



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 08.10.2025

+ **CRL.L.P. 582/2022 & CRL.M.A. 26035/2022**

STATE (GNCT OF DELHI)

..... Petitioner

versus

DEVENDER SINGH RANA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Priyanka Dalal, APP for the State with
SI Bharat Singh, PS Uttam Nagar.

For the Respondents : Mr. Vinay Kumar Sharma, Mr. Prince, Ms.
Ritu Kumari, Mr. Aaditya and Mr. Amit
Kumar, Advocates.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') seeking leave to challenge the judgment dated 10.05.2022 (hereafter '**the impugned judgment**'), in Sessions Case No. 441341/2016 arising out of FIR No. 607/2016, registered at Police Station Uttam Nagar, whereby the learned Trial Court had acquitted the respondent of the offences under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012



(‘POCSO Act’).

2. Succinctly stated, a written complaint was given by victim ‘J’ aged 15 years against the respondent on 23.07.2016. In the said complaint, it was alleged that the respondent, who is stated to be a yoga teacher, had sexually assaulted the victim ‘J’ and her younger sister ‘M’ aged about 09 years. It is alleged that the victim ‘J’ and her sister ‘M’ were studying in classes XI and VII respectively. It is alleged that one day, the victim ‘J’ was told by her sister ‘M’ that the respondent was calling her. Thereafter, when the victim ‘J’ went to inquire about the same, the respondent asked her to come in the yoga room for the purpose of interaction. It is alleged that thereafter when the victim ‘J’ told that she had a class, the respondent asked her to come to the yoga room whenever she got free. Thereafter, when victim ‘J’ went to the yoga room, she found that the respondent was alone. It is alleged that thereafter, the respondent held victim ‘J’s’ hands and told her that she is very beautiful. It is alleged that the respondent further expressed that he liked her and allegedly asked her not to break friendship with him.

3. Thereafter, when the victim ‘J’ discussed the same with her sister ‘M’, it is alleged that her sister ‘M’ disclosed that the respondent had touched her chest and back. It is further alleged that the respondent inappropriately touched the victim ‘M’ and also removed her hair whenever it would fall on her face. It is alleged that the victims complained about the same to the school authorities, however, it was to no avail. Thereafter, the victims disclosed about the said



incidents to their mother who thereafter asked them to wait for a response from the school authorities. Thereafter, when no action was taken by the school authorities, a written complaint was given by the father of the victims in the school on 02.07.2016. Subsequently, a written complaint was given by victim 'J' on 23.07.2016 which led to the registration of the subject FIR.

4. The respondent was charged for the offences under Sections 8 and 10 of the POCSO Act.

5. By the impugned judgment, the learned Trial Court acquitted the respondent of the charged offences. It was noted that the version narrated by the victims were *inter se* contradictory and were marred with doubts. It was noted that in the first complaint given by the father of the victims to the Principal of the School on 02.07.2016, it was alleged that on 28.06.2016, the respondent after calling victim 'J' through victim 'M' had talked to victim 'J' in an indecent manner and that during such time, the respondent also inappropriately touched the victim 'M'. It was noted that as per the complaint given by the father of the victims, the alleged act was committed on a single day and it was committed by the respondent while both the victims were present together in the room. It was noted that the said complaint was conspicuously silent on the alleged sexual assault committed on victim 'J'.

6. The learned Trial Court noted that in the complaint given by the victim 'J' on 23.07.2016 which led to the registration of the FIR, the victim 'J' stated that the respondent had held her hand on the alleged



date of the incident. It was further noted that as per the complaint given by the victim 'J', the respondent had committed the offences against herself and her sister 'M' on two separate occasions when they were alone with the respondent. It was further noted that the complaint given by the victim 'J' was vague inasmuch as the same failed to mention the alleged dates on which the alleged acts were committed by the respondent against herself and her sister 'M'.

7. The learned Trial Court further noted that the victim 'J' took contradictory stances in her testimony and in the complaint as to who had informed her about the fact that the respondent was calling her. It was noted that in the complaint, the victim 'J' stated that she was informed by her sister 'M' that the respondent was looking for her whereas in her testimony, the victim 'J' stated that the monitor of her class told her that the respondent was looking for her.

8. It was further noted that in her complaint, the victim 'J' failed to specify as to which teacher she had disclosed about the commission of the alleged act by the respondent. However in her testimony, the victim – 'J' stated that she had disclosed about the said incident to her chemistry teacher. The learned Trial Court took into account the testimony of PW-7/Chemistry teacher of victim 'J' who stated that the victims had not disclosed about the commission of any such act by the respondent to her.

9. The learned Trial Court noted that in her testimony, the victim 'J' stated that the respondent had asked her to perform belly dance for him on the alleged day of the incident, and that when she refused, the



respondent asked her to perform *surya namaskar* for him. It was noted that the said aspects were missing in the complaint and the statement of the victim 'J' under Section 164 of the CrPC. It was noted that the said averments were missing even in the complaint made by the father of the victims.

10. The learned Trial Court noted that there existed several contradictions in the place where the alleged offence was committed. It was noted that the victim 'J' stated that the offence was committed in the yoga room, however, in her cross-examination, the victim 'J' stated that there was no yoga room in the school. Subsequently, she stated that the yoga room was situated on the first floor. Contrarily, victim 'M' in her testimony stated that the yoga room is situated on the third floor.

11. The learned Trial Court further took into account the testimony of the Principal of the School/PW-11 who stated that no complaint was made to her prior to 02.07.2016, however, the victim 'J' in her cross examination stated that she had given a complaint to the Principal of the school, and that the said fact was not mentioned in her previous statements.

12. The learned Trial Court also considered the delay in giving the present complaint to the Police. It was noted that as per the testimony of the victims – 'J' and 'M', the alleged acts were committed on 27/28.06.2016 and the same had been disclosed by them to their parents on 28.06.2016. It was noted that despite the same, the complaint to the school authorities was given by the father of the



victims on 02.07.2016 and the complaint to the police was given only on 23.07.2016. It was noted that no reasonable justification was given to explain the delay in giving the complaint to the police.

13. Consequently, considering the embellishments, contradictions and gaps in the case of the prosecution, the learned Trial Court acquitted the respondent of the charged offences.

14. The learned Additional Public Prosecutor for the State submitted that the learned Trial Court erred in acquitting the respondent of the charged offences. She submitted that the acquittal of the respondent was based on conjectures and surmises and is liable to be set aside. She submitted that the learned Trial Court acquitted the respondent on account of some discrepancies in the statements of the victims – ‘J’ and ‘M’. She submitted that the victims have been consistent and specific in apportioning the role of the respondent. She submitted that the learned Trial Court disbelieved the victims without any plausible reason and gave unnecessary importance to minor contradictions.

15. She submitted that it is trite law that the conviction can be sustained on the sole testimony of the victim and that in the present case the victims have categorically named the respondent in their statements.

16. She submitted that mere delay in giving complaint is not *per se* fatal to the case of the prosecution. She further submitted that in view of Section 29 of the POCSO Act, the Court is bound to draw a presumption in favour of the victims.



17. The learned counsel for the respondent submitted that the learned Trial Court has rightly acquitted the respondent after duly considering the evidence of the prosecution witnesses.

Analysis

18. It is trite law that the Appellate Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so. At the stage of grant of leave to appeal, the High Court has to see whether a *prima facie* case is made out in favour of the appellant or if such arguable points have been raised which would merit interference. The Hon'ble Apex Court in the case of ***State of Maharashtra v. Sujay Mangesh Poyarekar*** : (2008) 9 SCC 475 held as under:

“19. Now, Section 378 of the Code provides for filing of appeal by the State in case of acquittal. Sub-section (3) declares that no appeal “shall be entertained except with the leave of the High Court”. It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by sub-section (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under sub-section (3) of Section 378 of the Code. 20. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether a prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside. 21. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial court must be allowed by the appellate court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial court could not be said to be



“perverse” and, hence, no leave should be granted.

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24. We may hasten to clarify that we may not be understood to have laid down an inviolable rule that no leave should be refused by the appellate court against an order of acquittal recorded by the trial court. We only state that in such cases, the appellate court must consider the relevant material, sworn testimonies of prosecution witnesses and record reasons why leave sought by the State should not be granted and the order of acquittal recorded by the trial court should not be disturbed. Where there is application of mind by the appellate court and reasons (may be in brief) in support of such view are recorded, the order of the court may not be said to be illegal or objectionable. At the same time, however, if arguable points have been raised, if the material on record discloses deeper scrutiny and reappraisal, review or reconsideration of evidence, the appellate court must grant leave as sought and decide the appeal on merits. In the case on hand, the High Court, with respect, did neither. In the opinion of the High Court, the case did not require grant of leave. But it also failed to record reasons for refusal of such leave.”

19. In the present case, in order to establish its case, the prosecution has examined 13 witnesses out of which PW-1/victim ‘M’ and PW-2/victim ‘J’ deposed about the manner in which the alleged incident took place, PW-4/father of the victims and PW-6/mother of the victims deposed about the manner in which they derived knowledge about the alleged incidents, PW-3, PW-7/Chemistry Teacher, PW-8, PW-9 and PW-11/Principal of the school deposed about the inquiry conducted against the respondent and the other witnesses deposed about the manner in which the investigation was conducted.

20. PW-1/Victim ‘M’, in her evidence stated that during the yoga period on 27.06.2016 when she was doing yoga with her other classmates, the respondent came to her and touched her on her chest and back. She stated that thereafter, she told the respondent that she



would perform the yoga on her own. She stated that after the period was over, the respondent asked her to stay over and that one of her friends also stayed over with her. She stated that on seeing her friend, the respondent scolded her and asked her to leave the room whereafter PW-1/victim 'M's friend accordingly left the room. Thereafter, she stated that the respondent held her hand and asked her who else from her family was studying in the school to which PW-1/victim 'M' replied that her sister – 'J' was also studying in the same school. She further stated that whenever the respondent used to meet her in school, he used to touch her shoulder and her waist. She further stated that one day when her hair was falling on her face, the respondent had removed the same.

21. Upon being cross examined by the learned counsel for the respondent, PW-1/victim 'M' stated that there were 50 students in her class and almost all of them were her friends. She stated that she had made a complaint to the principal. She further stated that after giving the complaint, she was called by the principal. She further stated that at the time of the incident, her entire class was attending Yoga. She stated that she did not raise any alarm, however, had disclosed about the said incident to her friends. She further stated that she told about the said incident to her sister 'J' on the same day and that her sister 'J' had given a written complaint to the principal in writing. She further stated that the Yoga room was situated on the 3rd floor. She further stated that except 27.06.2016, she did not remember the dates when the respondent had touched her indecently. She further stated that



while the incident occurred on 27.06.2016, she told about the same to her mother only on 28.06.2016.

22. PW-2/Victim 'J' in her evidence stated that on 28.06.2016, the monitor of her class told her that the respondent was looking for her. She stated that she thought that the respondent wanted to speak to her in relation to her sister PW-1/victim 'M'. She stated that when she went to the Yoga room, no one except the respondent was present there. She stated that the respondent, on the said occasion, held her hand and expressed that she was beautiful and that he liked her. She stated that the respondent also asked her to perform belly dance and that when she refused, the respondent asked her to perform *Surya Namaskar*. PW-2/Victim 'J' stated that thereafter she went to her class and disclosed about the said incident to her friends. She further stated that she disclosed about the said incident to her chemistry teacher. She stated that her Chemistry teacher told her that she would discuss about the same after some time.

23. PW-2/Victim 'J' stated that she disclosed about the said incident to her mother on 28.06.2016. She stated that since the school authorities were not taking any action, her father gave a formal complaint to the principal despite which no action was taken by the school authorities. She stated that thereafter, a complaint was given to the police.

24. Upon being cross examined by the learned counsel for the accused, PW-2/Victim 'J' admitted that she had not mentioned the date or time when the alleged incident occurred or when she went to



talk to the respondent. She stated that no complaint in writing was made by her to any teacher. She stated that she had disclosed about the incident to her parents on the same day itself. She further voluntarily stated that no action had been taken by her parents since they were awaiting the response by the school authorities. She stated that CCTV cameras were installed in her school at the time when the alleged incident took place. She further stated that Yoga classes used to be performed in the assembly since there was no specific room. She thereafter stated a Yoga Room was provided on the first floor and that other classes were also situated on the first floor adjacent to the Yoga Room.

25. PW-7/Chemistry Teacher of PW-2/Victim 'J' stated that she worked with the respondent from October 2005 till August 2016. She stated that no complaint was given to her by the victims or their parents. She stated that she did not come across any statement of any student suggesting that the respondent had passed any sexually coloured remarks against any student.

26. PW-8/biology Teacher stated that she worked with the respondent from June 2009 till the year 2016. She stated that no complaint was ever given to her by the victims and that she did not come across any statement of any student to point towards the fact that the respondent had made any sexual remarks against any student.

27. PW-9/retired science teacher deposed on similar lines as PW-7/Chemistry Teacher and PW-8/biology Teacher and stated that she had known the respondent for three years and that there was no



complaint against the respondent as per her knowledge except the present one.

28. PW-11/Principal stated that on 02.07.2016, the father of the victims gave a written complaint against the respondent. She stated that on the said date itself an enquiry committee was constituted. She stated that no such incident as stated in the complaint given by the father of the victims had ever happened in the school prior to the said complaint. Upon being cross-examined by the learned counsel for the accused, PW-11/Principal stated that no complaint against the respondent was given by any of the students prior to the said complaint on 02.07.2016.

29. In his defence, respondent denied all the allegations levelled against him. He stated that he had been falsely implicated in the present case. He stated that he had been working in the said school for more than 24 years and was a member of the Safety and Security of Children. He stated that he would keep a watch on the children. He stated that some ex-students and outsiders used to misbehave with the children and in that regard he gave several complaints in Police Station Uttam Nagar. He stated that one of the ex-students namely Rajesh also used to come outside the gate of the school. He stated that the said Rajesh used to inappropriately touch the victim – ‘J’, and that when he scolded her stating that he would inform about the same to her parents, a motivated complaint was given by the victims against him.

30. Before adverting to the facts of the present case, it is pertinent



to note that this Court is conscious of the fact that the victims are children and that minor contradictions in their statement would not adversely impact the matter. It is trite law that the accused can be convicted solely on the basis of evidence of the complainant / victim as long as same inspires confidence and corroboration is not necessary for the same [Ref. ***Nirmal Premkumar v. State : 2024 SCC OnLine SC 260***].

31. In the present case, the case of the prosecution is hinged on the testimonies of the victims. From a perusal of the material on record, however, it is apparent that the testimonies of the victims are fraught with material inconsistencies. A perusal of the complaint dated 23.07.2016 makes it apparent that the same does not detail the date and manner in which the alleged offence was committed. Further, there exists several contradictions in the versions narrated by the child victims in regard to the manner in which the alleged offence was committed.

32. *Firstly*, the contradiction in regard to the person who informed the victim 'J' that the respondent was looking for her. It is pertinent to note that in her complaint dated 23.07.2016 and in her statement under Section 164 of the CrPC, the victim 'J' stated that she was informed that the respondent was looking for her by her sister 'M', however, in her evidence, the victim 'J' stated that her class monitor had informed her that the respondent was looking for her.

33. *Secondly*, in regard to the teacher to whom the victim 'J' disclosed about the alleged incident. It is pertinent to note that in her



initial complaint, the victim 'J' failed to mention that she had disclosed about the said incident to any of her teachers. Subsequently, in her evidence, the victim 'J' stated that she disclosed about the said incident to her Chemistry Teacher. It is pertinent to note that the victim 'J's Chemistry teacher/PW-7, in her testimony, stated that neither of the victims nor their parents had ever given any complaint to her.

34. *Thirdly*, discrepancies in regard to the allegation that the respondent had asked the victim 'J' to perform belly dance. From a perusal of the record, it is apparent that no whisper in relation to the respondent asking the victim 'J' to perform belly dance or *Surya Namaskar* was made in the complaint dated 23.07.2016 or in her statement under Section 164 of the CrPC. The said aspect surfaced for the first time in the testimony of the victim 'J' when she stated that on the alleged day of the incident, the respondent had asked her to perform belly dance and upon her refusal, the respondent had asked her to perform *Surya Namaskar*.

35. *Fourthly*, discrepancies in relation to the place where the alleged incident took place. It is pertinent to note that in her complaint, the victim 'J' stated that the alleged incident took place in the yoga room. Subsequently, on being cross examined, the victim 'J' stated that the Yoga classes used to be performed in the assembly since there was no specific room. She thereafter stated a Yoga Room was provided on the first floor. Contrarily, victim 'M' in her testimony stated that the yoga room was situated on the third floor.



36. *Fifthly*, contradiction in relation to the complaint being given to the Principal. It is pertinent to note that both the victims in their testimony stated that they had given a written complaint to the principal in regard to the alleged incident. On the contrary, PW-11/Principal of the school, in her testimony, stated that no complaint prior to 02.07.2016 was given to her.

37. As rightly noted by the learned Trial Court, the said discrepancies casts serious doubts on the veracity of the case of the prosecution.

38. In addition to the aforesaid, it is also relevant to note that the alleged incident took place 27/28.06.2016, however, the complaint was given to the police only on 23.07.2016. It is pertinent to note that the Hon'ble Apex Court while considering the impact of delay in lodging an FIR in sexual offences and its consequential probability of embellishment or chance of false implication in the case of ***Tulshidas Kanolkar v. State of Goa : (2003) 8 SCC 590*** held as under:

“5. We shall first deal with the question of delay. The unusual circumstances satisfactorily explained the delay in lodging of the first information report. In any event, delay per se is not a mitigating circumstance for the accused when accusations of rape are involved. Delay in lodging the first information report cannot be used as a ritualistic formula for discarding the prosecution case and doubting its authenticity. It only puts the court on guard to search for and consider if any explanation has been offered for the delay. Once it is offered, the court is to only see whether it is satisfactory or not. In case if the prosecution fails to satisfactorily explain the delay and there is possibility of embellishment or exaggeration in the prosecution version on account of such delay, it is a relevant factor. On the other hand, satisfactory explanation of the delay is weighty enough to reject the plea of false implication or vulnerability of the prosecution case....”



39. While this Court is conscious of the fact that the delay in giving the complaint is not *per se* fatal to the case of the prosecution, however, considering the contradictions and gaps in the case of the prosecution and the fact that no satisfactory grounds have been pleaded to justify the delay in giving the complaint, this Court is of the opinion, that the delay casts serious aspersions on the case of the prosecution which go to the root of the present case.

40. The State has also emphasised on the presumption of commission of offence raised against the respondent in accordance with Section 29 of the POCSO Act. The same, in the opinion of this Court, does not aid the case of the prosecution. It is relevant to note that while Section 29 of the POCSO Act provides for a presumption as to the commission of certain offences, the said presumption is not absolute in nature and only comes into play once the prosecution establishes the foundational facts [Ref. ***Altaf Ahmed v. State (GNCTD of Delhi)* : 2020 SCC OnLine Del 1938**].

41. For the said reason, in order to trigger the presumption, it is incumbent on the prosecution to lead evidence to prove the foundation facts. Should the prosecution fail to do so, in the opinion of this Court, a negative burden cannot be thrust upon the shoulders of the accused to prove otherwise. In the present case, as rightly appreciated by the learned Trial Court, there are grave inconsistencies in the version of the prosecution. In such circumstances, it was rightly noted that the prosecution had failed to cogently establish its case against the respondent and that the statements given by the victims were falsified



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by the other witnesses.

42. In view of the aforesaid discussion, the possibility of the respondent's false implication cannot be ruled out. This Court is of the opinion that the State has not been able to establish a *prima facie* case in its favour and no arguable ground has been raised to accede to the State's request to grant leave to appeal in the present case.

43. The leave petition is therefore dismissed in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 08, 2025

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