IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-D No.643-DB of 2016 (O&M)

Baldev

…Appellant

Versus

State of Haryana

…Respondent

Reserved on: 19.12.2025
Pronounced on: 5.03.2026

Whether full judgment is pronounced
or
- operative part thereof: Full

CORAM: ***HON'BLE MRS. JUSTICE LISA GILL***
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. R.S. Pandher, Advocate, (*Amicus Curiae*)
for the appellant.

Mr. Dhruv Dayal, Addl. A.G, Haryana
for the respondent-State.

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MEENAKSHI I. MEHTA, J.

By way of instant criminal appeal, the above-named appellant has assailed the judgment dated 18.03.2016 and order on sentence dated 19.03.2016 passed by learned Additional Sessions Judge (Exclusive Court for heinous crimes against Women), Kurukshetra (for short 'the trial Court'), whereby he has been held guilty for committing the offences punishable under Sections 342 and 506 IPC, Section 6 read with Section 18 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') and Section 6 of the POCSO Act in the criminal case

arising out of FIR No.450 dated 19.06.2015 registered at Police Station City Thanesar, District Kurukshetra under Sections 342 and 506 IPC as well as Sections 6 and 10 of the POCSO Act and has been awarded the sentences as under:-

Offence	*Sentence*
U/S 342 IPC	*To undergo rigorous imprisonment for 06 months and pay a fine of Rs.1,000/- and in case of default in payment of fine, to undergo simple imprisonment for a period of 15 days.*
U/S 6 read with Section 18 of the POCSO Act	*To undergo rigorous imprisonment for 10 years and pay a fine of Rs.10,000/- and in case of default in payment of fine, to undergo simple imprisonment for a period of 04 months.*
U/S 6 of the POCSO Act	*To undergo rigorous imprisonment for 14 years and pay a fine of Rs.10,000/- and in case of default in payment of fine, to undergo simple imprisonment for a period of 04 months.*
U/S 506 IPC	*To undergo rigorous imprisonment for 02 years and pay a fine of Rs.2,000/- and in case of default in payment of fine, to undergo simple imprisonment for a period of 01 month.*

All the sentences have been ordered to run concurrently. The case of both the prosecutrices-victims has also been recommended to the concerned CJM-cum-Secretary, District Legal Services Authority for grant of compensation under the provisions of Section 357-A of Cr.P.C.

2. Shorn and short of unnecessary details, the facts, culminating in the filing of present appeal, are that on 19.06.2015, an application/complaint

was received at the afore-said Police Station wherein complainant named 'R' had alleged that on 17.06.2015, her daughter, i.e prosecutrix No.1 (here-in-after to be referred as 'PN'), aged about 08 years, told her while crying that on 15.06.2015, at about 01:00/01:30 PM, she ('PN') and prosecutrix No.2 (here-in-after to be referred as 'PS') were playing in the street and the appellant, who had been residing in the same street near their house, took both of them to his house by alluring them and shut the door. When 'PN' and 'PS' started weeping, he (appellant) gave them slaps and threatened to kill them. He increased the volume of television and put off the clothes of 'PS' forcibly and tried to rape her. When both the prosecutrices ('PN' and 'PS') raised an alarm, he again slapped 'PS' and removed the clothes of 'PN' forcibly and raped her. He again threatened both of them on point of knife by saying that in case they disclosed the incident to anyone, they would be killed. Her daughter, i.e 'PN', did not disclose the matter to her for almost two (02) days and thereafter, she narrated all the facts to her. She (complainant) and her husband enquired about the above-mentioned occurrence from 'PS' in presence of her mother and she ('PS') also told the entire facts to them while crying. On the basis of afore-referred application/ complaint, formal FIR was registered. Statements of both the prosecutrices were recorded under Section 164 Cr.P.C and 'PN' was got medico-legally examined. The appellant was arrested. Further necessary investigation was, then, carried out and on completion thereof, Challan/Final Police Report under Section 173 Cr.P.C was prepared against the appellant and the same was presented in the Court.

3. After hearing learned Public Prosecutor for the State and learned defence counsel and perusing the Challan/Final Police Report as also the documents annexed therewith, learned trial Court framed charge against the appellant under Sections 342 and 506 IPC and Sections 6 and 18 of the POCSO Act. The appellant (accused) pleaded not guilty to the charge and claimed trial.

4. In order to substantiate its allegations against appellant, the prosecution examined as many as thirteen (13) witnesses namely 'PS' as PW1, 'PN' as PW2, Dr. Surabhi Tiwari as PW3, Sh. Jarnail Singh, the then learned Chief Judicial Magistrate, Kurukshetra as PW4, Dr. Nitin Kalra as PW5, complainant 'R' as PW6, HC Sudeep Kumar as PW7, ASI Phool Singh as PW8, Constable Sewa Singh as PW9, HC Rajinder Kumar as PW10, Inspector/SHO Ram Kumar as PW11, W/ASI Parveen Kaur, the Investigating Officer, as PW12 and ASI Vinod Kumar as PW13. Then, learned Public Prosecutor for the State closed the prosecution evidence. Thereafter, appellant was examined under Section 313 Cr.P.C to explain the incriminating circumstances/material appearing against him in the prosecution evidence on record, wherein he pleaded innocence and false implication and stated that the complainant, mother of 'PN', had some old rivalry with him and his mother and due to this reason, she got him falsely implicated in this case. He led evidence in his defence by examining his daughter Rani as DW1 and his mother Bhagwani as DW2. After hearing learned counsel for both the parties and appraising the record, learned trial Court convicted the appellant vide impugned judgment and has sentenced

him accordingly, as already described in the opening para of this judgment.

5. We have heard learned counsel for the appellant (i.e *Amicus-Curiae* appointed vide order dated 19.08.2025 to represent him) as well as learned counsel for the respondent-State in the instant appeal and have also gone through the record carefully.

6. Learned *Amicus-Curiae* for the appellant has contended that alleged occurrence is stated to have taken place on 15.06.2015 whereas the FIR was registered on 19.06.2015. Thus, this unexplained delay of four (04) days in lodging the FIR eats into the vitals of the entire case of prosecution and makes it highly doubtful. Secondly, he has contended that in affidavit Exhibit P3, as tendered by PW3 Dr. Surabhi Tiwari and in Exhibit P4, i.e Medico-Legal Report of 'PN' as well, it has been mentioned that no fresh injury marks were present on her (PN's) body and this fact, by itself, falsifies/belies the version of prosecution regarding her having been raped by the appellant. Lastly, he has drawn our attention to Exhibit D1, the copy of complaint under Sections 107/150 Cr.P.C titled as '*Bishan Das versus Ram etc*' and has contended that family members of complainant had been nurturing grudge against the appellant on account of the dispute/proceedings as detailed in said Exhibit D1 and hence, the complainant has got him (appellant) falsely involved in this case to settle scores with him and he has urged that in view of the above-discussed facts and circumstances, it becomes quite explicit that the prosecution has not been able to prove its allegations against the appellant and therefore, the present appeal deserves to be allowed and resultantly, the appellant is entitled to his acquittal.

7. Per contra, learned counsel for respondent-State has argued that afore-referred delay in registration of the FIR stands duly explained in view of the tender age of prosecutrices 'PN' and 'PS' and testimony of PW6-complainant and hence, the same does not adversely affect the case of prosecution. Moreover, mere absence of injury marks on the body of 'PN' cannot be construed to be a conclusive factor for exoneration of the appellant from allegations as levelled against him in the instant case and the appellant has also not been able to establish his false implication by the complainant due to the proceedings described in Exhibit D1 and thus, the prosecution has successfully brought home his guilt and it being so, the present appeal deserves dismissal.

8. As regards the contention qua delay in lodging the FIR, the same does not hold any water because though the alleged occurrence is stated to have taken place on 15.06.2015 and the FIR had been registered on 19.06.2015, we cannot lose sight of the fact that 'PS' was aged about 07 years and 'PN' was also around 08 years old at the time of above-said occurrence. In FIR Exhibit P20, PW6-complainant has specifically alleged that on 17.06.2015, at about 07:00 PM, her daughter, i.e 'PN', had told her while weeping that on 15.06.2015, at about 01:30 PM, the appellant had taken her and 'PS' to his house by alluring them and had committed the alleged offences. Then, while deposing as PW6, she has deposed that her daughter ('PN') did not take meals for two (02) days and was under great mental stress and on being repeatedly asked by her (PW6), she (PN) had disclosed about the incident in question to her and at about 09:30 PM, she

visited the house of 'PS' and on being enquired by her (PS's) mother, she (PS) told the same story to her and they had visited the Police Station on 18.06.2015 but the police officials told them to bring the written application and their neighbourer named Balinder wrote the application and she gave the same to the police after signing it. Keeping in view the tender age of both the prosecutrices and the trauma which they might have suffered on account of the alleged occurrence and the afore-detailed depositions of PW6, the above-said delay in lodging the FIR stands plausibly explained and the same does not adversely affect the veracity of prosecution version.

9. So far as the contention regarding absence of any fresh injury marks on the person of 'PN', as mentioned in her MLR Exhibit P4 and in affidavit Exhibit P3 tendered by PW3, is concerned, the same is devoid of any force because it is worth-while to mention here that while appearing in the witness-box as PW2, 'PN' has categorically reiterated the allegations regarding the appellant having taken her and 'PS' to his house and having committed bad act with her after removing her as well as his own clothes. Moreover, while deposing as PW1, 'PS' has also made specific depositions to the effect that the appellant had removed her clothes as well as the clothes of her friend 'PN' and had touched her (PS's) private parts and she started weeping and managed to flee away. During cross-examination of both the afore-referred prosecutrices witnesses, nothing could be elicited to dent the truthfulness of their version. PW3, Dr. Surabhi Tiwari, Medical Officer, LNJP Hospital, has specifically deposed that she and Dr. Neha Khaneja medically examined the victim 'PN' on 19.06.2015 and that in

their opinion possibility of sexual assault could not be ruled out. PW3 further deposed that victim had duly narrated about the sexual assault upon her as well. Mere absence of fresh injury marks on the body of 'PN' at the time of her medico-legal examination, by itself, cannot be construed to be decisive factor to negate the allegations levelled against the appellant in this case and to record his acquittal because as mentioned earlier, both the prosecutrices were 7/8 years old at the relevant time and they could not be expected to resist the assault at the hands of the appellant who, as mentioned in his statement under Section 313 Cr.P.C, was 38 years old and was, thus, a hale and hearty adult person. As regards the absence of injury marks on the private parts of 'PN', the Apex Court has categorically observed in a verdict recently rendered in ***Deepak Kumar Sahu versus State of Chhattisgarh 2025 INSC 929*** that "*the crux of the incident, of accused overpowering the victim and committing forcible act by forcing her to the bed, could be clearly established from the totality of evidence adduced by the prosecution. Merely because the medical evidence was less corroborative and less supportive or absent in details or indictive of no external injuries. It in no way weakened the prosecution case. Sole testimony of the victim was a strong evidence to rely on along with available attendant evidence"*. These observations squarely cover the instant case because as discussed earlier, the unflinching testimony of 'PN' stands sufficiently corroborated by the categoric depositions of PW1-'PS' and there are no cogent reasons to disbelieve the same.

10. The last contention regarding false implication of the appellant

in this case on the count of some old enmity/rivalry due to the proceedings as reflected in Exhibit D1, also does not cut any ice with this Court because Exhibit D1 was not put to PW6-complainant throughout during her cross-examination. To add to it, PW1-'PS' and PW2-'PN' have also specifically deposed during their cross-examination that there was no quarrel between their parents and the appellant nor they had seen any fight between them at any point of time before the alleged incident. Even otherwise, as per Exhibit D1, the date of institution of complaint under Sections 107/150 Cr.P.C was 11.09.1981 and the date of its decision was 15.01.1982 whereas the FIR had been registered on 19.06.2015, i.e after 33/34 years approximately. In such an eventuality, it does not stand the test of logic that any person would continue to nurture any grudge against someone and would wait for such a long time to get that person falsely implicated out of revenge. Moreover, in Exhibit D1, neither the complainant nor appellant are shown to be arrayed as parties. To cap it all, DW2 Bhagwani, the mother of appellant, has explicitly stated during her cross-examination that she did not know 'R', mother of 'PN', i.e the complainant and nor even her husband and they had no enmity with the family of 'PN'. These depositions belie the plea of the appellant regarding his false implication due to some old enmity/rivalry between him and family of 'PN'. Even if for the sake of arguments, it is presumed that there was any such enmity/rivalry between them, even then the fact remains that the appellant has not been able to advance/put-forth any convincing explanation qua the allegations as levelled by 'PS' against him in this case. It is also pertinent to mention here that in normal course of

events, no prudent person would stake the dignity of his/her daughter as well as the reputation and honour of his/her family, merely to take revenge and that too, after almost 3½ decades. Further, the testimony of DW1 Rani, the daughter of appellant, also does not come to his rescue because during her examination-in-chief itself, she has deposed that her school timings were from 09:00 AM to 03:00 PM and she used to come from school at 03:00 PM but the occurrence in question is alleged to have taken place around 01:00/01:30 PM. Moreover, she has not even disclosed the date of alleged occurrence.

11. As a sequel to the fore-going discussion, it follows that the impugned judgment dated 18.03.2016 as well as order on sentence dated 19.03.2016, as passed by learned trial Court, do not suffer from any infirmity, illegality or perversity or irregularity so as to call for any interference by this Court. Resultantly, the appeal in hand, being *sans* any merit, is dismissed.

12. Pending applications, if any, stand disposed of accordingly.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

March 5, 2026
Yag Dutt/neetu

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No
Uploaded on : 05.03.2026