



2026:DHC:9073



* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Reserved on: October 05, 2026

Pronounced on: October 13, 2026

CNR No. DLHC011980592016

+ CRL.L.P. 435/2016, CRL.M.A. 12786/2016

STATE (GOVT OF NCT OF DELHI)

.....Petitioner

Through: Mr. Satish Kumar, APP with SI
Monika (8882207275)

versus

BAJRANG BALI SINGH

.....Respondent

Through: Ms. Tara Narula and Mr
Harshvardhan Jain, Adv.
(7065593930)

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

CRL.L.P. 435/2016

1. By virtue of the present criminal leave petition under *Section 378(3)* of the Code of Criminal Procedure, 1973¹, the petitioner/ State seeks leave to appeal against the judgment dated 10.02.2016² passed by Additional Sessions Judge-01, North West, Rohini Courts, New Delhi³ in Sessions Case No.275/2014 titled '*State vs. Bajrang Bali Singh*' arising out of FIR No.750/2014, registered at PS Ashok Vihar under *Sections 9(m)/10* of the Protection of Children from Sexual Offences Act, 2012⁴ and *Sections*

¹ Hereinafter referred to as "*CrPC*"

² Hereinafter referred to as "*impugned judgment*"

³ Hereinafter referred to as "*Trial Court*"

⁴ Hereinafter referred to as "*POCSO Act*"



2026:DHC:9073



354/354-A/506 of the Indian Penal Code 1860⁵, whereby the respondent was acquitted of all the charges.

2. Briefly put, the facts as borne out from the present FIR are that on 30.11.2014, pursuant to receipt of information, the Police reached the spot where the prosecutrix/ victim⁶, aged 10 years, and her mother met them. During inquiry, the victim stated that at about 06:30 PM, while she was washing utensils in the balcony on the first floor outside her room, the respondent, who was also residing in the same house in another room, came there and asked her “*tu kitne paise leti hai*” and thence started misbehaving with her by touching her body and shoulder and pressing her breast. The victim then raised an alarm. Hearing it, her mother reached there, and a quarrel ensued between her and the respondent, during which the respondent extended threats. Based thereon, the present FIR came to be registered.

3. After conclusion of investigation, charge sheet was filed by the Investigating Officer before the concerned Court, whereafter charges were framed under *Sections 9(m)/10* of the POCSO Act, 2012 and *Section 506* of the IPC against the respondent, to which, he pleaded ‘*not guilty*’ and claimed trial.

4. Thereafter, the learned Trial Court, after going through the evidence adduced before it, acquitted the respondent of all the charges by way of the impugned judgment primarily for the following reasons:

(a) The victim has made contradictions in her court depositions and statement recorded under *Section 164 CrPC*;

⁵ Hereinafter referred to as “*IPC*”

⁶ Hereinafter referred to as “*Victim*”



2026:DHC:9073



(b) There are *inter-se* contradictions in the testimonies of the victim [PW3] and her mother [PW4];

(c) The victim's sole testimony is not enough to convict the accused;

(d) Possibility of false implication of the accused by the mother of the victim cannot be ruled out;

(e) No independent witness was joined by the Investigation Officer during the investigation.

5. Aggrieved thereby, the State has preferred an appeal before this Court and for which leave is being sought by way of the present petition.

6. Learned APP for the State seeking leave to appeal submitted as under:-

6.1. That the findings recorded by the learned Trial Court were based on surmises and conjectures and were contrary to the evidence on record.

6.2. That the testimony of the victim has been disregarded by the learned Trial Court merely because there were some minor discrepancies between her statement recorded before the Magistrate under *Section 164 CrPC* and her testimony before the Court and therefore, cannot be relied upon without corroboration. Even though, it is settled position of law that the sole testimony of the victim, if reliable and trustworthy as in the present case, can form the basis of conviction. In any event, the discrepancies herein, if any, are not of such nature which could shake the case of the prosecution at its core.

6.3. That a wrong presumption has been drawn by the learned Trial Court that the mother of the victim had falsely implicated the respondent on account of an alleged dispute without any material on record, and without



2026:DHC:9073



realising that the mother of the victim herein would not falsely allege sexual assault upon her daughter to jeopardise her dignity and reputation merely to settle a dispute.

6.4. That undue significance on the absence of independent witnesses has wrongly been given, even whence there was none, and the testimony of the Investigating Officer [**PW5**], who stated that no tenant was present at the spot, has been ignored.

6.5. That the testimony of a witness cannot be discarded merely because the witness is related to or interested.

7. Based on the aforesaid submissions, learned APP prayed that leave to appeal be granted.

8. *Per contra*, learned counsel for the respondent submitted as under:-

8.1. That the impugned judgment reflects a correct and plausible appreciation of the evidence on record and does not warrant interference by this Court, more so, since the principle of double presumption of innocence operates in favour of the respondent.

8.2. That the testimony of the victim suffered from material contradictions, *particularly*, qua the nature of the sexual assault alleged, inasmuch as, the allegation that the respondent had pressed the victim's breast, though made by the victim in her initial statement to the Police and thereafter reiterated before the learned Trial Court, was conspicuously absent from the statement recorded under *Section 164 CrPC*.

8.3. That since the testimony of the victim in the present case was not of sterling quality, there was requirement of corroboration from an independent source. Moreover, despite the admitted presence of neighbours at the spot, including one Sunita to whom the victim has narrated the whole



2026:DHC:9073



incident, no independent witness was examined to corroborate the prosecution case. The only two public witnesses examined i.e., victim and victim's mother, are both interested witnesses.

8.4. That there are material differences in the testimony of the mother of the victim and that of the victim regarding the respondent's intoxication, clothes, etc. at the time of the incident.

8.5. That the possible motive of false implication could not be ruled out, *particularly*, in view of the admitted existing dispute between the mother of the victim and the respondent.

9. In view thereof, learned counsel for the respondent prayed that no leave to appeal be granted and the impugned judgment be upheld.

10. This Court has heard the learned APP and the learned counsel for the respondent as well as perused the materials on record.

11. The issue qua grant of leave to appeal under *Section 378(3)* of the CrPC as involved herein has long been settled by the Hon'ble Supreme Court in ***State of Maharashtra v. Sujay Mangesh Poyarekar***⁷ as under:-

“19. Now, Section 378 of the Code provides for filing of appeal by the State in case of acquittal. Sub-section (3) declares that no appeal “shall be entertained except with the leave of the High Court”. It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by subsection (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under subsection (3) of Section 378 of the Code.

⁷ Poyarekar, (2008) 9 SCC 475



20. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether a prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside.

21. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial court must be allowed by the appellate court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial court could not be said to be “perverse” and, hence, no leave should be granted.”

XXX

XXX

XXX

24. We may hasten to clarify that we may not be understood to have laid down an inviolable rule that no leave should be refused by the appellate court against an order of acquittal recorded by the trial court. We only state that in such cases, the appellate court must consider the relevant material, sworn testimonies of prosecution witnesses and record reasons why leave sought by the State should not be granted and the order of acquittal recorded by the trial court should not be disturbed. Where there is application of mind by the appellate court and reasons (may be in brief) in support of such view are recorded, the order of the court may not be said to be illegal or objectionable. At the same time, however, if arguable points have been raised, if the material on record discloses deeper scrutiny and reappreciation, review or reconsideration of evidence, the appellate court must grant leave as sought and decide the appeal on merits. In the case on hand, the High Court, with respect, did neither. In the opinion of the High Court, the case did not



2026:DHC:9073



require grant of leave. But it also failed to record reasons for refusal of such leave.”

[Emphasis supplied]

12. In fact, the same has also recently been reiterated by the Hon’ble Supreme Court in ***Manoj Rameshlal Chhabriya v. Mahesh Prakash Ahuja***⁸.

13. Based on the materials on record, *particularly*, the testimony of the victim coupled with the statement of the mother, this Court is of the considered view that learned APP has been able to make out a *prima facie* case warranting consideration in an appeal. Also, in view of the aforesaid materials, the issue qua discrediting them, and (non-)requirement of any corroboration thereto by independent witnesses, has also to be gone into. It is also significant to note that the respondent herein was being tried for an offence under *Section 9* of the POCSO Act, thereby attracting presumption under *Section 29* thereof.

14. *Ergo*, in these circumstances, the present petition is allowed and the petitioner/ State is granted leave to appeal.

CRL.A. No/2026 (to be numbered)

15. The Registry is directed to register the present matter as a criminal appeal and re-number accordingly.

16. List before the Roster Bench on 28.10.2026.

SAURABH BANERJEE, J.

OCTOBER 13, 2026/rr/GA

⁸ 2025 SCC OnLine SC 451