



2025:DHC:11520



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

% Reserved on : 11.11.2025  
Pronounced on : 17.12.2025  
Uploaded on : 17.12.2025

+ **CRL.A. 1187/2024**

SUNIL

.....Appellant

Through: Mr. Abinash Kumar Mishra, Advocate.

*versus*

STATE GOVT. OF NCT OF DELHI AND ANR. ....Respondents

Through: Ms. Shubhi Gupta, APP for State.  
Mr. Arman Roop Sharma, Mr. Aman Khan, and Mr. Lekhraj, Advocates for Victim.  
Mr. Manish Sangwan, Ms. Tanya Gupta, and Mr. Vedant Srivastava, Advocates for DSLSA.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

### **JUDGMENT**

1. Vide the present appeal, the appellant seeks setting aside of the judgment of conviction dated 13.11.2024 and the order on sentence dated 30.11.2024 rendered in the contest of trial held in Sessions Case No.110/2017 arising out of FIR No. 816/2016 registered at P.S. Nand Nagri.

The Trial Court convicted the appellant for the offences punishable under Section 354 IPC and Section 8 POCSO. He was subsequently directed to undergo RI for a period of 3 years and 1 month along with paying a fine of Rs.2,000/-, in default whereof he would undergo 1 month SI, for the offence



under Section 8 POCSO; and to undergo RI for a period of 1 year along with paying a fine of Rs.2,000/-, in default whereof he would undergo 1 month SI, for the offence under Section 354 IPC. Both sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was granted to the appellant.

2. The facts as culled out from the Trial Court record are that the investigation was set into motion on 17.09.2016 when the complainant (father of the 10-year-old child victim) gave a written complaint that his minor daughter was molested by the appellant herein. It was stated that the complainant is a rickshaw puller and on the previous day, i.e., on 16.09.2016, at about 1.30 PM, he had gone along with his daughter to a *bhandara* in his neighborhood, where the appellant was also in attendance. At one point, the appellant put his hand on the waist of the complainant's daughter while standing behind her and placed his hand on her chest. Initially, the complainant thought that the appellant had done the said act out of affection; however, in the night, the victim complained to her mother that the appellant had pressed her breast and she was feeling pain. The matter was thereafter reported to the police and the subject FIR was lodged. The statements of the child victim under Sections 161 Cr.P.C. and 164 Cr.P.C. were recorded. As there were no external or internal injuries, the complainant refused any medical examination of the child victim. On the chargesheet being filed, charges under Section 354 IPC and Section 10 POCSO were framed, to which the accused pleaded not guilty and claimed trial.

3. The prosecution examined the child victim as PW-1. She identified the



appellant and stated that he used to live in her colony. On the date of incident, she had gone to the *bhandara* along with her father, where the appellant had come from behind and pressed her breast. She stated that she could not sleep that night due to the pain and confided in her mother about the same.

In cross-examination, she stated that she was not aware of the name of the appellant, and the same was told to her by her father on the day of the incident. She was otherwise aware of the appellant as he used to organise dance performances of children on occasions like Diwali. The *bhandara* was organised in the afternoon and there was a crowd of persons present; however, none of them were touching each other and they were all maintaining distance. The food was being served to persons after they sat down. She further stated that her father, as well as the father of one 'M' were standing beside her. The victim stated that after eating *bhandara*, they had returned to their house. A suggestion of no incident having occurred and the appellant having been falsely implicated was given; however, the same was denied.

4. The victim's father was examined as PW-4. He stated that he had gone along with his daughter to the *bhandara*, where the appellant came from behind and put his hand on the waist of the victim and then on her breast. In the night, the victim complained of pain in her breast and, on asking, stated that the pain was on account of the appellant having pressed her breast.

In cross-examination, a suggestion was given to the witness that the appellant was engaged in petty social work in the locality and used to help people with their problems. The witness admitted that a person by the name of *Nimai* lives adjacent to his house and that a dispute had occurred between them



regarding *Nimai* constructing a wall in front of the window of the witness' room. He stated that the dispute had escalated and the police were also called. He further stated that since *Nimai* had been restrained from going ahead with the construction, the appellant had taken money from *Nimai*, undertaking to do the construction, and had started torturing the witness. He again said that the appellant had nothing to do with the construction carried out in *Nimai's* house. He further stated that a *Panchayat* was held in the context of the said dispute; however, he did not remember whether the father of the appellant was a *Panchayati* in the same. A question was put as to whether the meeting was held prior or subsequent to the incident in question, to which the witness replied that he did not remember. A specific suggestion was given that the *Panchayat* had taken place on 25.11.2014, to which he stated that he did not remember. Another suggestion was given that he was deliberately not acknowledging the date of the meeting or recalling the name of the participants, and the same was denied. A question asking in whose memory the concerned *bhandara* was organized was put to the witness, to which also he stated that he did not remember. He admitted that people were served food while they were sitting on the floor. At one point in his cross-examination, he stated that he did not have food at the *bhandara*; however, he later stated that he took 5 to 10 minutes to eat. He admitted that his daughter neither raised any alarm nor told anything to him at that time. He denied that medical examination of the victim was refused as no incident had taken place. He denied the suggestion that the appellant had been falsely implicated as he had helped *Nimai* in the said construction work.



5. The mother of the victim was examined as PW-5 and stated about being told about the incident by the child victim in the night.
6. The appellant, in his statement under Section 313 Cr.P.C., denied the prosecution case and claimed false implication. He stated that in the year 2005, there had been a dispute between the appellant and the victim's father. The victim's father also had a dispute with his neighbor *Nimai* and while he had protested the construction being carried out by *Nimai*, the Panchayat people of the locality, including the appellant's father, had allowed the construction, due to which the victim's father had developed enmity against the appellant.
7. The appellant examined one *Sunil Kumar Jha* as DW-1 in his defence. The defence witness stated that on 15.09.2016 his father was unwell and admitted at *Karuna Nursing Home*, whereafter his father was referred to a bigger hospital, and that the appellant had accompanied him to take his father to RML Hospital and remained with him during the intervening night of 15/16.09.2016 till about 2.30 PM on 16.09.2016, when there was some improvement in the condition of his father. He further stated that the appellant had come to Karuna Hospital to see his father along with 10-12 people and when a question as to whether he could name the said 10-12 people was put to him, he stated that he could tell the names of some of the persons, and named *Neeraj, Titu, Sunny, and Pankaj*.
8. The organiser of the *bhandara*, *Dilip*, was examined by the appellant as DW-2. He stated that he had organised the *bhandara* on the *terhvi* of his grandfather, that the appellant had not come to attend the said function, and that no incident as alleged took place on the said day. He stated that he had



remained present the entire time during the *bhandara* and had met everyone who attended.

In cross-examination, he stated that he was moving around as the function was organised in an open space and that he had attended to everyone who had come. He stated that no videography or photography was done. He reiterated that though the victim and her father had attended the *bhandara*, the appellant had not come.

9. The gravamen of the prosecution case revolves around the allegation of the appellant pressing the victim's breast. Curiously, the victim's father has deposed that he had seen the appellant coming from behind and putting his hand on the victim's waist and on her breast; however, the victim has stated only that the appellant came and pressed her breast. The father of the victim has deposed that he initially thought that the appellant's act of putting his hand on the breast of the victim was out of affection. The incident occurred at about 1.30. PM in the afternoon and no complaint was made at that stage. The victim's mother has deposed that the victim did not inform her about the incident in question or about her experiencing any pain when she returned from the *bhandara* and only informed her late in the night that she was having pain in her chest. In cross-examination, the mother of the victim has stated that on the aforesaid coming to note, she had woken her husband at about 2.00 AM. If the incident had occurred as alleged and the appellant had pressed the breast of the victim at the *bhandara*, it would have resulted in pain immediately or soon thereafter. The complaint of severe pain being made 12 hours after the incident would be a realistic possibility only if the appellant's act also resulted in an



injury. However, there is no evidence of any injury on the person of the victim and, as noted above, the father had refused medical examination of the child victim stating that the victim had not suffered any internal or external injury.

10. The appellant had taken a defence that he was not present at the *bhandara* and was rather at the hospital, and in this regard, he examined *Sunil Kumar Jha* as a defence witness. The organiser of the *bhandara*, *Dilip*, was also examined as a defence witness, and he testified that the appellant had not attended the *bhandara*.

11. Considering that the victim did not immediately complain of any pain, that the same was reported to the victim's mother 12 hours after the fact that the victim was not medically examined, that the appellant appears to be involved in the dispute between the victim's father and his neighbour *Nimai*, and the testimony of the defence witnesses, this Court is of the considered view that the benefit of doubt goes to the appellant and as a result, he is acquitted of all charges.

12. The present appeal is allowed and the impugned judgment as well as order on sentence are set aside.

13. The personal bond furnished by the appellant stands cancelled and his surety is discharged.

14. A copy of this judgment be communicated to the Trial Court as well as the Jail Superintendent concerned.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**DECEMBER 17, 2025/sn**