



2026:CGHC:18918-DB



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 848 of 2025**

Dikeshwar Yadav @ DK S/o Satyanarayan Yadav Aged About 24 Years R/o
Village - Ghontey, P.S. Gobra Nawapara, District : Raipur, Chhattisgarh

... Appellant**versus**

State Of Chhattisgarh Through Station House Officer, Police Station - Gobra
Nawapara (Wrongly Mentioned Urla In The Cause Title Of The Impugned
Judgment), District : Raipur, Chhattisgarh

... Respondent

For Appellant : Mr. Akash Deep Sharma, Advocate.

For Respondent(s) : Mr. Nitansh Jaiswal, Deputy Government Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice**Hon'ble Mr. Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****24/04/2026**

1. Heard Mr. Akash Deep Sharma, learned counsel for the appellant as well as Mr. Nitansh Jaiswal, learned Deputy Government Advocate for the State/respondents.
2. Today, the matter is listed for hearing on IA No. 1, which is an application for suspension of sentence and grant of bail to the appellant.
3. It is informed by Mr. Jaiswal, learned Deputy Government Advocate that the notice issued to the complainant/mother (PW-2) of the victim could



not be served on account of the fact that she was not found on the address mentioned in the memo of appeal and it has been informed that the mother of the victim has gone somewhere for earning her livelihood. Hence, with the consent of learned counsel appearing for the parties, we proceed to her the matter finally on merits.

4. The appellant has filed this appeal under Section 415(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023 (for short, the BNSS) questioning the impugned judgment of conviction and order of sentence dated 06.03.2025 passed in Special Sessions Trial No. 93/2020, by the learned Additional Sessions Judge and Second (POCSO) Fast Track Special Court, Raipur, District Raipur, whereby the appellant has been convicted and sentenced as under:

Conviction under Section	Jail Sentence (Rigorous)	Fine	Default Sentence
313 of the Indian Penal Code (<i>for short, the IPC</i>)	5 years	Rs. 3000/-	5 months R.I.
4(2) of the Protection of Children From Sexual Offences Act, 2012 (<i>for short, the POCSO Act</i>)	20 years	Rs. 3000/-	5 months R.I.
6 of POCSO Act	20 years	Rs. 3000/-	5 months R.I.
All the sentences have been directed to run concurrently.			

5. The prosecution case, in brief, is that the victim lodged a written complaint at Police Station Gobra Navapara stating that about four years prior to filing the report, in the year 2016, she had come to village-Ghot with her mother to work at making bricks at Pratap Welding Center. At that time, she was studying in Class 6 and used to go from village Ghot to Tari for schooling. During that period, the appellant DK @ Dikeshwar Yadav of village Ghot started following her from 02.07.2016, and on 02.07.2017, by saying that he would marry her, took her to his home,



enticed her and came to her house and established physical relations with her. Thereafter, the appellant made physical relations with her multiple times continuously. During this period, in January 2019, she became pregnant. Then, in March 2019, the appellant brought pills and told her that if she did not take them, he would die, and said that they would not have a child now but would have one after attaining majority and marrying. Upon his insistence, she consumed the pills, due to which she had a miscarriage. In this way, the appellant continued to have physical relations with her until 18.11.2019. Thereafter, the appellant left her and thereafter denied to marry her.

6. On the basis of this written complaint (Exhibit P-1) of the informant, FIR (Exhibit P-02) was registered at Police Station Gobra Navapara against the accused under Sections 366, 376 of the IPC and Sections 4 and 6 of the POCSO Act. During investigation, the spot map (Exhibit P-3) and Patwari map (Exhibit P-4) were prepared. Regarding the date of birth of the victim, the certified copy of the school admission register (Exhibit P-08C), which mentions her date of birth, was seized as per seizure memo (Exhibit P-09). After obtaining consent from the victim and her mother vide Exhibit P-05 and Exhibit P-07 respectively, the victim was medically examined as per Exhibit P-12. Similarly, the appellant was also medically examined and the seized clothes were sent for examination as per Exhibit P-13 and Exhibit P-14. The underwear of the appellant was seized as per seizure memo (Exhibit P-16). The statement of the victim under Section 164 CrPC was recorded as per Exhibit P-06. The appellant was arrested and arrest memo (Exhibit P-20) was prepared. The seized exhibits were sent to the State Forensic Science Laboratory, Raipur as per Exhibit P-22; the acknowledgment receipt is Exhibit P-23 and the FSL report is Exhibit P-24.



7. Further, during investigation, statements of witnesses under Section 161 Cr.P.C were recorded, and after completing other necessary procedures, charge-sheet was filed before the learned trial Court against the appellant under Sections 366, 376, 313 IPC and Sections 4 and 6 of the POCSO Act.
8. Charges were framed against the appellant under Sections 363, 366, 376(3), 376(2)(n) / 376(2), 313 IPC and Sections 4(2), 5(I)/6, 5(j)(ii) / 6 of the POCSO Act, 2012. The charges were read over and explained to him, upon which he denied the alleged offence and claimed trial.
9. In order to bring home the offence, the prosecution examined as many as 8 witnesses namely, the victim (PW-01), her mother (PW-02), the in-charge headmaster of her school (PW-03), Dr. S.D. Kanwar (PW-04), Dr. A.K. Sharma (PW-05), Patwari Mugal Singh Nagesh (PW-06), Head Constable Sunita Mahilang (PW-07), and Sub-Inspector B.L. Kosariya (PW-08) and exhibited as many as 24 exhibits namely, written complaint (Exhibit P-01), FIR (Exhibit P-02), spot map (Exhibit P-03), Patwari map (Exhibit P-04), consent form of victim for medical examination (Exhibit P-05), statement under Section 164 CrPC (Exhibit P-06), consent form of mother (Exhibit P-07), original admission register (Exhibit P-08) and its certified copy (Exhibit P-08C), seizure memo of register (Exhibit P-09), notice to headmaster (Exhibit P-10), supurdnama (Exhibit P-11), medical examination request and report of victim (Exhibit P-12), medical examination request and report of accused (Exhibit P-13), testing of seized underwear (Exhibit P-14), application for Patwari map (Exhibit P-15), seizure memo of underwear (Exhibit P-16), seizure memo of slide packet (Exhibit P-17), seizure memo of appellant's underwear packet (Exhibit P-18), application to magistrate for recording statement (Exhibit



P-19), arrest memo (Exhibit P-20), arrest intimation (Exhibit P-21), application for FSL (Exhibit P-22), receipt (Exhibit P-23), and FSL report (Exhibit P-24).

- 10.** The statement of the convict/appellant was recorded under section 313 C.r.P.C wherein he has expressed his ignorance about most of the questions, however, some of them were denied as well. The documents exhibited by the defense include the police statement of the victim's mother (Exhibit D-01).
- 11.** The learned trial Court, after considering the statement of witnesses and evidence available on record, convicted and sentenced the appellant/accused as detailed in the opening paragraph of this judgment. Hence, the present appeal by the appellant/convict.
- 12.** Mr. Akash Deep Sharma, learned counsel for the appellant submits that the appellant has been falsely implicated in this case. There are omissions and contradictions in the statement of the prosecution witnesses and the conviction is based on conjecture and surmises. There is no eye witness to the incident. Even the parents of the victim could not properly state with regard to the age of the victim. The prosecution has utterly failed to prove that the victim was a minor as on the date of incident. In fact it was a consensual relationship out of love affair between them and only when the victim became pregnant, the FIR was lodged. The victim, in her deposition before the learned trial Court herself has admitted that she was having love affair with the appellant and they used to meet often. Hence, the appellant deserves to be acquitted of the charges.



13. On the other hand, learned counsel appearing for the State/ respondent submits that the learned trial Court was fully justified in convicting and sentencing the convict/appellant as mentioned in the opening paragraph. There is ample evidence on record to hold the appellant guilty of the offence. The order passed by the learned trial Court needs no interference and the appeal filed by the convict/appellant be dismissed.
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 appellant/convict is alleged to have made physical relationship with the victim multiple times on the pretext of marriage. According to the prosecution, the victim was aged about 15 years 3 months on the date of incident. The first question of determination would be, whether the victim was a minor on the date of incident.
16. In this regard, the victim herself deposed that she was born in Maharashtra but she does not know the name of the village. She was further unaware as to who had admitted her in the school and on basis of which documents. However, she stated that in her marksheet, her date of birth is mentioned as 18.03.2002 and on the said basis, she was stated her age. She has clearly stated that she was unaware whether the said date of birth is correct or incorrect.
17. The mother of the victim (PW-2) has stated that the victim was born in village Jhanjhiya of District Gondiya, Maharashtra on 18.03.2002. The victim was born in house itself. The same was neither recorded in the register of the Anganbadi Centre or the Kotwar and while admitting the



victim in the school by her father, the date of birth was got recorded merely on assumption.

18. Rajesh Kumar Verma (PW-3) is the Incharge Head Master of the Government Primary School, Sankra. According to him, the name of the victim was recorded in the Admission/Discharge register at serial No. 2450 wherein the date of birth of the victim was recorded as 18.03.2002 and was admitted in Class I on 21.07.2008 and she left the school on 30.08.2010. This witness has admitted that the relevant entries were not made by him nor could he say that on what basis, the said date of birth was recorded.
19. Dr. Smt. S.D.Kanwar (PW-4) is the Medical Officer who had examined the victim. She has stated the age of the victim to be 18 years. On examination, she found that the secondary sexual characteristics of the victim were fully developed and there were no signs of injuries either on the thighs or breast. Hymen was old torn at 6 O'Clock and 3 O'Clock. Though he has opined that the victim was subjected to sexual intercourse but in the cross examination, she has stated that there were no signs of recent sexual intercourse. She admitted that with respect to age of the victim, she had not seen any document but she mentioned the age according to the appearance of the victim. She further stated that the secondary sexual characteristics are well developed after the age of 18 years which was found in the victim.
20. In view of the above discussion, it cannot be conclusively held that the date of birth as stated by the victim and her mother is correct and that the victim was minor on the date of incident. Even in the written complaint (Exhibit P/1) and FIR (Exhibit P/2), the victim has stated her age to be 18 years.



21. The victim (PW-1) has admitted that she was in love with the appellant. She further admitted that she never attempted to inform anyone with regard to her relationship with the appellant and whenever her mother used to go out of the house for work, the appellant used to come to her house where they made physical relationship. It has further been stated by her that when she came to know that the appellant was going to marry some other girl, she informed her family members regarding the incident and when the family members did not support her, she made complaint at Police Station.
22. From the deposition of the victim (PW-1) herself, it is amply clear that it is not a case rape or forceful sexual intercourse but she was in love with the appellant. The complaint was lodged only when the victim came to know that the appellant was going to marry some other girl and not before that.
23. After considering the entire facts and circumstances of the case and evidence available on record, it emerges that the prosecution could not produce the clinching and legally admissible evidence with respect to the date of birth or age of the victim so as to hold that on the date of incident she was minor and below 18 years of age. Only on the basis of school Dakhil-kharij register, it would not be safe to hold that the victim was minor on the date of incident.
24. In **Jarnail Singh v. State of Haryana** {(2013) 7 SCC 263}, the Supreme Court, at paragraph 23 has observed as under:

“23. 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.”

25. In the matter of **Ravinder Singh Gorkhi v. State of UP**, {(2006) 5 SCC 584}, the Hon'ble Supreme Court has held as under :

“26. In Birad Mal Singhvi v. Anand Purohit, this Court held: (SCC p. 619, para 15)]

“To render a document admissible under Section 35, three conditions must be satisfied, firstly, entry that is relied on must be one in a public or other official book, register or record; secondly, it must be an entry stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in



the absence of the material on which the age was recorded."

26. The Hon'ble Supreme Court in paragraphs 40, 42, 43, 44 and 48 of its judgment in ***Alamelu and Another v. State, represented by Inspector of Police***, {(2011) 2 SCC 385, has observed as under:

"40. Undoubtedly, the transfer certificate, Ex.P16 indicates that the girl's date of birth was 15th June, 1977. Therefore, even according to the aforesaid certificate, she would be above 16 years of age (16 years 1 month and 16 days) on the date of the alleged incident, i.e., 31st July, 1993. The transfer certificate has been issued by a Government School and has been duly signed by the Headmaster. Therefore, it would be admissible in evidence under Section 35 of the Indian Evidence Act. However, the admissibility of such a document would be of not much evidentiary value to prove the age of the girl in the absence of the material on the basis of which the age was recorded. The date of birth mentioned in the transfer certificate would have no evidentiary value unless the person, who made the entry or who gave the date of birth is examined.

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42. Considering the manner in which the facts recorded in a document may be proved, this Court in the case of *Birad Mal Singhvi Vs. Anand Purohit*, observed as follows:-

"14.....The date of birth mentioned in the scholars' register has no evidentiary value unless the person who made the entry or who gave the date of birth is examined....Merely because the documents Exs. 8, 9, 10, 11, and 12 were proved, it does not mean that the contents of documents were also proved. Mere proof of the documents Exs. 8, 9, 10, 11 and 12 would not tantamount to proof of all the contents or the correctness of date of birth stated in the documents. Since the truth of the fact, namely, the date of birth of Hukmi Chand and Suraj Prakash Joshi was in issue, mere proof of the documents as produced by the aforesaid two witnesses does not furnish evidence of the truth of the facts or contents of the documents. The truth or otherwise of the facts in issue, namely, the date of birth of the two candidates as mentioned in the documents could be proved by admissible evidence i.e. by the evidence of those persons who could vouchsafe for the truth of the facts in issue. No



evidence of any such kind was produced by the respondent to prove the truth of the facts, namely, the date of birth of Hukmi Chand and of Suraj Prakash Joshi. In the circumstances the dates of birth as mentioned in the aforesaid documents 1988 (Supp) SCC 604 have no probative value and the dates of birth as mentioned therein could not be accepted."

43. The same proposition of law is reiterated by this Court in the case of *Narbada Devi Gupta Vs. Birendra Kumar Jaiswal*, where this Court observed as follows:-

"16....The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence, that is, by the "evidence of those persons who can vouchsafe for the truth of the facts in issue."

44. In our opinion, the aforesaid burden of proof has not been discharged by the prosecution. The father says nothing about the transfer certificate in his evidence. The Headmaster has not been examined at all. Therefore, the entry in the transfer certificate can not be relied upon to definitely fix the age of the girl.

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48. We may further notice that even with reference to Section 35 of the Indian Evidence Act, a public document has to be tested by applying the same standard in civil as well as criminal proceedings. In this context, it would be appropriate to notice the observations made by this Court in the case of *Ravinder Singh Gorkhi Vs. State of U.P.* held as follows:-

"38....The age of a person as recorded in the school register or otherwise may be used for various purposes, namely, for obtaining admission; for obtaining an appointment; for contesting election; registration of marriage; obtaining a separate unit under the ceiling laws; and even for the purpose of litigating before a civil forum e.g. necessity of being represented in a court of law by a guardian or where a suit is filed on the ground that the plaintiff being a minor he was not appropriately represented therein or any transaction made on his behalf was void as he was a minor. A court of law for the purpose of determining the age of a (2006) 5 SCC 584 party to the lis, having regard to the provisions of Section 35 of the Evidence Act will have to apply the same



standard. No different standard can be applied in case of an accused as in a case of abduction or rape, or similar offence where the victim or the victim although might have consented with the accused, if on the basis of the entries made in the register maintained by the school, a judgment of conviction is recorded, the accused would be deprived of his constitutional right under Article 21 of the Constitution, as in that case the accused may unjustly be convicted.”

27. In case of ***Rishipal Singh Solanki v. State of Uttar Pradesh & Others***, {2022 8 SCC 602}, while considering various judgments, the Hon'ble Supreme Court has observed as under:

“33. What emerges on a cumulative consideration of the aforesaid catena of judgments is as follows:

33.2. If an application is filed before the Court claiming juvenility, the provision of sub-section (2) of section 94 of the JJ Act, 2015 would have to be applied or read along with sub-section (2) of section 9 so as to seek evidence for the purpose of recording a finding stating the age of the person as nearly as may be.

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33.3. That when a claim for juvenility is raised, the burden is on the person raising the claim to satisfy the Court to discharge the initial burden. However, the documents mentioned in Rule 12(3)(a)(i), (ii), and (iii) of the JJ Rules 2007 made under the JJ Act, 2000 or sub- section (2) of section 94 of JJ Act, 2015, shall be sufficient for prima facie satisfaction of the Court. On the basis of the aforesaid documents a presumption of juvenility may be raised.

33.4. The said presumption is however not conclusive proof of the age of juvenility and the same may be rebutted by contra evidence let in by the opposite side.

33.5. That the procedure of an inquiry by a Court is not the same thing as declaring the age of the person as a juvenile sought before the JJ Board when the case is pending for trial before the concerned criminal court. In



case of an inquiry, the Court records a prima facie conclusion but when there is a determination of age as per sub-section (2) of section 94 of 2015 Act, a declaration is made on the basis of evidence. Also the age recorded by the JJ Board shall be deemed to be the true age of the person brought before it. Thus, the standard of proof in an inquiry is different from that required in a proceeding where the determination and declaration of the age of a person has to be made on the basis of evidence scrutinized and accepted only if worthy of such acceptance.

33.6. That it is neither feasible nor desirable to lay down an abstract formula to determine the age of a person. It has to be on the basis of the material on record and on appreciation of evidence adduced by the parties in each case.

33.7. This Court has observed that a hypertechnical approach should not be adopted when evidence is adduced on behalf of the accused in support of the plea that he was a juvenile.

33.8. If two views are possible on the same evidence, the court should lean in favour of holding the accused to be a juvenile in borderline cases. This is in order to ensure that the benefit of the JJ Act, 2015 is made applicable to the juvenile in conflict with law. At the same time, the Court should ensure that the JJ Act, 2015 is not misused by persons to escape punishment after having committed serious offences.

33.9. That when the determination of age is on the basis of evidence such as school records, it is necessary that the same would have to be considered as per Section 35 of the Indian Evidence Act, inasmuch as any public or official document maintained in the discharge of official duty would have greater credibility than private documents.

33.10. Any document which is in consonance with public documents, such as matriculation certificate, could be accepted by the Court or the JJ Board provided such public document is credible and authentic as per the provisions of the Indian Evidence Act viz., section 35 and other provisions.

33.11. Ossification Test cannot be the sole criterion for age determination and a mechanical view regarding the age of a person cannot be adopted solely on the basis of medical opinion by radiological examination.



Such evidence is not conclusive evidence but only a very useful guiding factor to be considered in the absence of documents mentioned in Section 94(2) of the JJ Act, 2015.”

28. In **P. Yuvaprakash v. State represented by Inspector of Police**, {2023 SCC Online SC 846}, Hon'ble Supreme Court has held in para 14 to 17 as under :

“14. Section 94 (2)(iii) of the JJ Act clearly indicates that the date of birth certificate from the school or matriculation or equivalent certificate by the concerned examination board has to be firstly preferred in the absence of which the birth certificate issued by the Corporation or Municipal Authority or Panchayat and it is only thereafter in the absence of these such documents the age is to be determined through "an ossification test" or "any other latest medical age determination test" conducted on the orders of the concerned authority, i.e. Committee or Board or Court. In the present case, concededly, only a transfer certificate and not the date of birth certificate or matriculation or equivalent certificate was considered. Ex. C1, i.e., the school transfer certificate showed the date of birth of the victim as 11.07.1997. Significantly, the transfer certificate was produced not by the prosecution but instead by the court summoned witness, i.e., CW-1. The burden is always upon the prosecution to establish what it alleges; therefore, the prosecution could not have been fallen back upon a document which it had never relied upon. Furthermore, DW-3, the concerned Revenue Official (Deputy Tahsildar) had stated on oath that the records for the year 1997 in respect to the births and deaths were missing. Since it did not answer to the description of any class of documents mentioned in Section 94(2)(i) as it was a mere transfer certificate, Ex C-1 could not have been relied upon to hold that M was below 18 years at the time of commission of the offence.

15. In a recent decision, in Rishipal Singh Solanki vs. State of Uttar Pradesh & Ors. this court outlined the procedure to be followed in cases where age determination is required. The court was dealing with Rule 12 of the erstwhile Juvenile Justice Rules (which is in pari materia) with Section 94 of the JJ Act, and held as follows:

"20. Rule 12 of the JJ Rules, 2007 deals with the procedure to be followed in determination of age. The



juvenility of a person in conflict with law had to be decided prima facie on the basis of physical appearance, or documents, if available. But an inquiry into the determination of age by the Court or the JJ Board was by seeking evidence by obtaining: (i) the matriculation or equivalent certificates, if available and in the absence whereof; (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof; (iii) the birth certificate given by a corporation or a municipal authority or a panchayat. Only in the absence of either (i), (ii) and (iii) above, the medical opinion could be sought from a duly constituted Medical Board to declare the age of the juvenile or child. It was also provided that while determination was being made, benefit could be given to the child or juvenile by considering the age on lower side within the margin of one year."

16. Speaking about provisions of the Juvenile Justice Act, especially the various options in Section 94 (2) of the JJ Act, this court held in *Sanjeev Kumar Gupta vs. The State of Uttar Pradesh & Ors* that:

"Clause (i) of Section 94 (2) places the date of birth certificate from the school and the matriculation or equivalent certificate from the 2021 (12) SCR 502 [2019] 9 SCR 735 concerned examination board in the same category (namely (i) above). In the absence thereof category (ii) provides for obtaining the birth certificate of the corporation, municipal authority or panchayat. It is only in the absence of (i) and (ii) that age determination by means of medical analysis is provided. Section 94(2) (a)(i) indicates a significant change over the provisions which were contained in Rule 12(3)(a) of the Rules of 2007 made under the Act of 2000. Under Rule 12(3)(a) (i) the matriculation or equivalent certificate was given precedence and it was only in the event of the certificate not being available that the date of birth certificate from the school first attended, could be obtained. In Section 94(2)(i) both the date of birth certificate from the school as well as the matriculation or equivalent certificate are placed in the same category.

17. In *Abuzar Hossain @ Gulam Hossain Vs. State of West Bengal*, this court, through a three-judge bench, held that the burden of proving that someone is a juvenile (or below the prescribed age) is upon the person claiming it. Further,



in that decision, the court indicated the hierarchy of documents that would be accepted in order of preference."

29. In ***Alamelu & Another*** (supra), where the facts and circumstances were similar to that of this case, the Supreme Court observed as under:

"51. This Court in Rameshwar v. State of Rajasthan {AIR 1952 SC 54} declared that corroboration is not the sine qua non for a conviction in a rape case. In the aforesaid case, Vivian Bose, J. speaking for the Court observed as follows:-

"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, ... The only rule of law is that this rule of prudence must be present to the mind of the judge or the jury as the case may be and be understood and appreciated by him or them. There is no rule of practice that there must, in every case, be corroboration before a conviction can be allowed to stand."

52. The aforesaid proposition of law has been reiterated by this Court in numerous judgments subsequently. These observations leave no manner of doubt that a conviction can be recorded on the sole, uncorroborated testimony of a victim provided it does not suffer from any basic infirmities or improbabilities which render it unworthy of credence.

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54. Even PW5, Thiru Thirunavukarasu stated that Sekar (A1) had brought the girl with him to his house and told him that he had married her. They had come to see Trichy and requested a house to stay. This witness categorically stated that he thought that they were newly married couple. He had made them stay in Door No. 86 of the Police Colony, which was under his responsibility. On 10th August, 1993, the police inspector, who arrived there at 10.00 p.m. told this witness that Sekar (A1) had married the girl by threatening her and "spoiled her". The girl, according to the prosecution, was recovered from the aforesaid premises. Therefore, for six days, this girl was staying with Sekar (A1). She did not raise any protest. She did not even complain to this witness or any other residents in the locality. Her behavior of not complaining to anybody at any of the stages after being allegedly abducted would be wholly unnatural.



55. Earlier also, she had many opportunities to complain or to run away, but she made no such effort. It is noteworthy that she made no protest on seeing some known persons near the car, after her alleged abduction. She did not make any complaint at the residence of Selvi, sister of Sekar (A1) at Pudupatti. Again, there was no complaint on seeing her relatives allegedly assembled at the temple. Her relatives apparently took no steps at the time when mangalsutra was forcibly tied around her neck by Sekar (A1). No one sent for police help even though a car was available. She made no complaint when she was taken to the house of PW5, Thiru Thirunavukarasu and stayed at his place. Again, there was no protest when Sekar (A1) took her to the police station on 5th day of the alleged abduction and told at the Tiruchi Police Station that they had already been married. The above behaviour would not be natural for a girl who had been compelled to marry and subjected to illicit sexual intercourse.

56. In view of the aforesaid, we are of the considered opinion that the prosecution has failed to prove beyond reasonable doubt any of the offences with which the appellants had been charged. It appears that the entire prosecution story has been concocted for reasons best known to the prosecution."

- 30.** In the present case, the victim was not under detention or captivity and she was all the time free and had it been a case of forceful sexual intercourse, she had the opportunity to take help of anyone, either the police or her family members. But in the instant case, even as per the deposition of the victim, she was in love with the appellant and only when she came to know that the appellant was going to marry other girl, she lodged the complaint which clearly establishes that the relationship between the appellant and the victim was consensual. She never attempted to inform anyone or make a complaint to her family members that the appellant was bothering him for long time. The relationship continued between the appellant and the victim for a quite long time i.e. between 02.07.2017 to 18.11.2019 and the written complaint and the FIR was lodged only on 06.05.2020 i.e. after about five months for which there is no explanation offered by the victim.



- 31.** In view of the above discussion, and in light of the ratio laid down by the Hon'ble Apex Court in the cases (supra), this Court is of the considered opinion that the prosecution has failed to establish its case beyond reasonable doubt and the judgment passed by the learned trial Court needs interference and as such, the judgment of conviction and order of sentence dated 06.03.2025 is hereby set aside and the appellant/convict is acquitted of the charges.
- 32.** Resultantly, this appeal stands **allowed**.
- 33.** The appellant/convict is reported to be in jail. He is directed to be released forthwith unless wanted in any other case. However, keeping in view the provision of Section 437-A of the Cr.P.C. {*Section 481 of the BNSS*}, the accused-appellant is directed to furnish a personal bond for a sum of Rs. 25,000/- with two sureties in the like amount before the court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant, on receipt of notice thereof, shall appear before the Supreme Court.
- 34.** Registry is directed to transmit the trial court record along with a copy of this order to the trial court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE