



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

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*Reserved on: 13th May, 2025
Pronounced on: 18th July, 2025*

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CRL. A. 689/2025

STATE OF NCT OF DELHI

.....Petitioner

Through: Mr. Shoaib Haider, APP for State.

versus

JAWAHAR SINGH

S/o Sh. Ram Kishan

R/o H.No.106, Defence Enclave,
Mangal Bazar, Near Balaji Chowk,
New Delhi.

Permanent Address:

Village Chhichund,
P.S. Utpalda, PO Achalda,
Distt. Oriya, U.P.

.....Respondents

Through: Mr. Hemant Singh and Ms. Urvashi
Jain, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. A Criminal Appeal under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed by the Appellant/State against the Judgment dated 25.01.2020 *vide* which the Respondent has been acquitted for the offence under Section 451/506 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (*hereinafter referred to as "POCSO Act"*) in FIR No.49/2013 Police Station Ranhola, Delhi, by the learned Additional Sessions Judge (ASJ).
2. The *case of the Prosecution* is that on 06.03.2013 at about 02:00 P.M., the Prosecutrix aged about 14 years was present in her house. The Respondent/Jawahar Singh forcibly entered into the house and sexually assaulted her, resulting in registration of FIR No.49/2013 under Section 354A/506 IPC and Section 8 POCSO Act.
3. The Chargesheet was filed in the Court after which the Charges were framed on 18.09.2013 under the aforesaid Sections.
4. The Prosecution in support of its case examined **seven witnesses**. The material witness being the *PW2 Prosecutrix as* and *PW6 Smt. Sugarshree*, to whom the incident was first narrated by the Prosecutrix. *PW5* is the *father of the Prosecutrix*.
5. The statement of the Respondent was recorded under Section 313 Cr.P.C, wherein he refuted all the incriminating evidence and submitted that he has been implicated falsely. He explained that one Anil, son of Smt. Sugarshree got one plot purchased in the name of the Respondent in village



Chhichund, U.P, which was adjacent to the main road. Smt. Sugarshree insisted that the Respondent sold the plot to her and purchased another plot. She threatened that if he would not transfer the plot in her name, she would implicate him in a false case. It is, therefore, asserted that Smt. Sugarshree in connivance with the father of the Prosecutrix, who was her *dewar* (brother-in-law), has falsely implicated the Respondent in this case.

6. In support of the defence, the Respondent examined *DWI, Smt. Sandhya Devi wife of Dharmender @ Bunt* who deposed on similar lines.

7. The *learned ASJ in the impugned Judgment dated 25.01.2020* considered the statements of the Prosecutrix on the basis of which the FIR was registered and also the statement of the Prosecutrix under Section 164 Cr.P.C and her testimony in the Court and concluded that there were inconsistent contradictions in the three statements, making them unreliable. It was held that the Prosecution failed to prove their case against the Respondent beyond reasonable doubt and thereby acquitted the Respondent.

8. *Aggrieved by the said Judgment, the Appellant/State has preferred the present Appeal.*

9. The *grounds of challenge* are that undue weightage has been given to the minor contradictions and variations in the statements of PW2 the Prosecutrix. It has not been appreciated that in the case of sexual assault, the corroboration of the evidence of the Prosecutrix from other evidence is not necessary and the conviction can be based solely on the testimony of the victim. The Prosecutrix had clearly defined the act of Respondent having



sexually assaulted her by touching her breast and private part and also of extending threats to her. PW6, Smt. Sugarshree has also corroborated the testimony of the Prosecutrix.

10. Reliance is placed on *Narender Kumar vs. State (NCT of Delhi)*, AIR 2012 SC 2281, where the Apex Court observed that the cases of rape must be dealt with utmost sensitivity examining the broader probabilities of a case and not get swayed by minor contradictions. It has not been appreciated that the Prosecutrix was only 14 years old. There was no motive to implicate the Respondent falsely in this case.

11. It has also not been considered that the Prosecutrix had identified the accused as the person who had committed the offence. *It is, therefore, submitted that the impugned judgment dated 25.01.2020 of the learned ASJ, be set aside.*

12. The ***Respondent in his brief Reply*** had submitted that he had been implicated falsely in this case at the instance of the father of the Prosecutrix in connivance with Smt. Sugarshree, the neighbour of the Respondent with whom they had some property disputes.

13. There are material contradictions in the First Information received *vide* DD No.38A at 09:44 P.M and also in the statements of the Prosecutrix.

14. PW6, Smt. Sugarshree had deposed that Prosecutrix had told her that she had hit the Respondent with one wooden *patla* (*peeda*/stood) and thereafter, she ran away. There was no disclosure of hitting the Respondent with a *patla* in the testimony of the Prosecutrix or in her earlier statements to



the Police and to the learned M.M. The medical record of the Respondent also does not corroborate any kind of injury on his head. The Prosecutrix had claimed that the Respondent was under the influence of alcohol, but this also is not recorded in his MLC.

15. It is further contended that the age of the Prosecutrix has not been established on record as no record of her first attended School has been produced. In the MLC and the Statement of the Prosecutrix under Section 164 Cr.P.C. her age has been shown as 11 years, while as per the second School record, her age is shown as 14 years.

16. The medical evidence also does not support the case of the Prosecution as there were no external or internal injuries on the person of the Prosecutrix to indicate the use of force while sexually abusing her.

17. As per the Prosecution, the Prosecutrix narrated the incident to her father on 06.03.2013 at about 07:00 P.M, but the Complaint has been made at 09:44 P.M. There was a delay of more than three hours, which creates a doubt about the case of the Prosecution. Moreover, as per the Prosecution, the sexual assault was committed at 02:00 P.M. and thereby there is huge contradiction in regard to the timing of the incident.

18. The defence witness DW1, Smt. Sandhya Devi has proved the motive for the father of the Prosecutrix in connivance with Smt. Sugarshree, to falsely implicate the Respondent.



19. It is submitted that the learned ASJ has rightly appreciated the contradictions and the inconsistencies in the Prosecution evidence to acquit the Respondent. *Thus, the Appeal is without merit and may be dismissed.*

Submissions heard and record perused.

20. The incident was first reported to the Police *vide* DD No.38A dated 06.03.2013 at 09:44 P.M, wherein information was received by PCR that '*some boys*' are teasing a girl. Upon receiving this information, PW7, SI Sarita I.O reached the spot i.e. House No. XXX, Balaji Chowk, Delhi, where she met the victim Ms. 'R' along with her father Mr. 'S'.

21. She recorded the statement of the Prosecutrix, Ex.PW2/A, wherein she narrated that on 14.02.2013, she along with her elder brother and paternal uncle (*chacha*) had come to Delhi and since some time they all have been residing in a rented house. She had studied up to Class 5 and has five brothers and sisters. On 06.03.2013 at about 02:00 P.M., while she was alone in the house and her brother and father had gone for work, the Respondent, Jawahar who was present in his room, came to her room and started forcibly banging at the door and told her to open the door. As soon as she opened the door, the Respondent pushed her inside and made her fall on the *charpai*. Thereafter, he started pressing her breast and also touched her private parts. The Respondent had consumed liquor. She in order to save herself, somehow managed to come out of the room and went to the house of a known person in the next *gali*. The Respondent threatened her that if she would disclose about the incident to anyone, he would kill her and



the family members. She further stated that in the evening when her father came back home, she narrated the entire incident to him. Thereafter, the father called the PCR and the Police came and recorded her statement Ex.PW2/A.

22. The **second statement of the Prosecutrix** was recorded under Section 164 Cr.P.C., by the learned M.M. The Prosecutrix similarly narrated that on 06.03.2013, she was alone at home and was sleeping after finishing the household work. The Respondent had not gone for work on that day and had consumed excessive liquor. He asked her to open the door to which she declined and told him to come in the evening as she was sleeping. He started banging the door loudly. She thought that the Respondent had some work and thus, she opened the door. The Respondent picked her and threw her on the *charpai* and told “*de do mere ko*”. She enquired as to what it means, on which he said that he would tell her later. When she said that she would inform her father and brother, he retorted by saying that what can they do to him. Thereafter, he pressed her chest with both his hands and he tried to do “*galat kaam*” with her. She pushed him and he fell. She ran and went to the house of *badi* mummy in the neighbourhood. When her father and brother came in the evening, she narrated the incident to them.

23. **The third statement** was made by the Prosecutrix in the Court as PW2. She deposed that on 06.03.2013, while she was sitting on the cot after bolting the door, she heard a knock on the door. She opened the door and found the Respondent standing outside. *He pushed her on to the cot and*



pressed her breast and touched her waist and also touched her private part. She tried to save herself and pushed away the accused. She ran outside and went in the room of her neighbour. The Respondent threatened that he would kill her and the family members if she told the incident to any person. In the evening, she informed about the incident to her father.

24. The learned ASJ observed that as per the statement of the Prosecutrix under Section 164 Cr.P.C., she had described certain communication between them of him having said “*de do mere ko*” and when she enquired about its meaning, he told her that he would tell her later, which did not find mention either in her statement to the Police, Ex.PW2/A or in her testimony. Such conversation was considered to be a material improvement.

25. Furthermore, while in her Complaint and in her testimony, she had narrated that the Respondent had touched her breast and her private parts, pertinently in her statement under Section 164 Cr.P.C., there was no mention of touching of the private parts. Rather, she gave a version that he tried to do “*galat kaam*” when in fact this was never the case either in her statement to the Police or in her testimony in the Court. She admitted in her cross-examination that her clothes were not torn, the *nada* of the *salwar* was not opened which disproves her assertions that the Respondent had made an endeavour to do “*galat kaam*”. There is an absolute inconsistency in describing the act of assault in her statement under Section 164 Cr.P.C and in her testimony in the Court.



26. Furthermore, the absence of any physical struggle or damage to her clothing, combined with these shifting narratives, casts suspicion on the veracity of her allegations and raises grave suspicion regarding the authenticity and reliability of the incident as portrayed by her.

27. The **next aspect** which is material is the testimony of PW6, Smt. Sugarshree who had deposed that at about 02:15 P.M., the Prosecutrix had come to her house and she was weeping. She had told her that the Respondent had touched her breast. *She had hit him with a wooden stool because of which he fell and she was able to ran away.* Pertinently, PW6 Smt. Sugarshree was the first person to whom the Prosecutrix had narrated the entire incident soon after its happening. The prosecutrix, however, had never deposed or stated in any of her three statements that she had hit the Respondent with a wooden stool, because of which he fell and she was able to escape from her room.

28. Another aspect which emerges is that according to PW6, Smt. Sugarshree, the Prosecutrix had merely stated that the Respondent had touched her breast "*Jawahar ne mujhe daba liya aur meri chati par hath phera tha*". Again from the testimony of PW6, it emerges that there was no touching of the private parts or an attempt of rape, as has been stated by the Prosecutrix in her different statements.

29. The learned ASJ noted that the testimony of PW6 that Respondent had been hit with a wooden stool by the Prosecutrix, never emerged in any of the statements of the Prosecutrix. The alleged hitting of the Respondent



was not supported by his MLC as there was no visible or invisible injury reported in the MLC.

30. The reference be also made to DD No.38A, where the information given was that *some boys were doing eve teasing* with the daughter of the caller. The narration of the alleged incident was at complete variance to the testimony of the Prosecutrix. There were neither some boys nor were they eve teasing the Prosecutrix at the time when PCR call was made. Another version has come forth about the alleged incident which is completely at variance with the earlier statement.

31. The learned ASJ also observed that Respondent was the next door neighbour and was known to the Prosecutrix and her father, despite which his name was not mentioned either in the Complaint or the MLC. This raises a doubt about the alleged occurrence of the incident.

32. In this context the testimony of DW1, Smt. Sandhya Devi was referred wherein she deposed about there being a previous enmity between Smt. Sugarshree and the Respondent. She had deposed that Respondent had purchased a plot in village Chhichund, U.P, which was adjacent to the main road which Smt. Sugarshree wanted to purchase, for which the Respondent was not agreed. In order to put pressure on him, she in connivance with the father of the Prosecutrix, got this false FIR registered.

33. While it is no doubt true that the sole testimony of the Prosecutrix can be the basis for conviction, but the testimony of the Prosecutrix must be of *sterling quality*.



34. In the present case, the learned ASJ had observed and as discussed above, there are material contradictions and improvements in the testimony of the Prosecutrix and the statements made by her to the Police and under Section 164 Cr.P.C which also were at variance to the testimony of PW6 Smt. Sugarshree. The learned ASJ has rightly highlighted all these contradictions to give benefit of doubt to the Respondent.

35. The Respondent had also been charged with the offence under *Section 451 IPC* which deals with *House-trespass in order to commit offence*. *Section 451 IPC is reproduced as under:-*

“Section 451. House-trespass in order to commit offence punishable with imprisonment.—

Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.”

“Section 442. House trespass.—

*Whoever commits **criminal trespass** by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit “house-trespass”.*

Explanation.—*The introduction of any part of the criminal trespasser’s body is entering sufficient to constitute house-trespass.”*



36. However, while it has been the consistent testimony of the Prosecutrix that she opened the door on the knocking of the Respondent. She, therefore, herself had opened the door, which led the Respondent inside the house. Therefore, it cannot be said that the Respondent had committed house trespass. Therefore, no offence under Section 451 IPC has been proved by the Prosecution.

37. The Respondent was also charged under **Section 506 IPC** for having threatened the Prosecutrix with a threat to kill her and the family members, in case she disclosed about the incident to any person. Section 506 IPC is reproduced as under:-

“Section 506. Punishment for criminal intimidation.—

Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.— And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

“Section 503. Criminal intimidation.—

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause



that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.— *A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.*

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.”

38. A bare perusal of Section 506 IPC makes it clear that before an offence of criminal intimidation is made out, it must be established that an accused had an intention to cause alarm to the Prosecutrix. Mere threats given by the accused not with an intention to cause alarm, would not constitute an offence of criminal intimidation.

39. In the case of Manik Taneja vs. State of Karnataka, (2015) 7 SCC 423, the Apex Court had observed that simply using abusive or threatening language without any intent to cause alarm, does not come within the scope of Section 503 IPC. For a threat to qualify under this Section, it must be made with the intention to cause alarm to the person threatened or to coerce them into doing something they are not legally obligated to do, or to refrain from doing something they are legally permitted to do.

40. Furthermore, the Apex Court in Naresh Aneja vs. State of U.P., (2025) 2 SCC 604 referred to Sharif Ahmed vs. State of U.P., (2024) 14 SCC 122 wherein it was held that an offence of criminal intimidation arises when



the accused intends to cause alarm to the victim, *though it does not matter whether the victim is alarmed or not.*

41. In the present case, first and the foremost in every statement, the Prosecutrix had stated that she pushed the Respondent and ran out of the house and thereafter, had stated that she was threatened by the Respondent. If the Prosecutrix had left immediately on being allegedly sexually assaulted by pushing away the Respondent, where was the occasion for the Respondent to extend threat to the Prosecutrix. *The sequence of events, as narrated by the prosecutrix, does not clearly establish that the alleged threat was made with the intention to cause alarm.*

42. Mere threats given by the accused not with an intention to cause alarm, would not constitute an offence of criminal intimidation. The Prosecution in the facts of the case has not been able to prove the offence under Section 506 IPC.

Conclusion:

43. The learned ASJ *vide* Judgment dated 25.01.2020 has rightly acquitted the Respondent. There is no merit in the present Appeal, which is hereby, dismissed.

44. Pending Application(s), if any, are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

2025:DHC:5801



JULY 18, 2025

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