



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

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Judgment reserved on: 13.05.2026

Judgment pronounced on:15.05.2026

+ CRL.A. 1201/2019

RAJ KUMAR RAI @ RAJU KUMAR RAYAppellant

Through: Mr. Ram Ekbal Roy with Mr. Aman
Nihal and Mr. Sunil Kumar,
Advocates.

versus

STATERespondent

Through: Mr. Utkarsh, APP for the State with
SI Jyoti, P.S. Hari Nagar.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374(2) of the Criminal Procedure Code, 1973 (the Cr.P.C.), the sole accused in Sessions Case No. 209/2016 on the file of the Additional Sessions Judge (PoCSO), West, Tiz Hazari Courts, Delhi, assails the judgement dated 08.07.2019 and order on sentence dated 10.07.2019, as per which he has been convicted and sentenced for the offences



punishable under Sections 376, 377 and 506 (Part I) of the Indian Penal Code, 1860 (the IPC) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (the PoCSO Act).

2. The prosecution case is that, the accused, the music teacher of PW1, repeatedly committed aggravated penetrative sexual assault on her at her residence. He is also alleged to have threatened to beat her if she disclosed the incident to her mother. Hence as per the chargesheet/ final report, the accused alleged to have committed the offences punishable under Section 376 and 506 IPC and Section 6 PoCSO Act.

3. On the basis of Ext. PW2/A FIS/FIR of PW2, given on 28.07.2016, Crime no. 520/2016, Hari Nagar Police Station, i.e., Ext. PA-2 FIR was registered by Ramesh, Head Constable(HC). PW10Woman Sub Inspector (WSI) conducted investigation into the crime and on completion of the same, filed the chargesheet/final report alleging commission of the offences



punishable under the aforementioned Sections.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, *vide* order dated 18.11.2016, framed a Charge under Sections 376, 377, 506 IPC and Sections 6 and 10 of the PoCSO Act, which was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 10 were examined and Ext. PW 2/A-C, Ext. PW 4/A-B, Ext. PW 5/A-C, Ext. PW 7/A-D, Ext. PW 9/A, Ext. PW 10/A-H, Ext. PA-01, Ext. PA-02 (Colly), Ext. PA-03, Mark 'X', and Mark 'Y' were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence



of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that despite having a close relationship with PW1's entire family, including her nana-nani and dada-dadi, he has been falsely implicated merely because he had demanded outstanding tuition fees from her parents. There were disputes between him and the parents of PW1, due to which they had altercations 3 to 4 times, including a minor one on the day of the incident.

7. After questioning the accused under Section. 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker**



2888). Here, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

8. No oral or documentary evidence was adduced by the accused.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 08.07.2019 held the accused guilty of the offences punishable under Sections 376, 377 and 506 (Part-I) IPC and Section 6 PoCSO Act. *Vide* order on sentence dated 10.07.2019, sentenced him to undergo rigorous imprisonment for a period of 20 years and to fine of ₹1,00,000/-, and in default of payment of fine, to rigorous imprisonment for a period of 6 months for the offence punishable under Section 376(2) IPC; and to rigorous imprisonment for a period of 10 years and to fine of ₹5,000/-, and in default of payment of fine, to rigorous imprisonment for a period of one month for the offence punishable



under Section 377 IPC; and to rigorous imprisonment for a period of 2 years for the offence punishable under Section 506 (Part-I) IPC. The sentences have been directed to run concurrently. Aggrieved, the accused has preferred this appeal.

10. When the appeal was taken up for hearing, the learned counsel appearing for the appellant/accused confined his submissions to the quantum of sentence and contended that, out of the total sentence of 20 years imposed, the accused has already undergone about 12 years of imprisonment including remission. It was therefore urged that the sentence be reduced to the period already undergone.

11. The learned Additional Public Prosecutor submitted that the impugned judgment does not suffer from any infirmity warranting interference by this court as the trial court has duly considered each and every ground raised in the present appeal and, upon an overall appreciation of the materials on record,



adjudicated the matter on merits.

12. Heard both sides and perused the materials on record.

13. In the light of the submissions made, the only question that arises for consideration in this appeal is regarding the quantum of sentence to be awarded.

14. The trial court has awarded a sentence of 20 years for the offence punishable under Section 376(2)(f)(i) IPC. The exact date of incident has not been specified, but the allegation is that the assaults took place before 29.07.2016. The year of incident is 2016. Section 376(2) IPC, prior to the amendment in the year 2018, prescribed punishment for a term not less than ten years, which could extend to imprisonment for life. In the light of the dictum in **Ravinder Singh v. The State Govt. of NCT of Delhi, (2024) 2 SCC 323**, the trial court could not have imposed a sentence of 20 years, though the High Court and the Apex Court are empowered to do so. The trial court could have imposed the



minimum sentence of 10 years or life imprisonment and if it was for a term, for a period not exceeding 14 years. In the case on hand, the trial court has imposed a sentence of imprisonment for twenty years, which it could not have done. Hence, the sentence imposed by the trial court needs to be modified.

15. The accused, being the music teacher of PW1, was in a position of trust and authority. He repeatedly committed aggravated penetrative sexual assault and carnal intercourse against the order of nature upon PW1, a minor aged about 11 years, behind closed doors at her residence, and threatened to beat her if she disclosed the assault to anyone. Therefore, the minimum sentence of 10 years prescribed under Section 376(2) IPC would not suffice. Accordingly, the sentence is modified to a period of 14 years of rigorous imprisonment.

16. In the result the appeal is partly allowed. The conviction of the accused for the offences punishable under Sections 376, 377



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and 506(II) IPC and Section 6 of the PoCSO Act is confirmed. However, the substantive sentence of imprisonment imposed by the trial court for the offence punishable under Section 376(2) IPC is modified to 14 years.

17. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 15, 2026

Mj/rs