

State of Nct of Delhi vs Deepak

State of Nct of Delhi vs Deepak

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Court : Delhi

Decided On : May-04-2026

Judge : Hon'Ble Mr. Justice Navin Chawla,Hon'Ble Mr. Justice Ravinder Dudeja

Appeal No. : CRL.A./236/2021

Appellant : State of Nct of Delhi

Respondent : Deepak

Advocate for Def. : Mr. Dinesh Malik, Mr. Akash Saini, Mr. Puneet Jain, Mr. Lavish Arora

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 22.04.2026

Pronounced on: 04.05.2026

+ CRL. A.236/2021 STATE OF NCT OF DELHIAppellant Through:
Mr.Aman Usman, APP with Mr.Manvendra Yadav, Mr.Atiq Ur Rehman,
Advs. SI Sandip Bishnoi, PS- Mayapuri.

Versus

DEEPAKRespondent Through: Mr. Dinesh Malik, Mr. Akash Saini, Mr. Puneet Jain, Mr. Lavish Arora, Advs. with respondent.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.

1. State takes exception to the judgment dated 18th December,

2019, whereby, the respondent Deepak has been acquitted of all the charges levelled against him in SC No. 123/2014, in case FIR No. referred to as the IPC] & Section 4 of the Protection of Children from Sexual Offences Act, 2012 [hereinafter referred to as (POCSO Act)]. Signed By:VAISHALICRL. A. 236/2021 Page 1 of 21
FACTUAL MATRIX:

2. The brief facts of the case, as per charge sheet, are that on 09th

May, 2014, on receipt of DD No. 24-A, SI Yogesh (PW-14) along with Constable Surender (PW-9), went at the spot i.e. A-11/12, Mayapuri, Phase-I, where, the mother of the prosecutrix (PW-3) met them and gave the statement that her daughter S (name withheld), aged about 16 years, has been missing since 4:30 am yesterday. She suspected that some unknown person has lured her away. On such statement, FIR No. 211/2014, under Section 363 IPC was registered at PS Mayapuri.

3. During investigation, prosecutrix S (PW-2) was recovered.

On enquiry, she stated that she was sexually assaulted. Her medical examination was got conducted. Before doctor, she gave the alleged

history of sexual assault the day before yesterday (09th May, 2014) and yesterday (10th May, 2014). According to her, she was abducted by her assailant, who lives near her neighbourhood, when she was going to use the neighbourhood lavatory on 09th May, 2014 at around 4.00am-4.30 am. She was allegedly gagged and sexually assaulted by him over the course of two days (09th May, 2014 and 10th May, 2014).

4. The statement of prosecutrix was recorded under Section 161

Cr. PC, wherein, she stated that she knew Deepak since last about 5-6 months. About one month before the occurrence, he proposed friendship with her. On 09th May, 2014, at about 4.30 am, while she had gone to the lavatory to ease herself, Deepak met her in the gali Signed By:VAISHALICRL. A. 236/2021 Page 2 of 21 and forcibly took her in his jhuggi, where, he sexually assaulted her. She further stated that she had not eaten anything since 09th May, 2014, and because of the summer heat, she became unconscious. According to her, Deepak indulged in Galat Kaam since 09th May,

2014. She further stated that on 11th May, 2014, her uncle Ramakant

and the Pradhan of the jhuggis Santosh, came and woke him up and they were followed by her mother and father. Deepak was also apprehended, and after sometime, the police also came at the spot. Deepak was arrested.

5. Statement of prosecutrix got recorded under Section 164 Cr.

PC. Exhibits were sent to FSL Rohini. The MCD birth certificate of the prosecutrix, as per which her date of birth was 23rd January, 1999, was seized, and on completion of investigation, charge sheet was filed against the respondent under Section 363/365/366-A/342/376 IPC and under Section 4 of POCSO Act. Upon receipt of FSL result, the same was filed in court with supplementary charge sheet and respondent was sent to court for trial.

6. Charge for the offences punishable under Sections 363/366/342 IPC and Section 6 POCSO Act were framed against the respondent on 03rd January, 2015, to which, he pleaded not guilty.

7. In order to prove its case, prosecution examined 16 witnesses,

including the prosecutrix (PW-2), her mother (PW-3), father (PW-5), concerned doctors (PW-6 and PW-7), Sub Registrar, Birth & Death (PW-8) and the witnesses in whose presence the prosecutrix was Signed By:VAISHALICRL. A. 236/2021 Page 3 of 21 recovered from the jhuggi of the respondent (PW-12 and PW-13), Investigating Officer (PW-14) and other police officials.

8. Statement of respondent was recorded under Section 313 Cr.

PC, wherein, he stated that he was innocent and was falsely implicated. He stated that the prosecutrix was having love affair with him and she used to come to his house in the night time, when her parents go to sleep and on 09th May, 2014, she came to his house in the night and in the morning of 10th May, 2014 at about 4.00 am when she tried to leave his jhuggi, Ram Karan, who was residing in front of his jhuggi, was sitting outside his jhuggi, so she did not go to her house and stayed in his jhuggi. According to him, the prosecutrix told her age to be above 18 years. He stated that he wants to marry her, but due to different castes, the parents of the prosecutrix were not accepting the same. Despite grant of opportunity, respondent did not lead any evidence in his defence.

9. Vide judgment dated 18th December, 2019, the learned Trial Court granted benefit of doubt to the respondent on the age of the prosecutrix, and acquitted him of all the charges. SUBMISSIONS MADE BY THE APPELLANT/STATE:

10. The Learned Additional Public Prosecutor [APP] for the

State submitted that the finding of the Trial Court regarding the age of the prosecutrix is manifestly erroneous and contrary to settled legal principles. It was

contended that the prosecution had duly proved the birth certificate through PW-8, the Sub-Registrar (Birth & Death), Signed By:VAISHALICRL. A. 236/2021 Page 4 of 21

who produced the official record along with the requisite certificate under Section 65-B of the Indian Evidence Act. The birth certificate, issued by the Municipal Corporation in the year 2009, records the date of birth of the prosecutrix as 23rd January, 1999. The registration of birth was effected well prior to the commission of the offence, thereby ruling out any possibility of falsification or fabrication. The Trial Court erred in discarding a duly proved public document issued by a competent authority.

11. It was further submitted that Section 94 of the Juvenile Justice

Act 2015 and Rule 12 of Juvenile Justice Rule 2007 provides a clear and exhaustive framework for determination of age, giving primacy to documentary evidence such as birth certificates issued by municipal authorities. The statute does not permit courts to resort to conjecture or subjective assessment based on oral testimony when such documentary evidence is available. The approach adopted by the Trial Court, in preferring statements made during cross-examination of the parents over a statutory record/document, amounts to impermissible guesswork. The Learned APP contended that the law does not require the court to go behind the basis on which a birth certificate was issued, once it stands duly proved and has not been challenged in accordance with law.

12. The Learned APP further emphasized that no suggestion or challenge was put to PW-8 during cross-examination regarding the authenticity or correctness of the birth record. The defence failed to Signed By:VAISHALICRL. A. 236/2021 Page 5 of 21

question the process or basis on which the date of birth was recorded, and thus, the document remained uncontroverted. In the absence of any rebuttal or contrary evidence, the learned Trial Court ought to have accepted the birth certificate as conclusive proof of age. It is a settled proposition that a duly proved public document carries a presumption of correctness, and mere oral assertions cannot displace such documentary evidence.

13. In light of the above, it is submitted that the finding of the learned Trial Court rejecting the birth certificate is perverse, illegal, and unsustainable in law.

14. The prosecutrix, as per the birth certificate, was approximately

15 years of age at the time of the incident, clearly establishing that she was minor at the time of commission of offence. The Learned APP also points out that the DNA evidence on record conclusively corroborates the prosecution case. Additionally, in his statement under Section 313 Cr.PC, the accused has admitted that the prosecutrix was with him and that he kept her confined for two days, albeit attempting to characterize the relationship as consensual. Such an admission, coupled with the established fact of the prosecutrix being minor, further strengthens the case of the prosecution. Accordingly, it is prayed that the findings of the Trial Court be set aside and the age of the prosecutrix be determined on the basis of the birth certificate. SUBMISSIONS MADE BY THE RESPONDENT/ACCUSED:

15. Learned counsel for the Respondent/Accused submits that the Signed By:VAISHALICRL. A. 236/2021 Page 6 of 21

Trial Court has rightly appreciated the evidence on record and correctly extended the benefit of doubt to the accused. It was contended that there are material inconsistencies in the testimonies of the parents of the prosecutrix regarding her date of birth. While the mother (PW-3) stated in

her cross-examination that the prosecutrix was born approximately three years after her marriage in 1995, thereby indicating the year of birth as 1998, the father (PW-5) deposed that the prosecutrix was born on 23rd January, 1999. These contradictory versions go to the root of the matter and create a serious doubt regarding the exact age of the prosecutrix. It was further submitted that such inconsistencies were rightly considered by the Trial Court in concluding that the prosecution failed to establish the age of the prosecutrix beyond reasonable doubt.

16. It was further argued that the birth certificate relied upon by the

prosecution does not inspire confidence, as it was registered nearly ten years after the alleged date of birth. The Sub-Registrar (PW-8), who produced the record, did not furnish any material to demonstrate the basis on which the date of birth was recorded after such a prolonged delay. No affidavit or supporting document from the parents was brought on record to substantiate the entry made in the birth register. Furthermore, the record itself indicates that the parents were illiterate, and there are inconsistencies even regarding the circumstances of birth. The Trial Court noted that there was medical assistance available during the birth of the prosecutrix, while the father deposed

Signed By:VAISHALICRL. A. 236/2021 Page 7 of 21 that the child was born at home. In these circumstances, it is submitted that the Trial Court was justified in doubting the authenticity and reliability of the birth certificate.

17. Learned counsel further submitted that it is a settled principle of criminal jurisprudence that when two views are reasonably possible on the evidence led, the one favouring the accused must be adopted.

18. It was lastly contended that the statement of the accused under

Section 313 Cr PC indicates that the prosecutrix had accompanied him of her own volition, they knew each other for 4-5 years, and the

prosecutrix had represented herself to be a major, and that they were in a consensual relationship. The surrounding circumstances and the evidence on record, according to the defence, do not conclusively establish that the prosecutrix was a minor at the relevant time.

19. It was also highlighted that the respondent has already

undergone more than four years of incarceration during trial, and was about 21 years of age at the time of the incident. In view of the doubt surrounding the age of the prosecutrix and the unreliable evidence, it was submitted that the acquittal recorded by the Trial Court calls for no interference. REBUTTAL SUBMISSIONS MADE BY THE APPELLANT/ STATE:

20. In rebuttal, the learned APP for the State submitted that the contentions advanced on behalf of the Respondent are misconceived and do not dislodge the prosecution case. It was argued that the Signed By:VAISHALICRL. A. 236/2021
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alleged discrepancy in the testimonies of the parents is minor and inconsequential, as the mother merely stated the prosecutrix was born in the year 1998, without specifying the month, which could range from January to December 1998, whereas the father has given a specific date, that is, 23rd January, 1999, as the date of birth of the prosecutrix. Thus, the two versions of dates of birth of prosecutrix are proximate and not materially contradictory, especially considering that both witnesses were illiterate.

21. It was further contended that the entire reasoning of the

impugned judgment proceeds on an erroneous presumption of consent, overlooking the material evidence on record. Reliance was placed on the FSL report (Ex. PW-4/A), duly proved by PW-4 Anita Chhari, Scientific Officer, which conclusively establishes that the DNA found on the

clothes, jeans and underwear of the prosecutrix matches with the blood sample of the Respondent, thereby corroborating the prosecution case beyond doubt.

22. He submitted that while it is a settled principle that where two

views are possible, the one favouring the accused should ordinarily be adopted, the present case does not fall within that category, as the findings of the Trial Court are perverse, based on mis-appreciation of evidence, and is liable to be set aside. ANALYSIS AND REASONING:

23. We have carefully examined the impugned judgment, the evidence brought on record, and the rival submissions advanced on Signed By:VAISHALICRL. A. 236/2021 Page 9 of 21 behalf of the parties.

24. The primary issue which arises for consideration pertains to the determination of the age of the prosecutrix.

25. The Trial Court, in our opinion, has committed a serious error

in disregarding a duly proved public document, without any cogent basis. The birth certificate (Ex. PW-8/C), issued by the Municipal Corporation, clearly records the date of birth of the prosecutrix as 23rd January, 1999. The said document was proved in accordance with law by PW-8, the Sub-Registrar (Birth & Death), who conclusively proved the official record, i.e., the birth certificate. There is nothing on record to suggest that the document is fabricated or unreliable. In such circumstances, the rejection of this document by the Trial Court appears to be unjustified and legally untenable.

26. It is further pertinent to note that during the cross-examination

of PW-8, no question was put by the defence challenging the authenticity or correctness of the birth certificate. The defence did not seek to discredit the witness nor did it question the basis on which the entry was

recorded in the official register. In the absence of any such challenge, the document remained uncontroverted and ought to have been accepted as reliable evidence. In the absence of any cogent rebuttal, birth certificate issued by a competent authority can be relied upon for determining age. The defence did not lead any evidence to controvert the said document nor had it been able to demonstrate any inherent inconsistency therein.

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27. The Trial Court, however, proceeded to discard the birth

certificate on speculative reasoning without there being any legal justification. Such an approach runs contrary to established principles governing appreciation of documentary evidence. The Court cannot embark upon a speculative inquiry into the manner in which a public document was created when its authenticity is not in dispute. The failure to accord due weight to this document vitiates the findings of the Trial Court.

28. The reasoning of the Trial Court that the birth certificate loses

its evidentiary value on account of delayed registration, is also misconceived. It is not uncommon in rural and economically weaker sections of society for births to be registered belatedly due to lack of awareness or access to institutional mechanisms. In the present case, the birth was registered in the year 2009, which is significantly prior to the date of the incident in 2014. Therefore, the possibility of the document being fabricated for the purposes of the case, stands effectively ruled out. The delay in registration, by itself, cannot be a ground to discard an otherwise valid document issued by a competent authority. The Trial Court failed to appreciate this aspect and instead treated the delay as fatal to the prosecution case. Such an approach is not supported by law or judicial precedent. Accordingly, this Court finds that the reasoning adopted by the Trial Court in this regard is flawed.

29. This Court also finds merit in the submission of the State that Signed By:VAISHALICRL. A. 236/2021 Page 11 of 21

Rule 12 of Juvenile Justice (Care and Protection of Children) Rule, 2007, as applicable at the time of commission of offence, provided a clear statutory framework for determination of age. The Honble Supreme Court in Jarnail Singh Vs. State of Haryana, (2013) 7 SCC 263, inter alia, held that Rule 12 of Juvenile Justice (Care and Protection of Children) Rule, 2007 should be basis for determining the age, even of a child who is a victim of crime. The rule gives primacy to documentary evidence such as a birth certificate issued by a competent authority. The date of birth certificate issued by a competent authority falls within the third category of preference under Rule 12(3) of Juvenile Justice (Care and Protection of Children) Rule, 2007 for determining the age of a child.

30. In the present case, the birth certificate was issued from the

Municipal Corporation. Once such a document is available and duly proved, the Court is not required to resort to conjecture or rely upon oral testimony. The Trial Court, however, deviated from this statutory mandate, by placing undue reliance on the statement of the mother recorded during cross-examination. The discrepancies in her testimony, particularly regarding the exact year of birth, cannot override a duly proved statutory document. The law does not permit the Court to substitute documentary evidence with approximations derived from oral statements. Therefore, the finding of the Trial Court on the issue of age is unsustainable.

31. Even otherwise, the inconsistencies highlighted by the Signed By:VAISHALICRL. A. 236/2021 Page 12 of 21

respondent in the testimonies of the parents, do not materially affect the prosecution case. The mother merely stated that the prosecutrix was

born around three years after her marriage in 1995, which would broadly indicate the year 1998, without specifying the exact date or month. The father, on the other hand, provided a specific date of birth of prosecutrix, that is, 23rd January, 1999, which is in consonance with the date recorded in the birth certificate Ex. PW-8/C. The birth certificate issued by the competent authority cannot be disbelieved only because the mother failed to give the exact date of birth. Such discrepancy cannot be elevated to the level of creating a reasonable doubt regarding the age of the prosecutrix. Whether the year of birth was 1998, as stated by the mother, or 23rd January, 1999, as stated by the father and also recorded in the birth certificate, either way, the prosecutrix was a minor at the time of the incident. Accordingly, we hold that prosecutrix was minor at the time of commission of the offence.

32. Once it is established that prosecutrix was minor, the entire foundation of the Trial Courts reasoning on consent collapses, as

being legally untenable. The Trial Court in the impugned judgement

regarding this aspect, recorded its finding as under: 30. As per PW2/victim, PW3/mother of the victim and PW5/father of the victim, public toilets from where victim was taken away, was at a walking distance of five minutes from their house. Jhuggi of the accused from where victim and accused were recovered was in the next street at a walking distance of about two minutes from victim's jhuggi.

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31. Cross-examination of PW14/IO SI Yogesh

shows that the area was a thickly populated one. The jhuggi of accused from where victim was recovered was at a distance of 30-35 meters from the spot from where victim was taken away by the accused. There was

only one public toilet in the area. Testimony of the victim shows that she was taken away when she was 4 to 5 steps away from the public toilet. The street in front of the jhuggi of accused from where the victim was recovered is around 4 to 5 feet wide. The testimonies of PW2, PW3 and PW4 also confirm that there are houses opposite to the jhuggi of the accused where he stayed with the victim for two days.

32. All the three spots i.e. jhuggi of the victim,

jhuggi of the accused and public toilets were closely situated. Thus, detection of a person in case some effort was made by such person herself would not be difficult.
Consent

33. Since it could not be proved beyond doubt that the victim was a minor at the time of incident, the issue of consent gains importance.

34. The victim has deposed that on the day of

incident (09.05.2014) at 4:30 AM, she was going to the public toilet alone. Before she could enter the public toilet, accused came from behind and gagged her mouth because of which she became unconscious. When she regained her consciousness, she found herself in the room of the accused. The accused kept her in the locked room for two days during which he had forcible sexual intercourse with her repeatedly. She was rescued on 11.05.2014.

35. Testimonies of the PWs show that the

jhuggi where victim was kept was locked from outside. When the lock was broken on 11.05.2014, victim and the accused were both found inside the room. There is no Signed By:VAISHALICRL. A. 236/2021 Page 14 of 21 investigation or any explanation as to how the room was locked from outside when the accused was present with the victim inside the room. There is also no investigation or any explanation as to who had locked the said room/jhuggi from outside. The said lock was also not seized during investigation.

36. It has been pointed out by Ld. Amicus

Curiae for the accused that it has been observed by the examining doctor in the MLC of the victim (Ex. PW6/A) that the patient has allegedly taken bath with water on 09.05.2014 and 10.05.2014 but did not change her clothes. It has been argued that there is no investigation regarding the availability of toilet or bathroom in the jhuggi of the accused, and their location. It is submitted that this factor is important to ascertain whether the victim was in fact illegally confined or if she was free to move around and even go out of the room/jhuggi of the accused. There is no investigation on this aspect.

37. Testimony of the victim shows that during

this period of 2 to 3 days (09.05.2014 to 11.05.2014), she made no attempt to flee or raise alarm at any point of time including the times when the accused had sexual intercourse with her. Her explanation is that she tried to shout but her voice failed her. She was specifically asked in her cross-examination if she tried to beat the door of the house of the accused. The victim replied that accused was physically holding her in his grip and did not let her go till the door (Ye mujhe pakad ke baitha hua tha aur mujhe darwaze tak bhi jaane nahi diyatha). This circumstance is doubtful as the accused could not have physically held the victim in his grip continuously for two or three days.

38. As per the parents of the victim (PW2 and PW3), when the lock of jhuggi of accused was broken open, they found the victim lying unconscious on the floor of the room and Signed By:VAISHALICRL. A. 236/2021 Page 15 of 21

accused sitting on the bed. Independent public witnesses, PW12 Sh. Santosh and PW13 Sh. Ramakant, were also examined. PW13 has deposed that when the door was opened, victim was found lying on the floor and appeared to have fainted. PW12, who was Pradhan of that area

and was instrumental in rescue of the victim, deposed that when the door was opened, victim was found lying on the floor and was in a perplexed and nervous state. It has been argued by Ld. Amicus Curiae that discovery of her relationship with the accused made the victim extremely nervous and perplexed. Ld. Amicus Curiae has also pointed out that PW12 and PW13 have both stated that in their presence, the victim told the police that on 09.05.2014, accused had enticed her by saying that he could marry her. Even though, no such statement of the victim is on record but the version of PW12 and PW 13 do create a doubt regarding the manner and circumstances in which the victim accompanied the accused.

39. The abovesaid circumstances create a

substantial doubt in the story of the prosecution that the victim was forcibly taken away by the accused and that the accused illegally confined her and subject her to forcible sexual intercourse. The benefit of doubt, therefore, goes to the accused.

33. The Trial Court proceeded to examine surrounding

circumstances such as the proximity of the jhuggis, the density of the locality, and the alleged conduct of the prosecutrix to infer the possibility of consent, and the Respondent during the trial and even now has sought to contend that the prosecutrix had represented herself to be a major and had voluntarily accompanied the respondent to his jhuggi. However, now since the prosecutrix is found to be a minor,

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such an inquiry into consent or voluntariness is wholly misplaced in law. The POCSO Act creates a strict statutory framework wherein the consent of a minor is rendered wholly irrelevant. The legislative intent behind the enactment is to afford heightened protection to children against sexual exploitation and abuse. Consequently, any ostensible willingness or

voluntary participation by the prosecutrix, cannot be construed as valid consent in the eyes of law. The trial courts reasoning that the prosecutrix could have been detected had she made efforts or that the accused could not have confined her continuously for two days, does not dilute the statutory mandate. Even assuming for the purpose of argument that the prosecutrix did not resist or that she remained with the accused without immediate protest and willingly, such conduct cannot legalize the act. The law does not recognize the capacity of a minor to consent to sexual activity under any circumstances.

34. The testimony of prosecutrix was recorded in question-answer

form. In such statement, she deposed that accused caught me from backside and gagged my mouth and I became unconscious, when I regained my conscious, I found myself in the room of the accused. She further deposed that thereafter accused did zabardasti ki, mein chillane ki koshish kar rahi thi aur meri awaz nahi nikal rahi thi. When asked to explain as to what she meant by zabardasti, she stated that Deepak ne mere saath zabardasti saaririk sambandh banaye. She further stated that do din tak isne mujhe taale me band

Signed By:VAISHALICRL. A. 236/2021 Page 17 of 21 kar ke rakha tha fir mummy papa ke sath Inspector aaya tha usne mujhe waha se chhudwaya tha. According to her, she was raped by the accused twice.

35. In cross examination, she was questioned as to whether she

raised any hue and cry either on the way or on the arrival at the house of the accused, to which, she stated Me chillayee thi par muh se awaaz nahi nikal rahi thi. When further questioned as to whether she beat the door of the house of the accused, she replied ye mujhe pakad ke baitha hua tha aur mujhe darwaje tak bhi jaane nahi diya tha. These questions were put by the defence to show that the prosecutrix voluntarily went to the jhuggi of the accused, which fact becomes clear from the further

questions put to the prosecutrix. It was suggested to her that she used to send the letters to the accused through Indu, who lives in front of the house of the accused. She was also given the suggestion that she was in love affair with the accused. She denied the suggestion that on 09th May, 2014, she had voluntarily gone to the house of the accused. She denied that she used to go to the room of the house of the accused in the night time after her parents go to sleep. She denied the suggestion that in the morning of 10th May, 2014 at about 4.00 am, when she tried to go out of the room of the accused, father of Indu was found to be sitting in front of the room of the accused, due to which, she could not go out from the room of the accused. She denied that at her suggestion, accused had put lock from outside his room so that her parents may not know that she was there

Signed By:VAISHALICRL. A. 236/2021 Page 18 of 21 in the room of the accused. She denied the suggestion that accused served her food and thereafter had also used the toilet, built in the house of the accused.

36. In cross examination of PW-3 and PW-5, that is, parents of the

prosecutrix, similar suggestions were given to them, that on 09th May, 2014, their daughter had gone to meet the accused and since one Ram Karan was present in front of the jhuggi, she could not leave from there.

37. On the basis of the questions put during the cross examination

of the prosecutrix and her parents, it is evident that respondent does not even dispute that prosecutrix was in his jhuggi on 09th May, 2014 and 10th May, 2014, even though, he claims that she came to his jhuggi voluntarily. The defence of the respondent suggesting a possible relationship between him and the prosecutrix does not override the statutory prohibition under the POCSO Act, which criminalizes sexual acts with minors irrespective of consent or relationship. It is a settled position, reiterated in numerous judicial pronouncements, that the

consent of minor is no consent in the eyes of law and therefore even if the relationship between the prosecutrix and the respondent was consensual, is of no legal consequence.

38. As per the history recorded in the MLC of the prosecutrix Ex.

PW-6/A, the prosecutrix had taken bath with water but had not changed her clothes that she was wearing at the time of assault. PW-1 W. Constable Komal deposed that after medical examination, the Signed By:VAISHALICRL. A. 236/2021 Page 19 of 21

doctor had handed over a parcel, duly sealed with the seal of DDU Hospital, which was seized vide memo Ex. PW-1/A. She further deposed that the undergarment of the victim was also sealed with the seal of SY and seized vide memo Ex. PW-1/B. The clothes were shown to the prosecutrix during evidence and were identified by her.

39. The FSL result Ex. PW-4/A, conclusively establishes through

DNA profiling (STR analysis), that the seminal stains detected on the exhibits, namely the jeans pant (Exhibit 11a) and underwear (Exhibit 16) of the prosecutrix, match with the DNA profile derived from the blood gauze sample of the respondent (Exhibit 17). The report clearly records that the biological material found on the clothes of the prosecutrix is similar to that of the respondent, thereby, directly linking him to the act in question. This is not merely corroborative in nature, but constitutes substantive direct scientific evidence proving that sexual intercourse did in fact occur between the prosecutrix, who was a minor of 15-16 years of age at the time of incident and the respondent. The presence of the respondents DNA on the intimate clothing of the prosecutrix further negates the defence of denial and directly connects him with commission of the offence. Significantly, the respondent has neither challenged the collection of samples nor the procedure adopted for DNA analysis, and no suggestion has been put to discredit the findings of the expert witness

(PW-4). The FSL report carries high degree of evidentiary value and reliability and clearly establishes the involvement of the respondent.

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40. In view of the foregoing discussion, this Court is of the

considered opinion that the impugned judgment passed by the Trial Court is perverse and erroneous and also suffers from serious infirmities in appreciation of evidence. The Trial Court has ignored material evidence, misapplied legal principles, and arrived at conclusions which are not supported by the settled propositions and the law. The prosecution has successfully established that the prosecutrix was a minor at the time of commission of offence and that the respondent committed sexual intercourse with her. The benefit of doubt extended by the Trial Court is not based on reasonable grounds but on speculative reasoning. Such a judgment cannot be allowed to

stand. Accordingly, the appeal is allowed and the impugned judgment

dated 18th December, 2019 is set aside.

41. The Respondent Deepak is hereby convicted for the offences punishable under Sections 363/366/342 IPC and Section 6 POCSO Act.

42. The matter be listed on 7th May, 2026 for hearing the Convict Deepak on the point of quantum of sentence.

43. In the meanwhile, fresh Nominal Roll of the respondent be called from Superintendent Jail.

RAVINDER DUDEJA, J.

NAVIN CHAWLA, J.

