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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 04th November, 2025*
Pronounced on: 05th January, 2026

+ **CRL.A. 51/2025, CRL.M.A. 1185/2025 & CRL.M.(BAIL) 96/2025**

DHARMENDRA KUMAR

S/o Late Shri Ram Kumar,
R/o Village Sariya Kanpur Nagar,
Shringar, Uttar Pradesh.

(Presently confined in Central Jail No. 4,
Tihar, New Delhi)Appellant

Through: Mr. Prateek Kumar, Ms. Ankita,
Mr. Prassant Kumar Sharma and
Mr. Chetan Charitra, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI

Through the SHO
Police Station Budh Vihar, New Delhi.Respondent

Through: Mr. Utkarsh, APP for the State.
Ms. Tanya Agarwal (DHCLSC) and
Mr. Krishna Kumar Keshav,
Advocates for Complainant.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 415(2) read with Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*) has been filed against the Judgment of Conviction dated 09.07.2024 and Order on Sentence dated 21.08.2024 passed by learned ASJ, whereby the Appellant has been held guilty of offence under Section 9(m) punishable under Section



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10 of the Protection of Children from Sexual Offences Act, 2012 (*hereinafter referred to as 'POCSO Act'*) and Section 354 of the Indian Penal Code (*hereinafter referred to as 'IPC'*).

2. **Briefly stated**, on 19.06.2022, DD No.35A was recorded an information about sexual assault, which was marked to IO/SI Bimlesh. Victim along with her mother was taken to BSA Hospital by Ct. Pooja, where victim was medically examined. After medical examination, Ct. Pooja brought the victim and her mother to the Police Station, where the statement of Victim's Mother was recorded, who alleged that on 17.06.2022 at about 02-03:00 PM, the Appellant, who was tenant in their house, had flashed his private part and made the victim touch it.

3. Statement of the Victim was also recorded under Section 164 Cr.P.C. wherein she gave the similar statement.

4. After completion of investigation, Chargesheet was filed in the court. **Charges under Section 376 IPC and Section 6 POCSO Act** were framed against the Appellant on 03.09.2022, to which he pleaded not guilty.

5. **The State examined 6 Prosecution Witnesses. PW-1 victim 'G' and PW-2 her mother 'L'** deposed about the incident as stated in the Complaint Ex.PW2/A.

6. **PW-3/W Ct. Pooja** took the victim 'G' and her mother at BSA Hospital for her medical examination, *vide* MLC No. 2990/22, Ex.PW3/A.

7. **PW-4/Dr. Chingbiaklun Shoute** conducted the general examination of victim 'G', however the mother and aunty of the patient refused for her internal examination.



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8. **PW-6/SI Bimlesh, IO** called the NGO counselor and got conducted the counseling of the victim 'G' and her mother 'L' from the NGO counselor. After going through the MLC, she recorded the statement/complaint of mother of the victim 'L' already, Ex.PW2/A and made endorsement on the statement and prepared the **rukka, Ex.PW6/A**. Thereafter, PW-6 along with PW-5 Ct Praveen, victim and her mother went to the place of incident where PW-6 prepared the **Site Plan, Ex.PW6/B**. The statement of victim 'G' under Section 161 Cr.P.C. was also recorded.

9. The accused Dharmender was arrested and his personal Search Memo was conducted *vide* Memo, Ex.PW5/A. The **disclosure statement of accused** was recorded *vide* Ex.PW6/C.

10. Statement of the Appellant was recorded under **Section 313 Cr.P.C., where he denied all the incriminating evidence against him.**

11. Appellant was held guilty and **convicted by the learned ASJ** *vide* **Judgment dated 09.07.2024 for the offences under Section 9(m) punishable under Section 10 of POCSO Act and Sections 354/354A/354B of IPC.** The Appellant *vide* Order on Sentence dated 21.08.2024, was **sentenced to undergo RI for 07 years under Section 10 of POCSO Act and with fine of Rs.50,000/- in default of payment of fine SI for 06 months; and RI for 05 years for offence punishable under Section 354 of IPC with fine of Rs.30,000/-, in default payment of fine SI for 03 months.** All the sentences were directed to run concurrently and the benefit of Section 428 of Cr.P.C. was given.

12. *Aggrieved by the aforesaid Judgment of conviction dated 09.07.2024 and Order on sentence dated 21.08.2024, the Appellant has filed present*



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Appeal, challenging it on the **ground** that there was no incriminating evidence against him for any offence and he was innocent. There are material contradictions in the testimony of the victim and her mother, which cast doubt about truthfulness of Prosecution's case.

13. Moreover, testimony of the PW-1/Victim 'G' was contradictory to her statement under Section 164 Cr.P.C. In fact, Victim's mother was in an illicit relationship with some other person and she was caught red-handed by the Appellant, on account of which some disputes arose *inter se* them. Therefore, she implicated the Appellant falsely in this case.

14. It has not been appreciated that the victim G, who was barely 3 years 11 months old, was left by her mother at the house of grandmother, from where victim came back to her home, on her own. Statement of the victim that she returned to her home on her own, cannot be believed. Complainant, who is the mother of victim, has not disclosed that her son, was also present at the time of alleged incident. Tutoring of the victim by her mother or someone else, cannot be ruled out.

15. Furthermore, there were many other witnesses involved in the present case, but apart from the victim and her mother, no other witness has been examined by the Prosecution.

16. The impugned Judgment and Order is based on conjectures and surmises. It has not been appreciated that when on the evidence adduced two views were possible, the one which is favorable to the accused should be adopted.



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17. *It is therefore submitted that the impugned Judgment of conviction dated 09.07.2024 and Order on sentence dated 21.08.2024 be set aside and Appellant be acquitted.*

18. **Status Report has been filed on behalf of the State** wherein entire facts, forming the part of the Chargesheet, have been reiterated.

19. **The Appellant has filed Written Submissions** which are essentially in line with the grounds taken in the Appeal.

20. It has been submitted that there was a *delay in registration of FIR*, as the incident happened on 17.06.2022, while the FIR was lodged after two days, on 19.06.2022. Victim's Mother has deposed that while her Daughter (Victim) had narrated the incident to her on the same day, her Husband has approached the Police Station, two days later. This delay has remained unexplained, raising doubt about the spontaneity and genuineness of the Prosecution's version. This un-explained delay in lodging the FIR affords scope for fabrication and embellishment, as has been held by the Supreme Court in numerous Judgments. Delay without justification, has rendered the Prosecution's version doubtful.

21. It is further submitted that the victim was 03 years and 11 months old at the time of recording her testimony. *Section 33 POCSO Act requires that the Court ensure child competence and safeguard against prejudice to the accused and that procedural lapses cannot be cured by presumption.* Section 33(2) of the POCSO Act and Section 118 of the Indian Evidence Act, had not been complied with by the learned Trial Court. There is no satisfaction recorded that the child understood the duty of speaking the truth.



No preliminary questions were recorded nor was there any endorsement about the Court's satisfaction regarding the child's ability to depose.

22. Reliance has been placed on *State of M.P. vs. Balveer Singh*, 2025 SCC OnLine SC 390, wherein the Hon'ble Supreme Court observed that a child witness is a “*dangerous witness*”, unless the Court ensures comprehension and absence of tutoring.

23. It has been further contended that **victim's grandmother, who was the first recipient of disclosure, was not examined**. Her absence deprives the Court of the earliest spontaneous version.

24. Victim's statement under Section 161 Cr.P.C. mentions only “touching”, whereas in her statement under Section 164 Cr.P.C., she introduced “insertion” which amounts to material improvement and renders the testimony of the victim, unbelievable. Her mother admitted that DCW Counsellors interacted extensively with the child, creating a real possibility of suggestive tutoring. The conclusion of Ld. ASJ that such contradictions were “minor”, reflects non-application of the judicial mind, especially when the case rests solely on oral testimony.

25. The **MLC Ex. PW-4/A** records that no injury was found on the private parts of the child Victim and internal examination was not conducted as the mother did not give consent for the same. The **absence of medical corroboration** assumes significance especially where the allegation involves aggravated assault. Medical evidence does not support the ocular version; when two views are possible, the one favouring the accused must be adopted. The Prosecution has failed to produce cogent medical or forensic corroboration creating a reasonable doubt of the prosecution story.



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26. It is argued that the Prosecution has failed to prove either penetration or aggravated sexual contact through reliable evidence. Therefore, no presumption could lawfully arise, to shift the burden to the Appellant.

27. It is next contended that **statutory presumption under Section 29 of the POCSO Act, without first establishing the foundational facts of the occurrence and identity of the perpetrator, has been erroneously invoked by the learned Trial Court.** Reliance is placed on the case of *Sambhubhai Raisangbhai Padhiyar vs. State of Gujarat*, (2025) 2 SCC 399, wherein the Supreme Court held that Section 29 POCSO Act is available only where the foundational facts exist for commission of offence under Section 5 of the POCSO Act. This Court *vide* Order dated 20.08.2025 in the case of *Bhanu Pratap vs. State*, CRL.A. 964/2017, has observed to similar effect.

28. It is submitted that there is **no independent or circumstantial corroboration** despite the place of occurrence being easily accessible. No CCTV footage was collected, despite the fact that incident occurred in residential settings. **No independent witnesses from the neighborhood have been examined.**

29. Reliance is placed on *Raja vs. State of Karnataka*, (2016) 10 SCC 506, where it was observed that the conviction on the sole testimony of the prosecutrix is permissible only when such testimony is wholly reliable, inspires confidence and is free from inconsistencies or improbabilities. The present case, falls short of this standard.

30. The Appellant has consistently maintained from Bail stage onwards, that he has been falsely implicated as he had the knowledge of the



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Complainant's Mother having relationship with the third person and also because the Appellant had demanded arrears of rent; circumstances which provide a clear motive for false implication.

31. The defense of the Appellant supported by the absence of medical corroboration and by contradictions in prosecution evidence, creates a reasonable doubt in favour of the Appellant. It is asserted that there is presumption of innocence in favour of the Accused unless he is proven guilty beyond reasonable doubt. The Prosecution has to stand on its own legs; even a grave suspicion cannot take the place of proof. Therefore, the Appellant is entitled to benefit of doubt.

32. *In the end*, it is stated that the cumulative effect of the delay, contradictions, absence of medical proof, non-examination of crucial witnesses and procedural irregularities, establish the innocence of the Appellant. *It is therefore, submitted that the impugned Judgment of Conviction dated 09.07.2024 and Order on Sentence dated 21.08.2024 passed by learned Additional Session Judge, be set aside.*

Submissions heard and record perused.

33. The Appellant was initially charged for offences under **Section 6 POCSO Act and Section 376 IPC**. Upon conclusion of trial, the learned Trial Court convicted the Appellant for the lesser offence of *sexual harassment* under *Section 9(m) punishable under Section 10 POCSO Act and also under Sections 354/354A/354B IPC*.

34. The first material witness examined by the Prosecution to prove the charges is **PW-2 "L", mother of victim**. She deposed that she along with her family, was residing at the given address. She had two minor children, one



boy, aged 10 years and one girl 'G @ L' (victim), who was aged 03 years and 11 months at the time of incident. They had two rooms and one shop on the ground floor and four rooms on the first floor of their house. She had given two rooms of first floor on rent and other two rooms were in her possession, in which she along with her family was residing.

35. PW-2 deposed that on 17.06.2022, she went to Ambedkar Hospital for getting her Tests done and left her Daughter 'G' / Victim with her mother-in-law, who resides three houses away from her house. At about 03:00 PM, when she returned home, her daughter informed her that she wanted to go to the bathroom and therefore, had come back to her house from the house of *Dadi*. She met *Dharmendra Chacha*, the Appellant, who pulled down her 'kachi' and thereafter, he removed his own 'kacha' and thereafter, he made her lie next to him and kept his 'shu-shu' (penis) on her 'shu-shu wali jagah' and thereafter, he shook his penis. Thereafter, when she went to the toilet, the Appellant did 'chedkhani' and touched her 'shu-shu wali jagah'. She narrated this entire incident in the presence of Appellant, who immediately refuted her statement and claimed that he had not done any such thing. At that time Appellant was under the influence of 'nasha' and he ran away. She narrated this incident to her mother-in-law, who told her that she should wait for her husband to return, who, being a driver at private taxi, had gone to Dehradun, Uttarakhand. The husband returned on 19.06.2022, to whom she narrated the entire incident and thereafter, they called the PCR at No.100. Police came and took them to the Police Station. First, they narrated the incident to *100 Number wali Police*. However, the Appellant was at the Police Station even before they reached there. The Statement of



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the victim's mother Ex.PW-2/A was recorded, on which she signed at point 'A'. She was accompanied to the Police Station by her daughter, husband, mother-in-law and her own parents. Police recorded the statement of Victim 'G' and arrested the Appellant even before they reached the Police Station, *vide* Arrest Memo Ex.PW-2/B. She further deposed that for the last 2-3 days, the Appellant, under the influence of liquor, used to remain in his room and did not go out even for food. She stated that had she been aware that he would not go for work on that day, she should not have left her daughter alone.

36. The witness **PW-2 "L", mother of victim** clarified in the cross-examination that the Appellant had been her tenant for about 03 years before the lock-down. He was inducted as tenant by her father-in-law, as he was the owner of their house. She explained that the Appellant along with one *Amit*, used to stay in a room on the first floor and one *Shiva* used to reside in the second room on the first floor. PW-2 and her family was also residing on the first floor in the other two rooms. She admitted that before the day of incident, the Appellant had never misbehaved with her daughter. She also admitted that she used to at times give food to the Appellant and his room partner. She got to know that he was distantly related to them and she never took him as a tenant and shared family relationships with him. Whenever she fell sick, he would cook food and give it to her. She. They used to even interact when the husband of PW-2 was not in the house.

37. Pertinently, she stated in her cross-examination that once or twice, she had left her daughter alone at the house, but at that time the Appellant was not present. Furthermore, she never left her daughter alone when the



accused was present in the house. She also admitted that for about 2-3 days, the accused had been in his room under the influence of *nasha*. She also admitted that when she saw him on that day, she got scared by looking at his face. She also admitted that there was a toilet in the house of her mother-in-law, but the child preferred to come back home for going to do toilet.

38. PW-2, the Mother has further clarified that her Daughter / Victim 'G' did not narrate the incident either to her grand-mother or the grand-father. She volunteered that the daughter did not narrate the incident immediately on reaching home, but it is only after seeing the Appellant, that she told her about the entire incident.

39. The star witness of the Prosecution is the **PW-1/Victim 'G'** who deposed as under:

"Ye Dharmender hai.

Q: Isne aapke saath kya kiya tha?

A: *Insne meri puch par apni puch lagai thi.*

Q: Beta aapki puch kaha hai?

A: *witness ne khade hokar apne vaginal area ko point karke bataya ki ye meri puch hal.*

Q: Beta Dharmender uncle ki puch kaha thi?

A: *Dharmender uncle ki puch Dharmender uncle ke paas hai*

Q: Beta unki puch unki body me kaha hai?

A: *aage hai jaha par meri puch hai*

Q: Beta Dharmender uncle ne aur kya kiya tha?

A: *Dharmender uncle ne toilet me lejkar apni puch meri puch par lagai thi, meri kacchi utaar kar lagai thi. Main ro rahi thi, maine rote rote ye baat mummy ko batai thi, tab wo bhaag gaya tha.*

...

Main apne ghar toilet kame ke liye Dadi ke ghar se akeli aayi thi. Meri Dadi mere saath nahi aayi thi. Jab main apne



ghar toilet ke liye aayi thi tab mummy ghar par nahi thi kahi bahar gai thi. Mummy ne ye baat papa ko batai thi fir papa khud police station pahunch gaye.

Q: Papa ussi din police station gaye the ya baad me gaye the?

A: Baad me gaye the.

Q: Jiss din ye ghatna hui thi uske kitne din baad papa gaye the police station?

A: Usi din gaye the.”

40. In her cross-examination, she corroborated the testimony of her mother that she had alone come back from her *Dadi*’s house for toilet and her Mother was not at home at that time as she had gone out somewhere. Subsequently, her Mother had narrated the incident to the Father.

41. Pertinently, in her statement under **Section 164 Cr.P.C., Ex.PW-1/A**, the Prosecutrix has stated that the Appellant had removed her clothes and thereafter, inserted his ‘*shu-shu*’ (penis) into her ‘*su-su*’, about which she had told her Mother and the Appellant was apprehended.

42. The *first aspect which emerges* is that the testimony of the Child has been consistent in her testimony as PW-1 and also with the testimony of PW-2, her Mother, who had narrated this entire incident as told to her by the Daughter, on which the Complaint, Ex.PW-2/A was recorded, on which, the FIR was registered.

43. The *first contention of the Appellant is that there are material contradictions and improvements in the statement of the victim and the Mother*. It was argued that it is highly unlikely that a child of less than 4 years, would return home alone from the house of the grandmother. However, merely because the child decided to return to her house which was close by, cannot be a circumstance which is totally unbelievable. The



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contention that the small child could not have come back alone from her grandmother's house is equally misplaced, as her house was barely four-five houses away from the victim's own house.

44. It needs to be appreciated that PW-1 was consistent in deposing that she never left her daughter alone in the house if the Appellant was also present. Moreover, she was not aware that he was at home, on that day. Also, he was in a state of "*nasha*," as per the testimony of PW-1, which explains the circumstance for the exploitative conduct and the occasion for the Appellant to assault the child when he found her alone in the house.

45. However, as detailed above, the testimony of both the witnesses about the entire incident, was consistent. There is no denying that the victim in a statement under 164 Cr.P.C., Ex.PW-1/A had asserted that the Appellant had committed penetrative assault, but neither before or after did she depose about any penetration. It cannot be overlooked that the Victim was barely 03 years 11 months at the time of the incident and her testimony had been recorded on 05.06.2023, i.e. barely after about one year of the registration of FIR, reflecting that she was almost 5 years old. While appreciating the testimony of the Child, the tender age cannot be overlooked. There may have been minor improvement in a statement under Section 164 Cr.P.C., but she has been consistent in her testimony as PW-1, which is fully corroborated by the testimony of her Mother PW-2 and the incident as narrated in the Complaint, Ex.PW-2/A made by her, in the first instance.

46. In the context of the deviation in the statement under Section 164 Cr.P.C., learned ASJ has rightly held that merely on the basis of statement



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under Section 164 Cr.P.C., the previous statement of the child and the entire evidence of the victim, cannot be discarded.

47. Having regard to the tender age of the child at the time of the incident and the limited vocabulary of a child of such age, such variance cannot be treated as a material contradiction. The core allegation of sexual assault by the Appellant, has remained consistent. Minor variation in expression, does not affect the credibility of the witness.

48. There was no indication found from the demeanor of the Child, while deposing in the Court to reflect any discrepancy to discard her entire testimony. Rather, the child Victim fully collaborated her earlier statements. Learned counsel, in the cross-examination of the child, had also not been able to shake her testimony on any aspect.

49. In the case of *Kuna @ Sanjay Behera vs. State of Odisha*, 2017 SCC OnLine SC 1336, it was held that the conviction can be based on the sole testimony of one eye-witness, if he/she passes the test of reliability and that it is not the number of witnesses but the quality of evidence that is important.

50. The next ***contention raised by the Appellant is that competency of the Child was not assessed before recording of her evidence***. However, the statement of the testimony of the PW-1 Victim reflects that before recording her statement, the questions were addressed to her to ensure that she was comfortable and was competent to give a statement. The administration of oath was dispensed with, since she was barely 05 years of age.

51. The testimony of the Prosecutrix has also been recorded in the question-answer form, which shows the testimony was recorded



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conscientiously with sensitivity, in accordance with the guidelines for recording the statement of a child victim. Therefore, the contention raised by the Appellant that the competency of the child was not assessed before recording of her statement, is patently incorrect.

52. The ***third challenge raised by the Appellant is that the statement of the Child was tutored.*** However, the Child in her testimony had deposed that her Mother had told her to narrate the incident to 'Madam', after which she had told the 'Madam' about the entire incident. PW-2 has also been cross-examined in *extenso* and from her narrative as well, nothing has emerged to show that the Child had been tutored.

53. The Child may have been counselled by the DCW Counsellor as mandated under Law and the guidelines, but essentially the purpose of counselling is to help the Child in dealing with trauma and for mental help. It is not with the objective of tutoring or telling the victim about the statement to be narrated. Therefore, even though DCW counsellor had extensive communication with the Victim so as to provide her emotional support, it cannot be remotely held that she had been tutored by the Counselor.

54. The ***fourth aspect which has been argued is that there was a delay of two days in the registration of FIR,*** as the incident happened 17.09.2022, but the FIR was registered on 19.09.2022. However, it has been explained by PW-2 the Mother, in her testimony that she had narrated the incident to her mother-in-law, who had advised her to wait for the return of the Husband, who had gone out on duty on a private taxi to Dehradun, Uttarakhand. He returned in the morning of 19.09.2022, after which she



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narrated the incident to him. It is thereafter, that the call was made to report the incident to the Police for which a PCR call was made.

55. While observing that the delay has been sufficiently explained, the learned ASJ has rightly observed, *“it is common knowledge that sexual abuse of children remains shrouded in shame, guilt, family honour and hence is seldom reported. More than that, when the abuser is a known person, it is very difficult to report the matter. The normalization of abuse in society has become so endemic that it is only when the abuse is perceived to be gruesome and serious, involving penetration or bad touch, that both children and families pay attention and speak up or report. In such a scenario it would have been difficult for the mother of the victim to report the incident immediately against the accused who is a distant relative when her mother-in-law had asked her to wait for her husband to arrive and decide on the arrival of her husband.”*

56. It is natural for a lady to wait for her husband before approaching the Police for the alleged incident. **The delay has been sufficiently explained and cannot be held to be fatal in the present context.**

57. The Appellant has further **contended that the MLC does not support the alleged incident.** However, it cannot be over-looked that the incident was of touching ‘su-su’ of the child with the penis. Once there was no penetrative assault, the likelihood of there being any injury to the child, is not likely to happen, in view of the nature of assault. Merely, because there was no injury on the private part of the child as per MCL, it cannot be a factor to discredit the testimony of the Child and the Mother.



58. The Appellant has asserted that as per the testimony of the witnesses, the incident was narrated to the grandmother and there were other family members present, but ***none of them have been named as a corroborative witness***. However, it is the settled proposition of law that if the testimony of the Prosecutrix is of sterling quality, then her sole testimony can be the basis of conviction. It is the quality of the evidence adduced by the prosecution and not the quantity, which is the determinative factor.

59. The learned Trial Court rightly placed reliance on *Veer Singh vs. State of UP*, (2014) 2 SCC 455, wherein it was held that it is not the number of witnesses but quality of their evidence which is important as there is no requirement under the law of Evidence that any particular number of witnesses is to be examined to prove/disprove a fact. Evidence must be weighed and not counted.

60. In the end, ***it is contented on behalf of the Appellant that there was a dispute over the rent and also that he had caught the Mother of the victim on one occasion with a third person in her house and she had been threatening to implicate him in a false case***. However, this defense has not been substantiated by any cogent evidence.

61. Significantly, the Appellant is not even consistent in his defence. While on one hand, he has asserted that there was a dispute about the rent, on the other hand he asserted that on one occasion he had caught PW-1 with a third person and she threatened to implicate him in a false case. The vagueness of both the defence which lack any particulars, reflect the falsity of these defense. So much so, this defense of the Appellant was neither suggested nor put to PW-2 in her cross-examination nor any evidence as has



been led in this regard. The defence which has been set up by the Appellant, in his statement under Section 313 Cr.P.C is not tenable and is not even established by any evidence at all.

62. The entire narration of the incident, along with the presence of the Appellant throughout, especially when the incident was narrated by the Child to the Mother and also that he himself reached the Police Station, even before the Complainant and family did, reflect the truthfulness of the testimony of the Child and her Mother.

63. Learned Trial Court has therefore, rightly held that the age of the victim has to be kept in mind while appreciating her statement, the limits on the vocabulary of the Child Victim at the age of 03 years and 11 months or even 05 years, cannot be overlooked. The Child had told the Doctor at the time of MLC that the Appellant had flashed his private part and made her touch it.

64. Learned Trial Court has rightly held that one the entire incident was established on cogent evidence and the presumption of Section 29 POCSO Act arose. The onus was on the Appellant to prove his defense, which in the present case, he has miserably failed to do so.

65. Making a small Child touch the private part with sexual intent amounts to aggravated sexual assault and therefore, the offence under Section 10 POCSO Act, was established.

Conclusion:

66. Learned ASJ has rightly convicted and sentenced the Appellant under Section 10 POCSO Act, however, no Charge under Sections 354/354A/354B IPC was framed and therefore, the Appellant could not have



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been convicted under these Sections. Pertinently, there was no separate Sentence under these Sections.

67. The conviction and sentence of the Appellant under Sections 354/354A/354B IPC are hereby set aside, but conviction and sentence under Section 10 POCSO Act, is upheld.

68. There is no merit in the Appeal, which is hereby dismissed along with pending Applications, if any.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 05, 2026/R