



2026:DHC:3731-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 22.04.2026
Pronounced on: 04.05.2026

+ CRL. A.236/2021

STATE OF NCT OF DELHI

.....Appellant

Through: Mr.Aman Usman, APP with
Mr.Manvendra Yadav, Mr.Atiq
Ur Rehman, Advs.
SI Sandip Bishnoi, PS-
Mayapuri.

Versus

DEEPAK

.....Respondent

Through: Mr. Dinesh Malik, Mr. Akash
Saini, Mr. Puneet Jain, Mr.
Lavish Arora, Advs. with
respondent.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. State takes exception to the judgment dated 18th December, 2019, whereby, the respondent Deepak has been acquitted of all the charges levelled against him in SC No. 123/2014, in case FIR No. 211/2014 registered at Police Station Mayapuri, under Sections 363/365/366A/342/376 of the Indian Penal Code, 1860 [hereinafter referred to as the “**IPC**”] & Section 4 of the Protection of Children from Sexual Offences Act, 2012 [hereinafter referred to as (“**POCSO Act**”)].



2026:DHC:3731-DB



and forcibly took her in his *jhuggi*, where, he sexually assaulted her. She further stated that she had not eaten anything since 09th May, 2014, and because of the summer heat, she became unconscious. According to her, Deepak indulged in “*Galat Kaam*” since 09th May, 2014. She further stated that on 11th May, 2014, her uncle Ramakant and the Pradhan of the *jhuggis* Santosh, came and woke him up and they were followed by her mother and father. Deepak was also apprehended, and after sometime, the police also came at the spot. Deepak was arrested.

5. Statement of prosecutrix got recorded under Section 164 Cr. PC. Exhibits were sent to FSL Rohini. The MCD birth certificate of the prosecutrix, as per which her date of birth was 23rd January, 1999, was seized, and on completion of investigation, charge sheet was filed against the respondent under Section 363/365/366-A/342/376 IPC and under Section 4 of POCSO Act. Upon receipt of FSL result, the same was filed in court with supplementary charge sheet and respondent was sent to court for trial.

6. Charge for the offences punishable under Sections 363/366/342 IPC and Section 6 POCSO Act were framed against the respondent on 03rd January, 2015, to which, he pleaded not guilty.

7. In order to prove its case, prosecution examined 16 witnesses, including the prosecutrix (PW-2), her mother (PW-3), father (PW-5), concerned doctors (PW-6 and PW-7), Sub Registrar, Birth & Death (PW-8) and the witnesses in whose presence the prosecutrix was



2026:DHC:3731-DB



recovered from the *jhuggi* of the respondent (PW-12 and PW-13), Investigating Officer (PW-14) and other police officials.

8. Statement of respondent was recorded under Section 313 Cr. PC, wherein, he stated that he was innocent and was falsely implicated. He stated that the prosecutrix was having love affair with him and she used to come to his house in the night time, when her parents go to sleep and on 09th May, 2014, she came to his house in the night and in the morning of 10th May, 2014 at about 4.00 am when she tried to leave his *jhuggi*, Ram Karan, who was residing in front of his *jhuggi*, was sitting outside his *jhuggi*, so she did not go to her house and stayed in his *jhuggi*. According to him, the prosecutrix told her age to be above 18 years. He stated that he wants to marry her, but due to different castes, the parents of the prosecutrix were not accepting the same. Despite grant of opportunity, respondent did not lead any evidence in his defence.

9. *Vide* judgment dated 18th December, 2019, the learned Trial Court granted benefit of doubt to the respondent on the age of the prosecutrix, and acquitted him of all the charges.

SUBMISSIONS MADE BY THE APPELLANT/STATE:

10. The Learned Additional Public Prosecutor [“APP”] for the State submitted that the finding of the Trial Court regarding the age of the prosecutrix is manifestly erroneous and contrary to settled legal principles. It was contended that the prosecution had duly proved the birth certificate through PW-8, the Sub-Registrar (Birth & Death),



2026:DHC:3731-DB



who produced the official record along with the requisite certificate under Section 65-B of the Indian Evidence Act. The birth certificate, issued by the Municipal Corporation in the year 2009, records the date of birth of the prosecutrix as 23rd January, 1999. The registration of birth was effected well prior to the commission of the offence, thereby ruling out any possibility of falsification or fabrication. The Trial Court erred in discarding a duly proved public document issued by a competent authority.

11. It was further submitted that Section 94 of the Juvenile Justice Act 2015 and Rule 12 of Juvenile Justice Rule 2007 provides a clear and exhaustive framework for determination of age, giving primacy to documentary evidence such as birth certificates issued by municipal authorities. The statute does not permit courts to resort to conjecture or subjective assessment based on oral testimony when such documentary evidence is available. The approach adopted by the Trial Court, in preferring statements made during cross-examination of the parents over a statutory record/document, amounts to impermissible guesswork. The Learned APP contended that the law does not require the court to go behind the basis on which a birth certificate was issued, once it stands duly proved and has not been challenged in accordance with law.

12. The Learned APP further emphasized that no suggestion or challenge was put to PW-8 during cross-examination regarding the authenticity or correctness of the birth record. The defence failed to



2026:DHC:3731-DB



question the process or basis on which the date of birth was recorded, and thus, the document remained uncontroverted. In the absence of any rebuttal or contrary evidence, the learned Trial Court ought to have accepted the birth certificate as conclusive proof of age. It is a settled proposition that a duly proved public document carries a presumption of correctness, and mere oral assertions cannot displace such documentary evidence.

13. In light of the above, it is submitted that the finding of the learned Trial Court rejecting the birth certificate is perverse, illegal, and unsustainable in law.

14. The prosecutrix, as per the birth certificate, was approximately 15 years of age at the time of the incident, clearly establishing that she was minor at the time of commission of offence. The Learned APP also points out that the DNA evidence on record conclusively corroborates the prosecution case. Additionally, in his statement under Section 313 Cr.PC, the accused has admitted that the prosecutrix was with him and that he kept her confined for two days, albeit attempting to characterize the relationship as consensual. Such an admission, coupled with the established fact of the prosecutrix being minor, further strengthens the case of the prosecution. Accordingly, it is prayed that the findings of the Trial Court be set aside and the age of the prosecutrix be determined on the basis of the birth certificate.

SUBMISSIONS MADE BY THE RESPONDENT/ACCUSED:

15. Learned counsel for the Respondent/Accused submits that the



2026:DHC:3731-DB



that the child was born at home. In these circumstances, it is submitted that the Trial Court was justified in doubting the authenticity and reliability of the birth certificate.

17. Learned counsel further submitted that it is a settled principle of criminal jurisprudence that when two views are reasonably possible on the evidence led, the one favouring the accused must be adopted.

18. It was lastly contended that the statement of the accused under Section 313 CrPC indicates that the prosecutrix had accompanied him of her own volition, they knew each other for 4-5 years, and the prosecutrix had represented herself to be a major, and that they were in a consensual relationship. The surrounding circumstances and the evidence on record, according to the defence, do not conclusively establish that the prosecutrix was a minor at the relevant time.

19. It was also highlighted that the respondent has already undergone more than four years of incarceration during trial, and was about 21 years of age at the time of the incident. In view of the doubt surrounding the age of the prosecutrix and the unreliable evidence, it was submitted that the acquittal recorded by the Trial Court calls for no interference.

**REBUTTAL SUBMISSIONS MADE BY THE APPELLANT/
STATE:**

20. In rebuttal, the learned APP for the State submitted that the contentions advanced on behalf of the Respondent are misconceived and do not dislodge the prosecution case. It was argued that the



2026:DHC:3731-DB



alleged discrepancy in the testimonies of the parents is minor and inconsequential, as the mother merely stated the prosecutrix was born in the year “1998”, without specifying the month, which could range from January to December 1998, whereas the father has given a specific date, that is, 23rd January, 1999, as the date of birth of the prosecutrix. Thus, the two versions of dates of birth of prosecutrix are proximate and not materially contradictory, especially considering that both witnesses were illiterate.

21. It was further contended that the entire reasoning of the impugned judgment proceeds on an erroneous presumption of consent, overlooking the material evidence on record. Reliance was placed on the FSL report (Ex. PW-4/A), duly proved by PW-4 Anita Chhari, Scientific Officer, which conclusively establishes that the DNA found on the clothes, jeans and underwear of the prosecutrix matches with the blood sample of the Respondent, thereby corroborating the prosecution case beyond doubt.

22. He submitted that while it is a settled principle that where two views are possible, the one favouring the accused should ordinarily be adopted, the present case does not fall within that category, as the findings of the Trial Court are perverse, based on mis-appreciation of evidence, and is liable to be set aside.

ANALYSIS AND REASONING:

23. We have carefully examined the impugned judgment, the evidence brought on record, and the rival submissions advanced on



2026:DHC:3731-DB



behalf of the parties.

24. The primary issue which arises for consideration pertains to the determination of the age of the prosecutrix.

25. The Trial Court, in our opinion, has committed a serious error in disregarding a duly proved public document, without any cogent basis. The birth certificate (Ex. PW-8/C), issued by the Municipal Corporation, clearly records the date of birth of the prosecutrix as 23rd January, 1999. The said document was proved in accordance with law by PW-8, the Sub-Registrar (Birth & Death), who conclusively proved the official record, i.e., the birth certificate. There is nothing on record to suggest that the document is fabricated or unreliable. In such circumstances, the rejection of this document by the Trial Court appears to be unjustified and legally untenable.

26. It is further pertinent to note that during the cross-examination of PW-8, no question was put by the defence challenging the authenticity or correctness of the birth certificate. The defence did not seek to discredit the witness nor did it question the basis on which the entry was recorded in the official register. In the absence of any such challenge, the document remained uncontroverted and ought to have been accepted as reliable evidence. In the absence of any cogent rebuttal, birth certificate issued by a competent authority can be relied upon for determining age. The defence did not lead any evidence to controvert the said document nor had it been able to demonstrate any inherent inconsistency therein.



2026:DHC:3731-DB



27. The Trial Court, however, proceeded to discard the birth certificate on speculative reasoning without there being any legal justification. Such an approach runs contrary to established principles governing appreciation of documentary evidence. The Court cannot embark upon a speculative inquiry into the manner in which a public document was created when its authenticity is not in dispute. The failure to accord due weight to this document vitiates the findings of the Trial Court.

28. The reasoning of the Trial Court that the birth certificate loses its evidentiary value on account of delayed registration, is also misconceived. It is not uncommon in rural and economically weaker sections of society for births to be registered belatedly due to lack of awareness or access to institutional mechanisms. In the present case, the birth was registered in the year 2009, which is significantly prior to the date of the incident in 2014. Therefore, the possibility of the document being fabricated for the purposes of the case, stands effectively ruled out. The delay in registration, by itself, cannot be a ground to discard an otherwise valid document issued by a competent authority. The Trial Court failed to appreciate this aspect and instead treated the delay as fatal to the prosecution case. Such an approach is not supported by law or judicial precedent. Accordingly, this Court finds that the reasoning adopted by the Trial Court in this regard is flawed.

29. This Court also finds merit in the submission of the State that



2026:DHC:3731-DB



Rule 12 of Juvenile Justice (Care and Protection of Children) Rule, 2007, as applicable at the time of commission of offence, provided a clear statutory framework for determination of age. The Hon'ble Supreme Court in *Jarnail Singh Vs. State of Haryana, (2013) 7 SCC 263, inter alia*, held that Rule 12 of Juvenile Justice (Care and Protection of Children) Rule, 2007 should be basis for determining the age, even of a child who is a victim of crime. The rule gives primacy to documentary evidence such as a birth certificate issued by a competent authority. The date of birth certificate issued by a competent authority falls within the third category of preference under Rule 12(3) of Juvenile Justice (Care and Protection of Children) Rule, 2007 for determining the age of a child.

30. In the present case, the birth certificate was issued from the Municipal Corporation. Once such a document is available and duly proved, the Court is not required to resort to conjecture or rely upon oral testimony. The Trial Court, however, deviated from this statutory mandate, by placing undue reliance on the statement of the mother recorded during cross-examination. The discrepancies in her testimony, particularly regarding the exact year of birth, cannot override a duly proved statutory document. The law does not permit the Court to substitute documentary evidence with approximations derived from oral statements. Therefore, the finding of the Trial Court on the issue of age is unsustainable.

31. Even otherwise, the inconsistencies highlighted by the



2026:DHC:3731-DB



respondent in the testimonies of the parents, do not materially affect the prosecution case. The mother merely stated that the prosecutrix was born around three years after her marriage in 1995, which would broadly indicate the year 1998, without specifying the exact date or month. The father, on the other hand, provided a specific date of birth of prosecutrix, that is, 23rd January, 1999, which is in consonance with the date recorded in the birth certificate Ex. PW-8/C. The birth certificate issued by the competent authority cannot be disbelieved only because the mother failed to give the exact date of birth. Such discrepancy cannot be elevated to the level of creating a reasonable doubt regarding the age of the prosecutrix. Whether the year of birth was 1998, as stated by the mother, or 23rd January, 1999, as stated by the father and also recorded in the birth certificate, either way, the prosecutrix was a minor at the time of the incident. Accordingly, we hold that prosecutrix was minor at the time of commission of the offence.

32. Once it is established that prosecutrix was minor, the entire foundation of the Trial Court's reasoning on consent collapses, as being legally untenable. The Trial Court in the impugned judgement regarding this aspect, recorded its finding as under:

“30. As per PW2/victim, PW3/mother of the victim and PW5/father of the victim, public toilets from where victim was taken away, was at a walking distance of five minutes from their house. Jhuggi of the accused from where victim and accused were recovered was in the next street at a walking distance of about two minutes from victim's jhuggi.



2026:DHC:3731-DB



31. *Cross-examination of PW14/IO SI Yogesh shows that the area was a thickly populated one. The jhuggi of accused from where victim was recovered was at a distance of 30-35 meters from the spot from where victim was taken away by the accused. There was only one public toilet in the area. Testimony of the victim shows that she was taken away when she was 4 to 5 steps away from the public toilet. The street in front of the jhuggi of accused from where the victim was recovered is around 4 to 5 feet wide. The testimonies of PW2, PW3 and PW4 also confirm that there are houses opposite to the jhuggi of the accused where he stayed with the victim for two days.*

32. *All the three spots i.e. jhuggi of the victim, jhuggi of the accused and public toilets were closely situated. Thus, detection of a person in case some effort was made by such person herself would not be difficult.*

Consent

33. *Since it could not be proved beyond doubt that the victim was a minor at the time of incident, the issue of consent gains importance.*

34. *The victim has deposed that on the day of incident (09.05.2014) at 4:30 AM, she was going to the public toilet alone. Before she could enter the public toilet, accused came from behind and gagged her mouth because of which she became unconscious. When she regained her consciousness, she found herself in the room of the accused. The accused kept her in the locked room for two days during which he had forcible sexual intercourse with her repeatedly. She was rescued on 11.05.2014.*

35. *Testimonies of the PWs show that the jhuggi where victim was kept was locked from outside. When the lock was broken on 11.05.2014, victim and the accused were both found inside the room. There is no*



2026:DHC:3731-DB



investigation or any explanation as to how the room was locked from outside when the accused was present with the victim inside the room. There is also no investigation or any explanation as to who had locked the said room/jhuggi from outside. The said lock was also not seized during investigation.

36. It has been pointed out by Ld. Amicus Curiae for the accused that it has been observed by the examining doctor in the MLC of the victim (Ex. PW6/A) that the patient has allegedly taken bath with water on 09.05.2014 and 10.05.2014 but did not change her clothes. It has been argued that there is no investigation regarding the availability of toilet or bathroom in the jhuggi of the accused, and their location. It is submitted that this factor is important to ascertain whether the victim was in fact illegally confined or if she was free to move around and even go out of the room/jhuggi of the accused. There is no investigation on this aspect.

37. Testimony of the victim shows that during this period of 2 to 3 days (09.05.2014 to 11.05.2014), she made no attempt to flee or raise alarm at any point of time including the times when the accused had sexual intercourse with her. Her explanation is that she tried to shout but her voice failed her. She was specifically asked in her cross-examination if she tried to beat the door of the house of the accused. The victim replied that accused was physically holding her in his grip and did not let her go till the door (Ye mujhe pakad ke baitha hua tha aur mujhe darwaze tak bhi jaane nahi diyatha). This circumstance is doubtful as the accused could not have physically held the victim in his grip continuously for two or three days.

38. As per the parents of the victim (PW2 and PW3), when the lock of jhuggi of accused was broken open, they found the victim lying unconscious on the floor of the room and



2026:DHC:3731-DB



such an inquiry into consent or voluntariness is wholly misplaced in law. The POCSO Act creates a strict statutory framework wherein the consent of a minor is rendered wholly irrelevant. The legislative intent behind the enactment is to afford heightened protection to children against sexual exploitation and abuse. Consequently, any ostensible willingness or voluntary participation by the prosecutrix, cannot be construed as valid consent in the eyes of law. The trial court's reasoning that the prosecutrix could have been detected had she made efforts or that the accused could not have confined her continuously for two days, does not dilute the statutory mandate. Even assuming for the purpose of argument that the prosecutrix did not resist or that she remained with the accused without immediate protest and willingly, such conduct cannot legalize the act. The law does not recognize the capacity of a minor to consent to sexual activity under any circumstances.

34. The testimony of prosecutrix was recorded in question-answer form. In such statement, she deposed that "*accused caught me from backside and gagged my mouth and I became unconscious, when I regained my conscious, I found myself in the room of the accused*". She further deposed that thereafter "*accused did zabardasti ki, mein chillane ki koshish kar rahi thi aur meri awaz nahi nikal rahi thi*". When asked to explain as to what she meant by "*zabardasti*", she stated that "*Deepak ne mere saath zabardasti saaririk sambandh banaye.*" She further stated that "*do din tak isne mujhe taale me band*



2026:DHC:3731-DB



kar ke rakha tha fir mummy papa ke sath Inspector aaya tha usne mujhe waha se chhudwaya tha". According to her, she was raped by the accused twice.

35. In cross examination, she was questioned as to whether she raised any hue and cry either on the way or on the arrival at the house of the accused, to which, she stated "*Me chillayee thi par muh se awaaz nahi nikal rahi thi*". When further questioned as to whether she beat the door of the house of the accused, she replied "*ye mujhe pakad ke baitha hua tha aur mujhe darwaje tak bhi jaane nahi diya tha.*" These questions were put by the defence to show that the prosecutrix voluntarily went to the *jhuggi* of the accused, which fact becomes clear from the further questions put to the prosecutrix. It was suggested to her that she used to send the letters to the accused through Indu, who lives in front of the house of the accused. She was also given the suggestion that she was in love affair with the accused. She denied the suggestion that on 09th May, 2014, she had voluntarily gone to the house of the accused. She denied that she used to go to the room of the house of the accused in the night time after her parents go to sleep. She denied the suggestion that in the morning of 10th May, 2014 at about 4.00 am, when she tried to go out of the room of the accused, father of Indu was found to be sitting in front of the room of the accused, due to which, she could not go out from the room of the accused. She denied that at her suggestion, accused had put lock from outside his room so that her parents may not know that she was there



2026:DHC:3731-DB



doctor had handed over a parcel, duly sealed with the seal of DDU Hospital, which was seized vide memo Ex. PW-1/A. She further deposed that the undergarment of the victim was also sealed with the seal of "SY" and seized vide memo Ex. PW-1/B. The clothes were shown to the prosecutrix during evidence and were identified by her.

39. The FSL result Ex. PW-4/A, conclusively establishes through DNA profiling (STR analysis), that the seminal stains detected on the exhibits, namely the jeans pant (Exhibit '11a') and underwear (Exhibit '16') of the prosecutrix, match with the DNA profile derived from the blood gauze sample of the respondent (Exhibit '17'). The report clearly records that the biological material found on the clothes of the prosecutrix is similar to that of the respondent, thereby, directly linking him to the act in question. This is not merely corroborative in nature, but constitutes substantive direct scientific evidence proving that sexual intercourse did in fact occur between the prosecutrix, who was a minor of 15-16 years of age at the time of incident and the respondent. The presence of the respondent's DNA on the intimate clothing of the prosecutrix further negates the defence of denial and directly connects him with commission of the offence. Significantly, the respondent has neither challenged the collection of samples nor the procedure adopted for DNA analysis, and no suggestion has been put to discredit the findings of the expert witness (PW-4). The FSL report carries high degree of evidentiary value and reliability and clearly establishes the involvement of the respondent.



2026:DHC:3731-DB



40. In view of the foregoing discussion, this Court is of the considered opinion that the impugned judgment passed by the Trial Court is perverse and erroneous and also suffers from serious infirmities in appreciation of evidence. The Trial Court has ignored material evidence, misapplied legal principles, and arrived at conclusions which are not supported by the settled propositions and the law. The prosecution has successfully established that the prosecutrix was a minor at the time of commission of offence and that the respondent committed sexual intercourse with her. The benefit of doubt extended by the Trial Court is not based on reasonable grounds but on speculative reasoning. Such a judgment cannot be allowed to stand. Accordingly, the appeal is allowed and the impugned judgment dated 18th December, 2019 is set aside.

41. The Respondent Deepak is hereby convicted for the offences punishable under Sections 363/366/342 IPC and Section 6 POCSO Act.

42. The matter be listed on 7th May, 2026 for hearing the Convict Deepak on the point of quantum of sentence.

43. In the meanwhile, fresh Nominal Roll of the respondent be called from Superintendent Jail.

RAVINDER DUDEJA, J.

NAVIN CHAWLA, J.

MAY 04, 2026/na/ib