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

Reserved on: 15.10.2026
Pronounced on: 28.10.2026
Uploaded on: 28.10.2026

\# **CNR No. DLHC010079272025**
\+ **CRL.A. 209/2025**

SONU .....Appellant

Through: Ms. Vrinda Bhandari (DHCLSC) and Ms. Vanshita Gupta, Advs.

versus

STATE (GNCT) OF DELHI & ANR. .....Respondents

Through: Mr. Raghuvinder Verma, APP
Mr. Harsh Prabhakar, Adv. (DHCLSC) for Victim.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been preferred by the appellant, Sonu, under Section 415(2) read with Sections 424 and 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the "BNSS"), assailing the judgment of conviction dated 14.11.2024 and order on sentence dated 19.12.2024 passed by the learned Additional Sessions Judge (FTSC-POCSO), North District, Rohini Courts, Delhi, in Sessions Case No. 847/2023, arising out of FIR No. 667/2023 registered at Police Station Swaroop Nagar.

2. *Vide* the impugned judgment, the appellant was convicted for the offences punishable under Sections 354, 354A, 354B and 506(1) of the

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Indian Penal Code, 1860 (hereinafter referred to as the "IPC"), and Sections 9(m) and 9(n), punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the "POCSO Act").

3. *Vide* the order on sentence, the appellant was awarded varying terms of imprisonment, the maximum being rigorous imprisonment for six years, along with fines, with all substantive sentences directed to run concurrently.

BRIEF FACTS

4. Briefly stated, the prosecution case is that on 20.10.2023, a PCR call *vide* GD No. 53A, concerning an alleged incident of sexual assault upon a minor child, was received at Police Station Swaroop Nagar and assigned to W/SI Sheetal for necessary action. Pursuant thereto, W/SI Sheetal, along with other police personnel and a counsellor, reached Burari Hospital, where the child victim (*hereinafter referred to as 'K'*) was present along with her father, maternal grandmother and her sister, (*hereinafter referred to as 'Y'*).

5. As per the prosecution, during her medical examination, the child victim disclosed that approximately three weeks prior thereto, her maternal uncle, namely Sonu *(hereinafter referred to as the 'appellant')*, had subjected her to inappropriate sexual contact at their residence. It was alleged that the appellant had removed his clothes as well as those of the child victim and had touched his private part against her body. It was further alleged that her maternal grandmother had arrived during the incident and reprimanded the appellant. The child victim had not disclosed

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the incident earlier on account of fear.

6. Since the child victim was unable to give her statement to the police at that stage, the statement of her maternal grandmother, Smt. 'V', was recorded. On the basis of the said statement, FIR No. 667/2023 was registered at Police Station Swaroop Nagar for the offences punishable under Sections 354, 354A, 354B and 509 of the IPC Section 10 of the POCSO Act.

7. During investigation, the statement of the child victim was recorded under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'CrPC'). The Investigating Officer also collected the medical records and documents pertaining to the age of the child victim, prepared the site plan and recorded the statements of the witnesses. Upon completion of investigation, the charge-sheet was filed before the learned Trial Court.

8. *Vide* order dated 15.02.2024, the learned Trial Court framed charges against the appellant for the offences punishable under Sections 354, 354A, 354B and 506 IPC, and Sections 9(m) and 9(n), punishable under Section 10 of the POCSO Act. The appellant pleaded not guilty and claimed trial. The order dated 15.02.2024 reads as under:

> *"I, Ajay Nagar, Additional Sessions Judge (FTSC) (POCSO), North, Rohini, Delhi do hereby charge you accused* ***Sonu S/O Sh. Chander Bhan Saini, aged about 24 years*** *as under:-*
> *That 3 weeks ago from the date of registration of FIR i.e. 20.10.2023 at your house (identity withheld) within the jurisdiction of PS Swaroop Nagar you used criminal force to survivor "K" (full particulars are mentioned in the police report under section 173*

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*of Cr.P.C. already supplied to you), aged about 07 years, intending to outrage her or knowing it to be likely that her modesty will be outraged and lying with her and thus you thereby committed an offence punishable **u/s 354A/354 IPC** and within the cognizance of this court.*
*Secondly, during the aforesaid period you removed the undergarments of survivor 'K' and thus you thereby committed an offence punishable **u/s 354B IPC** and within the cognizance of this court.*
*Thirdly, during the aforesaid period, you being maternal uncle of survivor "K", aged below 12 years, committed sexual assault and thus you thereby committed an offence defined **u/s 9(m) (n) r/w Section 10 POCSO Act** and within the cognizance of this court.*
Fourthly, during the aforesaid period, you committed criminal intimidation by threatening the survivor "K" to kill her, if she disclosed the incident to anyone and thus you thereby committed an offence punishable u/s 506 IPC and within the cognizance of this Court.
And I hereby direct that you be tried by this Court on the said charges."

9. In order to substantiate its case, the prosecution examined six witnesses. The relevant portions of their testimonies, as recorded before the learned Trial Court, are reproduced hereunder:

Witnesses	***Statement In Chief Examination***	***Statement In Cross Examination***
PW- 1 CHILD VICTIM 'K'	*Mera birthday 7th June ko aata hain. Naani gai thi bazar. Mama aaye, mama ne naani se bola ki chhole bhature le aao. Naani ne kaha ki tum khud le aao.*	*Mere school ki chhutti 12:30 baje hoti hain. Ghatna wale din main school gai thi.* *Q. Chhole bhature wale ki shop subha lagti hai ya shaam*

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	Mama ne kaha ki nahi laai to TV fod dunga. Fir mama ne meri kachhi uttar di aur mere upper late gaye. Mama ne apni susu mere yaha lagai thi *(the survivor has pointed towards her private part). Fir naani ghar per aai to maine naani ko bola ki 'mama hamare upper chhad gaye the'.* *Court Question: Beta 'hamare' se aapka kya matlab hain?* *Ans. Main aur meri behan "Y". Naani ne mama ko dhamkaya tha. Naani ne mama ko bola ki iske upper kyon chhade, to mama ne bola ki mai TV fod dunga. Fir kuchh nahi hua tha. Jab mama mere aur per behan 'Y' ke upper lete to unhone apne kapde uttar rakhhe the. Us samay mama ne thodi daaru pee rakhhi thi. Mama ne meri susu wali jagah per apni susu lagai thi. Jab main Naani aur papa ke hospital gai thi to maine Doctor ko sab sach sach bata diya tha. Ye baat pichhle saal ki hain. Main pehle bhi ek baar court mein aai thi aur mere Judge Sahab*	*ko?* *Ans. Budh bazar mein lagti hai aur raat ko lagti hain.* *Mujhe time dekhna nahi aata. Mere mama bahar samose banane jaate hain aur raat ko 12 ya 2 baje aate hain. Ghatna wale din ghar mein sirf main aur meri behan thi. vol. naani bazar gai thi. Maine naani ko mama ki ghatna ke baare mein tabhi bata di thi. Main kabhi bimar nahi hui thi. Meri naani mujhe hospital le kar gai thi. Maine doctor ko bata diya tha ki mama ne chadhi utari thi aur hamare upper chhad gaye the.* *Q. Beta aapko hospital kyon le kar gaye the?* *Ans. Mama hamare upper chhad gaye the.* *Ye baat sahi hai ki kuchh din pehle mere papa aur mama ke beech mein ladai hui thi aur mere papa ne kaha tha ki Sonu ko jail mein pakadwa denge.* *Maine judge sahab ko jab mere bayan diye the tab sachhi baat batai thi. Wo bayan maine apne aap se kahe the.* *XXX* *Main apni naani ke paas*

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	ke saamne bayan hue the. *XXX* *At this stage, an envelope duly sealed with the seal of 'P' is taken out from the judicial file. Envelope is opened after breaking the seal and it is found containing proceedings regarding recording of the statement of the witness u/s 164 Cr. PC dated 21.10.2023. Statement is shown and read over to the witness, who submits that this is the same statement which she had made before Judge Madam and put her signatures at point A. Statement is now Ex. PW-1/A.* *XXX* *(The witness has correctly identified the accused through screen).* *After seeing the accused the survivor submits that, ' inhone hi galat kaam kiya tha'.*	*bahut dino se reh rahi hun. Mere mama shaam ko jab ghar aate the to hamare liye khane ki cheez laate the. Mere mama hamare se pyar karte the. Jab hum naani ke ghar rehte the to mere mummy-papa roz subha milne aate the. Jab mama ne TV todne wali baat kahi thi to us samay pados se koi nahi aaya tha. Jab mama ne hamare sath galat harkat ki thi to uske baad papa hume naani ke ghar se le kar gaye the.*
PW-2 MATERNAL GRANDMOTHER 'V'	*Jija saalon ki ladai ho gai thi. Sat Narain guard ki naukri karta hai aur wo Sonu ko ek ghante ke liye apni company mein kaam karne ke liye bhej raha tha per mera beta Sonu nahi gaya.*	*XXX XXX XXX by Ld. SPP for the State.* *Ye baat theek hai ki maine police ko shikayat di thi, joki Ex.PW2/A aur jis per point A per mere signature hain.*

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	Iss baat per dono ki ladai ho gai aur Sonu ne apne Jija ko 4 belt maari. Uske baad Sat Narain ne Sonu ko dhamki di ki main tujhe buri tarah se fasaunga. *Sat Narain survivor Y and K ko hospital mein dawai dilwane ke liye le kar gaya tha. Survivor Y and K meri beti ki ladkiyan hain. Waha per Sat Narain ne dono ladkiyon se jhooth bulwaya ki Sonu ne unke kapde uttare the aur ladkiyon ko cycle ka lalch diya ki waha bhi aap aise hi bolna. Usne meri beti ko bhi dhamki di ki agar usne kuchh bola to wo use bhi chhod kar chala jayega.*	
PW-3 FATHER OF THE CHILD VICITM	*Mujhe taarikh yaad nahi hai. Main apni betiyon ke sath joki 'Y' aur 'K' aur meri saas ke sath dawai lene ke liye Kaushik hospital mein gaye the, kyonki meri betiyon aur meri saas ki tabiyat karab thi. Mere saamne kuchh nahi hua jobi hua Doctor ke saamne hua. Mujhe nahi pata kis ladki ne muljim ke baare mein doctor ko kya bataya*	*XXX XXX XXX by Ld. SPP for the State* *Ye kehna galat hai ki meri beti K ne doctor sahab ko bataya ki karib 3 hafte pehle wo apni behan Y ke sath kamre mein raat ko so rahi thi aur uske baad uske mama Sonu ghar per sharab pee kar aaye the aur us samay uski Naani market gai hui thi aur muljim Sonu uske kamre mein aa gaya. Usne apne kapde utaar diye aur 'K' ke bhi kapde utaar diye. Muljim Sonu ne apni*

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		susu wali jagah uski susu wali jagah per ragdi, uske baad uski naani waha per aa gai, wo muljim Sonu per chillai aur fir muljim waha se bhag gaya. Us samay meri beti ne apni Naani ko kuchh nahi bataya tha. *(confronted with portion A to A1 of Mark X, wherein it is so recorded).* *Ye kehna galat hai ki meri beti 'K' ne mere saamne uprokt saari baatein apni naani ko batai aur बताया ki uske mama Sonu ne uske sath pehle bhi bad touch kiya tha aur uske baad lady police waha aa gai aur Mahila Ayog ne madam bulwai aur jisne mere sath aur saas 'V' ke sath baat cheet kari.* *(confronted with portion B to B1 of Mark X, wherein it is so recorded).* *Ye kehna galat hai ki muljim ne mujhe koi lobh, lalach, rishwat aadi di ho, isiliye maine aaj muljim ke khilaf gawahi nahi di. Ye kehna galat hai ki main aaj court mein jhoothi gawahi de rahi hun aur sach baat nahi bata*

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		rahi hun.

10. Apart from the aforesaid oral evidence, the prosecution relied upon the complaint Ex.PW2/A, the statement of the child victim recorded under Section 164 CrPC, the medical record Ex.PW4/A, the documents pertaining to her age and the other documents exhibited during trial.

11. Upon conclusion of the prosecution evidence, the statement of the appellant was recorded under Section 313 CrPC on 26.07.2024, wherein the incriminating circumstances appearing against him were put to him. The appellant denied the allegations and claimed false implication. Although he initially expressed his intention to lead defence evidence, no witness was examined on his behalf. The defence evidence was closed on 26.09.2024.

12. After considering the evidence on record and the submissions advanced by the parties, the learned Trial Court, vide judgment dated 14.11.2024, convicted the appellant for the offences punishable under Sections 354, 354A, 354B and 506(1) IPC, and Sections 9(m) and 9(n), punishable under Section 10 of the POCSO Act.

13. Thereafter, *vide* order on sentence dated 19.12.2024, the learned Trial Court sentenced the appellant as follows:

> *"16. Keeping in view the submissions by all concerned and also keeping in view the facts of the present case and also well settled proposition of law, Convict is sentenced to undergo rigorous imprisonment of 04 (Four) years and a fine of Rs.2,000/- for the offence U/S 354 IPC and in default of payment of fine, he shall further undergo the simple imprisonment for fifteen days.*

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17. Convict is further sentenced to undergo rigorous imprisonment of 03 (Three) years and a fine of Rs.2,000/- for the offence U/S 354 A IPC and in default of payment of fine, he shall further undergo the simple imprisonment for fifteen days.
18. Convict is further sentenced to undergo rigorous imprisonment of 03 (Three) years and a fine of Rs.2,000/- for the offence U/S 354 B IPC and in default of payment of fine, he shall further undergo the simple imprisonment for fifteen days.
19. Convict is further sentenced to undergo rigorous imprisonment of 02 (Two) years and a fine of Rs.2,000/- for the offence U/S 506(I) IPC and in default of payment of fine, he shall further undergo the simple imprisonment for fifteen days.
20. Convict is further sentenced to undergo rigorous imprisonment of 06 (Six) years and a fine of Rs.3,000/- for the offence U/S 9(m) (n) of the POCSO Act, 2012 punishable U/S 10 of POCSO Act, 2012 and in default of payment of fine, he shall further undergo the simple imprisonment for fifteen days.
21. Convict shall be entitled to the benefit U/S 428 CrPC. All the substantive punishments/imprisonments shall run concurrently. Fine imposed as above shall be paid to the survivor. Order on compensation:-
22. Perusal of record shows that VIR has not been filed in the present case by the DLSA (North) inter-alia stating that the family of survivor has refused the compesation from the authority.
23. In view thereof there is no requirement of passing an order on compensation to the survivor."

14. In default of payment of fine, the appellant was directed to undergo simple imprisonment for fifteen days in respect of each offence. All the

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substantive sentences were directed to run concurrently, with the benefit of Section 428 CrPC.

15. Aggrieved by the judgment of conviction dated 14.11.2024 and order on sentence dated 19.12.2024, the appellant has preferred the present appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

16. Learned counsel appearing on behalf of the appellant submits that the material inconsistencies exist between the statements of PW-1 recorded under Sections 161 and 164 CrPC and her deposition before the learned Trial Court. While in her statement under Section 161 CrPC, she alleged that the appellant had come home in an intoxicated condition, touched her private parts and attempted to insert his private part into hers, no such attempt was alleged in her statement under Section 164 CrPC. However, during her examination-in-chief, she reiterated the allegation of an attempted insertion. Further, the presence of her sister during the incident was introduced for the first time in her deposition before the learned Trial Court.

17. It is further contended that PW-1 gave inconsistent accounts regarding disclosure of the incident to her maternal grandmother. While she stated under Section 161 CrPC that she had not disclosed the incident, during trial she deposed that she had informed her grandmother immediately upon her return. According to learned counsel, these contradictions were material and could not have been disregarded as minor discrepancies.

18. Learned counsel submits that the learned Trial Court erred in

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concluding, in paragraph 11.17 of the impugned judgment, that PW-1 had substantiated the allegations of sexual assault. It is argued that her statement under Section 164 CrPC did not disclose any overt sexual act and, therefore, the ingredients of Section 7 of the POCSO Act were not established beyond reasonable doubt. The finding in paragraph 11.19 that the contradictions were minor is also assailed on the ground that the improvements concerned the alleged act itself.

19. It is also contended that the conviction under Section 506(1) IPC is unsustainable, as PW-1 did not allege that the appellant had threatened to cause injury to her in the event of disclosure of the incident. Thus, according to learned counsel, the ingredients of criminal intimidation were not established.

20. Learned counsel further submits that PW-2, the complainant and maternal grandmother of the child victim, did not support the prosecution case. She deposed that an altercation had taken place between the appellant and the child's father, who had threatened to falsely implicate the appellant. She also alleged that the father had induced the children to make false allegations by promising them a bicycle. It is pointed out that PW-1 herself admitted during cross-examination that her father had quarrelled with the appellant and threatened to send him to jail.

21. It is submitted that the learned Trial Court failed to appreciate the alleged motive for false implication. PW-2 had stated in her earlier statements that she learnt of the incident only upon the child's disclosure to the doctor at Burari Hospital, whereas PW-1 deposed that she had informed her grandmother immediately after the incident. Learned

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counsel also relies upon PW-1's admission that the appellant was affectionate towards her and her sister and would bring them food, contending that these circumstances cast doubt upon the prosecution version.

22. Learned counsel further submits that PW-3, the father of the child victim, also did not support the prosecution case. He stated that no incident had occurred in his presence and that he was unaware of what his daughters had disclosed to the doctor. He also denied the suggestion that PW-1 had narrated the incident to her grandmother in his presence. It is, therefore, contended that the prosecution version finds no support from the testimonies of PW-2 and PW-3.

23. The investigation is also assailed on the ground that the Investigating Officer failed to record the statement of the sister of PW-1, despite the allegation that she was present during the incident and had also been subjected to the appellant's acts. She was neither cited as a prosecution witness nor treated as a victim, which, according to learned counsel, constitutes a material investigative lapse.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

24. *Per contra*, learned APP appearing on behalf of the State submits that the child victim clearly identified the appellant, who is her maternal uncle, and narrated the acts committed by him. It is contended that the discrepancies pointed out by the defence are minor in nature and do not affect the substance of her testimony. It is further submitted that the failure of PW-2 and PW-3 to support the prosecution case does not, by itself,

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render the testimony of PW-1 unreliable.

25. Learned counsel appearing on behalf of respondent No. 2, the child victim, adopts the submissions advanced on behalf of the State and further submits that the age of the child victim, being approximately seven years at the time of the incident, stands established through the school records and birth certificate admitted by the appellant under Section 294 CrPC. It is contended that the medical history recorded in MLC Ex.PW4/A substantially corroborates the account subsequently given by PW-1 before the learned Trial Court.

26. It is further submitted that PW-1's testimony remained consistent on the essential aspects of the incident and that the alleged variations in her previous statements do not undermine her credibility. Reliance is placed upon ***State of Himachal Pradesh v. Sanjay Kumar @ Sunny, (2017) 2 SCC 51***, to contend that the testimony of a victim of sexual assault, if found trustworthy, is sufficient to sustain a conviction and that minor discrepancies or delay in reporting the incident cannot, by themselves, justify its rejection.

27. Learned counsel for respondent No. 2 also disputes the plea of false implication, submitting that the alleged previous dispute between the appellant and the father of the child victim does not establish that the allegations were fabricated. It is contended that PW-2's subsequent departure from her earlier complaint cannot discredit the independent testimony of PW-1, particularly when PW-2 herself had initially approached the police and her presence at the hospital is reflected in the medical record.

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ANALYSIS AND FINDINGS

28. This Court has heard learned counsel for the parties and perused the material available on record.

29. The principal contention raised on behalf of the appellant is that the learned Trial Court erred in placing reliance upon the testimony of PW-1 the child victim, particularly when PW-2, her maternal grandmother and PW-3-her father, did not support the prosecution case. It is further contended that the testimony of PW-1 suffers from material contradictions and improvements, rendering her version unreliable.

30. At the outset, it is necessary to reiterate that the testimony of a victim of sexual assault, if found reliable and trustworthy, is sufficient to sustain a conviction even in the absence of independent corroboration. In ***Ganesan v. State of Tamil Nadu MANU/SC/0763/2020***, the Supreme Court held that the testimony of the victim cannot be discarded merely because another material witness, including a close family member, has not supported the prosecution case. The relevant observations of the Supreme Court are reproduced hereunder:

> *"11. In State of Punjab v. Gurmit Singh, MANU/SC/0366/1996 : (1996) 2 SCC 384, this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration.*

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> *The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the Accused cannot be given any benefit thereof. The Court observed as under: (SCC pp. 394-96 & 403, paras 8 & 21)"*

31. Similarly, in ***State of Himachal Pradesh v. Sanjay Kumar (supra)*** the Supreme Court reiterated that the evidence of a victim of sexual assault stands on its own footing and that a conviction may rest upon such testimony if it inspires confidence. The relevant observations are reproduced hereunder:

> *"30. By no means, it is suggested that whenever such charge of rape is made, where the victim is a child, it has to be treated as a gospel truth and the accused person has to be convicted. We have already discussed above the manner in which the testimony of the prosecutrix is to be examined and analysed in order to find out the truth therein and to ensure that deposition of the victim is trustworthy. At the same time, after taking all due precautions which are necessary, when it is found that the prosecution version is worth believing, the case is to be dealt with all sensitivity that is needed in such cases. In such a situation one has to take stock of the realities of life as well. Various studies show that in more than 80% cases of such abuses, perpetrators have acquaintance with the victims who are not strangers. The danger is more within than outside. Most of the time, acquaintance rapes, when the*

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culprit is a family member, are not even reported for various reasons, not difficult to fathom. The strongest among those is the fear of attracting social stigma. Another deterring factor which many times prevents such victims or their families to lodge a complaint is that they find whole process of criminal justice system extremely intimidating coupled with absence of victim protection mechanism. Therefore, time is ripe to bring about significant reforms in the criminal justice system as well. Equally, there is also a dire need to have a survivor-centric approach towards victims of sexual violence, particularly, the children, keeping in view the traumatic long-lasting effects on such victims.

32. *After thorough analysis of all relevant and attendant factors, we are of the opinion that none of the grounds, on which the High Court has cleared the respondent, has any merit. By now it is well settled that the testimony of a victim in cases of sexual offences is vital and unless there are compelling reasons which necessitate looking for corroboration of a statement, the courts should find no difficulty to act on the testimony of the victim of a sexual assault alone to convict the accused. No doubt, her testimony has to inspire confidence. Seeking corroboration to a statement before relying upon the same as a rule, in such cases, would literally amount to adding insult to injury. The deposition of the prosecutrix has, thus, to be taken as a whole. Needless to reiterate that the victim of rape is not an accomplice and her evidence can be acted upon without corroboration. She stands at a higher pedestal than an injured witness does. If the court finds it difficult to accept her version, it may seek corroboration from some evidence which lends assurance to her version. To insist on corroboration, except in the rarest of rare cases, is*

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> *to equate one who is a victim of the lust of another with an accomplice to a crime and thereby insult womanhood. It would be adding insult to injury to tell a woman that her claim of rape will not be believed unless it is corroborated in material particulars, as in the case of an accomplice to a crime. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion? The plea about lack of corroboration has no substance (See Bhupinder Sharma v. State of H.P. [Bhupinder Sharma v. State of H.P., (2003) 8 SCC 551 : 2004 SCC (Cri) 31]). Notwithstanding this legal position, in the instant case, we even find enough corroborative material as well, which is discussed hereinabove."*

33. In light of the aforesaid principles, the testimony of PW-1 is required to be examined independently. The mere fact that PW-2 and PW-3 did not support the prosecution case cannot, by itself, furnish a ground for discarding her evidence. What is material is whether the account given by PW-1 is credible and whether the discrepancies pointed out by the defence affect the substance of the prosecution case.

34. In the present case, PW-1 was approximately seven years of age at the time of the incident. Before recording her testimony, the learned Trial Court satisfied itself that she was capable of understanding the questions put to her and giving rational answers. During her examination-in-chief, PW-1 identified the appellant as her maternal uncle and narrated that, while her grandmother had gone to the market, the appellant removed her undergarment, lay upon her and brought his private part into contact with

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hers. She also identified the appellant during her deposition and stated that he was the person who had committed the alleged act.

35. A perusal of her cross-examination reveals that PW-1 remained consistent regarding the identity of the appellant and the essential nature of the occurrence. She reiterated that the appellant had removed her undergarment and lain upon her. Although she admitted that an altercation had taken place between her father and the appellant, she maintained that the statement made by her before the Magistrate was true and had been given voluntarily. Nothing material could be elicited during her cross-examination so as to discredit her account of the incident.

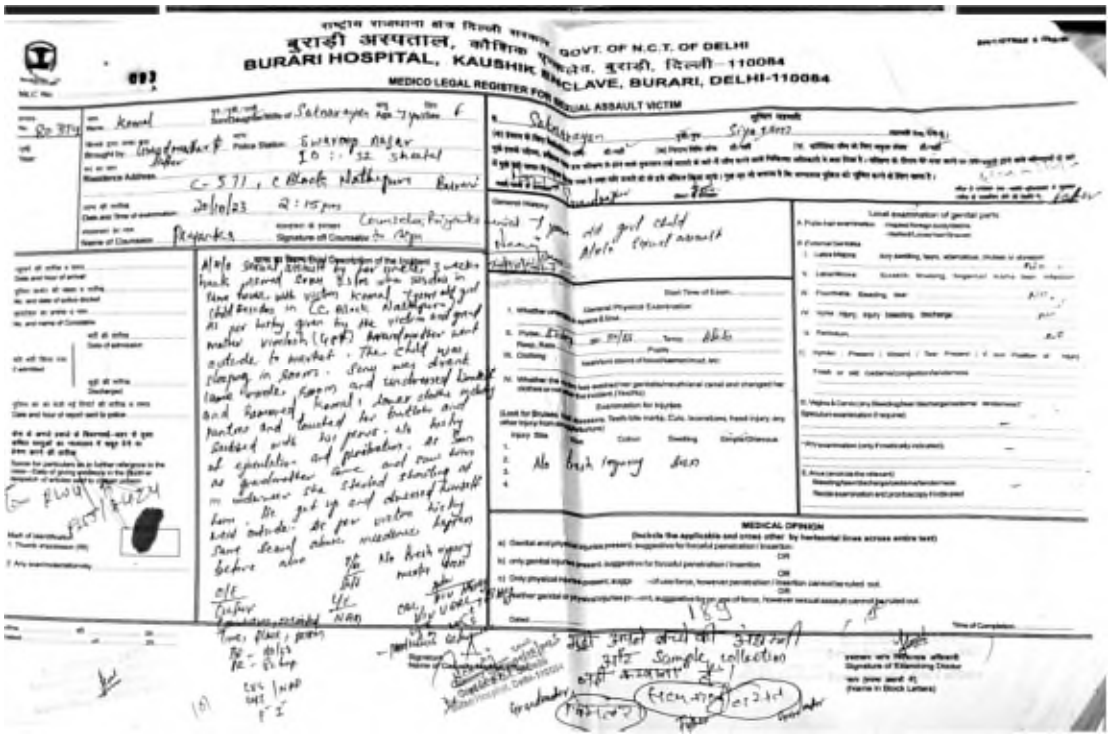
36. Learned counsel for the appellant has placed considerable emphasis upon the differences between the statements of PW-1 recorded under Sections 161 and 164 CrPC and her deposition before the learned Trial Court. These differences primarily relate to the manner in which the incident was described, the presence of her sister and the stage at which the incident was disclosed to her grandmother. This Court has considered the said discrepancies. However, having regard to the age of PW-1 and the nature of the incident narrated by her, the variations do not appear to be of such magnitude as to render her entire testimony doubtful. The essential allegation concerning the conduct of the appellant has remained substantially consistent.

37. It must also be borne in mind that PW-1 was a child of tender age when the incident allegedly occurred. A child of such age cannot be expected to narrate an incident with the same degree of precision on every occasion. Minor variations in the manner of narration, particularly when

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the statements are recorded at different stages, cannot be treated as material contradictions unless they affect the core of the prosecution case. In the present case, the discrepancies pointed out by the appellant do not dislodge the material particulars of the occurrence narrated by PW-1.

38. The testimony of PW-1 also finds support in the medical record. It is borne out from the record that on 20.10.2023, PW-1 was taken to Burari Hospital, where her MLC, Ex.PW4/A, was prepared. The medical history recorded therein refers to the allegation of sexual assault against the appellant, who was identified as the maternal uncle of the child victim. At this stage, it would be apposite to reproduce the relevant portion of the MLC:



*"**Brief Description of the Incident***
A/H/o sexual assault by her uncle 3 weeks back named Sonu 23/M who resides in same house with

victim [redacted] 7 year old girl child (resides in C Block Nathupura).
As per history given by the victim and grand mother [redacted] (48Y), grandmother went outside to market. The child was sleeping in room. Sonu was drank, came inside room and undressed himself and removed [redacted] lower cloths including panties and touched her buttocks and rubbed with his penis. No history of ejaculation and penetration. As soon as grandmother came and saw him in underwear she started shouting at him. He get up and dressed himself went outside. As per victim history same sexual abuse incidence happened before also."

39. A perusal of the aforesaid medical history shows that the allegations concerning the appellant had been disclosed at the hospital, much before PW-1 was examined before the learned Trial Court. PW-4, Dr. Neeraj, also proved the MLC and deposed that the history of sexual assault against the appellant was recorded therein. Although the medical history cannot, by itself, be treated as proof of the occurrence, it lends assurance to the testimony of PW-1, particularly when her account before the learned Trial Court is considered in its entirety.

40. Coming to the testimony of PW-2, the maternal grandmother of the child victim, it is not disputed that she did not support the prosecution case during trial. She attributed the allegations to a previous dispute between the appellant and the father of PW-1. However, during her cross-examination by the learned Special Public Prosecutor, PW-2 admitted that she had made a complaint to the police, Ex.PW2/A, and acknowledged her signatures thereon. The relevant portion of the complaint is reproduced hereunder:

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"जब वहाँ पर डाक्टर साहब ने कोमल से Good touch और Bad touch के बारे मे जानकारी होने के बारे मे पूछा तो "[redacted] ने Good touch और Bad touch के बारे मे प ता है। और [redacted] ने Doctor साहब को बताया कि करी ब 3 हफ्ते पहले जब वह अपनी बहन [redacted] के साथ क मरे मे रात के समय जब वह अपनी बहन के साथ सो रही थी तब उसके मामा सोनू कमरे मे आ गये व अपने कप ड़े उतार दिए व मेरे भी कपड़े उतार दिये थे और मेरी कम र पर अपनी सुसु रगड़ने लगे। व अपनी सुसु मेरी सुसु पर लगाने लगा उसके बाद नानी वहाँ आ गयी व मेरे मामा पर चिल्लाने लगी। मैंने डर के कारण किसी को कुछ भी नही बताया था।" इसके बाद [redacted] ने मुझे भी ये सारी बाते hospital मे बताई और बताया कि मेरे मामा सोनू ने उसके साथ पहले भी ऐसा बैड touch किया था। इसके बाद Police Hospital मे ही आ गयी व महिला आयोग की मैडम बुलवायी आपने महिला आयोग वाली मैडम के सामने मेरा बयान दर्ज किया जो मेरे बेटे सोनू ने मेरी ना ति [redacted] के साथ गलत काम किया है मेरे बेटे सोनू के खिलाफ कानूनी कार्यवाही की जाये।"

41. The complaint records that the child victim, while at the hospital, disclosed the alleged acts committed by the appellant approximately three weeks earlier. It also refers to the circumstances in which the child came to be examined at the hospital. Though PW-2 subsequently did not support the prosecution case, the mere fact that she resiled from her earlier version cannot be a ground to reject the independent testimony of PW-1.

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42. Insofar as PW-3 is concerned, he was admittedly not an eyewitness to the occurrence. His testimony that nothing had happened in his presence does not directly contradict the account given by PW-1. Thus, the failure of PW-2 and PW-3 to support the prosecution does not, by itself, render the evidence of the child victim unreliable.

43. Having considered the testimony of PW-1, the medical history recorded at the hospital and the evidence of PW-2 and PW-3, this Court finds that the material discrepancies pointed out by the appellant do not discredit the central account given by PW-1. The learned Trial Court has considered the evidence in its entirety and no ground is made out for interference with its findings on the credibility of the child victim.

44. The plea of false implication arising out of the previous altercation between the appellant and PW-3 has also been considered. PW-1 admitted during cross-examination that a quarrel had taken place between her father and the appellant and that her father had threatened to send the appellant to jail. However, the existence of such a dispute does not necessarily establish that the child victim was tutored to make false allegations. PW-1 maintained that she had made her statement before the learned Magistrate voluntarily and had narrated the truth. In the absence of material sufficient to discredit her testimony, the previous dispute cannot, by itself, furnish a ground for rejecting her account.

45. The appellant has further questioned the investigation on the ground that the sister of PW-1 was not examined, despite her alleged presence at the time of the incident. While the examination of the victim's sister could have provided additional evidence, the omission to examine her does not

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necessarily render the prosecution case doubtful. The prosecution is not required to examine every person stated to have been present at the scene, provided the evidence adduced is otherwise sufficient to establish the occurrence. In the present case, PW-1 has herself narrated the incident and has been subjected to cross-examination. The omission pointed out by the appellant does not materially affect the reliability of her testimony.

46. Upon an overall appreciation of the evidence, this Court finds that PW-1 has remained consistent on the material particulars concerning the identity of the appellant and the acts attributed to him. Her testimony is natural and inspires confidence. The discrepancies relied upon by the defence do not affect the substratum of the prosecution case. The medical history recorded at the hospital provides further assurance to her account. The fact that PW-2 and PW-3 did not support the prosecution does not, in these circumstances, render the testimony of PW-1 unworthy of reliance.

47. The learned Trial Court has considered the evidence of PW-1 in the light of the contradictions pointed out by the defence and the testimonies of PW-2 and PW-3. This Court finds no perversity or material infirmity in its appreciation of the evidence concerning the occurrence. The appellant has failed to demonstrate any ground warranting interference with the findings of the learned Trial Court on the credibility of the child victim.

CONCLUSION

48. In view of the foregoing discussion, this Court finds that the testimony of PW-1, the child victim, is cogent, reliable and inspires confidence. The discrepancies pointed out by the appellant do not affect the substratum of the prosecution case. Merely because PW-2 and PW-3

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did not support the prosecution, the testimony of PW-1 cannot be discarded, particularly when her account has remained consistent on material particulars and finds support in the medical history recorded at the hospital. The learned Trial Court has duly appreciated the evidence on record, and this Court finds no perversity or infirmity in the findings returned by it warranting interference in appeal.

49. Accordingly, the present appeal stands dismissed. The judgment of conviction dated 14.11.2024 and order on sentence dated 19.12.2024 passed by the learned Additional Sessions Judge (FTSC-POCSO), North District, Rohini Courts, Delhi, in Sessions Case No. 847/2023, arising out of FIR No. 667/2023 registered at Police Station Swaroop Nagar, are hereby upheld.

50. Pending application(s), if any, also stand(s) disposed of.

51. A copy of this judgment be sent to the learned Trial Court and the concerned Jail Superintendent for necessary information and compliance.

MADHU JAIN
(JUDGE)

OCTOBER 28, 2026/P

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