



2025:DHC:6672



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

% Decided on : 29.07.2025

+ **CRL.A. 481/2024**

SANJEEV SETHIAppellant

Through: Mr. Ravinder Saini, Advocate

versus

THE STATE (GOVT OF NCT OF DELHI)Respondent

Through: Mr.Pradeep Gahalot, APP for State with
SI Jyoti

Ms.Shreya Lamba, Advocate for prosecutrix

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT: (ORAL)

CRL.M.(BAIL) 868/2024 (suspension of sentence)

1. With the consent of the parties, the appeal itself is taken up for consideration.
2. In view of the above, the present application has become infructuous. Accordingly, the present application is disposed of.

CRL.A. 481/2024

1. The present appeal has been filed assailing the judgment of conviction dated 01.03.2024 and order on sentence dated 14.03.2024 passed in CNR No.: DLWT01-004268-2018 arising out of FIR No.549/16 under Section 354 IPC and Section 8 POCSO Act registered at PS Hari Nagar, Delhi.

Vide the impugned judgement and order on sentence, the appellant was convicted under sections 341/354/354A/509 IPC and 8 POCSO Act and



sentenced to undergo SI for one month for offence under Section 341 IPC, along with fine of Rs.200/-, in default of payment of fine, he was directed to undergo SI for one week. The appellant was further sentenced to undergo SI for four years for offence under Section 354 IPC, along with fine of Rs.5000/-, in default of payment of fine, he was directed to undergo SI for one month. He was directed to undergo RI for three years for offence under Section 354A (i) & (ii) IPC, along with fine of Rs.5000/-, in default of payment of fine, further SI for one month and sentenced to undergo SI for five years for offence under Section 8 POCSO Act, along with fine of Rs.5000/-, in default of payment of fine, to undergo further SI for one month. All the sentences were directed to run concurrently. The appellants was also given the benefit of Section 428 CrPC.

2. Briefly stated, facts of the case are that on 16.08.2016 , DD No.18A came to be registered when a PCR call was received to the effect that someone in Masjid Wala Park, Ashok Nagar, Hari Nagar molested the daughter of the caller. The DD was marked to SI *Mohit Prakash*, examined as PW-5, who reached the spot and recorded the statement of the father of the child victim under Section 161 Cr.P.C. to the effect that he along with his family, was residing at the address given, on rent. In the testimony before court, he further stated that his daughter i.e., the child victim, aged about 12 years, came to Delhi two days prior to the incident to reside with him from her native village in West Bengal. On that date, at about 9:00 am, when he was present at his rented house, his minor daughter had gone to the market to purchase milk. After about 15 minutes, she returned home crying. She informed that one '*uncleji*' had caught hold of her tightly and further stated that she was beautiful and also asked her to kiss him. The said person



also touched her body parts, whereafter she managed to run away. On being so told, father of the child victim reached the spot where he found that some boys had already caught hold of that person and, his daughter, after identifying him, said that he is the person who had molested her in the said park. The said person was also given beatings by the people who had gathered there.

3. On the basis of the above statement, an FIR came to be registered. The appellant was arrested at the spot and was examined at DDU Hospital. Meanwhile, statement under Section 164 Cr.P.C. of the child victim got recorded, and her school records were also collected. On completion of the investigation, the chargesheet was filed and charges were framed against the appellant for offences punishable under Sections 354/354A/341/509 IPC and Sections 8 of POCSO Act.

4. During the trial, prosecution examined the child victim, her father and aunt as PW-1, PW-2 and PW-3 respectively. The age of the child victim was proved during the statement of through Mohd. Shah Alam, Teacher In-charge (PW-6), who had brought the school record. The age of the child victim was about thirteen and half years on the date of incident.

5. The appellant on the other hand, in his statement recorded under Section 313 CrPC, denied the prosecution's case and claimed innocence. He had stated that on the date of incident, he was in the park and the child victim slipped on wet mud, when he tried to save her falling down, a few boys who were playing there surrounded him and gave beatings on him.

6. Learned counsel for the appellant, while assailing the impugned judgment on conviction, contended that the testimony of the child victim does not inspire confidence as in her testimony she had stated that she



informed about the incident to her aunt (PW-3), however, the aunt failed to identify the appellant. It was next contended that while the prosecution claimed that the appellant was apprehended by the public persons in the park, however, no such public witness was examined to corroborate the same.

7. Learned APP for the State, duly assisted by the learned counsel representing the child victim, however, have defended the impugned judgment. It is stated that the child victim has been consistent on the aspect of molestation by the appellant. She has duly identified the appellant during trial.

8. The child victim was examined as PW-1. She deposed that she had come to Delhi 2-3 days prior to the incident. She further deposed that on 16.08.2016 at about 8.30 A.M., her aunt asked her to fetch milk from the nearby shop and while she was returning home after purchasing the milk, one unknown uncle met her on the way. He had put his hand on her shoulder and asked her name; in good faith, she told her name. He then asked her '*Mujhse Pyaar Karogi*'. He also gave a flying kiss by gesture and kept his hand on her waist and touched her shoulders and breasts. She pushed his hand back and ran back home. At that time, her mother was in their native village and so she informed about the incident to her aunt (PW-3). In her cross-examination, she identified the appellant and she stated that she did not raise any alarm when the appellant sexually assaulted her. She further stated that when her aunt visited the spot, 4-5 men collected there. The appellant was also present. She denied that no incident of such nature had taken place.

9. The child victim's father was examined as PW-2. He deposed that on



the date of the incident, he was present at his rented house and when the child victim narrated the incident, he reached the said park. The appellant was already apprehended by some boys, who were playing in the park. The child victim identified the man who had molested her. He called at 100 number, thereafter, police came and arrested the appellant. In cross-examination, he denied the suggestion of false implication.

10. Much hype was made about the non-identification of the appellant by the aunt of child victim. A perusal of the testimony of the aunt would show that she had deposed that on the date of incident at about 9:00 A.M., when she was present at the house of the father of child victim (PW-2) had informed that somebody had misbehaved with victim at Masjid Wala Park. On being cross-examined by the learned APP, though she did not give time and date of the incident, she admitted that it was about 9.00 A.M. when child victim came crying to her house told her father that some person had misbehaved with her at Masjid Wala Park. She denied that the police call was made in her presence. She, however, stated that she was later told that the person who had misbehaved with the child victim was apprehended and given beatings by the public persons.

11. The contentions raised by the learned counsel for the appellant is that the testimony of the child victim does not inspire confidence in view of the testimony of her aunt, is meritless. The child victim has consistently stated about the incident in her statement recorded in the investigation as well in her testimony before court. The child victim also correctly identified the appellant.

12 As noted above, the appellant was arrested at the spot, which is established during the testimony of the W/SI Savita Sarkar as well as SI



Mohit Prakash, who were examined as PW-4 and PW-5 respectively. In fact, the appellant was beaten by the public persons, and the same stand was corroborated by his MLC conducted on the date of the incident. The MLC reveals multiple bruises on the appellant's body. Moreover, the appellant in his statement recorded under Section 313 admitted to his presence at the spot when he stated that he, in fact, tried to save the child victim from falling on the wet mud.

13. Even if no public person was examined, the testimony of the child victim (PW-1), her father (PW-2) as well as the police witnesses, has duly proved the prosecution's case and role of the appellant in commission of crime. The child victim's competency to depose has also not been in doubt. Her testimony is found to be both reliable and credible. Accordingly, this court finds no ground to interfere with the impugned judgment of conviction and order on sentence rendered by the Trial Court.

14. At this stage, learned counsel for the appellant states that since the appellant being 70 years of age, he seeks modification of the sentence to the period he has already undergone.

15. The prayer is vehemently opposed by the learned APP as well as the learned counsel for the child victim. The appellant's nominal roll is on record. The appellant has been sentenced to undergo simple imprisonment (SI) for five years. As per nominal roll, out of five years, he has undergone 8 months 15 days as on 24.10.2024 with remission.

16. The court is not inclined to entertain the said request as a perusal of the order of sentence passed by the trial court would reveal that the appellant also stands involved and convicted in another FIR No. 632/2018 registered under Sections 354/509 IPC and Sections 8/12 of POCSO Act, at P.S. Tilak



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Nagar and the appellant was convicted on 18.07.2022 in that case.

17. The appeal is, accordingly, dismissed.

18. A copy of this order be communicated to the trial court as well as the concerned Jail Superintendent.

MANOJ KUMAR OHRI
(JUDGE)

JULY 29, 2025/*pmc*