**State vs Pawan**

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**SooperKanoon Citation** : sooperkanoon.com/1271565

**Court** : Delhi

**Decided On :** May-07-2026

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

**Appeal No.** : CRL.L.P./232/2024

**Appellant** : STATE

**Respondent** : PAWAN

**Advocate for Pet/Ap.** : Mr. Aman Usman, Mr. Manvendra Yadav

**Judgement** :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 10.04.2026

Pronounced on: 07.05.2026

+ CRL.L.P. 232/2024 & CRL.M.A. 13696/2024 STATE .....Petitioner Through: Mr. Aman Usman, APP with Mr. Manvendra Yadav, Adv.

versus

PAWAN .....Respondent Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

## JUDGMENT

**RAVINDER DUDEJA, J.**

1. The captioned Criminal Leave Petition has been filed, seeking

conviction of the respondent for the offences punishable under Section 6 of Protection of Children from Sexual Offences Act, 2012 [POCSO Act] and Section 376 of the Indian Penal Code, 1860 [IPC], and for setting aside the impugned judgment passed by the learned Trial Court in SC No. 692/2017, FIR No. 257/2016, registered at Police Station Kalyan Puri, under Section 6 of POCSO Act and under Section 376 IPC, whereby the learned Trial Court has acquitted the respondent of the aforesaid offences, while convicting him under Section 10 of the POCSO Act.



2. Vide judgment dated 02nd November, 2021, the learned Trial

Court held the respondent guilty and convicted him for the offence under Section 10 of the POCSO Act. However, he was acquitted for the offences punishable under Section 6 POCSO Act and Section 376 IPC. Subsequently, vide Order on Sentence dated 21st December, 2021, the respondent was sentenced to undergo Rigorous Imprisonment for a period of 5 years and pay a fine of Rs. 5,000/- for the offence punishable under section 10 POCSO Act, and in default of payment of fine, he was directed to undergo Simple Imprisonment for a period of one month.

3. The Criminal Leave Petition has been filed with a delay of 541

days. The learned Additional Public Prosecutor [APP] for the State submitted that the delay occurred on account of the procedural and administrative movement of the file through various departments, including the office of the Chief Prosecutor, Director of Prosecution, Law Department, Office of Chief Secretary and the Office of the Honble Lt. Governor, for obtaining the requisite approvals. It was submitted that the concerned learned APP, who was marked the case, was also on a medical leave for a substantial period, which contributed to the delay. It was submitted that the delay was neither intentional nor deliberate, and that grave prejudice would be caused if the matter is not heard on merits, and is dismissed just on technical grounds, particularly when the impugned judgment suffers from serious infirmities affecting the administration of justice.

4. The learned APP submitted that there is a good case on merits and that the judgment is contrary to the settled principles of law and is Signed By:VAISHALICRL.L.P. 232/2024 Page 2 of 9

based on conjectures and surmises. It was contended that the learned Trial Court failed to properly appreciate the evidentiary value of the statement of the child victim recorded under Section 164 of the Code of Criminal Procedure, 1973 [Cr.P.C.], as also the testimony recorded before the Court. It was argued that the victim had consistently stated that the respondent had removed his underwear and inserted his finger into his anus and had also narrated the complete incident to the police officials. The victim remained consistent on material particulars and no contradiction affecting the substratum of the prosecution case could be pointed out. The minor discrepancies in the testimony of a child victim, aged about 10 years, could not have formed the basis for acquitting the respondent of the offences punishable under Section 376 IPC and Section 6 of the POCSO Act. It was, therefore, contended that the

evidence on record clearly establishes the commission of penetrative sexual assault, and that the learned Trial Court gravely erred in confining the conviction only to Section 10 of the POCSO Act.

5. It was further submitted that the learned Trial Court failed to

appreciate that the conduct of the respondent clearly reflected the requisite mens rea and the acts attributed to him squarely attracted the ingredients of Section 6 of the POCSO Act and Section 376 IPC. It was further submitted that the learned Trial Court placed undue reliance upon the medical examination report, despite the medical examination having been conducted after a delay of about 11-12 days from the date of the incident. It was also contended that in cases involving child sexual abuse, the absence of medical corroboration or



the presence of minor inconsistencies, cannot override the otherwise cogent and trustworthy testimony of the victim. It was further argued that the testimony of the victim, when read in its entirety, clearly proves the commission of sexual assault upon him, beyond reasonable doubt. It was also argued that the learned Trial Court failed to correctly apply the statutory presumptions under Sections 29 and 30 of the POCSO Act, despite the prosecution having established the foundational facts through the testimony of prosecution witnesses, including PW-1/victim and PW-2/the mother of the victim, and therefore, the respondent ought to have been convicted and sentenced under Section 6 of the POCSO Act and Section 376 IPC.

6. Before considering the question of grant of leave to appeal, the

State has to cross the hurdle of limitation. Admittedly, as per the application seeking condonation of delay, there is a delay of 541 days in filing the Criminal Leave Petition. The explanation furnished by the State

is that the delay occurred on account of administrative processing of the file through various departments, and also due to medical leave of the concerned APP. The expression sufficient cause under Section 5 of the Limitation Act, 1963 is to receive a liberal construction, but such liberal interpretation cannot be extended to condone inordinate and unexplained delays in a routine manner. The applicant is required to demonstrate bona fide and due diligence, and also furnish a reasonable and acceptable explanation regarding the delay. The State cannot claim a different or preferential standard in matters concerning limitation. The Law of Limitation binds the State as much as it binds a private litigant, and the expression sufficient



cause must receive a reasonable and not a liberal construction where delay is inordinate and unexplained. The plea of delay in moving the files from one department to another is not a justified explanation for condoning abnormal delay. The Supreme Court, in a catena of judgments, has consistently held that routine explanations pertaining to procedural approvals and movement of files through the departments cannot by themselves constitute a sufficient cause for condonation of enormous delay. Recently, in State of Odisha & Ors. v. Managing Committee of Namatara Girls High School, 2026 SCC OnLine SC 191, the Supreme Court reiterated that the law of limitation is, no doubt, the same for a private citizen as for governmental authorities. The Government, like any other litigant, must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where the Government makes out a case where public interest was shown to have suffered owing to the acts of fraud or bad faith on the part of its officers or agents, and where the officers were clearly at cross- purposes with it.

7. The application for condonation of delay does not disclose any

exceptional circumstance which prevented the authorities from approaching the Court within the prescribed period of limitation. Administrative insufficiency, inter-departmental correspondence, and procedural delays are recurring grounds, routinely pressed into service, and cannot be permitted to dilute the rigor of limitation law. If such explanations are accepted mechanically, the very object underlying the Law of Limitation would stand defeated. It is also

Signed By:VAISHALICRL.L.P. 232/2024 Page 5 of 9 settled that valuable rights accrue in favour of the opposite party once the limitation period expires, and such rights cannot be lightly disturbed in the absence of a cogent justification.

8. We find that the approach of the State has been utterly lethargic,

tardy and indolent. We are of the opinion that the cause sought to have been shown here by the State is not an explanation but a lame excuse. No case for exercise of discretion has been made so as to warrant condonation of an enormous delay of 541 days. Accordingly, Crl.M.A. 13696/2024 is dismissed.

9. Even otherwise, upon a prima facie consideration of the matter

on merits, this Court finds no ground warranting interference with the impugned judgment passed by the learned Trial Court. The principal grievance of the State is that the learned Trial Court ought to have convicted the respondent under Section 6 of the POCSO Act and Section 376 IPC on the basis of the subsequent allegation regarding insertion of a finger into the anus of the victim.

10. However, the record reveals that in the initial version, including

the FIR and the statement of the victim recorded under Section 161 Cr.P.C., the allegations against the respondent were confined to touching of the private part of the victim, and no allegation of digital rape or insertion of a finger were made in the FIR, MLC Report or the Section

161 Cr.P.C. statement. The allegation of digital rape or penetrative sexual assault surfaced for the first time in the statement of PW-1/victim recorded under Section 164 Cr.P.C., which admittedly came to be recorded after more than fourteen months from the date of the alleged incident. The learned Trial Court, in the impugned



**judgement, upon a detailed appreciation of the evidence, rightly held**

that the allegation relating to penetrative sexual assault constituted a material improvement over the earlier version and, therefore, could not be safely relied upon for convicting the respondent for the graver offences punishable under Section 6 of the POCSO Act and Section 376 IPC. The learned Trial Court observed that neither in the complaint (Ex.PW-1/D-1) nor in the disclosure made by the victim to his mother immediately after the incident, was there any allegation that the respondent had inserted his finger into the anus of the victim. Rather, the consistent allegation throughout was that the respondent had removed the underwear of the victim and repeatedly touched/rubbed his anus, and therefore the learned Trial Court rightly found that the allegation regarding touching remained consistent throughout and accordingly recorded conviction under Section 10 of the POCSO Act. At this stage, it cannot be said that such appreciation of evidence is either perverse or wholly contrary to law so as to warrant interference.

11. The learned Trial Court further rightly noticed that PW-2, the

mother of the victim, did not support the allegation made by the PW-1/victim regarding insertion of finger in the anus and, in fact, it can be seen from her testimony that she denied that the victim had ever disclosed such allegation of insertion of finger to her. The learned Trial Court also considered the medical evidence, that is, Ex.PW-3/C, wherein

the doctor PW-3/Dr. Suraj Prakash, conducting the rectal examination, opined that the anal tone was normal, no evidence of body fluid or seminal stains was found and there was no evidence



suggestive of penetrative sexual assault. The medical evidence also did not support the allegation of penetrative assault, as the MLC Report did not indicate any sign of sexual abuse or assault. Though it is correct that the absence of medical evidence is not always fatal in cases involving sexual offences, particularly against children, yet where material improvements emerge at a belated stage, the Court is required to scrutinize such evidence with greater caution. The testimony of PW-1 as well as PW-2 reflects that despite the alleged incident, no immediate complaint was lodged and the FIR came to be registered only after about 10-15 days, subsequent to repeated quarrels between PW-2 and the respondent. PW-1 himself stated that after the incident his mother confronted the accused, who remained silent, and that the police was called only after 10-11 days, when the accused assaulted PW-2. Similarly, PW-2 admitted that frequent quarrels used to take place between her and the respondent and that although she was informed about the alleged incident earlier, she approached the police only subsequent to the disputes and beatings by the respondent.

12. The learned Trial Court, having had the benefit of observing the

demeanour of the witnesses firsthand, and observing that significant improvement were made by PW-1 in his statement under Section 164 Cr.P.C., arrived at a conclusion that the offence under Section 6 of the POCSO Act was not established beyond reasonable doubt. No glaring illegality or manifest perversity is discernible in the reasoning of the learned Trial Court.

13. It is a settled law that the appellate Court, particularly while dealing with a petition seeking enhancement or interference with an Signed By:VAISHALICRL.L.P. 232/2024 Page 8 of 9

**order of acquittal on graver charges, ought not to substitute its view**

> merely because another view may also be possible. Unless the findings recorded by the Trial Court are wholly unreasonable, perverse or based on a complete misreading of evidence, interference is unwarranted. In the present case, the view taken by the learned Trial Court appears to be reasonably plausible from the evidence on record. The prosecution has already succeeded in securing conviction of the respondent under Section 10 of the POCSO Act and the sentence imposed cannot be said to be inadequate in the facts and circumstances emerging from the record.

14. This Court, therefore, finds no compelling reason either to condone the extraordinary delay or to interfere with the impugned

**judgment on merits.**

15. Consequently, the application for condonation of delay as well as the criminal leave petition stand dismissed.

**RAVINDER DUDEJA, J.**

**NAVIN CHAWLA, J.**

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