



2025:DHC:4640



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

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*Reserved on: January 29, 2025*

*Pronounced on: May 28, 2025*

+ **CRL.L.P. 81/2021**

**STATE GOVT OF NCT OF DELHI**

.....Appellant

Through: Mr. Shoaib Haider, Additional Public  
Prosecutor for State with SI Vikas  
Bhardwaj

Versus

1. **JAIDEV** .....Respondent No. 1  
S/o SH. NAFE SINGH
2. **JAGMAL** .....Respondent No. 2  
S/o SH. NAFE SINGH
3. **JAGDEV** .....Respondent No. 3  
S/o SH. NAFE SINGH
4. **SURAJ BHAN ALIAS MONU** .....Respondent No. 4  
S/o SH. JAIDEV

XXX, DURGA PURI,  
SHAHDARA, DELHI

Through: Mr. R.N. Sharma & Mr.Rahul  
Sharma, Advocates for Respondents  
No.1 & 4  
Mr.Satyam Thareja & Mr.Shaurya  
Katoch, Advocates for Respondent  
No.3  
Mr. Shalabh Gupta & Ms.Vandita  
Gupta, Advocates for Complainant



2025:DHC:4640



+ **CRL.L.P. 86/2022 & CrI.M.A. 3255-56/2022**

1. **'J'** .....Appellant No.1  
W/O MR. YOGENDER KUMAR
2. **'XYZ'** .....Appellant No.2  
(Identity not disclosed being minor victim)  
THROUGH APPELLANT NO.1

Through: Mr. Shalabh Gupta & Ms.Vandita  
Gupta, Advocates

Versus

1. **THE STATE** .....Respondent No. 1  
5, SHAMNATH MARG,  
NEW DELHI.
2. **JAIDEV** .....Respondent No. 2  
S/o SH. NAFE SINGH
3. **SURAJ BHAN** .....Respondent No. 3  
S/o JAIDEV
4. **JAGMAL SINGH** .....Respondent No. 4  
S/o SH. NAFE SINGH
5. **JAGDEV SINGH** .....Respondent No. 5  
S/o SH. NAFE SINGH

Through: Mr. Shoaib Haider, Additional Public  
Prosecutor for State with SI Vikas  
Bhardwaj  
Mr.Satyam Thareja & Mr.Shaurya  
Katoch, Advocates for Respondent  
No.5



2025:DHC:4640



**CORAM:**  
**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

**CRL.L.P. 81/2021**

**CRL.L.P. 86/2022 & CRL.M.A. 3255/2022; CRL.M.A. 3256/2022**

1. The aforesaid two Criminal Leave Petitions under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) have been preferred by the Petitioner, State (Govt. of NCT of Delhi) and Complainant, 'Mrs. J.' and 'Ms. XYZ' (minor) respectively, against the impugned Judgment dated 28.01.2020 passed by the learned ASJ, (POCSO) (Children Court), Delhi, whereby, the Respondents, namely, Jaidev, Jagmal, Jagdev, Suraj Bhan @ Monu, have been acquitted of the offences under Sections 294/354A/509/504 IPC and Section 12 of Prevention of Children from Sexual Offences Act, 2012 (*hereinafter referred to as "POCSO Act"*) in FIR No. 145/2013, Police Station M.S. Park, Delhi.

2. It is submitted that the learned Trial Court did not appreciate the testimony of PW-1, child victim who as duly supported the case of the prosecution. She has categorically deposed that she knew Jaidev, being father of the 'Monu' and that opened his towel and was not wearing anything underneath. Furthermore, PW-2, the Complainant also clearly deposed that accused Jaidev, did the same act before her, threatened her with vulgar language and lifted a wooden plank to hit her. There are no material contradictions between statements of the Prosecution witnesses. Minor



2025:DHC:4640



inconsistency and contradiction should not be a ground to disbelieve the occurrence of the incident.

3. For the reasons stated, the Petitions are allowed. Registry is directed to register the Appeals and assign number to it.

4. The Criminal Leave Petition and pending Applications are accordingly disposed of.

**CRL. APPEAL Nos.----- (registry to assign numbers)**

5. The aforesaid two Appeals have been preferred by the State and the 'Ms. J.' (*hereinafter referred as Complainant*)' as well as her niece 'Ms. XYZ' (*hereinafter referred as Child Victim*) and against the Judgment dated 28.01.2020 *vide* which the Respondents, namely, Jaidev, Jagmal, Jagdev, Suraj Bhan @ Monu have been acquitted in FIR No. 145/2013, under Sections 294/354A/509/504 IPC and Section 12 of Prevention of Children from Sexual Offences Act, 2012, Police Station M.S. Park, Delhi.

6. Both the Appeals are being decided together as they arise from the common Judgment.

7. The ***brief background of this case*** is that on 31.05.2013, a Complaint was made by Appellant, Ms. J. that four boys i.e. the Respondents, Jaidev, Jagmal Singh, Suraj Bhan @ Monu and Jagdev Singh; who live adjacent to her house, harassed her daily. She also complained that she had on several earlier occasions had made a complaint but the Police did not take any action. She further stated that on the said day, while she was going to her house, Jagdev became nude and made lewd gestures and abused in filthy language. When she tried to restrain him, accused Jaidev, Jagmal and Suraj Bhan abused her and threatened that they would make life of Complainant



2025:DHC:4640



/Appellant No.1 miserable to such an extent that she would not able to come out of her house. She further stated that the Respondents who lived adjacent to her house, harassed her daily. She had made various Complaints against them on the earlier occasions, but no action was taken by the Police.

8. On her Complaint, *FIR No. 145/2013* was registered against Jaidev, Suraj Bhan, Jagmal Singh and Jagdev Singh for the offence under Sections 354A/504/509 IPC, Police Station M.S. Park. The accused persons were arrested, but released on furnishing a Personal Bond.

9. During the investigations, Child Ms. XYZ, aged about 4 years at the time of the incident (who is niece of Mrs. J/ Complainant) was examined, who gave a Statement that she was studying in LKG in a Public School near her house. 'Monu ke Papa', the name of whom she does not know, but who lives in their neighbourhood, stands in the *gali* outside their house and becomes naked. When she stands in the balcony, he turns towards her and exposes his naked self to her. He does so while standing in the lane. He does not wear 'nickers' and exposes himself by removing the towel and tells her and her aunt (the Complainant) to look at him.

10. The Statement of the minor was got recorded under *Section 164 Cr.P.C. before the learned M.M.* The Investigating Officer on her statement added Section 294 IPC and Section 12 POCSO Act. The Respondent Jaidev was arrested during the investigations.

11. The I.O collected hard disk of CCTV and seized the video. The exhibits were sent to FSL, Rohini. On completion of investigations, the Chargesheet under Sections 504/506/509/354 (1)/294 IPC read with Section



2025:DHC:4640



34 IPC was filed against the four Respondents namely, Jaidev, Suraj Bhan, Jagmal and Jagdev Singh, before the learned Trial Court on 30.01.2014.

12. The Learned ASJ on 06.06.2015 held that *prima facie* case under Section 294/354-A/504/509 IPC and Section 12 POCSO Act was made out against Jaidev, but no *prima facie* case under Section 506 IPC was made out. It was further observed that there was no *prima facie* evidence against the other co-accused namely, Suraj Bhan, Jagmal and Jagdev Singh, who were discharged. ***The Charges were accordingly framed against Jaidev on 01.09.2015.***

13. Subsequently, the Order on Charge was challenged by the State by way of a Revision Petition against the discharge of the three accused persons, before this Court, which was allowed *vide* Order dated 14.02.2017. Consequently, on 09.11.2017, ***the Charges under Section 294/504/509/354-A/34 IPC and 12 POCSO Act was framed against Suraj Bhan @ Monu and Jagmal Singh; Charges under Section 504 IPC was framed against Jagdev Singh, to which all of them pleaded not guilty.***

14. The Prosecution in support of its case examined 19 Prosecution witnesses.

15. **PW-1 was the minor, Ms. XYZ; PW-2 was the Complainant, Mrs. J.** The other supporting witnesses were **PW-3, the Grandfather of the child victim, PW-4 is the Fufa of the Child Victim (husband of the Complainant); PW-5, Dinesh Mehndiratta** is the photographer who developed the photographs which are exhibited as Ex.PW-2/Article 1-11; and **PW-6, Mohd. Arif** is the is Hardware Networking Teacher, who had



2025:DHC:4640



taken out the DVR from the CCTV Cameras installed near the place of incident. **PW-11 is the Father of the victim.**

16. The others were the police witnesses. **PW-17, SI Manoj Kumar, the Investigating Officer** deposed about the entire investigations carried out in the case. **PW-18, Dr. C.P. Singh, the Assistant Director, FSL, Rohini** who has proved the FSL Report, PW18/B of the CD. **PW-19, S.I. Rajiv Kumar** took over the investigations and on completion, filed the Chargesheet.

17. *Statements of all the four Respondents were recorded separately under Section 313 Cr.P.C. on 10.12.2019 in which they denied all the allegations and claimed that they had been implicated falsely in this case.*

18. The Respondents in support of their defence examined **DW-1, Shri Sandeep Pal, JJA, Record Room, High Court of Delhi** who had proved the record pertaining to Criminal Revision Petition No.358/2016 between the Complainant and the Respondents and the record was exhibited as DW1/A.

19. **DW-2, Mohd. Shoaib, Medical Record Technician from IHBAS** had brought the summoned record pertaining to the treatment of Respondent, Jaidev and proved the same as Ex.DW2/A. According to the Medical Record, Jaidev was admitted to the hospital on 24.06.2013 and remained under treatment for 21 days. He was treated in the Department of Neurology by a Psychiatrist specialist for a seizure disorder, depressive symptoms, suicidal ideation, and occupational dysfunction.



2025:DHC:4640



20. **DW-3, HC Raj Kumar** brought the summoned record 28.04.2013 to 01.05.2013 of P.S. Darya Ganj showing the records where Ct. Jaidev was on anti-snatching picket duty which was exhibited as Ex.DW3/A.
21. **DW-4, Vijay Sharma** proved the Voter's I Card of Respondent Jaidev as Ex.DW4/A showing his address as House No.77, Village Chandanheri, District Baghpat, U.P.
22. **DW-5, Head Constable Vipin** produced Daily Diary Register B pertaining to the period 27.04.2013 to 08.05.2013 P.S. Daryaganj which was exhibited as Ex.DW5/A to Ex.DW5/S.
23. **DW-6, Constable Vijay** produced the Daily Diary Register B for the period 05.04.2013 to 17.04.2013 of P.S. New Ashok Nagar which was exhibited as Ex.DW6/A to Ex.DW6/D.
24. During the defence evidence, the learned APP for State admitted the Medical Treatment Record of the Respondent Jaidev from GTB Hospital, which was collectively exhibited as Ex.D1.
25. The *Learned ASJ in his Judgment dated 28.01.2020* observed that there were material contradictions in the testimony of all the Public Witnesses which did not corroborate with the locations where the Respondent Jaidev was stated to be standing naked. It was observed that the child standing near the balcony, could not have been able to see the Respondent Jaidev, as had been deposed by her. ***Hence, the benefit of doubt was given to the Respondents, who had been acquitted.***
26. *Aggrieved by the judgment of acquittal dated 28.01.2020, separate Appeals have been preferred by the State as well as by the Complainant and the Child Victim.*



2025:DHC:4640



27. *The Respondent No.2 and 3 in their separate Responses* stated that they had been arrested and Charge-sheeted without any basis. They both had been discharged by the learned Trial Court in the first instances, though Charges were framed pursuant to the Order dated 14.02.2017 of this Court. The fresh Order on Charge was made by the learned ASJ on 03.11.2017 wherein it was held that prima facie offences under Section 504/294/509/354A/34 IPC and 12 POCSO Act was made out against the co-accused Suraj Bhan and Jagmal while offence under Section 504 IPC was made out against the Respondent/Jagdev and the Charges against the other three accused were accordingly framed on 09.11.2017, to which they pleaded not guilty.

28. It was further submitted that there were only general allegations against the Respondent Jaidev, Jagmal and Surajbhan @ Monu without there being any date and time. The CCTV footages made it clear that on 31.05.2013, except Jaidev, the other accused persons could not be seen present on any other day. Moreover, another Complaint was made on the about the incident dated 25.05.2013 and it is admitted by the parties that said incident has no concern with the present case. The incident dated 25.05.2013, it is not the subject matter of the present case.

29. The learned ASJ has rightly appreciated the evidence and acquitted the four Respondents. It is submitted there is no merit in the present Appeal which is liable to be rejected.

30. **Submissions heard and Record perused.**

31. Before delving into the appreciation of the evidence as led by the parties, it is pertinent to note that Charges were framed against the accused



2025:DHC:4640



the four Respondents are in in respect of the incident which took place on 31.05.2013 at about 06:20 A.M. in front of xxxx, Durgapuri, Delhi. The incident pertaining to the Child Victim is undated. *The case of the Prosecution and the testimony of the witness, is thus to be assessed accordingly.*

32. The **first material witness is PW-2, the Complainant, Ms. 'J'**, aged about 42 years, who deposed that on **31.05.2013**, in the morning hours, she had gone to her parent's house in xxxx, Durga Puri, to wish her younger brother, Mr. Yogesh and his wife on his marriage anniversary, since their mother had expired 3-4 months ago. At about 06:22 a.m., as she came out of the gate of her parental home to return to her house, with her father following her to the gate, she saw the Respondent, Jaidev, who lives in the house adjoining to her father's house, was wearing only a towel on his waist and was not wearing any other clothes. On seeing him, he faced towards her and opened the towel whereby his front body and the genital became visible. He was not wearing any clothes under the towel and he uttered "*Kahin per bhi tumhe choddunga*" He lifted one wooden plank to hit her. Thereafter, he went inside his house. She immediately retracted into the house of her father on seeing the Accused, Jaidev standing exposed.

33. Immediately, thereafter within 1-2 minutes he came out again and was accompanied by the other Respondents, Suraj Bhan, Jagmal, Pradeep, Silwanti (mother of Jaidev) and Ms. Mukesh (wife of Jaidev). She closed the Gate from inside prior to the arrival of these persons. The Accused Suraj Bhan and Pradeep, are the son of Jaidev while Jagmal is the brother, who all reside in the same house. She then went to the projection (*chhajja of the*



2025:DHC:4640



house) on the first floor and saw these persons standing in the street. She further explained that Suraj Bhan and Jagmal while facing her, pointed towards their private organs and Accused Jagmal told her to come down the stairs and *they would gang rape her*. Accused Suraj Bhan then said to her *if she had forgotten the case of 'Nirbhaya' and that they would make her life 'Nirbhaya'*.

34. **PW-2** further deposed that *Accused Jagdev, brother of Jaidev, was not present on the spot on that day. He, however, used to tease her on earlier occasions, for which she could produce the evidence.*

35. When the Accused persons were using said filthy language, one neighbour, Rambir called the Police at No. 100. SI Ram Kishore came from the Police Station. At that time, Accused Jaidev was standing with the towel tied down on his waist and the Accused Jagmal was also present. SI Ram Kishore spoke to them and thereafter, he left the spot without taking any action.

36. **PW2, the Complainant** told her husband, **PW4** (*Husband of the Complainant*), who was at their house at xxxx, about the acts of the Respondents and the other persons on the phone and asked him to call the Police. She also told her husband not to come to the house of her father as the matter could get escalated. He made 2-3 calls to the Police. She thereafter, returned to her home.

37. The PCR came to her house. After sometime, SI Ram Kishore returned to the spot and informed the Police Station that it was only an issue regarding to some parking of motorcycle and the Call was closed.



2025:DHC:4640



38. **PW2, the Complainant**, further deposed that her husband told the Police person who had come from PCR, the true facts regarding Jaidev becoming naked in her presence. Again, he made a call to the Police Station on which SI Manoj came to her house. She, in response to the Court question, clarified that the distance between her own house and that of her father, is a walking distance of about two minutes.

39. PW-2 further deposed that SI Manoj on hearing the husband, went outside the house of her father where he met Suraj Bhan and Jagmal on the motorcycle. SI Manoj again returned to her house and she told him about no action being taken on the earlier phone calls. He told her to state whatever she wanted to state, in writing. Arvind, her brother-in-law (*jija*) then wrote the Complaint on which she signed and the Complaint is exhibited as Ex.PW-2/A on which she identified her signatures at Point 'A'. She further stated that she had given only one signed statement, but was not sure. She also gave seven photographs showing Respondent, Jaidev as naked, to SI Manoj, which was taken by him for which he gave a receiving.

40. During the evidence, she was shown 11 photographs. She explained that out of the total 11 photographs, one photograph is of 31.05.2013, while eight photographs were of 28.05.2013, one photograph was of 04.05.2013 and one photograph each was of 15.05.2013, which she gave when SI Manoj had come to meet her. *The Seizure Memo of the eight photographs is Ex.PW-2/B.*

41. PW 2 further explained that though, she and her husband went to the Police Station and met the SHO, but the FIR was not recorded. She then went to the Police Headquarter and again nothing happened. Then she



2025:DHC:4640



appeared before Mr. Beniwal, IPS Officer and showed him the photographs on seeing which he directed the concerned police officials, for taking necessary action.

42. In the evening at about 06:00 p.m, SI Manoj came to her father's house, but he did not record her statement. He brought one written Statement and made her sign the same. She handed over some photographs at that time in the presence of SI Manoj. The child victim (who is the daughter of the brother) also narrated that the Accused Jaidev had committed similar acts to her. The SI left without recording the Statement of the victim.

43. On **01.06.2013**, child victim and she went to the Police Station accompanied by her 8-10 relatives, after which SI Manoj produced her before the DCP, who directed SI Manoj, to record the Statement of the victim and to register a separate case. Though the separate FIR was not registered, but the Statement of the child was recorded in this case only.

44. PW-2, the Complainant also handed over the CD, which contained the obscene acts of Jaidev, which was seized *vide* Memo Ex.PW-2/C. ***The CD*** of make Moser Baer, which was sent to FSL, was exhibited as ***Ex.PW-2/Article 12***.

45. The Complainant further stated that on **25.03.2013** after 8:00 p.m., the ***Respondent, Jagmal*** also gave filthy abuse to the father and made similar exhortation of bringing the daughter and grand-daughter out of the house and that he would rape them. The Respondent, Jagmal and Jagdev sat in the car make Alto and Jagmal kept provoking by making gestures towards house of the father and challenging her father to come out and accept his



2025:DHC:4640



challenge. Thereafter, Jagmal and Jagdev left and they made a call to the PCR.

46. After about two hours, the Police came from the Police Station and the Respondent, Suraj Bhan started abusing the Police. On hearing the commotion, the Complainant came out and the Respondent, Suraj Bhan in the presence of Police said, “*Gali me aa tujhe Chodenge*” i.e. *come to the street and we will rape you*. Thereafter, he held her and made her to Kneel and he came over her. The Police persons also came over her. Though she could not explain why the Police came over her; whether they were intervening and apprehending Suraj Bhan, since her head was down. Thereafter, Jaidev came out of the house with *Danda* in his hand and his son, ‘P’ Juvenile also came out equipped with a *Danda*. She then went inside her house.

47. The witness further stated that on previous occasion, i.e. on 25.03.2013, after 08:00 p.m., the Respondent, Jagdev gave filthy abuses to her father and exhorted to bring the grand-daughter out of the house and he would rape her. On the *same date i.e. 25.03.2013*, the Respondent, Jaidev made a Complaint to the Police against the Complainant being of bad character. She appeared before the DCP North East where the Respondent, Jaidev was working as his Operator and he threatened her to dispose of her house or else she would have to face dire consequences. She provided the CD containing the recording of the CCTV Camera installed in the neighbourhood, to the Police but no action was taken.



2025:DHC:4640



48. The Complainant produced the Complaint under the signatures of Jaidev and one CD make SONY CD-R 700 MB dated 25.03.2013, which were collectively marked as PW-2/O (colly.) According to the witness, the said CD contained the CCTV footage of the incident dated 25.03.2013.

49. The Complainant further narrated that on **17.04.2013**, when she was coming out of the house and going in the street for some work, all the four Respondents, came behind her and Accused Jagdev said that he would dishonour her and she would not be able to see her face in the society. She took a separate road and went away. She told her husband about the incident, who made a PCR call. SI Manoj came, who recorded his Statement but did not take any action.

50. *The testimony of the Complainant finds corroboration in the testimony of PW-4, Fufa, (her husband)*, who similarly deposed that the Complaint dated 31.05.2013 relating to DD No.17-B Mark PW-4/P-1 was made to SHO, Police Station Mansarovar Park, Delhi. It was stated in the Complaint that these four Respondents were abusing while standing at the gate and when he protested, they all said that they behave in this manner. Satpal, who was standing in the balcony with *licensed "bandook"* threatened to shoot them. Thus, the request was made for registration of the case. He then produced another Complaint dated 25.10.2019. Similar Complaints have been made even thereafter, which is Mark PW-4/P-2.

51. PW-4 also produced the three PCR Calls, all dated 31.05.2013, Mark PW-4/P-3 to PW-4/P-5. Though these have not been exhibited, but definitely the very fact that the PCR calls were made on 31.05.2013, clearly



2025:DHC:4640



corroborate the testimony of the Complainant that various calls were made to the Police, who was not inclined to register the FIR.

52. **PW-3**, the Grandfather (Father of the Complainant, however, had proved one PCR Call dated 17.04.2013, Ex.PW-3/F wherein the call was made by the Grandfather that his neighbours were troubling his wife and the Police is not investigating the matter.

53. It is evident from the testimony of the Complainant as well as her husband, that only with persistent efforts of the Complainant and her family members, that they were able to get the FIR registered. The reason is not far to search; the Respondent Jaidev was working in Delhi Police and it is unfortunate that PW 3, Grandfather also having retired from Delhi Police had to face such resistance in getting the FIR registered.

54. The Respondents challenged the testimony of PW-2, Complainant as contradictory on the ground that she had deposed that a Complaint had been written by her brother-in-law, Arvind and she had signed the same. She also deposed that when the Police came, a Statement was recorded which is Ex.PW-2/A, on which the FIR was registered. Much cross-examination was done on the Complaint, Ex.PW-2/A but pertinently, she during her examination-in-chief, had handed over a set of documents containing the Complaint and CD make SONY CD-R, which were taken on record as Mark PW-2/O.

55. **PW-3, the Grandfather (Father of the Complainant)** in his testimony, took out the Complaint from this set of Mark Ex.PW-2/O. This Complaint dated 31.05.2013, had the signatures of Complainant and was received by SI Manoj, on the same date.



2025:DHC:4640



56. It is abundantly clear from the testimony of PW-2 that they had been desperately making Complaints and calls to the Police for taking note of the incident of 31.05.2013 and had even given a Complaint, copy of which was handed over to the IO, SI Manoj, but no action was being taken. It is only their persistence that ultimately, an identical Complaint Ex.PW-2/A was brought by the IO, on which the Complainant put her signatures and ultimately, the FIR got registered. The Complaint Mark PW-3/B and the Complaint Ex.PW-2/A, on comparison, show that the contents are identical. ***It is, therefore, proved that the Complainant had made a Complaint, which ultimately resulted in the registration of FIR.***

57. The Respondents had also tried to challenge the testimony of the Complainant by confronting her with the Complaint and by claiming that the incident as narrated in the Court, did not find mention in her Complaint, Ex.2/A.

58. Clearly, the entire contours of the obscenity and of standing naked and of using obscene language, was mentioned in the Complaint Ex. PW-2/A. In her testimony, she has only elaborated and explained the entire incident in detail whereby she deposed that as she stepped out of the house, she found the Respondent, Jaidev standing with a towel alone wrapped around on his waist and on seeing her, he opened the towel and exposed his naked self to her.

59. Pertinently, the testimony of PW-2 is fully corroborated by the photographs including that of the incident dated 31.05.2013, Ex.PW-2/Article 1 to 11, where the Respondent, Jaidev is clearly visible standing in the lane with his towel open, in the middle of the street. These photographs



2025:DHC:4640



clearly corroborate the testimony of the Complainant about the conduct of the Respondent, Jaidev, not only on 31.05.2013, but also in the past, as has been deposed by PW-2, the Complainant.

60. Learned ASJ disbelieved the testimony of the Complainant on the ground that in a Complaint, Ex.PW-2/A, she had not explicitly and in detail, explained the obscene gestures and the filthy language or about how the Jaidev was found standing naked. Clearly, the learned ASJ fell in error when the incident of Respondent Jaidev exposing himself naked, was stated in Complaint Ex. PW-2/A and explained by the Complainant in her evidence, which was corroborated by the independent evidence by way of the photographs. It cannot be overlooked that it was with great difficulty and persistent phone calls that the Complainant's Statement was accepted by the Police for registration of FIR, in such a charged atmosphere. ***Her testimony in regard to the Respondent, Jaidev, should not have been discarded so lightly.***

61. Further, the testimony of the Complainant finds full corroboration from the testimony of ***PW-3, her father***. He deposed that on 31.05.2013, when he returned from his walk at about 05:36 a.m., he saw the Respondent, Jaidev, who lives in their neighbourhood, standing with the towel wrapped around his waist. He removed the towel from front side and he was not wearing anything and was stark naked.

62. PW-3 then explained that on 31.05.2013, after meeting the Respondent, Jaidev, he met his daughter, who had come to visit him as she was leaving, he followed her to close the Main Gate and also to ensure her safety. When she opened the door, the Respondent, Jaidev was standing in



2025:DHC:4640



the street and on seeing the daughter, removed his towel and exposed his naked self to her. The daughter rushed inside the house. Jaidev brought his brother, Jagmal and son, Suraj Bhan. Ms. Sheela, the mother of Jaidev also came with them in the street. They started abusing him and the daughter, without any provocation and thereafter, **Jaidev** picked up a wooden plank, which was kept outside their house, to be used as a ramp for getting the vehicle inside the house and came towards them and tried to hit him and the daughter, who was present near the gate but they were able to save themselves by closing the gate. The PCR was called and SI Ram Kishore came after 30-45 minutes. However, he spoke to the Accused persons and SI Ram Kishore reported that the dispute had arisen on account of parking of motorcycle and the call was made.

63. **PW-3** further deposed that he again made PCR calls and SI Manoj came from the Police Station Mansarovar Park and he narrated the incident again. PW-3 further explained that there are three CCTV cameras installed on his house facing the street. He also showed him the CCTV footage, which was recorded in the DVR. He was asked to give a Statement in writing, which was written by his son-in-law, Arvind Kumar. The Complaint was handed over to SI Manoj, which has been marked as Mark PW-3/P.

64. **PW-3** further deposed that while they were about to leave the Police Station, the Investigating Officer asked them to settle the matter with the Respondents stating that they are very influencing persons and would ruin their lives.



2025:DHC:4640



65. The IO also told PW-3 that on 31.05.2013, he visited PW-3's house to arrest him upon the Complaint made by the Accused, Jaidev against him. Thereafter, they left the Police Station. He also deposed that in the evening, they came to know that the wife of the Accused, Jaidev, had registered a Case FIR No. 149/2013 under Section 354/509/34 IPC Ex.PW-3/A against them, made allegations that on the next day i.e. 01.06.2013, PW-11, Arvind, PW-4, PW-3, and Abhishek, son of Arvind, misbehaved with her and tore the clothes.

66. PW-3, the grandfather also deposed that even on earlier occasions, he had conducted himself in the same manner when he returned back home from his morning walks. This type of incidents started from 04.05.2013 intermittently. On 28.05.2013, he had tried to make him understand when he did the same act. He questioned as to why was he doing so in front of the camera to which he replied "*ye camere to hum chutado me de denge.*" He then went inside the house.

67. **PW-3** further deposed that the ACP and SI Manoj, visited his house on 03.06.2013 and served him with a Notice under Section 91 Cr.P.C., Ex.3/B, which bears his signatures and he handed over the Hard disk of CCTV Camera, installed in their house. The hard disk was taken out by the mechanic Arif, who was examined as **PW-6**.

68. Prior to taking out of the hard disk, he had also shown CCTV footage of 28.05.2013, 31.05.2013 and 01.06.2013, to the ACP, Mr. Khan and SI Manoj. The Hard Disk was sealed and seized *vide* Memo Ex.PW-3/C. He also produced the Certificate under Section 65B of the Evidence Act, Ex.3/D on 23.01.2014, which was seized *vide* Memo, Ex.3/E.



2025:DHC:4640



69. The Certificate under Section 65B of the Evidence Act was duly produced by PW-4 (Husband of the Complainant) as Ex.PW-4/A. Neither the authenticity of said Certificate was challenged by the Respondents nor was the DVD in question disputed.

70. The copy of the PCR Forms dated 17.04.2013 and 31.05.2013, Log Diary wireless and three photographs of the Respondent, Jaidev, standing naked, were also seized by the Investigating Officer *vide* Memo Ex.PW-3/S. The DD No. 6 dated 31.05.2013, Ex.PW-3/P2, DD No. 7 dated 31.05.2013, Ex.PW-3/P3 and DD No. 11B dated 31.05.2013, Ex.PW-3/P4, DD No. 19B dated 31.05.2013, Ex.PW-3/5, were also produced by PW-3.

71. These DD Entries have been recorded and the PCR calls have been made wherein consistently it was reported that a man has been standing naked outside the house of the Complainant and has been giving abuses and causing trouble. This witness **PW-3** was cross-examined at length in regard to handing over of the CCTV footages but pertinently, nothing much could be brought out from the cross-examination to discredit his testimony, which was in full consonance with that of the Complainant.

72. The testimony of PW-3 thus, clearly corroborated and supported the testimony of the Complainant not only in regard to the incident dated 31.05.2013 but also about the earlier conduct of the Respondent Jaidev.

73. The other material witness was **PW-4 Fufa (husband of the Complainant)**. He also consistently deposed about the incident of 31.05.2013 wherein he got a call from his wife informing him about the Respondents standing naked in front of her. The PCR calls were made at 06:35 and 06:40 a.m. SI Ram Kishore came, but did not take any action. The



2025:DHC:4640



third call got made at 07:50 a.m. and the Police arrived only after a long time. SI Manoj came and made enquiries but despite repeated calls, no action was taken. After sometime, SI Manoj returned at 08:30 a.m. when he showed him the photographs and asked him to record the Statement of the wife to take action against the Respondents. He refused to do so and then he handed over a Written Statement written by his brother-in-law but having the signatures of the wife. Much cross-examination had been done on the CCTV footages, DVRs and the photographs but nothing material could be elicited from his cross- examination to refute his testimony about being told by his wife about misdeed of Accused Jaidev or of making repeated calls to the Police to get the FIR registered.

74. The other most important witness of the Prosecution is the ***Child Victim, PW-1***, of tender age of 4 years at the time of the incident, who in her testimony, had deposed that she knows Monu (Suraj Bhan) and his Papa (Jaidev). Though, she did not know where Monu lived but they lived in adjoining houses. Her testimony is reproduced as under:-

***“I can identify his papa (the accused is exempted identity not disputed). Monu’s Papa used to become naked in the street when I used to go upstairs. Thereafter he used to open and close the wearing towel showing himself naked (the child by her gesture demonstrated by her both hands of opening and closing of towel). While he was not having any other cloth. He also used to do the same act in front of other family members i.e. Bua and Babaji (grand father) whenever they used to go out of the house. He used to do so in the morning. Monu’s Papa, Monu’s chacha and chachi and Monu’s papa’s papa used to give filthy abuse to us. One police uncle came to our house and he made inquiry from me. I was not taken to the court of Magistrate.....”***



2025:DHC:4640



75. The opportunity was given to the Respondents, to cross-examine but a witness was not examined as the counsel was not available. Thereafter, also never ever was any Application filed seeking the cross-examination of the child. The testimony of the child confirms that Monu's Papa i.e. Jaidev, used to become naked in the street, when she used to go upstairs. He used to open and close the wearing towel exposing himself naked.

76. This testimony of the child, needs to be considered in the light of her Statement under Section 164 CrPC (Ex.PX-1/B), wherein she stated as under:-

***“I am residing in Delhi along with my father. Monu's father used to stand in nude condition in front of our house and told us that he will show his nude Gesture to Satpal. He also used to abuse and use unparliamentary language in the street. He used to stand in nude condition in front of my mother, my Paternal Aunt (Chachi), Paternal Aunt (But) and myself. I don't know the name of Monu's father. The mother of Monu's father also used to abuse and use unparliamentary languages which could not be heard/resisted by me and accordingly I used to shut my ears. When my grandfather Satpal used to go outside the house to feed the cows, then Monu's father usually started to remain in nude condition.”***

77. The child, who was aged about four years at the time of incident in 2013 and eight years at the time of recording of the testimony, was consistent in her deposition about the acts of Jaidev. There is no reason to disbelieve her testimony.

78. Her testimony finds corroboration in the Statement of ***PW-11, her father (brother of the Complainant)***, who deposed that he was also serving in Delhi Police. On 01.06.2013, he along with his brother and Complainant,



2025:DHC:4640



had gone to the Police Station Mansarovar Park, on being telephonically called by the Investigating Officer where DCP North-East and ACP Shahdara and SHO, Police Station Mansarovar Park, were present and in their presence, SI Manoj Kumar, the Investigating Officer made an enquiry from his daughter and recorded her Statement Ex.PW-11/A, which bears his signatures at Point 'A'. On 03.06.2013, he again joined the investigations with SI Manoj Kumar, who came to their house along with the ACP. On his request, he and his father, had shown him the footage of 26.05.2013, 28.05.2013, 30.05.2013 and 31.05.2013, before handing them over to the Investigating Officer. On all these dates, the Respondent, Jaidev was visible standing naked. He did the same act on 31.05.2015. He further explained that the Hard Disc of the CCTV System, was taken out by PW-6, Mohd. Arif and was seized by the Investigating Officer *vide* Memo Ex.PW-3/C.

79. The learned ASJ had discredited the testimony of the child by noting that the Statement Ex.11/A did not bear the signatures of the child or her thumb impression. It is pertinent to note that the Statement Ex.11/A in fact is more in the nature of a Complaint made by the father in respect of the incident that had happened with his daughter. Furthermore, PW-11, the father had deposed that on 31.05.2013, when Investigating Officer visited their house in the evening, the daughter disclosed about this incident to him.

80. The learned ASJ had referred to the Statement under Section 161 CrPC recorded of PW-11, Ex.PW-11/D-1 wherein he had stated that on that day, he along with his daughter and sister, had gone to the Police Station where in his presence, the child was examined and whatever was told by her, was recorded by the Investigating Officer. To say that the specific



2025:DHC:4640



incident was not again reproduced in the Statement under Section 161 CrPC, Ex.PW-11/D-1, is an absolute incorrect appreciation of facts. The incident which had already been recorded in the Statement of the child under Section 161 CrPC and for which, a separate hand written Complaint had also been given by PW-11, merely because it is not reiterated in his Statement under Section 161 CrPC, Ex.PW-11/D-1, it cannot be termed as an omission or an evidence given subsequently. PW-11 admittedly was not present in the house when the investigating Officer had visited them on 31.05.2013, but his testimony is that he was told about the incident and he had accompanied the daughter and the sister to the Police Station where the Statements were recorded.

81. Learned ASJ had heavily relied on his testimony when he stated that the CCTV cameras were beneath the balcony and his daughter used to stand in the balcony. Learned ASJ referred to the Site Plan to conclude that while standing on the *Chhajja*, the alleged acts of the Respondent, Jaidev, could not have been visible. Pertinently, the child never said that the Respondent, Jaidev would do such act while she was standing in the balcony. Her testimony also is that he used to do such act in the morning. In her Statement, Ex.11/A, she had stated that the Respondent used to stand in the street and strip himself naked. He also used to do this act when she used to stand in the balcony/*Chhajja* of her house.

82. A detailed Scaled Map Ex.PW-10/A has been proved by PW-10, Inspector Mukesh Kumar Jain wherein the balcony has been shown protruding a little from the line of the house and the *gali* has been shown right opposite. No inference can be drawn that the Respondent could not



2025:DHC:4640



have been visible to the child while standing in the balcony, especially when no questions were put to identify where the respondent Jaidev used to stand and whether such spot was visible from the balcony or not .

83. In the light of this consistent testimony of the child about being a victim to such exposure by the Respondent, Jaidev, the evidence could not have been discarded or overlooked or disbelieved, especially when there is no cross- examination of the Child victim on behalf of the respondent, Jaidev. There is overwhelming evidence confirming the alleged obscenity on the part of the Respondent, Jaidev towards the child victim and there was no reason to disbelieve the testimony of the child.

84. The consistent testimonies of the prosecution witnesses, the photographic evidence, and documentary proof of multiple Complaints, PCR records, DD entries establishes the Respondent's act of obscenity while standing on the Street, beyond reasonable doubt. The trial Court's piecemeal analysis, fails to appreciate this cumulative effect of Prosecution evidence.

85. *To sum up*, there is overwhelming evidence led by PW-2, the Complainant, which is fully corroborated by that of PW-3, her father and PW-4, her husband about the repeated acts of obscenity by the Respondent, Jaidev, and especially for the incident on 31.05.2013 for which the Charge was framed, which is corroborated fully by the CCTV footage and the photographs, Ex.PW-2/Article 1 to 11.

86. It is also proved that he committed act of obscenity against the Child victim.

87. The Respondent, Jaidev had taken a defence that he was being treated in the Hospital from 24.06.2013 till 11.12.2019 for seizure disorder,



2025:DHC:4640



depressive conditions, suicidal ideas, occupational dysfunction in the Neurology Department from a Psychiatric Specialist. In this regard, DW-2, Mohd. Shoaib (Medical Record Technician) from IHBAS Hospital was examined who brought the summoned record pertaining to said treatment as Ex.DW-2/A.

88. The Admission Record Form of the Psychiatry Department of IHBAS reveals that Jaidev was admitted on 10.07.2013 and stayed for a period of 21 days i.e. till the date of discharge, 31.07.2013. Thus, it is evident that the plea of psychiatric issues of Respondent Jaidev is not tenable as the case relates to the incident of 31.05.2013 and prior thereto, which is much prior to his date of admission at IHBAS on 10.07.2013.

**Offence proved against Respondent Jaidev:**

89. It is thus, concluded that prosecution has proved beyond reasonable doubt that the Respondent, Jaidev indulged in obscene acts in public place on 31.05.2013 at 06:20 a.m. and, therefore, an offence under **Section 294 IPC** is proved. Also, such acts were intended to insult the modesty of the Complainant and offences under **Section 354-A** (Sexual Harassment) and **Section 509** (Outraging modesty of a woman) IPC for sexually harassing and insulting the modesty of the Complainant by having become naked before her and by making obscene gestures in naked condition and using abusive language against her.

90. It is also proved beyond reasonable doubt that the respondent Jaidev, on seeing the child would especially strip himself by removing the towel.



2025:DHC:4640



**The offence under 12 of POCSO Act also stands proved beyond the reasonable doubt.**

**Offence proved against Respondent Suraj Bhan @ Monu and Jagmal:**

91. Respondents, Suraj Bhan and Jagmal were charged for offences punishable under **Section 509/34 IPC** and **Section 12 POCSO Act** that on 31.05.2013, they along with Jaidev, in furtherance of their common intention, uttered vulgar words and made vulgar gestures towards the complainant and child with intent to insult the modesty of the complainant and the child.

92. They also made explicit sexual overtures and made sexually coloured remarks and therefore, were charged for offences punishable under Section 354-A/34 IPC. The acts of obscene nature were made in a public place, thus charges for offences punishable under Section 294/504 IPC.

93. The Complainant has specifically deposed that she had gone on the projection (*chajja*) of her father's house at the first floor and Suraj Bhan, Jagmal, the son, wife and mother of Jaidev, all were standing in the street.

94. PW-2 further deposed that she told to the Police official about the place where all the Accused persons were present at the time of incident dated 31.05.2013. She also told that Police official the place where she was standing at the time of incident dated 31.05.2013.

95. The sequence of the events as narrated by PW-2, the Complainant, clearly brings out that after the first encounter at the main gate of the house with Jaidev, she was accompanied by her father and shut the main gate and



2025:DHC:4640



they came inside. She went to the *Chhajja* on the first floor and when she looked down, she found the Respondents, Suraj Bhan and Jagmal behaving in the most vulgar and obscene manner, as has been narrated above. The testimony of PW-2 has been consistent about the aggression and the acts of Respondents, Suraj Bhan and Jagmal.

96. She stated ***“Accused Suraj Bhan and Jagmal pointed towards their private facing me and accused Jagmal told me to come down stairs and he will gang rape me. Thereafter, accused Suraj Bhan said to me whether I had forgotten the case of Nirbhaya and we will make you like Nirbhaya. When the accused persons using filthy language, one neighbourer Sh. Rambir made call to the Police at 100 number. ...”***

97. Such words as used by Suraj Bhan and Jagmal, on which there is neither any material cross-examination nor has been disproved, are sufficient to prove the offence under Section 509 IPC, against the two Respondents. ***The Charges under Sections 509 and 354A IPC for sexual harassment and using vulgar language, words, gestures and acts to insult the modesty of the woman, obscene act done in a public place, are proved beyond reasonable doubt.***

98. The Respondents, Suraj Bhan, Jagmal and Jaidev, had also been charged with offence under **Section 504/34 IPC**, which provides that when an obscene act is intended to provoke the Complainant or knowing it to be likely such provocation will cause her to breach the public peace would amount to an offence. However, there is no evidence that there was any provocation of breach of peace by the Complainant on account of the acts of the Respondents. ***No offence under Section 504 IPC is hereby made out.***



2025:DHC:4640



99. Section 12 of the POCSO Act had also been invoked against the Respondents, Suraj Bhan and Jagmal but the child has not deposed anything in regard to Suraj Bhan and Jagmal, **who are hereby rightly acquitted under Section 12 of POCSO Act.**

**Offence proved against accused Jagdev:**

100. Respondent Jagdev had also been charged for the offence under Section 504 IPC on the allegations that in 2013, prior to 31.05.2013, he along with the other co-accused, used to quarrel with the Complainant and used to trouble her intentionally. However, there is no evidence to this effect led by the Prosecutrix.

101. There is no offence made out against Jagdev. **Therefore, Jagdev has been rightly acquitted of the offence under Section 504 IPC.**

**Conclusion:-**

102. Thus, from the aforesaid discussion, it is held that the offences under Section **294/354-A/509/34 IPC and Section 12 POCSO Act have been proved beyond the reasonable doubt against Respondent Jaidev.**

103. Offences under **Section 354-A/509/34 IPC have been proved beyond reasonable doubt against Respondents Suraj Bhan @ Monu and Jagmal.**

104. Respondent Jagdev is however, rightly acquitted by the learned ASJ.

105. Be listed on Order on Sentence on 03.07.2025.



2025:DHC:4640



**(NEENA BANSAL KRISHNA)**  
**JUDGE**

**MAY 28, 2025/r/va/RS**