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

Reserved on: ***30.10.2026***
Date of Decision: ***06.11.2026***
Uploaded on: ***06.11.2026***

\# **CNR No. DLHC010480572024**

\+ **CRL.A. 699/2024 & & CRL.M.(BAIL) 1089/2026**

DILIP KUMAR @ TINU ....Appellant

Through: Mr. Devvrat Singh, Adv.

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Digam Singh Dagar, APP

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been preferred under Section 415(2) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), challenging the judgment of conviction dated 30.11.2023 and the order on sentence dated 06.03.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court (POCSO), South-East District, Saket Courts, New Delhi, in ***Sessions Case No. 141/2019***, arising out of ***FIR No. 88/2019***, registered under Sections 377 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act') at Police Station Kotla Mubarakpur, District South-East, Delhi.

FACTS

Prosecution's Case

2. The case of the prosecution is that, on 05.03.2019, at about 9:26 p.m., information was received at Police Station Kotla Mubarakpur *vide* ***DD No.***

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

48A regarding the alleged sexual assault of a minor boy. Upon the receipt of the said information, the police reached the concerned spot, where the child victim, referred to as 'R', was found present with his mother. The appellant by that time had already been apprehended by the members of the public.

3. The child victim stated, that he used to play at Rishi Nagar, where the appellant would also visit. It was alleged, that approximately one month prior to the registration of the relevant FIR, the appellant took the child to a room near a staircase on the pretext that his mother was calling him, and then subjected him to penetrative sexual assault. The appellant allegedly threatened to kill the child's mother, if he disclosed the incident. A similar incident was also alleged to have taken place about eight days thereafter.

4. According to the prosecution, on 05.03.2019, the child's uncle noticed, that the child was bleeding while passing stool. Upon being questioned by his mother and uncle regarding the same, the child disclosed the aforesaid alleged incidents. The mother and uncle thereafter went to Rishi Nagar, where they found the appellant and brought him to their house. The appellant was thereafter allegedly beaten, before a call was made to the police.

5. The child victim and the appellant were, after the police reached the concerned spot, taken for medical examination. On the basis of the aforesaid statement of the child victim, the aforementioned ***FIR No. 88/2019*** was registered. The statement of the child victim under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC') was also recorded. The appellant was arrested and, upon completion of the investigation, the charge-sheet was also filed.

Framing of Charges

6. Upon consideration of the material on record, the learned Trial Court took cognizance of the offences on 03.04.2019 and *vide* order dated

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

04.06.2019, charges were framed against the appellant under Sections 377 and 506 IPC and Section 6 of the POCSO Act. It was alleged that the appellant had subjected the child victim i.e. the minor boy, who was below twelve (12) years of age, to penetrative sexual assault on two occasions and had threatened to kill his mother if he disclosed the incidents. The allegations were stated to attract Sections 5(l) and 5(m) of the POCSO Act, punishable under Section 6 thereof. The appellant then pleaded not guilty to the aforesaid framed charges and claimed trial.

Prosecution Evidence (PE)

7. In support of its case, the prosecution examined eleven (11) witnesses. The child victim ('R', PW-1) deposed regarding the aforesaid alleged incidents, the alleged threats extended by the appellant and their subsequent disclosure to his family. The mother of the child victim ('S', PW-3) and his uncle ('S', PW-4) deposed regarding the circumstances in which the alleged incidents came to light and the events that led to the apprehension of the appellant.

8. The doctors who had examined the child victim (PW-8A and PW-9) proved the medical record. The medical examination did not reveal any external injury or any mark of recent injury over the anal or perianal region and recorded that the sphincters were intact. The medical opinion however, stated, that the possibility of penetration by a penis or a penis-like object could not be ruled out. The concerned doctor explained that no recent injury was detected and that no anal or perianal swab was collected since the alleged incidents were approximately two (2) weeks old.

9. The school record of the child victim was proved through the concerned school official (PW-11). As per the said record, the date of birth of the child was 15.08.2010 and he was approximately eight (8) years and six (6) months

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

old on the date of registration of the FIR. The remaining prosecution witnesses, namely, HC Anil Yadav (PW-2), HC Harbir Singh (PW-5), SI Ajay (PW-6), Ct. Vikas (PW-7), ASI Santosh (PW-8) and SI Karamvir Sangwan (PW-10), deposed regarding the recording of ***DD No. 48A***, registration of the FIR, medical examination, preparation of the site plan, photographs of the alleged place of occurrence, arrest of the appellant and the other steps taken during the investigation. The prosecution evidence (PE) stood closed on 31.10.2023.

Defence Evidence (DE) (Statement under Section 313 CrPC)

10. After the conclusion of the prosecution evidence (PE), the incriminating circumstances appearing against the appellant were put to him in his statement recorded under Section 313 CrPC. The appellant denied the allegations and claimed false implication. He stated, that he had previous enmity with the uncle of the child victim and that following a quarrel between them, the present case had been instituted at the instance of the child's mother and uncle. He further stated that the investigation had not been conducted fairly and that no neighbour or independent public witness had been examined. The appellant declined to lead evidence in his defence.

Impugned Judgment

11. Upon appreciation of the evidence on record, the concerned learned Trial Court held, that the age of the child victim stood proved through the school record and that he was below twelve (12) years of age at the time of the alleged incidents. The testimony of the child victim was found to be consistent on the material particulars and was held to be corroborated by the testimonies of his mother (PW-3) and uncle (PW-4).

12. The learned Trial Court observed, that the inability of the child victim to state the precise dates of the incidents was understandable considering his

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

tender age. The absence of any recent injury was held to have been sufficiently explained by the lapse of time between the alleged incidents and the medical examination, and the non-examination of any independent public witnesses was also held not to be fatal to the prosecution case.

13. The learned Trial Court also noticed the discrepancy regarding whether the alleged incidents had taken place inside a room or on the staircase, as well as the absence of an explanation as to why the mother had asked the child a leading question concerning Rishi Nagar. These circumstances were however, held insufficient to discard the otherwise consistent testimony of the child victim. The defence of false implication on account of previous enmity with the child's uncle was found to be unsubstantiated.

14. The learned Trial Court further held, that the prosecution had established the foundational facts attracting the presumption under Section 29 of the POCSO Act and that the appellant had failed to rebut the same. Accordingly, *vide* judgment dated 30.11.2023, the appellant was convicted for the offences punishable under Sections 377 and 506 of IPC and Section 6 of the POCSO Act.

Order on Sentence

15. *Vide* the impugned order on sentence dated 06.03.2024, the appellant was sentenced to rigorous imprisonment (RI) for a period of twenty-five (25) years with a fine of ₹10,000/- for the offence punishable under Section 6 of the POCSO Act and, in default of payment of fine, to undergo simple imprisonment (SI) for a period of thirty (30) days. For the offence punishable under Section 506 IPC, he was sentenced to simple imprisonment (SI) for a period of eighteen (18) months with a fine of ₹5,000/- and, in default of payment thereof, to undergo simple imprisonment (SI) for a period of fifteen (15) days. Both substantive sentences were directed to run concurrently and

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

the benefit of set-off under Section 428 CrPC was extended to him. No separate sentence was awarded for the offence under Section 377 IPC, the concerned learned Trial Court having invoked Section 42 of the POCSO Act. The order recorded that the fine had not been paid.

16. The learned Trial Court further awarded a compensation of ₹7,50,000/- to the child victim under Section 357A CrPC read with the Delhi Victim Compensation Scheme, 2018 and the POCSO Rules. An amount of ₹1,50,000/- was directed to be released immediately, while the remaining amount was directed to be kept in a fixed deposit (FD) which was stated to be released further in five (5) equal annual instalments commencing from 31.03.2025.

Present Proceedings

17. Aggrieved by the aforesaid judgment of conviction and the order on sentence, the appellant preferred the present criminal appeal in which *vide* order dated 07.08.2024, the delay of ninety-eight (98) days in filing the appeal was condoned and the same was admitted.

18. During the pendency of the appeal, the Delhi State Legal Services Authority (DSLSA) informed this Court that the compensation of ₹7,50,000/- awarded to the child victim had been credited to the concerned account on 19.03.2025. Further, the appellant's application seeking suspension of sentence was dismissed *vide* order dated 29.07.2025, by a Coordinate Bench of this Court. Presently, a fresh application for the same is pending consideration.

SUBMISSIONS ADVANCED

On behalf of the appellant

19. Learned counsel appearing on behalf of the appellant submitted, that the prosecution case rests principally upon the testimonies of the child victim,

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

his mother and his uncle, all of whom are related witnesses. That no independent witness had been examined, despite the alleged incidents having taken place in a residential building at Rishi Nagar. It was also pointed out that the alleged incidents pertain to February 2019 and preceded the amendment to the POCSO Act.

20. The learned counsel referred to the testimony of the child victim and submitted that he was unable to state the date of either incident. That the child, stated that the incidents had taken place during summer, whereas the prosecution places them in February 2019. It was submitted that although some latitude must be extended to a child witness regarding the precise date and time, this discrepancy assumes significance when considered with the other infirmities in the prosecution's case.

21. It was further submitted, that the child, stated that he used to play with his cousins at Rishi Nagar and that his two paternal aunts resided there. That however, neither the cousins nor the aunts were examined during the investigation or at the trial. According to the learned counsel, they were material witnesses who could have corroborated the presence of the child and the appellant at the alleged place of occurrence.

22. Learned counsel further submitted that there is material uncertainty regarding the place of occurrence. That while the initial version refers to a room near the staircase, the child stated during cross-examination that the alleged act had taken place on the staircase and not inside a room and that the photographs placed on record depict a staircase and do not show any room. It was further submitted that the child was never taken to the alleged place of occurrence and the site plan was prepared at the instance of his uncle, with whom the appellant claimed previous enmity.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

23. It was also submitted that the child stated, that an unknown person had seen him with the appellant on the staircase and that he had disclosed the incident to that person, however, the said person was neither identified nor examined. The learned counsel contended that this version was inconsistent with the child's explanation that he did not disclose the incident to his family members because of the threat allegedly extended by the appellant.

24. The learned counsel further pointed out that materially different versions emerge regarding the manner in which the alleged incident came to light. That the child stated that his mother was suspicious and had asked his younger brother to make discreet inquiries from him, following which the brother disclosed the incident to their mother and that the mother on the other hand stated, that the child's uncle informed her about the bleeding and that she thereafter questioned the child herself. It was submitted that the uncle gave yet another version by stating that he noticed the child bleeding while passing stool and asked the mother to inquire from him, whereupon the child made the disclosure in his presence.

25. It was submitted that the younger brother, to whom the child claimed to have first disclosed the incident, was alive during the investigation but his statement under Section 161 CrPC was not recorded. The learned counsel also questioned the natural conduct attributed to the mother contending, that if she genuinely suspected that her child had been sexually assaulted, it was improbable that she would leave the inquiry to another minor child.

26. Learned counsel further referred to the cross-examination of the child, wherein he initially stated that he had signed his complaint at the police station and thereafter stated that it was signed at home. That the child also stated that he had signed the complaint without reading it and admitted that he had done so at the instance of his mother, though he subsequently volunteered an

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

explanation. It was contended that these circumstances lend support to the possibility of tutoring.

27. Learned counsel further submitted that the prosecution case originated from the child allegedly passing blood in his stool and that the medical record however, did not reveal any external injury or any mark of recent injury over the anal or perianal region and recorded that the sphincters were intact. It was argued that the medical opinion merely stated that the possibility of penetration could not be ruled out and that a conviction cannot rest upon a mere possibility and the charge must be proved beyond reasonable doubt.

28. It was further submitted that the owner or any resident of the building, the child's aunts and cousins and the person who had allegedly seen the child with the appellant were material witnesses. That their non-examination, despite their availability, warranted an adverse inference under Section 114(g) of the Indian Evidence Act, 1872 (hereinafter referred to as 'Evidence Act').

29. Learned counsel submitted that the appellant had specifically taken the defence of previous enmity with the child's uncle . That the uncle admittedly knew the appellant and had participated in apprehending and beating him before the police arrived. That the site plan was also prepared at his instance. It was contended that this defence had been rejected by the concerned learned Trial Court without properly examining the surrounding circumstances.

30. It was accordingly submitted that the inconsistencies concerning the disclosure, the doubtful identification of the place of occurrence, the absence of supporting medical evidence and the non-examination of material witnesses cumulatively create a reasonable doubt regarding the prosecution's case. That the foundational facts having not been proved, the presumption under Section 29 of the POCSO Act could not have been invoked against the appellant.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

31. Learned counsel also relied upon the judgment of this Court in ***Vikash v. State (NCT of Delhi), 2026 SCC OnLine Del 5787***, wherein the benefit of doubt was extended in view of the material inconsistencies in the different versions of the prosecutrix, the failure to properly identify and prove the alleged place of occurrence and the absence of corroborative evidence. Further reliance was also placed upon another decision of this Court in ***Suraj Kumar v. State (NCT of Delhi), 2026 SCC OnLine Del 7508***, wherein the benefit of doubt was extended on account of material contradictions between the testimonies of the child victim and her mother on material particulars, coupled with the absence of corroborative medical evidence. It was accordingly prayed that the impugned judgment of conviction and the order on sentence be set aside and the appellant be acquitted.

On behalf of the State

32. *Per contra*, the learned Additional Public Prosecutor (hereinafter referred to as 'APP') opposed the appeal and submitted, that the age of the child victim stood duly proved through the school record produced by PW-11. That the child was about eight (8) years old at the relevant time and was, therefore, below twelve (12) years of age.

33. It was submitted that the testimony of the child victim materially supported the prosecution's case and that it remained unshaken on the essential particulars. The learned APP further relied upon the presumption under Section 29 of the POCSO Act.

34. He further referred to the testimony of PW-8A and submitted that the possibility of penetrative sexual assault had not been ruled out. That the absence of any recent injury was explained by the fact that the medical examination had been conducted nearly fourteen days after the alleged

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

incidents. It was, therefore, submitted that the medical evidence did not contradict the account of the child victim.

35. It was accordingly submitted that the prosecution witnesses sufficiently corroborated the version of the child victim and that the concerned learned Trial Court had appreciated the evidence in its correct perspective. It was submitted that the impugned judgment suffers from no illegality or perversity and that the present criminal appeal is liable to be dismissed.

ANALYSIS AND FINDINGS

36. This Court has heard the learned counsel appearing on behalf of the appellant as well as the learned APP for the State and has also perused the evidence placed on record.

37. The principal questions that arise for consideration before this Court in the present appeal are whether the testimony of the child victim, when read with the remaining evidence on record, proves the charged offences beyond reasonable doubt and whether the discrepancies concerning the dates, place of occurrence, disclosure of the incidents and the medical examination affect the core of the prosecution's case or not. This Court is also required to examine whether the prosecution established the foundational facts necessary to attract the presumption under Section 29 of the POCSO Act or not.

38. At the outset, the age of the child victim does not admit of any serious dispute. Ms. Lovely Wadhwa (PW-11), HOS/Vice-Principal of the concerned school, proved the certificate concerning the date of birth of the child victim, the certified copy of his admission form, the relevant entry in the admission register and the copy of the birth certificate furnished at the time of his admission. The aforesaid school record consistently records his date of birth as 15.08.2010. Accordingly, on the date of registration of the FIR, i.e. 06.03.2019, the child victim was approximately eight (8) years, six (6) months

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

and nineteen (19) days old and was necessarily younger on the dates of the alleged incidents. He was therefore, a 'child' within the meaning of Section 2(1)(d) of the POCSO Act and was also below twelve (12) years of age. The aggravating circumstance contemplated under Section 5(m) of the POCSO Act consequently stands established.

Testimony of the Child Victim

39. It is settled, that the testimony of a child victim may, by itself, form the basis of conviction if it inspires confidence and is found reliable upon careful scrutiny. At the same time, such testimony must remain free from material infirmities and inherent improbabilities. The Court is required to distinguish between discrepancies affecting the substratum of the prosecution's case and variations relating to peripheral details which may arise because of the tender age of the witness, lapse of time or the circumstances in which the testimony is recorded.

40. In ***Suryanarayana v. State of Karnataka, (2001) 9 SCC 129***, the Supreme Court explained the manner in which the testimony of a child witness and the discrepancies occurring therein are required to be appreciated. The relevant observations read as under:

> "**5.** Admittedly, Bhavya (PW 2), who at the time of occurrence was about four years of age, is the only solitary eyewitness who was rightly not given the oath. The time and place of the occurrence and the attending circumstances of the case suggest no possibility of there being any other person as an eyewitness. **The evidence of the child witness cannot be rejected *per se*, but the court, as a rule of prudence, is required to consider such evidence with close scrutiny and only on being convinced about the quality of the statements and its reliability, base conviction by accepting the statement of the child witness. The evidence**

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

> **of PW 2 cannot be discarded only on the ground of her being of tender age. The fact of PW 2 being a child witness would require the court to scrutinise her evidence with care and caution. If she is shown to have stood the test of cross-examination and there is no infirmity in her evidence, the prosecution can rightly claim a conviction based upon her testimony alone. Corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. Some discrepancies in the statement of a child witness cannot be made the basis for discarding the testimony. Discrepancies in the deposition, if not in material particulars, would lend credence to the testimony of a child witness who, under the normal circumstances, would like to mix-up what the witness saw with what he or she is likely to imagine to have seen. While appreciating the evidence of the child witness, the courts are required to rule out the possibility of the child being tutored. In the absence of any allegation regarding tutoring or using the child witness for ulterior purposes of the prosecution, the courts have no option but to rely upon the confidence inspiring testimony of such witness for the purposes of holding the accused guilty or not.**" (Emphasis supplied)

41. In ***State of M.P. v. Balveer Singh, (2025) 8 SCC 545***, the Supreme Court summarised the principles governing the appreciation of the testimony of a child witness. The relevant observations of the aforesaid judgment read as under:

> "**43. From the above exposition of law, it is clear that the evidence of a child witness for all purposes is deemed to be on the same footing as any other witness as long as the child is found to be competent to testify. The only precaution which the court should take while assessing the evidence of a child witness is that such witness**

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

> **must be a reliable one due to the susceptibility of children by their falling prey to tutoring. However, this in no manner means that the evidence of a child must be rejected outrightly at the slightest of discrepancy, rather what is required is that the same is evaluated with great circumspection. While appreciating the testimony of a child witness the courts are required to assess whether the evidence of such witness is its voluntary expression and not borne out of the influence of others and whether the testimony inspires confidence. At the same time, one must be mindful that there is no rule requiring corroboration to the testimony of a child witness before any reliance is placed on it. The insistence of corroboration is only a measure of caution and prudence that the courts may exercise if deemed necessary in the peculiar facts and circumstances of the case.**" (Emphasis supplied)

42. Further, the distinction between normal discrepancies and material discrepancies was explained by the Apex Court in ***State of Rajasthan v. Kalki, (1981) 2 SCC 752***. The relevant portion reads as under:

> "8.....**In the depositions of witnesses there are always normal discrepancies however honest and truthful they may be. These discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of the occurrence, and the like. Material discrepancies are those which are not normal, and not expected of a normal person**....." (Emphasis supplied)

43. Now in the present case, the child victim (PW-1) identified the appellant and gave a clear account of the acts committed upon him. He stated, that the appellant had inserted his penis into his anus, had subjected him to the said act on two occasions separated by an eight days interval, and had

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

threatened to kill his mother if he disclosed these incidents. His testimony showing the same is as follows:

PW-1's Testimony

"**PW-1**

Statement of Master 'R' S/o 'N' (Full name and address is withheld as per law and details mentioned at serial number 1 in the list of witnesses).

In order to understand the maturity of the child and to understand as to whether he is a competent witness, I have asked following questions:

Q.1: Do you study?

Ans: Yes. I am studying in class Ivth A.

Q.2: What is your age?

Ans: I am 9 years old.

Q.3: What is your date of birth?

Ans: 15th August, but I do not recollect the year of my birth.

Q.4: How many brothers and sisters you have?

Ans: We were two brothers and one sister. One of my brother expired and now we are one brother and sister.

Q.5: Did you not go to your school today?

Ans: I did not go to the school today as I have to come to the court.

Q.6: Do you know where you have come today and why?

Ans: I have come to the court to depose.

Q.7: Whether one should speak truth or lie?

Ans: One should speak truth.

Q.8: Can you tell the colour of the t-shirt which you are wearing?

Ans: Yes. It is red colour (correctly mentioned the colour).

Q.9: Can you tell, today is which day of the week?

Ans: Today is Thursday.

Q.10: Are you tutored or threatened to give evidence today?

Ans: No. Nobody has threatened or tutored me.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

Considering the answers given by the witness, having conversation with him, I have satisfied myself that the child is intelligent. He understands the questions and can answer them in appropriate manner. I am convinced that he is a competent witness. However, he is only 9 years of age and therefore, cannot be expected to understand the purpose and consequences of oath. Being a child witness I deem it appropriate to record the statement of witness in the form of questions and answers.

Without Oath.

Q.1 Can you tell which is the present year?

Ans: Yes. It is the year 2019.

Q.2. Can you tell in which class you were studying at the time of incident?

Ans: At the time of incident, I was studying in IIIrd standard.

Q.3. Can you disclose the name of your mother and elder sister?

Ans: My mother's name is 'S' and my elder sister's name is 'T' **(witness has correctly mentioned the names)**. The name of my brother was 'L' but he is no more.

Q.4. What happened with you and how do you came in touch with the accused?

Ans: My two Aunts were residing at Rishi Nagar and they had small kids. I used to play with the kids in the street. One boy Dilip used to come at that time and he used to tell me to get match box while I was playing with the kids Ridhi and Sidhi. **The boy used to come there and *mere saath galat kaam karta tha.* I do not recollect the date of incident but it was summer time.**

Q.5. What do you mean by 'galat kaam'?

Ans: By galat kaam, I mean to say that *meri pant kholkar mere ander daalta tha or bolta tha ki mai teri mummy ko maar dunga. Mujhe blood bhi ata tha.*

Q.6. What do you mean by 'ander daalta tha'?

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

Ans: The accused used to insert his main part in my anus. (the witness has pointed out towards his backside).

Q.7. Can you tell where is the main part situated?

Ans: (The witness has pointed towards his penis and said *yaha par*).

Q.8. Can you tell the place where the accused used to do galat kaam?

Ans: The accused used to take me to a room near the staircase and the said room was very near to the house of my Aunt.

Q.9. Can you identify the spot if the photographs of the same are shown to you?

Ans: Yes.

At this stage, the alleged photographs of the spot have been shown to the witness and he has mentioned that these photographs of the same place where the accused used to take him. The photographs are marked Ex.P-1, Ex.P-2 & Ex.P-3 for the purpose of reference.

Q.10 Why did you accompany the accused to his room?

Ans: *Mere ko bolta tha kabhi chini le aa, kabhi kuch aur. Mere ko pakad kar le gaya.*

Q.11. Can you tell how many times, the accused did the alleged galat kaam?

Ans: *Pehle ek baar kiya fir uske 8 din baad fir kiya* (the accused first did ganda kaam and an after about 8 days he again did ganda kaam).

Q.12. Can you further elaborate the first episode of sexual assault?

Ans: *Din ka samay tha. Again said, shaam ka time tha.*

Q.13. Can you further elaborate and tell the duration of the first episode?

Ans: The accused used to insert his private part and thereafter, *wo yu....yu.... karta rehta tha.* (The witness is repeatedly moving his body in front and back while explaining the expression "yu....yu....")

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

Q.14. What happened after the first episode of sexual assault ?
Ans: I went home and on the next day, blood came in my stool).
Q.15. Did you share the incident with anybody?
Ans: I told my mother that the blood has come out of the stool. My mother told me that it can happen because of constipation. I also shared this with my younger brother 'L' who is no more. I did not tell the episode of *ganda kaam* to my family members as accused has threatened me that he would kill my mother in case, I disclose about *ganda kaam* to anyone.
Q.16. Now, can you tell about the second episode which allegedly took place ?
Ans: The second episode also took place at the same place as identified by me in the photographs. Even after the second episode of *ganda Kaam*, blood came in my stool and this fact was mentioned by me to my mother.
Q. 16(a) Can you tell if the incident took place in this year or the previous year?
Ans: The incidents took place in this year i.e. 2019 but I do not recollect the exact month and date.
Q.17. Can you tell how your family members came to know about the incident?
Ans: My mother was suspicious and she used to ask me *"kisi ne tere saath Rishi Nagar me galat Kaam toh nahi kiya"*. She went for work and prompted my brother to make discrete inquiry from me as I used to share everything with him. My brother made inquiries from me and I disclosed the episodes to him.
Q.18 What happened thereafter?
Ans: My mother returned from work and my brother disclosed the incident to her. (Vol. My mother is doing packing work). My mother shared the information with my uncle who told her that he would bring the accused. My uncle 'S'

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

(chacha) and Golu bhaiya brought the accused to our house and thereafter, my family members gave beatings to him with belt.

Q.19. How the police came into picture?

Ans: My mother made a call at 100 number and police officials arrived at our house. The police officials made inquiries from me and recorded my statement Ex.PW1/A bearing my signature at point A and arrested the accused. The accused was taken by the police to the police station where he was beaten by my mother.

Q.20. Were you taken for medical examination?

Ans: Yes. I went to the hospital for medical examination. My mother and chacha also accompanied me to the hospital.

Q.21. Did the police take you to the spot of occurrence as shown in the photographs?

Ans: No.

Q.22. Then, how did they found the place of occurrence?

Ans: Dilip went along with the police and he might have shown the place.

Q.23. Have you come to the court earlier also?

Ans: Yes.

At this stage, an envelope duly sealed with the seal of 'RKP' is taken from the judicial file. Same is opened from which the proceedings under Section 164 CrPC (running into four pages) are taken out. The statement of victim child is shown to the witness on which he identifies his signatures at point A. The statement is Ex.PW1/B.

Q.24. What did accused tell you after the second episode?

Ans: He told me that he would kill my mother and family members in case I disclose about ganda kaam to anyone.

Q.25. Can you tell the time gap between the time when your mother came to know about the episode and the time when the complaint was

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

lodged with the police?
Ans: My mother came to know about the episode after about 8 days of the second episode. We had called the police on the same day when my mother came to know about the episode.
Q.26. Do you want to tell anything else?
Ans: No.
I can identify accused, if shown to me.
At this stage, accused Dilip, who is facing trial in the present case, is shown to the witness through video link and after seeing him, the witness correctly identifies the accused Dilip.
XXXXXX by Raj Singh, LAC for accused.
Q. Who all have accompanied you to the court today?
Ans: I have come to the court along with my mother and uncle (chacha).
For the first time, I came in contact with the accused at Rishi Nagar. It was evening time. I met the accused for the first time.
(Court Question: Can you tell the time since you knew the accused?
Ans: I knew the accused much before the first episode of sexual assault).
The accused is a friend of my uncle (chacha) 'S'. Golu is not friend of accused (Vol. *Chacha thode-thode se dost hai*). I had seen the accused Golu and Dilip together on number of occasions. My mother did not take me to the doctor (Vol. *Police walo ko phone kiya tha fir mera medical hua tha*). Police had not made any inquiries from the kids of my Aunt. The place where the accused committed galat kaam was either on the fifth or sixth floor. The spot was located near the house of my paternal Aunt (Tai) but I do not know her name. The accused did the galat kaam in the staircase and not in the room.
Q. Did anybody on the first, second or third floor of the building noticed you and the accused?
Ans: *Ek din uncle ne dekh liya tha, who sidhiyu se utar rahe the. Dilip bhaag gaya tha. Mene unhe*

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

bataya bhi tha par unohne kuch nahi kiya. (On one day, an uncle saw me and Dilip in the staircase. The accused Dilip ran away from there. I disclosed to the uncle that accused was doing ganda kaam with me but he did not take any action).

I have told to the police that my two Aunts were residing at Rishi Nagar and they had small kids and that I used to play with the kids in the street. I have also told to the police that one boy Dilip used to come at that time and he used to tell me to get match box while I was playing with the kids Ridhi and Sidhi. (Confronted with the statement Ex.PW1/A where it is not so recorded). I have also mentioned the police that *Mere ko bolta tha kabhi chini le aa, kabhi kuch aur.* (Confronted with the statement Ex.PW1/A where it is not so recorded). It is incorrect to suggest that prior to the first episode of sexual assault, a fight took place between my uncle (chacha) and accused. It is incorrect to suggest that I am deposing falsely

against the accused at the instance of my uncle (chacha).

My chacha is working as a labourer (Vol. *Patthar uthana ka kaam karte hai*).

Q. Can you read and write Hindi Language?

Ans: I can read and understand Hindi language.

At this stage, counsel has drawn the attention of the witness to the previous statement Ex.PW1/A and he has asked the following questions:

Q. Where did you sign the statement Ex.PW1/A? At the police station or at home?

Ans: The witness has nodded his head mentioning that he has signed it in the police station and thereafter, he has stated that he has signed it at home.

I have not read the statement Ex.PW1/A on which I signed.

Q. Did you sign the statement at the instance of your mother?

Ans: It is correct. (Vol. *Mummy ne toh kuch nahi*

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

bola tha. Mene sign kar diye).
It is incorrect to suggest that.I am deposing at the instance of my mother or uncle (chacha). (My mother did not know the accused prior to the incident (Vol. *Mummy toh Rishi Nagar me jaati hi nahi thi jada*). I do not know where the accused resides.It is incorrect to suggest that no galat kaam was committed with me by the accused or that I am deposing falsely at the instance of my mother and uncle. It is incorrect to suggest that I have made the statement under Section 164 Cr.P.C at the instance of my mother and uncle. I have told to the police that my mother was suspicious and she used to ask me *"kisi ne tere saath Rishi Nagar me galat Kaam toh nahi kiya"*. I have also told to the police that my mother went out for work and prompted my brother to make discrete inquiry from me as I used to share everything with him and that my brother made inquiries from me and I disclosed the episodes to him. (Confronted with the statement Ex.PW1/A where it is not so recorded). As far as I recollect my brother died in the month of June, 2019." (Emphasis supplied)

44. So as can be seen from the aforesaid reproduced account of PW-1's testimony, it remained intact on the essential particulars even during cross-examination. The child knew the appellant from before and there is, therefore, no question of mistaken identity. His inability to state the precise dates of the two incidents does not, in the facts of the present case, discredit, the occurrence. The child was only about eight (8) years old and consistently stated that the incidents had occurred within approximately one month before the matter was reported. His description of the period as "*summer time*" cannot be treated as a precise statement concerning the calendar month. That expression, coming from a child of tender age, does not outweigh his

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

consistent account regarding the identity of the appellant, the nature of the acts committed upon him, their repetition and the threat extended to him.

Place of Occurrence and Site Plan

45. The discrepancy concerning whether the incidents occurred inside a room near the staircase or on the staircase has also been considered. In his examination-in-chief, the child referred to a room near the staircase, whereas during cross-examination, he stated that the act had taken place on the staircase and not inside a room. The discrepancy here therefore concerns the precise spot within the stairway area at Rishi Nagar. And in the opinion of this Court, it does not amount to a complete failure to identify the place of occurrence. The child identified the photographs depicting the staircase as the place to which the appellant used to take him. The inability of a child of such tender age to describe the precise spot with complete accuracy cannot render his entire account baseless or unproved. To hold otherwise, would amount to testing the testimony of an eight-year-old child by the degree of exactitude expected from an adult witness and thereby allowing a discrepancy concerning the exact place of occurrence to overshadow his consistent account of the acts committed upon him.

46. It is true that the site plan was initially prepared at the instance of the child's uncle (PW-4). The Investigating Officer (IO) (PW-10) however stated, that the site plan was subsequently shown to the child victim, who affirmed the same and appended his signatures thereon. This circumstance neither effaces the child victim's identification of the place of occurrence in his testimony before the Court nor affects his consistent account concerning the identity of the appellant, the acts of penetration committed upon him and the threat extended to him. It, therefore, does not justify the rejection of his testimony.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

Disclosure of the Incidents

47. The variations concerning the manner in which the incidents came to light relate principally to the sequence of disclosure. The child stated that his mother was suspicious and had asked his younger brother to make inquiries from him. His mother (PW-3) and uncle (PW-4),on the other hand, stated that the uncle noticed blood while the child was passing stool, whereafter the mother questioned him and he disclosed the acts committed by the appellant. What remains common in their versions is that the bleeding noticed while the child was passing stool led to inquiries within the family, that the child named the appellant and disclosed the acts committed upon him and that the matter was thereafter reported to the police.

48. The mother and uncle were not eyewitnesses to the penetrative sexual assault. Their evidence is relevant to the circumstances in which the disclosure was made, the apprehension of the appellant and the reporting of the matter. The variation regarding which family member first questioned the child does not displace his direct testimony regarding the acts committed upon him.

49. This Court has also noticed, that the mother asked the child whether anyone had done anything wrong with him at Rishi Nagar. The prosecution has not furnished any clear explanation for the manner in which the question was framed. The said circumstance only requires the testimony of the child to be scrutinised with caution. It does not, however follow, that his entire account was a product of that question. The child independently described the nature of the penetrative act, the manner in which it was committed, its repetition and the threat extended by the appellant. His substantive testimony before the Court cannot be discarded solely because the initial inquiry made by his mother referred to Rishi Nagar.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

50. The child's uncertainty regarding whether his complaint was signed at home or at the police station, his admission that he had signed it without reading it and his statement that he had signed it at the instance of his mother have also been considered. And in the opinion of this Court, they do not render the child's substantive testimony before the Court inadmissible or unreliable. The child furnished his account in his own words and was subjected to a detailed cross-examination. His presence with his mother and uncle during the investigation and trial was natural considering his tender age and the nature of the allegations. In the absence of any further material, the same does not establish tutoring.

Non-examination of Other Witnesses

51. The child stated during cross-examination that an unidentified person had once seen him with the appellant on the staircase and that he had disclosed the incident to that person. The said person was not stated to have witnessed the penetrative act and no particulars were disclosed by which he could have been traced. The prosecution does not rely upon that person to prove the occurrence either. His non-examination, therefore, does not displace the direct account of the child victim.

52. The child's younger brother, his paternal aunts, and cousins, were also not eyewitnesses to either of the incident. The younger brother could at best, have deposed regarding the disclosure allegedly made to him, while the aunts and cousins could have spoken about the child visiting and playing at Rishi Nagar. The omission to examine them is not a circumstance which would justify an adverse inference under Section 114 illustration (g) of the Evidence Act when the child victim himself was examined and his testimony was tested through cross-examination.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

53. Section 134 of the Evidence Act makes it clear that no particular number of witnesses is required for proof of a fact. The relevant consideration is the quality and reliability of the evidence that is produced. The mother and uncle of the child cannot be treated as unworthy of credit merely because they are related to him. Their testimonies, upon careful scrutiny, remain consistent regarding the bleeding noticed, the subsequent disclosure, the apprehension of the appellant and the reporting of the matter. The non-examination of any independent public witness is therefore, not fatal to the prosecution's case.

Medical Evidence

54. Dr. Swati Tyagi (PW-8A) found no recent injury over the anal or perianal region and recorded that the sphincters were intact. She nevertheless opined that the possibility of penetration by a penis or a penis-like object could not be ruled out. She further explained, that the medical examination was conducted on 06.03.2019, whereas the alleged incidents were approximately two (2) weeks old. That no anal or perianal swab was collected because of the lapse of time and because the child had changed his clothes, bathed and passed stool several times during the intervening period. Her testimony for the relevant purposes is reproduced below:

PW-8A's Testimony

> **"PW-8: Statement of Dr. Swati Tyagi, working as Assistant Professor, Department of Forensic Medicine, AIIMS, New Delhi.**
> On S.A
> I have been working as a Assistant Professor in the department of Forensic Medicine, AIIMS, New Delhi since the year 2017. **On 06.03.2019 at around 12:16 AM child victim master 'R' was brought by SI Karambir with alleged history of anal intercourse on 17/24.02.2019. Mother of child victim also accompanied them. After**

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026 18:22:41

consent given by mother of child victim for medical examination of the child victim, I conducted medical examination and no mark of recent injury present over anal /perineal area at that time. Blood sample of child victim was obtained on FTA card and further handed over to police staff alongwith sample seal. After medical examination of child victim, I opined that there was no frank injury present on the anal and perineal area but the possibility of penetration by penis or penis like object cannot be ruled out. I prepared report to this effect which is now Ex. PW-8/A (running into two pages) bearing my signature at point -A on each page. Due to lapse of time as incident alleged to be happened on 17/24.02.2019 and examination was done on 06.03.2019, no fresh injury was detected. No anal and perineal swab was taken at the time of examination as alleged incident was old around two weeks and patient has changed the clothes and took bath /defecation many times since the incident.

XXXXXX by Sh. V.K. Gupta, Ld. Counsel for accused.

It is wrong to suggest that I made the said report in mechanical manner." (Emphasis supplied)

55. The aforesaid medical opinion does not by itself, prove the act of penetration. At the same time, it does not contradict the account of the child victim either. Penetrative sexual assault under the POCSO Act includes penetration to any extent and does not require proof of a bodily injury. The absence of a fresh injury or forensic material after a lapse of approximately two weeks in the present case cannot therefore be treated as being determinative of the entire case. The conviction does not rest upon an assumption that the bleeding was medically proved to have resulted from the

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

assault. It rests upon the substantive testimony of the child victim, which the medical evidence does not render impossible or inherently improbable.

Defence of False Implication

56. The defence of previous enmity with the child's uncle also remains unsubstantiated. PW-4 admitted that he knew the appellant from childhood but denied that any prior quarrel had taken place or that the child had been used to settle a score. The appellant in his statement under Section 313 CrPC, did not disclose any specific date, cause or surrounding circumstance of the alleged quarrel and did not lead any evidence in support of his defence. The beating of the appellant after he was brought to the house of the child was undoubtedly improper. That circumstance however, does not by itself establish, that the allegations of sexual assault were fabricated. That defence remains a bare assertion and does not render the direct account of the child improbable.

Decisions Relied Upon by the Appellant

57. The appellant has relied upon the decisions of this Court in ***Vikash v. State (NCT of Delhi) (supra)*** and ***Suraj Kumar v. State (NCT of Delhi) (supra)***. Both decisions reiterate, that the testimony of a child victim may form the basis of conviction only when it inspires confidence and remains free from material infirmities. There can be no disagreement with the said principle. Its application however, necessarily depends upon the evidentiary circumstances of each case.

58. In ***Vikash v. State (NCT of Delhi) (supra)***, the prosecutrix had furnished materially different versions in her statement under Section 161 CrPC, her statement under Section 164 CrPC and her deposition before the concerned learned Trial Court. In her initial version, she stated that she had voluntarily accompanied the accused to Ambala, had established physical

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

relations with him with her consent and had married him at a temple. Her subsequent versions materially departed from that account. The alleged factory where the incident was stated to have occurred was also neither properly identified nor proved. No site plan was prepared at her instance and other material corroborative evidence was also absent.

59. The present case stands on a different footing. The child victim in the present case has not furnished any earlier version exculpating the appellant. He remained consistent regarding the identity of the appellant, the nature and repetition of the acts and the threat extended to him. The variations relied upon by the appellant concern the precise date, the exact spot within the stairway area and the sequence in which the family members came to know of the incidents. They do not in any way constitute, mutually destructive versions of the occurrence.

60. In ***Suraj Kumar v. State (NCT of Delhi) (supra)***, there were material contradictions between the child victim and her mother regarding the number of alleged incidents, the manner in which the appellant had gained access to the premises, and the place from where the child was subsequently found. A material part of the account furnished under Section 164 CrPC was also absent from the substantive testimony before the learned Trial Court. The Court further noticed the absence of medical evidence corroborating the alleged incident. Significantly, the site plan in that case had been prepared at the instance of the child victim and no infirmity concerning its preparation formed the basis of the decision.

61. The circumstances which created reasonable doubt in ***Vikash v. State (NCT of Delhi) (supra)*** and ***Suraj Kumar v. State (NCT of Delhi) (supra)*** are therefore, absent in the present case. Here, the child's account remains consistent on the foundational facts and the medical evidence, and does not

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

contradict his version. Therefore, the reliance placed upon the aforesaid decisions does not advance the case of the appellant.

Presumption Under Section 29 of the POCSO Act

62. Section 29 of the POCSO Act does not dispense with the obligation of the prosecution to first establish the foundational facts constituting the offence. In the present case, those facts stand proved through the school record establishing the age of the child, his direct and reliable testimony identifying the appellant, describing penile penetration on two occasions and the threat extended to prevent disclosure. The evidence of PW-3 and PW-4 corroborates the subsequent disclosure and reporting of the matter, while the medical evidence, even though does not categorically state that the occurrence happened, does not contradict the possibility of it happening. This Court finds no reason to disbelieve the testimony of PW-8A. The medical evidence when coupled with the consistent testimony of the victim, put forth no ground that would make this Court adopt a course of action that would differ from the one adopted by the concerned learned Trial Court. The prosecution has, therefore, discharged its initial burden, and the presumption under Section 29 of the POCSO Act therefore becomes operative.

63. Now the appellant has neither elicited any material during cross-examination nor produced any defence evidence sufficient to rebut the said presumption. The child's testimony establishes that the appellant inserted his penis into the child's anus on two occasions. The offence was, therefore, committed more than once and attracts Section 5(l) of the POCSO Act. Since the child was below twelve years of age, Section 5(m) is also attracted. The acts are punishable under Section 6 of the POCSO Act and also satisfy the ingredients of Section 377 IPC as it then stood. The threat to kill the child's

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

mother if he disclosed the incidents also establishes criminal intimidation punishable under Section 506 IPC.

64. In view of the foregoing discussion, this Court is of the opinion that the discrepancies pointed out on behalf of the appellant do not create a reasonable doubt in the case of the prosecution regarding the commission of the alleged offences. The concerned learned Trial Court therefore committed no error in convicting the appellant for the offences punishable under Sections 377 and 506 of IPC and Section 6 of the POCSO Act. The challenge to the conviction is therefore in the opinion of this Court, not sustainable, and is thereby liable to be dismissed.

Quantum of Sentence

65. The incidents in the present case occurred in February 2019. At the relevant time, Section 6 of the POCSO Act prescribed a rigorous imprisonment (RI) for a term of not less than ten (10) years, which could extend to imprisonment for life, along with fine. Subsequently, Section 6 was substituted by Section 5 of the ***Protection of Children from Sexual Offences (Amendment) Act, 2019 (Act 25 of 2019)***, with effect from 16.08.2019, which enhanced the minimum sentence to a period of twenty (20) years. It further defined imprisonment for life as imprisonment for the remainder of the offender's natural life and introduced, the punishment of death for this offence.

66. The aforesaid detail becomes relevant in the present case for the limited purpose of deciding as to whether the unamended provision shall govern the sentence in the present case or the amended one would.

67. In ***State of U.P. v. Sonu Kushwaha, (2023) 7 SCC 475***, the Supreme Court expressly held that the enhancement of the minimum sentence to a period of twenty (20) years with effect from 16.08.2019 would not apply to

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

an incident which had occurred prior to the said amendment, and since the said amendment came into force after the time of the incidents in the present case, which stand proved after the discussion above, the unamended Section 6 of the POCSO Act would be the provision that would govern this appeal and the quantum of sentence in it. The relevant portion of the aforesaid judgment depicting the same is as under:

> "**11.** Section 6, as applicable before its substitution on 16-8-2019, read thus:
>
> > "**6.** ***Punishment for aggravated penetrative sexual assault.—***Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine."
>
> **On the date of the commission of the offence, rigorous imprisonment for ten years was the minimum sentence prescribed for the offence of aggravated penetrative sexual assault. From 16-8-2019, the minimum sentence has been enhanced to twenty years. However, the amended provision will not apply to this case as the incident has taken place prior to 16-8-2019.**"
> (Emphasis supplied)

68. Now the sentence of rigorous imprisonment (RI) for a period of twenty-five (25) years awarded by the concerned learned Trial Court falls within the range prescribed under the unamended provision. But the quantum of sentence however, requires consideration on the touchstone of proportionality. The appellant was approximately twenty-two (22) years and five (5) months old at the time of the incidents, had no previous involvement in any similar offence and has remained in custody since 06.03.2019. At the

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

same time, the child victim was only about eight (8) years old, the penetrative sexual assault was committed on two occasions and the appellant had threatened to kill the child's mother to prevent disclosure.

69. Having regard to the aggravating and mitigating circumstances noted above, this Court is of the considered view that rigorous imprisonment (RI) for a period of ten (10) years would adequately meet the ends of justice in the present case. The said sentence falls within the range prescribed under the unamended Section 6 of the POCSO Act and does not amount to a retrospective application of the amended minimum punishment. The order on sentence dated 06.03.2024, therefore calls for modification to this limited extent.

CONCLUSION

70. In view of the foregoing discussion, the judgment of conviction dated 30.11.2023 passed by the learned Additional Sessions Judge, Fast Track Special Court (POCSO), South-East District, Saket Courts, New Delhi, in ***Sessions Case No. 141/2019***, arising out of ***FIR No. 88/2019***, registered at Police Station Kotla Mubarakpur, District South-East, Delhi, is hereby affirmed.

71. The order on sentence dated 06.03.2024 however, is modified to the limited extent, that the sentence of rigorous imprisonment (RI) for a period of twenty-five (25) years imposed upon the appellant for the offence punishable under Section 6 of the POCSO Act stands reduced to rigorous imprisonment (RI) for a period of ten (10) years. The fine of ₹10,000/- imposed for the said offence and the sentence of simple imprisonment (SI) for a period of thirty (30) days imposed, in case of default in payment of the same, shall remain unchanged.

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41

72. The sentence of simple imprisonment (SI) for a period of eighteen (18) months with a fine of ₹5,000/- imposed for the offence punishable under Section 506 of IPC and sentence of simple imprisonment (SI) for a period of fifteen (15) days imposed in case of default in payment of the same, shall also remain unchanged. Both the substantive sentences shall run concurrently. The direction that no separate sentence be awarded under Section 377 IPC in view of Section 42 of the POCSO Act shall also remain undisturbed.

73. The award of compensation of ₹7,50,000/- to the child victim and the directions concerning its disbursement shall also remain unchanged.

74. The appellant shall be entitled to the benefit of set-off under Section 428 CrPC for the period of detention already undergone by him.

75. Accordingly, the present appeal is partly allowed in the aforesaid terms and conditions, and is thereby disposed of.

76. The pending application also stands disposed of.

77. Interim order(s), if any, also stand(s) vacated.

78. A copy of this judgment be sent to the concerned learned Trial Court as well as the concerned Jail Superintendent for information and necessary compliance.

79. This judgment be uploaded on the website *forthwith*.

MADHU JAIN
(JUDGE)

NOVEMBER 6, 2026/PG

Signature Not Verified
Signed By:BHARTI
Signing Date:06.11.2026
18:22:41