21.12.2023. During his examination, he found that the victim was suffering with fever and cold and at some instance, she was having burning in urine. However, as per the evidence of doctor, the urine report was normal. At last instance on 21.12.2023, urine infection was found in victim and hence, the doctor had referred the victim to Urologist Dr.Gokani. However, this doctor has not given any opinion with regard to the cause of urine infection. But considering the deposition of **Dr.Benny** examined as **PW-7 vide Exh.32**, it

appears that he had examined the victim on 20.01.2024 and 30.01.2024 and on examination, he found fungal infection in private part of victim, which can be caused generally due to perspiration. Doctor has produced certificate vide Exh.34. Thus, the evidence of doctors do not support the case of prosecution.

18. Prosecution has examined **Pareshbhai Rameshchandra Jani** as **PW-5 vide Exh.26**, who is panch witnesses of spot panchnama and arrest panchnama and state of body panchnama produced vide Exh.27 and Exh.28. He deposed that he was serving as Line Inspector in GETCO Company and now he is retired. On 28.03.2024, he received yadi to appear as a panch. Thereafter, he went to the Jamjodhpur Police station, where another person was present as panch and where PSI and other police staff were also present. Thereafter, they proceeded at the place of the incident and panchmama was drawn in their presence and he put his signature on the panchnama as Panch. Thereafter, they went to police station, where accused was in custody and thereafter, the arrest panchnama of accused was drawn in presence of them. He had identified his signature on the spot panchnama as well as on the arrest panchnama and panchnama of state of body which have been produced vide Exh.27 and Exh.28.

He stated that he cannot identify the accused because when he saw the accused in custody, there was very dark.

During the cross-examination, he admitted that he reached at police station at about 04:00 to 04:30 hours and they

reached at the place of incident at about 05:00 to 05:30 hours. Police took their signature after reading the panchnama.

19. The prosecution has examined **Yuvrajsinh Jagdishsinh Vaghela as PW-8 vide Exh.35**. This witness seems to be linchpin of the present prosecution who is none other than Investigating Officer. His testimony goes to say that in the year 2024, he was serving as P.I. in Jamjodhpur Police Station and during that time Mr.V.P.Parmar had recorded the complaint of complainant for the offence punishable under Section 354(A) (1)(1), 323, 498(A) and Section 506 of the Indian Penal Code vide CR No.0212 of 2024. Thereafter further investigation had been assigned to him alongwith yadi. On having received the investigation in the present matter, he had recorded the statement of relevant witnesses, recorded the statement of victim under Section 164 of Cr.P.C., had drawn the panchnama of place of incident and arrest panchnama and panchnama of state of body of accused, drew the panchnama of sample collection of victim and accused, drew the panchnama of recovery of cloths of victim, did the yadi to get the medical certificate of victim, did the yadi to get the medical examination of accused, did the yadi to appoint government panch, did the report to add the section before the Court, did the procedure to record the statement of complainant, did the yadi to get the birth certificate of victim. On finding the sufficient evidence, arrested the accused, did the yadi to Kamlabaug Police Station, Porbandar for '0' number FIR. He has identified the accused who was present through video

conferencing, He has identified his signature on the yadi which have been produced vide Exh.16 to Exh.18. He has identified his signature on the document which has been produced vide Exh.22. He has identified his signature on the panchnama which have been produced vide Exh.27 & Exh.28. He has produced yadi to Krishna Hospital to know the birth date of victim vide Exh.36, Yadi to appoint government panch vide Exh.37 & 38, Yadi for medical examination of victim vide Exh.39, Yadi to make entry in the station diary vide Exh.40, Yadi to record statement under Section 164 of Cr.P.C. of victim vide Exh.41.

20. The prosecution has examined **Vijaysinh Parbatsinh Parmar** as **PW-09** vide **Exh.42**. He is serving as P.I. in Miyani Marine Police Station. In the year of 2024, he was serving as P.I. at Kamlabaug Police Station, Porbandar and during that time he has recorded the complaint of complainant and all the incident was during the period of Covid-19 and the place of incident was of Jamnagar, therefore, he recorded the complaint of complainant as '0' number and through S.P.Porbandar sent to Jamjodhpur Police Station. Complainant was residing in her maternal home after the said incident and she has lodged the complaint against her husband. After lodging the complaint, he has forwarded the further investigation to Jamjodhpur Police Station. He has identified his signature on the FIR which has been produced vide Exh.11. He has produced yadi to register the complaint vide Exh.43. He has produced yadi for investigation for the offence of other district vide Exh.44.

During the cross-examination, he admitted that he has recorded the complaint of complainant as per her say and he has no personal knowledge regarding the incident.

21. At this state it would be relevant to refer recent judgment of Hon'ble Apex Court in case of **Ishwar Chand Sharma & Ors. Vs. State of Uttar Pradesh & Anr reported in 2026 INSC 587 (SLP (Criminal) No.18035 of 2025** order dated 29.05.2026), wherein Hon'ble Apex Court observed as under:

"7.2 The complainant merely alleged that the appellant No.1 was a habitual drinker and had raped the prosecutrix. Nothing has been said about the date of the alleged incident. Furthermore, no detail has been mentioned as to the alleged rape or what were the series of acts that led to the alleged acts or what was the prosecutrix's response after the alleged behaviour. Upon further examination of the complaint, it is apparent that the allegation of rape is a generic one. A blanket statement stating that appellant Nos.1 and 4 had raped the prosecutrix, cannot, without any other supporting material, be considered sufficient to invoke such a grave and serious charge against them. We underline that although any complaint or FIR cannot be an encyclopaedia so as to contain even the minutest of details but nevertheless, a complaint cannot be filed with allegations and averments when the same have not been backed by any specific factual detail or *prima facie* material evidence. Therefore, by merely stating that the prosecutrix was raped by appellant Nos.1 and 4, the Courts cannot set into motion the wheels of criminal prosecution. The Courts have to be extremely careful before taking cognizance of complaints made while invoking the provisions of rape, especially in cases where parties have already been heavily embroiled in matrimonial litigation, since the scope of manipulation, fabrication and vexatious litigation is exponentially high due to pre-existing bad blood between the parties who are often emotionally charged against one another and allegations of rape becomes an aid towards arm twisting tactics.

7.6 Furthermore, the statements of the complainant and the prosecutrix were recorded by the Special Judge only on 28.02.2025 and 18.03.2025 respectively i.e nearly six to seven months from the date of transfer of custody of the prosecutrix from the appellants to the complainant and therefore giving ample time and opportunity to the complainant and her kin to sway and colour the mind of the prosecutrix, who, due to her tender and impressionable age was prone to such tutoring and mentoring. It is reiterated that upon a reading of the complaint dated 10.09.2024, complainant's statement dated 28.02.2025 and prosecutrix's statement dated 18.03.2025, it becomes clear that the same facts have been narrated

in all the three documents in the exact same order, tone and vigour. There has been no alteration, addition or subtraction from either of the three statements making each of them virtually identical to one another. This is not a case of there being consistency in all the statements but a case of verbatim reproduction of statements almost parrot-like, as a result of tutoring by the complainant and possibly her family.

9. In the backdrop of the facts of the present case, we wish to underline a worrying trend that has come to our attention. Parties involved in matrimonial or commercial relationships with one another are resorting to filing of frivolous and vexatious claims and allegations of a criminal nature to settle personal scores and grudges against each other and therefore turn to nefarious/oblique means to attain the said objective. We also painfully take judicial cognizance of the fact that the courts of law are being misused and overburdened by such vague and vexatious litigations between spouses as many a times, the recourse to law and police is taken, in an oblique way so as to antagonise, pressurise, hound and harass the other spouse and their family members in order to retaliate and exact revenge that is carried out due to sheer hatred and disdain for the said spouse and their family members.

9.3 One particular offshoot or a species of vexatious and frivolous litigation is in family disputes, particularly, a 'matrimonial bouquet' that is presented by the estranged wife against the husband and his family out of personal animosity and spite once the relationship turns sour and rancorous and vice versa. This 'matrimonial bouquet' often includes claims of dowry demands; cruelty under 498A IPC; harassment by in-laws and domestic violence, made by the complainant against her spouse and in-laws. This set of cases frequently include bogus and empty allegations and false claims of harassment, cruelty and marital hardships that, more often than not, contain little to no substance at all and are usually not backed by any material or other documentary evidence. A tell-tale sign of such vexatious cases is that often they contain vague and sweeping general allegations that are not specific in nature but rather are aimed at arraying several family members if not all of the spouse's family, including those who are old and ailing, as accused and consequently cast the prosecution net as wide as possible by invoking multiple provisions of law by using general, vague and omnibus allegations that are not backed either by fact or law. We say so while being mindful of the fact that although any complaint or a FIR is not an encyclopaedia of evidence and factual circumstances so as to contain all details of the alleged incident, by no means can it be a general conglomeration of statements made by the disgruntled spouse with a *mala fide* intent, containing little or no details of the alleged criminal acts that often lack a chronology of events. Further, sweeping allegations and vexatious claims often fail to highlight and elaborate upon how the alleged acts happened, the manner in which such acts were undertaken, the aftermath of such incidents etc.

22. From the entire above discussion, it clearly appears that the prosecution has failed to prove that the victim was molested by the accused who is her real father. Moreover, the delay in filing the complaint creates doubt on the complaint. Further, the prosecution has failed to produce any evidence which would suggest that the accused used to harass and beat the complainant. The prosecution has not examined any family members from the complainant's family who can support the contention of complainant about the physical and mental harassment by accused. Relying upon above judgment of Hon'ble Apex Court, it appears that the prosecution has utterly failed to prove its case beyond all reasonable doubt against the accused and hence, I answer Issue No.2 in **Negative** and for Issue No.3, I pass the following final order;

ORDER

- (1) The accused **Bijalbhai Arjanbhai Karotara** is hereby acquitted from the charges under Sections 354-A(1)(i), 376(2)(j)(k)(l), 323, 498(A) and Section 506 of the Indian Penal Code and Section 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act framed against him.
- (2) Non-valuable Muddamal articles be destroyed after expiry period of appeal. If appeal is preferred, then muddamal be dealt with subject to order of Hon'ble Appellate Court.
- (3) The accused is hereby directed to submit fresh bail bond under Section 437(A) of the Criminal Procedure Code for a period of six months in a sum of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount.

Previous surety bonds of the accused stands discharged.

Copy of this judgment be given to the victim free of cost through Ld.Public Prosecutor via Police Agency and the receipt regarding receiving of copy of judgment by victim to be produced before the Court.

Pronounced and signed in the open Court today on **01st day of June, 2026.**

Date: 01.06.2026
Place: Jamnagar.

(ROBIN P. MOGERA)
Special Judge (POCSO)&
Additional Sessions
Judge, Jamnagar.
UIC No.GJ01539

UMESH