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

% *Judgment reserved on: 05.01.2026*
Judgment pronounced on: 04.04.2026
Judgment uploaded on: 04.04.2026

\+ **CRL.REV.P. 691/2024**

COURT ON ITS OWN MOTION .....Petitioner

Through: Ms. Aasha Tiwari, Advocate/ Amicus Curiae with Mr. Puneet Narula, Advocate.

Versus

STATE AND ORS. .....Respondents

Through: Mrs. Anubha Bhardwaj, SPP for CBI along with Ms. Anchal Kashyap and Mr. Vijay Misra, Advocates.
Mr. Nitin Chaudhary and Mr. Abhishek Singh, Advocates for R-2.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

J U D G M E N T

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DR. SWARANA KANTA SHARMA, J

INTRODUCTION

1. A Public Interest Litigation (PIL) was filed by one Tulir Charitable Trust, assailing the order dated 01.09.2023 [hereafter '*impugned order*'] passed by the learned Additional Sessions Judge (Special Court-POCSO), Shahdara District, Karkardooma Courts [hereafter '*Sessions Court*'] in SC 18/2022, whereby the respondent nos. 3 and 4 herein were discharged of offences under Section 15(2) of the Protection of Children from Sexual Offences Act, 2012 [hereafter '*POCSO Act*']. Guidelines were also sought with respect to cases involving Child Sexual Abuse Material of unidentified child/children online or offline. The PIL came to be listed before the Division Bench-I.

2. By way of judgment dated 09.05.2024, the Division Bench–I observed that the prayer seeking formulation of guidelines for the benefit of POCSO Special Courts dealing with cases involving Child Sexual Abuse Material of unidentified child/children was not required to be considered in the present case, as sufficient legal

provisions already exist to deal with such situations. It was further noted that, *vide* the impugned order, the learned Sessions Court had held that the provisions of Section 15(2) of the POCSO Act could not be invoked against the accused persons in the absence of any criteria for determining the age of the children appearing in the pornographic videos and photographs. On that basis, the learned Sessions Court had discharged the said respondents of the offence under Section 15(2) of the POCSO Act. Division Bench–I, after taking note of the scheme of the POCSO Act and certain judicial precedents, expressed a *prima facie* view that the findings recorded in the impugned order suffered from manifest illegalities and had resulted in miscarriage of justice.

3. Accordingly, the PIL was converted into the present *suo motu* revision petition and was thereafter listed before this Court. During the course of proceedings, the Union of India was deleted from the array of parties, and an amended memo of parties was placed on record. The trial court proceedings were stayed *vide* order dated 21.05.2024.

FACTUAL BACKGROUND

4. The facts of the case, in brief, are that upon receiving information from a reliable source, an FIR bearing No. RC-20(S)/2021/CBI/SC-III/New Delhi was registered by the Central Bureau of Investigation (CBI) against Raman Gautam (respondent no. 2), one Rakesh Kumar, and other unknown persons for

commission of offences under Section 67B of the Information Technology Act, 2000 [hereafter '*IT Act*'] read with Section 120B of the Indian Penal Code, 1860 [hereafter '*IPC*']. It was alleged that the said accused persons were involved in transmitting, storing, and viewing Child Sexual Exploitation Material [hereafter '*CSEM*'] by sharing links, videos, pictures, texts, and posts, and by hosting such content on social media groups/platforms and third-party storage or hosting platforms.

5. Pursuant to the registration of the FIR, a search under Section 165 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] was conducted on 16.11.2021 at the residence of respondent no. 2 herein. During the search, a hard disk and a mobile phone 'Realme 3 Pro' were seized. Upon scrutiny of the mobile phone, it was revealed that one Sandeep Singh @ Lovely (respondent no. 3 herein) had been transmitting CSEM to respondent no. 2. On the same day, i.e., 16.11.2021, respondent no. 3 was also traced, and two mobile phones recovered from him were searched. The examination of these devices revealed that he had stored pornographic material involving children and had also shared/transmitted the same with two other WhatsApp users. During the course of investigation, upon scrutiny conducted in the presence of independent witnesses, it was established that mobile number 9540026597 was being used by respondent no. 2, which had been issued in his name. It was further revealed that he had become a member of various WhatsApp groups wherein CSEM, along with other pornographic material, was being shared. The said material was

received by him from respondent no. 3, who was using WhatsApp with mobile number 7827167203.

6. As per the charge-sheet, 34 videos from the mobile phone of respondent no. 2 and 14 videos from the hard disk seized from him were collected, which depicted children in a sexually explicit manner. During investigation, it was also established that the user of three mobile numbers, i.e. 9540067545, 8882301205, and 7827167203, was respondent no. 3. It was further revealed that 23 videos and 2 videos were recovered from his two mobile phones respectively, and these videos also depicted children in a sexually explicit manner.

7. After collection of the evidence against respondent nos. 2 and 3, both of them were chargesheeted for offences under Section 15(2) of the POCSO Act, Section 67B of the IT Act, and Section 120B of the IPC.

8. The learned Sessions Court, by way of the impugned order, discharged both the accused persons of the offence under Section 15(2) of the POCSO Act.

9. The learned Sessions Court, *inter alia*, observed that the child/children appearing in the alleged pornographic videos were unidentified, i.e., their names, parentage, and place of residence were not known. It was further observed that no documents were available, for obvious reasons, to establish the age of the victims since the children were unidentified. The learned Sessions Court also noted that no scientific or medical test had been conducted to determine the

age of the child/children visible in the photos/videos. The learned Sessions Court further observed that had the victims been identifiable in the present case, then even in the absence of age-related documents, their age could have been determined through methods such as bone age test, examination of wisdom teeth, radiographic techniques, or any other scientific test. In such a situation, the provisions of Section 15(2) of the POCSO Act could have been invoked. However, in the absence of any such determination of age, the learned Sessions Court held that the mandatory criteria for establishing that the persons depicted were children had not been satisfied, and therefore the provisions of Section 15(2) of the POCSO Act could not be invoked.

10. These findings of the learned Sessions Court, in the context of Section 15(2) of the POCSO Act, are presently under consideration and scrutiny before this Court.

SUBMISSIONS BEFORE THE COURT

11. The learned Amicus Curiae submits that respondent nos. 2 and 3 were erroneously discharged of the offence under Section 15(2) of the POCSO Act solely on account of absence of documentary proof or physical verification of the age of the children depicted in the recovered pornographic videos and images. It is submitted that the said respondents were actively involved in circulating, storing, and viewing CSEM, including by sharing links, videos, pictures, text, and posts, and by hosting such content on various social media groups

and platforms. It is pointed out that 34 pornographic videos were retrieved from the mobile phone of respondent no. 2 and 14 videos from the hard disk seized from him, all depicting children engaged in sexually explicit acts. Similarly, 23 videos were recovered from one mobile phone of respondent no. 3 and 2 videos from another mobile phone, which also depicted children in sexually explicit conduct. It is further submitted that respondent no. 3 had been transmitting such material to other WhatsApp users through his account. It is contended that the learned Sessions Court discharged the respondents on the premise that the applicability of the POCSO Act depends upon establishing whether the persons appearing in the videos qualify as a 'child', and that in the absence of documentary proof or physical presence of the victims for age verification, such determination could not be made. The learned Amicus Curiae submits that such reasoning defeats the very object of the POCSO Act, since discharging accused persons merely because the children depicted in such material are unidentified and their age cannot be determined through conventional methods would result in grave miscarriage of justice in cases involving unidentified child victims exploited in pornographic material. It is further submitted that the learned Sessions Court failed to duly consider the expert opinions of two doctors who had opined that the persons appearing in certain videos appeared to be children below the age of 18 years. It is also submitted that conducting medical or scientific age determination tests was not feasible in the present case since the victims were unidentified and had not appeared

before the Court.

12. The learned SPP appearing for the CBI supports the submissions advanced on behalf of the petitioner and submits that the order passed by the learned Sessions Court is perverse. It is argued that the law does not mandate the identification or physical presence of the child for the purpose of invoking Section 15(2) of the POCSO Act, and that the definition of 'child' under Section 2(d) of the POCSO Act cannot be applied in such a rigid manner so as to defeat the purpose of the statute.

13. Conversely, the learned counsel appearing for respondent no. 2 vehemently opposes the present petition and submits that there is no infirmity in the detailed and reasoned order passed by the learned Sessions Court. It is argued that there is no material on record to establish that the individuals depicted in the alleged CSEM are children, i.e., below the age of 18 years. It is contended that in the absence of any such proof or material, the offence under Section 15(2) of the POCSO Act cannot be invoked or charges framed against the accused persons.

14. This Court has **heard** arguments addressed by the learned *amicus curiae*, the learned SPP for the CBI and the learned counsel for respondent no. 2, and has perused the material placed on record.

ANALYSIS *&* FINDINGS

15. In the present case, respondent nos. 2 and 3 were chargesheeted for commission of offences under Section 15(2) of the

POCSO Act, Section 67B of the IT Act, and Section 120B of the IPC. However, the learned Sessions Court subsequently discharged respondent nos. 2 and 3 in respect of the offence under Section 15(2) of the POCSO Act.

A. Section 15(2) of POCSO Act

16. At the outset, it would be appropriate to examine the circumstances in which Section 15(2) of the POCSO Act is attracted. Section 15(2) of the POCSO Act reads as under:

> "**15. Punishment for storage of pornographic material involving child.—**
>
> (1) x x x
>
> (2) Any person, who stores or possesses pornographic material in any form involving a child for transmitting or propagating or displaying or distributing in any manner at any time except for the purpose of reporting, as may be prescribed, or for use as evidence in court, shall be punished with imprisonment of either description which may extend to three years, or with fine, or with both."

17. A reading of the aforesaid provision indicates that the following essential ingredients must be satisfied for the purpose of attracting Section 15(2) of the POCSO Act:

(i) First, the person must store or possess pornographic material in any form which depicts a child in a sexually explicit manner.

(ii) Second, such storage or possession must be for the purpose of transmitting, propagating, displaying, or distributing such material in any manner.

(iii) Third, the provision carves out an exception where such material is stored or possessed solely for the purpose of reporting the matter, as may be prescribed, or for use as evidence before a court of law.

18. In the present case, it is noteworthy that during the course of investigation, the mobile phones of respondent nos. 2 and 3 were examined and data was recovered therefrom. The material collected during investigation *prima facie* indicates the possession and storage of pornographic material depicting children engaged in sexually explicit acts. Specifically, 34 such videos were retrieved from the mobile phone of respondent no. 2 and 14 videos from the hard disk seized from him. It was also revealed during investigation that respondent no. 2, using mobile number 95******97, was a member of multiple WhatsApp groups wherein such CSEM was being circulated.

19. Insofar as respondent no. 3 is concerned, two mobile phones were seized from him, from which a total of 25 videos were recovered, which also depicted children engaged in sexually explicit acts. The investigation further revealed that respondent no. 3 had transmitted such CSEM to respondent no. 2 and other WhatsApp users through mobile number 78******03.

20. Thus, the essential ingredients of Section 15(2) of the POCSO Act appear to be *prima facie* satisfied, inasmuch as respondent nos. 2 and 3 were allegedly found to be in possession of pornographic

videos depicting children in sexually explicit acts, and were also involved in transmitting the same to other WhatsApp users.

B. Meaning of 'Child' under POCSO Act

21. At this stage, it would also be appropriate to examine how the age of a child is determined for the purposes of the POCSO Act.

22. The legislature had enacted the POCSO Act with the object of safeguarding children from offences of sexual assault, sexual harassment, and pornography. A foundational requirement for the applicability of the POCSO Act is that the alleged offence must have been committed against a child. It is only upon satisfaction of this essential condition that the provisions of the Act can be invoked.

23. The expression 'child' has been specifically defined under Section 2(1)(d) of the POCSO Act, which reads as follows:

> "child means any person below the age of eighteen years"

24. Thus, the definition of "child" under the POCSO Act makes it clear that any individual who has not attained the age of 18 years is to be regarded as a child. Consequently, before invoking the provisions of the POCSO Act, it becomes necessary to determine whether the alleged offence has been committed against a person who was below the age of 18 years at the relevant time.

25. The determination of the age of the victim for the purposes of the POCSO Act is governed by Section 34 of the Act. The said provision makes it clear that the Special Court is required to satisfy

itself regarding the age of the person concerned and record reasons in writing for such determination. Section 34 of the POCSO Act reads as follows:

> "**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 1 [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.

26. The criteria for determining the age of an individual for the purpose of ascertaining whether he or she is a child is further provided under Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The said provision lays down the procedure to be followed for age determination and provides as follows:

> "**94. Presumption and determination of age.**
>
> (1) x x x
>
> (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.
>
> (3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

27. However, the aforesaid procedure ordinarily applies in situations where the victim child is identifiable or traceable before the Court. In the impugned order, the learned Sessions Court has placed reliance on the decision of the Hon'ble Supreme Court in ***Yuvaprakash v. State of T.N.:*** *(2024) 17 SCC 684*, wherein it was observed that the determination of age must be carried out in terms of Section 34 of the POCSO Act read with Section 94 of the JJ Act. However, what the learned Sessions Court has failed to take into consideration is that the said decision pertained to an offence under Section 6 of the POCSO Act, which prescribes punishment for aggravated penetrative sexual assault. In that case, the victim was identified, traceable, and physically available before the Court, and therefore the question of determining the age of the victim through the procedure prescribed under the statute had directly arisen.

C. Interpretation of 'Child' in the Context of Child Pornographic Material under the POCSO Act

28. In contrast, the present case concerns the applicability of Section 15(2) of the POCSO Act, which deals with punishment for

storing, collecting, and further transmitting CSEM. In cases of this nature, the victims depicted in such material are most often unidentified and untraceable; their parentage and addresses remain unknown, and they cannot be produced before the Court. In such circumstances, the rigid application of the age-determination procedure under Section 34 of the POCSO Act read with Section 94 of the JJ Act would be wholly impractical and unjust. Applying such stringent requirements would effectively deny justice to the victims, as most would never be traced for obvious reasons, thereby rendering the protective framework of the law ineffective.

29. In the impugned order, the learned Sessions Court discharged respondent nos. 2 and 3 of the offence under Section 15(2) of the POCSO Act on the ground that no documentary proof regarding the age of the persons appearing in the videos was available before the Court and that no medical or scientific test had been conducted to ascertain their age.

30. However, in the considered opinion of this Court, the learned Sessions Court erred in adopting this approach, as it failed to take into consideration the scope and import of Section 2(1)(da) of the POCSO Act, which specifically defines what constitutes 'child pornography'. Section 2(1)(da) of the POCSO Act defines 'child pornography' in the following terms:

> "child pornography means any visual depiction of sexually explicit conduct involving a child which include photograph, video, digital or computer generated image indistinguishable

> from an actual child and image created, adapted, or modified, but appear to depict a child"

31. The aforesaid provision makes it clear that child pornography includes any visual depiction showing a child engaged in sexually explicit conduct. Importantly, the definition also covers images which are created, adapted, or modified, but appear to depict a child.

32. The expression "appear to depict a child" used in Section 2(1)(da) is of significance. It indicates that, for the purposes of determining whether a particular visual depiction falls within the ambit of child pornography, the Court may undertake a *prima facie* assessment of the material itself to determine whether the person appearing in the depiction appears to be a child.

33. The Hon'ble Supreme Court in the case of ***Just Rights for Children Alliance v. S. Harish:*** *2024 SCC OnLine SC 2611,* has categorically held that for determining whether a visual depiction of a sexually explicit act involves a child, the Court is required to apply the test of *subjective satisfaction*. The relevant observations of the Hon'ble Supreme Court are reproduced below:

> "**131.** Thus, any visual depiction of a sexually explicit act which any ordinary person of a prudent mind would reasonably believe to *prima facie* depict a child or appear to involve a child, would be deemed as 'child pornography' for the purposes of the POCSO. **Therefore, for any offence under the POCSO that relates to child pornographic material, such as Section 15, the courts would only be required to form a *prima facie* subjective satisfaction that the material appears to depict a child from the perspective of any ordinary prudent person. Such satisfaction may be arrived at from any authoritative and definitive opinion such as**

> **through a forensic science laboratory (FSL) report of such material or from any expert opinion on the material in question, or by the assessment of such material by the courts themselves, depending on the peculiar facts and circumstances of each case**."

34. Further, it must be borne in mind that Section 15 of the POCSO Act cannot be interpreted in isolation and must be read in conjunction with Section 2(1)(da) of the Act. The introduction of Section 2(1)(da) reflects a clear legislative intent that rigid or strictly objective standards for determining the precise age of a person visually depicted in a sexually explicit act should not impede the operation of Section 15. Any interpretation to the contrary would defeat the very purpose for which the provision was enacted. It is evident that the legislature was conscious of the practical difficulty involved in ascertaining the exact age of individuals appearing in such visual depictions. Had strict age-determination criteria been insisted upon in every case, the application of Section 15 would have been rendered largely ineffective. Section 2(1)(da) was therefore incorporated to ensure that offences relating to CSEM are not frustrated merely because the age of the person depicted cannot be established through conventional or objective means.

35. In the majority of cases involving CSEM, the children depicted remain unidentified and untraceable, and therefore cannot be produced before the Court. In such circumstances, it becomes practically impossible to obtain documentary proof of age or to conduct any medical or scientific test for age determination. If, on

this ground alone, accused persons are discharged of offences under Section 15(2) of the POCSO Act, it would have far-reaching consequences and would leave countless children unprotected – children who may not even be aware that sexually explicit videos depicting them are circulating online and being viewed by numerous individuals. Such an approach would defeat the very object and purpose of Section 15 of the POCSO Act, since the prosecution would fail at the very threshold merely due to the inability to conclusively determine the age of the child depicted.

36. In this regard, the Supreme Court in ***Just Rights for Children Alliance v. S. Harish*** *(supra),* has made the following observations:

> "**137**. The test or criteria of 'subjective satisfaction' is in view of the practical difficulty that exists in conclusively establishing the age of an individual in any pornographic material through any objective means or criteria. This is owed to the fact that often, it is next to impossible to establish the identity of the victim, then to trace the whereabouts of such person, and then objectively determine their age. If such a criterion is adopted, then most of the cases pertaining to the possession of any child pornographic material would fail at the threshold, due to want of any means or information for conclusively proving the age of the victim.
>
> **138**. The aforesaid aspect may be looked at from one another angle. Any mandate of an objective determination of the age by conclusive means, could possibly result in absurd consequences. For instance, say a pornographic material involves an under-teen child who by virtue of his built on the face of it appears to be a child, yet such material will not be considered child pornographic material in the eyes of law, unless an objective determination of the exact age of such child is carried out in a conclusive manner. In the absence of any such determination, the prosecution of possession of such material would have to fail, merely due to technicalities and the

inflexible character of the criteria or test for determining the age.

139. The aforesaid provision of Section 2(1)(da) of the POCSO holds significant importance, as the legislature whilst giving teeth to the existing provision of Section 15 of the Act, and making three distinct offences punishable under it through the 2019 Amendment Act, also consciously defined the term 'child pornography' under the POCSO through the very same amendment. It indicates the legislature's intention of construing both these provisions together as a whole; neither Section 15 of the POCSO nor Section 2(1)(da) can be interpreted or invoked in isolation from the other.

140. The legislature through Section 2(1)(da) of the POCSO, made a conscious departure from the already existing objective criterion of determination of age in terms of Section 2(1)(d) which is generally applicable to the POCSO, as it was alive to aforementioned inherent difficulty that is posed by such criteria. The legislature was well aware, that if the proof of age in offences pertaining to child pornography such as under Section 15 of the POCSO would also have to be assessed by the existing objective test, it would lead to a very chilling effect, whereby the entire Section 15 of the POCSO could be rendered unworkable merely on account of a hyper-technical approach as to determination of age, thereby defeating the very object of the POCSO."

D. Application of the Test of Subjective Satisfaction to the Material on Record

37. Coming to the factual matrix of the present case, the opinion of two experts, namely Dr. Rachna Sharma (PW-9), Senior Specialist, Department of Obstetrics and Gynaecology, Maulana Azad Medical College and Lok Nayak Hospital, New Delhi, and Dr. Sreenivas M. [PW-9(1)], Director Professor & HOD, Department of Forensic Medicine, Maulana Azad Medical College, New Delhi, was obtained during the course of investigation. The pornographic videos

recovered from the mobile phones of respondent nos. 2 and 3 were shown to the said experts. After examining the material, both experts opined that, on the basis of developmental characteristics such as physical development, genital development, and secondary sexual characteristics, some of the persons appearing in the videos and photographs were children below the age of 18 years. The relevant portion of the expert opinion reads as follows:

> "**After perusal of the said files (videos/photos), and noting the developmental characteristics of the persons involved including physical development, genital developrièmt and secondary sexual characteristics, it is opined by me that some of the persons are children i.e. below the age of 18 years.**"
>
> (emphasis added)

38. Further, a team consisting of Saurabh Singh (PW-6), Senior Program Coordinator, Manish Kumar, Senior Program Coordinator, and Ms. Princy Goel (PW-7), Senior Program Coordinator, from the Delhi Commission for Women, was constituted to assist the CBI during the course of investigation. The statements of PW-6 and PW-7 were recorded under Section 161 of the Cr.P.C. after they were shown the videos and photographs recovered from the mobile phones and hard disk of respondent nos. 2 and 3. Upon viewing the material, they opined that the videos involved children depicted in an obscene, indecent, and sexually explicit manner.

39. Furthermore, the statement of Rakesh Kumar (PW-3), who was acquainted with respondent no. 3, reveals that respondent no. 3 used to routinely transmit adult sexually explicit videos to him, which PW-

3 would watch and subsequently delete. He also stated that in September 2021, respondent no. 3 had sent a sexually explicit video from mobile number 78******03 depicting children engaged in sexual activities, after which PW-3 had asked him not to send such videos.

40. Therefore, the statements recorded during the course of investigation, the expert opinions, and the other material placed on record *prima facie* indicate that the videos recovered from the mobile phones and hard disk of respondent nos. 2 and 3 depict children engaged in sexually explicit acts. Consequently, the test of *subjective satisfaction* stands duly met, insofar as the material in question appears to depict children in sexually explicit acts.

41. Further, the electronic devices belonging to respondent nos. 2 and 3 were duly seized and sent for forensic examination to the Central Forensic Science Laboratory (CFSL). A forensic report dated 28.03.2024 was thereafter received, which records that respondent no. 2 had received CSEM from respondent no. 3. The report further confirms that respondent no. 2 had stored and collected CSEM, in the form of images and videos, on his mobile phone as well as on a hard disk. The CFSL report also establishes that respondent no. 3 had likewise stored and collected CSEM, in the form of images and videos, on both mobile phones seized from his possession.

E. The Decision

42. To conclude, this Court finds that the learned Sessions Court

erred in discharging respondent nos. 2 and 3 of the offence under Section 15(2) of the POCSO Act solely on the ground that the age of the children depicted in the CSEM had not been conclusively determined. The learned Sessions Court failed to give due consideration to the opinions of two experts, who had categorically opined that the pornographic videos depicted children engaged in sexually explicit acts. The said expert opinions clearly satisfy the test of *subjective satisfaction*, which was not properly appreciated by the learned Sessions Court. Further, this Court is of the considered view that upon a perusal of the material placed on record along with the chargesheet, it *prima facie* emerges that respondent nos. 2 and 3 had stored and possessed CSEM and had also transmitted the same through various WhatsApp groups. The material collected during investigation thus sufficiently satisfies the essential ingredients of Section 15(2) of the POCSO Act, at the stage of charge.

43. Accordingly, respondent nos. 2 and 3 are liable to be charged for the offence under Section 15(2) of the POCSO Act, in addition to the offences under Section 67B of the IT Act and Section 120B of the IPC.

44. The impugned order dated 01.09.2023 is therefore set aside to the extent that it discharges respondent nos. 2 and 3 of the offence under Section 15(2) of the POCSO Act. The learned Sessions Court is directed to frame charges against respondent nos. 2 and 3 for the offence under Section 15(2) of the POCSO Act and to proceed with

the trial in accordance with law.

45. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 04, 2026/
TD/TS/RB