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

*Date of decision: 8<sup>th</sup> January, 2026*

*Uploaded on: 15<sup>th</sup> January, 2026*

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**CRL.A. 1327/2015**

STATE

.....Appellant

Through: Mr. Ritesh Kumar Bahri, APP with  
Ms. Divya Yadav, Adv.

versus

SONU @ PARMINDER

.....Respondent

Through: Mr. S.B. Dandapani, Adv.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE MADHU JAIN**

**JUDGMENT**

**Prathiba M. Singh J.,**

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed under Section 378 of the Code of Criminal Procedure, 1973 (hereinafter, 'CrPC') challenging the acquittal of the Respondent- Sonu @ Parminder *i.e.*, the Accused *vide* order and judgment dated 9<sup>th</sup> January, 2013 (hereinafter, '*impugned judgment*') passed by the Additional Sessions Judge, (Special Fast Track Court)-01, West, Tis Hazari Courts, Delhi.
3. This appeal arises out of **FIR No.255/2010** dated 9<sup>th</sup> December, 2010 registered at Police Station-Nihal Vihar under Sections 363/376 of the Indian Penal Code, 1860 (hereinafter, '*IPC*'), which was registered and dealt with as **Sessions Case No.1/2013**. The Respondent- Mr. Sonu @ Parminder *i.e.*, the



Accused, was charge-sheeted by Police Station- Nihal Vihar under Sections 363/376 of the IPC.

4. The allegation in the present case was that around 05:00 A.M. on 5<sup>th</sup> December, 2010, near RZF-80, Nihal Vihar, Delhi, the Accused had kidnapped the Prosecutrix from the guardianship of her parents and had committed rape upon her. The incidents are stated to have occurred at two places *i.e.*, Jammu and Amritsar between January to March, 2011. The charge against the Accused was in respect of offences under Sections 363/376 of the IPC.

5. The statement of the Prosecutrix was also recorded under Section 164 of the CrPC on 18th April, 2011. In the said statement, the prosecutrix stated as under:

Statement of Prosecutrix [Redacted]  
 [Redacted] aged about 15 1/2 yrs.  
 [Redacted]

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On S.A. [Redacted]  
 मेरा नाम [Redacted] है मेरे पापे का नाम [Redacted]  
 [Redacted] 18/04/11  
 Contd... 5/-



[REDACTED] है। हम पहले Vishnu Jadhav  
में रहते। 5-6 साल बाद Nihal Jadhav  
में आ गए थे। Nihal Jadhav में मेरी  
Mummy के रिश्तेदारों का बहुत बड़ा  
बिजनेस था जहाँ मैं बहुत सारे गली  
के बच्चे खेलने आते थे। एक Sonu  
नाम का बच्चा भी आता था। उसने  
मुझसे दोस्ती की। मेरा Mobile No.  
और घर का No. उसने ले लिया।  
फिर वो फोन पर मुझसे बात करने  
लगा गया। फिर उसने मुझसे कहा मैं  
तुम्हें से प्यार करता हूँ। तू भी कर।  
मैंने हाँ कर दी। फिर उसने कहा मैं  
तुम्हें शादी करूँगा। मेरी Mummy ने  
हमारी बातें सुन कर फोन पकड़  
लिया। मेरी Mummy ने मुझसे भी  
प्यार और उससे भी प्यार। फिर वो  
~~Amritsar अपनी बहन के पास गया~~



गया। फिर मेरी उससे बात नहीं  
होती थी। Mumy ने वो फोन  
तोड़ दिया। फिर वो 3-4 साल बाद  
वापस आ गया और उसने कहीं से  
हमारे घर का नम्बर ले लिया  
फिर उसने (Soni ने) Phone पर मुझे  
कहा मैं तुमसे शादी करूंगा तू मेरे  
साथ चल। मैंने कहा मैं ये गलत  
काम नहीं करूंगी। तो उसने मुझे  
बाहर मिलाने के लिए बुलाया। फिर  
उसने मुझे कहा मेरे साथ चल  
मैं तुमसे शादी करूंगी। तो  
मैं उसके साथ चली गई। फिर  
वो मुझे Jammu अपनी बड़ी बहन  
के पास ले गया। मैंने उससे कहा  
~~महले-बसती कर पर उसने शादी नहीं~~



की। फिर उसने मेरे साथ-साथ जबरदस्ती  
की। मेरे कपड़े उतार दिए, फाड़ भी  
दिए और नासुन भी मारे। मैंने  
कहा मैं सब शादी से पहले ठीक  
नहीं हूँ। पर उसने शादी नहीं की  
उसने मेरे साथ बार-बार Jammu  
में Rape करा। मेरे शरीर के साथ  
खेला। फिर मुझे Orissa ले गया।  
10 दिन वहाँ रहकर जब पैसों खत्म  
हो गए तो अपनी Mummy के  
पास Amritsar ले आया। उसकी Mummy  
ने मुझे 4-5 दिन कमरे में बंद रखा,  
खाना भी नहीं दिया और मारा भी।  
फिर मैंने Sonu के Dada के फोन  
से अपनी Mummy को फोन किया  
और Address बताया। तो Sonu  
कर म



ने सुन दि लिया। फिर सम  
ने मुझे बहुत मारा जो सब डर  
गए कि मेरी Mumy Police  
ले कर वहाँ न आ जाय।  
फिर ये मुझे By pass छोड़  
कर आ गया। मैंने अपनी  
Mumy को बता दिया था इसलिए  
Mumy Police ले कर आ गई  
और हम दोनों को पकड़ लिया।

6. Before the Trial Court the prosecution led the evidence of 15 witnesses, who are as under:

- i. PW1- HC Subhash Chand
- ii. PW2- HC Ram Avtar
- iii. PW3- L/Ct. Puja
- iv. PW4- Ms. Ganga
- v. PW5- Mr. Vilayati Singh
- vi. PW6- Ct. Gautam
- vii. PW7- Ms. Sharda Miglani
- viii. PW8- Mr. Rajiv Ranjan
- ix. PW9- Mr. Amarnath Singh
- x. PW10- M.M. Ms. Shivali Sharma
- xi. PW11- Mrs. Babia
- xii. PW12- Dr. Parvinder Kaur
- xiii. PW13- Dr. Rajesh Dalai
- xiv. PW14- SI Mahender Singh



xv. PW15- W/ASI Krishna

7. The statement of the Accused was also recorded under Section 313 of the CrPC on 3rd January, 2013.

8. The Trial Court after considering the matter had acquitted the Accused primarily on two grounds:

- i. The age of the Prosecutrix is not below 18 years and that prosecution has failed to prove that she is a minor.
- ii. There is a delay in the registration of the FIR.

9. On the aspect of age, the discussion in the impugned judgment reads as under:

*“35. An important issue in dispute is the age of the prosecutrix. The prosecution has claimed her age to be about 15 years (as per the DD number 19A dated 09.12.2010 wherein her father made the complaint to the police) while the accused has claimed that she was above 18 years and was a major on the date of the alleged offence and they were together with the free consent of the prosecutrix.*

*36. PW4 has stated in her statement under section 164 of the Cr.P.C. that she is 15 ½ years old on the date of statement i.e. 18.04.2011 which makes her about 15 years old at the time of alleged incident. In her evidence before the Court, she has deposed that she is aged about 17 years on the date of evidence i.e. 17.05.2012 which makes her about 15½ years old at the time of alleged incident.*

*37. PW5, the father of the prosecutrix, has deposed that she was aged about 15 years at the time of incident. Even in the FIR, he has mentioned her age as about 15 years.*

*38. PW11, the mother of the prosecutrix, has deposed that she was aged about 15 years at the time of incident. Even in the FIR, he has mentioned her age as about 15*



years.

39. PW7, the Principal of the school, has deposed that as per the school records (school admission register-Ex.PW7/A), the date of birth of the prosecutrix is 16.03.1995 which makes her age about 15 years and nine months at the time of alleged offence.

40. It is clear from the evidence of the witnesses of the prosecution that they do not have the birth certificate issued by the Municipal Authorities or the MCD. The parents of the prosecutrix have not even deposed her date of birth.

41. It is also borne out of the record that the ossification test of the prosecutrix was not got conducted.

42. Now, the question arises, "As to whether the age as determined by scientific ossification test should be given preference to the oral age aspect of the prosecutrix?" While dealing with similar situation it was observed by Hon'ble Delhi High Court in a case reported as **Brii Mohan V. State. 38 (1989) DLT 15** as under

"It is settled law that the absence of cogent evidence such as of birth entry, the determination of age scientifically i.e. by ossification test should be preferred to the other evidence, including an entry in the school register unless that to be flawless."

43. Further more, in another case reported as **Kanchan Dass v. State. 40 (1990) D.L.T. 401** it was held by Hon'ble Delhi High Court while dealing with similar aspect as under

"Assessment of age given on the basis of ossification test is to be preferred when there is doubtful oral evidence and suspicious evidence in the shape of school leaving certificate."

44. So, in view of the aforesaid judgments as rendered by Delhi High Court and applying the same to the facts and circumstances of the present case, it can be safely concluded that the ossification test of the prosecutrix should have been conducted which was to be preferred



*over the oral age of the prosecutrix and her school records as such information would be furnished to the school by her parents.*

*45. It is a common knowledge that in India parents generally tell the age of the child in the school much less than the actual age of the child for the reason that he or she may get benefit of the same in future. Present case is also an exception to the same. It is clear that prosecutrix date of birth was not registered. Whatever her parents told verbally was written in the school record. It is evident that there is nothing to show that the said date of birth had been given on the basis of some authentic and credible government record.*

*46. However, in the present case, there is neither the ossification test of the prosecutrix has been conducted nor there is any Municipal Authority or MCD date of birth certificate of the prosecutrix. Therefore, the school admission register (Ex.PW7/A) or the oral evidence of PWs 4, 5 and 7 cannot be taken into consideration.*

*47. Therefore, applying the same ratio, it cannot be said that the age of the prosecutrix was about 15 years or that she was a minor on the date of the alleged offence.*

**The prosecution as failed to prove that she was a minor.**”

10. A perusal of the above would show that the Trial Court has proceeded on the basis that apart from the School Register, which claims that the date of birth of the Prosecutrix is 16<sup>th</sup> March, 1995, there was no other evidence to validate this date of birth. The Trial Court holds that there was a contradiction in the age being given by the Prosecutrix and the age at the time of her examination and therefore, an ossification test ought to have been conducted by the prosecution.

11. The Trial Court came to the conclusion that there are no Municipal Records or a Birth Certificate issued by the Municipal Corporation of Delhi



which proves the age of the Prosecutrix as being a minor. In view of the same, the Trial Court holds that the prosecution has failed to prove that the Prosecutrix was a minor.

12. Insofar as the Medico-Legal Case (hereinafter, 'MLC') and the Forensic Science Laboratory (hereinafter, 'FSL') reports are concerned, the Trial Court records that the Prosecutrix did not suffer any specific internal injury except some old aberrations. The Trial Court also holds that there appears to be no motive of committing the offence on behalf of the Accused. Insofar as registration of FIR is concerned, the delay has been held to be fatal.

13. A perusal of the Trial Court judgment also would show that the statement of the Prosecutrix itself was that she had exchanged her mobile number and address with the Accused and that she was in love with the Accused. The entire statement of the Prosecutrix has been analysed in paragraph Nos. 78 and 79 of the impugned judgment and the same reads as under:

*"78. In the Court, during trial, the prosecutrix, as PW4, in her evidence, has deposed that she was studying in the 5<sup>th</sup> class and used to play in the plot nearby along with other children of the locality including accused Sonu @ Parvinder, who was known to her. Accused had obtained the mobile number of her mother and her address **from her** and thereafter, he started calling her on the said mobile number prior to 05.12.2010. Accused told her that he loves her very much and he also insisted her for the same. Accused also promised her that he will marry her. On one occasion, her mother had heard the conversation going on between them on the phone and thereafter she gave beatings to her as well as to the accused. On the next day, accused had left for Amritsar, Punjab and her mother had destroyed her mobile phone due to which accused had not contacted her from*



*Punjab. After some months, he came back to Delhi and managed to trace out her landline number and thereafter started making calls to her. On 04.12.2010 in the evening, he had made a call to her and asked her to meet outside his house at about 5:00 PM but she did not meet him despite the fact that the accused was roaming outside her house. Thereafter, he again made a call and asked her to meet at 5:00 AM on 05.12.2010. On the next day i.e. 05.12.2010 at about 5:00 AM, she left her house leaving behind all her family members sleeping in the house to meet the accused outside her house. The accused allured her on the pretext that he will marry her and he took her to his sister's house at Jammu by bus via GTK Bye Pass, Delhi. The father of the accused had dropped them to GTK Bye Pass, Delhi in his car. While reaching Jammu, he refused to marry her and he kept her inside a separate room in the house of his sister. Accused had confined her there and had torn her wearing clothes and also gave beatings to her. Accused also forcibly removed her under garments and he also removed his clothes and under garments and forcibly committed rape on her against her wishes and without her consent in the room. When she tried to resist, he also caused teeth bite injury on her and he also caused some nail injuries with his hands on her person. When she again insisted accused to marry her and telling him that such things are not always good prior to the marriage, then accused promised her to marry her in Orissa. Accused kept her in the house at Jammu for about five days and during this period, he had committed rape on her many times and thereafter he took her to Orissa by train where he kept her in a house belonging to one of the relatives of his sister for about ten days. She asked the accused there also in Orissa to marry her but accused refused for the same and he again committed rape upon her in the house many times and he also gave beatings to her there also. When all the pocket money was finished, then accused took her to his parents'*



***house in Amritsar, Punjab** and he kept her there for **about 2-3 months**. She was confined by the mother of accused in the house in Amritsar for about 4-5 days and she had not even provided food to her. During the stay at Amritsar, the accused had committed rape upon her many times against her wishes and without her consent there also, he refused to marry her despite her repeated requests. The father of the accused also refused for her marriage with the accused. She managed to make a phone call at Delhi to her mother **from the mobile phone of the mother of accused**. When this fact came in the knowledge of accused, he gave beatings to her for the same. Thereafter, the family of accused got frightened about the police action and thereafter accused brought her to Delhi and thereafter they got down from the bus at GTK By Pass bus stop. As she had already informed her mother from Amritsar from the mobile phone of **one neighbour of accused** regarding the fact that accused is going to leave her in Delhi, they found police along with her mother already present at GTK By Pass bus stop. Police had apprehended the accused in her presence immediately when they got down from the said bus there. Police had recorded her statement in this case. She was taken to Sanjay Gandhi Memorial Hospital on 27.03.2011 at about 7:55 PM where she was medically examined. Accused was also taken to the same hospital by the police at the same and he was also medically examined there. Her statement (Ex.PW4/A) was also recorded by the learned Metropolitan Magistrate.*

*79. The prosecutrix, **in her statement under section 164 Cr.P.C.** has deposed that her father's name is Vilayati Singh. Previously they were residing at Vishnu Garden and thereafter they shifted to Nihal Vihar. There was a big plot belonging to the relative of her mother where the children of all the locality including accused Sonu @Parvinder used to play. Soon he became her friend **and obtained her mobile number and address from***



***her.** Thereafter, he started making call on the number. One day he told her that he loves her and insisted her to do the same. When she accepted it, he told her that he wants to marry her. Her mother heard all the conversation going on between them on phone and gave beatings to her as well as to accused. Thereafter, he left for Amritsar for his sister's house. As her mother had broken the said phone, therefore, she could not talk to him thereafter. **After 3-4 years**, he returned to Delhi and **obtained her landline phone number**. He started making call on her landline phone and insisted her to go with him as he wants to marry her. When she denied, he asked her to meet him. On meeting, he again asked her to accompany him and he will marry him. Thereafter, she went away with accused. He took her at **Jammu at the house of her elder sister**. She asked him to marry her but he didn't. Thereafter, he raped her after removing and tearing her clothes and injured her with his nails. He did not marry her and repeatedly raped her at Jammu. Then he took her **Orissa** where they stayed for **ten days** and as the money had finished he took her to **Amritsar to his parents** where his mother kept her locked inside a room for 4/5 days, did not give her food and had beaten her. Then she called her mother from **the phone of the father of the accused** and told her **the address** which were overheard by the accused and he had beaten her. All of them were scared that her mother would bring the police. Then he left her at Bypass. She had told her mother due to which her mother brought the police and both of them were apprehended.”*

14. The Trial Court also considered the statement of the Prosecutrix under Section 161 of the CrPC where the Prosecutrix has stated that she had developed friendship with the Accused. The conclusion of the Trial Court after comparison of the evidence in Court, the statement of the Prosecutrix under Section 161 of the CrPC and the statement of the Prosecutrix under



Section 164 of the CrPC would show that there are contradictions in the evidence and the same have been highlighted by the Trial Court in the following manner:

*“91. There are several contradictions and glaring discrepancies in the different statements of the prosecutrix which make her version unbelievable. They are tabulated below:*



<u>Evidence in Court</u>	<u>Statement under section 164 of the Cr.P.C.</u>	<u>Statement to the police</u>
Accused had obtained the mobile number of her mother and her address <b>from her</b> .	Accused had <b>obtained her mobile number and address from her</b> .	No mention as to how the accused had obtained the mobile number.
After <b>some months</b> , he came back to Delhi and <b>managed to trace out</b> her landline number and thereafter started making calls to her.	<b>After 3-4 years</b> , he returned to Delhi and <b>obtained her landline phone number</b> .	<b>6/7 months ago</b> , he returned to Delhi and phoned her and their friendship became deeper.
No deposition about the accused taking drugs.	No deposition about the accused taking drugs.	He used to take <b>drugs</b> .
Thereafter, he again <b>made a call</b> and asked her to meet at 5:00 AM on 05.12.2010. On the next day i.e. <b>05.12.2010 at about 5:00 AM</b> , she left her house leaving behind all her family members sleeping in the house to meet the accused outside her house.	<b>On meeting</b> , he again asked her to accompany him and he will marry him. Thereafter, she went away with accused.	On <b>05.12.2010 at 10/11 PM</b> , she came out of her house where accused was standing and without telling her parents she went with him.
He took her to <b>his sister's house at Jammu by bus</b> via GTK Bye Pass, Delhi.	He took her at <b>Jammu at the house of her elder sister</b> .	He enticed her with promises and took her to <b>Jammu, Amritsar (Punjab)</b> for visiting.  They went to Karnal By Pass from where



		he took her in a <u>bus to Jammu</u> and after <u>many days</u> , he took her to <u>his elder sister in Jammu</u> .
The <u>father of the accused</u> had dropped them to GTK Bye Pass, Delhi in his car.	No such deposition about the father of the accused.	No such deposition about the father of the accused.
At Jammu, the accused promised her to marry her in <u>Orissa</u> .	No such promise at Jammu.	No such promise at Jammu.
Accused kept her in the house at Jammu for <u>about five days</u> and during this period, he had committed rape on her many times.  No deposition about going to Talwandi Sultan Wad.	No deposition regarding the duration of stay at Jammu.  No deposition about going to Talwandi Sultan Wad.	Then he took her to <u>Amritsar, Punjab where his sister was living</u> . There they stayed in a separate room and then accused took her to his village <u>Talwandi Sultan Wad</u> where they stayed in a rented room.
Thereafter he <u>took her to Orissa by train</u> where he kept her in a house belonging to <u>one of the relatives of his sister for about ten days</u> .	From Jammu, he took her <u>Orissa</u> where they stayed for <u>ten days</u> .	No mention about Orissa.



<p>The accused took her to <u>his parents' house in Amritsar, Punjab</u> and he kept her there for <u>about 2-3 months</u>.</p>	<p>From Orissa, he took her <u>Amritsar to his parents</u> where his mother kept her locked inside a room for 4/5 days, did not give her food and had beaten her.</p>	<p>From Jammu he took her to Amritsar.</p>
<p>She was confined by <u>the mother of accused</u> in the house in Amritsar for about 4-5 days and she had not even provided food to her.</p>	<p>She was confined by <u>the mother of accused</u> in the house in Amritsar for about 4-5 days and she had not even provided food to her and she was beaten.</p>	<p>No such deposition.</p>
<p>The father of the accused also refused for her marriage with the accused.</p>	<p>No such deposition.</p>	<p>No such deposition.</p>
<p>She managed to make a phone call at Delhi to her mother from <u>the mobile phone of the mother of accused</u>.</p>	<p>She called her mother from <u>the phone of the father of the accused</u> and told her <u>the address</u> which were overheard by the accused and he had beaten her.</p>	<p>She telephoned her mother and <u>also made the accused talk to her</u>.</p> <p>Her mother said that she would bring the police on which the accused brought her to Delhi.</p>
<p>The family of accused got frightened about the police action and thereafter accused brought her to Delhi and thereafter they got down from the bus at GTK By Pass bus stop.</p>	<p>All of them were scared that her mother would bring the police.</p> <p>Then he left her at Bypass. She had told her mother due to which her mother brought the police and</p>	<p>He was apprehended while he was coming with her.</p>



	both of them were apprehended.	
She had already informed her mother from Amritsar from the mobile phone of <u>one neighbour of accused.</u>	No such deposition.	No such deposition.

92. Also there are contradictions in the evidence of the prosecutrix and her parents which cannot be ignored. They are as follows:

<u>Prosecutrix- PW4</u>	<u>Father of prosecutrix- PW5</u>	<u>Mother of prosecutrix-PW11</u>
No deposition about the accused informing that he will bring her to Karnal By Pass.	Family members were informed by the accused himself.	Accused talked to her and informed her that he will leave the prosecutrix at Karnal By Pass.
Knows the accused four-five months prior to the occurrence.	Knows the accused three years prior to the occurrence.	Knows the accused three-four years prior to the occurrence.
Police recovered her.	Prosecutrix recovered as per the instructions of the accused.	Prosecutrix recovered by the police.
Accused had obtained the number of the mobile phone and address. Used to talk on phone.	Prosecutrix used to talk to the accused on the mobile of his wife as the prosecutrix had given the mobile number.	No such deposition. Accused used to tease her daughter.
Accused in love with her and asked her to reciprocate.	No such deposition about an affair.	Prosecutrix had an affair with the accused.



15. Insofar as the issue of promise to marry and physical relations is concerned, the Trial Court comes to the conclusion that there was no misconception of the facts in the following terms:

*“106. In the present case, it is clear that that the consent of the prosecutrix on the promise to marry cannot be said to be under a misconception of fact as she was a major at the time of the alleged incident and intelligent enough to understand the consequences of establishing physical relationship with the accused. Mere promise to marry on an uncertain date does not indicate that the accused has obtained her consent for the physical relationship by fraud or misrepresentation. Consent given by the prosecutrix to have physical relationship with whom she is in love, on a promise that he would marry her on a later date, cannot be considered as given under misconception of fact.”*

16. Finally, the Trial Court concludes in paragraph Nos. 110 & 111 as under:

*“110. Applying the above principles of law to the facts of present case, it is evident that the identity of the accused Mr. Sonu @ Parminder stands established. He was known to the prosecutrix even prior to the incident. It also stands established that the prosecutrix was not a minor at the time of the alleged incident i.e. 05.12.2010. It also stands established that the accused had neither kidnapped her nor raped her. The testimony of the prosecutrix does not inspire confidence and does not appear to be voluntary and truthful in so far as the allegations of the accused having kidnapped the prosecutrix and having committed rape upon the prosecutrix. It stands established that the prosecutrix was got recovered at Karnal By Pass along with the accused. It does not establish that the prosecutrix had been forcibly taken by the accused rather it appears that she had gone by her own consent and had been residing*



*with him on the pointing out of her mother and during this period, she had physical relations with the accused with her consent.*

*111. Therefore, in view of above discussion, the conscience of this Court is completely satisfied that the prosecution has failed to bring home the charge against the accused.”*

17. Mr. Bahri, Id. APP has vehemently argued that the Principal of the School *i.e.*, PW-7 had appeared and had tendered the School Register which was sufficient to prove the date of birth of the Prosecutrix in terms of Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter, ‘*JJ Act*’). It is his submission that clearly the Prosecutrix was a minor and this fact could not have been glossed over by the Trial Court by holding that the ossification test was required and some Municipal records were also required to prove the age of the Prosecutrix.

18. Secondly, it is submitted by the Id. APP that once the Prosecutrix and the Accused were recovered, the statement of the Prosecutrix was recorded, her medical examination was conducted and an FIR was also registered. Hence, the delay is fully explainable.

19. Id. APP further submits that insofar as paragraph no. 51 of the impugned judgment is concerned, it is a settled position in law that the Prosecutrix’s statement by itself would constitute evidence to convict an Accused as has been held in catena of judgments, and is to be taken as direct evidence and not circumstantial evidence.

20. Finally, it is submitted by the Id. APP that the promise to marry, which is clearly coming out from the statement of Prosecutrix and could not have been ignored by the Trial Court. Thus, it is his case that the Accused deserves



to be convicted of the offences under which he has been chargesheeted.

21. On the other hand, Mr. Dandapani, Id. Counsel appearing on behalf of the Respondent through Legal Aid, submits that he is not in touch with the Respondent *i.e.*, the Accused. Further, it is his submission that the impugned judgment passed by the Trial Court is fully reasoned and there is no ground to interfere with the same. It is also his submission that the age of the Prosecutrix has not been proved and her statement also reveals that it was at best a consensual relationship between the Prosecutrix and the Accused.

22. The Court has considered the matter. Repeatedly, the Supreme Court and Co-ordinate Division Benches of different High Courts of this country have made observations in respect of consensual relationships between youngsters who are below the age of 18. The Madras High Court in the decision in *Vijayalakshmi v. State, 2021 SCC OnLine Mad 317*, while deciding a case pertaining to the Protection of Children from Sexual Offences Act, 2012, (hereinafter, '*POCSO Act*') observed as under:

*“12. As rightly recognized by the Learned Single Judge of this Court in Sabari's Case (cited supra), incidences where teenagers and young adults fall victim to offences under the POCSO Act being slapped against them without understanding the implication of the severity of the enactment is an issue that brings much concern to the conscience of this Court. A reading of the Statement of Objects and Reasons of the POCSO Act would show that the Act was brought into force to protect children from offences of sexual assault, sexual harassment and pornography, pursuant to Article 15 of the Constitution of India and the Convention on the Rights of the Child. However, a large array of cases filed under the POCSO Act seems to be those arising on the basis of complaints registered by the families of adolescents and teenagers who are involved in romantic*



**relationships with each other. The scheme of the Act clearly shows that it did not intend to bring within its scope or ambit, cases of the nature where adolescents or teenagers involved in romantic relationships are concerned.**

13. This Court, therefore, deems it fit and necessary to take a moment to delve into an important aspect, the awareness of which is crucial in understanding and dealing with cases of this nature. It is crucial to be aware of the science and psychology of adolescence and young adulthood at this juncture. 'This is because social and biological phenomena are widely recognized as determinants of human development, health, and socioeconomic attainments across the life course, but our understanding of the underlying pathways and processes remains limited. Therefore, a "biosocial approach" i.e. one that conceptualizes the biological and social as mutually constituting, and draws on models and methods from the biomedical and social/behavioral sciences, is required.' (McDade, T.W., & Harris, K.M. (2018). *The Biosocial Approach to Human Development, Behavior, and Health Across the Life Course*. The Russell Sage Foundation journal of the social sciences : RSF, 4(4), 2-26.)

14. The UN has come to formally define 'adolescence' as the period between 10 and 19 years of age and 'young people' between 10 to 24 years of age, in the South-East Asia Region. Adolescence and young adulthood form a continuum for many development processes, but there are also unique aspects of young adulthood. Scientists who study brain development have spent much time looking at adolescents than at young adults. By the time people become young adults, significant aspects of their neurobiology have reached adult levels. However, their brains also continue to change in part because of continuing brain development, and in part because behavior is always remodeling the brain. Brain plasticity is evident



*throughout the lifespan but different kinds of plasticity come to the fore at different stages. For example, from childhood through adulthood, the gray matter in the brain, which contains neurons, thins as it loses synaptic connections and it is a method that the brain uses to sculpt itself to a particular environment. Studies of particular brain regions show continued changes after adolescence. It has been observed that the pathways that connect different parts of the brain also change over time. The decision-making ability is a reflection of the development of the superior longitudinal fasciculus, which is involved in cognition and executive function. This superior longitudinal fasciculus continues to develop throughout the young adult years. Profound and protracted physical, biological, and neurological changes linked to puberty occur throughout adolescence and early adulthood. Hormonal changes prompt a literal remodeling of cortical and limbic circuits in the brain that were previously organized in the perinatal period and that, in combination with adolescent social experiences and contexts, affect general cognition, decision making, and behavior into adulthood. (Sisk CL, & Zehr JL (2005). Pubertal hormones organize the adolescent brain and behavior. *Frontiers in Neuroendocrinology*, 26(3-4), 163-174.)*

*15. It is only relatively recently that neurobiologists have started to probe into the neural basis of one of the most powerful and exhilarating states known to humans, namely love. Studies largely show that the basic human motivations and emotions arise from distinct systems of neural activity and that these systems derive from mammalian precursors. Thus, it is only natural that this mechanism is also active in Homo Sapiens i.e. humans. Adolescence is associated with many psychosocial and developmental challenges, including the processing of intense emotions and “first loves”. (Arnett J.J. *Adolescence and Emerging Adulthood*. Pearson Education Limited; New York, NY, USA : 2014.) It is*



now well evidenced that adolescent romance is an important developmental marker for adolescents' self-identity, functioning and capacity for intimacy. Developmental-contextual theories of adolescent romantic stages also provide a framework for how romantic relationships assist young adults with addressing their identity and intimacy needs. Therefore, the age of adolescence as can be seen evidently, is one associated with an amassing change in the neurological, cognitive and psychological systems of a person and one of the most important aspect is that the individual tries to establish their identity, develops emotional and biological needs during this period as a result of which the individual tends to look for new relationships, bonding and partnership. It is also important to acknowledge in addition to this, the vast exposure that is available to adolescents and youth in the form of digital content that play a major role in influencing their growth and identity.

**16. In light of the above, it is only natural that there are cases of the above-mentioned nature that are on the rise at present and it does not help matters to avoid acknowledging that the society is changing and influencing people's identity and cognition, constantly. Therefore, painting a criminal colour to this aspect would only serve counter-productively to understanding biosocial dynamics and the need to regulate the same through the process of law.**

**17. This Court is not turning a blind eye to cases where the victim or survivor may, under the effect of trauma that they have undergone, studies on which show that they might tend to reconcile with the same by blaming themselves or convincing themselves that the element of consent was infact present. Nor is this Court scientifically justifying in toto, the genuineness or predicament of the accused in every case where it appears that the accused and victim child have been in a romantic relationship. That will depend on the facts**



**and circumstances of each and every case.”**

23. More recently, a Id. Single Judge of this Court in the decision dated 30th January, 2025 in ***State v. Hitesh, 2025:DHC:944***, has also observed as under:

*“30. Furthermore, I believe that societal and legal views on adolescent love should emphasize the rights of young individuals to engage in romantic relationships that are free from exploitation and abuse. Love is a fundamental human experience, and adolescents have the right to form emotional connections. The law should evolve to acknowledge and respect these relationships, as long as they are consensual and free from coercion.*

*31. While the legal age of consent is important for protecting minors, I feel that adolescents should be allowed to express their feelings and engage in relationships without fear of criminalization. The focus of the law should be on preventing exploitation and abuse rather than punishing love. I affirm that consensual and respectful adolescent love is a natural part of human development.*

*32. The legal system must safeguard the rights of young individuals to love while ensuring their safety and well-being. I advocate for a compassionate approach that prioritizes understanding over punishment in cases involving adolescent love.”*

24. Coming to the evidence in the present case, insofar as the age of the Prosecutrix is concerned, in the case of ***State v. Tofil Ahmad, 2024 SCC OnLine Del 5403***, a Co-ordinate Bench of this Court has categorically observed that in the absence of any primary material on the basis of which the date of birth of the Prosecutrix has been recorded, the said date of birth mentioned in a School Register cannot be taken as sacrosanct. This view has also been followed by this Court in its judgment dated 24<sup>th</sup> September, 2024



passed in **CRL.L.P. 69/2023** titled **State v. Rajiv @ Raju**, wherein the Court has observed as under:

*“7. This Court also notices that in the school records i.e., admission form and school leaving certificate, which were produced by PW-1 Ms. Seema Puri, Vice Principal of Sarvodaya Kanya Vidyalaya, Ashok Vihar, Delhi, the date of birth of the survivor is mentioned as 13th July 1998, however, except the admission form and school leaving certificate, there is no other document on record to establish the date of birth of the survivor. Neither the mother nor the father of the survivor have given any oral evidence as about the date of birth of the survivor.*

*8. It is the settled legal position that a mere school record without being supported by any credible or verifiable document cannot be held to be conclusive proof of age, as held in **State v. Tofil Ahmad [2024 SCC OnLine Del 5403]**, extracted hereimunder:*

*“35. Further, in **State v. Shailesh Kumar (2019 SCC OnLine Del 8318)**, the ld. Division Bench was dealing with a similar situation wherein the Court was considering an issue regarding the determining the age of the survivor. Following the decision of the Supreme Court in **Jarnail Singh v. State of Haryana (2013) 7 SCC 263**, the ld. Division Bench held that no probative value can be attached to a record unless and until the parents or guardians are examined or the person on whose information the entry may have been made, is examined. The relevant portion of the said decision reads as follows:*

*“18. It is well settled that an entry of the date of birth made in the school admission register would have evidentiary value only if there is material available based on which the age was so recorded. In the case of Brij Mohan Singh v. Priya Brat Narain Sinha reported*



**as AIR 1965 SC 282, the Supreme Court held that an entry of birth recorded in the school register maintained by an illiterate Chowkidar, was not admissible and had no probative value within the meaning of Section 35 of the Indian Evidence Act.**

...

**20. The probative value of the entry regarding the date of birth made in a school register has come up for consideration by the Supreme Court and the High Courts in several other cases and the common view expressed is that no probative value can be attached to such a record unless and until the parents are examined or the person on whose information the entry may have been made, is examined.**

23. In the present case, the father of the victim, PW-5 deposed that he did not know the date of birth of his daughter as he was illiterate, nor was he in a position to state her current age. He stated that he got the victim admitted in the school in class-I in the village and at that time, she was about 3-4 years old. In his cross-examination, PW-5 admitted that he did not have any proof regarding his daughter's date of birth. It is therefore clear that the father of the victim had not submitted any document to the school at the time of getting his daughter admitted in class-I, on 12.08.2005, to establish her date of birth as 10.01.2000, as recorded by the school. He was candid enough to state that being illiterate, he did not know the date of birth of the victim and that she was between 3-4 years old when she was admitted in class-I.

**24. In the absence of any primary material based on which the age of the victim was**



**recorded in the school register, it is not possible to accept her date of birth as 10.01.2000. Moreover, even the teacher from the school in question, who had appeared as PW-3, had stated that he had given a handwritten document to the police on 17.12.2014 (Ex.PW3/C), wherein he had recorded that when a child attains the age of 5+ years, the parents approach the school for their admission. If one goes by the said statement, then the testimony of the victim's father to the effect that he had got her admitted in class-I when she was about 3 -4 years, cannot be accepted, as it is premised on mere guess work.**”

36. Perusal of Section 94 of the JJ Act shows that any of the following documents are required for establishing the age of the minor: i) Date of birth certificate from school; ii) Matriculation or equivalent i.e., Class 10th certificate issued by an Examination Board; iii) Date of birth certificate from the Corporation or Municipal Authorities; iv) In the absence of any of the above, by an ossification test or any advanced test as may be ordered.

37. In the present case, the only document that is available is the Shapath patra signed by DW 1 at the time of admission of the child in the school. The said guardian, who appeared as DW-1, and DW-2, another uncle of the survivor, could neither justify nor confirm the stated date of birth i.e., 2nd April, 1997. There is no other document as contemplated under Section 94 of the JJ Act to establish the date of birth of the survivor.

38. Further, the Prosecution did not conduct any ossification test or any other similar test to establish the date of birth of the survivor.

39. This Court agrees with the view taken by the



*Trial Court that the date of birth of the survivor mentioned in the School Admission and Withdrawal Register cannot be taken in evidence, and hence the Prosecution has not been able to establish beyond reasonable doubt that the survivor was under the age of 18 years when the incident took place.*

xxx

*10. Considering the lack of evidence to establish the date of birth of the survivor as also the delay in filing of this Appeal, this Court is not inclined to grant leave to appeal against the impugned judgment of acquittal in the present matter.”*

25. In the present case, the School Register does record the date of birth of the Prosecutrix, however, apart from the School Register, there is no other evidence to prove the date of birth of the Prosecutrix. A perusal of the JJ Act would show that the following are the three documents that could be taken as evidence. Section 94(2) of the JJ Act reads as under:

*“(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining*

- i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;***
- (ii) the birth certificate given by a corporation or a municipal authority or a panchayat;***
- (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:***



*Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.”*

26. The Trial Court has come to the conclusion that the date of birth of the Prosecutrix given in the School Register is not on the basis of any Government related document or even a hospital certificate or any Municipal record. It is only on the basis of a statement given by the parents of the Prosecutrix which may have been recorded in the School Register, which shows that the Prosecutrix to be a minor. The Prosecutrix in fact herself was about more than 17 years as per her statement when she was examined. Moreover, it is to be noted that in terms of the judgments in *Tofil Ahmad (supra)* and *Rajiv (supra)* in the absence of any other document to establish the date of birth, mere recording in the register of a School would not be sufficient to conclusively establish the date of birth. Thus, when there was a doubt, an ossification test ought to have been conducted, which has not been conducted in the present case.

27. While finalising this order, this Court came across two recent decisions, one of the Supreme Court in *The State of Uttar Pradesh v. Anurudh & Anr., 2026 INSC 47*, dated 9<sup>th</sup> January, 2026 and the other of the Kerala High Court in *Suresh. K v. State of Kerala, 2025: KER:95276* dated 10<sup>th</sup> December, 2025.

28. The Supreme Court in the decision in *The State of Uttar Pradesh v. Anurudh & Anr., (Supra)*, has held the presumption of correctness attached to age-related documents under Section 94 of the JJ Act is not absolute but a factor for consideration. The relevant portion of the said decision reads as under:



*“14.7 As held in **Rishipal Singh**, extracted (supra) the determination of the age when done by a Court stands differently to that done by the JJB. There are two possibilities provided for. There is no determination of age by a JJB - like body when it comes to the victim. **If there is a question about the age, it has to be dealt with by the Court, as per the procedure of Section 94, JJ Act. It is when the Court is undertaking the exercise of determination, that the defense of an accused can challenge the veracity of these documents, since the presumption under this section is rebuttable.**”*

xxxx

*14.10 As can be seen from **Mahadeo v. State of Maharashtra**, and **Sanjeev Kumar Gupta** (supra) the **consideration of the documents enumerated in Section 94, JJ Act is a matter of consideration of evidence since it may involve the examination of witnesses to prove the veracity of the documents.** That can only be done by the Trial Court. Contra evidence to challenge the documents, can also be presented only before the Trial Court. In our considered view, therefore, the High Court fell in error in holding that a Court in bail jurisdiction is empowered to entertain a challenge to the documents as Section 94 would not apply at the bail stage.”*

29. Further, the Kerala High Court in the decision in **Suresh. K (Supra)** has held that the age of the victim can be determined by any mode permissible under the law and not necessarily according to the scheme of the JJ Act. The relevant portion of the said decision reads as under:

*“18. In this context, it is appropriate to mention that the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short ‘the JJ Act of 2000’) was in force till it was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short ‘the JJ Act of 2015’) enacted w.e.f 01.01.2016. Since the incidents of penetrative sexual assault in the instant case is*



*alleged to have taken place during the period from September 2015 till February 2016, both the statutes are applicable. Section 94 of the JJ Act of 2015 prescribes the mode in which the age of a juvenile has to be proved, while under the JJ Act of 2000, determination of age ought to have been done as per the provisions of rule 12 of the JJ Rules.*

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*20. The POCSO Act does not stipulate in section 34(2) that when the victim is a child, age can be determined only as per the law relating to juveniles. It was in **Jarnail Singh (supra)** and **Yuvaprakash (supra)** the said proposition was laid down. Nonetheless, it is relevant to bear in mind that the words in a judgment ought not to be interpreted as that in a statute. A decision is only an authority for the questions determined therein and while applying the ratio, the court ought not to pick out a word or a sentence from the judgment disassociated from the context in which the issue under consideration arose. Reference to the decisions in **Goan Real Estate and Construction Ltd and Another v. Union of India and Others [(2010) 5 SCC 388]** and **Bhavnagar University v. Palitana Sugar Mill (P) Ltd and Others [(2003) 2 SCC 111]** are relevant in this context.*

*21. Viewed in the light of the above principle, it has to be held that the words 'should be the basis for determining age, even for a child who is a victim of crime' as observed in **Jarnail Singh (supra)** has to be interpreted as 'can be the basis for determining age, even for a child who is a victim of crime'. A contrary view, if adopted, would defeat the very object of the statute. Hence, the decision in **Jarnail Singh (supra)** which mandated that the age should be determined as per 2007 Rules, according to me, cannot be interpreted as laying down the principle that the only method to determine age of a victim in a POCSO offence is as per the said provision.*



22. It is appropriate in this context to refer to section 34 of the POCSO Act, which reads as below.

*“34. Procedure in case of commission of offence by child and determination of age by special court-*

*(1) Where any offence under this Act is committed by a child, such child shall be dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016).*

*(2) If any question arises in any proceeding before the Special Court whether a person is a child or not, such question shall be determined by the Special Court after satisfying itself about the age of such person and it shall record in writing its reasons for such determination.*

*(3) No order made by the Special Court shall be deemed to be invalid merely by any subsequent proof that the age of a person as determined by it under subsection (2) was not the correct age of that person.”*

**23. A perusal of the above provision reveals that when an offence is committed by a child, he shall be dealt with under the JJ Act of 2015, but when it comes to determining the question as to whether a person is a child or not, such a question will have to be determined by the Special Court after satisfying itself about the age. The principles of the law of evidence can apply when the issue before a court relates to the determination of the age of a child. The provisions of the statutes relating to juveniles can be one of the modes and need not be the only mode.** Under the law of evidence, all facts, except the contents of documents, can be proved by oral evidence as per section 59 of the Indian Evidence Act, 1872 (for short ‘the IE Act’) and the only requirement is that the oral evidence must be direct. When evidence required is in relation to a fact which could be seen or heard or perceived, direct oral evidence as per section 60 of IE Act means the evidence given by a person who had seen, heard or perceived the



*fact, as the case may be. Contents of a document can be proved by primary or secondary evidence. Even section 35 of the IE Act can be resorted to, for determining the age of a victim in a POCSO offence*

xxxx

**27. Thus, the age of a victim can be determined by any of the modes available under law and not necessarily only as per the JJ Act of 2015. A contrary view may not only defeat the object of the statute, but can also enable several perpetrators of sexual offences to go scot free. Such an eventuality is an antithesis of law relating to sexual offences especially that relating to minors.**

30. Moreover, the Supreme Court in the decision in *The State of Uttar Pradesh v. Anurudh & Anr., (Supra)*, has recommended the Government of India to introduce a *Romeo-Juliet* clause exempting genuine adolescent relationships from the stronghold of statutes like the POCSO Act to prevent misuse of such laws. The relevant portion of the said decision reads as under:

**“A NECESSITATED POST-SCRIPT**

*19. As the conclusions drawn above indicate the impugned judgment and order of the High Court has to be set aside on grounds of transgression of the jurisdiction present and thereby lacking the appropriate directions. It is to be set aside also because it goes against the statutory prescription under the JJ Act. Be that as it may, this Court has not lost sight of the well-intentioned purport of this order. The POCSO Act is one of the most solemn articulations of justice aimed at protecting the children of today and the leaders of tomorrow. Yet, when an instrument of such noble and one may even say basic good intent is misused, misapplied and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion. Courts have in many cases sounded alarm regarding this situation. **Misuse of the POCSO Act highlights a grim societal chasm - on the one end children are***



**silenced by fear and their families are constrained by poverty or stigma, meaning thereby that justice remains distant and uncertain, and on the other hand, those equipped with privilege, literacy, social and monetary capital are able to manipulate the law to their advantage.** The impugned judgment is one amongst many where Courts have spoken out. **Not only are instances rife where the age of the victim is misrepresented to make the incident fall under the stringent provisions of this law but also there are numerous instances where this law is used by families in opposition to relationships between young people.** In *Satish alias Chand v. State of U.P.*, the High Court, noted that on few occasions concern had been expressed by the Court with respect to application of the Act on consenting adolescence when it comes to consensual relationships between teenagers, four factors have been highlighted which, is crucial for the Courts to consider:

“A. Assess the Context: Each case should be evaluated on its individual facts and circumstances. The nature of the relationship and the intentions of both parties should be carefully examined.

B. Consider Victim's Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.

C. Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here the age comes out to be an important factor.

D. Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very



*individuals it is meant to protect.”*

*[See also: **Mrigraj Gautam @ Rippu v. State of U.P.**]*

*The Delhi High Court in **Sahil v. the State NCT of Delhi** the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl’s family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court, where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.*

*This chasm between access and abuse is also mirrored in the misuse of Section 498-A IPC and the Dowry Prohibition Act, 1961. Amongst numerous examples, we may only refer to **Rajesh Chaddha v. State of U.P**36, where this Court lamented the use of these Sections without specific instances or relevant details, among other cases. It is also to be stated though that no amount of judicial vigilance against misuse can alone bridge this ever-widening gap. The first line of defence lies with the Bar i.e., the body that translates grievance into action and is the gatekeeper of justice at the point of entry. When it comes to matters such as these, the responsibility of the advocate is profound – to examine the allegations with detachment and necessary discretion and to counsel restraint when grievance masks vengeance and to refuse participation in litigation when it can be seen that an ulterior motive is sought to be agitated under the guise of seeking protection of the law. It is only when the Bar takes a principled, proactive role, that the legislation intended as a shield can be stopped from being twisted into a weapon. A lawyer who tempers aggression with calm, reason and rationality, protects not only the opposing*



*party from unwarranted harm but also the client from the long-term consequences of frivolous or malicious litigation, including adverse orders, and judicial censure. By taking a principled stand, the Bar acts as a crucial filter, preventing the legal system from being overwhelmed by abuse masquerading as enforcement. Such self-regulation strengthens public faith in the profession, ensures that judicial time is reserved for genuine disputes, and reinforces the foundational idea that law is a means of justice, not a weapon of convenience. In this sense, the ethical vigilance of lawyers is not ancillary to justice, it is indispensable to it. When they do not do so, the chasm alluded to above widens. Society also must match institutional reform with moral awakening. The intent and object of these legislations must be at the forefront when a person wishes to lodge a complaint thereunder. The misuse of these laws is a mirror to the opportunistic and self-centered view that pervades the application of law. It is only through discipline, integrity and courage that these problems can be remedied and rooted out. Any legislative amendment or judicial direction will remain lack-luster without this deeper change.*

*We have referred to certain instances of the High Courts noting the misuse/misapplication of the POCSO Act, somewhat in line with the indices appended to the impugned judgment as also its progenitors.*

**Considering the fact that repeated judicial notice has been taken of the misuse of these laws, let a copy of this judgment be circulated to the Secretary, Law, Government of India, to consider initiation of steps as may be possible to curb this menace inter alia, the introduction of a Romeo – Juliet clause exempting genuine adolescent relationships from the stronghold of this law; enacting a mechanism enabling the prosecution of those persons who, by the use of these laws seeks to settle scores etc.**



The above decision clearly emphasises the issue of consensual relationships amongst youngsters and the need for introducing a clause which ensures that genuine adolescent relationships do not become criminal cases. Such a clause would have to look into whether the '*age of consent*' ought to be reduced, in the case of minors especially in the case of close-in-age minors.

31. Coming to the facts of the present case, the statement of the Prosecutrix shows that she has known the Accused all along and in fact, initially when she was studying in school, she had met the Accused. However, after 3 to 4 years, the Accused had come back and had expressed his liking towards her. She had voluntarily accompanied him to Jammu and other places. The relevant portion of the statement of the Prosecutrix under Section 164 of the CrPC reads as under:



गया। फिर मेरी उससे बात नहीं  
होती थी। Mumy ने वो फोन  
तोड़ दिया। फिर वो 3-4 साल बाद  
वापस आ गया और उसने वही मे  
छात्रे घर का नम्बर ले लिया  
फिर उसने (Somy ने) Phone पर मुझे  
कहा मैं तुमसे शादी करूँगा तू मेरे  
साथ चल। मैंने कहा मैं ये गलत  
काम नहीं करूँगी। तो उसने मुझे  
बाहर मिलने के लिए बुलाया। फिर  
उसने मुझे कहा मेरे साथ चल  
मैं तुमसे शादी करूँगी। तो  
मैं उसके साथ चली गई। फिर  
वो मुझे Jammu अपनी बड़ी बहन  
के पास ले गया। मैंने उससे कहा  
~~पहले शादी कर पर उसने शादी नहीं~~

32. It was under these circumstances that the Prosecutrix appears to have accompanied the Accused and left her parental home. This evidence which has come on record by the Prosecutrix's own statement cannot be ignored by



this Court and has been rightly analysed by the Trial Court. The allegations of rape or sexual assault in this background clearly do not appear to be correct. The prosecutrix knew the accused for many years and had accompanied the accused of her own volition. The age of the Prosecutrix has also not been established beyond reasonable doubt. This Court is thus of the opinion that the impugned judgment does not warrant any interference.

33. The Accused has also been declared a Proclaimed Offender already. Ld. Counsel for the Respondent *i.e.*, the Accused has however assisted this Court.

34. Accordingly, the appeal is dismissed.

**PRATHIBA M. SINGH  
JUDGE**

**MADHU JAIN  
JUDGE**

**JANUARY 8, 2026**

kk/ck