



2025:DHC:11150



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

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Judgment reserved on: 10.11.2025
Judgment pronounced on: 10.12.2025
Judgment uploaded on: 11.12.2025

+ **CRL.A. 168/2025 & CRL.M.(BAIL) 291/2025**

DARSHAN MOHARAppellant

Through: Ms. Sakshi Sachdeva and Ms.
Ritika Rajput, Advocates

versus

STATE OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with SI
Shivali, SI Ravi Rathee, SI
Vaishali Kaushik, DPA
Jharoda Kalan
Mr. Arvind Kumar, Advocate
for Victim.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****J U D G M E N T****Index to the Judgment**

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DR. SWARANA KANTA SHARMA, J

1. The appellant has approached this Court by way of the present appeal to assail the impugned judgment dated 12.12.2024 and order on sentence dated 15.01.2025, passed by the learned Additional Sessions Judge (POCSO), North West District, Rohini Courts, Delhi [hereafter '*Trial Court*'] in case arising out of FIR No. 362/2020, registered at Police Station Bharat Nagar, Delhi, for the offence punishable under Sections 376/506 of the Indian Penal Code, 1860 [hereafter '*IPC*'] and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 [hereafter '*POCSO Act*'].



2. By the impugned judgment dated 12.12.2024, the learned Trial Court has convicted the appellant for commission of offences under Sections 376(2)(f) and 506 of IPC, and Sections 5(n)/6 of the POCSO Act. By the impugned order on sentence dated 15.01.2025, the appellant has been sentenced to undergo rigorous imprisonment for 20 years for the offence punishable under Section 6 of the POCSO Act, and rigorous imprisonment for one year for the offence under Section 506 of IPC.

FACTUAL BACKGROUND

3. Briefly stated, the facts of the case are that on 04.05.2020, on receipt of DD No. 14A at P.S. Bharat Nagar, SI Vaishali along with Ct. Suman had reached Deep Chand Bandhu Hospital, where they were informed by the doctor that the victim 'V' had been sent outside for an ultrasound examination. At about 3:30 p.m., the victim, aged about 17 years, returned to the hospital along with her aunt ('B'), carrying the ultrasound report. The victim was medically examined *vide* MLC, and the doctor advised that she be admitted. The Investigating Officer (I.O.) had called an NGO counsellor, who had counselled the victim. The I.O. thereafter had recorded the statement of the victim, who stated that she lived with her father, aunt, and grandmother. Her mother had passed away the previous year, after which she had discontinued her studies. Her father worked as a banner-paster. The victim further stated that she did not remember the exact date, but sometime in January 2020, her grandmother had



fallen ill and her aunt had taken her grandmother to the hospital. Her father was away at work. At that time, she had served food to her *mama*, Darshan (the appellant). The accused had then pulled her towards himself, gagged her mouth, removed both their clothes, and forcibly had sexual intercourse with her. When she resisted, the accused had threatened to kill her if she disclosed the incident to anyone. Out of fear, she had remained silent. Later, when she experienced pain in her stomach, she had visited the hospital with her aunt and had come to know that she was pregnant, after which the doctor had informed the police. She also stated that she had earlier visited the hospital on 30.04.2020, though no medical aid was taken at that time. As her abdominal pain increased, she returned to the hospital on 04.05.2020. On the basis of her statement and the MLC, the present FIR was registered against the appellant Darshan Mohar.

4. During investigation, the victim's statement under Section 164 of the Cr.P.C. was recorded. Her age-related documents were obtained from her school, showing her date of birth as 24.01.2003. The appellant was arrested on 24.06.2020. Upon completion of investigation, a chargesheet was filed, and charges were framed under Section 5(n)/6 of POCSO Act (and in the alternative under Section 376(2)(f) of IPC) and Section 506 of IPC.

5. During trial, the prosecution examined 15 witnesses. The statement of the appellant under Section 313 of Cr.P.C. was recorded thereafter. The appellant led defence evidence and examined one defence witness. After conclusion of trial, the learned Trial Court,



vide judgment dated 12.12.2024, convicted the appellant, and *vide* the order on sentence dated 15.01.2025, imposed the sentences noted above.

6. Aggrieved by his conviction, the appellant has preferred the present appeal.

SUBMISSIONS BEFORE THE COURT

7. The learned counsel appearing for the appellant contends that the impugned judgment is illegal, perverse, and unsustainable, as the learned Trial Court failed to properly appreciate the evidence on record. It is argued that the prosecution case suffers from material inconsistencies and that the chain of circumstances is not complete so as to exclude every hypothesis consistent with the innocence of the appellant. It is submitted that there was an unexplained delay of nearly five months in reporting the alleged incident, which renders the prosecution version doubtful. It is further urged that the learned Trial Court has failed to apply the settled principle that where two possible views emerge from the evidence, the view favourable to the accused must be adopted, and the benefit of doubt must go to the appellant. It is contended that the victim has falsely implicated the appellant in order to shield one Amit, and that the Trial Court erred in rejecting the defence regarding the site plan and the improbability of the incident having taken place at the place alleged. It is also submitted that the investigating agency failed to collect crucial evidence, including the CDRs/location chart of the appellant, to



establish his presence at the house of the victim, and that there is no medical or scientific evidence connecting the appellant with the commission of alleged offence. The learned counsel argues that the testimony of the victim is neither consistent nor reliable, and does not inspire confidence so as to form the sole basis of conviction. On these grounds, it is prayed that the appeal be allowed and the impugned judgment and order on sentence be set aside.

8. *Conversely*, the learned APP for the State, assisted by the learned counsel for victim, argues that the victim was a minor of about 17 years at the time of the incident, and her testimony clearly establishes that the appellant had committed the offence when she was alone at home. It is argued that the minor discrepancies highlighted by the appellant are natural, particularly considering the psychological and physical trauma faced by the victim, and do not affect the core of the prosecution case. It is further submitted that under the POCSO Act, statutory presumptions under Sections 29 and 30 operate in favour of the prosecution, and the appellant has failed to rebut these presumptions. The learned APP contends that the Trial Court has rightly appreciated the evidence and applied the settled legal principles, and that the prosecution has proved its case beyond reasonable doubt. Accordingly, it is urged that the impugned judgment and order on sentence suffer from no infirmity and the appeal deserves to be dismissed.

9. This Court has **heard** arguments addressed on behalf of the appellant, as well as the victim and the State, and has perused the



material available on record.

ANALYSIS & FINDINGS

A. Age of the Victim

10. *At the outset*, insofar as the age of the victim is concerned, this Court notes that the prosecution has led evidence to establish that the victim was a minor at the time of commission of offence. The learned Trial Court has also examined this aspect in detail and has relied on the school records produced and proved during trial.

11. This Court notes that PW-2, Sh. Lalit Kumar, the teacher from the school attended by the victim, has deposed that the victim was admitted to Class I on the basis of the admission form, the affidavit of her father, and the MCD birth certificate submitted at the time of admission. These documents were duly recorded in the school's admission register, and the school certificate issued by the then Principal also reflects the victim's date of birth as 24.01.2003. On this basis, the learned Trial Court concluded that the victim was about 16 years and 11 months old on the date of the alleged offence.

12. The learned Trial Court has also specifically observed that the school records appeared to be properly maintained, and free of any overwriting or tampering. It is also significant to note that no suggestion was put either to the victim (PW-1) or to her father (PW-6) that the date of birth recorded in the school documents was incorrect or had been understated. The defence has not led any evidence to dispute or cast doubt upon the entries in the admission



register, which is a relevant and reliable piece of evidence for determining age.

13. In these circumstances, this Court finds no reason to differ from the conclusion reached by the learned Trial Court. The prosecution has therefore established that the victim was a minor at the time of the incident.

B. Appreciation of Prosecution Evidence

Testimonies of the Victim and her family members

14. In the above backdrop, this Court notes that the victim in this case was examined as **PW-1** before the learned Trial Court. She has deposed that the accused is her maternal uncle (*mama*) in relation, being the son of the real aunt (*mausi*) of her mother. She has correctly identified the accused in Court. She has stated that the accused, who is a permanent resident of Agra, had come to their house in January about one or two years ago for sightseeing in Delhi and had stayed with them for one day. She has further stated that on the morning of the incident, the accused was in their room, sleeping on the bed, while she, her father, and her siblings were sleeping on a mattress on the floor. She had prepared breakfast for her siblings as their schools were open at that time, and had gone to see her brother off to his school van. She had also offered breakfast to the accused. Thereafter, she had completed her household activities. Her father had left for work, and she was cleaning the floor of the room where the accused was sitting on the bed, with the television switched on. PW-1 has



stated that at that time, her aunt (*bua*) had gone to the hospital with her grandmother, who was alive then; her other aunt (*chachi*) had gone to pick up her children from school; one *bua* had left for her office at 5:00 a.m.; and the third *bua*, who was mentally disturbed and often left home without informing anyone, was also not present. Thus, PW-1 had been alone in the house with the accused. She has stated that while she was cleaning the floor, the accused had suddenly come from behind, held her, and made her lie on the bed. She has explained that she had been physically weak due to her mother's death and used to become unconscious at times. The accused had forcibly pressed her mouth, causing her to become unconscious. She did not know what he had done to her during her unconsciousness. When she regained consciousness, she found herself lying on the bed, and the accused was also present in the room. Due to fear, she had not disclosed the incident to anyone in her family. PW-1 has further stated that after two months, when she missed her menstrual periods for two months, she told this fact to her sister, who is 2–3 years younger than her. Her sister advised her to tell their aunt (*bua*), and she did so. Her aunt then took her to Deep Chand Bandhu Hospital, where, after examinations and tests, the doctor informed her that she was pregnant. She became scared. Her aunt asked her what had happened, and she told her aunt about the acts of the accused on that day. Her aunt then informed the eldest *bua*, who took PW-1 again to the hospital, where a senior lady doctor spoke to her, inquired about everything, and PW-1 narrated the entire incident to her. The doctor



then called the police. Police officials came to the hospital and recorded her statement in the presence of her aunt. She and her aunt signed her statement (Ex. PW-1/A). PW-1 has deposed that she had first visited the hospital in March or April two years earlier. The doctor at Deep Chand Bandhu Hospital had referred her to another hospital due to lack of testing facilities, though she did not remember the name of that hospital. She was medically examined, admitted, and all her tests were conducted, and the doctor confirmed that she was pregnant. She has also stated that she had earlier come to Court, where her statement under Section 164 of Cr.P.C. (Ex. PW-1/B) was recorded before the learned Magistrate. She has identified her signatures on the site plan (Ex. PW-1/C) and stated that she had identified the accused and signed the arrest memo (Ex. PW-1/D).

15. During her examination, upon leading questions being put by the learned APP for the State, the witness began crying inconsolably, stating that she did not want to say anything further as she could not repeat the incident again and again. She thereafter answered that initially she had offered food to the accused, but when he refused and she began cleaning the room, the accused had held her from behind, pressed her mouth, made her lie on the bed, and then committed the above-said wrongful act (forcibly establishing physical relations) with her after removing her clothes and his pants. She admitted that the accused had threatened to kill her if she disclosed the incident to anyone and had threatened to tell her father, of whom she was very scared. In her cross-examination, she has also stated that accused had



bolted the door inside before committing sexual assault upon her and when she had objected to the same, he had threatened her to stay quite.

16. **PW-6**, Sh. T.R., the father of the victim, has deposed that his family consists of himself and his three children, i.e. one son and two daughters, and that his wife and parents had already passed away. He has stated that he resides on the third floor of their house; the family of his deceased younger brother resides on the second floor, and his sister 'B', along with her daughter, resides on the ground floor. The victim 'V' is his eldest child. He has not recollected the exact date, month or year when he first learnt about the incident but has stated that it was after the first lockdown, when his mother and younger brother were still alive. On that day, he had received a call from his sister informing him that the victim was found pregnant and that his presence at Deep Chand Bandhu Hospital was required for signatures. PW-6 has further stated that when he reached the hospital, the doctor enquired from the victim, in his presence and in the presence of his sister, and the victim disclosed that her pregnancy was caused by the accused, Darshan Mohar, who was their relative (being the son of his *mausi saas*). Police officials had also made enquiries from him regarding the accused. He has correctly identified the accused in Court. He has further stated that the accused had stayed at their house about two-and-a-half years earlier, and on the day of the incident, when he returned home from work, the accused was no longer present. Upon enquiry, he learnt that the accused had



left the house. He has deposed that the victim never told him anything about the incident and that, being her father, he did not question her directly; she might have told the facts to his sister (her *bua*), who would be in a better position to explain. He has stated that the police recorded his statement at the police station.

17. **PW-7**, Smt. B.D., the *bua* of the victim, has deposed that during the first lockdown, at the end of April, the victim had been complaining of stomach ache. After the lifting of the lockdown, she had taken the victim to Deep Chand Bandhu Hospital, where, after examination, the doctor informed them that the victim was pregnant. The doctor then informed the police. In the presence of the doctor and herself, the police enquired from the victim, and the victim stated that the accused, her maternal uncle (*mama*), had committed rape upon her. PW-7 has further stated that the victim told her that the accused had accompanied them after attending a function at Nand Nagari and had stayed with them that night. The next morning, PW-7 and her brother left for work after asking the victim to give food to the accused, and since their mother, who was an asthma patient, had been taken to the hospital by PW-7 and her sister, the victim had been alone on her floor with the accused. When she served him food, the accused had forcibly committed rape upon her. PW-7 has further stated that Deep Chand Bandhu Hospital referred the victim to Ambedkar Hospital, but since it had been converted into a Covid centre, the police took the victim to Bhagwan Mahavir Hospital, where she was medically examined. The victim's statement was



recorded by the police in the presence of PW-7, and PW-7 signed the statement (Ex. PW-1/A). The victim had been admitted in the hospital, and her brother had been called there for completing certain formalities. PW-7 has further stated that the police recorded her statement also, visited the room of occurrence, and prepared the site plan after the victim pointed out the place of the incident.

18. Thus, the broad facts as clearly emerging from the testimonies of PW-1, PW-6 and PW-7 are as under:

- The accused, who is the maternal uncle (cousin *mama*) of the victim, had come from Agra to Delhi and had stayed in the victim's house for a day at the time when the alleged incident took place.
- On the morning of the incident, the accused was present inside the room of the victim's house while the victim's father, siblings, and all other adult family members had left the premises for work, school, or other engagements.
- PW-1 has consistently stated that at the relevant time, she was alone in the house with the accused, as all her aunts (*bua* and *chachi*) and her grandmother had also left for the hospital, office, or other activities.
- PW-1 has stated that while she had been cleaning the floor, the accused had suddenly come from behind, held her, pressed her mouth, made her lie on the bed, caused her to become unconscious, and upon regaining consciousness she found herself lying on the bed with the accused still present.



- PW-1 had initially not narrated the specific sexual acts in detail during her deposition, but on being asked leading questions by the learned APP for the State, she had clearly stated that the accused had removed her clothes and his pants and had forcibly established physical relations with her.
- PW-1 had further stated that the accused had bolted the door of the room before committing the act, had threatened to kill her and warned her not to disclose the incident to anyone, particularly her father, which explained her silence until she missed her menstrual cycle for two months.
- The father of the victim (PW-6) has corroborated the discovery of the pregnancy, his presence at the hospital, and the disclosure made by the victim in the presence of the doctor and the police, and he has identified the accused in Court.
- The *bua* of the victim (PW-7) has corroborated that she took the victim to Deep Chand Bandhu Hospital due to stomach pain, that the pregnancy was revealed there, and that the victim had stated before the doctor and police that the accused had committed rape upon her when she was alone with him.
- PW-1 had cried inconsolably in Court, expressing difficulty in repeating the incident, and her emotional state was duly recorded, but she nevertheless affirmed the material allegations when questioned carefully by the learned APP.

Testimonies of the I.O. and the Doctors concerned

19. Moving further, this Court notes that **PW-13**, SI Vaishali



Kaushik, the I.O., has deposed that upon receiving DD No. 14A on 04.05.2020, she had reached Deep Chand Bandhu Hospital along with Ct. Suman. She has corroborated the account of the other prosecution witnesses regarding the victim's ultrasound, her admission to the hospital, her counselling, and the recording of her statement before the police (Ex. PW-1/A). She has further stated that on 05.05.2020, she had got the victim admitted to Bhagwan Mahavir Hospital, Pitampura. On 06.05.2020, after permission for MTP was granted by the Child Welfare Committee, the victim underwent MTP at the same hospital, and the product of conception was handed over to Ct. Kiran in sealed condition, who then handed it over to the I.O.; the same was seized vide memo Ex. PW-13/B. After the victim was discharged, PW-13 visited the house of the victim on 09.05.2020 and prepared the site plan (Ex. PW-1/C) at the instance of the victim in the presence of her *bua*. On 11.05.2020, she got the victim's statement recorded under Section 164 of Cr.P.C. She has also stated that on 05.06.2020, she collected the documentary proof of the victim's age from her school.

20. **PW-8**, Dr. Sanyal Kumar from North Delhi Advanced Diagnostic and MRI Centre, has deposed that he had conducted the ultrasound of the victim on 04.05.2020 on being referred from Deep Chand Bandhu Hospital, and had issued the report Ex. PW-8/A, wherein the impression recorded was of a single live intrauterine pregnancy of approximately 15 weeks' gestational age with a low-lying placenta.



21. **PW-10**, Dr. C.D. Jassal, HOD, Obstetrics & Gynaecology, Deep Chand Bandhu Hospital, has identified the signatures of Dr. Nikita, then Senior Resident (who has since left the hospital), on the victim's MLC Ex. PW-10/A. She has stated that the victim, aged 17 years, had been brought to the OPD by SI Vaishali on 04.05.2020 with complaints of abdominal pain and missing periods for three months, and had given a history of sexual assault by her maternal uncle, Darshan, aged 28 years, resident of Agra. She has further deposed that as per the ultrasound dated 04.05.2020, the victim had a 15-week pregnancy, and she was advised admission for further treatment. PW-10 has affirmed that the MLC was in the handwriting of Dr. Nikita, whose handwriting and signatures she could identify from her official interactions.

22. **PW-12**, Dr. Monika Saini, has deposed that on 05.05.2020, the victim 'V' had been admitted in Bhagwan Mahavir Hospital, where her pregnancy was medically terminated, and the fetus along with placental tissue had been sealed and handed over to the accompanying police constable along with her discharge summary Ex. PW-12/A.

23. Thus, from the testimonies of the I.O. and the medical witnesses, the following material facts regarding the medical intervention clearly emerge:

- On 04.05.2020, the victim had been taken to Deep Chand Bandhu Hospital, where the I.O. reached pursuant to DD No.



14A, and the victim underwent an ultrasound that revealed a single live intrauterine pregnancy of approximately 15 weeks with a low-lying placenta.

- The victim had been medically examined and counselled at Deep Chand Bandhu Hospital, during which she had disclosed a history of sexual assault by her maternal uncle, and this fact was recorded in the MLC prepared by the then Senior Resident, Dr. Nikita.
- Pursuant to the ultrasound findings and medical assessment, the victim was advised admission for further treatment, and the I.O. arranged for her admission to Bhagwan Mahavir Hospital on 05.05.2020.
- On 06.05.2020, after permission from the Child Welfare Committee had been obtained, the victim underwent medical termination of pregnancy at Bhagwan Mahavir Hospital.
- The product of conception, along with placental tissue, was sealed by the hospital authorities and was handed over to the accompanying police constable, who in turn handed it to the I.O., and the same was seized under memo Ex. PW-13/B.

24. Taking a holistic view of the testimonies of the aforesaid prosecution witnesses, this Court finds that the **broad sequence of events** emerging from the prosecution evidence is that in January 2020, when the accused, who was the maternal uncle of the victim, had stayed at her house for a day, the victim had been left alone with him in the morning when all adult family members had gone out for



work, school or other engagements. It was during this period, according to the victim, that the accused had bolted the door of the room from inside, overpowered her, pressed her mouth causing her to lose consciousness, had removed his clothes as well as that of the victim, and had forcibly committed sexual intercourse with her. The victim, who was emotionally fragile following the recent death of her mother, had remained silent out of fear owing to the threats extended by the accused. After missing her menstrual cycles for two months, she had disclosed her condition to her younger sister and then to her *bua*, following which she had been taken to Deep Chand Bandhu Hospital, where the ultrasound revealed a 15-week pregnancy. Upon being asked by the doctor, she had narrated the incident, leading to the police being informed and her statement being recorded by the I.O. and FIR being registered. The victim was thereafter admitted to Bhagwan Mahavir Hospital; on the Child Welfare Committee granting permission, her pregnancy was medically terminated, and the product of conception was seized in accordance with procedure. Her statement under Section 164 of Cr.P.C. was recorded, and the investigation was taken up.

C. Presumptions under the POCSO Act

25. In view of the statutory framework under the POCSO Act, once the prosecution establishes the basic foundational facts of the offence, the law mandates the drawing of certain presumptions against the accused. These presumptions shift the evidentiary burden



onto the accused to rebut them through credible and convincing material. Section 29 and 30 of POCSO Act are set out below:

“29. Presumption as to certain offences.

Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections 3,5,7 and section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved...”

30. Presumption of culpable mental state.

(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

(2) For the purposes of this section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Explanation.– In this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.”

26. In light of the above provisions, once the prosecution evidence in the present case establishes the foundational facts i.e. the victim being a minor, her consistent account of sexual assault, the resulting pregnancy, and the circumstances disclosed during investigation, the statutory presumptions under Sections 29 and 30 of POCSO Act stand attracted. The burden thus shifts upon the appellant to rebut these presumptions; *however*, as will be discussed in the subsequent portion of this judgment, the appellant has not succeeded in doing so.



D. Defence put forth by the Accused

27. In the present case, this Court finds that the defence raised by the accused has been neither consistent nor credible. PW-1, the victim, was cross-examined on two occasions – first on 14.12.2021, and again on 31.03.2022 pursuant to an application being allowed under Section 311 of Cr.P.C. Despite extensive cross-examination, the defence was unable to extract any material contradiction or inconsistency that could undermine her testimony or rebut the statutory presumptions operating under the POCSO Act.

28. A careful analysis of the cross-examination also shows that the accused himself has changed his defence repeatedly. In the first round of cross-examination, suggestions were put to the victim that the accused used to recharge her mobile phone and that he had visited and stayed in her house – suggestions which, notably, do not deny his presence in the house or his access to the victim at the relevant time. However, during the second round of cross-examination, an entirely new defence surfaced: the introduction of a boy named Amit, with whom the victim was allegedly having an affair, and whom she purportedly sought to shield by falsely implicating the accused. No particulars about this person Amit – address, identity, existence, or any supporting circumstance – were provided by the accused. This Court notes that this line of defence emerged only after the FSL report indicated that DNA could not be extracted from the degraded fetal tissue; *in other words*, the defence of the accused mutated to suit the perceived evidentiary gaps. Further, during cross-examination,



the victim has also denied that the pregnancy in this case had occurred due to her physical relations with some other person and not due to the accused.

29. The same pattern continues in the statement of the accused under Section 313 of Cr.P.C., wherein he again shifted to another new story. He claimed, for the first time, that there were monetary transactions between his mother and the deceased mother of the victim, and that he had been falsely implicated due to the victim's father refusing to return some unspecified amount. This defence is unsupported since neither the accused's mother was examined, nor was any document or witness produced to substantiate the existence of such a transaction. The accused also made certain allegations that the doctors concerned had acted in a "routine manner" without examining the victim, that her MLC, age documents, statements, and even the FIR were false or fabricated. These assertions are plainly bald, unsubstantiated, and contrary to the record, which shows that multiple doctors and the I.O. were examined and their testimonies withstood cross-examination.

30. In defence evidence, the accused examined DW-1 Pankaj, his cousin, who stated that he had allegedly seen the victim roaming with a boy named Amit in JJ Colony and that the accused had warned her that he would inform her father, following which she falsely implicated him. However, in cross-examination, DW-1 jas admitted that he did not personally know Amit and that even the name "Amit" had been told to him by the accused. He was unable to state any basic



detail about this individual – neither his address, nor any identifying particulars, nor the registration number of the motorcycle on which he supposedly saw the victim. Though he claimed he had been driving a school van at that time, he could not tell the name of the school, the registration number of the van, or even the month or time when he had allegedly seen the victim with Amit. He has further stated that the boy was wearing a helmet, making his identification impossible, and conceded that he had not informed the victim's family about the same. DW-1 has also contradicted the accused's earlier position by stating that the accused had never visited Delhi in January 2020, which runs contrary to the suggestions put to PW-1 during cross-examination that the accused had stayed in her house. His testimony, therefore, is vague, unsubstantiated, and unreliable. This Court concurs with the learned Trial Court that DW-1's deposition is wholly unreliable, speculative, and insufficient to dislodge the statutory presumptions under POCSO Act.

31. Viewed cumulatively, this Court is of the view that the accused has put forth multiple, mutually contradictory defences – that he was present in the house, that he never came to Delhi, that the victim was in a relationship with Amit, that she falsely implicated him due to fear of him disclosing about her love affair with Amit, that her father framed him due to monetary disputes, and that the medical records were false and fabricated. More importantly, none of these assertions have been substantiated through any credible evidence, nor do they probalilise any alternative narrative capable of rebutting the statutory



presumption under Sections 29 and 30 of the POCSO Act.

E. Contentions of Accused *qua* Inconsistencies in the Victim's Testimony, Delay in Lodging FIR and Lack of Medical Evidence

32. This Court has carefully considered the submission of the learned counsel for the appellant that the testimony of the victim suffers from inconsistencies, particularly with regard to the description of the sexual assault during her examination-in-chief, and that there is an unexplained delay in registration of the FIR since the alleged incident took place in January 2020, whereas the FIR was lodged in May 2020. Having examined the record, this Court finds no merit in these contentions.

33. At the very outset, the material placed on record demonstrates that ***from the earliest point in time***, i.e. when the victim was first taken to the Hospital Deep Chand Bandhu Hospital, her consistent case has been that she had been subjected to sexual assault by the accused Darshan Mohar, her mother's cousin brother, in January 2020, due to which she had conceived. The MLC of the victim, conducted on 04.05.2020, at Deep Chand Bandhu Hospital, records her statement wherein she categorically named the accused, aged 28 years and a resident of Agra. The MLC notes that "*her mother's cousin brother came to her home. No one was present at home. Her 'mama' forced her to have intercourse.*" Similar observations were recorded by the doctor who examined her *vide* MLC No. 36/2020 prepared at Bhagwan Mahavir Hospital on 05.05.2020. Moreover, it



was upon the disclosure of the victim to the doctor on 04.05.2020 that the police was informed, and her statement was thereafter recorded by the I.O. Officer, in which she categorically stated that the accused had caught hold of her, removed her clothes and established physical relations with her against her consent and thereafter threatened her with dire consequences. In her statement under Section 164 of Cr.P.C., recorded before the learned Magistrate, the victim again reiterated that the accused had caught her, pressed her mouth and did wrong acts with her. ***Thus, the version of the victim regarding the factum of rape being committed upon her by the accused Darshan Mohar in January 2020 remained materially consistent at all relevant stages prior to her testimony being recorded in the court.***

34. It is correct that during her initial examination-in-chief before the Trial Court, the victim first stated that after the accused had pressed her mouth, she became unconscious and did not remember what had transpired thereafter. At this stage, the Trial Court has very pertinently recorded her demeanour while deposing before the Court, observing as follows:

“Court observation: The witness is otherwise seemingly of weak stature and by looks is not more than 13-14 years of age. Further, she is getting moist eyes in between the testimony.”

35. However, upon being put leading questions by the learned APP for the State, and after visibly struggling emotionally, she clearly stated that the accused had removed her clothes and his pants and had



forcibly committed the wrongful act with her. Thus, when a leading question was put to the witness by the learned APP, and she initially responded through her tears that she did not wish to repeat the incident, the Court can fully comprehend the emotional strain she was under. Importantly, despite this distress, she mustered the courage to state, in response to such questioning, that the accused had removed her clothes and his pants and had raped her. While disclosing the details as to how she had been sexually assaulted, the Trial Court has again recorded the following observations:

“Court Observation: The witness has started crying inconsolably and has stated that she does not want to say anything else about this case and that she wishes to close the same as she cannot repeat the incident again and again.”

36. This Court finds that the demeanour recorded by the learned Trial Court, coupled with the circumstances in which the victim was placed, sufficiently explains her initial hesitation and emotional difficulty in narrating the details of the sexual assault.

37. The record also reveals that the victim had been emotionally fragile and traumatised at the time. She had lost her mother earlier, and soon thereafter also lost her grandmother and *chacha*. She has stated that due to these bereavements she had been mentally disturbed, unable to concentrate on her studies, had failed in school, and her name was struck off the rolls. Her fear, depression, and emotional vulnerability are evident from her testimony. During the proceedings, she broke down in Court, cried uncontrollably, and



stated that she could not narrate the incident again and again.

Importance of recording demeanour of a witness: Section 280 of Cr.P.C.

38. This Court also considers it appropriate to note that the **demeanour of a witness**, as observed by the Court during the process of recording evidence, forms an integral component of appreciation of testimony. Section 280 of the Cr.P.C. mandates that while recording the evidence of a witness, the Judge or Magistrate shall also note any remarks that he considers material regarding the demeanour of the witness during such examination. The section reads as follows:

“When a presiding Judge or Magistrate has recorded the evidence of a witnesses, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.”

39. Judicial observation of demeanour, whether the witness shows hesitation, fear, emotional strain, or composure, is a way of assessing credibility, particularly in cases involving sexual offences where the trauma associated with narration of events often manifests visibly in the witness box. Courts must remember that case files are not merely documents, but represent the lives of individuals who seek justice through them. In cases of sexual assault, where the testimony of the victim often constitutes the most crucial piece of evidence, it becomes particularly important to acknowledge and record the emotions that surface in the courtroom when such testimony is



rendered. The learned Trial Judge in the present matter has appropriately taken note of the victim's emotional state and demeanour, thereby ensuring that the record reflects the lived reality of the incident. In the present case, this Court acknowledges and appreciates the sensitivity with which the learned Trial Court Judge recorded the testimony of the victim and documented her demeanour, as cases of sexual assault cannot be adjudicated in a vacuum, devoid of the emotional context inherently involved. These observations, forming part of the judicial record, are of significance, for they reflect the mental and emotional state of a victim of sexual assault narrating her ordeal.

40. Thus, when a leading question was put to the witness by the learned APP, and she initially responded through her tears that she did not wish to repeat the incident, the Court can fully comprehend the emotional strain she was under. Importantly, despite this distress, she mustered the courage to state, in response to such questioning, that the accused had removed her clothes and his pants and had raped her.

41. This Court is of the opinion that in cases of sexual assault, victims often find it extremely difficult to recount the incident repeatedly, as doing so exposes them to renewed humiliation and trauma. Such hesitation or emotional breakdowns must therefore be viewed with sensitivity and not as indicators of untruthfulness.

42. In these circumstances, any minor discrepancy in the testimony



which though stood negated by subsequent clarification given by her when put questions by the learned APP is natural, and is in fact consistent with the behaviour of a child sexual abuse survivor who is traumatised and hesitant to speak about the assault in open court.

43. *As regards the delay in lodging the FIR*, this Court notes that the delay stands explained in the facts and circumstances of the case. The victim had categorically stated that she did not disclose the incident of sexual assault earlier because she had been intimidated and threatened by the accused. She was scared of him as well as of her father, whom the accused had threatened to inform. It was only when she experienced abdominal pain and missed her menstrual periods for two months, leading to her being taken to the hospital, that the pregnancy was discovered and the incident came to light. The FIR was lodged immediately after the doctor informed the police. Therefore, the delay was a natural consequence of the victim's fear and emotional trauma, and cannot be held against her.

44. In view of the above, this Court finds that the alleged inconsistencies in the testimony of the victim are minor, fully explained, and do not go to the root of the prosecution case. Her core version has remained consistent from the very beginning. Similarly, the delay in lodging the FIR stands satisfactorily explained. Accordingly, these contentions of the accused are devoid of merit and are rejected.

45. *As far as the contention regarding lack of medical or scientific*



evidence, such as non-seizure of bedsheets, clothes of victim, etc. is concerned, this Court finds no merit in the argument advanced by the learned counsel for the appellant. The incident in question is stated have taken place in the last week of January 2020, whereas the FIR came to be registered only in the first week of May 2020, after the victim experienced abdominal pain, missed her menstrual cycles, and was taken to the hospital where her pregnancy was detected. By this time, a considerable period had elapsed between the alleged assault and the commencement of investigation. In these circumstances, it is entirely natural that no contemporaneous medical signs of forced intercourse – such as fresh injuries, abrasions, or lacerations – could have been detected on the person of the victim. Similarly, seizure of the bedsheet, clothes, or other physical evidence from the place of incident could not reasonably have been expected to yield any forensic material, as these items would have been washed, replaced, or otherwise disturbed in the intervening months.

46. The law is also well settled that absence of medical evidence is not fatal when the testimony of the victim is cogent, consistent, credible, and inspires confidence. Particularly in cases of child sexual assault, courts have repeatedly held that conviction can be based on the sole testimony of the prosecutrix if it is reliable and trustworthy.

47. In cases where there is no medical evidence and no eyewitness who can corroborate the allegation of sexual assault, the statement of the victim from the very inception assumes paramount importance in determining the matter. In the present case, although the victim was



found to be pregnant during her medical examination, no medical findings indicated sexual assault, as the alleged incident had occurred 4 months prior, and an examination conducted after such a lapse of time would not ordinarily reveal signs of sexual assault. Therefore, absence of any injuries on the private parts of the victim or the inability to recover DNA or other biological material from the bedsheets, clothes of victim, etc. cannot be held against the prosecution.

F. Prosecution Case Proven Beyond Reasonable Doubt

48. Having considered and examined the evidence on record in its entirety, this Court is satisfied that the prosecution has established beyond reasonable doubt that the appellant committed penetrative sexual assault upon the minor victim in January 2020. The victim's account has remained consistent on all material aspects, from the very beginning, starting with her disclosure to the doctors at both the hospitals on 04.05.2020 and 05.05.2020, followed by her statement before the police, her statement under Section 164 of Cr.P.C., and finally her deposition before the Court. Her version stands corroborated by the medical evidence, particularly the ultrasound conducted on 04.05.2020 revealing a 15-week intrauterine pregnancy, which aligns with the timeline she has disclosed. The fact that the appellant was her maternal uncle (*mama*), a position of trust and proximity, squarely brings the case within the ambit of aggravated penetrative sexual assault under Section 5(n) of the POCSO Act,



attracting the punishment prescribed under Section 6. The ingredients of the offence under Section 376(2)(f) of IPC also stand fully satisfied.

49. Similarly, as rightly held by the learned Trial Court, the charge under Section 506 of IPC also stands proved, as the victim has categorically deposed that the appellant had threatened to kill her if she disclosed the incident and threatened to inform her father, which caused fear and alarm to the victim who was already emotionally fragile. The testimony of PW-6 and PW-7 further confirms that the victim had not disclosed anything to the family until she was medically examined. The essential elements of Section 506 of IPC are thus clearly established.

50. This Court therefore finds no ground to interfere with the conviction of the appellant recorded by the learned Trial Court.

51. Insofar as the sentence awarded to the appellant is concerned, this Court notes that the learned Trial Court has awarded the appellant the punishment of rigorous imprisonment for 20 years for the offence punishable under Section 6 of the POCSO Act. The said term is the statutory minimum sentence prescribed for aggravated penetrative sexual assault, punishable under Section 6 of the Act. Therefore, this Court finds no reason to interfere with the sentence awarded to the appellant.



G. Degradation of Product of Conception and Consequent Failure of DNA Profiling

52. An unfortunate aspect of the present case is that a crucial piece of biological evidence stood irretrievably lost owing to the improper manner in which it had been preserved by the medical authorities, as this Court has been informed.

53. The sequence of events relevant to the forensic material is not in dispute. The product of conception recovered after the medical termination was sealed and handed over to the police, and the same was seized *vide* seizure memo dated 06.05.2020 and was sent to the Forensic Science Laboratory (FSL), Rohini. The said material/exhibit was marked to PW-5 (SSO, Biology, FSL Rohini) on 11.08.2020. PW-5 has deposed that on opening the two sealed parcels, the seals were found intact; one parcel contained a plastic container with some “fleshy material” (Ex.1) and the other contained blood samples of the accused (Ex.3). Both exhibits were subjected to DNA examination, but a DNA profile could not be generated from Ex.1 (the fleshy material) because of degradation and the presence of inhibitors.

54. Thereafter, pursuant to the learned Trial Court’s order dated 27.05.2022, the same material was transmitted to CFSL, Lodhi Road, New Delhi for an independent opinion. The Trial Court’s order recorded, *inter alia*, as follows:

“It is submitted by Ms. Imrana that detailed guidelines are issued to the Doctors by the FSL for preservation of the samples. The DCP concerned is directed to obtain the same from the Director/FSL, if not already available at his end and



circulate the copy of the same to all the concerned Doctors and the IOs/SHO for due compliance and to ensure that such kind of lapses are not occurred in future.

Further, though it has been opined by Ms. Imrana, SSO/FSL, Rohini that no purpose shall be served by seeking further opinion, the Court deems it appropriate to send the same to CFSL/Lodhi Road, New Delhi.

DCP/NW is requested to direct the concerned to obtain the sample from the FSL, Rohini or where ever it is lying at present and to send the same to Director/CFSL, Lodhi Road, New Delhi with the request to examine the same without getting influenced by the report filed by FSL Rohini and furnish the reply at the earliest, preferably by the next date of hearing.”

55. The samples were accordingly sent (*vide* letter dated 14.07.2020) and CFSL prepared its report on 13.10.2022. The CFSL opinion, which was placed on record by a supplementary chargesheet dated 02.09.2023, also recorded that the – Source of exhibit-1 (product of conception) did not yield DNA for analysis. Hence no further comparison could be established. The accused admitted the CFSL report dated 13.10.2022, and thus, the concerned CFSL officer was not examined before the Trial Court.

56. This Court, taking note during the hearing of the present appeal that crucial DNA evidence, capable of providing significant corroboration, stood lost, had passed the following order dated 12.03.2025:

“1. The learned APP for the State submits that it is a case of serious offence and, therefore, be heard on merit at the time of consideration of suspension of sentence. He also draws this Court’s attention to the Forensic Science Laboratory reports (FSL) which did not result in any DNA profile report as the



sample was allegedly putrefied.

2. This Court has gone through the FSL Reports dated 13.10.2022 and 02.09.2023 filed by concerned officials.

3. This Court, considering the seriousness of this offence, deems it appropriate that a notice be sent to the concerned officials who have filed the FSL Reports dated 13.10.2022 and 02.09.2023 for their appearance, to explain the reports as it has direct bearing on this case. This Court remains aware that this Court cannot record further evidence(s), however, considering that allegedly the rape in this case resulted into a pregnancy of a minor child, and that it was crucial evidence to reach just decision of this case, being scientific evidence i.e. the DNA profile report of the fetus, which was preserved at the time of conducting the medical termination of the pregnancy of the minor child. To ensure that no such loss of evidence happens in future cases due to one omission or another either by the police, doctor concerned or the FSL, it will be essential to seek clarification from concerned officer of FSL.”

Explanation tendered by the concerned CFSL Officer before this Court

57. Pursuant to this Court’s direction, the concerned CFSL officer appeared and explained the scientific reasons for non-recovery of DNA from the fetal material/product of conception. The explanation given by Dr. Kamal Chauhan (Assistant Director, CFSL) before this Court is reproduced verbatim as it is of central significance:

“The product of conception was preserved in formalin by the doctor. Formalin acts as a strong preservative of whole cell by forming an unbreakable coating. However, this also causes fragmentation of DNA as well as acts as a strong inhibitor of amplification of DNA. In the current case, product of conception was kept in formalin which is evident by the presence of pungent smell and the same is documented in my worksheet/file.

As per the guidelines of Ministry of Health and Family Welfare, Govt. of India also – The product of conception



(PoC) are to be rinsed with normal saline (not completely soaked in saline) and are to be preserved at 4 degree Celsius. They are to be transported at around 4 degree Celsius all the time maintaining a cold chain.

As per the guidelines of Directorate of Forensic Science and Services (DFSS), MHA, Government of India which is a nodal agency for Forensic related matters in India, – Foetal tissue samples should never be preserved in formalin. It should be stored at 20 degree Celsius and transported in a freezed condition.

As per research and publications, if any, biological sample is preserved in formalin for more than seven days, chance of recovery of DNA becomes negligible.

(Dr. Kamal Chauhan)
Assistant Director, CFSL, Bhopal”

58. The aforesaid explanation given by Dr. Kamal Chauhan is unambiguous: preservation of fetal tissue in formalin is known to (i) fragment DNA, and (ii) introduce inhibitors that prevent PCR amplification, thereby rendering DNA profiling impossible in many cases – particularly where preservation in formalin persists beyond a few days. These scientific observations are consistent with the written guidelines referred to by the CFSL officer (Guidelines by Ministry of Health & Family Welfare; and by Directorate of Forensic Science & Services) and with published forensic literature.

59. It has been pointed out by the State and the concerned officer from CFSL that the product of conception had been preserved in formalin at the Hospital concerned and that the exhibits received at CFSL bore the characteristic signs (including pungent smell) consistent with formalin preservation. The material was earlier



received at FSL Rohini on 11.08.2020 and was later examined at CFSL, which also could not extract a DNA profile.

Existing Guidelines/Protocols for Collection & Preservation of Fetal Material/Product of Conception

60. This Court's attention has been drawn towards the '**Guidelines & Protocols: Medico-legal care for survivors/victims of Sexual Violence**' issued by the Ministry of Health and Family Welfare, Government of India, which, at *page 34*, lays down as under:

"Miscellaneous information

If a woman reports with a pregnancy resulting from an assault, she is to be given the option of undergoing an abortion, and protocols for MTP are to be followed. The products of conception (PoC) may be sent as evidence to the forensic lab (FSL) for establishing paternity / identifying the accused. The examining doctor/ AMO/ CMO is to contact the respective police station, ask them to collect the DNA Kit from the FSL and bring it to the hospital to coincide with the time of MTP. The DNA Kit is used to collect the blood sample of the survivor. The accompanying DNA Kit forms are to be filled by the examining doctor. A photograph of the survivor is required for this form, and should be arranged for prior to the MTP. **The products of conception (PoC) are to be rinsed with normal saline (NOT completely soaked in saline) and collected in a wide-mouthed container with a lid. This sample is to be handed over immediately to the police along with the DNA Kit, or preserved at 4 degree Celsius. It is to be transported by the police in an ice-box, maintaining the temperature at around 4 degree Celsius (2 to 8 degree Celsius) at all times."**

(emphasis added)

61. Similarly, '**Guidelines for Forensic Medical Examination in Sexual Assault Cases (2018)**' issued by CFSL, Directorate of Forensic Science Services, Ministry of Home Affairs, Government of



India, sets out as under:

Aborted Foetus	☐ Foetal tissue samples should be collected in sterile plastic container and stored at - 20 °C.	☐ To establish paternity by DNA profiling.
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8. Foetal tissue samples should never be preserved in Formalin. It should be stored at -20 °C and transported in refrigerated conditions.

Directions by the Supreme Court on DNA Evidence

62. The Hon'ble Supreme Court, as recent as in July 2025, in case of ***Kattavellai v. State of Tamil Nadu: 2025 SCC OnLine SC 1439*** has dealt with in detail with the systemic lapses in the collection, preservation, storage, transportation, and chain of custody of DNA evidence, and has laid down guidelines as to how the DNA samples are to be preserved, handed over to the police officers and transported to forensic labs. The detailed observations guidelines, as contained in paragraph 43 and 44 of the judgment, are reproduced hereunder:

“DNA- A NECISSITATED ADDENDUM

43. As we have discussed earlier in this judgment, the DNA evidence collected has been rendered unusable. It suffers from various shortcomings in as much as there is large amount of unexplained delay; the chain of custody cannot be established; possibility of contamination cannot be ruled out etc. We have also referred to instances in the recent past where, similar to the case at hand the DNA evidence was rendered unusable on account of similar lapses. A perusal of the various documents released by a number of bodies such as the Standard Operating Procedure for Crime Scene Investigation issued by the Directorate of Forensic Science Service, Ministry of Home Affairs and Government of India; Guidelines for collection, storage and transportation of Crime Scene DNA samples issued by the Central Forensic Science Laboratory, Directorate of



Forensic Science Service, Ministry of Home Affairs and Government of India; a Forensic Guide for Crime Investigators (Standard Operating Procedures) issued by LNIN National Institute of Criminology and Forensic Science, Ministry of Home Affairs, Government of India show that, although, procedures have been suggested, there is no uniformity nor there is a common procedure which is required to be followed by all investigating authorities. This, obviously, has the potential to have an impact on the cases investigated. When it comes to procedure followed by the police generally, differences therein are understandable keeping in view the difference in society, regional complexities as also other factors given the wide length and breadth of the Country, however, the same yardstick cannot be applied when it comes to sensitive evidence such as DNA for the concerns, causes of its dilution in evidentiary value and requirements for it to be collected and maintained in pristine condition is not subject to the same factors. So, even though 'Police', 'Public Order' are subjects mentioned in List-II of the Seventh Schedule of the Constitution of India that in itself cannot permit differing procedures and sensitivities to such evidence, to rule the roost. The aspects in which we find there to be errors committed regularly are in fact procedural aspects which aid the sanctity of the evidence.

44. This lack of a common procedure to be followed, is concerning. As such, we issue the following directions which shall be followed henceforth, in all cases where DNA Evidence is involved:

1. The collection of DNA samples once made after due care and compliance of all necessary procedure including swift and appropriate packaging including **a)** FIR number and date; **b)** Section and the statute involved therein; **c)** details of I.O., Police station; and **d)** requisite serial number shall be duly documented. The document recording the collection shall have the signatures and designations of the medical professional present, the investigating officer and independent witnesses. Here only we may clarify that the absence of independent witnesses shall not be taken to be compromising to the collection of such evidence, but the efforts made to join such witnesses and the eventual inability to do so shall be duly put down in record.

2. The Investigating Officer shall be responsible for the



transportation of the DNA evidence to the concerned police station or the hospital concerned, as the case may be. He shall also be responsible for ensuring that the samples so taken reach the concerned forensic science laboratory with dispatch and in any case not later than 48-hours from the time of collection. Should any extraneous circumstance present itself and the 48-hours timeline cannot be complied with, the reason for the delay shall be duly recorded in the case diary. Throughout, the requisite efforts be made to preserve the samples as per the requirement corresponding to the nature of the sample taken.

3. In the time that the DNA samples are stored pending trial appeal etc., no package shall be opened, altered or resealed without express authorisation of the Trial Court acting upon a statement of a duly qualified and experienced medical professional to the effect that the same shall not have a negative impact on the sanctity of the evidence and with the Court being assured that such a step is necessary for proper and just outcome of the Investigation/Trial.

4. Right from the point of collection to the logical end, i.e., conviction or acquittal of the accused, a Chain of Custody Register shall be maintained wherein each and every movement of the evidence shall be recorded with counter sign at each end thereof stating also the reason therefor. This Chain of Custody Register shall necessarily be appended as part of the Trial Court record. Failure to maintain the same shall render the I.O. responsible for explaining such lapse.

The Directors General of Police of all the States shall prepare sample forms of the Chain of Custody Register and all other documentation directed above and ensure its dispatch to all districts with necessary instruction as may be required.”

(Emphasis added)

63. Thus, the Hon’ble Supreme Court in above-noted decision has issued pan-India guidelines and directions to ensure that DNA evidence is collected with due care, preserved in scientifically appropriate conditions, transported promptly and securely, and its chain of custody maintained with proper documentation, so that such



evidence retains its integrity and admissibility and is not rendered unusable by avoidable lapses.

To Sum Up

64. From the guidelines issued by both the Ministry of Health & Family Welfare and the CFSL, Directorate of Forensic Science Services, **two aspects clearly emerge regarding the handling of fetal material/product of conception intended for DNA analysis.** These are summarised as under:

1. ***Preservation Medium: Use of Saline and Prohibition on Formalin*** The protocols clearly mandate that the product of conception must be *rinsed with normal saline* and placed in a *wide-mouthed sterile container*. Formalin is expressly prohibited for fetal tissue preservation as it causes irreversible DNA fragmentation and introduces inhibitory compounds that prevent amplification. Thus, for purposes of establishing paternity or linking the material to an accused, the use of saline, and the complete avoidance of formalin, is a non-negotiable scientific requirement.
2. ***Maintenance of Optimum Temperature and Cold Chain:*** Both sets of guidelines emphasise that product of conception/fetal material must be preserved and transported under controlled cold conditions. The Ministry guidelines require preservation and transportation at about -4°C , whereas the



DFSS guidelines recommend storage at -20°C for optimal DNA stability. *In either case*, the maintenance of an uninterrupted cold chain (at least -4°C) from the moment of collection of the product of conception/ fetal material, until its delivery at the forensic laboratory is critical, as temperature fluctuation may accelerate degradation of the DNA and diminishing the viability of DNA for profiling.

65. As far as transportation of the product of conception, by the police officer/I.O. concerned, from Hospital, to *malkhana*, and to the FSL is concerned, the Hon'ble Supreme Court, as noted above, in case of ***Kattavellai v. State of Tamil Nadu*** (*supra*), has already issued guidelines in relation to all DNA samples, especially in cases of sexual assault, that the said samples are to be transported immediately and in any case within 48 hours, without any delay.

66. This Court sincerely hopes and expects that the above guidelines and protocols, issued by the Hon'ble Supreme Court, Ministry of Health & Family Welfare, and the CFSL, Directorate of Forensic Science Services, shall be diligently and scrupulously followed by all concerned doctors/medical officers, investigating officers, police personnel, and forensic laboratories.

67. As regards the other issues and practical difficulties flagged before this Court – such as the unavailability of adequate cold-storage facilities with the police, the logistical challenges in maintaining an unbroken cold chain during transportation of biological samples, and



the submission that FSL laboratories remain closed on weekends and public holidays – this Court is of the considered view that these concerns require a coordinated and proactive response from all stakeholders, as these practical issues continue to remain unanswered. If forensic laboratories (FSL) do not accept samples on weekends or public holidays, it is unclear how investigating agencies are expected to comply with the Hon’ble **Supreme Court’s mandate** that DNA samples be transported without delay and, in any case, within 48 hours. The prosecution has not explained what procedure is to be followed when biological samples requiring cold-chain preservation cannot be deposited immediately with the FSL due to such closures. These issues must be urgently addressed, so that avoidable lapses do not lead to miscarriage of justice in cases where corroborative forensic evidence may be crucial for adjudicating a criminal case.

68. Therefore, this Court is of the view that the FSL authorities, the police administration, and the officials of the Health and Home Departments of the Government of Delhi must come together and evolve a workable policy framework to ensure strict and uniform compliance with the guidelines issued by the Ministry of Health & Family Welfare, the CFSL/DFSS, as well as the **binding directions of the Hon’ble Supreme Court**.

69. Accordingly, let a copy of this judgment be forwarded to the Secretary, Department of Home, GNCTD; Secretary, Department of Law, GNCTD; Director, FSL Rohini; Director, CFSL, Delhi; and the Commissioner of Police, Delhi to take note of the contents of the



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judgment.

70. At this stage, no further directions are required to be passed.

71. As already held above, the conviction and sentence of the appellant stands upheld. The Registry is directed to send a copy of this judgment to the concerned Jail Superintendent. Since the appellant is in judicial custody, a copy of this judgment shall be forwarded to the appellant by the concerned Jail Superintendent.

72. With above observations, the present appeal is disposed of, alongwith pending application.

73. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

DECEMBER 10, 2025/ns

T.D./T.S.