



2026:CGHC:18372-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 487 of 2024

Ramesh Dewangan S/o. Moharlal Dewangan, Aged About 25 Years
R/o. Village Ucchdih Devallapara, Police Outpost Basdelyi, P.S. And
District Surajpur Chhattisgarh.

... Appellant(s)

versus

State Of Chhattisgarh Through Police Outpost Basdeyi, P.S. And District
Surajpur Chhattisgarh.

... Respondent(s)

For Appellant(s) : Mr. Shishir Dixit, Advocate

For Respondent(s) : Mr. Shailendra Sharma, Panel Lawyer

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, CJ

22.04.2026

1. This appeal arises out of the judgment of conviction and order of sentence dated 06.10.2023 passed by the Additional Sessions Judge, Fast Track Special Court Sujrapur, District- Surajpur (C.G.) in Special Sessions Case No. 42/2022, whereby the appellant has been convicted for offences as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 363 of the IPC.	R.I. for 10 years and fine of Rs.1,000/-, in default of payment of fine amount, additional R.I. for 06 months.
Under Section 366 of the IPC.	Imprisonment for life till natural death and fine of Rs.2,000/-, in default of payment of fine amount, additional R.I. for 01 year.
Under Section 376(3) of the IPC.	Imprisonment for life till natural death and fine of Rs.2,000/-, in default of payment of fine additional R.I. for 01 year.
Under Section 342 of the IPC	Imprisonment for life till natural death and fine of Rs.1,000/-, in default of payment of fine additional R.I. for 06 months.
Under Section 6 of POCSO Act	Imprisonment for 20 years with fine amount of Rs.200/-, in default of payment of fine additional R.I. for 06 months.
<i>All the sentences were directed to run concurrently</i>	

2. The prosecution case, in brief, is that the child victim lodged a written report (Ex.P/07) on 01.07.2022 at Police Outpost Basdei, Police Station Surajpur, against the accused. It was alleged therein that on 30.06.2022 at about 08:00 a.m., the child victim had gone to a nearby field for routine work, when the accused, on the pretext of marrying her, induced and took her to his house. It is further alleged that the accused wrongfully confined her and subjected her to repeated acts of sexual assault during the

intervening period. On the morning of 01.07.2022, upon search being made by her family members, the child victim was traced and brought back home, whereupon she disclosed the incident to them, leading to the lodging of the report.

3. On the basis of the written report (Ex.P/07), an unnumbered First Information Report (Ex.P/08) was initially registered at Police Outpost Basdei against the accused for offences punishable under Sections 363, 366, 342, 376(3), 376(2)(d) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012. Subsequently, the matter was transferred to Police Station Surajpur, where a numbered FIR bearing Crime No. 296/2022 was registered. Upon completion of investigation and arrest of the accused, charge-sheet No. 279/2022 came to be filed before the competent Court.
4. The learned trial Court framed charges against the accused, namely Ramesh Dewangan, for offences punishable under Sections 363, 366, 376(3), and 342 of the Indian Penal Code, 1860, along with Section 6 of the Protection of Children from Sexual Offences Act, 2012. The charges were read over and explained to the accused, who denied the same and claimed to be tried.
5. In his statement recorded under Section 313 of the Code of Criminal Procedure, 1973, the accused denied all incriminating circumstances appearing against him in the prosecution evidence,

pleaded false implication, and stated that he would adduce evidence in defence. However, no evidence was led on behalf of the defence.

6. In order to establish the charge against the appellant, the prosecution examined as many as 11 witnesses and exhibited the documents (Exs.P-1 to P-31). After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in para 1 of the judgment. Hence, this appeal.
7. Mr. Shishir Dixit, learned counsel for the appellant submits that the impugned judgment of conviction and order of sentence passed by the learned trial Court is contrary to law and facts on record, and suffers from serious infirmities in appreciation of evidence. It is contended that the prosecution has failed to establish the guilt of the appellant beyond reasonable doubt, and the findings recorded by the trial Court are based on conjectures and surmises rather than cogent and reliable evidence. It is further submitted that the testimony of the victim does not inspire confidence and is not of such sterling quality as to warrant conviction in the absence of independent corroboration. Learned counsel also assails the prosecution case on the ground that the age of the victim has not been duly proved in accordance with law, inasmuch as no ossification test or other reliable documentary evidence has been brought on record to conclusively establish that she was a minor

at the time of the alleged incident, thereby rendering the applicability of the provisions of the Protection of Children from Sexual Offences Act, 2012 doubtful. It is further argued that material contradictions and inconsistencies in the prosecution evidence have not been properly appreciated by the trial Court. Lastly, it is submitted that the appellant reserves the liberty to raise additional grounds at the time of hearing, and in view of the aforesaid deficiencies, the conviction recorded against the appellant deserves to be set aside.

8. On the other hand, learned counsel for the State opposes the submissions made by the learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt and the victim (PW-3) has clearly deposed the conduct of the appellant in her statement recorded under Section 164 CrPC and in the Court statement and the learned trial Court after considering the material available on record has rightly convicted and sentenced the appellant, in which no interference is called for.
9. We have heard the learned counsel for the parties and perused the record with utmost circumspection.
10. The issue that arises for consideration in the present appeal is whether the testimony of the victim/prosecutrix deserves acceptance and whether the prosecution has established the case of the appellant beyond reasonable doubt.

11. It is pertinent to observe that the question whether conviction of the accused can be based on the sole testimony of the victim in cases of sexual assault/rape is no longer *res integra*. The Hon'ble Supreme Court has dealt with the issue in a catena of judgments and has held that the sole testimony of the prosecutrix if found reliable can be the sole ground for convicting the accused and that the creditworthy testimony of the victim in cases of such nature deserves acceptance.
12. The next issue that arises for consideration in the present appeal is whether the age of the victim on the date of commission of the offence concerned, was below 18 years of age.
13. Regarding the age of the victim, the prosecution has relied upon both oral and documentary evidence. The Investigating Officer, Brijesh Kumar Yadav (PW-9), has deposed that upon production of the child victim on 01.07.2022, an attested copy of her Class VIII certificate (Article P-1) was seized vide seizure memo Ex.P/02. He has further stated that a requisition (Ex.P/13A) was sent to the Headmaster of Primary School Uchdih for furnishing relevant school records pertaining to the child victim.
14. Sangeeta Dabe (PW-6), Head Teacher of Primary School Uchdih, has supported the prosecution case and deposed that, in response to the requisition, she produced the relevant school records, including the admission/mutation register, a certified copy of which is Ex.P/14C. As per the said record, the date of birth of

the child victim is recorded as 25.07.2006. The said record was seized vide seizure memo Ex.P/03, and the certificate issued by the school authority has been marked as Ex.P/15.

- 15.** It is true that during cross-examination, the said witness stated that she was not the author of the original entry in the register and could not specify the basis on which the date of birth had been recorded. However, such a statement, by itself, does not render the document inadmissible or unreliable, particularly when the register is maintained in the ordinary course of official duties and forms part of institutional records. The defence has not brought on record any material to discredit the authenticity of the said documents or to suggest any manipulation therein.
- 16.** At this juncture, it is apposite to note that Section 2(d) of the Protection of Children from Sexual Offences Act, 2012 defines a “child” as any person below the age of 18 years. Further, as per Section 94(2)(i) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the date of birth certificate from the school first attended is to be treated as primary and reliable evidence for determination of age. The principles underlying the said provision have been consistently applied by courts for determining the age of a victim as well.
- 17.** In the present case, the school records, namely the admission register (Ex.P/14C), the certificate issued by the Headmaster (Ex.P/15), and the Class VIII certificate (Article P-1), consistently

reflect the date of birth of the child victim as 25.07.2006. These documents, being public documents maintained in the regular course of business, carry a presumption of correctness. Significantly, the defence has not produced any contrary evidence to rebut the same.

- 18.** In view of the aforesaid evidence, this Court finds no reason to discard the documentary proof of age relied upon by the prosecution. Accordingly, the date of birth of the child victim is held to be 25.07.2006. On the date of the incident, i.e., 30.06.2022, the child victim was aged about 15 years and 11 months, thus clearly below 18 years of age.
- 19.** Consequently, it is held that the victim falls within the definition of “child” under Section 2(d) of the Protection of Children from Sexual Offences Act, 2012, and the provisions of the said Act have been rightly invoked by the learned trial Court.
- 20.** The next question that arises for determination in the present appeal is whether the accused, on 30.06.2022 at about 08:00 a.m., at Village Uchchdih Devallapara, within the jurisdiction of Outpost Basdei, Police Station and District Surajpur (C.G.), enticed and took away the child victim, who was below 18 years of age, from the lawful custody of her guardian, and thereafter wrongfully confined her and subjected her to acts constituting aggravated penetrative sexual assault, as defined under the

relevant provisions of the Protection of Children from Sexual Offences Act, 2012.

- 21.** In this regard, before adverting to the appreciation of evidence, it is necessary to note that the present case pertains to offences under the Protection of Children from Sexual Offences Act, 2012. In such cases, Sections 29 and 30 of the said Act incorporate statutory presumptions regarding the commission of offence and existence of culpable mental state. Once the foundational facts are established by the prosecution, the burden shifts upon the accused to rebut the same by cogent evidence or by creating reasonable doubt in the prosecution case.
- 22.** The child victim (PW-3) is the star witness of the prosecution. She has deposed that she was acquainted with the accused prior to the incident. On the date of occurrence, while she had gone out for routine work in the vicinity of her house, the accused approached her, forcibly took her to his house, and wrongfully confined her therein. She has further stated that the accused subjected her to repeated acts of sexual assault during the intervening period and threatened her with dire consequences. She has categorically denied the suggestion that she had gone with the accused voluntarily.
- 23.** The witness has further proved her written report (Ex.P/07), on the basis of which the First Information Report (Ex.P/08) came to be registered. Her signatures on the said documents have been duly

identified. The version narrated by her in Court is consistent with the contents of the written report, thereby lending assurance to her testimony.

- 24.** During cross-examination, certain suggestions were put to the witness regarding the possibility of resistance and presence of nearby houses. The witness explained that she had attempted to resist the accused. Importantly, nothing material has been elicited in her cross-examination so as to discredit her version or to suggest that the allegations are false or motivated. Her testimony remains cogent, consistent, and trustworthy.
- 25.** Father of the victim (PW-1) has deposed that on the date of the incident, the child victim had gone out but did not return, whereafter he, along with other family members, searched for her. On the following morning, he came to know that she was present at the house of the accused. Upon reaching there, he found her confined and brought her back home.
- 26.** Though this witness did not fully support the prosecution version in Court and was declared hostile, he has admitted material facts regarding the absence of the child victim from home and her recovery from the house of the accused. These admissions lend corroboration to the prosecution case to that extent.
- 27.** Mother of the victim (PW-2) has similarly deposed that the child victim was missing for a considerable period and was subsequently found at the house of the accused. Though she did

not fully support the prosecution case and was declared hostile, her testimony corroborates the factum of the child victim being found at the accused's house.

- 28.** Brother of the victim (PW-4) has stated that upon receiving information regarding the whereabouts of the child victim, he went to the house of the accused and brought her back. This witness was also declared hostile, however, his statement supports the prosecution case insofar as the presence of the child victim in the house of the accused is concerned.
- 29.** Medical Officer (PW-8) has deposed that on 01.07.2022, the child victim was medically examined, and her report (Ex.P/19) was prepared. The doctor has stated that the hymen was found ruptured and samples were collected for forensic examination. No external injuries were found.
- 30.** The absence of external injuries does not negate the prosecution case, particularly in cases involving a minor, where resistance may be minimal or overpowered.
- 31.** Medical Officer (PW-7) has proved the medical examination report of the accused (Ex.P/18), wherein it is opined that the accused was capable of performing sexual intercourse.
- 32.** Investigating Officer (PW-9) has proved the entire course of investigation. He has deposed regarding:

- * Seizure of written report (Ex.P/07) and registration of FIR (Ex.P/08)
- * Seizure of school documents (Ex.P/02, Ex.P/03)
- * Sending requisitions for medical examination (Ex.P/20, Ex.P/21)
- * Seizure of articles and forwarding them for forensic examination (Ex.P/22, Ex.P/23)
- * Receipt of FSL report (Ex.P/31)

His testimony remains unshaken in cross-examination.

- 33.** The FSL report (Ex.P/31) reveals the presence of human sperm on the vaginal slide of the child victim. This scientific evidence provides strong corroboration to the testimony of the child victim regarding sexual assault.
- 34.** Though PW-1, PW-2, and PW-4 were declared hostile, it is settled law that the testimony of a hostile witness is not to be rejected in totality. Their evidence can be relied upon to the extent it supports the prosecution case. In the present case, their statements corroborate the presence and recovery of the child victim from the house of the accused.
- 35.** In view of the credible testimony of PW-3 (child victim), duly corroborated by medical evidence (Ex.P/19) and scientific evidence (Ex.P/31), the foundational facts stand established. Consequently, the presumption under Sections 29 and 30 of the POCSO Act operates against the accused.

36. The accused has failed to rebut the said presumption. No defence evidence has been led, and no plausible explanation has been offered in his statement under Section 313 CrPC.
37. At this stage, it is necessary to evaluate the evidentiary worth of the testimony of PW-3, the child victim. It is a settled principle of law that conviction can be based on the sole testimony of the victim, if it is found to be reliable, cogent, and of unimpeachable character. The testimony of a child victim in cases under the Protection of Children from Sexual Offences Act, 2012 stands on an even higher pedestal, considering the vulnerability of the victim and the nature of the offence.
38. 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 co-relation 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."

39. In the matter of **Alakh Alok Srivastava v. Union of India & Ors., (2018) 17 SCC 291**, in paras 14 and 20, it is observed as under:

“14. At the very outset, it has to be stated with authority that the Pocso Act is a gender legislation. This Act has been divided into various chapters and parts therein. Chapter II of the Act titled “Sexual Offences Against Children” is segregated into five parts. Part A of the said Chapter contains two sections, namely, Section 3 and Section 4. Section 3 defines the offence of “Penetrative Sexual Assault” whereas Section 4 lays down the punishment for the said offence. Likewise, Part B of the said Chapter titled “Aggravated Penetrative Sexual Assault and Punishment therefor” contains two sections, namely, Section 5 and Section 6. The various subsections of Section 5 copiously deal with various situations, circumstances and categories of persons where the offence of penetrative sexual assault would take the character of the offence of aggravated penetrative sexual assault. Section 5(k), in particular, while laying emphasis on the mental stability of a child stipulates that where an offender commits penetrative sexual assault on a child, by taking advantage of the child's mental or physical disability, it shall amount to an offence of aggravated penetrative sexual assault.”

“20. Speaking about the child, a three Judge Bench in *M.C. Mehta v. State of T.N.* (1996) 6 SCC 756 “1. ... “child is the father of man”. To enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive

education, acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.”

40. The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand** (CRIMINAL APPEAL NO.144 OF 2022), decided on 8.2.2022 has held as under:-

“10. 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.

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. As observed and held by this Court in the case of **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 the case of **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.”

- 41.** When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of the incident. Instead, the emphasis is on

allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect. If the Court deems such evidence credible and free from doubt, there is hardly any insistence on corroboration of that version. In **State of H.P. v. Shree Kant Shekar (2004) 8 SCC 153** the Hon^{ble} Supreme Court held as follows:

“21. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands on a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is physical as well as psychological and emotional. However, if the court on facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration, as understood in the context of an accomplice, would suffice.”

42. On these lines, the Hon^{ble} Supreme Court in **Shivasharanappa and Others v. State of Karnataka, (2013) 5 SCC 705** observed as follows:

“17. Thus, it is well settled in law that the court can rely upon the testimony of a child witness and it can form the basis of conviction if the same is credible, truthful and is corroborated by other evidence brought on

record. Needless to say as a rule of prudence, the court thinks it desirable to see the corroboration from other reliable evidence placed on record. The principles that apply for placing reliance on the solitary statement of the witness, namely, that the statement is true and correct and is of quality and cannot be discarded solely on the ground of lack of corroboration, apply to a child witness who is competent and whose version is reliable.”

43. The Supreme court in the matter of **State of UP v. Sonu Kushwaha, (2023) 7 SCC 475** has held as under :

“12. The POCSO Act was enacted to provide more stringent punishments for the offences of child abuse of various kinds and that is why minimum punishments have been prescribed in Sections 4, 6, 8 and 10 of the POCSO Act for various categories of sexual assaults on children. Hence, Section 6, on its plain language, leaves no discretion to the Court and there is no option but to impose the minimum sentence as done by the Trial Court. When a penal provision uses the phraseology “shall not be less than....”, the Courts cannot do offence to the Section and impose a lesser sentence. The Courts are powerless to do that unless there is a specific statutory provision enabling the Court to impose a lesser sentence. However, we find no such provision in the POCSO Act. Therefore, notwithstanding the fact that the respondent may have moved ahead in life after undergoing the sentence as modified by the High Court, there is no question of

showing any leniency to him. Apart from the fact that the law provides for a minimum sentence, the crime committed by the respondent is very gruesome which calls for very stringent punishment. The impact of the obnoxious act on the mind of the victim/child will be lifelong. The impact is bound to adversely affect the healthy growth of the victim. There is no dispute that the age of the victim was less than twelve years at the time of the incident. Therefore, we have no option but to set aside the impugned judgment of the High Court and restore the judgment of the Trial Court.”

- 44.** Applying the aforesaid principle to the facts of the present case, the testimony of PW-3 (child victim) clearly qualifies as that of a sterling witness. Her deposition is consistent with the contents of the written report (Ex.P/07) and the First Information Report (Ex.P/08). She has withstood the test of cross-examination without any material contradiction or improvement affecting the core of the prosecution case. Her version is natural, credible, and inspires full confidence.
- 45.** Furthermore, her testimony stands duly corroborated by medical evidence (Ex.P/19) and scientific evidence in the form of FSL report (Ex.P/31), which lends additional assurance to her version. Even in the absence of such corroboration, her testimony, being of sterling quality, would be sufficient to sustain the conviction.
- 46.** Therefore, this Court holds that the evidence of the child victim is wholly reliable and of sterling quality, and there is no reason to

discard or doubt her testimony. The same forms a sound and safe basis for affirming the conviction of the accused.

47. 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 trial court to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.

48. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

49. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellant is undergoing the jail term, 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 with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

50. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice