IN THE HIGH COURTOF DELHIAT NEW DELHI

% Judgment reserved on: 06.12.2025
Judgment delivered on:16.03.2026

\+ **CRL.A. 641/2025 & CRL.M.(BAIL) 1036/2025**

PRAVEEN .....Appellant

versus

THE STATE OF NCT OF DELHI .....Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Sudarshan Rajan, Mr. Hitain Bajaj, Mr. Sambhav Sharma & Ms. Kashish, Advs.

For the Respondent : Mr. Ritesh Kumar Bahri, APP for the State along with Mr. Lalit Luthra & Mr. Vinesh Kumar, Advs. WSI Fukeria, PS DCRS, WSI Birvati Yadav, PS DCRS.

Ms. Surbhi Arora, Mr. Subham Jain, Mr. Shravan Pandey & Mr. Siddharth Arora, Advs. for prosecutrix.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal is filed against the judgment dated 30.01.2025 (hereafter '**impugned judgment**') and the order on sentence dated 07.02.2025 (hereafter '**impugned order on sentence**')

passed by the learned Additional Sessions Judge, Central, Tis Hazari Courts, Delhi in SC No. 500/2023 arising out of FIR No. 21/2023 registered at Police Station Delhi Cantt Railway Station.

2. By the impugned judgment, the learned ASJ found the appellant guilty of the offences under Sections 376(3) of the Indian Penal Code, 1860 ('**IPC**') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**'). By the impugned order on sentence, the learned ASJ sentenced the appellant to undergo rigorous imprisonment for a period of 20 years and to pay a fine of ₹5,000/- and in default of payment of fine to undergo simple imprisonment for a period of 02 months.

3. Succinctly stated, on 17.07.2023, on the basis of the complaint of the victim, a Zero FIR being FIR No. 174/2023 was registered on 17.07.2023 under Sections 376 of the IPC and Section 4 of the POCSO Act. It is alleged in the complaint that the victim was travelling to Bengal and she was not accompanied by any member of her family. It is alleged that the victim met the appellant on train and when the train was leaving Delhi Cantt Railway Station, the appellant took the victim to the bathroom and thereafter committed *'galat kaam'* with her. It is alleged that the '*galat kaam*' only occurred once. It is further alleged that the victim and the appellant had alighted the train and when they entered the Railway Station to board the train, they were apprehended by RPF staff. Pursuant to the same, the victim was produced by one RPF officer at Police Station Old Delhi Railway

Station, where her statement was recorded, which ultimately led to registration of the Zero FIR. The victim was also medically examined where she refused to undergo any internal examination. The incident is alleged to have taken place on 16.07.2023 at around 9:30 PM.

4. Since the incident pertained to PS Delhi Cantt Railway Station, the case file was transferred to PS Delhi Cantt Railway Station whereafter FIR No. 21/2023 was registered on 18.07.2023 for offences under Sections 376 of the IPC and Section 4 of the POCSO Act.

5. In her statement under Section 161 of the Code of Criminal Procedure, 1973 ('**CrPC**') recorded on 19.07.2023, the victim stated that she was 11 years old and stated that she was travelling to Bengal. The victim stated that she reached Delhi Cantt Railway Station by bus whereafter she boarded the train and reached Old Delhi Railway Station. She stated that she met the appellant on train and stated that she did not know the appellant. Thereafter, she stated that the appellant held her hand and asked her to accompany him to the train's lavatory. She stated that thereafter in the lavatory, the appellant removed the victim's *pajami* and inserted his private part in the victim's genitalia. She stated that she did not inform about the alleged incident to anyone on train. She further stated that when the appellant and herself alighted the train in Old Delhi Railway Station, the appellant was caught by police whereafter she informed the Police that the appellant had committed '*galat kaam*' with her. She further stated that the incident took place at around 9:30 PM.

6. The statement of the victim under Section 164 of the CrPC was recorded on 19.07.2023 wherein the victim stated that she was travelling from Gurgaon to Delhi by train. She stated that thereafter the she met the appellant on train who took her to the lavatory. She stated that thereafter the appellant removed her lower garments and also told her that he would marry her. She further stated that thereafter the appellant inserted his private part in the victim's genitalia. She stated that thereafter she herself wore her clothes. She stated that thereafter they alighted the train and stated that "*checking karne waale ne uss ladke ko pakad liya. Maine checking karne waale ko bataya mere saath kya hua hai.*' Subsequently, upon the conclusion of the investigation, the chargesheet was filed.

7. The learned ASJ *vide* order dated 23.09.2023 proceeded to frame charges against the appellant for the offences under Sections 376(3) of the IPC and Section 5(m) of the POCSO Act.

8. The prosecution cited 13 witnesses in support of its case including PW-1 (victim), PW-2 (father of the victim), PW-3 (Principal of the school), PW-11 (FSL expert) and other witnesses who deposed about the manner of investigation.

9. In his statement under Section 313 of the CrPC, the appellant denied the allegations levelled against him. The appellant acceded to the fact that he had met the victim on train. He stated that the victim told him that she was going to Bengal and her parents were not there.

The appellant asserted that the victim asked for money and for mobile phone from the appellant. The appellant further asseverated that he only talked with the victim and that they kissed each other. He emphatically asserted that he did not do anything else with the victim. He further asserted that he had been falsely implicated in the case.

10. The learned ASJ, by the impugned judgment, convicted the appellant for the offences under Sections 376(3) of the IPC and Section 6 of the POCSO Act. It was noted that the victim was around 11 years 9 months old on the date of the commission of the alleged offence that is on 16.07.2023. It was noted that from a perusal of the testimony of the victim, it became apparent that the appellant committed penetrative sexual assault upon her. The learned ASJ took into account the fact that upon a leading question on the aspect of penetration, the victim clearly deposed that the appellant slightly penetrated his penis into the victim's genitalia.

11. The learned ASJ noted that the victim proved her complaint given to the Police (PW-1/A) and her statement recorded under Section 164 of the CrPC. It was noted that the victim also correctly identified the appellant during her deposition as the one she met on the train. It was noted that the creditworthiness of the victim could not be impeached even during cross-examination.

12. It was noted that while no semen was detected on the *pajami* of the victim, the same was immaterial in the facts of the present case. It

was noted that the negative FSL result was of no avail considering that as per the testimony of the victim, the case did not pertain to ejaculation on the victim's clothes or her private part. It was noted that the victim testified that the appellant slightly inserted his penis in her private part. Consequently, considering that the victim remained consistent in her testimony and no material contradiction could be brought forth, and the appellant's failure to dislodge the presumptions under Section 29 and 30 of the POCSO Act, the learned ASJ convicted the appellant for the offences under Sections 376(3) of the IPC and Section 6 of the POCSO Act.

13. The learned counsel for the appellant submitted that the learned ASJ erred in convicting the appellant for the offences under Sections 376 of the IPC and Section 6 of the POCSO Act. He submitted that leading question was put to the victim in the examination in chief by the learned Public Prosecutor which is impermissible and submitted that any answer elicited upon any such question would be inadmissible in evidence in terms of Section 142 of the Indian Evidence Act, 1872. He submitted that the victim in her initial complaint had merely stated that the appellant committed '*galat kaam*' with her and the same does not necessarily connote penetration.

14. He submitted that the fact that no insertion took place is further corroborated by the DNA results which showed that no semen or other DNA was generated from the clothes of the victim. He submitted that the victim refused her internal examination for which reason no

evidence could be led to show that there was any DNA in the internal parts of the victim. He submitted that the same weighs in favour of the accused and the benefit of the same ought not to be denied to the appellant.

15. On 22.07.2025, the victim appeared before this Court and requested that an advocate be provided to address arguments on her behalf. Consequently, this Court by order dated 22.07.2025 requested Ms. Surbhi Arora who was present in Court to represent the victim in the present case.

16. The learned Additional Public Prosecutor for the State and the learned counsel for the prosecutrix submitted that the impugned judgment is well reasoned and warrants no interference by this Court. They submitted that the victim in her statements under Section 161 and 164 of the CrPC had categorically asserted that the appellant inserted his penis in her genitalia.

17. They submitted that since that the identity of the appellant is not in dispute, his culpability stood established. They submitted that the culpability of the appellant can further be deciphered from his statement under Section 313 of the CrPC wherein the appellant himself categorically admitted that he had kissed the victim.

Analysis

18. Before resorting to deal with the contention of the parties as well as analysing the evidence presented, it is pertinent to take note of

the scope of Appellate Jurisdiction that is vested in this Court. While dealing with an appeal against judgment on conviction and sentence, this Court is required to reappreciate the evidence in its entirety and apply its mind independently to the material on record. The Hon'ble Apex Court in the case of ***Jogi & Ors. v. The State of Madhya Pradesh*** **: Criminal Appeal No. 1350/2021** had considered the scope of the High Court's appellate jurisdiction under Section 374 of the CrPC and held under:

> *"9. The High Court was dealing with a substantive appeal under the provisions of Section 374 of the Code of Criminal Procedure 1973. In the exercise of its appellate jurisdiction, the High Court was required to evaluate the evidence on the record independently and to arrive at its own findings as regards the culpability or otherwise of the accused on the basis of the evidentiary material. As the judgment of the High Court indicates, save and except for one sentence, which has been extracted above, there has been virtually no independent evaluation of the evidence on the record. While considering the criminal appeal under Section 374(2) of CrPC, the High Court was duty bound to consider the entirety of the evidence. The nature of the jurisdiction has been dealt with in a judgment of this Court in Majjal v State of Haryaya [(2013) 6 SCC 799] , where the Court held:*
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> > *'6. In this case what strikes us is the cryptic nature of the High Court's observations on the merits of the case. The High Court has set out the facts in detail. It has mentioned the names and numbers of the prosecution witnesses. Particulars of all documents produced in the court along with their exhibit numbers have been mentioned. Gist of the trial court's observations and findings are set out in a long paragraph. Then there is a reference to the arguments advanced by the counsel. Thereafter, without any proper analysis of the evidence almost in a summary way the High Court has dismissed the appeal. The High Court's cryptic reasoning is contained in two short paragraphs. We find such disposal of a criminal appeal by the High Court particularly in a case involving charge under Section 302 IPC where the accused is sentenced to life imprisonment unsatisfactory.*

> *7. It was necessary for the High Court to consider whether the trial court's assessment of the evidence and its opinion that the appellant must be convicted deserve to be confirmed. This exercise is necessary because the personal liberty of an accused is curtailed because of the conviction. The High Court must state its reasons why it is accepting the evidence on record. The High Court's acceptable only if it is supported by reasons. In such appeals it is a court of first appeal. Reasons cannot be cryptic. By this, we do not mean that the High Court is expected to write an unduly long treatise. The judgment may be short but must reflect proper application of mind to vital evidence and important submissions which go to the root of the matter. Since this exercise is not conducted by the High Court, the appeal deserves to be remanded for a fresh hearing after setting aside the impugned order.' "*

19. Before embarking on the journey of looking into the merits of the present case, it is pertinent to firstly take note of the age of the victim on the date of the incident. The incident is alleged to have taken place on 16.07.2023. To establish the age of the victim, the prosecution examined PW3 (principal of the school) who produced the original admission/withdrawal register as per which the date of birth of the victim reflected as 03.10.2011. The victim was admitted in that school on 03.01.2018 in Std 1. The age proof of the victim was also supported by a certificate issued by the school that manifested the date of birth of the victim as 03.10.2011. The contents of the date of birth certificate was also proved by PW-3. In his cross examination, PW3 stated that the victim's parents had provided her Aadhar Card as date of birth proof. Nothing could emerge from the cross examination of PW3 to discredit his testimony or raise suspicions on the genuineness

of age record of the victim. In view of the same, the victim was rightly determined to be below 12 years of age at the time of the incident.

20. This Court now turns its gaze towards the factual matrix of the present case. The case of the prosecution is essentially anchored in the testimony of the victim. The contours of law pertaining to the appreciation of the testimony of the child victim has been subject to various expositions in a catena of judgments. In that backdrop, a meaningful reference can be gained from the decision of the Hon'ble Apex Court in the case of ***State of M.P. v. Balveer Singh*** **: (2025) 8 SCC 545** whereby it was observed as under:

> *"67. We summarise our conclusion as under:*
> *67.1. The Evidence Act does not prescribe any minimum age for a witness, and as such a child witness is a competent witness and his or her evidence cannot be rejected outrightly.*
> *67.2. As per Section 118 of the Evidence Act, before the evidence of the child witness is recorded, a preliminary examination must be conducted by the trial court to ascertain if the child witness is capable of understanding sanctity of giving evidence and the import of the questions that are being put to him.*
> *67.3. Before the evidence of the child witness is recorded, the trial court must record its opinion and satisfaction that the child witness understands the duty of speaking the truth and must clearly state why he is of such opinion.*
> *67.4. The questions put to the child in the course of the preliminary examination and the demeanour of the child and their ability to respond to questions coherently and rationally must be recorded by the trial court. The correctness of the opinion formed by the trial court as to why it is satisfied that the child witness was capable of giving evidence may be gone into by the appellate court by either scrutinising the preliminary examination conducted by the trial court, or from the testimony of the child witness or the demeanour of the child during the deposition and cross-examination as recorded by the trial court.*

67.5. The testimony of a child witness who is found to be competent to depose i.e. capable of understanding the questions put to it and able to give coherent and rational answers would be admissible in evidence.

67.6. The trial court must also record the demeanour of the child witness during the course of its deposition and cross-examination and whether the evidence of such child witness is his voluntary expression and not borne out of the influence of others.

67.7. There is no requirement or condition that the evidence of a child witness must be corroborated before it can be considered. A child witness who exhibits the demeanour of any other competent witness and whose evidence inspires confidence can be relied upon without any need for corroboration and can form the sole basis for conviction. If the evidence of the child explains the relevant events of the crime without improvements or embellishments, the same does not require any corroboration whatsoever.

67.8. Corroboration of the evidence of the child witness may be insisted upon by the courts as measure of caution and prudence where the evidence of the child is found to be either tutored or riddled with material discrepancies or contradictions. There is no hard-and-fast rule when such corroboration would be desirous or required, and would depend upon the peculiar facts and circumstances of each case.

67.9. Child witnesses are considered as dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded and as such the courts must rule out the possibility of tutoring. If the courts after a careful scrutiny, find that there is neither any tutoring nor any attempt to use the child witness for ulterior purposes by the prosecution, then the courts must rely on the confidence-inspiring testimony of such a witness in determining the guilt or innocence of the accused. In the absence of any allegations by the accused in this regard, an inference as to whether the child has been tutored or not, can be drawn from the contents of his deposition.

67.10. The evidence of a child witness is considered tutored if their testimony is shaped or influenced at the instance of someone else or is otherwise fabricated. Where there has been any tutoring of a witness, the same may possibly produce two broad effects in their testimony; (i) improvisation or (ii) fabrication. (i) Improvisation in testimony whereby facts have been altered or new details are added inconsistent with the version of events not previously stated must be eradicated by first confronting the witness with that part of its previous statement that omits or contradicts the improvisation by bringing it to its notice and giving the witness an opportunity to

either admit or deny the omission or contradiction. If such omission or contradiction is admitted there is no further need to prove the contradiction. If the witness denies the omission or contradiction the same has to be proved in the deposition of the investigating officer by proving that part of police statement of the witness in question. Only thereafter, may the improvisation be discarded from evidence or such omission or contradiction be relied upon as evidence in terms of Section 11 of the Evidence Act.

(ii) Whereas the evidence of a child witness which is alleged to be doctored or tutored in toto, then such evidence may be discarded as unreliable only if the presence of the following two factors has to be established being as under:

▪ *Opportunity of tutoring of the child witness in question—whereby certain foundational facts suggesting or demonstrating the probability that a part of the testimony of the witness might have been tutored have to be established. This may be done either by showing that there was a delay in recording the statement of such witness or that the presence of such witness was doubtful, or by imputing any motive on the part of such witness to depose falsely, or the susceptibility of such witness in falling prey to tutoring. However, a mere bald assertion that there is a possibility of the witness in question being tutored is not sufficient.*

▪ *Reasonable likelihood of tutoring—wherein the foundational facts suggesting a possibility of tutoring as established have to be further proven or cogently substantiated. This may be done by leading evidence to prove a strong and palpable motive to depose falsely, or by establishing that the delay in recording the statement is not only unexplained but indicative and suggestive of some unfair practice or by proving that the witness fell prey to tutoring and was influenced by someone else either by cross-examining such witness at length that leads to either material discrepancies or contradictions, or exposes a doubtful demeanour of such witness rife with sterile repetition and confidence-lacking testimony, or through such degree of incompatibility of the version of the witness with the other material on record and attending circumstances that negates their presence as unnatural.*

67.11. Merely because a child witness is found to be repeating certain parts of what somebody asked her to say is no reason to discard her testimony as tutored, if it is found that what is in substance being deposed by the child witness is something that he or she had actually witnessed. A child witness who has withstood his or her cross-examination at length and able to describe the scenario implicating the accused in detail as the author of crime, then minor discrepancies or parts of coached deposition that have

crept in will not by itself affect the credibility of such child witness…"

21. It is clear that the conviction of the accused can be sustained solely on the testimony of the victim without the need for any further corroboration if the same is reliable and consistent (Ref. ***Deepak Kumar Sahu v. State of Chhattisgarh* : 2025 SCC OnLine SC 1610**).

22. The present case commenced on 17.07.2023 on the basis of a complaint given by the victim which led to the registration of a Zero FIR when the victim was produced at the Old Delhi Railway Station. In the complaint, the victim alleged that the appellant committed '*galat kaam*' with her. Thereafter, the victim was medically examined on 17.07.2023 at around 3:25 AM and she refused to undergo any internal medical examination. The sexual assault history column recorded the incident in the following words: "*Sexual assault by unknown person; male approx 20 yrs old; at New Delhi railway station, yesterday night (16.07.2023). Victim says she ran away from her home in Gurgaon and came to Delhi. Then the unknown person approached her and told her he would give food, he took her inside a train and sexually assaulted her. She says he took off his clothes and also took off her clothes and proceeded to sexual assault her (Victim not giving history properly) Victim not giving consent for UPT Examination.*"

23. Subsequently, in her statements recorded under Sections 161 and 164 of the CrPC on 19.07.2023, the victim maintained that she

met the appellant on train for the first time and that the appellant took her to the washroom, removed her clothes and thereafter inserted his penis into the victim's genitalia. In her testimony before the Court, the victim stated that she had left her home and had boarded the train on Gurgaon Railway Station. She deposed that the train was going to Purani Delhi Railway Station and that she met one person in the train. She stated that the said person asked her to sit on his seat and thereafter told her that he would marry her. She deposed that the said person also committed '*galat kaam*' with her on the train.

24. Upon being asked where '*galat kaam*' was committed and the nature of '*galat kaam*', the victim deposed that the act was done in the train's bathroom and that the appellant removed his clothes and that of the victim's and thereafter touched his private part to the victim's private part. On a leading question thereafter put by the learned Additional Public Prosecutor for the State to the victim in relation to whether the allegation pertained to insertion, the victim, in addition to answering in the affirmative, stated that the appellant had slightly inserted his private part in the victim's private part.

25. Much emphasis has been laid by the learned counsel for the appellant on the fact that a leading question and any answer solicited as a consequence of the leading question is impermissible in evidence in terms of Section 142 of the Indian Evidence Act, 1872. In that regard, it is pertinent to note Section 142 of the Indian Evidence Act, 1872 itself carves out an exception and lays down that leading

questions may be allowed with the permission of the Court which in the present case was duly sought. Secondly, while ordinarily leading questions are impermissible, such questions that are in the nature of clarification are not proscribed.

26. Section 142 of the Indian Evidence Act, 1872 reads as under:

> "***142. When they must not be asked.*** *— Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.*
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> *The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.*"

27. In the present case, a holistic appraisal of the material on record would reveal that in both her statements recorded under Section 161 and 164 of the CrPC, the victim maintained that she met the appellant on train for the first time and that the appellant took her to the washroom, removed her clothes and thereafter inserted his penis into the victim's genitalia. In a case like the present one where the victim gave a particular account in her statement under Section 161 of the CrPC, adhered to the same in her statement recorded before the Magistrate under Section 164 of the CrPC, and deposed in consonance with the same during her testimony before the Court, then the continuity of the victim's narrative does not stand broken merely because a leading question was permitted by the Court for clarification. Eliciting a reaffirmation of an already pressed fact cannot dilute the evidentiary value of the victim's testimony. In fact, a further

scrutiny of the victim's evidence would show that the victim even affirmed her statement recorded under Section 164 of the CrPC. The creditworthiness of the victim's testimony could also not be impeached in her cross-examination. A clarificatory leading question thus in the opinion of this Court does not erode the consistent account maintained by the victim.

28. Insofar as the argument pertaining to the absence of any DNA or refusal of internal medical examination by the victim and the same being indicative of the fact that no insertion took place is concerned, it is relevant to note that the present case is not one of ejaculation. As per the version of the victim, the appellant removed his clothes and the victim's clothes and thereafter proceeded to slightly insert his private part into the victim's genitalia. Thus, solely because no DNA could be generated from the clothes of the victim does not suffice to conclude that the appellant has been falsely implicated. Further, mere refusal by the victim to undergo internal medical examination is also not a circumstance that alone can result to note that the appellant was sought to be falsely implicated.

29. Needless to iterate, judicial determination cannot take place in a factual vacuum. This Court ought to take note of the totality of circumstances while ascertaining the culpability of the appellant. In that regard, a particularly relevant factor is the age disparity between the appellant and the victim. As noted above, the victim was around 11 years 9 months and the appellant was 33 years old at the time when

the incident took place. As per the stance taken in his statement under Section 313 of the CrPC, the appellant met the victim in the train for the first time. The appellant further admitted that he merely kissed the victim and did not do anything else. On such a conspectus of facts where the appellant himself concedes to some level of physical interaction with the victim who is barely 12 years old and who he met for the first time on a train and their relationship is marked by a remarkable age disparity, in the opinion of this Court, there appears no plausible reason for the victim to falsely implicate the appellant.

30. As noted above, the sole testimony of the victim can form the bedrock to sustain the conviction of the accused without the need for further corroboration if the same is credible and consistent. In the present case, the victim has categorically maintained that the appellant took her to the train's lavatory, removed their clothes, and thereafter inserted private part into the victim's genitalia. This Court thus finds itself in agreement with the view taken by the learned ASJ about the reliability and credibility of the testimony of the victim.

31. Once the said foundational facts stood established, the presumptions under Section 29 and 30 of the POCSO Act stood triggered. The onus was thus on the appellant to dislodge the presumptions which in the present case the appellant has miserably failed to do so. This Court thus does not find any infirmity in the conviction of the appellant and the same cannot be faulted with.

32. Insofar as the sentence is concerned, it is relevant to note that as per Section 6 of the POCSO Act, the punishment prescribed is rigorous imprisonment for a term not less than 20 years which may be extended to imprisonment for life and fine or death. The learned ASJ has sentenced the appellant to undergo rigorous imprisonment for a period of 20 years which is the minimum sentence prescribed under Section 6 of the POCSO Act and to pay a fine of ₹5,000/- and in default of payment of fine to undergo simple imprisonment for a period of 02 months.

33. In view of the aforesaid discussion, this Court does not find any reason to interfere with the impugned judgment or the impugned order on sentence.

34. The present appeal is accordingly dismissed. Pending application also stands disposed of.

35. This Court appreciates the efforts put in by Ms. Surbhi Arora, Advocate, in assisting the Court.

36. The Delhi High Court Legal services Committee is directed to pay the fees of the learned counsel as per its scheduled rates and rules.

AMIT MAHAJAN, J

MARCH 16, 2026
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