



2025:CGHC:10553



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 2041 of 2023**

Kranti Ghore S/o Shankar Ghore, Aged About 32 Years, R/o Amravati (Maharashtra) Present Address - Atal Awas, Ratakhar, Police Station - Kotwali, District - Korba (C.G.)

... Appellant**versus**

State of Chhattisgarh Through - Station House Officer, Police Station - Kotwali Korba, District Korba (C.G.)

... Respondent(s)

For Appellant	:	Mr. Virendra Verma, Advocate holding the brief of Mr. Dharmesh Shrivastava, Advocate.
For Respondent(s)	:	Mr. Amit Verma, Panel Lawyer.

Hon'ble Shri Justice Ramesh Sinha, Chief Justice
Judgment on Board**04.03.2025**

1. Heard Mr. Virendra Verma, learned counsel, holding the brief of Mr. Dharmesh Shrivastava, learned counsel, appearing for the appellant as well as Mr. Amit Verma, learned counsel appearing for the respondent/State.
2. Today, though the matter is listed for hearing on I.A. No. 01/2023, which is an application for suspension of sentence and grant of bail to the appellant, however, with the consent of learned counsel for the parties, the appeal is heard finally.



3. In view of the above, I.A. No. 01/2023 stands disposed of.
4. This criminal appeal arises out of the judgment of conviction and order of sentence dated 21.08.2023 passed by the Additional Sessions Judge FTSC (POCSO), Korba, District – Korba (C.G.) in Special Case (POCSO) No.75/2021 whereby the appellant has been convicted and sentenced in the following manner:-

Conviction	Sentence
Under Section 452 of Indian Penal Code.	07 years RI with fine of Rs. 500/-, in default of payment of fine additional 06 months R.I.
Under Section 354 of Indian Penal Code	05 years RI with fine of Rs. 500/-, in default of payment of fine additional 06 months R.I.
Under Section 10 of POCSO Act.	07 years RI with fine of Rs. 500/-, in default of payment of fine additional 06 months R.I.
All the sentences were directed to run concurrently	

5. Judgment of conviction is challenged on the ground that without there being any clinching and reliable evidence against the appellant the trial Court has convicted and sentenced the appellant as aforementioned and thereby committed an illegality.
6. Case of the prosecution, in brief is that on 31.08.2021, the minor victim girl (PW-02) was at home with her brother, while their other family members were not present in the house. It is alleged that the present appellant entered into the house, grabbed the victim minor girl's arm and hand, and keep his hand on her breast, thereby outraging her modesty. Looking to the act of the present appellant, the victim's brother rushed out of the house and shouted for help, then the present appellant pushed the victim girl and escaped from there. On the basis of report lodged by father (PW-01) of the complainant/victim minor girl, the police registered First Information Report (Ex.P/1) bearing Crime No. 823/2021 for the offence punishable under Sections 452 and 354 of the Indian Penal Code



and Section 10 of Protection of Children from Sexual Offences Act, 2012 and investigation was initiated.

7. After completion of investigation, charge sheet was filed in the Court of the Additional Sessions Judge FTSC (POCSO), Korba, District – Korba (C.G.).
8. In order to prove the guilt of the appellant/accused, the prosecution has examined as many as 06 witnesses and exhibited total 11 documents. Statement of the accused/appellant was recorded under Section 313 of the Code of Criminal Procedure, 1973, in which he denied all incriminating evidence appearing against him, pleaded innocence and false implication. However, no evidence was adduced by him in his defence.
9. After hearing learned counsel for the parties and appreciating evidence available on record, trial Court vide impugned judgment convicted and sentenced the accused/appellant in the manner as described in paragraph-1 of this judgment. Hence, this appeal.
10. Learned counsel for appellant submits that the impugned judgment is *per se* illegal and contrary to the evidence/material available on record. Further, as per Dr. Monika Ekka (PW-3) and the MLC report (Ex.P/5) of the victim (PW-02), no external injury was found over whole body of the victim and the injuries sustained to the victim are simple in nature. He further submits that the trial Court convicted the appellant relying upon the statements of the prosecution witnesses particularly, the statement of the victim, but statements of the witnesses are not reliable as there are many contradictions, omissions and development in their statements, which were not considered properly by the trial Court. This apart, the learned trial Court has sentenced the appellant for seven years rigorous imprisonment under Section 452 of the IPC and Section 10 of POCSO



Act other than Section 354 of the IPC and as the appellant has already suffered jail sentence of 03 years and 06 months and has already deposited the fine amount imposed by the trial Court, the sentence already undergone by him may be suffice to meet the ends of justice. Hence, it is prayed that the sentence awarded to the appellant may be reduced to the period already undergone by him.

11. On the other hand, judgment impugned is supported by the learned State Counsel and he submits that on the date of incident, the victim (PW-02) was a minor girl and in this regard the birth certificate of the victim girl is annexed in the record as Article A-2. Thus, the sentence awarded by the trial Court is just and proper warranting no interference.
12. I have heard learned counsel for the respective parties and perused the recorded placed on record.
13. The first question for consideration would be whether on the date of incident, the victim girl/prosecutrix was a minor?
14. According to the case of prosecution, age of the victim girl (PW-2) at the time of alleged incident was about below 12 years and the said finding was recorded by the trial Court also which is based upon the evidence available on record i.e. the birth certificate of the victim which is annexed as Article A-2, which is neither perverse nor contrary to the record. Further, the above finding regarding the age of the victim girl is also not disputed by learned counsel appearing for the appellant. Hence, the finding recorded by the trial Court that on the date of incident, the victim girl was minor, which is a correct finding of fact, and I hereby affirm the said finding.
15. With regard to the alleged incident committed with the victim girl (PW-02), it has been stated by the victim (PW-02) herself in her Court statement that on the date of incident, when she was at her home, the



appellant came to her house and started touching her breast and other parts of her body. The said incident was narrated by her brother to Nisha Rajput (PW-05), who is the neighbour of the victim girl, who called the father of the victim (PW-01) on phone and told about the incident to him. Father (PW-01) of the victim in his Court statement has also stated that Nisha Rajput (PW-05) had called him on his phone on the date of the incident and told him about the incident which was committed with his daughter/victim by the appellant. Thereafter, this witness lodged the report (Ex.P/1) against the appellant. The statement of above witnesses remained un rebutted. Thus, it is established that the appellant has committed the alleged crime with the victim girl.

16. Dr. Monika Ekka (PW-03) in her statement has deposed that the victim girl (PW-02) has sustained simple injuries and the said injury may have occurred by hard and blunt object which is evident from the MLC report (Ex.P/5) of the victim girl.
17. So far as the sentence of the appellant is concerned, he has been sentenced by the trial Court to undergo rigorous imprisonment for 7 years and to pay fine of Rs. 500/- for the offence punishable under Sections 452 of IPC and Section 10 of POCSO Act and further, rigorous imprisonment for 05 years and fine of Rs. 500/- for the offence under Section 354 of the IPC. Further, it is evident that the maximum sentence awarded for the offence under Section 10 of POCSO Act is 7 years R.I. though the minimum sentence is 5 years and for offence under Section 452 of the IPC, 7 years has been awarded by the trial Court.
18. Considering the fact and circumstances of the case, nature and gravity of the offence, evidence available on record, the statement of the victim minor girl and other prosecution witnesses, the sentence awarded to the appellant R.I. for 7 years for offence under Section 10 of POCSO Act and



Section 452 of IPC appears to be on higher side, further the appellant has already suffered 3 years and 6 months in jail and fine amount has already been paid, this Court finds it appropriate to reduce the sentence from RI for 7 years to RI for 5 years under Sections 10 of POCSO Act and also under Section 452 of the IPC, as the appellant has already suffered the agony of criminal trial for so many years, that meets the ends of justice.

19. Consequently, the criminal appeal is **partly allowed**. Conviction of the appellant under Sections 452 of the IPC and under Section 10 of POCSO Act is hereby maintained, however, his sentence is reduced from RI for 7 years to RI for 5 years on each count. Further, the conviction and sentence for offence under Section 354 of the IPC is hereby maintained. All the sentences shall run concurrently.
20. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as modified by this Court.
21. The Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.
22. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his 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 the High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

(Ramesh Sinha)
Chief Justice