



2025:DHC:1139



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

Date of decision: 18th February, 2025

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CRL.A. 346/2021

STATE (GNCT of Delhi)

.....Appellant

Through Secretary
GNCT of Delhi

Through: Ms.Meenakshi Dahiya, APP for the
State with SI Bharat Singh, PS Uttam
Nagar.

versus

GOKUL

.....Respondent

S/o Sh. Makhann Lal,

R/o B-224, J.J Colony
Shiv Vihar, Delhi

Through: Mr.Bharat Bhushan Bhatia and
Mr.Jagjit Singh Anand, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Appeal under Section 377 (1) (b) of the Code of Criminal Procedure (*hereinafter* "Cr.P.C") has been filed by the State to seek *enhancement of the sentence of one month along with fine of Rs.1 lakh under Section 12 of the POCSO Act in FIR No. 31/2013, registered at Police Station, Uttam Nagar*, granted to the Respondent *vide* Order dated 29.11.2019 by the Ld. Additional Sessions Judge, Delhi.
2. The State has not challenged the judgment of Conviction dated



25.10.2019 but has only sought enhancement of the Sentence granted vide Order on Sentence dated 29.11.2019. No Appeal has been preferred by the Complainant.

3. The enhancement of compensation is sought on the grounds that the Sentence granted by the learned ASJ, is against the principles of law and amounts to injustice. Reliance is placed in Ravi vs. State of Rajasthan, 1996 (2) SCC 175 wherein it has been held that “*it is the nature and gravity of crime but not the criminal which are germane for consideration of appropriate punishment in a criminal trial.*”

4. It is further submitted that the Order on Sentence is not in consonance with the intent and objects as recognized in Alakh Alok Srivastava v. Union of India, WP (C) 76/2018. The Ld. Trial Court observed that “*it is time for realization that certain category of sexually depraved behaviour is totally unacceptable in the Indian Socio-Legal System. The victim is a minor female child aged about seventeen years who was not in position to put up much resistance.*”

5. Likewise, the Ld. Trial Court has observed that “*Keeping in view the ghastly and inhuman acts of convict, a substantive and stern sentence is required to be imposed upon the convict so that it is not only in commensuration with the gravity of the crime but also serves as an example for others who might also venture on the same forbidden path. The convicts do not deserve any leniency.*”

6. However, having observed so, an inadequate sentence has been imposed on the accused. It is submitted on behalf of the State that the respondent/accused was in JC from 25.10.2019 and till 29.11.2019 i.e. for



about a month and five days, and the sentence of already undergone which has been awarded, cannot be considered appropriate Sentence considering the nature of offence for which he has been convicted.

7. Ld. Counsel on behalf of the Respondent/Convict has taken a Preliminary objection that the Appeal is barred by Limitation and no Application seeking condonation of delay has been filed.

8. It is further submitted that the Parties were neighbours and the acts done were of a young boy and much time has now elapsed since the alleged act. The Respondent has already suffered much during the trial and is repentant of his acts. Moreover, both the parties have got settled in their respective homes. There is no ground to modify the Sentence.

9. **Submissions heard. Record perused.**

10. The *first aspect* which requires consideration is that the present Appeal has been after a delay of 15 months and there is no Application filed on behalf of the State for condonation of delay. As per the Respondent/Accused, on this short ground itself, with no explanation forthcoming on delay, the Appeal should be dismissed.

11. However, without going into the technicality on this issue, arguments in the Appeal is being heard and considered on merits.

12. The Respondent who has been neighbour of the prosecutrix has been convicted for offence under Section 12 of the POCSO Act for harassing the prosecutrix in the year 2012, by following, stalking, passing obscene comments, pelting small stones and also following her in his vehicle. The FIR was registered in the year 2013 and the final Judgment of Conviction has been passed *on* 25.10.2019.



13. The learned ASJ *vide* Order on Sentence dated 29.11.2019 has succinctly observed that though the Respondent/Accused was held guilty of stalking and harassment caused to the prosecutrix, which acts are most deplorable against human and an undue sympathy to impose inadequate sentence would do more harm to justice system and undermine the public confidence in the efficacy of law and society, but at the same time, it cannot be overlooked that the object of the sentence is to protect the society and to deter the criminal in achieving the avowed object of law by imposing appropriate sentence.

14. The learned ASJ further observed that in the present case, the accused has committed the offence of following the minor prosecutrix and making obscene gestures to her with sexual intent. While observing that no leniency could be adopted while sentencing the convict, but keeping in view the totality of the circumstances, the accused was sentenced for the offence under Section 12 of the POCSO Act to undergo rigorous imprisonment for the period he has already undergone in custody i.e. 25.10.2019 till 29.11.2019 with a fine of Rs.20,000/-, in default, to undergo simple imprisonment for a period of two months. In addition, a compensation of Rs.1 lakh was also directed to be paid to the prosecutrix under the POCSO Act/Rules for her rehabilitation, out of which Rs.30,000/- was to be paid to her as compensation and the remaining amount of Rs.70,000/- was to be paid to the prosecutrix by the State through DLSA.

15. The offence is of the year 2013. As has been submitted, both the prosecutrix as well as the Respondent/Accused, got married and they have settled happily in their respective matrimonial homes. No untoward incident



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has been reported since then. The Respondent/Accused has already suffered much since 2013 and is repentant of his deeds.

16. There is no ground for interference with the Order on Sentence which is well balanced in not only awarding the substantive sentence to the Respondent/Accused but also compensating the victim/prosecutrix for the wrongful acts committed against her.

17. Thus, this Court does not find any infirmity in the impugned Order on Sentence.

18. The Appeal filed by the State is accordingly, dismissed.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 18, 2025

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