



2026:CGHC:20623-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 2188 of 2023**

Accused Xyz

... **Appellant****versus**

State of Chhattisgarh Through Police Station - Kedar, District - Sarangarh, Chhattisgarh.

... **Respondent**

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Manoj Kumar Sinha, Advocate
For Respondent/State	:	Mr. Shaleen Singh Baghel, Government Advocate

Hon'ble Mr. Ramesh Sinha, Chief Justice
Hon'ble Mr. Ravindra Kumar Agrawal, Judge

Judgment on Board**Per Ramesh Sinha, Chief Justice****04.05.2026**

1. Heard Mr. Manoj Kumar Sinha, learned counsel for the appellant as well as Mr. Shaleen Singh Baghel, learned Government Advocate, appearing for the State/respondent.
2. The appellant has preferred this appeal under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') questioning the impugned judgment dated 28.10.2023 passed by



the learned Additional Sessions Judge/Special Court under POCSO Act, Sarangarh, Session Division Raigarh (C.G.) in Special Criminal Case (POCSO) No.14/2022, whereby the trial Court has convicted and sentenced the appellant with a direction to run all the sentences concurrently in the following manner :-

<u>CONVICTION</u>	<u>SENTENCE</u>
Under Section 363 of the Indian Penal Code, 1860	Rigorous imprisonment for 03 years with fine amount of Rs.1,000/-, in default of payment of fine, additional rigorous imprisonment for 03 months.
Under Section 366 of the Indian Penal Code, 1860	Rigorous imprisonment for 05 years with fine amount of Rs.1,500/-, in default of payment of fine, additional rigorous imprisonment for 04 months.
Under Section 376(2)(n) and Section 376(2) of the Indian Penal Code, 1860	Rigorous imprisonment for 20 years with fine amount of Rs.2,000/-, in default of payment of fine, additional rigorous imprisonment for 06 months.
Under Section 376(2)(f) of the Indian Penal Code, 1860	Rigorous imprisonment for 20 years with fine amount of Rs.2,000/-, in default of payment of fine, additional rigorous imprisonment for 06 months.
Under Section 5(n) of the Protection of Children from Sexual Offences Act, 2012	Rigorous imprisonment for 20 years with fine amount of Rs.2,000/-, in default of payment



	of fine, additional rigorous imprisonment for 06 months.
Under Section 5(j)(ii) of the Protection of Children from Sexual Offences Act, 2012	Rigorous imprisonment for 20 years with fine amount of Rs.2,000/-, in default of payment of fine, additional rigorous imprisonment for 06 months.

3. Learned State counsel submits that notice issued to PW-3, i.e. the father of the victim has been served, but none has appeared on behalf of the victim to contest the present appeal.

BRIEF FACTS

4. The prosecution case, in brief, is that As per the prosecution case, on 14.04.2022, a written complaint (Ex. P/01) was submitted by PW-03 (father of the victim) before the Station House Officer alleging that his minor daughter, aged about 17 years, had been enticed away by the accused, who happened to be his son-in-law and was residing in his house. It was alleged that the accused had been influencing the victim for several months, and had ultimately taken her away, asserting over phone that he would keep her as his wife and threatening the complainant. On the basis of the said complaint, First Information Report (Ex. P/02) was registered for the aforesaid offences. During the course of investigation, the spot map was prepared, and documents relating to the age of the victim, including her school progress report and admission register (Ex.



P/36C), were seized, which reflected her date of birth as 08.10.2004, thereby establishing that she was a minor at the time of the incident.

- 5.** The victim was subsequently recovered and handed over to her father. Her medical examination was conducted pursuant to requisition (Ex. P/16), and the medical report (Ex. P/17) along with vaginal slides and swabs were collected and sent for forensic examination, the report of which is on record as Ex. P/34. The accused was also medically examined (Ex. P/14 and Ex. P/15). The statement of the victim was recorded under Section 164 of the Code of Criminal Procedure (Ex. P/25), wherein she supported the prosecution case and stated that the accused, taking advantage of his proximity as her brother-in-law, induced her on the pretext of marriage, established physical relations with her, and thereafter took her to Punjab, where he kept her in a rented accommodation and continued to have sexual intercourse against her will. Further, sonography of the victim was conducted (Ex. P/29 and Ex. P/38), and statements of material witnesses including PW-01 (victim), PW-02 (mother), PW-03 (father/complainant), and PW-04 (elder sister, wife of the accused) were recorded under Section 161 Cr.P.C.
- 6.** After completion of investigation, charge-sheet (Ex. P/33) was filed before the competent Court. The Trial Court framed charges against the accused under Sections 363, 366, 376(2)(n), 313 of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 5(d), 5(l), 5(n)(ii)



punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act'). The appellant abjured his guilt and entered into defence stating that he has not committed any offence and he has been falsely implicated in the crime in question.

7. So as to prove the complicity of the accused/appellant in the alleged offence, the prosecution has examined as many as 15 witnesses (PW-01 to PW-15) and has adduced documentary evidence by exhibiting documents Ex. P/01 to Ex. P/39 in support of its case. The prosecution has also relied upon scientific evidence in the form of the FSL report (Ex. P/34). In defence, the accused has examined DW-01 (Padman Bhoi) and himself as DW-02, however, no cogent documentary evidence has been brought on record by the defence.
8. The victim has been examined as PW-01, who has fully supported the prosecution case and reiterated the allegations made in her written complaint (Ex. P/01) as well as in her statement recorded under Section 164 Cr.P.C. (Ex. P/25). She has categorically deposed that the accused, who is her brother-in-law, induced her on the pretext of keeping her as his wife and established physical relations with her, and thereafter took her to Punjab where he kept her in a rented accommodation and repeatedly committed sexual intercourse with her. Her testimony finds due corroboration from PW-02 (mother of the victim) and PW-03 (father/complainant),



who have supported the prosecution case and proved the lodging of FIR (Ex. P/02) and other material aspects. PW-04 (elder sister of the victim and wife of the accused) has also supported the presence and conduct of the accused in the house and the surrounding circumstances.

- 9.** The medical evidence has been proved through PW-05 (Dr. Kiran Chouhan), PW-09 (Dr. Sunil Patel) and PW-10 (Dr. Santoshi Gupta), who have proved the medical examination reports of the victim and the accused (Ex. P/17, Ex. P/30, Ex. P/15 respectively). The seizure of vaginal slides and swabs and their forwarding for forensic examination has been duly established, and the FSL report (Ex. P/34) has been brought on record. The age of the victim has been duly proved through school records including the admission register (Ex. P/36C), establishing her date of birth as 08.10.2004, thereby confirming that she was a minor at the relevant time.
- 10.** The investigation has been duly proved by the prosecution witnesses including the Investigating Officer, who has established the recovery of the victim (Ex. P/07), preparation of seizure memos (Ex. P/05, P/18, P/20), arrest of the accused (Ex. P/11), and completion of investigation culminating in filing of the charge-sheet (Ex. P/33). Other witnesses (PW-06 to PW-15) have supported the prosecution case with regard to various aspects of investigation, seizure, and procedural compliance. The



documentary evidence exhibited from Ex. P/01 to Ex. P/39 includes the written complaint, FIR, medical reports, seizure memos, consent letters (Ex. P/09 and Ex. P/10), statement under Section 164 Cr.P.C. (Ex. P/25), school records, sonography report (Ex. P/38), and FSL report (Ex. P/34), all of which collectively substantiate the prosecution case.

- 11.** On the other hand, though the accused has examined himself as DW-02 and one witness as DW-01, the defence has failed to bring on record any cogent or reliable material to probabalize the plea of false implication. The defence version, therefore, does not inspire confidence and remains unsubstantiated.
- 12.** In view of the aforesaid evidence, it is evident that the case of the prosecution rests on the consistent and trustworthy testimony of the victim (PW-01), which stands duly corroborated by medical evidence, documentary evidence, and scientific evidence brought on record. The prosecution has thus successfully established the guilt of the accused beyond reasonable doubt, and there is no material to disbelieve or discard the findings recorded by the learned Trial Court.
- 13.** The Trial Court after completion of trial and after appreciating oral and documentary evidences available on record, by the impugned judgment dated 28.10.2023 convicted and sentenced the appellant in the manner mentioned in the second paragraph of this judgment, against which this appeal under Section 374(2) of the Cr.P.C. has



been preferred by him calling in question the impugned judgment of conviction and order of sentence.

SUBMISSIONS

- 14.** Mr. Manoj Kumar Sinha, learned counsel appearing for the appellant, has assailed the impugned judgment of conviction and order of sentence passed by the learned Trial Court as being wholly unsustainable in law. He submits that the entire judgment suffers from serious infirmities and is based on conjectures and surmises rather than on cogent and reliable evidence. It is contended that the findings recorded by the learned Trial Court are perverse in nature, inasmuch as material contradictions and inconsistencies in the statements of prosecution witnesses have been completely overlooked. According to him, the prosecution evidence is self-contradictory on material particulars, thereby rendering it unreliable and unworthy of acceptance in a criminal trial where the standard of proof is beyond reasonable doubt.
- 15.** It is submitted by Mr. Sinha that the learned Trial Court has failed to appreciate that there is no credible or trustworthy evidence to establish that any forcible sexual intercourse was committed upon the victim. Learned counsel emphasizes that the prosecution story, as unfolded through the testimony of PW-01 (victim), does not inspire confidence and is riddled with improvements and contradictions. It is argued that the findings of the Trial Court are based on hypothetical considerations rather than on legally



admissible and convincing evidence. With regard to the age of the victim, learned counsel has vehemently contended that the prosecution has failed to prove that the victim was a minor at the time of the alleged incident. It is submitted that the alleged date of birth recorded in the school register (Ex. P/36C) has not been proved in accordance with law. The author of the entry has not been examined, and even PW-13 (Incharge Head Master) has categorically admitted that he had not made the entry and was unaware of the basis on which the date of birth was recorded. It is thus argued that the age of the victim remains doubtful, and in absence of proper proof of minority, the provisions of the POCSO Act could not have been invoked. Learned counsel further submits that no birth certificate, hospital record, or village register (Kotwar Panji) has been produced or seized during investigation, thereby creating a serious dent in the prosecution case regarding age.

- 16.** Mr. Sinha next contends that the evidence on record clearly suggests that the relationship between the appellant and the victim was consensual in nature. Drawing attention to the deposition of PW-01, it is submitted that the victim herself has admitted that she was in a love relationship with the appellant and had voluntarily accompanied him to Punjab, where both resided together for several months. It is further submitted that the victim has admitted that she did not raise any objection during this period and that the relationship was based on a promise of



marriage. According to learned counsel, this clearly negates the ingredients of offences under Sections 363 and 366 IPC, as there was no element of kidnapping or abduction; rather, the victim had willingly left her home. It is also argued that the prosecution has failed to establish that the victim was ever recovered from the possession of the appellant. The victim has herself admitted that at the time of her recovery, the appellant was not present, which further weakens the prosecution story. Learned counsel submits that this aspect has not been properly appreciated by the Trial Court. Further, learned counsel submits that the conduct of the victim, as reflected in her testimony, clearly indicates consent. It is pointed out that she lived with the appellant from July 2021 to April 2022 without any resistance and that even her family members were aware of the relationship. It is contended that the possibility of false implication due to family dispute between the parties cannot be ruled out, particularly when the appellant happens to be the brother-in-law of the victim.

17. Mr. Sinha has also drawn attention to the testimony of PW-02 (mother), PW-03 (father), and PW-04 (sister of the victim), submitting that they have not fully supported the prosecution case and have made statements inconsistent with the allegations of rape. It is submitted that the mother and sister have admitted that the victim was living with the appellant of her own volition and had not raised any complaint during the period of cohabitation. It is



further submitted that the father has admitted absence of any authentic document regarding the date of birth of the victim, thereby further weakening the prosecution case.

- 18.** On the aspect of medical evidence, Mr. Sinha submits that the testimony of PW-05 (Dr. Kiran Chouhan) and PW-10 (Dr. Santoshi Gupta) does not support the case of the prosecution. It is pointed out that both doctors have categorically stated that there were no injuries found on the body or private parts of the victim, nor were there any signs of recent sexual intercourse. It is argued that in absence of medical corroboration, the allegation of forcible rape becomes highly doubtful. Though the victim was found to be pregnant, learned counsel submits that pregnancy alone cannot be taken as proof of rape, particularly when the relationship appears to be consensual. He further submits that there are material contradictions and omissions in the statements of prosecution witnesses, which go to the root of the matter and render the prosecution case doubtful. It is contended that the Trial Court has failed to properly scrutinize both oral and documentary evidence and has arrived at findings which are not supported by the evidence on record.
- 19.** It is thus argued that the prosecution has failed to prove its case beyond reasonable doubt, and the conviction of the appellant under Sections 363, 366, 376 IPC and provisions of the POCSO Act is wholly unsustainable. As such, he prays that the impugned



judgment of conviction and sentence be set aside and the appellant be acquitted of all charges.

- 20.** Per contra, Shri Shaleen Singh Baghel, learned Government Advocate appearing for the State, has vehemently opposed the submissions advanced by learned counsel for the appellant and supported the impugned judgment of conviction and order of sentence. He further submits that the judgment passed by the learned Trial Court is well reasoned, based on proper appreciation of oral and documentary evidence, and does not suffer from any illegality or perversity warranting interference by this Court. It is contended that the prosecution has successfully proved its case beyond reasonable doubt and the findings recorded by the Trial Court are in consonance with the evidence available on record.
- 21.** It is further submitted by Mr. Baghel that the testimony of PW-01 (victim) is cogent, consistent, and inspires full confidence. The victim has clearly narrated the manner in which the appellant, taking advantage of his position as her brother-in-law, allured her on the pretext of marriage and established physical relations with her, and thereafter took her away to Punjab where he repeatedly subjected her to sexual intercourse. Learned Government Advocate submits that the statement of the victim is natural and trustworthy, and as per settled law, conviction can be based solely on the testimony of the victim if it is found reliable. It is further contended that the testimony of the victim stands duly



corroborated by her statement recorded under Section 164 Cr.P.C. (Ex. P/25), as well as by the evidence of PW-02 (mother), PW-03 (father/complainant), and PW-04 (sister of the victim). The prosecution witnesses have consistently supported the case and there are no material contradictions which go to the root of the matter. Minor discrepancies, if any, are natural and do not affect the core of the prosecution story.

- 22.** Mr. Baghel submits that the age of the victim has been duly proved by the documentary evidence, particularly the school admission register (Ex. P/36C), which reflects her date of birth as 08.10.2004. It is argued that as per settled legal principles, school records are admissible and reliable for determining the age of a victim, and merely because the author of the entry was not examined does not render the document inadmissible. The evidence on record clearly establishes that the victim was a minor at the time of the incident, and therefore, her consent, even if assumed, is immaterial in the eyes of law. It is also submitted that the conduct of the appellant in taking away the minor victim from the lawful guardianship of her parents and keeping her in another State itself constitutes the offence under Sections 363 and 366 IPC. The argument of consensual relationship is wholly untenable in view of the fact that the victim was below 18 years of age, and thus incapable of giving valid consent under law.



- 23.** On the aspect of medical evidence, Mr. Baghel submits that absence of injuries on the body of the victim is not fatal to the prosecution case, particularly when the victim was in the custody and control of the appellant for a considerable period. It is well settled that in cases of sexual assault, absence of physical injuries does not negate the offence. The medical reports (Ex. P/17 and Ex. P/30), along with the FSL report (Ex. P/34), lend corroboration to the prosecution case. He further submits that the defence taken by the appellant is not supported by any reliable evidence. Though the appellant has examined DW-01 and himself as DW-02, their testimony does not probabalize the defence version nor does it create any reasonable doubt in the prosecution case. The plea of false implication is a bald assertion without any substantiation.
- 24.** It is lastly submitted by Mr. Baghel that the learned Trial Court has rightly appreciated the entire evidence on record and has recorded a well-founded conviction. There is no perversity or illegality in the impugned judgment. Accordingly, it is prayed that the appeal being devoid of merits deserves to be dismissed and the conviction and sentence awarded to the appellant be affirmed.
- 25.** We have heard learned counsel for the parties at length, considered their rival submissions made herein-above, and carefully perused the entire record of the case with utmost circumspection.



26. Upon a careful scrutiny of the pleadings, oral testimonies of the witnesses, documentary exhibits brought on record, as well as the impugned judgment passed by the learned Trial Court, it appears that the prosecution case rests primarily on the testimony of the victim (PW-01), which is duly corroborated by her statement recorded under Section 164 Cr.P.C. (Ex. P/25), the medical evidence in the form of medical examination reports (Ex. P/17 and Ex. P/30), documentary evidence relating to her age including the school admission register (Ex. P/36C), and the scientific evidence in the form of the FSL report (Ex. P/34).
27. The prosecution has further relied upon the supporting testimonies of PW-02 (mother), PW-03 (father/complainant), and PW-04 (sister of the victim), along with other witnesses, to establish the chain of circumstances forming the basis of the case.

POINTS FOR DETERMINATION

28. Upon a careful consideration of the pleadings, oral and documentary evidence, and the grounds urged in appeal, the following points arise for determination before this Court:
- (i) Whether the prosecutrix was below 18 years of age during the relevant period from 07.07.2021 to 14.04.2022 and thus falls within the definition of a “child” under Section 2(d) of the POCSO Act?



(ii) Whether the accused, on 07.07.2021 at about 11:30 p.m., took the prosecutrix from her house within the jurisdiction of Police Station Kedar out of the lawful guardianship of her parents without their consent, thereby constituting the offence of kidnapping?

(iii) Whether the accused abducted the prosecutrix with the intention that she may be compelled or induced to marry him or be forced into illicit sexual relations?

(iv) Whether the accused established physical relations with the prosecutrix, who was a minor at the relevant time?

(v) Whether the accused repeatedly committed sexual intercourse with the prosecutrix, thereby constituting the offence of rape and aggravated penetrative sexual assault under the relevant provisions of law?

(vi) Whether the accused, being the brother-in-law of the prosecutrix and residing in a shared household, committed aggravated penetrative sexual assault, thereby attracting the aggravated provisions under the POCSO Act?

(vii) Whether, as a consequence of the acts attributed to the accused, the prosecutrix, being a minor, became pregnant?



(viii) Whether the accused caused miscarriage of the minor prosecutrix without her lawful consent, thereby attracting the offence punishable under Section 313 of the IPC?

(ix) Whether the prosecution has been able to prove its case beyond reasonable doubt on the basis of oral, documentary, and scientific evidence available on record?

(x) Whether the impugned judgment of conviction and order of sentence passed by the learned Trial Court suffers from any illegality, perversity, or misappreciation of evidence warranting interference by this Court, or whether the same deserves to be affirmed?

REASONS AND FINDINGS

- 29.** We shall first deal with Point No. (i), which pertains to the determination of the age of the prosecutrix during the relevant period, i.e., from 07.07.2021 to 14.04.2022, and whether she was below 18 years of age so as to fall within the definition of a “child” under Section 2(d) of the POCSO Act.
- 30.** When a person is charged for the offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredient to prove such charge and the gravity of the offence gets changed when the child is below 18 years, 12 years and more than 18 years. Section



2(d) of the POCSO Act defines the “child” which means any person below the age of eighteen years.

31. In ***Jarnail Singh Vs. State of Haryana, (2013) 7 SCC 263***, the Hon’ble Supreme Court laid down the guiding principles for determining the age of a child, which read as follows:

“22. On the issue of determination of age of a minor, one only needs to make a reference to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the 2007 Rules). The aforesaid 2007 Rules have been framed under Section 68(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000. Rule 12 referred to hereinabove reads as under :

“12. Procedure to be followed in determination of Age.? (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in



conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –

(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or



juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or



any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub- rule(3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.”

23. *Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the victim VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it*



has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.”

- 32.** Section 2(d) of the POCSO Act unequivocally defines a “child” as any person who has not completed eighteen years of age. The legislative intent underlying the said provision is to afford the



widest possible protection to persons below the age of majority from sexual exploitation and abuse. Thus, for invocation of the provisions of the POCSO Act, the foundational requirement is that the prosecution must satisfactorily establish that the victim was below eighteen years of age on the date of occurrence. Likewise, in the present case, the prosecution has also projected the age of the victim as below sixteen years for the purposes of attracting aggravated penal consequences under the Indian Penal Code, as it then stood, thereby making the determination of age a crucial and determinative issue.

- 33.** At the outset, it is to be noted that the consistent defence taken by the accused in his statement recorded under Section 313 Cr.P.C. is that the victim was a major at the time of the incident and that her family members were in search of a suitable match for her marriage. However, such a bald assertion, in the absence of any cogent documentary or reliable oral evidence, cannot be accepted in the face of overwhelming prosecution evidence to the contrary.
- 34.** The victim (PW-01), while deposing before the Court on 03.11.2022, categorically stated on oath that she was 17 years of age at the time of her deposition. Further, in her statement recorded under Section 164 Cr.P.C. on 18.04.2022 before the Judicial Magistrate First Class, she again disclosed her age to be 17 years. Although in her examination-in-chief she expressed inability to state her exact date of birth, in paragraph 10 of her



testimony she unequivocally accepted the suggestion put forth by the prosecution that she was a minor at the time of the incident. She also identified the progress report (Ex. P/6) as her own, though she expressed lack of knowledge regarding the specific date of birth recorded therein.

- 35.** The testimony of the victim (PW-01) finds substantial corroboration from her mother (PW-02), who has clearly deposed that the victim was about 16 years of age at the time of the incident. In her cross-examination as well, she admitted the suggestion that her daughter was a minor during the relevant period. Similarly, the father of the victim (PW-03) has supported the prosecution case and has not, at any stage, suggested that the date of birth recorded in the school records was based on mere approximation. Rather, his testimony indicates that he was aware of the actual dates of birth of his children.
- 36.** Further corroboration is available from the testimony of the elder sister of the victim (PW-04), who has also stated that the victim was below 18 years of age at the time when she left the house. She further stated that at the time of her own deposition, the victim was about 19 years old, which probabilistically aligns with the prosecution case regarding the age of the victim during the period of incident.
- 37.** It is true that PW-11 (brother-in-law of the victim) in his cross-examination admitted a suggestion that the victim might have



been around 19–20 years of age; however, such an isolated statement, elicited during cross-examination, cannot override the consistent and cogent evidence led by the prosecution witnesses, particularly when the same is not supported by any documentary evidence.

- 38.** Coming to the documentary evidence, the prosecution has placed strong reliance upon the school records, namely the admission and withdrawal register (Ex. P/36C), which has been duly proved by PW-13 (Head Master, Government Primary School). The said register, maintained since the year 1964 in the ordinary course of official duties, records the date of birth of the victim as 08.10.2004, with the date of admission being 29.06.2010 in Class I. PW-13 has proved the relevant entry and has also identified his signatures on the certified copy of the register.
- 39.** Though it has come in the cross-examination of Parmanand Bhoi (PW-13) that he had not made the original entry and that there was a minor correction in the year of birth (from 2010 to 2004), the same has been duly explained and appears natural, as the date of admission itself is of the year 2010, rendering the earlier entry of “2010” as year of birth inherently erroneous. The correction bears initials, and no material has been brought on record to suggest that the said correction was manipulated or fabricated. PW-13 has also proved the certificate (Ex. P/21) issued on the basis of the said register. Though the defence has



argued that the Head Master was not the competent authority to issue a birth certificate, this Court finds that the said certificate is merely a reflection of the entry already existing in the school register, and therefore derives its evidentiary value from the original record (Ex. P/36C).

- 40.** Further, the progress report (Ex. P/6), seized vide Ex. P/5 and proved by PW-12 (Investigating Officer), also records the same date of birth, i.e., 08.10.2004, thereby lending additional corroboration to the prosecution case.
- 41.** It is pertinent to note that as per Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the date of birth certificate from the school or the matriculation certificate is to be given primacy for determination of age. Only in the absence of such documents is recourse to be taken to birth certificates issued by local authorities or medical examination. In the present case, the school records are very much available and duly proved; hence, there was no necessity for ossification test or any other medical age determination.
- 42.** The contention of the defence that the date of birth might have been entered on an approximation basis also does not inspire confidence. Neither the parents of the victim (PW-02 and PW-03) have supported this suggestion, nor has any evidence been brought on record to substantiate the same. Mere acceptance of such a suggestion by the victim (PW-01), who admittedly was



unaware of the legal implications and even the meaning of “minor” and “major,” cannot be treated as conclusive. It is further significant that the defence, despite taking a specific plea that the victim was a major, has failed to produce any documentary evidence such as Aadhaar Card, birth certificate, or any other reliable document to substantiate such claim. Even the suggestion that the victim was employed in a company where only majors are engaged remains unsubstantiated.

- 43.** Upon a cumulative consideration of the oral and documentary evidence, this Court finds that the date of birth of the victim as 08.10.2004, as recorded in the school register (Ex. P/36C) and corroborated by the progress report (Ex. P/6), stands duly proved. The said evidence is further reinforced by the consistent testimonies of PW-01 (victim), PW-02 (mother), PW-03 (father), and PW-04 (elder sister).
- 44.** Accordingly, it stands established that on the date of the initial incident i.e., 07.07.2021, the victim was approximately 16 years and 8 months old, and even up to 14.04.2022, she had not attained the age of 18 years.
- 45.** In view of the foregoing analysis, this Court finds no infirmity in the finding recorded by the learned Trial Court on this aspect. The conclusion that the victim was a minor at the relevant time is based on proper appreciation of evidence and settled principles of law, and the same is hereby affirmed.



- 46.** Point No. (i) is answered in the affirmative, holding that the victim was below 18 years of age during the relevant period and thus falls within the definition of a “child” under Section 2(d) of the POCSO Act.
- 47.** This Court shall deal with Points No. (ii) to (ix) together, as all these issues emanate from a common factual background and are founded upon interconnected oral, medical and documentary evidence led by the prosecution. In order to avoid repetition and for a comprehensive appreciation of the material available on record, the said points are being considered conjointly.
- 48.** The appellant has been convicted for offences punishable under Sections 363, 366, 376 IPC, as well as under the relevant provisions of the POCSO Act and Section 313 of the IPC. The gravamen of the prosecution case is that the accused enticed and took away the minor victim from the lawful guardianship of her parents, established physical relations with her repeatedly during the subsistence of such taking, and as a consequence thereof, she became pregnant, followed by termination of pregnancy without lawful consent.
- 49.** The offence of kidnapping from lawful guardianship is defined under Section 361 of the IPC, which postulates that if a minor is taken or enticed out of the keeping of the lawful guardian without the consent of such guardian, the same would amount to kidnapping. In the present case, the prosecution has alleged that



the victim was taken away by the accused from her residence during the night of 07.07.2021 without the consent or knowledge of her parents, and thereafter she remained with the accused for a considerable period, during which the alleged acts were committed.

50. Thus, the foundational issues which arise for consideration under these points relate to (i) whether the victim was taken away from lawful guardianship, (ii) whether such taking was voluntary or induced, (iii) whether physical relations were established, (iv) whether such acts amount to rape and aggravated penetrative sexual assault in light of the age and relationship of the parties, and (v) the consequential aspect of pregnancy and its alleged termination. Section 361 of the IPC defines kidnapping from lawful guardianship which states as under:-

“361. Kidnapping from lawful guardianship.-Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.”

51. The object of Section 359 of the IPC is at least as much to protect children of tender age from being abducted or seduced for



improper purposes, as for the the protection of the rights of parents and guardians having the lawful charge or custody of minors or insane persons. Section 361 has four ingredients:-

“(1) Taking or enticing away a minor or a person of unsound mind.

(2) Such minor must be under sixteen years of age, if a male, or under eighteen years or age, if a female.

(3) The taking or enticing must be out of the keeping of the lawful guardian of such minor or person of unsound mind.

(4) Such taking or enticing must be without the consent of such guardian.

52. So far as kidnapping a minor girl from lawful guardianship is concerned, the ingredients are : (i) that the girl was under 18 years of age; (ii) such minor was in the keeping of a lawful guardian, and (iii) the accused took or induced such person to leave out of such keeping and such taking was done without the consent of the lawful guardian.

53. The Supreme Court while considering the object of Section 361 of the IPC in the matter of **S.Varadarajan v. State of Madras, AIR 1965 SC 942** took the view that if the prosecution establishes that though immediately prior to the minor leaving the father's protection no active part was played by the accused, he had at some earlier stage solicited or persuaded the minor to do so and held that if evidence to establish one of those things is lacking, it would not be legitimate to infer that the



accused is guilty of taking the minor out of the keeping of the lawful guardian and held as under:-

“It would, however, be sufficient if the prosecution establishes that though immediately prior to the minor leaving the father's protection no active part was played by the accused, he had at some earlier stage solicited or persuaded the minor to do so. If evidence to establish one of those things is lacking it would not be legitimate to infer that the accused is guilty of taking the minor out of the keeping of the lawful guardian merely because after she has actually left her guardian's house or a house where her guardian had kept her, joined the accused and the accused helped her in her design not to return to her guardian's house by taking her along with him from place to place. No doubt, the part played by the accused could be regarded as facilitating the fulfilment of the intention of the girl. But that part falls short of an inducement to the minor to slip out of the keeping of her lawful guardian and is, therefore, not tantamount to “taking”.”

- 54.** Reverting to the facts of the present case, and examining the same in the backdrop of the statutory ingredients of the offences alleged, this Court finds that the prosecution has been able to firmly establish that the victim (PW-1) was below 18 years of age during the relevant period i.e., from 07.07.2021 to 14.04.2022, and was thus a “child” within the meaning of the POCSO Act. The



evidence on record further reveals that the accused, who stood in a position of trust being a close relative (brother-in-law) and was residing in proximity to the victim, took her away from the lawful guardianship of her parents without their consent. Even though the defence has sought to contend that the victim had voluntarily accompanied the accused to Punjab for the purpose of labour work, such a plea does not hold legal significance in view of the settled position that the consent of a minor is wholly immaterial. The surrounding circumstances, including the prolonged stay of the victim with the accused away from her parental home, clearly indicate that she was removed from lawful guardianship. In such circumstances, this Court is of the considered view that the learned trial Court has rightly appreciated the evidence and has not committed any error in holding the accused guilty of the offences relating to taking a minor away from lawful guardianship.

- 55.** At the outset, it is required to be observed that the present case pertains to serious allegations of continuous sexual exploitation of a minor victim over a considerable period of time. The prosecution case primarily rests upon the testimony of the victim (PW-1), which, in law, is of paramount importance in cases of sexual offences. It is a well-settled principle that the testimony of the victim, if found to be cogent, credible and trustworthy, can form the sole basis of conviction even in the absence of independent corroboration. However, in the present case, the testimony of the



victim does not stand in isolation; rather, it finds substantial corroboration from the surrounding circumstances, medical evidence, and other material brought on record, thereby lending further assurance to its reliability.

- 56.** The victim (PW-1), in her deposition, has narrated the entire sequence of events in a natural and consistent manner. She has categorically stated that she had gone along with the accused and remained with him in Punjab for a considerable period. Though the defence has attempted to highlight certain portions of her cross-examination to suggest that she had accompanied the accused voluntarily and that there existed a relationship between them, this Court is of the view that such submissions do not dilute the core of the prosecution case. Even if it is assumed that the victim had accompanied the accused out of her own will, the same would be of no consequence in law, once it is established that she was a minor at the relevant time. The statutory protection granted under the POCSO Act renders the question of consent wholly irrelevant, and any sexual act with a minor constitutes an offence irrespective of ostensible consent.
- 57.** The contention of the defence that the victim had expressed ignorance regarding her exact date of birth or that she considered herself to be major, also does not advance the case of the appellant. The age of the victim is required to be determined on the basis of legally admissible evidence, and not on the subjective



understanding or assertion of the victim. In the present case, the prosecution has produced documentary evidence, including school records, to establish the date of birth of the victim. Merely because certain witnesses have expressed lack of knowledge regarding the basis of such entries does not render the documents unreliable, particularly when they have been brought on record in accordance with law and form part of official records maintained in the ordinary course of business.

- 58.** The evidence of the parents of the victim, namely (PW-2) and (PW-3), though subjected to lengthy cross-examination, does not discredit the prosecution case. It is true that certain discrepancies or omissions have been pointed out; however, such minor inconsistencies are but natural and are bound to occur in the testimony of witnesses deposing after a lapse of time. What is material is that the core of the prosecution story remains intact, namely that the victim had left the house and was subsequently found to be residing with the accused and had become pregnant during the said period.
- 59.** The challenge raised by the defence regarding the proof of age of the victim on the basis of school records has also been duly considered. The Incharge Head Master (PW-13) has proved the relevant entries in the school register, and the same cannot be brushed aside merely on the ground that he was not the author of the original entry. School records are admissible as relevant



evidence, and in the absence of any material to show that the entries were fabricated or manipulated, the same can safely be relied upon. Thus, the prosecution has been able to establish, on a preponderance of probabilities and beyond reasonable doubt, that the victim was a minor at the relevant time.

- 60.** The medical evidence brought on record, though indicating absence of injuries, does not negate the prosecution case. It is well settled that absence of injuries on the person of the victim does not necessarily lead to an inference that no sexual assault has taken place. Particularly in cases involving prolonged association or where the victim is under fear, intimidation or influence of the accused, the absence of resistance and consequently absence of injuries is not uncommon. Therefore, the medical evidence in the present case does not contradict, but rather complements the prosecution case, especially in view of the fact that the victim was found to be pregnant.
- 61.** The factum of pregnancy of the victim stands duly established from the medical evidence. The said circumstance constitutes a strong incriminating factor against the accused. The defence has not been able to offer any plausible explanation regarding the said pregnancy. In the absence of any alternative hypothesis, the natural inference that can be drawn is that the accused had established physical relations with the victim during the period she was in his company.



- 62.** The contention of the defence that there is no independent witness supporting the prosecution case also does not hold much significance. In cases of this nature, the offence is committed in privacy, and it is seldom possible to procure independent witnesses. The law does not require plurality of witnesses, and conviction can be based even on the sole testimony of the victim, if the same is found reliable. In the present case, the testimony of the victim is not only reliable but is also corroborated by other circumstances on record.
- 63.** The plea of false implication on account of alleged family dispute has been raised by the defence; however, no material has been placed on record to substantiate the same. Mere suggestion of enmity or dispute, in the absence of any concrete evidence, cannot be a ground to discard the otherwise reliable testimony of the victim. On the contrary, the relationship between the parties indicates that the accused was in a position of trust, which he has grossly abused.
- 64.** Upon a comprehensive and cumulative appreciation of the entire evidence on record, this Court finds that the prosecution has succeeded in establishing a complete and consistent chain of circumstances, which unerringly points towards the guilt of the accused. The testimony of the victim (PW-1) is found to be natural, trustworthy and inspires confidence. The same is duly



corroborated by the testimony of her parents and the medical evidence regarding pregnancy.

65. In the case of ***Ganesan v. State, (2020) 10 SCC 573***, the Supreme Court observed and held that that there can be a conviction on the sole testimony of the victim/victim when the deposition of the victim is found to be trustworthy, unblemished, credible and her evidence is of sterling quality.
66. In the case of ***State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575***, it was observed and held that as a general rule, if credible, conviction of accused can be based on sole testimony, without corroboration. It was further observed and held that sole testimony of victim should not be doubted by court merely on basis of assumptions and surmises.
67. In the case of ***Sham Singh v. State of Haryana, (2018) 18 SCC 34***, the Supreme Court observed that testimony of the victim is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. It was further observed that seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury.



- 68.** Applying the settled principles of law to the facts of the present case, and upon an independent and careful re-appreciation of the entire evidence available on record, this Court finds no reason to disbelieve the testimony of the victim (PW-01). Her deposition inspires confidence and is found to be natural, consistent, and free from material contradictions. The victim has clearly stated that the accused, who is her brother-in-law and was residing in the same household, developed physical relations with her on the false assurance of keeping her as his wife and thereafter continued such relations while taking her away to Punjab, where they resided together for a considerable period. The core of her testimony regarding her staying with the accused and being subjected to physical relations has remained intact. The evidence of PW-01 (victim) is duly supported by surrounding circumstances and other prosecution evidence. Therefore, this Court holds that the prosecution has succeeded in establishing its case beyond reasonable doubt.
- 69.** The defence has attempted to create doubt by suggesting that the victim had voluntarily accompanied the accused and that there existed a consensual relationship between them. However, such a plea is legally untenable once it is established that the victim was below 18 years of age. The evidence of PW-13 (Head Master) along with the school records (Ex.P/36C) establishes the date of birth of the victim, and despite certain suggestions in cross-



examination, no material has been brought on record to discredit the same. The defence has failed to probabalize its case or create any reasonable doubt. The conduct of the accused in taking the minor victim away from her lawful guardianship and keeping her with him for several months stands clearly established.

- 70.** This Court does not find any illegality, perversity, or material irregularity in the findings recorded by the learned trial Court. The trial Court has meticulously examined the evidence of PW-01 (victim), PW-02 (mother), PW-03 (father), PW-04 (sister), as well as the medical witnesses PW-05 (Dr. Kiran Chouhan), PW-09 (Dr. Sunil Patel) and PW-10 (Dr. Santoshi Gupta), and has rightly appreciated their testimonies in the proper perspective.
- 71.** The medical evidence assumes importance in the present case. PW-05 (Dr. Kiran Chouhan), who conducted the medical examination of the victim, has stated that no external injuries were found on the body or private parts of the victim. Similarly, PW-10 (Dr. Santoshi Gupta) has also opined that there were no signs of recent sexual intercourse or injuries. However, it is equally well settled that absence of injuries does not negate the commission of sexual assault, particularly when the victim had been in prolonged association with the accused. In cases where the victim is under influence, fear, or inducement, or where the act is not accompanied by violent resistance, absence of injuries is not uncommon.



- 72.** On the contrary, the medical evidence establishes a crucial circumstance, namely, that the victim was found to be pregnant during the relevant period. The sonography report (Ex.P/38) and related medical documents prove that the victim had conceived while she was in the company of the accused. This circumstance constitutes a strong incriminating piece of evidence against the accused. The defence has not offered any plausible explanation as to how the minor victim became pregnant while residing with the accused for several months in Punjab. This unexplained circumstance further strengthens the prosecution case.
- 73.** The testimony of PW-02 (mother) and PW-03 (father), though subjected to extensive cross-examination, does not demolish the prosecution case. They have supported the fact that the victim was taken away and was later recovered. Minor inconsistencies regarding knowledge of exact dates or age are natural and do not go to the root of the matter. Similarly, the evidence of PW-04 (sister) does not create any dent in the prosecution story.
- 74.** The prosecution has also proved the statement of the victim under Section 164 Cr.P.C. (Ex.P/25), which is consistent with her deposition before the Court. The investigation carried out by PW-14 (Investigating Officer) and other witnesses has been duly proved through documentary evidence from Ex.P/01 to Ex.P/39, including FIR, seizure memos, medical reports, school records, and FSL report (Ex.P/34). The chain of evidence is consistent.



- 75.** The defence witnesses DW-01 (Padman Bhoi) and DW-02 (accused) have not been able to rebut the prosecution case. Their statements are not supported by any independent or reliable evidence and do not inspire confidence. The plea of false implication on account of family dispute is bald and unsupported by any material on record.
- 76.** Upon a holistic appreciation of the entire evidence, this Court finds that the testimony of PW-01 (victim) is credible and trustworthy. The same is corroborated by the evidence of her parents, medical evidence regarding pregnancy, and documentary evidence relating to her age. No material contradiction, omission, or improbability has been demonstrated by the defence so as to discredit the prosecution case.
- 77.** It is a settled principle that in cases involving sexual offences against minors, the testimony of the victim alone, if found reliable, is sufficient to sustain conviction. In the present case, the testimony of PW-01 is not only reliable but is also corroborated by medical and documentary evidence, thereby making the prosecution case even stronger.
- 78.** Upon a comprehensive and independent re-appreciation of the entire evidence available on record, this Court finds that the findings recorded by the learned Trial Court are well-reasoned, legally sound, and based upon proper appreciation of both oral and documentary evidence. The testimony of the victim (PW-01),



which inspires confidence, stands duly corroborated by medical and other material evidence, and there are no material contradictions or infirmities so as to discredit the prosecution case. The chain of circumstances clearly establishes the involvement of the accused in the commission of the offences alleged, including kidnapping, abduction, and repeated sexual assault upon the minor victim, along with the consequential acts proved on record. The learned Trial Court has rightly appreciated the evidence in its correct perspective and has arrived at just and proper conclusions.

- 79.** Accordingly, all the questions framed hereinabove, i.e., Points No. (ii) to (ix), are answered in the affirmative, in favour of the prosecution and against the accused.
- 80.** Now, this Court shall deal with Point No. (x): Whether the impugned judgment of conviction and order of sentence passed by the learned Trial Court suffers from any illegality, perversity, or misappreciation of evidence warranting interference by this Court, or whether the same deserves to be affirmed?
- 81.** This Court has undertaken a complete and independent re-appreciation of the entire evidence available on record, both oral and documentary, in order to examine the correctness, legality, and propriety of the findings recorded by the learned Trial Court. Upon such scrutiny, this Court finds that the conclusions arrived at



by the Trial Court are well-founded, legally sustainable, and based on a proper appreciation of evidence.

- 82.** The prosecution case rests primarily on the testimony of the victim (PW-01), who has given a detailed, cogent, and consistent account of the incident. She has categorically deposed that on 07.07.2021 at about 11:30 p.m., the accused took her from her house without the knowledge and consent of her parents and thereafter subjected her to repeated sexual assault. Her testimony clearly establishes not only the act of kidnapping from lawful guardianship but also the subsequent acts of sexual exploitation. The deposition of PW-01 inspires full confidence, as it is natural, consistent, and free from material contradictions. Despite detailed cross-examination, nothing substantial has been elicited to discredit her version.
- 83.** The testimony of the victim (PW-01) stands duly corroborated by her mother (PW-02), who has deposed that she came to know about the incident when the victim was found to be pregnant, and upon inquiry, the victim disclosed the entire occurrence involving the accused. The testimony of PW-02 is natural and lends material corroboration to the prosecution story.
- 84.** So far as the age of the victim is concerned, the prosecution has duly proved the school admission and scholar register through PW-13, which has been exhibited as Ex. P/36C, clearly establishing the date of birth of the victim as 08.10.2004. The said



document, being an entry made in the regular course of official duties, carries evidentiary value under law and has remained unshaken in cross-examination. On the basis of the said documentary evidence, it stands conclusively established that the victim was below 18 years of age at the relevant time, thereby bringing the case squarely within the ambit of the POCSO Act.

- 85.** The medical evidence assumes significant importance in the present case. PW-05 (Dr. Kiran Chouhan) has proved the medical examination report of the victim (Ex. P/17) and categorically deposed that the victim was found pregnant at the time of medical examination. The sonography reports (Ex. P/29 and Ex. P/38) further corroborate the fact of pregnancy and indicate the gestational age, which is consistent with the period during which the victim remained in the company of the accused. Although no DNA examination has been conducted in the present case, the sonography reports, read along with the medical evidence, clearly establish that the victim was carrying pregnancy during the relevant period when she was under the influence and custody of the accused, thereby strongly corroborating the ocular testimony of PW-01.
- 86.** Further, the prosecution has duly proved the FIR (Ex. P/01) through PW-03, which set the criminal law into motion, along with the seizure memos and other relevant documents (Ex. P/05 to Ex. P/10) through the investigating witnesses. The recovery of the



victim, her medical examination, recording of statements under Section 161 and 164 Cr.P.C., and seizure of relevant documents collectively establish a consistent and uninterrupted chain of circumstances. All these pieces of evidence, when appreciated in entirety, unerringly point towards the involvement of the accused in the commission of the offence.

- 87.** The defence has failed to bring on record any material contradiction, omission, or circumstance which could probabilise its version or discredit the prosecution case. Except for a bald plea of false implication and alleged consensual relationship, no cogent evidence has been adduced by the defence. The medical and sonography evidence, particularly Ex. P/17, P/29, and P/38, remain unchallenged in material particulars and lend strong corroboration to the prosecution version. The defence theory, therefore, does not inspire confidence and has rightly been rejected by the learned Trial Court.
- 88.** The learned Trial Court has meticulously appreciated the evidence of PW-01 (victim), PW-02 (mother), PW-03 (father/complainant), PW-04 (sister), PW-05 (doctor), PW-06 and other witnesses, along with documentary evidence including Ex. P/36C (school record), Ex. P/17 (medical report), Ex. P/29 & Ex. P/38 (sonography reports), and Ex. P/01 to Ex. P/10 (FIR and seizure documents). The findings recorded by the Trial Court are based on proper appreciation of evidence and settled legal



principles, and no perversity, illegality, or misreading of evidence is found warranting interference by this Court.

- 89.** It is well settled that in cases involving sexual offences, particularly under the POCSO Act, the testimony of the victim, if found to be cogent, consistent, and trustworthy, can form the sole basis for conviction. In the present case, the testimony of PW-01 is not only consistent and reliable but also finds strong corroboration from documentary evidence and medical/sonography reports. The fact of pregnancy, duly established through Ex. P/17, P/29, and P/38, further strengthens the prosecution case. In such circumstances, the prosecution version stands proved beyond reasonable doubt.
- 90.** In view of the aforesaid comprehensive analysis, this Court is of the considered opinion that the impugned judgment of conviction and order of sentence passed by the learned Trial Court does not suffer from any illegality, perversity, or misappreciation of evidence warranting interference.
- 91.** Accordingly, Point No. (x) is answered against the appellant and in favour of the prosecution.
- 92.** Upon a comprehensive consideration of the overall facts and circumstances of the case, this Court is of the considered view that the learned trial Court has rightly appreciated the evidence in its proper perspective and has recorded findings of conviction on



a sound and well-reasoned basis. The impugned judgment does not suffer from any illegality, perversity, or misappreciation of evidence. No jurisdictional error or material irregularity has been shown which would warrant interference in appellate jurisdiction. Accordingly, the findings recorded by the learned trial Court are hereby affirmed.

- 93.** Accordingly, the appeal being devoid of merit is liable to be and is hereby **dismissed**.
- 94.** The appellant/convict is stated to be in jail since 14.04.2022. He shall serve out the sentence awarded by the trial Court by means of the impugned judgment of conviction and order of sentence dated 28.10.2023.
- 95.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
- 96.** Let a certified copy of this order alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice