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

Date of Decision: 30th October, 2025

+ **CRL.A. 148/2025**

SHREEDHAR LAXMAN RANGARIAppellant

Through: Ms. Rishina Parashar, Mr. Rohan
Sharma and Ms. Elisha P., Advocates.

Versus

STATE (GOVT OF NCT), DELHIRespondent

Through: Mr. Amit Ahlawat, APP.
SI Neelam, P.S. Swaroop Nagar.
Mr. Arvind Kumar, Advocate for
prosecutrix.
Ms. Inderjeet Sidhu (DHCLSC)
(Amicus Curiae) and Mr. Lalit
Choudhary, Advocates for
prosecutrix.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present appeal under Section 415(2) of Bharatiya Nagarik Suraksha Sanhita, 2023,¹ assails judgement of conviction dated 10th November, 2023 and the order on sentence dated 2nd May, 2024, passed by ASJ (SC-POCSO), North District, Rohini Courts, Delhi, in Sessions Case No. 299/2020, titled “*State v. Shreedhar Laxman Rangari*”. The case arises

¹ “BNSS”



from FIR No. 457/2020 registered at Police Station Swaroop Nagar for offences under Sections 376 and 506 of the Indian Penal Code, 1860,² and Section 6 of the Protection of Children from Sexual Offences Act, 2012.³ The Appellant was held guilty under Section 376(2) IPC and Section 5(n) read with Section 6 of the POCSO Act, and sentenced to rigorous imprisonment for 30 years with a fine of INR 2,000, and in default thereof, to simple imprisonment for one month.

FACTUAL BACKGROUND

2. The relevant facts, in brief, are as follows:

2.1. The victim “J”, aged 16 years, along with her mother “S”, lodged a complaint against the Appellant Shreedhar, her maternal uncle, who had been residing with their family for the past 16 years. She alleged that about three years earlier, when she was alone at home, the Appellant came to her room, touched her inappropriately, and thereafter committed sexual intercourse with her against her will. She stated that despite her resistance and protest, the Appellant continued to sexually assault her on several occasions over the next three years, threatening that she would herself be defamed if she disclosed the matter.

2.2. She further stated that in July, 2020, the appellant travelled to his native place in Maharashtra and returned on 26th September, 2020. On that date, at about 4:00 p.m., while her parents were at work and her siblings were playing outside, the appellant allegedly entered her room and committed rape. She said she immediately disclosed the incident to her friend “A” over the phone; the friend informed her mother, whereupon the

² “IPC”

³ “POCSO Act”



victim revealed the entire matter to her.

2.3. On the basis of the complaint, the FIR was registered. The victim was medically examined, and exhibits were collected. The Appellant was arrested on 28th September, 2020, and also medically examined.

2.4. Upon completion of investigation, a chargesheet was filed; by order dated 5th April, 2021, charges were framed under Sections 376 and 506 (Part I) of the IPC and Section 5(n) read with Section 6 of the POCSO Act *vide* order dated 5th April, 2021.

2.5. The prosecution examined four witnesses: the victim (PW-1), her mother (PW-2), HC Sunita (PW-3), and SI Priyanka (PW-4). Their depositions broadly are as follows:

PW No.	<i>Name of the witnesses</i>	<i>Deposition of witnesses</i>
PW-1	The victim/victim /“J”	Deposed that her maternal uncle/accused residing with her family for 16 years, sexually assaulted her for three years. The final incident in Sep 2020 led to her telling her friend ‘A’, who informed her mother, resulting in the police statement.
PW-2	Smt “S” (Mother of the victim)	Deposed that she was informed by her daughter’s friend ‘A’ on 26 th September, 2020, that the Appellant (her cousin), who lived with them, had been sexually assaulting the victim for three years. After the victim confirmed the abuse, she took her to the police station the next day to file a complaint.
PW-3	HC Sunita	Accompanied the victim for medical examination and was present when the investigating officer seized the victim's exhibits (evidence) via seizure memo Ex PW3/A.
PW-4	SI Priyanka	The Initial IO; recorded the victim’s statement (making endorsement for FIR), seized the victim’s and accused’s exhibits, prepared the site plan, arrested the accused,



		got the victim's statement recorded under S. 164 Cr.P.C., and later sent case properties to the FSL.
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2.6. After the conclusion of the prosecution evidence, the statement of the Appellant was recorded under Section 313 of the Code of Criminal Procedure, 1973⁴ wherein he denied the allegations made against him. The Appellant did not lead any evidence in defence.

2.7. Upon determining the age of the victim and considering the depositions of the witnesses, the Trial Court found the testimony of the victim to be clear, consistent, and credible. Having regard to the statutory presumptions under Sections 29 and 30 of the POCSO Act, the Court concluded that the Appellant had committed penetrative sexual assault upon the victim and accordingly convicted and sentenced him as noted above.

SUBMISSIONS

Appellant's submissions

3. Counsel for Appellant makes the following submissions to assail the order:

3.1. The Appellant has been falsely implicated. He had always treated the victim as his daughter and had only objected to the victim's friendship with one 'A'. Out of resentment, the victim, in connivance with her friend, lodged a false complaint. In cross-examination, PW-1 (victim) admitted that the Appellant had stopped her from communicating with 'A'.

3.2. The Trial Court failed to properly appreciate the evidence and rested the conviction solely on the basis of the testimonies of PW-1 (the victim) and PW-2 (her mother), which suffer from material inconsistencies,

⁴ "CrPC"



omissions, and improvements. In particular, PW-1 did not specify basic particulars (date/time) of the alleged first incident, thereby undermining that part of her account.

3.3. The conviction, rests exclusively on the solitary testimony of PW-1 without independent medical or scientific corroboration. While the law does not insist on corroboration in every case, prudence requires that the prosecutrix's evidence must inspire confidence and meet the "sterling witness" test; the internal inconsistencies and omissions do not permit such unqualified acceptance. Moreover in absence of corroboration, courts should be slow to uphold a conviction where the testimony lacks the ring of truth.

3.4. The prosecution did not examine the victim's friend 'A', who allegedly first informed the victim's mother about the incident and set the criminal process in motion. Non-examination of this material witness vitiates the prosecution version and renders the investigation incomplete.

3.5. The Trial Court ignored the medical record that indicates that the Appellant was suffering from erectile dysfunction for the past five years. The potency test report dated 30th September, 2020, supports this plea, yet the Court failed to consider its evidentiary value or the resulting reasonable doubt.

3.6. The Trial Court erred in relying solely on the uncorroborated testimony of the victim without exercising the caution mandated by the Supreme Court in *State (NCT of Delhi) v. Vipin @ Lalla*,⁵ wherein it was held that courts must seek corroboration from material evidence when resting conviction solely on a victim's statement.

3.7 While the prosecution is bound to prove its case beyond reasonable



doubt, the defence is only required to establish a plausible alternative on a preponderance of probabilities. The Trial Court failed to apply this settled standard and overlooked Appellant's defence.

3.8 The Trial Court, diluted the presumption of innocence and the prosecution's burden of proving guilt beyond reasonable doubt by treating the statutory presumption under Section 29 POCSO as operative ab initio. The presumption arises only after the prosecution first proves the foundational facts: age, occurrence, identity, and the nature of the act, through reliable evidence. Until then, the presumption of innocence remains undisturbed. Even where statutory presumptions exist, courts have cautioned against reversing the fundamental burden or overlooking reasonable doubt. On this footing, it is submitted that the Trial Court misapplied Section 29 and failed to subject the evidence to the exacting standard required for a conviction. Reliance is placed on the judgments in *Narender Singh Vs State of M.P.*⁶, *Ranjit Sing Brahmajeet Sing Sharma Vs State of Maharashtra*,⁷ and *Rajesh Ranjan Yadav Vs C.B.I.*⁸.

Respondents' submissions

4. On the other hand, Mr. Amit Ahlawat, APP for the State; Mr. Arvind Kumar, counsel for the victim; and Ms. Inderjeet Sidhu (DHCLSC), Amicus Curiae appointed by this Court, have been heard. Their submissions are summarised as follows:

4.1. The Trial Court has correctly appreciated and analysed the statements of the victim and other prosecution witnesses, and its findings are well-

⁵ 2025 SCC OnLine SC 78

⁶ 2004 (10) SCC 699

⁷ 2005 (5) SCC 294

⁸ 2007 (1) SCC 70



reasoned and based on settled legal principles.

4.2. The law is well-established that the conviction for sexual offences can rest solely on the testimony of the victim, provided it inspires confidence and is of sterling quality.

4.3. The testimony of the victim is clear, cogent, and consistent. Minor discrepancies, if any, are natural and immaterial, and do not detract from the overall reliability of her account.

4.4. The statement of the victim (PW-1) stands duly corroborated by the testimony of her mother (PW-2), who has consistently deposed regarding the disclosure made by the victim immediately after the incident. The testimonies of both witnesses are mutually consistent and reinforce each other.

4.5. The cross-examination of PW-1 and PW-2 did not elicit contradictions or material inconsistencies. Both PW-1 and PW-2 remained unshaken and fall within the category of reliable witnesses.

4.6. Foundational facts: age of the victim, identity of the accused, and the act constituting penetrative sexual assault, stand established on the record. Therefore, the statutory presumptions under Sections 29 and 30 of the POCSO Act operate. The appellant has not displaced these presumptions even on a preponderance of probabilities.

4.7. As regards the plea of impotence, the medical report relied upon by the Appellant merely records his self-stated history and contains no medical conclusion of impotency. The Appellant neither underwent the further test advised by the doctor nor examined any medical expert. The plea is therefore based on factual assertion which has not been proved in trial.

4.8. The Trial Court has rightly held that the absence of medical or



forensic corroboration is not fatal to the prosecution, as the trustworthy and credible testimony of the victim, supported by her mother's account, is sufficient to sustain conviction.

ANALYSIS

I. Age of the Victim and Applicability of POCSO

5. First and foremost, the age of the victim merits consideration. The victim's date of birth was verified during investigation as 3rd July, 2004 on the strength of school records produced by the prosecution. The Principal of the concerned school issued a certificate reflecting the same date of birth. Relying on these documents, the Trial Court rightly concluded that the victim was a minor on the date of registration of the FIR. This finding has not been disputed in appeal. Accordingly, on the date of lodging of the FIR, and, by the victim's account, during the preceding period of about three years, the victim was a "child" within the meaning of the POCSO Act.

6. Once minority is established, two consequences follow. First, prosecution lies squarely within the POCSO framework, and any purported "consent" in the victim's statements under Sections 161/164 CrPC or at trial is legally ineffectual to negate the offence. Second, upon proof of foundational facts (age, identity of the accused, and the factum of the sexual act), a reverse-burden regime under Sections 29 and 30 applies: culpability and the requisite mental element are presumed, subject to rebuttal on a preponderance of probabilities. The presumptions do not arise unless the foundational facts are first established by reliable evidence, and they cannot be displaced by conjecture or minor discrepancies.

II. Testimony of the Victim

7. With minority established and the statutory presumptions under the



POCSO Act noted, the next question is whether the prosecution proved the foundational facts: age, occurrence, identity, and the nature of the act, beyond reasonable doubt on the trial record. This requires appraisal of the medical, documentary, and oral evidence.

8. The MLC records the allegations but does not yield scientific corroboration. The absence of findings is contemporaneously explained in the MLC as follows: “*The survivor has taken bath and has changed her clothes today. Survivor menstruating today*” The evidentiary effect of a negative or neutral MLC is necessarily fact-sensitive. The absence of medical injuries or forensic recovery is not, by itself, fatal in a sexual-offence prosecution; it places greater emphasis on the quality of the oral evidence and the surrounding circumstances (timing of examination, nature of the allegation, and consistency across statements).

9. The analysis therefore turns to the testimonies, foremost the victim’s. The settled position is that a conviction for sexual offences may rest on the sole testimony of the prosecutrix, provided it inspires confidence; corroboration is a matter of prudence, not a rule.⁹ In ***Rai Sandeep v. State (NCT of Delhi)***,¹⁰ the Supreme Court articulated the concept of a “sterling witness”, whose account inspires confidence and withstands scrutiny even without independent corroboration. Likewise in ***Nirmal Premkumar v. State***,¹¹ the Court explained that oral testimony may fall into three categories: wholly reliable, wholly unreliable, or falling in between, clarifying that a victim whose testimony is clear and consistent belongs to the first class, where no further corroboration is required as a matter of law :

⁹ Ganesan v State Represented by its Inspector of Police CrI. Appeal No. 680/2020 (SC) (14 Oct 2020)

¹⁰ (2012) 8 SCC 21.



“11. Law is well settled that generally speaking, oral testimony may be classified into three categories, viz.: (i) wholly reliable; (ii) wholly unreliable; (iii) neither wholly reliable nor wholly unreliable. The first two category of cases may not pose serious difficulty for the Court in arriving at its conclusion(s). However, in the third category of cases, the Court has to be circumspect and look for corroboration of any material particulars by reliable testimony, direct or circumstantial, as a requirement of the rule of prudence.”

xx...x....x...

13. The Court can rely on the victim as a “sterling witness” without further corroboration, but the quality and credibility must be exceptionally high. The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistencies excepted), from the initial statement to the oral testimony, without creating any doubt qua the prosecution’s case. While a victim’s testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded.”

[Emphasis supplied]

10. With these touchstones, the victim’s statements must be examined sequentially, across the initial version, statements recorded during the investigation, and deposition, to assess consistency on material particulars and the overall probability of the prosecution narrative.

11. A composite reading of the Section 161 and Section 164 statements, together with the history recorded in the MLC, shows a steady narrative over time: the assailant is consistently identified as the Appellant; the nature of the acts is described in clear terms; the period of occurrence is stated as extending over about three years; and the reason for delayed disclosure is attributed to fear and intimidation, followed by disclosure to a friend and then to the mother. Any minor variations are of the kind ordinarily encountered in human recollection and do not, on this record, impair the overall consistency of the account on material particulars.

¹¹ 2024 SCC OnLine SC 260.



12. The next question is whether cross-examination yielded any material contradiction. The cross-examination of PW-1 is brief. The relevant extract reads:

“XXX by Sh. Yashvir Singh, Ld. LAC for the accused.

Mein apni mummy ke saath 27.09.2020 ko sham ke samay police station gai thi. ‘A’ hamare saath police station nahi gaya tha. Thane mein sabse pehle Priyanka Madam mili thi. Priyanka Madam apne room mein lekar gai thi. Priyanka Madam ke saath ek aur police uncle thay. Priyanka Madam civil uniform mein thi. Jab police aunty ne mere bayan likhe tab meri mumm aur ek police uncle thay, jo police uniform mein thay. Mera bayan likhne mein karib adha ghanta laga tha. Mere bayan ke samay mummy mujhe aaram se batane ke liye bol rahi thi. Bayan likhne ke baad hum hospital gaye. ‘A’ wahan par nahi aaya tha.

Yeah complaint likhwane se pehle ‘A’ se meri 01 pehle se dosti hai. ‘A’ mujse 02 saal bada hai. ‘A’ mere school mein nahi padta, humari online app par friendship hui thi. Yeah kehna galat hai ki maine police complaint yaa mein jo aaj bayan de rahi hu, apni mummy aur police aunty ke kehne par de rahi hu (Vol. Mere saath jo hua hai wah sab sach bataya hai). Yeah baat theek hai ki accused ko complaint likhwate hi same day arrest kar liya tha. Mere thane mein bethne ke daura hi accused ko pakad kar le aaye thay. Yeah baat theek hai ki accused ne mujhe ‘A’ se baat karne ke liye mana kiya tha. Yeah kehana galat hai ki jab accused ne mujhe ‘A’ se baat karne ke liye mana kiya, toh maine aur ‘A’ ne milkar, mummy ko jhooti kahani batayi aur accused ko iss jhoote case mein phasa diya. Meri mummy ne mujhe ‘A’ se milne se mana nahi kiya. Police mere ghar investigation karne kabhi nahi aayi. Yeah kehna galat hai ki maine accused ko iss case mein jhoota phasaya hai. Yeah kehna galat hai ki accused ne mere saath kabhi koi galat kaam nahi kiya.”

13. On this cross-examination, no material contradiction touching the core of the prosecution case emerges. PW-1 maintains that her account was truthful and not motivated. She sets out the sequence, visit to the police station with her mother, recording of her statement, and the arrest on the same day. She accepts that the appellant had restrained her from speaking with “A”, yet expressly denies that the allegations were made at his instigation or in collusion with him. None of this disturbs the identity of the



assailant, the nature of the acts alleged, the period of occurrence, or the manner in which the incident was subsequently revealed, as recorded in her Section 161 and Section 164 statements. The presence of a policewoman and the mother during the initial recording is commonplace in child-sexual-offence cases and does not, by itself, suggest tutoring. The statement under Section 164 Cr.P.C. adds an additional assurance of voluntariness. In these circumstances, PW-1's testimony remains consistent on material particulars and inspires confidence.

14. In addition to the testimony of the victim, the deposition of PW-2, her mother, lends material corroboration to the prosecution version. She states that, on receiving a call from the victim's friend "A", she confronted her daughter, who then disclosed the repeated assaults over the preceding three years and the incident of 26th September, 2020. This disclosure sequence accords with PW-1's versions under Sections 161 and 164 Cr.P.C. and with her testimony in court, and thus operates as corroboration on material particulars.

15. The absence of an exact date or time for the first incident does not, in itself, diminish credibility. The allegation is of continuing abuse over a span of years. In such contexts, particularly where the victim is a child, precise recall of dates or a fixed sequence is not reasonably expected. The touchstone is consistency on the core features of the account, which remains intact on this record.

16. At this stage, it would be apposite to briefly advert to the manner in which the Trial Court has examined the evidence:

"47. The submission made by Ld. LAC is correct. As per the MLC, there was no injury on the person of the victim and as per the FSL result, no male DNA profile was generated from the exhibits of the



victim. However, this may be due to several reasons. Mere absence of injuries in the MLC cannot be a ground to hold that penetrative sexual assault did not take place. **'Penetrative sexual assault' and 'rape' are legal terms and these acts do not require the infliction of any injury or even a complete penetration.** Likewise, it is nobody's case that the accused had ejaculated on 26.09.2020 and therefore, the inconclusive FSL result does not imply that the victim was deposing falsely.

48. **It is also settled law that the solitary testimony of a prosecutrix is sufficient for convicting the accused provided the testimony is unimpeachable and trustworthy.** Reliance is placed on the judgment in the case of **Suryanarayana v. State of Karnataka, (2001) 9 SCC 129** wherein it was observed that:

"5. ... The evidence of PW 2 cannot be discarded only on the ground of her being of tender age. The fact of PW 2 being a child witness would require the court to scrutinise her evidence with care and caution. If she is shown to have stood the test of cross-examination and there is no infirmity in her evidence, the prosecution can rightly claim a conviction based upon her testimony of a child witness is not a rule but a measure of caution and prudence. Some discrepancies in the statement of a child witness cannot be made the basis for discarding the testimony. Discrepancies in the deposition, if not in material particulars, would lend credence to the testimony of a child witness who under the normal circumstances, would like to mix-up what the witness saw with what he or she is likely to imagine to have seen..."

(emphasis supplied)

49. Further, in **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745** while upholding the conviction, the Hon'ble Apex Court held:

"13. The **conviction for offence under Section 376 IPC can be based on the sole testimony of a rape victim is a well-settled proposition.** In *State of Punjab v. Gurmit Singh* reported as (1996) 2 SCC 384, referring to *State of Maharashtra v. Chandraprakash Kewalchand Jain* reported as (1990) 1 SCC 550 this Court held that it must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion treating her as if she were an accomplice. It has also been observed in the said decision by Dr.



Justice A.S. Anand (as His Lordship then was), speaking for the Court that the inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliance. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury.”

(emphasis supplied)

50. As noted earlier, **the testimony of victim “J” does not suffer from any inconsistency. It has been tested on the anvil of cross-examination. The statement of the victim is completely credible and believable. The accused has not been able to raise any doubt on the said statement. The victim has described the incident as it happened in detail, not only in her statement recorded by the police but also by the Ld Magistrate under Section 164 CrPC and in her Court testimony. After the prosecution had established the foundational facts, it was for the accused to rebut the mandatory statutory presumption under Section 29 POCSO Act to show that the victim was not truthful, which he has miserably failed to do. There is no reason for this Court to assume that the victim has deposed falsely and reliance should not be placed on her uncorroborated testimony.**

51. Further, PW2/the victim’s mother has deposed that on 26.09.2020 after she received a call from Anurag, she enquired from the victim and the victim told her about the incident of 26.09.2020 and also that she was being sexually assaulted by the accused for the past three years. This narration of the incident by the child victim to PW2 is a relevant fact under Section 8 read with Section 157 of the Evidence Act. In this regard, the attention is drawn to illustration (j) to Section 8 of the Evidence Act, which reads as:

“The question is whether A was ravished. The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made are relevant. The fact that, without making a complaint, she said she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under section 32, clause (I), or as corroborative evidence under section 157.”



52. *Section 157 of the Evidence Act reads:*
“In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved”
53. **Thus the testimony of Smt “S”/PW2 also lends credence to the testimony of the child victim.**
54. **The child victim “J” and her mother were cross- examined by the defence but no inconsistency was brought out.**
55. *Therefore, in the totality of the facts and circumstances of this case, I find that the prosecution has been able to conclusively establish the charge against the accused of his having committed aggravated penetrative sexual assault and repeated rapes on his niece - victim “J” for three years till 26.09.2020 and on 26.09.2020. The repeated nature of the offence makes the act of the accused punishable under Section 376(2) IPC and Section 5(1) read with Section 6 POCSO Act, apart from Section 5(n) read with 6 POCSO Act.”*

17. On a re-appraisal of that reasoning, considering the evidence adduced during trial against the record, this Court finds no misdirection in the Trial Court’s evidentiary appreciation. The absence of injuries or conclusive forensic recovery, as noted in the MLC/FSL, does not, in law, negate a credible prosecution version; it merely shifts focus to the quality of oral evidence and the surrounding circumstances. PW-1’s account remains consistent on material particulars across her Section 161 statement, the Section 164 statement before the Magistrate, and her deposition. PW-2’s testimony aligns with the sequence of events leading to the report of the incident and corroborates the victim’s version on key aspects. Cross-examination did not surface contradictions that strike at the core of identity, occurrence, or the nature of the acts. Therefore, the Trial Court’s reliance on the testimony of PW-1, supported by that of PW-2, accords with settled principles.



18. With these conclusions on the core evidentiary appreciation, the Court turns to the remaining grounds urged in appeal.

III. *Inability to perform sexual acts – Plea of impotency*

19. The Appellant's counsel places considerable emphasis on claim of impotence said to persist for five years which rendered him incapable of penetrative sexual intercourse. In support of this plea, reliance has been placed on the medical examination report of the Appellant, wherein the doctor has recorded the history as stated by him in the following terms:

*“MLC No. E/1694381/20/496564,
No H/o urinary complaint at present
No H/o ejaculatory dysfunction
H/o erectile dysfunction present since 5 years
No H/o surgery/injury to back of (illegible)
No H/o any compr(illegible)
H/o Tobacco Consumption
H/o Alcohol intake present
D/E
Secondary sexual character is well de(illegible)
Eum (N)
Penis(N)
B/C testis (N) & passable
Pt. saying he is not able to achieve penile erection on self-
stimulation.
Adv. --Penile Doppler By inp(illegible)”*

20. The medical report does not record any conclusive finding on the Appellant's alleged impotence. The doctor merely noted the Appellant's self-stated history while observing that his secondary sexual characteristics and genital organs were normal, and recommended a penile Doppler test for further evaluation, which was never undertaken. Therefore, the material on record is insufficient to conclude that the Appellant was incapable of



performing sexual intercourse.

21. The burden of proving this defence rested on the Appellant. He did not examine the doctor, did not subject the author of the MLC to cross-examination, and did not adduce any expert evidence or the advised Doppler study. A bare recitation of history in the MLC cannot, in the absence of corroborative medical evidence, prove impotence on a balance of probabilities, much less create a reasonable doubt about the prosecution case.

22. In any event, under the POCSO framework, “penetrative sexual assault” is established by penetration “to any extent.” The jurisprudence is to the same effect: even the slightest penetration suffices; neither ejaculation nor injury is a legal requirement. The Supreme Court in *Wahid Khan vs. State of Madhya Pradesh*¹², rejected the contention that absence of rupture of the hymen negates the commission of rape. The Court held that, in view of the definition contained in Section 375 of IPC, even the slightest penetration is adequate to attract the offence.

23. A plea premised on inability to maintain erection is therefore legally beside the point unless it rules out penetration altogether, which is not shown here. In view of the above discussion, the plea impotency rendering him incapable of penetrative sexual act is devoid of merit and stands rejected.

IV. Plea of false Implication:

24. The Appellant contends that he has been falsely implicated because he objected to the victim’s friendship with “A”. It is urged that “A”, who first informed the mother, was a material witness and was neither traced nor



examined, rendering the prosecution version doubtful.

25. In the opinion of the Court, the examination of ‘A’ would have been desirable and the Investigating Officer ought to have made greater effort to secure his statement. That said, non-examination of one witness is not, by itself, fatal where the core evidence is otherwise credible (Section 134, Indian Evidence Act, 1872¹³). PW-2’s testimony explains the disclosure chain: she received a call from “A”, confronted the child, and the child confirmed the assaults; the FIR then followed on the child’s own statement. The mother’s evidence is thus not hearsay on the facts in issue but functions as corroboration of prompt disclosure under Sections 8 read with 157 IEA.

26. The defence cross-examined PW-2 on this aspect. She maintained that the disclosure was made immediately after the call and that it was her daughter’s confirmation which led to lodging the complaint. In that posture, the absence of “A” does not erode the prosecution case, since the substratum rests on PW-1’s direct testimony, which the Trial Court found reliable, and PW-2’s corroborative account of disclosure.

27. Accordingly, while the omission to examine “A” is a shortcoming in investigation, it does not, in the totality of the record, create a reasonable doubt warranting interference with the conviction.

V. Absence of Scientific Evidence

28. The appellant urges that, in the absence of scientific corroboration, a conviction could not rest on the prosecutrix’s testimony alone. Scientific evidence in sexual-offence cases can be valuable, however, the law does not make it indispensable. As discussed, the MLC explains the lack of

¹² (2010) 2 SCC 9; also see *Deepak Kumar Sahu v State Of Chhattisgarh* 2025 INSC 929

¹³ “IEA”



recoveries; in any event, the absence of injuries or forensic detection does not, by itself, negate the occurrence. The touchstone remains whether the oral evidence inspires confidence. In the present case, PW-1's account remains consistent across her statements recorded under Sections 161 and 164 Cr.P.C. Her deposition, together with PW-2's corroborative testimony of prompt disclosure, is clear and free from material contradictions, and has withstood cross-examination. That quality of evidence is, in law, sufficient to sustain the conviction.

CONCLUSION

29. On a re-appraisal of the record and the rival submissions, no perversity or misdirection is found in the Trial Court's appreciation of evidence. The conviction under Section 376(2) IPC and Section 5(n) read with Section 6 of the POCSO Act calls for no interference. The remaining question concerns the measure of sentence, to which the Court now turns, bearing in mind the statutory framework, the aggravating and mitigating circumstances, and the principles governing proportionality.

VI. On proportionality of the sentence:

30. The Appellant stands convicted under Section 376(2) IPC and Section 5(n) read with Section 6 of the POCSO Act. The Trial Court imposed rigorous imprisonment for 30 years, which is ten years above the statutory minimum prescribed under Section 6 of the Act.

31. While the offence is undoubtedly grave, particularly given the fiduciary relationship between the Appellant and the victim, sentencing must not be approached with mechanical severity. Punishment must reflect society's condemnation and protect the child, yet remain anchored in proportionality, deterrence, and the possibility of reform. The law permits a



higher sentence in appropriate cases, but it does not mandate the maximum. The sentencing court is required to weigh aggravating and mitigating factors and to record reasons that are discernible and tied to the facts.

32. In the present case, the aggravating circumstances are evident. The victim was a child, the appellant was a maternal uncle residing in the same household, and the assaults were repeated over a significant period. The conduct represents a serious betrayal of trust and a sustained impact on the victim's dignity and emotional well-being.

33. However, mitigating features also emerge from the record. There is no allegation of use of overt violence or brutality. No prior criminal antecedents are shown. The nominal roll reflects continuous incarceration since 28th September, 2020, with custody of about five years, and jail conduct reported as satisfactory. Nothing presently suggests a continuing risk that cannot be managed by the penal system at the statutory floor.

34. Having regard to the overall circumstances, a sentence of thirty years' rigorous imprisonment travels beyond what this punishment aims to achieve in this case. The statutory minimum of twenty years under Section 6 would adequately meet the ends of justice, mark the seriousness of the crime, and preserve deterrence, while keeping faith with proportionality and the prospect of reform. This calibration does not dilute the condemnation of the act. It recognises that the statute already sets a very high floor for aggravated penetrative sexual assault on a child.

35. The conviction under Section 376(2) IPC and Section 5(n) read with Section 6 of the POCSO Act is affirmed. The sentence is modified to rigorous imprisonment for twenty years. The fine and default sentence imposed by the Trial Court are left undisturbed. All substantive sentences



shall run concurrently.

36. The appeal is partly allowed to the above extent. The appellant shall receive the benefit of set-off for the period already undergone, as per law.

SANJEEV NARULA, J

OCTOBER 30, 2025

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