



2026:CGHC:21389

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1803 of 2025

- Gulab Rai Daharia, S/o Birju Ram Daharia, aged about 35 Years, R/o Village Burgahan P.S. Kharora District- Raipur (C.G.)
At Present K.B.T. 141, M.I.G. Kabir Nagar Raipur, P.S. Kabir Nagar District- Raipur (C.G.)

...Appellant

versus

- State of Chhattisgarh, Through S.H.O. Police Station - G.R.P. Raipur, District- Raipur (C.G.)

... Respondent

For Appellant	:	Mr. Pushkar Sinha, Advocate.
For Respondent	:	Mr. Dharmesh Shrivastava, Deputy Advocate General and Mr. Amit Verma, Panel Lawyer.

(Hon'ble Shri Justice Radhakishan Agrawal)

Judgment on Board

07/05/2026

- This criminal appeal, preferred by the appellant under Section 415 (2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, is directed against the judgment of conviction and order of sentence dated 13.08.2025 passed by the learned Additional Sessions Judge, Second Fast Track Special Court (POCSO), Raipur, District Raipur (C.G.), in Special Criminal Case No.166/2021, whereby the appellant has been convicted for the offences punishable under Section 354 of the Indian Penal Code (in short, 'IPC') and Section



10 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'the Act, 2012'). However, in view of the provisions contained in Section 42 of the Act, 2012, the appellant stands convicted under Section 10 of the Act, 2012 and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.500/-, with a default stipulation of additional rigorous imprisonment for one month in case of non-payment of fine.

2. Case of the prosecution, in brief, is that on 10.07.2021, PW-3 mother of the victim, lodged a report at Police Station G.R.P., Raipur, stating that she was returning from Ambikapur to Raipur on 09.07.2021 along with her elder daughter, the victim aged about 11 years, and her maternal aunt. During the journey, at about 04:00 a.m., shortly before Usalapur Railway Station, a co-passenger/appellant sitting on Berth No. 23 allegedly caught hold of the hands of the victim and tried to pull her down from the seat with the intention to outrage her modesty. Thereafter, the matter was reported to the R.P.F. staff on duty, who caught the accused and brought him to Raipur. On the basis of the said report, First Information Report (Ex.P-7) was registered against the accused/appellant.
3. During the course of investigation, the spot map was prepared vide Ex.P-8, and the progress report card of the victim was seized vide Ex.P-4. The accused/appellant was taken into custody vide Ex.P-5. One mobile phone of Oppo Company belonging to the appellant was seized vide Ex.P-3, and the statements of the witnesses were recorded.



4. After completion of the investigation, a charge-sheet was filed against the accused/appellant before the concerned trial Court. The accused/appellant denied the charges and claimed to be tried.
5. In order to prove its case, the prosecution examined as many as seven witnesses and exhibited fourteen documents to connect the appellant with the crime in question. However, in defence, the appellant neither examined any witness nor exhibited any document.
6. The learned trial Court, after hearing counsel for the parties and appreciating the evidence available on record, by the impugned judgment, acquitted the appellant of the offences punishable under Section 506 Part II (two counts) and Section 294 (two counts) of the IPC, but convicted and sentenced him as mentioned in paragraph 1 of this judgment. Being aggrieved by the said judgment, the accused/appellant has preferred the present appeal before this Court.
7. Learned counsel for the appellant submits that the learned trial Court has erred in convicting and sentencing the appellant for the aforesaid offences, as the prosecution has failed to prove its case beyond reasonable doubt. It is further submitted that there are material contradictions and omissions in the statements of the prosecution witnesses, and their evidence does not corroborate each other. He also submits that there is no cogent and reliable evidence on record to establish that the appellant is the author of the alleged offence. It is, therefore, prayed that the impugned



judgment of conviction and order of sentence be set aside and the appellant be acquitted of the charges levelled against him.

8. On the other hand, learned counsel for the State supports the impugned judgment and submits that the learned trial Court, after elaborate discussion of the evidence available on record, has rightly convicted and sentenced the appellant, which calls for no interference by this Court.
9. I have heard learned counsel for the parties and perused the material available on record.
10. PW-1 victim, stated in her deposition that at the time of the incident, she was sleeping on the middle berth, while her mother and sister were sleeping on the lower and upper berths, respectively. The accused/appellant was travelling in the same coach on the side lower berth near their seats. She stated that while she was asleep, the accused/appellant caught hold of her hand and started pulling it. Her mother/PW-3 noticed the act and questioned the accused, who replied that the victim's hand was hanging down. However, her mother denied the same and slapped him once or twice. She further stated that when her mother informed the police, the accused/appellant again stated that he had only lifted the victim's hand as it was hanging down, to which her mother replied that he should have informed her. Thereafter, the police apprehended the accused and took him away and the accused did not say anything else to her.
11. Contrary to the statement of the victim, PW-3 mother of the victim, stated that the victim informed her that the accused/appellant had



caught hold of her hand, pulled it and was trying to bring her down from the seat. She further stated that she told the accused/appellant that if the victim's hand was hanging down, he should have informed her. In reply, the accused stated that he was only adjusting her hand. She further stated that the victim questioned the accused as to why he had scratched her hand. The victim also informed her that the accused had pulled her scarf and lifted her hand. However, in her cross-examination, she admitted that she had not stated in the First Information Report (Ex.P-7) or in her police statement that the accused/appellant had scratched the hand of the victim. She further admitted that other passengers were also travelling in the train and that during the altercation, none of them intervened in the matter.

12. PW-5 P. Dhruv, a retired employee of the Railway Protection Force, stated that at the time of the incident, he received information from the Control Room that a quarrel was taking place with a woman in Coach No. S-3 of Ambikapur Down Train No. 08242. When the train stopped at Uslapur Railway Station, he along with other staff members went to the said coach where PW-3 mother of the victim informed him that the passenger occupying Berth No. 23 had caught hold of the victim's hand and was pulling it, due to which, the victim screamed and she woke up. However, PW-1 victim and PW-3, her mother, have not stated in their depositions that the victim had screamed, following which, PW-3 woke up and that the said fact is also not mentioned in the FIR (Ex.P-7).

13. PW-6 Rupesh Bansod, Sub-Inspector, admitted that he had neither



recorded the statement of any other passenger travelling in the train nor made any inquiry from them. Similarly, PW-7 Rajkumar Borjha, Inspector, RPF, also admitted that no passenger travelling in the train was made a witness in the case. He further admitted that in the police statement of the victim as well as in the First Information Report, it was not mentioned that the mother of the victim had assaulted or scratched the accused.

14. Thus, from perusal of the aforesaid evidence, it is evident that there are material contradictions and omissions in the statements of the victim (PW-1) and her mother (PW-3) and their statements do not corroborate with each other, the evidence of other prosecution witnesses, and the contents of the First Information Report with regard to the alleged incident. It is also pertinent to note that the alleged incident took place in a train where other passengers were also travelling, and had such an incident occurred, they would have noticed the same. However, none of the co-passengers were examined and their statements were not recorded during the course of investigation, which creates doubt in the prosecution case. Further, there is no cogent and clinching evidence available on record to establish the complicity of the appellant in the crime in question.

15. In the matter of *Harbeer Singh vs Sheeshpal*, {(2016) 16 SCC 418}, the Hon'ble Supreme Court has reiterated the well settled principles that burden of proving its case beyond all reasonable doubt lies on the prosecution and it never shifts, and observed in para-11 as under:-



"11. It is a cardinal principle of criminal jurisprudence that the guilt of the accused must be proved beyond all reasonable doubt. The burden of proving its case beyond all reasonable doubt lies on the prosecution and it never shifts. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. (Vide *Kali Ram v. State of H.P.* [*Kali Ram v. State of H.P.*, (1973) 2 SCC 808 : 1973 SCC (Cri) 1048] ; *State of Rajasthan v. Raja Ram* [*State of Rajasthan v. Raja Ram*, (2003) 8 SCC 180 : 2003 SCC (Cri) 1965] ; *Chandrappa v. State of Karnataka* [*Chandrappa v. State of Karnataka*, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] ; *Upendra Pradhan v. State of Orissa* [*Upendra Pradhan v. State of Orissa*, (2015) 11 SCC 124 : (2015) 4 SCC (Cri) 309] and *Golbar Hussain v. State of Assam* [*Golbar Hussain v. State of Assam*, (2015) 11 SCC 242 : (2015) 4 SCC (Cri) 384] .)"

16. Likewise, in the matter of *Irfan @ Naka v. State of Uttar Pradesh*, 2023 SCC OnLine SC 1060, the Hon'ble Supreme Court reiterated in para 63 that it is the bounden duty of the prosecution to establish the charge against the accused beyond reasonable doubt and that the benefit of doubt must always go in favour of the accused.
17. Thus, in the light of aforesaid decisions rendered by the Supreme Court and upon consideration of the evidence available on record, this Court is of considered opinion that the prosecution has failed to prove its case beyond reasonable doubt, therefore, the appellant is entitled for acquittal on the basis of benefit of doubt. The learned trial Court was not justified in convicting and sentencing the appellant for the aforesaid offence.
18. Accordingly, the impugned judgment of conviction and order of sentence passed by the learned trial Court is hereby set aside, and the appellant is acquitted of the aforesaid charge by extending him the benefit of doubt.



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19. In the result, the criminal appeal is allowed. Since the appellant is reported to be in jail, it is directed that he be released forthwith, if not required in any other case.

20. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Jail Superintendent where the appellant is undergoing jail sentence.

Sd/-

(Radhakishan Agrawal)
JUDGE

Akhilesh