



2026:CGHC:446



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 427 of 2023

ABC

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Station - Baradwar,
District Janjgir - Champa Chhattisgarh

... Respondent

For Appellant : Mr. Kanhaiya Ram Yadav, Advocate
For Respondent/State : Ms. Prabha Sharma, Panel Lawyer

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Judgment on Board

05.01.2026

1. This criminal appeal has been preferred under Section 374(2) of the CrPC against judgment of conviction and order of sentence dated 31.01.2023 passed by Special Judge (FTSC), Sakti, distt. Janjgir-Champa, (CG) in Special Criminal Case No.24/2022, whereby the learned Special Judge, after holding the appellant guilty, convicted and sentenced him in the following manner:-



Sl. No.	Conviction under Section	Jail Sentence	Fine Sentence	Default stipulation
01.	10 of POCSO Act	RI for 05 years	Rs.2000/-	RI for 06 months
02.	354 IPC	RI for 01 year	Rs.1000/-	RI for 03 months
03.	506 Part-II	RI for 01 year	Rs.1000/-	RI for 03 months
All the above sentences were directed to run concurrently.				

2. The prosecution story in brief is that, on 05.6.2022, minor victim/prosecutrix (PW-2) made written complaint (Ex-P/3) alleging therein that the appellant/accused is her father and he used to keep ill intention upon her. 20-25 days prior to lodging the complaint, on account of assault made by the appellant to her mother (PW-1), she left the house and went to village Pathalgaon along with her infant child, leaving her four minor daughters in the house with the appellant. It is further alleged that the appellant, who was a drunkard person, finding the minor victim helpless, used to molest her by pressing her chest and kissing her. He also used to threaten her that he would kill her if she reveal this fact to anyone. Similar act was also conducted by the appellant to her on 01.04.2022 and on the next day, the victim told about the incident to her mother (PW-1), who brought her through her maternal uncle (mama). Thereafter on 05.4.2022, the minor victim made written complaint against the appellant. Based on which, FIR (Ex-P/4) was lodged against the appellant for the offence under Sections 354 and 506 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). During the course of investigation, statement of the witnesses were recorded under Section 161 CrPC. Spot map (Ex-P/1) was prepared, progress report [Ex-P/3 (repeat)] of the victim was seized vide seizure memo Ex-P/2 from the victim. Statement of the victim under Section



164 CrPC was got recorded from concerned JMFC vide Ex-P/5, spot map was also got prepared from concerned Patwari vide Ex-P/6. Photocopy of Dakhil Kharij Register (Ex-P/13C) pertaining to the victim was seized from Dulichand Sahu (PW-3) vide seizure memo Ex-P/9. Admission Certificate (Ex-P/11) issued by Principal, Gyankunj Public School, Sakreli (B), Block Sakti Distt. Janjgir-Champa was also obtained and the appellant was arrested vide Ex-P/18.

3. After completion of investigation, charge sheet was filed against the appellant for the offence under Sections 354 & 506 IPC and Section 9 of the POCSO Act before the Special Court, who conducted the trial. The learned Special Court framed charges against the appellant for the offence under Section 354 IPC and Section 09(l, m, n) of the POCSO Act punishable under Section 10 of the POCSO Act and also under Section 506 Part-II IPC and explained to him, who denied the charges and pleaded innocence seeking trial.

4. In order to bring home the guilt of the appellant, the prosecution has examined as many as 10 witnesses and exhibited 20 documents. Statement of the appellant under Section 313 CrPC was recorded, in which he denied all the incriminating circumstances appearing against him and pleaded innocence. No witnesses have been examined by the appellant.

5. The learned Special Court, after appreciation of oral and documentary evidence available on record, vide its judgment dated 31.01.2023, finding the evidence adduced by the prosecution trustworthy, convicted and sentenced the appellant/accused as mentioned in the opening paragraph of this judgment, against which, this appeal has been filed.



6. Learned counsel for the appellant submits that the appellant was an habitual drunkard, therefore, some times dispute erupted between him and his wife (PW-1) and due to such dispute, she left the appellant leaving behind their 04 minor daughters with the appellant. He further submits that wife of the appellant wanted to keep her daughters with her, therefore, she lodged false report through her minor daughter (victim). He further submits that due to personal dispute, the appellant has been falsely implicated in the instant case, as there is no independent evidence in support of deposition of the victim except her mother (PW-1), who is a hearsay witness. Learned counsel further submits that without any cogent evidence, the appellant has been convicted and sentenced by the Special Court, which is perverse to the evidence available on record. Hence, he prayed that the appeal may be allowed and the appellant may be acquitted of all the charges by setting aside impugned judgment.

7. Per contra, learned counsel for the State would submit that the appellant not only repeatedly molested his minor daughter, aged about 11 years, but also threatened to kill her if she told anyone about it. She further submits that the impugned judgment is based on well appreciation of the evidence, hence, the appeal is liable to be rejected.

8. I have heard learned counsel for the parties and perused the material available on record as well as the impugned judgment.

9. The victim (PW-2) is held to be minor by the Special Court. Though the victim, her mother (PW-1), Bimla Bai (PW-4) and Balram Kosle maternal uncle of the victim (PW-6), have not stated the date of birth of the victim, but as per their evidence, the victim was aged about 12 years and she was studying in Class VI at the time of the incident. Ex-P/3 is the Progress



Report of Class-III of the victim issued by Anglo Aryan Public School, Sakreli (Baradwar), in which her date of birth is mentioned as 11.3.11. It also got support from copy of Dakhil Kharij Register (Ex-P/13C) pertaining to the victim and her Admission Certificate (Ex-P/11) issued by Principal of Gyankunj Public School, Sakreli (B), which has been proved by Dulichand Sahu (PW-3) and Tej Kumar Yadav (PW-10). Ex-P/5 is the statement of the victim recorded by Judicial Magistrate First Class, Jaijaipur, Distt. Janjgir-Champa, in which, date of birth of the victim has been assessed by the Court as 11 years. Similar age has also been assessed by the Special Court while recording deposition of the victim. Though Dakhil Kharij Register is not considered to be a conclusive proof of the student's date of birth, but in the instant case, the victim, her mother and other witnesses have stated that the victim was aged about 11-12 years at the time of the incident, which has also been noted by the JMFC and the learned special Court and this fact also got support from the school record of the victim. The appellant, who is the father of the victim, has also admitted in his statement under Section 313 CrPC that, at the time of the incident, the victim was studying in Class-V. Therefore, having considered such tender age of the victim and aforesaid evidence, it has rightly been held by the learned Special Judge that on the date of incident, even on the date of last incident, i.e. on 01.4.2022, the victim was minor, aged about 11 years, hence, the finding recorded by the learned Special Judge on this count is affirmed.

10. The victim (PW-2) has stated in her deposition that the appellant, who is her father, is a drunkard person, he used to come home after consuming liquor and also used to commit *marpeet* with her and her mother (PW-1). On account of similar incident, her mother went to Pathalgaon after taking only infant daughter with her, leaving behind her other minor children



including her with the appellant. She has further stated in her deposition that 2-3 days after her mother left the home, when she was sleeping along with her younger sisters, her father (appellant) would shift her younger sisters to another cot and then sleep with her and touch her leg and chest. He also threatened her that if she disclose aforesaid facts to anyone, he would kill her. She has further deposed that when she informed the incident to her grand mother, then she told the incident to her mother. She also told the incident to her mother, who called her maternal uncle to bring the victim to her. Thereafter she made written complaint (Ex-P/3), based on which FIR (Ex-P/4) was registered by the police. The victim has denied all the negative suggestion taken by learned defence counsel that the appellant did not shift other sisters to other cot and she lodged false report as she does not like her father.

11. PW-1 is mother of the victim, to whom the victim has told about the incident. While supporting the deposition of the victim, she has stated that on account of various harassment meted out to her by the appellant, she had left the house along with her infant child, leaving behind her other 04 minor daughters including the victim. She has further stated that when she called the wife of her brother, she told her that the appellant was molesting the victim. Thereafter she came to her house at Sakreli. Then the victim told her that the appellant used to sleep with her, touched her body here and there and also kept his hand on her chest. She had also told her that the appellant also threatened her that if she reveal this fact to anyone, he would kill her. She has also stated in her cross-examination that once even in her presence, the appellant after consuming liquor hold the hands of the victim. She has denied all the negative suggestions of false implication taken by the defence counsel in her cross-examination. Though her statement is based



on information given by the victim to her, but only on this count, being mother of the victim, her statement cannot be brushed aside.

12. Though Bimla Bai (PW-4), who informed the incident to the mother of the victim (PW-1), and maternal uncle of the victim Balram Kosle (PW-6) have not supported the case of the prosecution, but deposition of the victim has been supported by her mother (PW-1). Moreover, the appellant is the father of minor victim, no material has emerged in the cross-examination of aforesaid witnesses to suggest false implication of her own father by the victim, that too for the offence of molestation/sexual harassment and threat. Having considered the aforesaid facts circumstances of the case, deposition of the victim cannot be discarded in the light of provision of Section 29 of the POCSO Act, even in absence of independent witnesses.

13. In view of the above discussion, it is found that the learned Special Court has not committed any mistake in holding the appellant guilty for the said offence and the sentences awarded to the appellant are also found to be just and proper. Hence, impugned judgment of conviction and order of sentence passed by the Special Court is affirmed.

14. The appellant is stated to be in jail. He is directed to serve out the remaining part of the sentence.

15. The Criminal Appeal is dismissed.

16. The Registry is directed to send a certified copy of this judgment along with the original record of the case to the concerned trial Court 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 Hon'ble Supreme Court with assistance of High Court Legal Aid Committee or the Supreme Court Legal Aid Committee, if he so desire.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

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